LEGISLATIVE COUNCIL

Thursday 25 February 1988

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

QUESTIONS

HEALTH COMMISSION

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Health a question on the health unit budget reductions and staffing at the South Australian Health Commission's central office.

Leave granted.

The Hon. M.B. CAMERON: I would like to quote to members the contents of a letter I received this week from a concerned board member of one of our country hospitals. While the comments represent the opinions of one board member, I believe that they are indicative of the feelings of many board members at both rural and metropolitan hospitals in the light of increased workloads and budget cutbacks which have been imposed on them by the Health Commission and this Minister. Might I say, following the phone calls that I have received from people on hospital boards, that this letter certainly represents a summary of many of the views that have been expressed to me by those people. The letter is as follows:

> As a country hospital board member, I am concerned at the continual cuts that have been placed on our budgets, which make the management of our hospitals increasingly difficult. My board has highlighted to the South Australian Health Commission on several occasions that health units must have a minimum level that they can operate efficiently and effectively on. If cuts continue, dangerous situations could arise, trying to cut corners to meet budget allocations, which is the last thing we want.
>
> Over the past two years several initiatives and committees have had to be implemented into health units, with the South Australian Health Commission advising that although workloads will be increased no extra funding is available. Such examples are occupational health, safety and welfare, equal opportunity, quality assurance, 4 per cent second tier salary increase(s), etc.

I repeat: it is not so much the question whether these circumstances should have been placed on hospitals but the fact that no extra funding is to be provided. The letter continues:

> In reality, we are being subject to further reductions that are highlighted on budget calculations. Each new initiative is, in effect, another budget cut, involving extra work with less funds. With each new initiative the South Australian Health Commission seems to find people to administer and organise them from their end. In some instances, it seems that these initiatives create jobs in head office while we must meet the costs from within our allocated budget levels.

The letter continues by questioning what cuts the South Australian Health Commission head office is making, for its part, and I further quote from the letter, as follows:

> Can they outline what savings they have made and how much? Each individual health unit is accountable to the South Australian Health Commission, but the South Australian Health Commission should also be accountable to us, to make sure that the same rules apply from one end of the scale to another. It is also very disturbing to see the Minister announce new strategy plans—

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: The Minister is known throughout the State now as the cutter and shutter of health units. That is what he is. I can list them for the Minister: one can go from Kalyra to Carramar to the country hospitals at Laura and Blyth. One can go all over the State. Really, the Minister is getting quite a name for himself. If you want to argue that, go to these areas where you have cut funds and we will have a public discussion in front of the people. I am prepared to do it, but you have not got the gumption to do so.

The Hon. L.H. Davis interjecting:

The Hon. M.B. CAMERON: The man with the big sharp axe for the health system. The letter continues:

> It is also very disturbing to see the Minister announce new strategy plans for country health services when it seems to be aimed at the larger towns, and we don't really know if his plans will save us money. Twenty-four hour accident and emergency centres would be a very costly and questionable exercise. Compared to current practices would we be financially better off? Why close some small country health units to make funding available to meet such a plan?

It seems that this letter writer, and many other hospital board members and executives who have contacted me with similar concerns, have some very valid questions. All country hospitals have been asked to accept a 1 per cent cut in funding this year on top of a similar cut in 1986-87. This is besides a cut in funding of up to 4 per cent for goods and services that would have at least kept those areas up with inflation. In the city, public hospitals have had to take a ¾ per cent cut this year, on top of a similar cut in 1986-87, and the Royal Adelaide, Queen Elizabeth, Children's and Kalyra Hospitals, between them have had to accept a further cut of some millions of dollars in total for this year.

Compare this to what has happened in recent years in the Health Commission's central office. During the term of this Government, its allocation of funding has risen from $11.26 million in 1983-84 to $15.31 million in the last budget. In April 1986, during debate on the Appropriation Bill, I pointed out that some 200 committees had been set up under the Health Commission. At a meeting on Eyre Peninsula the Chairman of the Health Commission pointed out that already 200 committees had been set up, most of which had reported, but that very few reports had been acted upon, and that is within the time of this Minister. At the time, I pointed out that, while other health units were being asked to tighten their belts, the Health Commission grew by an extra 26 staff—this was despite advice by the Auditor-General to cut down.

I understand that, since then, the Minister has seen some of the error of his ways and has made a reduction in staff but, clearly, there are grounds for believing that the Health Commission's central bureaucracy has been growing out of control. The continual complaint from country hospitals is about the requirement by the Health Commission for information, which takes up a lot of time for CEOs and other people in the hospital system to comply with that requirement. My questions to the Minister are:

1. What have been the costs of additional workloads, such as occupational health, safety and welfare, equal employment opportunity, quality assurance, etc., which have been imposed on each of the South Australian Health Commission units during the last financial year?

2. What have been the total costs of these programs?

3. Does the Minister realise that such unfunded programs are an additional burden on country health units and, as such, are creating a difficult situation for service delivery and—to use this board member's words—create a potentially dangerous situation?

The Hon. J.R. CORNWALL: I wonder whether Mr Cameron intends to table the letter from the unnamed member of an unidentified hospital board.

The Hon. M.B. Cameron: Yes, sure, I can do that for you, with the name removed from it, because you'll take to him, as you always do. Nobody in the system trusts you.

The Hon. J.R. CORNWALL: I thought that his christian name might have been 'Ken'.

The Hon. M.B. Cameron: No. You can have a copy of it.

The Hon. J.R. CORNWALL: I am not concerned. If you really wanted us to place some weight or credence on what you are about, it would have been sensible to seek permission to table the letter in advance. However, I will not make any sort of a song and dance about that. Whoever it is, he or she is very ill-informed. Anybody who still walks around talking about growth in the central office of the Health Commission is almost as ignorant as Mr Cameron.

The peak staffing in the central office of the Health Commission, the so-called monolith about which we hear so much, was 330 people, and that is in a system which employs 25 000 full-time equivalent positions and in which, on a full-time and part-time basis, we employ around 28 000 people. For that commission to be able to administer such a vast and complex system with 330 people in the central office would do enormous credit to any organisation in either the public or private sector, and I am very proud of the efficiency.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: BHP would not match it; it would not get close to that sort of record. It is a far bigger bureaucracy and, in many ways, less efficient. However, the commission certainly did not want to ask for productivity savings in the system at large and not lead by example. Consequently, over the past 15 months or thereabouts, there has been a reduction of 30 positions or 10 per cent.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: From 330 to 300, and we are working towards a goal of 280. So that is a very substantial saving.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Whether Mr Cameron is just plain silly or does not understand, I do not know. He is comparing 1982 dollars to 1988 dollars.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Well, he is. He said the budget for the central office of the commission in 1982-83, which was the last of the Tonkin budgets, was $11.2 million, I think, from memory. This year it was a little over $15 million. If you do your sums on that and allow for an inflation rate of somewhere around 7 per cent to 8 per cent, in real terms there has been a multimillion dollar reduction in the budget of central office.

The Hon. M.B. Cameron: Nonsense!

The Hon. J.R. CORNWALL: It is not nonsense; it is documented fact.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: He is really reflecting on the Under Treasurer and the Auditor-General if he says that it is nonsense. The figures are documented and they are on the record. They are in the estimates, so it is not nonsense: it is documented fact. Of course, there has been a very substantial increase in productivity in virtually every health unit—that is hospitals, health centres and State-wide services—right across the board. We have a very efficient, very well run health system in this State—

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: And Mr Cameron just occasionally ought to acknowledge that. You do not get Brownie points for continually knocking. He has never said a positive thing about the health system or those who work in it during the entire time he has been the shadow Minister.

The Hon. M.B. Cameron: It is pretty hard while you are the Minister when you are knocking it about so much.

The Hon. J.R. CORNWALL: I do not want to coach him. The fact is that he is one of yesterday's men, a failed politician by any reasonable test.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Well, he has never been in government. Until recently, he has never been on the front bench, and he has been in this place for 16 or 17 years. He is in the twilight of an undistinguished career. He forgets very little but he never learns anything, either. As to the productivity increases, let me give a classical example—the South Australian Dental Service. The only additional funding it has had over the past five years is $500 000 which we were able to provide about three budgets ago. During that time, because of productivity savings, increased productivity and excellent management, we have been able to extend the School Dental Service from primary schools up to and including the year in which students in this State turn 16. That is a massive increase in the service offered to the children of South Australia, all of it achieved within virtually a standstill budget situation.

The Hon. T. Crothers: That is in spite of increasing problems.

The Hon. J.R. CORNWALL: True. The Government has been able to increase by 800 per cent community dental services to low income adults, thereby implementing a firm promise that was given before the 1982 election, again within virtually a standstill budget situation. However, it is perfectly true that, as a result of economic policies being pursued by the national Government and the conventional economic wisdom of our time, there has been a significant reduction in public sector spending. The alternative would be to take the brakes off, let inflation go to 15 per cent, and have the dollar crash through the 50 cent mark with respect to the American dollar and even lower with respect to the Japanese yen.

The Hawke Government is pursuing a firm and relatively conservative economic policy which all of the advice says is the right policy for these very difficult times. There is little doubt that, through the long lazy days of Menzies and beyond to Malcolm Fraser and John Howard, Australians lived beyond their means, and the pigeons have come home to roost, so to speak. If Mr Cameron wants to change horses, and depart from his Party's—

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Are you dry or are you wet, or do you change from day to day? Are you back in your halcyon LM days when you made a little splash for a while, or are you lining up with the member for Victoria and his electorate assistants?

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Your mate is the working class traitor, as I have put on the record in here on many occasions. He is no hero.

The Hon. R.I. Lucas: Who is that?

The Hon. J.R. CORNWALL: You, Mr Lucas. The Government's policy has resulted in the squeeze being put on the States. At the same time, Mr Cameron, Mr Olsen and all Liberal members of this Parliament without exception have carried on and ranted and raved about taxes and charges, which they said were too high. We, as a very competent Government, have taken a number of initiatives, particularly over the past two budgets, to ensure that we are able to live within our means. As a result, in 1986-87, the overall savings in the health budget were 1.6 per cent. In the current budget (1987-88) there were further savings of 1 per cent. So, over two budgets there has been a reduc-

tion in the health budget of 2.6 per cent in real terms. I do not regard that with much equanimity at all. I agree with Mr Cameron on this occasion that it would be very nice and very comfortable if we could find additional funding for the hospital and health system of this State and country.

I said in this place only two weeks ago, and I repeat it wherever I go—I will certainly raise the matter at the Health Minister's conference in Alice Springs on 7 and 8 March—that the percentage of Australia's gross domestic product spent on health and hospital care is, at least marginally, too low. Australia spends 7.5 per cent of its GDP, and only two Western democracies spend less than that as a percentage of their gross domestic product: the United Kingdom and New Zealand. The Americans spend almost 11 per cent, and the Scandinavian countries spend about 9.8 per cent, but we sit at a lower level. At the same time, these people who say there should be additional spending—the Martin Camerons of this world—are totally inconsistent.

The Hon. M.B. Cameron: You are inconsistent with your priorities.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Well, over the two years that Mr Cameron has been shadow Minister he has continually called for additional spending while all of his colleagues have continually called for savings.

The Hon. M.B. Cameron: Not for St John—

The Hon. J.R. CORNWALL: There was $5 million for the Intellectually Disabled Services Council.

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the call.

The Hon. J.R. CORNWALL: More importantly, we have kept a list of the demands that Mr Cameron has made over the past two years, and very impressive it is, too.

The Hon. T.G. Roberts: How much would it cost?

The Hon. J.R. CORNWALL: Well, we are costing it right at this moment, and it should be available in the not too distant future.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Don't lose your cool and don't be rude. I have consistently made the point, and I will make it again at the national forum of the Health Ministers conference in two weeks, that an excellent case can be made for that percentage of GDP that we spend on health and hospital care to increase by about .5 per cent. If we were to go from 7.5 per cent to 8 per cent, life in the hospital and health system generally would be very much more comfortable. Whether or not this is the right time to move in that direction, of course, is questionable. The other point that I would like to make and give the lie to the claims that are consistently made by the Liberal Party and its mouthpieces is that somehow or other the cost of the health system is burgeoning. I do not know how it is that Mr Cameron can get up in here—

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: Mr Cameron stands in this place and rants and raves about marginal productivity savings in the health system while at the same time all his colleagues complain and invent the myth that somehow or other health costs in this country are burgeoning. The Liberal Party is at pains to try to write that myth into folk lore, and it is one of the great lies of our time: it should be put to rest. So, yes, we have asked for marginal savings in the health system; yes, that has made life a little uncomfortable in a number of areas. I would dearly like to be able to find additional funding but, on balance, we as a State Government believe that the present Government in Canberra (the Hawke Government) is following a sensible, rational and sane policy of economic management. Although from time to time members will certainly hear my voice raised in protest—and I am sure that they will hear a number of my colleagues raise their voices in protest if the Federals continue their cuts—nevertheless on balance we do believe it is the right economic policy for our time.

The Hon. M.B. CAMERON: I seek leave to table a copy of the letter that the Minister requested.

Leave granted.

RETAIL SALES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking Dr Cornwall, as the acting Leader of the Government in the Council, a question about retail sales.

Leave granted.

The Hon. L.H. DAVIS: On Tuesday of this week the Australian Bureau of Statistics released retail sales figures for the all important month of December 1987. In December 1987 the value of retail sales in South Australia increased by only 6.1 per cent over the corresponding month in the previous year. This increase was the lowest of any in the six States. It was well below the national average growth in retail sales for December 1987 of 7.8 per cent. In fact, for 16 of the past 17 months South Australia has recorded the lowest monthly growth in retail sales of any Australian State. For an unprecedented 27 months in a row, from October 1985, the growth in monthly retail sales in South Australia has been below the national average. Sadly, there appears to have been no improvement in the opening two months of 1988.

I cite the following examples of the desperate plight of retailers in South Australia, and I do so with the permission of the proprietors. First, I refer to Judd's Shoe Stores, a business established for 120 years with four stores in the city and two in the metropolitan area, an employer of 40 people. It is a well respected group with sound management. Christmas trade in 1987 was up a whisker on Christmas trade in 1986, but it was well behind in real terms after adjustments for inflation.

January 1988 was a disaster month for Judd's Shoe Stores. Sales were down 14 per cent on January 1987, or over 20 per cent, after adjusting for inflation, and in February sales will also be down in real terms. Claude Sarre Jewellers, also located in the city, have been operating for 75 years. Mr Brian Sarre, the proprietor tells me that Christmas trade showed a 6 per cent to 7 per cent decline in real terms, and figures for January are a touch worse. For the current month business is down 17 per cent, in money terms, or a massive 24 per cent in real terms.

Finally, there is Arturo Taverna, well known and respected hairdresser, who is an international hairdressing judge and whose business has been established for 30 years. He employs 200 people in 12 shops in the city and metropolitan areas. Mr Taverna has an annual advertising budget of $250 000. He tells me that his turnover was down at least 15 per cent at Christmas, and that he has never known conditions so bad in all his time in business. Trade has been as bad, if not worse, in the opening two months of 1988.

Fortunately, each of those three businesses are well established and they will be able to ride out this long standing problem in the retail sector. This is not the Liberal Party beating a hollow drum. I am quoting official statistics from the Australian Bureau of Statistics and those relating to three well established retailers who are suffering in the marketplace. This is clear evidence of a grave crisis in the

important and labour-intensive retail sector of South Australia. It is a crisis that the Government has continually denied. The reasons for it are many. Those most commonly cited are: depressed economic conditions, lack of consumer confidence, surging State taxation, for example, land tax, and the fringe benefits tax. Given that the Labor Party campaigned in 1985 on the slogan 'South Australia up and running', what is the Government's current view in relation to the long running crisis in the retail sector, whereby South Australia, of the six Australian States, has been the tail-end Charlie for 16 of the past 17 months?

The Hon. J.R. CORNWALL: I am tempted to say that, on those examples given by the Hon. Mr Davis, people are letting their hair grow, having their shoes resoled, and that jewellery is not particularly fashionable this season.

Members interjecting:

The Hon. J.R. CORNWALL: I said that I was tempted to say that. For the honourable member to choose relatively small businesses—

The Hon. L.H. Davis: Arturo Taverna employs 200 people.

The Hon. J.R. CORNWALL: I acknowledge that Arturo Taverna employs 200 people, but he is not Coles-Myer exactly. Further, the jewellery business, apparently, is a family business, and Judd Shoes has 40 employees. Let me say at once that this Government certainly supports small business, which is the most significant employer in this State, so obviously any Government which is interested in the wellbeing of its people and the retail economy would, naturally, support small business. The recycling of selected statistics—and as everyone knows, there are lies, damn lies and statistics—which is the Hon. Mr Davis's favourite pastime—

The Hon. T.G. Roberts: Mr Doom.

The Hon. J.R. CORNWALL: Yes, Dr Doom or Mr Gloom—all the time he is at it.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The honourable member has asked his question.

The Hon. J.R. CORNWALL: John Bannon is still deeply concerned about the wellbeing—

The Hon. M.B. Cameron: Surviving!

The Hon. J.R. CORNWALL: I do not think he is too concerned about surviving, with a 75 per cent popularity rating. If I were in the Opposition in South Australia I would not take too much heart from any of the popularity polls. This is easily the most popular Government in Australia—and that is statistical fact. There is a 10 percentage points difference.

The Hon. M.B. Cameron: Is that the key—we are going to win New South Wales, because that is how far we are in front there?

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I do not think he is well, Ms President; I don't know what he had for lunch, but it did him no good at all. Obviously, we are concerned about the local economy. I will not take up the time of the Council in providing a long list of the very many things that we have done since November 1982 in order to get South Australia moving again. However, I suppose I would be remiss if I did not mention the submarine project, Roxby Downs—

The Hon. L.H. Davis: What does that have to do with retail sales?

The Hon. J.R. CORNWALL: Goodness me! The creation of 4 000 or 5 000 jobs in a well paid industry has an enormous amount to do with retail sales. As those jobs continue to come on stream it will put disposable income into the family pocket and will go a significant way towards bolstering the retail economy in South Australia. That is the reality. I could go on and on, naming company after company, project after project. However, this is not related to my direct portfolio area, so I will leave that to those who have more competence in that area than I.

FAMILY COURT/DCW WORKING PARTY

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Community Welfare a question about the Family Court and Department for Community Welfare working party.

Leave granted.

The Hon. K.T. GRIFFIN: In April 1986, the Minister announced the establishment of a working party, comprising members of the Family Court and the Department for Community Welfare, to endeavour to work through some of the problems which had surfaced in allegations made by the Department for Community Welfare that the Family Court was condoning child sexual abuse. Those allegations were subsequently withdrawn by the Director of the department and a public apology offered.

Since then, I have asked on a number of occasions, as has the Hon. Diana Laidlaw, for information about the progress of the working party and when a report and recommendations, if any, could be expected. Unfortunately, not much information has been forthcoming about the work of that working party or as to when, if at all, it will report. I ask the Minister the following questions:

1. Is the working party still in existence?
2. What progress has the working party made?
3. Is it proposed that the working party will report and, if so, when is that report likely to be available?

The Hon. J.R. CORNWALL: To the best of my knowledge and recollection the working party is still in existence. It has made some progress, and I have received a number of interim reports. It has not been able to achieve complete agreement. However, it has made very significant progress, and the discussions which have been held in this State have been noted around the country. I would not be held to this, because I have to pull it from the depths of my memory, but I believe that a national meeting of people who are interested in the interface between the Family Court and social welfare agencies is proposed for some time later this year. In summary, it has made some progress. It has not achieved full agreement, but it has been very useful. There is now a much greater degree of understanding between the Family Court in South Australia, which comes under Federal jurisdiction, and the Department for Community Welfare.

The Hon. K.T. GRIFFIN: As a supplementary question: first, could the Minister indicate whether it is proposed that there will be any formal report from the working party? Secondly, can he indicate whether or not the interim reports can be made available publicly?

The Hon. J.R. CORNWALL: The interim reports have been verbal reports to me.

Members interjecting:

The Hon. J.R. CORNWALL: Stop helping me, please. I would have to ask my Chief Executive Officer about a final report. In recent weeks I have not been briefed. I am unable to give a firm indication as to when the working party may report, but I am happy to take that on notice.

The Hon. K.T. Griffin: And bring back a reply?

The Hon. J.R. CORNWALL: Certainly.

HEALTH BUDGET

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Health a question about the health budget.

Leave granted.

The Hon. M.J. ELLIOTT: In recent times there have been quite a few arguments about the closure of various places such as Kalyra. Much of the justification for this has been on the basis that these are tough times and there is not enough money to go around. Could the Minister address some other issues, which I do not think are being talked about very much in this State at the moment? I refer to the way in which money is being spent. For instance, an observation has been made that in South Australia only 45 per cent of doctors are general practitioners and, with an increasing number of specialists, obviously, straight away, that makes the availability of medicine much more expensive.

When the Minister made comparisons between Australia's 7.5 per cent of GDP and the United States' 11 per cent of GDP, was that a reflection of the corporatisation of health in America and the specialisation there? Further, is that what leads to our being more expensive? I am asking questions about the increasing level of specialisation in South Australia and the increasing use of high-tech medicine, which often benefits a very small number of people. It seems to be putting a very large burden on the total community. I wonder whether or not we should address that topic as much as we address some of the other solutions when closures of Kalyra and other country hospitals have very drastic effects upon the community.

The Hon. J.R. CORNWALL: That is a splendid question, and I am very pleased that Mr Elliott has raised it. This is also one of the things that I placed on the Health Ministers' conference agenda for 7 and 8 March. I am deeply concerned about trends in general practice in South Australia and nationally. My concern was so great that last year I established a formal inquiry, the so-called GP inquiry, into general practice in this State. The figure of 45 per cent is probably about accurate. Certainly, not more than half the profession are now general practitioners. There has been a very distinct move to specialisation, presided over by the learned colleges, and certainly the AMA has acquiesced in this.

In South Australia we have reached the position where GP incomes, and particularly the incomes of general practitioners in suburban Adelaide, are totally inadequate. If one does a comparative exercise of the salary of, say, a scientific officer grade 3 on $33 000 a year, and who has four weeks annual leave, 17.5 per cent loading, superannuation, long service leave, and so forth, then one reaches the conclusion that an industrious general practitioner, with his or her level of skill, working a 60 hour week, ought to earn around $80 000 a year net. I make it clear that I know the difference between net and gross, because I was in private veterinary practice for 20 years. That is particularly when one takes into account that the GP is self-employed. They do not have a company superannuation scheme, holiday pay, long service leave, holiday loadings, or anything else, so I am deeply concerned about the levels of remuneration of GPs.

I am just as concerned about the great distortion that has occurred and the burgeoning incomes of specialists. The sorts of incomes that are made by radiologists and pathologists are well known. Not so well known are the incomes of very many specialties where they are what is called procedural specialists. Whether this involves the gastroenterologist doing perhaps three endoscopies an hour on a fee-for-service basis, or whether it is the ophthalmologist doing a lens extraction and replacement in 25 to 30 minutes, or many other procedural areas, in many cases they are making estimated net incomes which are five to 10 times greater than those of suburban GPs. That is a matter for very deep concern.

The other thing that is of concern is the role of the GP in the primary health care team, and that has changed quite dramatically in the past 20 years. Basically, they treat minor illnesses and they are cipher clerks, referring people on to specialists. It is hardly any wonder that they are not getting anything like the level of job satisfaction that they got two decades ago. Again, that is a matter for real concern.

The other thing we do, very foolishly, is reward them on the basis of treating sick people. We do not reward our general practitioners for keeping people and local communities well. Really, we must have a very good look at the Commonwealth Medical Benefits Schedule which I believe has got completely out of kilter. There are about 3 000 items on the CMBS. If one can find an item number somewhere from 1 to 3 000, then that is the basis on which they are paid. I have had some figures taken out in regard to one particular small community hospital in my area and, interestingly, in 1968 there were just over 400 confinements in the maternity section of that small hospital, and all but eight of them were done by local GPs. Only eight were performed by specialist obstetricians. Last year something fewer than 300 deliveries were performed in that hospital, and all but six of them were done by specialist obstetricians. So, there has been quite a dramatic change in the patterns of practice. I believe very strongly that we must redefine the role of the general practitioner in the primary health care team. We have to take positive steps to stop the massive domination of the profession by the specialists and by the learned colleges.

The Hon. Diana Laidlaw: Hear, hear!

The Hon. J.R. CORNWALL: We most certainly—and Ms Laidlaw supports this, I am very pleased to see—have to look at the training of undergraduates. Certainly, we have to get back to a point where the general practitioner is an integral and pivotal part of the primary health care team and not, as is progressively happening, it seems to me, in the current climate, somebody who has not quite made it into a specialty. These things go to the heart of health care in this State and in this country. I hope that our GP inquiry, particularly when it is matched with Professor Doherty's national inquiry into medical training and medical education in this country, will be a catalyst for us to take significant steps in getting the GP back to that pre-eminent position which he or she has traditionally occupied. I believe that this is possibly the greatest challenge facing health care in this country in the late 1980s.

The Hon. M.J. ELLIOTT: As a supplementary question, I do not believe that the Minister also addressed the costs of high-tech medicine, which is also starting to take large amounts of the budget.

The PRESIDENT: That struck me as a statement—not a question.

The Hon. M.J. ELLIOTT: I had a question mark on it; honest I did!

The Hon. J.R. CORNWALL: It is very difficult to know where the balance lies. As a nation, we are healthier than we have ever been, if one measures it purely on life expectancy. The average male in this country in 1988 can expect to live to be 72 years of age, and the average female can expect to live to be 79, so that is a greater life expectancy than we have ever enjoyed in recorded history.

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: I am happy to say that life expectancy improves as one gets older. Having made it through to his age, and particularly knowing his healthy lifestyle, the Hon. Mr Hill has a very good prospect of living to be 80 years of age.

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: Let me warn him, however, that although people are living longer they are not necessarily living 'better'. In fact, the chronic disease patterns, particularly in the last decade of life, are matters to which we will certainly have to give a great deal of attention. As to the question of balance between high-tech medicine, nuclear magnetic resonance imagers, lithotripters, and so forth, $3 million and $4 million capital expenditure and tremendous recurrent costs, how much we ought to spend on that, *vis-a-vis* primary health care, is not something that I would like to quantify in precise terms. However, we must be careful not to be dazzled by high-tech medicine.

I think that we have tended to fall for the old three card trick of believing in our own immortality and that, no matter what ailment might arise or no matter how much we might abuse our bodies, the cure would be always available—the pill for every ill or the surgeon's scalpal. Yes, there certainly needs to be a balance struck, and that is one of the great dilemmas, I suggest, facing health administrators at this time.

ALLIED HEALTH SERVICES

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question on the subject of speech pathology services.

Leave granted.

The Hon. R.I. LUCAS: Yesterday I outlined problems that the Education Department had with respect to the cutting back of speech pathology services to many schools in the southern metropolitan region. As the Minister would well know, in 1986 and 1987 the South Australian Health Commission conducted a review of the allied health services, I understand in 11 separate areas, including speech pathology, occupational therapy, etc. The terms of reference for the review of allied health services were to identify constraints on access for services and to identify strategies to overcome them. I am advised as recently as lunchtime today that those reports have not been released publicly.

The Hon. J.R. Cornwall: They have not been given to me, either.

The Hon. R.I. LUCAS: I will tell you a little about them, although the professions involved have been consulted. Some information on the speech pathology review has fortuitously come into my hands. I want to quote from one or two sections of the review. Section 1 states:

> It is demonstrated here that current service demand cannot be met by the present work force [this is speech pathology]. Services are severely distressed, especially in health units in the Central Sector of the Commission.

Section 4.1, under the heading 'Analysis of Supply and Demand', states:

> Demonstrated by excessive waiting lists; inability to provide services to some particular client groups; prioritising of services etc.

Whilst these matters are clearly of concern to all members (and to the Minister as well, I would hope), further information in relation to the processes of this report raise matters of even more serious concern. I have been informed that the final report that has been prepared has been altered in a number of significant areas from the draft report which had been discussed with the interested groups. In particular, a number of statements and recommendations which would have been embarrassing both to the Minister and to the Bannon Government have been either deleted completely or altered.

The Hon. J.R. Cornwall: Thank goodness!

The Hon. R.I. LUCAS: The Minister says 'Thank goodness!' I do not know whether that indicates some complicity. In fact, I want to refer to recommendation—

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: I will be tabling the report. Recommendation 7.1 was deleted completely for the final report. It stated:

> Further funds be allocated for 12.7 and 12.5 FTE positions in the years 1988 and 1989 respectively.

I refer also to section 4.2.2, which looks at the years 1978-1986. It has been altered from 'the number of positions created by the SAHC has not kept pace with the need' to read:

> . . . has not been high.

The questions that immediately spring to mind to those concerned, and certainly to those in this Chamber, are: who made the changes; on whose instructions; and for what reasons? My questions to the Minister are:

1. Was the Minister aware of these significant changes to this important internal Health Commission report?

2. If not, will the Minister initiate an urgent inquiry into who made these significant changes and for what reasons?

The Hon. J.R. CORNWALL: There is no deep, dark conspiracy, let me say, Ms President. I have not seen any report, draft or otherwise, and, consequently, I am not aware so I cannot verify or otherwise the accuracy of Mr Lucas's allegations. However, my recollection is that the person who was doing the review of the allied health professions started, from memory, with podiatrists. She was a relatively junior officer and, in a sense, it is likely that senior officers were not really fully aware of the magnitude of the task. In the event that the draft report has been reviewed and edited, I do not think that that would be exceptional.

However, I have not seen a draft report, a final report, or any other report, so I will make inquiries. It is not my intention to establish an inquiry, because I do not think that this is the sort of thing that should be the subject of a judicial inquiry or a royal commission. I will seek the information that the Hon. Mr Lucas has requested, and I am happy to make it available to him.

I have had a number of conflicting opinions about speech pathologists over the 5½ years that I have been Minister. The Hon. Dr Ritson and I virtually have had discussions across the Chamber during Questions about this matter. At one stage I was advised that I should intervene to stop a proposal at Sturt college to reduce the intake into the undergraduate course, and I did so successfully. I had been told that we needed more speech pathologists rather than fewer. Two years later, I was approached on behalf of rather angry new graduates who complained that they could not find employment in South Australia because a number of positions had not been created. It is probably fair to say that the Health Commission's record with regard to speech pathologists has not been very brilliant.

The Hon. R.I. Lucas: It has been very bad.

The Hon. J.R. CORNWALL: I would not say it has been very bad but it certainly has not been very good.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: Mr Lucas wants to recycle the issue of speech pathologists in the Education Department while his colleague the Hon. Ms Laidlaw complains about the Government's efforts and policy to integrate

human services. Mr Lucas is making out a very good argument on my behalf for further integration of human services rather than further fragmentation. Ms Laidlaw complained about this late last evening. This morning she complained bitterly on 5DN when she described me as the JR of South Australia. I must say that my reaction to that was rather mixed.

The Hon. Diana Laidlaw: Were you flattered?

The Hon. J.R. CORNWALL: I was, really. JR is a pretty sexy sort of fellow, I believe. I am not a great *Dallas* watcher but I immediately sought advice from my associates, friends, and members of my family, who told me that he is a very tough, relentless administrator, that he is enormously popular in the United States, and that he is regarded as something of a sex symbol. The next time that Ms Laidlaw is on her feet and her voice is quavering, I will not know whether she is just angry about something political or whether she is looking at me across the Chamber.

Members interjecting:

The Hon. J.R. CORNWALL: That is a little disturbing. Reverting to the question of further integration of human services, this is a classical case in point. We should have better integration between the Child Adolescent and Family Health Service and those services provided by the Education Department. That is another story for another day. I will make inquiries about the draft report, the final report, or any other report that might be about the place, and I will forward that information to Mr Lucas.

HEALTH/COMMUNITY WELFARE AMALGAMATION

The Hon. DIANA LAIDLAW: Because time is short, I will dispense with my explanation and merely ask my questions of the Minister of Health. In respect of the amalgamation of the South Australian Health Commission and the Department for Community Welfare, is the Minister aware of a joint meeting that was held in the western suburbs early this month at which 45 Government welfare and health providers attended in preparation for the formal consultation process and that the vote was 43 to 2 against full amalgamation or integration of the Health Commission and DCW central offices and regional and field services (option No. 3 in the green paper)? Does the Minister accept that such a strong expression of opposition from service providers in the region acknowledged to be an area in which individuals and families encounter many disadvantages is a clear warning to him that he should reassess his drive to radically reorganise the provision of health and community welfare services in this State?

The Hon. J.R. CORNWALL: I am not aware of that meeting, and I cannot verify whether a vote was taken. If there was a meeting, that would be part of the widespread consultation process that is going on around the suburbs and the State at present. As to the individual views of community welfare or community health workers, I am never surprised by anything that they do. They are a very diverse lot of people, and that is very healthy. They have a very diverse range of attitudes, and that is also very healthy.

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: Well, the green paper, which is out for consultation, canvasses three options and there are any number of permutations in between. I will not stake my political reputation or future on amalgamation, continuing coalescence, working together, or whatever might emerge from the process of consultation with management. The important thing is that we get on with the business of enhancing the services for our clients and patients. I am not in the business of imposing some bureaucratic model of management on anybody. A good deal of self-indulgence is going on in some areas, and I call on the people who are involved in that to get their minds back on the job and remember that they are in the people business—in the business of providing the very best service possible in the most integrated way to their clients and patients, many of whom are the most vulnerable in the entire spectrum of society.

I make a plea, and specially to Ms Laidlaw, to stop trying to be destructive and to stop fostering dissent and to return to the role that she played so constructively in her first 12 months as shadow Minister of Community Welfare. It is a great shame that Olsen has put the heavies on her—and that is Olsen as in John and Heather. It was very strange—

Members interjecting:

The Hon. J.R. CORNWALL: I have a great respect for the Liberal Party's collective press secretary. She is one of the great operators in this town. She was listed—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: About 12 months ago in the *Australian*, she was listed with me as one of the 50 pushiest people in Australia. It was interesting to observe yesterday that the direct quotes attributed to Ms Laidlaw in her press release bore little resemblance to the contribution that she made on the same subject in this place. She is too much of a lady, presumably, to come in here and use the rather extravagant prose that was contained in the press release. It was very interesting that the style was entirely different.

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: Oh, yes, but you did not mention JR in this place yesterday. The style in the press release was certainly not Ms Laidlaw's. I regret that she has departed from the very constructive role that she was playing in her first 12 months as shadow Minister. Let me, as an old practitioner of the art of politics of almost 20 years standing, offer some free advice to Ms Laidlaw: you don't get Brownie points for continually being a carping critic. Go back, let me tell the honourable member, to the constructive role you were playing previously and I will not only have more respect for you—

The Hon. Diana Laidlaw: That is not what I am after—

The Hon. J.R. CORNWALL: Hang on. I will not only have more respect for you but I will also be concerned, as I was concerned in the first 12 months, about the constructive role you are playing. I can treat Martin Cameron with contempt because he is so damned predictable. Honestly, you have to hold him up to have him go six rounds. I suppose that I should not be telling you this, really, but I am becoming quite avuncular as I move into my distinguished middle age, and I offer that advice to Ms Laidlaw freely and in a spirit of goodwill.

STRATA TITLES BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2818.)

The Hon. K.T. GRIFFIN: I intend to outline the Opposition's attitude to this Bill in the absence of the Attorney-General on ministerial business, and to give him an opportunity over the next few days until next Tuesday to assess

the matters that I raise. The Opposition supports the Bill, which seeks to enact a new and comprehensive scheme to govern strata titles. It results from a review of the present legislation and represents the first major overhaul of the Act for 20 years.

The Bill is largely technical. A Standing Committee of Conveyancers comprising representatives from the Law Society, the Land Brokers Society, the brokers division of the Real Estate Institute, the Associated Banks of South Australia, and others has reviewed the Bill and made submissions for a number of amendments. The Government has accepted many of them; in fact, when the Bill was debated in the other place there were about nine pages of Government amendments and about 2½ pages of Opposition amendments. The Bill does not deal with several key issues, namely, a strata titles commissioner; it does not allow for staged development; nor does it require registration or licensing of strata managers.

There has been much debate about the statutory office of strata titles commissioner over the past 10 years or so, particularly because of the extent of the difficulties that unit holders face in resolving differences between them. On occasions there have been calls for a strata titles commissioner, someone who can act as an arbiter of the disputes that arise in a strata corporation between unit holders. I have not indicated support for such a statutory office.

I must say that I have some difficulty in appreciating how that would operate when one considers that many disputes in strata corporations are related largely to the fact that a majority of unit holders decide on a certain course of action that is not acceptable to the minority of unit holders. Frequently, decisions are made in accordance with the articles of association or rules of the strata corporation and, when that occurs, it seems that there is no place for an arbiter or a person such as a strata titles commissioner, because the decisions have been made in accordance with the rules governing a strata corporation.

There may be other matters which are the subject of some dispute but which are not matters that come within the purview of the strata corporation's articles of association or rules, and in those circumstances where there is a genuine dispute certainly a mechanism ought to be available for resolving it. However, that should not occur when a decision has been taken in accordance with the articles or the rules and a minority of unit holders disagree with that properly taken decision.

The issue of staged development is controversial. In representations that have been made to me, concern has been expressed that staged development should not be permitted, and people have referred to the inconveniences that may occur if that is not provided and to the additional cost through the establishment of a strata titles development in stages with each being a separate strata corporation and subsequently being amalgamated. There are arguments on both sides, that have merit and I would hope that the Government will further consider this issue to ensure that costs are kept to a minimum yet the interests of unit holders are protected adequately.

The other issue that the Bill does not address is registration or licensing of strata managers. I certainly do not advocate that, but it was raised as an issue in a submission made to me that reflects disappointment, although disappointment has been expressed by strata managers. I know that there has been criticism of some strata managers and the way in which they operate, the decisions they take, and the tasks they perform, but I believe that this Bill when enacted will provide a large measure of resolution to the problems created so far by uncertainties in the present legislation. The Bill affects about 38 000 strata units in the State and about 60 000 people who live in these units, both dwellings and commercial strata titled developments. Therefore, it is of considerable significance and importance to all those involved as owners or administrators of strata corporations.

In order to facilitate discussions in Committee, I will refer to some of the submissions that have been made to me on matters which have not yet been addressed by the Government in the other place but which warrant attention in this Council. Some issues that were raised by the Institute of Surveyors are relatively minor although others are significant. First, there is reference to clause 5 (3) *(b)*; a problem has been identified if units are built in stages where the Bill provides that units are to be numbered consecutively commencing with No. 1.

Until the amalgamation occurs in, say, a two stage development, there will be two units numbered '1', two units numbered '2', and so on. When they are amalgamated there will be renumbering. The suggestion has been made—and I have some sympathy with it—that where there is a development in stages consecutive numbering should be required, but the numbering of the units in the second and subsequent stages should be allowed to be consecutive and commence on the number after the last number of the first or earlier strata title development.

Clause 10 (2), dealing with common property, provides:

> An equitable share in the common property attaches to each unit and cannot be alienated or dealt with separately from the land.

The Surveyors Institution has made the point that it is not possible to deal with the common property except in very limited circumstances and that the provision in clause 10 (2) is not cognisant of the technical difficulty which arises from the fact that one cannot deal with the common property.

Clause 13 (3) provides that an application to the Supreme Court to order that amendment of a strata plan can only be made for three purposes, namely:

> ... for the purpose of correcting an error in the plan; for the purpose of varying the unit entitlements of the units; for the purpose of achieving amendments that have become desirable in view of damage to buildings within the strata scheme.

The point has been made by the Surveyors Institution that, while it is not possible to think of too many other reasons why an application to the court should be allowed, it would be advisable to provide a catch-all provision which allows an application to the court for other purposes involving rectification of the strata plan. Again, I have some sympathy with that.

Clause 14 (4) *(a)* provides that the Planning Commission is to approve an application for the deposit of a strata plan if it is satisfied that the division of land in accordance with the plan or the amendment is consistent with the Planning Act 1982 and the development plan under that Act. The point has been made to me—and I think it is a good one—is that many groups of units built many years ago, which have not yet been strata titled but which complied with the relevant planning and zoning laws at the time of construction, will not now comply with the provisions of the Planning Act or the development plan.

Parking plot ratios and zoning all may be now changed. I suggest that if units did comply with the relevant laws at the time of their construction it should be sufficient to enable those units to be strata titled. This also applies in relation to clause 14 (7) *(b)* (i).

There is provision in clause 15 (2) to make an appeal to the Planning Appeal Tribunal to be commenced within two months after: the expiration of the prescribed time; the date on which the appellant receives notice of a decision to which

the appeal relates; or, if the appellant has complied with the conditions of a provisional approval within the period stipulated by the commission or council, the refusal of the commission or council to issue a certificate of approval.

It has been pointed out to me by the Surveyors Institution that, where a council or commission fails to issue an approval that is subject to an appeal, the appeal must be made within two months of the time by which the council or commission should have issued the approval. The usual practice for those people seeking approvals is to go on bended knee and to beg for it. They do not immediately rush to the court. They prefer to get the approval by persuasion rather than by litigation. But when action is finally necessary the two month period may well have expired. It is in those circumstances that there ought to be some recognition of the way that the whole business of approvals is handled and to make some exception to that two month time limit for the circumstances to which I have referred.

Clause 17 (2) provides for the cancellation of a deposited strata plan by the lodging of an instrument of cancellation, which must be under the seal of the strata corporation. It may be that there is an order of the court for the cancellation of the deposit of strata plan, and in those circumstances it seems inappropriate that this should be required to be under the seal of the strata corporation, which might not be possible to obtain, for a variety of reasons. So, I draw the Minister's attention to the possible drafting difficulty.

Clause 16 deals with the amalgamation of adjacent sites. Subclause (4) provides:

> A provision in an agreement to purchase a unit providing that a party to the agreement will, as a member of a strata corporation, consent to the amalgamation of the relevant deposited strata plan with another strata plan pursuant to this section, be void.

The concern that has been expressed is that this sort of provision does not give any security to a builder if the builder does not know whether or not the future holders are likely to consent. This subclause provides a shackle on the developer, and it seems to me that there is some merit in that argument. It may be that there is some alternative mechanism by which the purchaser can be protected by having adequate knowledge of what is proposed but nevertheless be bound to support the amalgamation on the basis of that knowledge.

In respect of the regulation-making power, the Surveyors Institution says that it is a requirement for the common property to be something like 10 per cent of the development. That is not in the Bill now, but it was in an earlier Bill, and the Surveyors Institution says that it is not able to think of any case where, in a single storey development—and it should be remembered that this applies only to a single storey development—that 10 per cent rule has served a useful purpose. The example is given of a pair of maisonettes which are fenced so that the common property is separated, one from the other, and those who are surveying look to put that 10 per cent in a place which is the least obtrusive and intrusive for the unit holders.

It also makes several other points. It wants to ensure that corporations of buildings built before 1978 are not required to make a planning contribution. Nothing in this Bill relates to planning contributions and, under the existing Act, such contributions were not paid on existing schemes. I believe it is important for the Minister to clarify what the Government proposes in that respect.

I have also received some submissions from the Strata Administrators Institute, which is concerned that the Bill does not provide for professional strata administrators. The Bill provides that all positions must be held by the holders of units and there appears to be no provision for delegation by the secretary of his or her duties. It expresses some concern about that and I must say that I share that concern. The control of the conduct of the business of the strata corporation ought to be in the hands of the holders of units but, nevertheless, if they so wish, perhaps if it is approved by a special resolution, they should be able to delegate some administrative responsibilities to a professional administrator.

The institute also draws to my attention that no provision is made in clause 6 (1) for a minimum aggregate of unit entitlement and that, if unit entitlement is fixed at, say, single figures, then when you take the difference between them in percentage terms, it may well be that the percentage differences are too great. The institute suggests that some figure in the thousands should be the minimum for the aggregate unit entitlement.

It also points out, as did the Surveyors Institution, that clause 16 (4) relating to the amalgamation of adjacent sites is somewhat restrictive, because it deals with an inability to bind purchasers of a unit to future amalgamation, whose terms and conditions might well be known and that the difficulty is that, in any event, a purchaser or an option holder may not be known. I do not think that much can be done about that, but I think that some further work needs to be done on the way in which that subclause is to operate. Clause 22 provides:

> Except as authorised by or under this Act, or by order of the court, a strata corporation must not make any payment to any of its members.

Quite obviously, that is directed to the payment of large amounts without justification, but in many small unit complexes one of the holders may be able-bodied and they may mow the lawns for the whole strata corporation. Perhaps members may wish to make payment to that unit holder for work actually done. In some developments a member assumes a responsibility as caretaker and, in those circumstances, it would be reasonable to pay that person for the duties performed. There is some reasonable basis for the matter raised and I would like the Government to consider amending that clause so as to allow that sort of payment, perhaps on the basis of a special resolution of a meeting of unit holders.

I have referred to clause 23 earlier. It does not provide for delegation and, whilst one can accept that it may not be appropriate to allow the presiding officer, the secretary and treasurer to delegate responsibility in chairing meetings, and so on, nevertheless it may be appropriate to allow some form of delegation, with the approval of all unit holders, to a body or person professionally involved in the administration of strata titles.

Clause 34 deals with a poll. The point has been raised (and I think quite properly) that 'poll' is not defined. I think that, in order to clarify to unit holders what is envisaged, some clarification of 'poll' is required. Most of us who are involved in the commercial area of the law understand a 'poll' and the significance of it, but when you are involved in a strata corporation the same experience does not necessarily follow.

Clause 35 appears to place further limitations on any power to delegate. Perhaps clause 40 should allow, as does the present Act, some power by which a corporation can delegate some responsibilities to professional persons, say, for the preparation of accounts and the keeping of proper accounting records.

In relation to article 6, it has been suggested to me that any consent of the strata corporation for a person to damage any lawn, garden, tree, shrub, plant or flower on common property, or to use any portion of the common property for his or her own purposes as a garden, should be unanimously given by unit holders, and I tend to agree with that prop-

osition. Under article 10 a person is bound not to use or store on the unit or on the common property any explosive or any other dangerous substance, unless it is with the consent of the strata corporation. Some suggestion has been made to me that if, for example, there is a paint shop in commercial premises, consent should not be required where it is part of the normal conduct of business and complies with all statutory safety requirements. Again, I raise it because I would like the Minister to have a look at it.

The Law Society Property Committee has raised a number of issues, some of which have been addressed in the other place. It is important that I deal with those that do not appear to have been addressed already. Under clause 4 of the Bill, the Act and the Real Property Act are to be read together and construed as if they constitute a single Act. The Law Society Property Committee says that this may create problems, but they have not had time to work through that.

One area where it may cause problems is in that of definitions, because the definitions in one Act will therefore apply to the other, and *vice versa*. That would mean that it is undesirable for terms to be used with different meanings in the two Acts. The committee points out that there are examples where words such as 'encumbrance', 'allotment' and 'council' in this Bill are used with different meanings in the Real Property Act. I ask the Attorney-General, in considering my contribution, to indicate how that difficulty is to be resolved. The Law Society also says:

> I do not know why it has become the practice to abandon the use of the word 'shall' which is understood and defined in the Acts Interpretatation Act. In this Bill it is replaced by 'must', 'will' and, at least once, even by 'may'. Are both 'will' and 'must' imperatives? For example, section 8 provides that where certain conditions are satisfied, the Registrar-General will deposit the plan. The question is: Does this create an enforceable obligation?

The Law Society raises questions in relation to clause 3, most of which have been satisfied. In the definition of 'strata corporation', the word 'constituted' is used. The suggestion is that the word 'incorporated' should be substituted for that or, if not, at least the same expression should be used in the definition, in clause 8 (2) *(c)*, and in clause 40 (2). If we look at those provisions, we see that there is a different expression which is inconsistent with the definition.

In clause 5, the point is made that a strata plan does not necessarily show any common property. It is important in that context to be able to clarify subclause (1), which states:

> A strata plan is a plan dividing land into units (of which there must be at least two) and common property.

If there is no common property, at least that ought to be recognised in that clause. The submission in relation to clause 6 is that the drafting demonstrates an incorrect mathematical formula. The Law Society states:

> A number cannot represent the relative capital value of the unit to the aggregate value of all units. This can be done by only a percentage, fraction or other ratio.

I agree with that. Maybe it ought to be 'the capital value of the unit relative to the aggregate capital value of all units defined on the relevant strata plan expressed as a percentage'. I think that would put the question beyond doubt.

Clause 7 (1) takes no cognisance of the fact that there may be a mortgagee in possession exercising rights under the mortgage where the mortgagor is in default, and the mortgagee in possession may wish to apply for the deposit of a strata plan as a strategy for maximising the return on the sale of the security. This subclause refers only to the owner making the application, and I agree that that ought to be extended in the limited circumstances to which I have referred.

I think the drafting in clause 8 (6) *(a)* is in error. Instead of providing for the registered encumbrance on land to which a strata plan relates to be registered on each certificate for a unit, it should be on the certificate for each unit. In relation to clause 10, subclause (2) provides that an equitable share in the common property attaches to each unit and cannot be alienated or dealt with separately from the unit. I have already addressed that in respect of other submissions, but the Law Society's point is that this would not prevent a unit holder from disposing of his or her unit but retaining his or her interest in the common property. I am not sure that that is the case, but I raise it for consideration.

Clause 12 (6), which deals with an application for amendment of a strata plan, provides:

> Where an amendment provides for the division of a unit into two or more units, or the consolidation of two or more units into any one unit, any unit created by the amendment will be held subject to any registered encumbrance shown on the original certificate or certificates, unless an instrument providing for the discharge of the encumbrance is lodged with the Registrar-General.

The problem here is that that really cannot be effective unless all the registered encumbrances are to the same people in the same order of priority. If the encumbrances are in different orders of priority, how do we deal with that? If they are to different people, in what order do those encumbrances rank on a consolidation? Perhaps the consolidation should be conditional upon all encumbrances being discharged which would then enable the consolidation to occur and the parties then to agree as to the order of priority which should apply in respect of those new encumbrances on the unit which result from the consolidation.

In relation to clause 13 (2) *(d)*, an application can be made to the court for the amendment of a strata plan by an insurer of a unit or any of the common property. The point which the Law Society makes is that the insurer is not defined. It probably ought to refer to a person with whom the strata corporation has a contract of insurance under what will be section 30. Clause 14 deals with approvals required for deposit or amendment to a strata plan. The question is raised in subclause (1) as to why both the Planning Commission and the council should have to give consent. Why not only the council?

Clause 16 deals with amalgamation. The Law Society Property Committee says that it is unfortunate that these revised provisions for strata titles do not make provision for stage development. It states:

> This section will either *(a)* cause unnecessary expense in making it necessary to lodge a strata plan for a second stage of a development and then to apply for amalgamation, or *(b)* lead to an inefficient proliferation of small strata schemes if developers are not willing to incur the expense and delay that the procedure mentioned above will entail.

I have already referred to that in my opening remarks on the second reading, and I merely add to them the comments of the Law Society Property Committee.

Clause 17 deals with cancellation of a deposited strata plan. Subclause (7) *(a)* provides that on cancellation all land comprised in the plan vests in fee simple in the former unit holders as tenants in common in proportions fixed by reference to the unit entitlements of their respective units. The definition of 'unit holder' excludes remainder and reversionary interests. Subclause (7) *(a)* would therefore exclude persons who have a legal and beneficial interest in the strata title. The Law Society says:

> The land should vest in the persons who were the registered proprietors of estates in fee simple of the units at the time the plan is cancelled.

I agree with that, because it is likely that the remainder or reversionary interest will also be registered on the certificate of title. Subclause (7) *(b)* makes provision, on the cancellation of a strata plan, for the strata corporation to be dissolved. The Law Society says:

> This cannot be right. A person who owned a unit free of mortgage would find his interests subject to the mortgages over every other unit. The proprietors of each unit should hold their interest in the land subject only to any mortgage or charge registered over their unit at the time of cancellation.

That is a good point. Another point concerns subclauses 7 *(c)* and *(d)* because, on cancellation, the liabilities of the strata corporation will attach directly to the former unit holders jointly and severally, although they will be entitled to contribution between themselves. Paragraph *(d)* provides:

> Subject to any order of the court, the assets of the former strata corporation will be divided between the former unit holders in proportions determined by reference to the unit entitlements of the former units.

That does not take account of reversionary and remainder interests, nor does it take account of the fact that former unit holders may be any in a long line of former holders of the unit. So, some attention must be given to reversionary and remainder interests, perhaps to ensure also that there is no liability of some unit holders for debts of other unit holders and that unit holders are those who were the unit holders at the time the strata plan was cancelled.

Clause 19 (4) *(c)* contains a reference to a guide dog for the blind or deaf. The point is made that deaf persons do not have guide dogs; they have hearing dogs. We should get the terminology correct. Clause 22 deals with the restriction on payment by the strata corporation to its members, and I have already referred to that. However, I point out that this creates an offence by the strata corporation. It penalises innocent unit holders equally with the persons responsible. The offender should be the person who authorises the payment and the person who receives it, although, as I said earlier, strata corporations should have power to pay members reasonable amounts for services rendered by them, and authorisation should perhaps require a special resolution.

In either clause 18 or clause 24 some provision should be made as to how the common seal of the strata corporation is to be authorised and affixed to documents. In relation to clause 28, the Law Society suggests:

> The right of the unit holder to recover the cost of work in subclause (5) should apply where the unit holder does the specified work in accordance with subclause (1).

As it is now drafted, he can only recover when the corporation does the work because reference is made back to subclause (4). Reference should also be made to subclause (1). In clause 29, dealing with structural work, it may be appropriate to put in a power that the corporation can require the person in default to restore premises to their original condition. The Law Society suggests that the provision of subclauses (2) to (5) of clause 28 should apply.

In clause 34, reference is made to commercial or business premises. The Law Society quite rightly makes the point that there is no definition of commercial or business premises, and something should be included to clarify that matter. With respect to clause 43, dealing with insurance by unit holders, the Law Society says:

> Subclause (3) *(b)* (iii) conflicts with subclause (3) *(a)*. It is submitted that subclause (3) *(b)* (iii) be altered to read 'the amount sufficient, at the date of payment, to discharge the mortgages to the mortgagees whose interests are noted in the contract'.

There is some substance in that. In respect of schedule 2, which deals with transitional provisions, clause 5 (4) *(c)* refers to certificate of title. It probably should just refer to 'certificate'.

That is the range of issues on this Bill to which I would like the Attorney-General to give some attention so that, when it is dealt with in the Committee stage, a number of the difficulties to which I have referred can hopefully be rectified to make it a better Bill for all those unit holders who will be affected by it when it comes into operation. I support the second reading.

The Hon. T. CROTHERS secured the adjournment of the debate.

TRADE STANDARDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 2767.)

The Hon. K.T. GRIFFIN: This Bill does a number of things. It extends the provisions of the present Trade Standards Act to cover not only dangerous goods but also dangerous services. It enables the Minister to place a temporary ban on the manufacture or sale of goods or services that it appears to him may be dangerous. It enables the Minister to issue a defect notice that identifies the defect in or dangerous characteristic of goods and directs the supplier to take specified action, including the recall of goods. It provides for a conference to be held prior to the publication of a formal defect notice. It provides for notification to the Minister of voluntary recall of goods. It enables the Government by regulation to promulgate quality standards covering goods and services. It extends the compensation that is available to persons who have suffered loss through the failure of the manufacturer or supplier to comply with a provision of the Act. It rewrites the powers of the standards officers, and it increases from two months to three months the period specified in subclause (8) in which proceedings may be instituted for an offence against the Act in relation to goods that have been seized.

A number of bodies have made submissions to the Government and to me and, as a result of those submissions, amendments were made in the other place when the Bill was first considered. However, some issues need to be clarified, and it is important to put them on the record for consideration by the Attorney-General prior to his reply. The Opposition has no difficulty with the extension of the legislation to cover declarations as to dangerous services as well as dangerous goods. However, there are difficulties where one introduces the concept of compensation rather than just recovery of costs and expenses as a result of goods and services being declared to be dangerous.

The difficulty we face is that the compensation can be recovered either by an action in tort or in a prosecution by the criminal court ordering compensation. In the latter instance there is no provision for the defendant to seek adequate proof of compensation or to give evidence with respect to the compensation. I believe that we must give attention, if compensation is to remain in this respect, to the rights of the defendant to question and to ensure that the compensation is established to the satisfaction of the court. More particularly, the compensation is automatically recoverable upon the establishment of loss, injury or damage following the declaration being made by the Minister by notice in the *Gazette* that the goods are dangerous. There is no challenging that declaration. It can be made by the Minister in the *Gazette*, and automatically from that flows the right to compensation if the loss, injury, or damage can be established.

I have no quarrel with the general principle of the Minister's making a declaration for the purposes of taking dan-

gerous goods and services off the market, but I do have difficulty where a supplier is to be liable to pay compensation without having any right to challenge the declaration that goods or services are dangerous. I am contemplating an amendment that would allow a supplier who is faced with a claim for compensation, for the purposes of that claim only and for no other purpose under the legislation, to challenge and probe the validity of the declaration that the goods are dangerous. I believe that that then means that the Minister's declaration is not a *fait accompli* for the compensation, and the supplier is not in a position where there is no basis upon which a challenge can be made to a Minister who might abuse his or her power and make such a declaration, remembering that other consequences follow from that.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The court has power to award costs and, if there is a vexatious challenge, the court will take that into account in awarding not only the compensation but also the costs. The problem is that, while that can be remedied, the declaration of the Minister, which itself might be vexatious, cannot be challenged at all. The Minister's declaration is final. Whilst I can see that there is some merit in that for the purpose of protecting the public, I have some difficulty in allowing the right to compensation to follow automatically where the Minister's declaration might have been capricious or vexatious. I am seeking only to ensure that the Minister's decision for compensation can be subject to review.

There is nothing like having someone independent, such as a court, being able to keep the Minister honest. However, I recognise that to put the declaration at issue at the point of saying that the goods are dangerous and ought to be taken off the market would unduly delay and complicate the proceedings. Therefore, it is only for the purpose of compensation. However, I believe that justice requires that some mechanism be provided whereby in the issue of compensation the Minister's declaration might be subject to review.

In the area of compensation also there may well arise a question of contributory negligence by the consumer. Of course, that is not permitted to be taken into consideration at present, but I believe it should be and I would like the Attorney-General to consider the question of contributory negligence or, shall we say, the misuse of a product by a consumer whereby, by virtue of the misuse, the product became dangerous, rather than the product or service being inherently dangerous. Again, we must consider that, and I raise the issue so that the Attorney can think about it.

The powers of inspectors and the provisions relating to protection against self-incrimination were amended quite significantly in the other place. As far as I can see, those powers are now generally satisfactory. There is a problem in relation to recall, as 'recall' is not defined. The retail traders who, I suppose, have as much at stake in this as anyone else, have made a submission to the Government (of which I have a copy) that states:

> The expression 'recall' must be defined if this procedure is not to have any unintended effects. At its broadest, 'recall' may extend to the process of the taking of any goods off the shop floor including, for example, the replacement of goods upon the expiration of their 'use by' dates. In such circumstances it would be unnecessary and disruptive to the public if such goods were subject to the publication of a recall notice where at the time of their purchase the goods were within the use by date and without risk to the consumer.
>
> Recall should be limited to the recall of goods acquired by the consumer which at the time of their acquisition will or may cause injury. Further, as currently worded the proposed section could extend to recall as between retailer and manufacturer/wholesalers. As the purpose of this section is to provide a method for notification by the authorities to the consumer, then recall at the various stages prior to the consumer having access to the acquisition of the goods should not come within the ambit of the section.

I agree with that. I think that we must be careful that we do not get too over-zealous. We are looking to protect the consumer. What happens before the goods get to the consumer ought not necessarily be the concern of any government agency. So, I would like to see 'recall' identified. The notice of recall, if it is to be as wide as it could be, is to be made within two days after taking action. That is a very limited time: for example, the Christmas break could intervene. The recall could occur on Christmas Eve, and it may not be possible to give notice of that voluntary recall within two days. I suggest that perhaps a period of seven days would be reasonable, in the circumstances. Clause 8, at paragraph *(d)*, seeks to insert a new subsection (8), which provides:

> Where any goods are siezed and removed under this section and—*(a)* proceedings are not instituted for an offence against this Act in relation to the goods within three months of their seizure; or *(b)* proceedings are instituted within that period but the defendant is not subsequently convicted, the person from whom the goods were seized is entitled to recover the goods . . .

Previously, it was two months. I think that two months is still adequate, and I will seek to reinstate that period of two months, to maintain the *status quo.*

In relation to clause 10, which deals with the cost of testing, I have a concern about the recovery of any reasonable cost of any examination, analysis or test that led to a declaration that goods or services were dangerous, in the sense that the declaration is not subject to challenge and nor does it appear that the reasonable costs are subject to challenge. The introduction of the word 'reasonable' in the other place to some extent does qualify this, but it seems to be a *fait accompli.* Subsection (5) of proposed new section 18 provides:

> In any proceedings for the recovery of the cost of carrying out an examination, analysis or test to which this section applies, a certificate apparently signed by the Minister certifying the amount of that cost will be accepted, in the absence of proof to the contrary as proof of the cost.

I suggest that it ought to be allowed that the defendant can seek particulars and test those particulars. Clause 13 deals with the insertion of a new section 24, dealing with manufacture or supply of dangerous goods or services. I have some reservations, not about the principle, which I think is adequate, but in relation to the fact that the goods have been declared to be dangerous and there is no review of the declaration, and nor is there any obligation on the Minister to consult with the supplier.

There are other matters that I want to consider but, in view of the time, it would be more appropriate for me to raise those matters during Committee. As I said, many of the difficulties that I and various groups in the community foresaw with the Bill, as introduced in the House of Assembly, have to a large extent been remedied by amendments made in that House, and I commend the Government for that. However, I want some clarification of the issues that I have raised, which matters may be the subject of amendment in this place, and there are other minor matters of detail that I will seek to have clarified. I support the second reading.

The Hon. T. CROTHERS secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: This clause provides that the Act will come into operation on a date to be fixed by proclamation. When is it envisaged that the Act will be proclaimed? When the Bill was introduced in December last year, Liberal Party members received some pressure from councils which believed that we should push for the Act to go through so that it could be proclaimed and be in operation by 1 July this year. When is it envisaged that it will be proclaimed and when is it envisaged that it will become operable?

I make the point also that, in respect of the debate in December, even though Liberal members, and I assume Australian Democrat members, were pressured to allow this Act to pass, councils such as the Adelaide City Council said that, even if the Act were passed at that time, they would not have been able to get their computer programs and the like together in time to ensure operation from 1 July. Subclause (2) provides that the Governor may suspend the operation of specific provisions. What provisions, if any, is it envisaged may be suspended in a proclamation?

The Hon. BARBARA WIESE: If I can take the second question first, the wording of clause 2 (2) is simply standard drafting practice. There is no intention to suspend the operation of any specified provisions of the proposed Act. With respect to the first query about when it is intended to bring this legislation into force, first, it depends very much on the Bill's passage through the Parliament and how quickly that can be achieved. Secondly, it depends on the time of Parliamentary Counsel and its being taken through the remaining procedures before an Act of Parliament can be proclaimed but, if at all possible, we would like to have it in force so that the provisions of the new legislation could be brought into effect for the 1988-89 financial year.

Because of the short period between now and the beginning of the financial year, I do not know whether or not that will be possible. If it is at all possible, we will aim to achieve that. In the meantime, we have written to the various computer companies and to all councils in the State to get some idea of their lead times for the introduction of the new provisions. When we have assembled all the information, we will get on with it as quickly as possible. If it seems that there is no possibility of implementing it for the beginning of the coming financial year, then some of the pressure will be removed but, if it is at all humanly possible to do it, that will occur.

The Hon. Diana Laidlaw: Or technologically possible.

The Hon. BARBARA WIESE: Technologically also, because I know that many councils would like to have access to many of these provisions as quickly as possible.

Clause passed.

Clause 3—'Repeal of section 3.'

The Hon. DIANA LAIDLAW: I move:

Page 1, line 21—Leave out 'repealed' and insert 'amended—

(a) by striking out all the items from (and including) the item "Part X—Assessments" up to (and including) the item "Part XV—Revenue and Expenditure" and substituting the following items:

PART IX—FINANCIAL MANAGEMENT

DIVISION I—COUNCIL REVENUES
DIVISION II—EXPENDITURE OF REVENUE
DIVISION III—INVESTMENT
DIVISION IV—ACCOUNTS AND RESERVES
DIVISION V—FINANCIAL STATEMENTS
DIVISION VI—ACCOUNTS
DIVISION VII—AUDIT
DIVISION VIII—MISCELLANEOUS

PART X—RATES AND CHARGES ON LAND

DIVISION I—PRELIMINARY
DIVISION II—BASIS OF RATING
DIVISION III—VALUATION OF LAND FOR THE PURPOSE OF RATING
DIVISION IV—DECLARATION OF RATES AND IMPOSITION OF CHARGES
DIVISION V—THE ASSESSMENT BOOK
DIVISION VI—IMPOSITION AND RECOVERY OF RATES AND CHARGES
DIVISION VII—MISCELLANEOUS

PART XI—FEES AND CHARGES

PART XII—PROJECTS WITHIN A COUNCIL AREA

PART XIII—CONTROLLING AUTHORITIES';

and

(b) By striking out all the items from (and including) the item 'PART XVIII—Contracts, Lands, and Works and Undertakings' up to (and including) the item 'PART XXI—Loans'.

This clause proposes to repeal section 3 of the principal Act. I note that one of the objectives of this Bill is to re-order and revise the financial provisions of the Act, which we acknowledge are now very cumbersome and the Liberal Party endorses that objective. In endeavouring to realise that objective, the Government has sought to delete the existing index system. My amendment seeks to restore that system. We believe very strongly that, notwithstanding the reduced size of this Act, particularly over a period, it will remain complex legislation and not only will it be used by councils and councillors but also by a wide range of other people who have dealings with councils. Therefore, we believe that it is important that an index system be included in the Act for their use.

When members consider the value of this amendment, it should be remembered that, notwithstanding all our best endeavours to condense, re-order and revise the whole Act, over a period, not only will it remain a broad ranging piece of legislation, with hundreds of pages and perhaps thousands of clauses, but also the revision of this Act is becoming a very long and drawn out process. In the meantime, I think that the retention of this index system would continue to be of benefit. Perhaps when the fifth stage of the Act has been passed we can seek to remove this index system, but the progress is very slow. In the meantime, this important amendment will help people to understand the Act.

The Hon. BARBARA WIESE: I would not want the Committee to spend a lot of time on this matter. I oppose this amendment for a number of reasons. First, it is no longer drafting practice to insert an index in the body of legislation. As the honourable member has pointed out, the existing index is now out of date. This means that a lot of revision is required, as the honourable member indicated when speaking to her amendment. Our plans for the long term really are the reasons why I oppose this amendment now. After this period of revision of the Local Government Act, that is, after each of the next two revision Bills have been passed, it is proposed that the Government Printer will produce the Bill in a pamphlet form and, when the final revision Bill has passed the Parliament and we have a completely revised Act, we will then ask the Government Printer to produce a loose-leaf version of the Act. When that occurs, each of these versions will have an index, so ultimately we intend to have an index for the provisions of the Act, but at this time we have been advised by Parliamentary Counsel that such an index is not appropriate.

The Hon. I. GILFILLAN: We oppose the amendment.

Amendment negatived; clause passed.

Clause 4—'Interpretation.'

The Hon. DIANA LAIDLAW: I understand that within this interpretation of 'land' the Local Government Association has consistently sought to include a reference to portion of land and to the three matters that are noted under the interpretation. The Minister has equally consistently

rejected their plea. I ask the Minister the basis for that rejection, particularly in light of the fact that other proposed amendments also seek to define land for the purpose of rating. For instance, proposed section 168 (4) sets out what rates will be assessed. Included in that amendment is any piece or section of land. The Minister's amendment on page 19, after line 3, inserts a new subsection (14) with respect to the differential rate, and this provides yet another definition of 'land' which is very similar to the provisions of proposed section 168 (4) with which it must be read. As I indicated earlier, that provision relates to the inclusion of any piece or section of land.

The Minister's amendment also sets a different criterion for land with respect to the minimum rate, and her amendments to section 90 on page 26, lines 1 to 6, refer to land as being 'a single allotment' and defines 'allotment' and talks in terms of separate licence coupled with an interest in land. The licence does not give an exclusive right to occupy, and the clause may be trying to catch a situation where a person has a licence with a right to occupy, which is probably a lease. There may be reasons for all these separate definitions, but it certainly adds confusion to the rating system as there are different considerations for differential rates, minimum rates and other rates.

Would the Minister comment on the wide variety of definitions of land which are scattered not only throughout the Bill at the moment but which will be addressed in further amendments? Further, would she explain why she has consistently refused the LGA's submission to include in this definition in clause 3 reference to a portion of land, when it is quite clear that definitions of land in other parts of the Bill refer to portions or sections of land?

The Hon. BARBARA WIESE: This definition of land includes 'portions of land'. If the honourable member is referring to the question of rating on portions of land, that is dealt with in an amendment which I will be moving later. With respect to the question of minimum rating and portions of land, I will be moving an amendment later which clarifies the matter of minimum rating on portions of land where I would deem it inappropriate for minimum rating to apply. For example, I refer to a boarding house where individual rooms might be occupied by different people. I consider it inappropriate for a council to be able to minimum rate each of those rooms, so there will be an amendment dealing with those portions of land. We are dealing with three issues in respect to the definition of land. Does that clarify the position?

The Hon. DIANA LAIDLAW: It does not necessarily clarify it as far as I am concerned but perhaps the explanation was clear to those with more expertise in this field. I do not understand how the Minister can claim that the interpretation of land in paragraph *(e)* actually encompasses a portion of land. I stress that point because, even in the most recent representations that came to me last night from the LGA, it is still pressing for that point. It does not necessarily believe that 'portion of land' is included in that interpretation of land. Secondly, if we were able to include 'portion of land', when the Minister cites the case of a portion of land in terms of the minimum rate, surely we could move an exemption or a qualification when dealing with that specific instance of minimum rating on a portion of land. We could oblige the LGA in its consistent push that 'portion of land' be included in this interpretation.

The Hon. BARBARA WIESE: That matter was raised also with me by the Local Government Association. In turn, I raised it with Parliamentary Counsel. It really is a drafting issue. Parliamentary Counsel advises that the definition in clause 4 *(e)* includes 'portion of land', and it is not necessary to refer to that specifically. I have to accept the advice of Parliamentary Counsel on that point. Certainly, it is intended that 'portion of land' be included in that definition of land and, as I understand it, it is included.

The Hon. DIANA LAIDLAW: With all due respect to Parliamentary Counsel, a much wider range of people have to deal with this Bill, and I feel very strongly that if the LGA is continuing to press even at the stage of last night for 'portion of land' to be included in this Bill—and it is the clerks and the LGA who will be the principal users of this Bill, not necessarily Parliamentary Counsel—even if it is stating the obvious, we could perhaps include that obvious fact. To me it is certainly not obvious; to the LGA, it is not clear or obvious. The Bill will be such an important piece of legislation for a great many people. If the Minister would consider a last minute plea to include a further definition, the people who will be using this Act out in the community would be most appreciative.

The Hon. BARBARA WIESE: I appreciate the points being made by the honourable member. Parliamentary Counsel still insists that the definition as included in the Act is appropriate and includes 'portion of land'. However, I am prepared to take up that matter again with Parliamentary Counsel. Rather than taking up the time of this Committee now, I will give an undertaking that I will discuss that matter again with Parliamentary Counsel as the Bill proceeds through the Parliament and certainly before the debate begins in the House of Assembly.

The Hon. DIANA LAIDLAW: I just wish the Minister well.

The Hon. J.C. IRWIN: In clause 4 *(a)*, this Bill strikes out the definition of 'assessment', but Division V of the Bill deals with 'the assessment book'.

The ACTING CHAIRPERSON (Hon. Carolyn Pickles): Before you proceed, we will be lenient with you this time, but could you try to take the amendments and questions in order.

The Hon. J.C. IRWIN: Thank you, Ms Acting Chair. I refer to paragraph *(a)* and reference to 'assessment book'. Division 5 deals with the assessment book, and there are a number of references to it throughout the Bill. Why is there no definition of the term?

The Hon. BARBARA WIESE: This is largely a drafting matter, but the key issue is the question of valuation. The assessment book is the method by which valuations are recorded. 'Valuation' is defined in paragraph *(k)* as a determination or assessment of value, and the assessment book is retained as the record and will still be referred to as the assessment book. As the honourable member said, it is referred to in other parts of the legislation. However, for the purpose of the definitions, advice of Parliamentary Counsel is that it is considered necessary only to refer to it as part of the definition of 'valuation'.

The Hon. J.C. IRWIN: I merely comment that it is sad to see part of local government history go, although I know that that is what this Bill is all about. For many years, many councils have referred to the assessment book. I accept what the Minister said, but it beats me why the Bill does not contain a definition of 'assessment book'. I refer now to paragraph *(f) (c)*, which uses the word 'arrogated'. It is not a commonly used word and probably not understood by many people, even by members in this Chamber. In the interests of simple English, which I understand all legislation is supposed to be based on, why has that word been used? My dictionary says that it means 'to claim or seize without right, to ascribe or attribute without reason'. If that is the case, why does subparagraph *(c)* contain the words 'lawfully

or unlawfully' in brackets? If 'arrogate' means to claim or seize without right, the word 'lawfully' is not needed.

The Hon. BARBARA WIESE: This is also a drafting issue. My definition of 'arrogate' is 'to claim unduly', which is very similar to the definition put forward by the honourable member. Parliamentary Counsel has provided some examples of why the qualification of '(lawfully or unlawfully)' is needed in the definition. It is suggested, for example, that somebody might claim unduly some right to a property or an estate, or something of that kind, either lawfully or unlawfully. It is the act of arrogation that is defined here rather than the lawfulness of it.

The Hon. DIANA LAIDLAW: I move:

Page 2, after line 32—Insert new paragraph as follows:

(fa) by inserting after the definition of 'presiding officer' the following definition:

'prime bank rate', for a particular financial year, means the rate (expressed as a percentage per annum) fixed by the State Bank of South Australia at the commencement of that financial year as its prime lending rate;.

I understand that the Minister has a similar amendment on file, the only variation being the use of the word 'indicator' rather than 'prime'. The Liberal Party is keen to continue with the expression 'prime lending rate' because it is used throughout the Act and in some of the amendments to be moved by the Minister and me in respect of interest rates. The Opposition feels that, for consistency and understanding, my amendment should proceed. Like the Government, the Opposition sees a need to set a clear external factor for councils and ratepayers when councils determine the interest that a ratepayer is to pay, for example, following the postponement of paying rates. I am interested in the Minister's views on the Government's use of the term 'indicator' rather than 'prime'.

The Hon. BARBARA WIESE: This amendment and many others that both the Hon. Ms Laidlaw and I have placed on file have resulted from discussions that I had with the Local Government Association and following requests that were made to me for various matters to be expanded upon or clarified or for information that it was my intention to include in the regulations. In many of those instances, I have been happy to agree to those requests, and this is the first of those issues.

When my amendments were first drafted at the end of November, my amendment included reference to a prime lending rate, as the Hon. Ms Laidlaw's amendment now reads. Since then, my department has had discussions with the State Bank, which has indicated that it prefers the term 'indicator lending rate', which the bank uses. The bank advised that would be a preferable term to include in the legislation. For that reason, my amendment uses that terminology. Therefore, I indicate that I oppose the Hon. Ms Laidlaw's amendment in favour of my own.

The Hon. I. GILFILLAN: I indicate support for the Minister's foreshadowed amendment and opposition to the Hon. Ms Laidlaw's amendment.

The Hon. DIANA LAIDLAW: Why does the State Bank use the word 'indicator' and not 'prime'? Is there a difference in the lending rate that will apply?

The Hon. BARBARA WIESE: There is no difference in the rate. It is simply the term that the State Bank uses when it publishes its rate and for consistency between those publications and our legislation. So that there could be no doubt about the issue, it was recommended that we use the term that the bank uses officially.

The Hon. J.C. IRWIN: I certainly support the thrust of both amendments, but I believe it is a bit tough on someone who has a contract with a council at the end of the financial year, as the prime rate is very much different to the rate at the commencement of the year. Both amendments refer to the commencement of the financial year. Has the Minister considered a six-month review rather than having it run for the whole financial year?

The Hon. BARBARA WIESE: We have been concerned to provide some certainty for councils in determining the rate, and sticking to an annual system seemed to be the best way to do that.

The Hon. PETER DUNN: Do all local government authorities trade through the State Bank? I wonder whether the ANZ Bank, Westpac and other banks use the terms 'indicator rate'. According to my interpretation of 'indicator rate', it is much more variable than the prime rate. The prime rate is set federally, but the indicator rate is set by each bank and according to people's ability to repay. People in the rural industry are graded from one to five and pay interest on that indicator.

The Hon. BARBARA WIESE: I believe that most of the business of councils goes through the Local Government Financing Authority. When officers of the Department of Local Government contacted the LGFA to obtain some sort of reference point, the authority was not able to provide one. Therefore, we went to the State Bank for that reference point. The State Bank used this terminology, and we have included it in the Bill. As far as I am aware, the Local Government Association and all the councils concerned are happy with what is provided in the Bill. I move:

Page 2, after line 32—Insert new paragraph as follows:

(fa) by inserting after the definition of 'residing officer' the following definition:

'prime bank rate', for a particular financial year, means the rate (expressed as a percentage per annum) fixed by the State Bank of South Australia at the commencement of that financial year as its indicator lending rate.

The Hon. DIANA LAIDLAW: We are happy to accept the amendment, and I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Amendment carried.

The Hon. J.C. IRWIN: Paragraph *(k)* strikes out the definition of 'urban farm land'. A number of councils have approached me because they are perturbed that that definition will be struck out. It has been put to me that that definition is essential for councils to effectively meet the circumstances where the Valuer-General is unable to adequately value property used for primary producing or urban farmland purposes and where the property owner is not a true farmer but the property is capable of primary production. I understand that this is particularly relevant where the council adopts a site value method of assessment. The Minister is no doubt aware that a number of councils in rural areas are perturbed that this definition will be struck out.

The Hon. BARBARA WIESE: This provision does strike out that definition, but section 214b of the existing Act provides for urban farmland to be subject to a remission of one half or more of the rates that would otherwise be payable. It does not apply where the land has been valued under the provisions of the Valuation of Land Act which allow notional valuations to be made that disregard the value added to land in primary production which has potential for subdivision or development. Since the concession is available at the valuation stage, it is no longer necessary to retain section 214b or the definition. In other words, we are providing for those concessions but in a different place and in a different way.

Clause as amended passed.

Clause 5—'Repeal of section 3.'

The Hon. BARBARA WIESE: I move:

Page 3, lines 26 to 29—Leave out all words in these lines and insert new paragraph as follows:

(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.

This amendment relates to the nature and general powers of a council. Members would probably be aware that there has been considerable discussion about what should be included in the legislation with respect to the nature and general powers of a council. After the original Bill had been drafted and further discussions were held with the Local Government Association, we agreed that there could be some extension of the provisions contained in the first draft.

This amendment extends and clarifies the powers that the Bill grants to local government. I will describe briefly the process that we adopted in relation to these provisions. The Act sets out a council's functions and powers in a very specific and limiting way. The philosophy behind these provisions is to set out the powers and functions of a council in a very broad and inclusive way.

In this Bill, first, we have attempted to provide very broad powers for councils and, where necessary, to temper those powers with specific restrictions where that has been considered necessary for one reason or another. That was the starting point for the drafting of the legislation, and I think it goes a very long way towards providing the independence and autonomy that local government has called for.

The Hon. DIANA LAIDLAW: The Opposition is pleased to accept this amendment. We note that it accommodates the concerns that were expressed by the Local Government Association in December last year. At that time, the LGA expressed a fear that the terminology 'reasonably incidental' might well have been used to water down this section which deals with the nature and general powers of a council—and the Liberal Party was not happy to see that happen. It was also noted that, in any event, the courts would require any exercise of power to be incidental to the main exercise of power and that therefore the addition of the word 'reasonably' would encourage the interpretation to be even stricter.

The Local Government Association urged that the Minister incorporate in amendments the wording that was in the draft Bill. I note, however, that in the amendment the word 'expedient' has been omitted. The May draft read '. . . powers that may be necessary, expedient or convenient for or incidental to . . .'. As I said, the word 'expedient' has been omitted from the provision dealing with powers, functions and duties of councils. Why is this the case? Why has that selective omission been made?

The Hon. BARBARA WIESE: There is no specific answer to that, really. This is another drafting issue and, when we were reconsidering the drafting of this section to take account of the request of the Local Government Association and several councils that the word 'reasonably' preceding 'incidental' be removed further consideration was given by Parliamentary Counsel to the drafting of the remainder of the wording. It was decided that 'expedient' should be removed, because we wanted to make the provision as simple and clear as possible so that the broadest possible interpretation could be placed on it.

The Hon. DIANA LAIDLAW: I asked why the word 'expedient' had been left out for exactly the reasons that the Minister has outlined in her explanation, because I would have thought that the inclusion of that term fitted neatly into the Minister's wish to give local government the broadest possible access and use of powers, functions and duties. I am not saying this in a vicious sense, but I just hope that there are not too many more instances where the Government has agreed to overlook the requests of local government, and particularly through the Local Government Association, in favour of mere drafting matters, and especially when it comes to the powers, functions and duties of councils, which I would have thought were such an essential part of this Bill.

The Hon. BARBARA WIESE: The Government certainly has no desire to contravene the wishes of local councils merely for the sake of doing so, and any changes that have been made along the lines of this one have been made as a result of advice received from Parliamentary Counsel. It was the view of Parliamentary Counsel that, the more this issue was qualified or defined, the more difficult it could be for a court to interpret this section of the legislation. It was considered that it would be simpler and easier to interpret if the word 'expedient' was deleted. However, I do not think that this is a matter that anyone feels terribly strongly about, one way or the other.

The Hon. J.C. IRWIN: Proposed new subsection (4) of section 36 is confusing in that the term 'juristic capacity' is used. This is certainly unbeknown to me—and I have not yet looked it up. If it is intended that legislation be written in layman's language, then the use of terms previously unknown should not be used. The word 'juristic' is usually used, I understand, in the study of jurisprudence, and it is suggested that the word 'legal' be substituted for it. This provision also creates a problem in that a contract is not void but it does not answer the question of what the council can do if it should not have entered into the contract in the first place. In other words, can it carry out the terms of the contract? This provision must be clarified.

The Hon. BARBARA WIESE: I will deal first with the word 'juristic'. This is another drafting issue: I wish Parliamentary Counsel had to stand here. It is standard drafting terminology and has been used in legislation which has come before the Parliament very recently. The University of Adelaide legislation, for example, which was before the Parliament recently, used this term and I am informed that is broadly understood by the people who will have to interpret the legislation. For that reason it has been used in this Bill as well.

The Hon. J.C. IRWIN: I also pointed out that new subsection (4) also creates a problem in that a contract is not void, but it does not answer the question of what the council could do if it should not have entered into the contract in the first place. In other words, can it carry out the terms of the contract? The new subsection must be clarified, and I am asking for clarification for the record.

The Hon. BARBARA WIESE: I am advised that, having entered into a contract, the council has a legal obligation to proceed with it.

Amendment carried. Clause as amended passed.

Clause 6 passed.

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

The Hon. DIANA LAIDLAW: I move:

Page 3—

Line 41—After 'by' insert 'a member of the council, or by'.

Line 42—After 'agent' insert 'of the council,'.

After line 43—Insert new subsection as follows:

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

Clause 7 deals with contracts and transactions. The new section that the Bill introduces provides that a council may make its contracts or pursue transactions either under its common seal or through an authorised officer, employee or agent. The Liberal Party seeks to broaden the classes of persons able to enter into a contract to include a member of the council and, secondly, to confirm that the officers, employees and agents who are authorised by the council to act on its behalf are in fact officers, employees and agents of that council.

It may appear on the surface to be a slight amendment, but we believe that it is very important in terms of clarifying the responsibilities in this potentially troublesome area of contracts and transactions. Those comments relate to the amendments to lines 41 and 42 and, before explaining the new subsection, I await the Minister's response.

The Hon. BARBARA WIESE: I oppose this amendment for two reasons. The first part of the amendment is really unnecessary because, under new section 37a *(b)* a contract may be entered into by an officer, employee or agent authorised by the council to enter into the contract on its behalf, and I am advised that the word 'agent' would cover members of councils who might be appointed to perform this function. Therefore, the words 'a member of the council' are not necessary. Those members can be included under the current provision.

We consider that the second part of this amendment is unduly restrictive and that it does not sit well with an efficient division of responsibilities between elected members and staff. The Local Government Association has not raised that matter with me as being an area of concern and, therefore, I feel obliged to oppose it.

The Hon. DIANA LAIDLAW: Having started off with a feeling of goodwill in respect of this Bill, I would not say that I am becoming exasperated, but I find it extraordinary that we are not endeavouring to make as clear as possible in this legislation who is responsible for what. 'Agent' is an extremely broad term. I do not think that one should necessarily presume that it includes a member of council who, surely, has sufficient status to at least be referred to in this clause. The words 'officer' and 'employee' are referred to and then the nebulous term 'agent' is used—that could be anybody. I feel that a member of council should be included in this clause.

This proposed new section deals with contracts and transactions into which a council enters and, therefore, it is extremely important that it be made very clear that the people who enter into these contracts, whether they be an officer, an employee or an agent (and I would like to include 'a member of council') are officers, employees or agents of that council. All I ask is that it be provided that, when they enter into contracts on behalf of the council, they are from that council. In terms of clarification, I think it is an extremely important amendment. Although it seems only minor, when one is dealing with contracts on behalf of the council, I think that the ramifications could be quite major.

The Hon. I. GILFILLAN: I think the intention of the amendment is reasonable. I do not have any particular difficulty with the wording of this clause. Whether it is an officer, agent or employee authorised by the council, the overriding and significant factor of the whole clause is that the authority is given by the council. Frankly, I would not mind if the words were inserted but, in relation to the Hon. Diana Laidlaw's interpretation of the clause, I do not really feel that the words are essential. In my opinion, the current wording is adequate.

The Hon. J.C. IRWIN: I cannot understand why the Bill has been drafted to include an officer, employee or an agent, but not a councillor. Why not delete all three categories and insert in lieu thereof 'an agent'? If the Government will not do that, why not insert the word 'councillor', because it looks like it is being specifically excluded, and that is not acceptable. I do not see why a councillor cannot take on that position and have it actually spelt out in the Bill. If 'councillor' is not included, why bother with the other three categories?

The Hon. BARBARA WIESE: I do not feel very strongly about this matter one way or the other. The principle behind the drafting of this legislation was to make it as simple as possible and to use as few words as possible, so that it could be interpreted by people who might use it in the courts, or anyone else. For that reason, Parliamentary Counsel has suggested this wording, and I would prefer that it remain. I really have nothing more to say about it.

The Hon. DIANA LAIDLAW: It is a pity that, in the longer term, this Bill has a much greater purpose than simply condensing it down and making it as short as possible. Surely clarity is what we are after, especially when we are dealing with 127 councils across the State. I think the Minister's rationale is extremely disappointing. I understand that the Hon. Mr Gilfillan will support the Government, so there is no point in calling for a division. However, I register my strong disappointment at the stand taken by the Minister and the Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: I think the Hon. Jamie Irwin's query about why we should mention the others if we are not going to mention the councillor was quite interesting. Quite obviously there could be a challenge to an officer or employee being an agent of a council. So, I do not feel concerned about the wording. I think there is absolutely no restriction in that wording for a councillor to be used as an agent, so I see no point in it. Although the amendment is worthy in its intent, I do not think it is necessary to change the wording.

The Hon. DIANA LAIDLAW: As I have said, I will not take the time of honourable members and call for a division. It is interesting that the Democrats and the Government cannot come to terms with inserting this form.

I will now deal with my third amendment to this clause. Essentially, it seeks to reinforce the arguments that I expressed earlier, that is, to recognise the status and responsibility of elected members of council, in this instance particularly the Chairman and Mayor of the council. My amendment confirms the existing practice, but I think it is desirable that it be included. I therefore move to amend my amendment as follows:

In proposed new subsection (2), after 'to' insert 'an elected member of council, preferably'.

I point out that the amendment is accepted by the Local Government Association.

The Hon. BARBARA WIESE: I oppose the amendment. I must say it is improved by the additional words which broaden the elected people who might participate in the task. However, it is my view that there needs to be first a separation of the tasks involved. This proposed amendment is unduly restrictive in the execution of contracts. There are two issues here: a policy issue and an administrative issue. The matter of policy, which is whether or not a contract should be entered into, is very much a decision for the council and the elected people. The execution of a contract is an administrative task, and a council may or may not choose to have elected people involved in that task. In fact, some councils would prefer that members of council should not have to waste time, if I can use that term, by having to get involved with some of those administrative issues, and would prefer it that officers of the council should take

over those administrative responsibilities once the policy issue itself has been determined as to whether or not a contract should be entered into in the first place.

The Hon. Diana Laidlaw: It merely confirms existing practice.

The Hon. BARBARA WIESE: One of my aims in drafting this Bill is to provide greater flexibility for councils and administrations in the execution of their business. It certainly seemed to us when this provision was being drafted that it would provide the greatest flexibility by allowing for contracts to be executed by people in administration, so the particular officers need not become involved. However, a more important issue with the drafting of this amendment involves the words 'whenever reasonably practicable'. It is not clear what that phrase means. I think it would be very difficult to interpret those words should a matter for some reason or other come before the court. So, for the two reasons I have just outlined, I do not think this amendment is desirable.

The Hon. I. GILFILLAN: I oppose the amendment. I do not see any reason why we should prescribe how the council will exercise this power. One of the purposes of the legislation is to leave a council with as many options as it can take under its own authority and I do not see why we should give it a direction even if it is modified by 'reasonably practicable'. I oppose the amendment.

Amendments negatived; clause passed.

Clauses 8 and 9 passed.

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

The Hon. DIANA LAIDLAW: I move:

Page 5, after line 1—Insert new paragraph as follows: *(ca)* by leasing or hiring out property;

This clause refers to sources of council revenue. It sets out the various ways in which a council can raise revenue. The amendment seeks to extend the six avenues for raising revenue by including leasing or hiring out of property. It is presently a common practice and one it can be envisaged that will increase in the future with the scope that the Bill provides for entrepreneurial activity, a matter about which the Minister has reminded us on occasions. The revenue gained from leasing or hiring is in a different category from that raised from fees, and it should be recognised in the Bill as a legimate means of raising revenue. Certainly, it is in the current Act and, as I stress, one can envisage that leasing and hiring out of property will become of greater importance to councils in the future, and this should be acknowledged in this provision.

The Hon. BARBARA WIESE: I am advised that strictly speaking the amendment is not necessary, either, because it is covered in a list of issues dealt with by new section 152. However, in order to not further waste the time of the Committee, I accept the amendment.

Amendment carried.

The Hon. J.C. IRWIN: I refer to paragraph *(f)*. As to the question of a fee for service that councils can charge in respect of the use of their professional staff, many councils with whom I have spoken want a specific reference for that use. I am not asking for that now, but I want to make a comment about the fact that this business can get out of hand and I do not want to see any unfair competition with private companies in city or country councils. I refer to the use of engineers and their drafting facilities, equipment, etc. What would happen with after hours charges for the use of engineers' drafting facilities? Are there circumstances in which officers could pocket money themselves for using council equipment? How will it be accounted for when officers use council equipment? Will councils have to publish a fee formula for in-hours and out-of-hours work for their officers or their equipment, which will probably include firefighting equipment?

The Hon. BARBARA WIESE: I will seek further clarification on the last point but, with respect to the first matter, it concerns the contract that would be undertaken between a council and some other person or group of people to determine what the rate would be and whether out-of-hours work would be undertaken.

The Hon. J.C. Irwin: That is ratified by the council before it can proceed?

The Hon. BARBARA WIESE: I would say so, yes.

The Hon. C.M. Hill interjecting:

The Hon. BARBARA WIESE: Yes, it would be a negotiated fee. With respect to the second question concerning officers using council equipment and whether they would be able to pocket money in doing so, I would say that they would not be able to do such a thing without the authorisation of the council. It may be that an officer of the council would be able to lease council equipment in order to undertake work out of hours. In those circumstances, the matter of fees presumably would have to appear in the council's accounts, so it would be mentioned somewhere. With respect to the third question, the honourable member asked whether councils would have to publish a fee for work that they might conduct during or out of hours. Is the honourable member asking whether councils would have to advertise as to what the rate might be for conducting certain types of work?

The Hon. J.C. IRWIN: Yes, that is generally what I mean. I am actually interested in how it would relate to bigger things but, to take a simple example, if someone came in off the street or from the Lions Club or some other local club and wanted some photocopying done, there should be a scheduled fee displayed by the photocopier showing the charge for that contract. It is a contract in a different form. I hope that it will not have to go through council in order to be ratified. It is just the fee for that service.

The Hon. BARBARA WIESE: New section 195 provides a general power which requires that, where a general service is offered to the community, a schedule of fees must be published. In the case in which a council enters into a specific contract with an individual or a community group for particular work, that would be a matter for negotiation between the council and the people involved.

The Hon. DIANA LAIDLAW: I move:

Page 6, lines 11 to 14—Leave out all words in these lines after 'be' in line 11 and insert:

(c) credited against future liabilities for rates in respect of the land on which the separate rate was imposed;

or

(d) refunded to the persons who paid the rate,

in proportion to the amounts paid by each person.

It seeks merely to define more clearly what consideration must be given by a council to any sums of money raised by the declaration of a separate rate for a specific purpose, if, subsequently, that purpose is not pursued or an excess of revenue is raised. It is not set out clearly, and my amendment seeks to achieve some clarity and to help further understanding of this matter. Beyond the Opposition's belief that the section would benefit from this rearrangement, I ask the Minister if she could explain why this matter relating to a separate rate has been inserted in this part of the Bill rather than in new section 175 which deals specifically with the declaration of separate rates.

The Hon. BARBARA WIESE: There is no specific reason other than its being a drafting layout. Parliamentary Counsel thought that it was appropriate to record it in this part of the Bill, and I accepted that advice. I agree that the amendment is a drafting improvement and will support it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, after line 24—Insert new words as follows: in circumstances where, if the council were a trustee, it would be required to obtain the advice of an independent expert,".

Lines 26 and 27—Leave out "(but otherwise is not required to obtain independent advice under the Trustee Act 1936)".

The Government has a similar amendment on file and I will speak to both. Section 157 sets out the areas in which a council may invest money and, as in the case of the current Act, empowers a council to invest in trustee funds. It has been pointed out that the Trustee Act sets out various investments in which a trustee may invest on certain conditions, including on the advice of an independent expert.

Section 157 seeks to embrace those provisions of the Trustee Act but, in so doing, has extended its range too far. My amendment is essentially technical in nature. It confirms the need for a council to obtain from an independent expert written advice as to the soundness of the investment in the circumstances where the council would be deemed to be a trustee. In all other circumstances the council would have to meet these more stringent conditions.

In relation to investing in stocks, shares and debentures issued by a company, will the Minister clarify whether it is intended that the section will operate in such a way that the council would have to obtain written advice from an independent expert about the soundness of each investment, for instance, in a share company. If a council bought BHP shares and wanted to buy more later, does it have to obtain advice on each occasion, no matter the size of the package? I am uncertain about what is sought in this provision. In relation to the investment market, certainly in relation to stocks and shares and even in relation to investing money on deposit with a company, even a bank, one often has to move at great speed to ensure that the council can maximise its money for its own best purposes.

The Hon. BARBARA WIESE: First, I indicate that I will support the amendments that have been moved by the Hon. Ms Laidlaw. They are identical to the amendments that I have on file as well. The reason why my amendments that are very similar to those of the Hon. Ms Laidlaw were not put on file earlier is that I was still hopeful at that stage that I might be able to reach some agreement with the Local Government Association on the outstanding issues and that I would then be able to file all the amendments at the one time. That did not come about. That is why these amendments, relating to matters which obviously were discussed with the Hon. Ms Laidlaw and with me by members of the Local Government Association, have emanated from both quarters. So, I will support such amendments.

With respect to the question relating to investment, it is intended that this part of the Bill will require councils to seek independent advice on the soundness of the investment involved and for the consent of the Minister to be obtained, because it is important for there to be a monitoring of the cumulative investments of a council in, say, a particular company. In another section of this legislation it has been prescribed that a council must not have a controlling interest in a company. In fact, we have prescribed the formation of companies for a particular purpose. It is important, therefore, that this investment provision of the Bill should not be used as a way of getting around that general prescription in relation to forming companies. Therefore, there is a need for a general monitoring power in order to ensure that this provision cannot be used as a sort of back door method of gaining a majority share in a company.

The Hon. DIANA LAIDLAW: Will the Minister comment on the fact that no timeframe is noted here for advice to be returned from the independent expert and then, further, from the Minister? Bearing in mind our experience in this place of just getting answers to questions on notice, I wonder whether the Minister believes that in laying down these conditions it may be desirable to look at a timeframe within which to respond to a council which may wish to invest in stocks, shares, etc. An investment might be very sound when the proposition is put forward but the council might be placed at a severe disadvantage if it is still waiting for a reply six months later.

The Hon. BARBARA WIESE: I think the points made by the honourable member are very valid. We must bear in mind that this proposition in the Bill involves a completely new area of activity. We are not aware of any council that is currently engaging in this activity or, indeed, of any councils that have any plans to do so. It may well be that over time we need to have some policy guidelines about time periods and other things for this monitoring process. I certainly want officers of the Department of Local Government to keep abreast of this matter and for them to make appropriate recommendations to me along the way, as we get a better feeling as to what sort of activities council may wish to become involved in under this new legislation.

At this time, I think it would be very difficult for us to establish an appropriate set of guidelines; since we do not really know what people might want to do. I will certainly give an undertaking to keep that under review and, if it seems appropriate, we will approach the Local Government Association with the idea of establishing appropriate guidelines.

Amendment carried.

Progress reported; Committee to sit again.

[*Sitting suspended from 6.2 to 7.45 p.m.*]

The Hon. DIANA LAIDLAW: I move:

Page 6, lines 26 and 27—Leave out '(but otherwise is not required to obtain independent advice under the Trustee Act 1936)'.

This amendment is consequential upon the previous amendment. I note that the Government has the same amendment on file.

The Hon. BARBARA WIESE: We do have the same amendment on file. We support the amendment.

Amendment carried.

The Hon. J.C. IRWIN: My question relates to two or three clauses in the Bill and it is probably more important for the later occasions. Proposed section 157 (4) requires that the approval of the Minister may be given on such conditions as the Minister thinks fit. What expertise will the Minister have in her office to provide that expert advice so that approval can be given on any investment matter or any other matter that needs ministerial advice? Later in the Bill some quite substantial things require ministerial advice. If an investment, a joint venture or whatever that has been subject to expert advice and the Minister's approval, fails, is the Minister the person ultimately responsible for that failure because the Minister has the ultimate responsibility for giving approval?

The Hon. BARBARA WIESE: This measure has been included as an enabling provision rather than as something prescriptive. We intend that councils will have an opportunity to have as broad a range of facilities as possible in the investment area. So, when I as Minister make a judgment as to whether or not I should give approval, I will seek the advice of appropriate Government agencies with financial expertise in appropriate areas. I will also make what I will term more technical judgments, that is, I will make certain that the matter before me is consistent with other areas of local government legislation.

In that regard, I refer particularly to provisions dealing with the establishment of companies. As members would be aware, we are specifically proscribing the establishment of companies. So if a council sought my approval under this provision I would look at that aspect as well as other areas that I may need to consider at the time. As to the legal liability should an investment fail after I had given consent for it to occur, we have sought legal advice about that. I am advised that the Minister would not be responsible for a failed investment.

The Hon. J.C. IRWIN: Will the Minister employ someone in her department who has financial and other expertise, or will the department approach Treasury to obtain advice on financial matters?

The Hon. BARBARA WIESE: I thought I made that clear. I do not intend to employ additional people within the Department of Local Government; rather, other Government agencies with the appropriate expertise will be approached.

The Hon. J.C. IRWIN: I refer to new section 158 (5), which provides for long service leave entitlements and the liability of councils to fund them. I think it is essential that the Minister make a clear statement about the date by which she requires the long service leave liability to be fully funded so that councils can plan for and allocate the required financial resources. I am out of touch on this point. Has a position been reached whereby the Government and councils have agreed on whether liability of funding will start from the first day of employment or whether it will be from the first day of the liability for the long service leave entitlement?

The Hon. BARBARA WIESE: I needed to be brought up to date myself on this matter because it is something about which there has been some discussion over the past few months. It would be the intention that councils would need to provide for those officers whose long service leave moneys fall due rather than providing funding in advance of the amounts of money falling due. We are aware that different councils are in differing positions to be able to meet the terms of this provision. We would be aiming at some date after 1990 as the date when we would need to prescribe this particular provision because, by that time, all councils should be in a position to meet their requirements under that provision of the Act.

The Hon. J.C. IRWIN: I take it that, by those words 'after a day fixed by the Minister' embodied in that subclause, the Minister is saying she will prescribe that about 1990?

The Hon. BARBARA WIESE: Yes.

The Hon. DIANA LAIDLAW: I move:

Page 7, line 38—Leave out 'estimates' and insert 'prescribed form of estimates, as'.

This section sets out the procedures for adopting the annual financial estimates. My amendment relates to the form of the estimates that must be submitted by the council to the Minister within 28 days after their adoption by the council. I contend that the amendment is a drafting improvement. It is moved on the basis that I trust the Minister is not asking to be provided with a copy of estimates in a form that is different from that which, under subsections (1) and (2), the Chief Executive Officer is required to prepare in a prescribed form for adoption by the council. So, it really is seeking clarification that councils are not required to be producing a whole lot of different paper work simply after they have presented that financial estimate to a council and then subsequently must submit that to the Minister.

The Hon. BARBARA WIESE: I oppose this amendment on the ground that it is redundant. The estimates must be in the prescribed form as required in subclause (2) and a copy of those estimates adopted by the council must be submitted by the council to the Minister as required by subclause (5). Therefore, it is precisely the documents we are talking about that subclause (5) refers to, and I see no need to add those words.

The Hon. I. GILFILLAN: I do not see any need to add them either.

The Hon. DIANA LAIDLAW: The clarification from the Minister is reassuring. Therefore, I will not be pressing the point. Why has subclause (5) been included in this Bill? I understand that it was not in the May draft.

The Hon. BARBARA WIESE: This practice currently occurs. A section in the present Act requires a copy of the estimates to be submitted by a council to the Minister. We seek to continue that practice. It provides an opportunity for the Government to monitor the borrowing arrangements and other financial matters of councils and to raise any issues that may seem to be a problem from time to time about financial management. It is not a new provision: it simply continues an existing practice.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 8, after line 16—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.

New section 161 deals with financial statements that must be prepared at the end of each financial year. Subsection (4) provides that the statement must be submitted not only to the Minister but to any other prescribed person or body. What other persons and bodies does the Minister envisage will be prescribed? The Liberal Party believes that subsection (4) provides for the Minister and other prescribed persons to inspect these statements and it is extremely important in those circumstances that a member of the council is also entitled to have access at any reasonable time to the vital information relating to a council's financial position. That is not clear in this provision and we believe that it ought to be defined.

The Hon. BARBARA WIESE: The bodies who would be prescribed under subsection (4) are those currently receiving copies of the financial statements of councils. They are the Director of the Local Government Office; Chairman, South Australian Grants Commission; the Auditor-General; the Commissioner of Highways; and the Deputy Commonwealth Statistician and Government Statist. It is our intention to continue the current practice.

The Hon. Diana Laidlaw: And not add to it?

The Hon. BARBARA WIESE: There is no intention to add to it. As to the amendment, I oppose it because it would be redundant. Under accounting regulations the council's financial statements are required to be laid before the members of the council and they then become a public document. It is not necessary to write it into that part of the legislation.

The Hon. DIANA LAIDLAW: Without having access to that part of the Bill, I accept the Minister's statement. However, I am surprised, because the Local Government Association supported the Opposition's amendment, and I question why it did so if it was as obvious as the Minister suggested that, at any reasonable time, a council has access to these financial statements.

The Hon. BARBARA WIESE: I cannot answer for the Local Government Association as to why it might have raised this issue. It is possible that it may have overlooked the fact that there was already this requirement because it is contained in the accounting regulations rather than in the existing legislation. It is not necessary for it to be there.

The Hon. I. GILFILLAN: I am concerned that the clause leaves the list of people who will have access to these audited financial statements to regulation—to prescribed detail. Usually the Democrats oppose or seek to replace prescribed detail in regulation by the precise detail required. It does not seem to involve much extra drafting to include in the Bill the names of those people that the Minister read out. I make that as a passing comment.

In relation to the Hon. Diana Laidlaw's amendment, the Local Government Association probably feels that it is better to put more icing on the cake and would not want to hurt the feelings of someone who is so ardently seeking to improve the Bill by saying that the amendment is unnecessary. It is a draftsman's interpretation. It is covered somewhere else in the Bill and is probably obscure to someone on a casual reading and, therefore, the amendment is unnecessary. If the logic of what the Minister says is correct, one of the tricks of reading legislation is finding which bits connect to which. In cases in which there is a description of people who will have access to material, the legislation should endeavour to contain the specific detail, and not leave it to regulation.

The Hon. BARBARA WIESE: It seems to me that the Hon. Mr Gilfillan has confused the two issues raised by the Hon. Ms Laidlaw. First, she moved her amendment, which seeks to include in legislation the power for a member of a council to be entitled to view the financial statements. I do not think that it is necessary because it is contained in the regulations. The issue of—

The Hon. Diana Laidlaw: If they are contained in regulations or the Act?

The Hon. BARBARA WIESE: In the accounting regulations. The other issue relates to subclause (4), about which bodies might be prescribed to receive copies of the financial statement. I do not favour including such a list of bodies or individuals in the legislation because that could change over time and it would be a much more cumbersome process to have to change legislation in order to name a new organisation and add it to the list for the purposes of subclause (4). There is a possibility that it might be considered desirable for the Local Government Financing Authority to be one of those bodies on that list of prescribed authorities. If it were considered by local government to be desirable at some stage, I would rather have the power to add that name to the list by way of regulation. That is a completely separate issue from the one addressed by the amendment before the Committee, which deals solely with the access of members of councils to financial statements. I do not support the amendment.

The Hon. DIANA LAIDLAW: After having listened to the Hon. Mr Gilfillan I am unclear whether or not he intends to support the amendment. I understood from the Minister's earlier remarks, when talking about auditing provisions, that it was included somewhere else in the Bill. The fact that it is in some obscure regulation makes me feel that the amendment is an important addition to the Bill.

Amendment negatived.

The Hon. BARBARA WIESE: I move:

Page 10, line 6—Leave out paragraph *(c)* and insert new paragraph as follows:

(c) any case in which the council's current liabilities exceed the council's current assets (as described in the relevant accounting regulations) by an amount equal to or greater than 3 per cent of the council's net general rates for that financial year.

This section inserts new provisions that clarify the role and responsibilities of the auditor. It directs an auditor to refer any irregularity in a council's accounting practices or the management of its financial affairs to the Chief Executive Officer and, if it is appropriate, to the council. A report must be made to the Minister if an irregularity is not promptly rectified or if a breach of the Act comes to the auditor's attention, unless the irregularity or breach is minor. An auditor who fails to make such a report commits an offence and is liable to a penalty. The Local Government Association—

The Hon. C.M. Hill: How do you define 'minor'?

The Hon. BARBARA WIESE: This is a matter for the auditor's professional judgment. Auditors will probably be conservative initially, given the penalty. At some stage if it seems that the Minister is being sent a lot of information about trifling matters, it may be necessary further down the track to issue some guidelines as to what is appropriate. At this stage we would prefer to let things go and see how it works.

The reason I am moving this amendment now is that after the Bill was circulated the Local Government Association, the Metropolitan Chief Executive Officers Association and a number of councils objected to the prohibition on deficit budgeting. The majority preferred the terms of the existing regulations which require that the budget should, as near as is practicable, be balanced. The focus has been changed to 'actual' as opposed to 'budget' deficits. At the request of the LGA this requirement will be set out in the Bill rather than being dealt with in the accounting regulations, which was what I intended in the first place. Since it is the wish of the LGA to have as much clarified in the Bill as possible about such matters I was happy to agree to that request, and hence the amendment.

The Hon. DIANA LAIDLAW: The Liberal Party is pleased to see that this matter is being addressed by the Government and is inclined to accept the amendment. I have a few questions about the reference to 3 per cent in terms of irregularities in which the council's current liabilities exceed its current assets by an amount equal to or greater than 3 per cent of the council's net general rates for that financial year.

Late advice from the LGA, received last night suggested that this amount might be too low. That came after I queried the amount with the LGA, following the conversation that I had with one rural council. I shall outline that conversation for the Minister, to ascertain just how we can deal with that circumstance. As we know, councils set their budgets in August, at which time details of Government sourced funding and grants are not known. For example, details of road grants are not known until December, well after the budget and the rates are set. In 1986-87, the council to which I have referred received $71 000 in road grants; for the current financial year, 1987-88, it has budgeted conservatively on receiving $70 000—$1 000 less. It is not even trying to take account of inflation. In December last year, however, the council received only $65 000, some $5 000 less than it had budgeted for. For this council, 3 per cent of its budget is $4 500; so, through no fault of its own, and with conservative budgeting as well, it is well above the 3 per cent limit. I do not believe that such circumstances are necessarily what the Minister has in mind in terms of irregularities.

The Hon. I. Gilfillan: As I understand it, it is not automatically an offence. The Minister has only to be informed.

The Hon. DIANA LAIDLAW: Yes, but is the whole procedure necessary? Is the limit too low? Should thought be given to raising the limit? Another option that could be explored is whether the irregularity should be reported to the Minister if it occurs over two or three financial years, not just on the basis of one financial year.

The Hon. BARBARA WIESE: First, it is intended that this provision should act as a signal to councils and to those who are in the business of monitoring a council's financial affairs just what is happening with its deficit funding. Whilst these matters would be drawn to our attention, should a council's deficit be 3 per cent or greater, the intention is not necessarily to take any action on that. It may be quite satisfactory for there to be a 3 per cent deficit. It is really a provision to enable some monitoring to occur, so that if, over time, an accumulating deficit occurs the trend can be monitored, and should it appear that a council is reaching a point where there could be problems emerging with that growing deficit council could be consulted at that time and, in the most extreme cases, some sort of investigation could be undertaken. Thus, it is not designed to encourage immediate action; rather, it is a tool for monitoring the financial circumstances of a council.

The Hon. DIANA LAIDLAW: In respect of the words 'relevant accounting regulations' in the third line of the Minister's amendments, the LGA pointed out to me that there is no clear definition of current liabilities and current assets in the accounting regulations and different accounting practices treat these differently. Unless the accounting regulations are to be tidied up, it is suggested that such phrases are of little help in the Minister's goal of addressing this important matter.

The Hon. BARBARA WIESE: As a result of the passing of this legislation some changes may need to occur in the accounting regulations, and we have already given an undertaking to the LGA that there will be a review of accounting regulations, and the LGA will be involved in that process. Should the matter to which the honourable member has referred be one of those issues which should be addressed, then it can be addressed at that time.

Amendment carried.

The Hon. J.C. IRWIN: I have a question relating to page 10, new section 166, the gist of which is that a council may accept a gift made to the council. Is the Supreme Court able to cease, cancel or revoke terms of a gift to a council as part of any application to vary the terms of a trust? I also ask why a local newspaper circulating in that area is not used. Subsection (4) says that the notice of application under subsection (3) describing the nature of variation, must be given in the *Gazette* and a newspaper circulating in the State. Why not in a local newspaper as well?

The Hon. BARBARA WIESE: With respect to the first question, there is a procedure for a council to apply to the Supreme Court to obtain an order to vary a trust to which it is impracticable for a council to give effect. With respect to the second question, the reason why we provided for the placing of a notice in a newspaper circulating generally in the State was that it was considered likely in some cases that people outside a specific local area may have an interest in the matter and, therefore, to be sure that the broadest range of people would be reached, a State-wide newspaper would be preferable to a local newspaper. I do not think that this subclause would preclude a council from advertising in a local newspaper if it felt that was appropriate.

The Hon. J.C. IRWIN: I can accept the fact that a paper other than the *Gazette*, circulating in the State, is a good thing. People leave an area—and I am thinking of a rural area—and go to live in the city, and want to know what is going on. They might have a vital interest in what is going on, and the same might happen in the city. So, the Minister has answered that: it does not preclude a local paper being used in some circumstances.

I suppose it is a rather technical or legal question, but if one applied to the Supreme Court for a variation of a trust or of a gift to a council, could that mean cancelling the gift and using it in some other form or varying it in other ways? Does the term 'cease, cancel or revoke' include 'vary'?

The Hon. BARBARA WIESE: I am advised that a council could do that by an application to the court under the Trustee Act.

The Hon. DIANA LAIDLAW: I move:

Page 12, after line 18—Insert new subsection as follows:

(2a) A proclamation cannot be made for the purposes of subsection (2) *(h)* unless the council for the area in which the land is situated has been notified of the terms of the proposed proclamation and allowed a reasonable opportunity to comment on the proposal.

The Government has a similar amendment on file. When the Bill was first introduced, the LGA submission expressed concern about proposed subsection (2) *(h)* which provides that the Minister may proclaim on various grounds land owned or used by a proclaimed body to be exempted from rates. As the Minister would know, the LGA did not object to the proclamation provision itself, but it argued strenuously that, prior to any such proclamation, the council should be notified and given the opportunity to make submissions. We agreed with that proposition and have now moved this amendment. I am very heartened to see that the Minister, on behalf of the Government, also agreed with that proposition.

The Hon. BARBARA WIESE: As indicated, the Government has the same amendment on file. At the request of the LGA during the negotiations that we had on the Bill, the Government was happy to include this amendment.

Amendment carried.

The Hon. J.C. IRWIN: While I agree with proposed section 168 (3) *(a)* and *(b)*, I believe that the strata corporation should receive notification from the council of the rates charged to its unit occupiers. The management of the strata corporation would then be in a position to reconcile the rates levied on all of its units and to judge the way that common ground has been treated, because paragraphs *(a)* and *(b)* provide that rates will be assessed against the units and not against the common property. I think that, once rates have been set, it is important that the management of the strata corporation be able to judge that.

It has come to my attention that a central register of strata corporations does not exist. I expect that every council would have records of the corporations within it, but there is no central record collection point in South Australia. A Bill relating to strata corporations has been introduced, but I think it is appropriate that this matter be raised during debate on this Bill as well as the other Bill. I suppose that councils would have a record for people wanting to purchase corporations. It is very difficult to obtain any information about who and what has anything to do with the strata corporation, because that register is not kept.

I think it might be a good idea to consider this point in relation to the Strata Titles Bill, which is to be considered by this Chamber next week. The strata corporation should have to notify a central point in a council and some other collection area which would gather together changes in the strata constitutions in relation to the public officer and members of the management committee. I think that would have to be dealt with under the companies legislation just like any other incorporated body.

I refer to something I mentioned during the second reading debate, that is, owners of shopping complexes should have to notify shop lessees of the rate portion of their rental. I do not think it is unreasonable that shop lessees should know the contribution they are making to the rates payable by the whole complex. At least then there would be a reasonably simple check to keep some sort of lid on the

unscrupulous owners referred to in the second reading debate and in other debates over the past few months. I repeat: in relation to paragraphs *(a)* and *(b)* there should be some method whereby corporations should be able to judge how the rates have been struck for that corporate body and the units. At the moment I do not think there is any way that people who own units can find out what has happened to their next door neighbour, the unit up above or elsewhere.

The Hon. BARBARA WIESE: This issue has not been raised with me before and, as far as I am aware, it is not of concern to the LGA or any other body that made submissions to me on the redrafting of this legislation. What we sought to do in this part of the Bill is to preserve the *status quo* as it is in the current legislation. The honourable member may wish to raise these matters with the Attorney-General during the Committee stage of the Strata Titles Bill. I do not know whether it is appropriate that they be raised in the context of that debate, but it is something that the honourable member can consider.

The Hon. I. GILFILLAN: I move:

Page 12—

Line 33—Leave out "subsection (2)" and insert "this section".

After line 34—Insert new subsections as follows:

(1a) A general rate may consist of two separate components—

(a) one being based on the value of the land subject to the rate;

and

(b) the other being a fixed charge.

(1b) A fixed charge can only be imposed as follows:

(a) (i) the fixed charge cannot be imposed against land that constitutes less than the whole of a single allotment;

and

(ii) if two or more pieces of contiguous ratable land are owned by the same owner and occupied by the same occupier, only one fixed charge may be imposed against the whole of that land;

(b) except as provided by paragraph *(a)*, the fixed charge must apply equally to each separately valued piece of ratable land in the area;

and

(c) the charge must be calculated so as to ensure that the revenue raised from the charge does not exceed the council's total recurrent general administrative expenditure (as described in the relevant accounting regulations) for the previous financial year.

After line 37—Insert new subsection as follows:

(3) For the purposes of this section, an allotment is—

(a) the whole of the land comprised in a certificate of title;

or

(b) the whole of the land subject to a separate lease or a separate licence coupled with an interest in land.

Page 25,lines 39 to 45—Leave out all words in these lines after '(or a part of its area)'.

The amendment relates to the inclusion of an extra rating option to be available to councils. It is a form of flat level levy, which is not to be confused with a service charge levy. It is a more complicated alternative. I have some confidence in moving the amendment because I am aware that all interested parties have discussed it as an option and have agreed that the wording is appropriate. It has been scrutinised by the LGA, by one of the Minister's advisers and by the Opposition. I will not canvass the amendment at length: it is self-explanatory in that it enables a council to choose to impose a fixed charge. It would be an option to the minimum rate and, in fact, my consequential amendment specifically makes that alteration to the Bill.

The Hon. BARBARA WIESE: This matter has been canvassed at great length, both inside and outside the Parliament. I do not intend to go over the debate again, except to say that I do not support this amendment because, as I understand it, it is also the Hon. Mr Gilfillan's view that the minimum rate provision should be reinstated in the legislation, and he sticks to the view that an unfettered minimum rate is the desirable action. He is seeking with this amendment to provide a levy as an option to the minimum rate. Whilst I think there is great merit in the idea of a levy—and it is in fact an idea which I put up—it does not seem to me to be appropriate to provide yet another rating alternative for councils in the absence of that fundamental problem which attaches to the current use of the minimum rating provision being addressed. In view of that, I oppose this amendment.

The Hon. DIANA LAIDLAW: The Liberal Party supports the amendment. I accept the Minister's statement that earlier it was an idea that she floated in respect of this levy. I know it was one that the Hon. Bruce Eastick from the other place also referred to from time to time. So, I suspect that all members of Parliament who have taken an interest in this Bill are familiar with it also. The Liberal Party would not have supported this amendment if it meant that it was an alternative to the minimum rate. It has done so only on the Hon. Mr Gilfillan's indication that he will seek to maintain the minimum rate. I see that he has on file an amendment to that effect.

With respect to this fixed charge, does the Hon. Mr Gilfillan have ideas upon what schedules it will be based? Secondly, does he envisage that a council could go from a minimum rate to the use of this new option that he is providing, and *vice versa*; will that happen only after a certain number of years on one system or the other; or will they not be able to change back once they have selected a system? With respect to subsection (1b) *(c)*, the charge must be calculated to ensure that the revenue raised from the charge does not exceed the council's total recurrent general administrative expenditure for the previous year. Is that to be calculated in real money terms or is he talking about just money terms? I was not too sure when reading that what was envisaged.

The Hon. I. GILFILLAN: Concerning which schedule the regulations will relate to, my advice is that, although in the first instance it probably would relate to schedule 13 of the local government accounting regulations, these are under review, and it is recommended that other administrative or running costs could and probably should be included in this.

It is not possible, certainly in the light of my understanding that this matter is currently under review, to be specific. I understand that originally the levy scheme was based around schedule 13 or its equivalent in the regulations. I have not moved the amendment with any particular concern about movement to and from. As I have said repeatedly, the more free choice there is for local government, the more we show respect for its capacity to make its decisions, and the more we will realise that the debate about the advisability or otherwise or the appropriateness or otherwise of minimum rates can go on for a long time.

I do not intend to open it up, although I have personal views about it. In answer to the Hon. Diana Laidlaw's question, I am not fussed about the reversal to or from. As to the question in new subsection (1b) *(c)* of what does not exceed the council's total current general administrative expenditure, I would expect that to be indexed so that it was an equivalent amount in real terms from year to year.

The Hon. J.C. IRWIN: I support the amendment somewhat less than wholeheartedly. I support as another option the Opposition line in supporting the Hon. Mr Gilfillan's amendment. The Hon. Diana Laidlaw referred to paragraph *(c)* of new subsection (1b). It is a little like the service charge area about which we will talk later. It is in the sky: we do

not know exactly what the levy will be based on; what it will come out as; or whether the schedule 13 charge will be used as a basis.

I wish to make a few points as I go through the amendment concerning matters that need to be sorted out. New subsection (1a) *(a)* is fine; I accept that. New subsection (1b) relates to a fixed charge. On what will it be based? Will councils work out what they need in rates and take off this levy and rate the rest, or will they put a fixed charge on everyone and see what other rates they must raise to bring it up and rate everyone as well? Somewhere down the line it must be made clear exactly what we are talking about.

I refer to the economic studies commissioned by the Minister on alternatives to the minimum rate. I refer to my own council area. Although I know that councils have written to the Hon. Diana Laidlaw and the Hon. Dr Eastick in another place with many calculations. I have an example of what happens under this system in the Tatiara council area; a vacant block worth $10 000 in Bordertown was rated at $51 in 1986-87. The levy suggested under schedule 13, which relates to the running charges of councils, is $121.

That is a total of $172. The minimum rate was $142, so that is $30 above the minimum rate, and 237 per cent above the rate raised on that property. This concept highlights some very good examples of regression. Take the example of a South Australian Housing Trust house which is valued at $40 000. This is a good example, because houses in the heavy Housing Trust areas of Whyalla and Salisbury are most frequently used as examples in the minimum rate argument. The rate on a $40 000 Housing Trust house is $205. If a levy of $121 is added, that gives a figure of $326 which is 159 per cent above the rate. In Lowanvale, which is a sandy, average farming area, a property worth $1.25 million pays $5 575 in rates. The service charge of $121 is 2 per cent of the rate. That is probably why the Minister did not go along with that and why local government has not fought it through to the bitter end. It is in the ring now as an option, and the Opposition will support it, but I indicate that a lot of sorting out must be done on the concept that is before the Committee as there will need to be on the service charge, which will be debated later.

The Hon. I. GILFILLAN: I feel that if I were to handle the points raised by the Hon. Jamie Irwin, I would need a chair beside me and the assistance of Michael Lennon, at least, and perhaps a couple of others. Therefore, I will not address the points the honourable member raised, but I appreciate the interest he has shown in it. However, I am disappointed that the Government and the Liberals have qualified support for the scheme.

Although the amendments I have on file are linked, they are not necessarily dependent on each other to survive, and it seems that this levy was generally agreed across the State as being a good idea with one or two minor warts to be treated in due course. It seems a pity that the Democrats are the only Party in this place to enthusiastically support it. The Minister admits that she has a soft spot for the idea but is a little reluctant to support it at this stage. I will be interested in the way the vote will go, and I hope that my amendment is successful.

The Hon. BARBARA WIESE: That was a very mischievous contribution on the part of the Hon. Mr Gilfillan, because he understands my position perfectly and why it is that I am not prepared to support the levy concept. I initiated and floated the idea in the local government community and it has now gained considerable support throughout the State as a result of many months of effort in describing to all the people who should know something about it how it might work and what sort of impact it would have on councils.

I was a little distressed to hear that the Hon. Mr Irwin, although he supports this amendment, does not seem to understand what it means and how it would be applied. He also does not understand that it is not a charge that is simply imposed on top of the current rating system but is something upon which the rating system is built. The cost structure that he talked about would not come about at all and the proportional cost to ratepayers would be very different from the sort of structure that he described. That is an issue for discussion and explanation at another time and in another place.

As I stated earlier, I am not prepared to support this amendment at this time because it is coupled with the view that has been expressed by the Democrats and the Liberals that they are not prepared to make any modifications to the minimum rating provision. It is inappropriate to simply provide another option for rating without addressing the fundamental issue, and that is the problem that has developed among many councils in this State with respect to their use and abuse of the minimum rating provision.

Neither the Democrats nor the Liberals have indicated any interest in doing anything about that problem. It is not appropriate, in my view, to add to the range of options by including a levy in the legislation when I know that later the Liberals and the Democrats will be combining to reinsert a provision to allow for the minimum rate to continue unfettered. Although this is an important issue and is one that has been debated at some length, it is not my intention to call for the division at this stage; rather, I will reserve that until we deal with the minimum rate provision later.

Amendment carried.

The Hon. J.C. IRWIN: I know the potential initiative that councillors and councils have. Is there anything in the Bill to stop councils devising a two-tiered rating system where they can say that valuations over $1 million would have one rate and valuations up to $1 million would have another? Although this is another form of differential rate, it is not a differential rate in the sense in which it is in the Bill. Alternatively, a council could have three tiers. That is done in relation to wage systems and is not an uncommon way of dealing with things. Is there anything to stop that, as local government is innovative and might try to use it.

The Hon. BARBARA WIESE: There is no provision in the legislation as it currently stands to enable a council to introduce a rating system like the one described by the honourable member.

The Hon. DIANA LAIDLAW: On behalf of the Hon. Mr Gilfillan, I move:

Page 12, after line 37—Insert new subsection as follows:

(3) For the purposes of this section, an allotment is—

(a) the whole of the land comprised in a certificate of title; or

(b) the whole of the land subject to a separate lease or a separate licence coupled with an interest in land.

The Hon. BARBARA WIESE: This amendment is consequential on the one we have just debated and the Government opposes it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12, lines 41 to 43—Leave out all words in these lines after 'if' in line 41 and substitute:

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

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

This amendment is extremely important to members of the Liberal Party. Proposed new section 170 deals with the value

of land for rating purposes. This is an important provision not only because councils and the LGA have consistently pressed for this change but, in addition, the Liberal Party believes that this is a matter of principle, namely, whether or not one believes that local government should be armed with discretions or options to make decisions in the interests of the council and whether or not, and to what degree, councils should be accountable to the local community that they represent for these decisions at election time.

I was heartened to hear the Hon. Mr Gilfillan indicate in the contribution that he made yesterday that he also shared a similar view, that councils should have such options and discretions. This belief by those in the Liberal Party is founded on our general confidence that councils work to serve the interests of their local communities, a recognition that councils do not and should not be forced to operate in a uniform fashion, and our appreciation that the State Government does not have a divine monopoly on accountability.

This new section provides that the valuation of land must be its capital value, but it does not allow councils currently using alternative methods of annual, site or land valuations to continue to do so. The Minister's rationale in her second reading explanation was that capital valuations, taking into account improvements to land, were considered to reflect more closely a landowner's capacity to pay than do other methods. I do not intend to get involved in that issue tonight.

However, the Liberal Party takes extreme exception to the provisions of proposed new section 170 (2), which provides that once a council moves to a capital value system it may not revert to other valuation methods. I note that the draft Bill provided for this, although such a movement could be undertaken only with the Minister's consent. However, this Bill removes even that provision. It allows councils to utilise either capital or site values at their discretion, provided that they do not move from one system to the other more frequently than every second year. My amendment is a key amendment as far as the Liberal Party is concerned, and also the LGA. The massive number of letters that individual councils have written to us on this subject clearly confirms that the views that I have just outlined are strongly held in the community.

The Hon. BARBARA WIESE: The Government will be opposing this amendment. I do not want to speak at great length on this issue, either, as the matter has been aired very extensively during the second reading debate, and also outside Parliament.

I wish to restate in the simplest way the Government's position on this issue. First, we believe that the capital valuation system is the fairest valuation system available to councils. This view has been supported by such bodies as the Real Estate Institute of Australia and other organisations and the vast majority of councils in South Australia also accept that capital valuations are the fairest method. They have put that view into practice by adopting capital values as the basis for their rating. There are now very few councils in the State which use any other method, so we are requiring in this provision a one way movement, and simply confirming the trend that is currently taking place in local government.

We do not believe that that is unreasonable in view of the fact that we are also maintaining the right of those councils which currently use some other rating system to stay with the system they have if that is their choice. All we are saying is that, in the interests of ratepayers who also have some rights to certainty in their dealings with local government, should a council move to capital values, then it should be a one way movement. One of my concerns with the amendment that has been moved by the Hon. Ms Laidlaw, which would allow councils to revert after a period of two years, is that this will certainly have the potential in some areas to become an election issue since it could be something which emerges on a two yearly cycle.

I do not think that that would be a particularly good thing in any council area. It would be something which would detract from what might be considered by the majority of ratepayers to be more significant issues in any poll. My main reason for opposing this amendment is that I think that the provision in the Bill is adequate. It provides for councils to stay with the system they currently have, if they are not already using capital valuation, but it says that for the sake of certainty for ratepayers, should those few councils that are not yet using capital values move in that direction and join the vast majority of councils in South Australia by using a capital valuation system, that is where they should stay.

The Hon. I. GILFILLAN: The Democrats support this amendment. We believe that it is an option which should be retained for councils to make their own decisions. I hope, Ms Chair, that you will not rule my remarks out of order, but it has been a pleasure for me to compare the debate in Committee between these two heavyweights discussing the Local Government Act Amendment Bill with the Attorney and the shadow Attorney, with whom I have sat for many a weary hour as they have debated substantial Bills. I think the frugal length of speeches reflects very well on the current participants. I encourage them to keep that performance going. I have just noticed a slight tendency to slip: I just want them to keep this advantage they are showing. It is a great credit to them.

The CHAIRPERSON: I will not rule you out of order, but it might not be relevant to the current debate.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried.

The Hon. J.C. IRWIN: As to proposed section 171 on page 13, it provides that the council must adopt valuations to apply in the rating year those valuations either made by the Valuer-General or by a valuer employed or engaged by the council. I agree with the LGA that councils should be able to use the Valuer-General's valuations for five years, or the same period that applies for licensed valuers. I submit that valuations by the Valuer-General should be allowed to cover a five year period, because a cost factor is involved.

I think I can say that councils really do not give a damn about the value: all they are looking for is relativity. The Government wants to know the values for water and land rates, but I think I can say that councils have a different philosophy. They fix what their rate will be and we are doing that in this Bill. They fix a rate in the dollar for the valuations, but mainly they look for the relativity between areas and wards rather than just using the valuations to raise money as is the case with the State Government and land tax. There is a definite end for that year's income. There is a known end for what they want to get out of the system. It does not matter to me what that valuation is, just as long as the relativity is preserved between areas within the council area. I do not see why it should matter if that valuation system applies for five years, because the distortion within five years will not be all that great.

A computer based on land sales is now used for valuations. An operator can sit at a desk, press a few buttons and produce a new valuation just like magic. I do not think that is very impressive for local government. I believe that it should be able to spread its cost factor over a five year period rather than having to pay for the Valuer-General's

valuation every year. Yesterday, when referring to capital values, the Minister said:

> Further, of the available methods, it gives the best indication of an owner's capacity to pay.

The Minister said that this fact was recognised by me in my contribution some days earlier. The Minister also said:

> While the valuation, particularly a capital valuation, gives the best indication of capacity to pay, it is not perfect since it measures assets rather than income. Likewise, while all the services provided by the council, whether they are human services or services to property, improve the quality of the environment and are reflected in the value of property, that reflection may not be very precise. The argument is not about whether councils should have discretion to adjust the rate burden; it is solely about the methods which are employed.

The Minister said more than once that the system of valuation is not very perfect, but neither is the minimum rate and nor will a service charge. The Opposition's judgment is that a responsibly used minimum rate is still the best option and we will come to that later.

I very clearly pointed out that the principle of capital value, meaning an ability to pay, is under very great stress at this time. One only has to ask any small business operator or farmer to recognise the stress that they are suffering. Their fairly high capital values do not mean that they have the ability to pay.

The enormous pressure from competing resources, taxes and charges and the economic downturn, including the reasons for bankruptcy (which are increasing), all support this contention. Thirdly, I take issue with the Minister and say with respect that the argument is very much about whether councils should have the discretion to adjust the rate burden—it is not solely about the methods employed. Councillors live with their electors and collectively the council is responsible and, moreover, very accountable for the decisions that are made. Councillors know better than anyone else, outside of local government management, the intricate arrangements and factors which make up a council's overall operation. Councils certainly do not exist to disadvantage people.

The Hon. BARBARA WIESE: With respect to five year valuations, I point out that this matter was raised with me by the LGA—I think on behalf of two councils, because I also received submissions on this issue from two councils—during the preparation stage of the Bill. Those councils indicated that they would prefer five year valuations, and certainly the question of cost was put forward to support that view. I challenge the view expressed by those councils because the Valuer-General's present method of recovering the cost of annual valuations has the effect of removing any cost advantage to councils in adopting valuations less frequently than annually.

I point out that no other agency which uses Government valuations is permitted to adopt superseded valuations. To allow councils to do this would simply defer and even exacerbate the difficult decisions which necessarily accompany true rating on valuation. I take issue with the honourable member with respect to his statement that there is not a significant distortion in the rating system when rates may have to rise over a five yearly period based on five yearly valuations. In fact, in times of high inflation, for example, the distortion can be quite dramatic and the effects on people can be very significant. For that reason I think that an annual valuation system is much fairer and gives people a greater degree of certainty about the rating system to which they are subjected.

The Hon. DIANA LAIDLAW: I move:

Page 16, after line 4—Insert new paragraphs as follows:
(ab) according to the locality of the land;
(ac) according to the locality of the land and its use;

New section 176 provides the basis for differential rates. The Bill provides that differential rates may vary according to land use or some other basis approved by the Minister. Great concern has been expressed to the Liberal Party by the LGA and by individual councils. That concern has been consistently strong ever since the Bill was introduced and centres on the fact that new section 176 (1) is too narrow and *ad hoc*.

Most members would appreciate that the existing provisions in respect of differential rates are broad, and they may also be aware that the original draft provided for differential rating according to use and locality, and a combination thereof. The Bill removes the option of locality and restricted differential rating to use. The provision also seeks further impositions, because the power to vary differential rates on the basis of use of land is subject to new subsection (4), which provides:

> A particular land use must not be used as a differentiating factor affecting the incidence of differential rates unless the land use is declared by the regulations to be a permissible differentiating factor.

So, essentially, from the position of the current Act, to the draft Bill to the present Bill, we have a situation where the Government has condensed the basis on which differential rates can vary, and then has further sought to restrict that basis by stating that it will be qualified in terms of regulations.

The impact of those factors provided in this Bill will mean that councils will now be able to rate differentially according to zones, wards, townships or other localities. We believe that this is a step backwards, especially for a Bill that is meant to cater not only for the present day but also the future.

This amendment, which I am very heartened to hear the Hon. Mr Gilfillan will be supporting, reinstates this provision as in the original draft. We believe very strongly that councils should not be denied this flexibility. It is interesting that when the LGA spoke to us about this matter, it often referred to rural councils and the importance of the insertion of the term 'locality of the land'. What impressed me in terms of the correspondence that was directed to me was that large metropolitan councils and the large outer metropolitan fringe councils were very strongly in favour of this amendment.

I acknowledge that the section allows the Minister to approve some other bases for differential rating, but the LGA suggests that it would appear that approvals will be on a council to council basis and not across the board for all councils. That aspect is yet another factor which would provide reinforcing grounds for this amendment.

The Hon. BARBARA WIESE: The Government opposes this amendment. I canvassed this matter fairly extensively in my second reading reply. My conclusion, having received several submissions on this Bill from a number of areas, was that the arguments that have been put forward for retaining differential rating by locality are thin. The provisions contained in the legislation are so flexible that a council so inclined is able to impose an undue burden on certain sections of a population and, whilst councils are elected by popular vote and are accountable to electors, the opportunity still exists for minority interests within a council area to be less fairly treated because they are a minority interest.

One of the examples put forward to me relates to residents of a small country town within a district council area where rural residents who surround city, commercial or industrial ratepayers within municipalities may be virtually powerless to stop a council from rating them heavily because they have limited strength. The cases that have been raised to

date, I hasten to say, have not dealt with examples of vindictiveness on the part of councils but with the apparent arbitrary basis with which substantial rating differentials are determined within council areas.

Those councils that have supported the retention of differential rating by locality have generally put forward three reasons for so doing, and I would argue that the new separate service rates that are contained in the Bill will take care of those situations where one part of an area receives a particular benefit that is not generally available or, indeed, certain essential services, and this is one of the grounds on which many councils currently use the differential rating by locality provision.

In other cases the provision is used as in some sense it is related to the use of the land that is being rated, and I would argue that, if the intention is to encourage particular development in a council area, other provisions can be appropriately used for that purpose. On top of that there is now also extensive provision throughout the legislation for councils to provide a differential in rating by way of rebates. When we put all those provisions together and compare provisions that are available to councils and put them alongside the reasons put forward by councils as to why they use the differential rating provisions by locality, it can be seen that the existing sections of the Act without that locality provision will cover the points that councils have raised in support of the retention of the locality provision in the Bill. For that reason and in the absence of other more substantial arguments I oppose the amendment.

The Hon. I. GILFILLAN: The Democrats support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 16, lines 20 to 22—Leave out 'factors affecting the incidence of the rates, and which factor or combination of factors governs' and insert 'factor or combination of factors that governs'.

I note that the Government has on file the same amendment to this new section dealing with the basis of differential rates. I have moved it on behalf of the Opposition because it is believed that it improves the drafting. I take it that is the same ground which motivated the Minister.

The Hon. BARBARA WIESE: The Government received representations from the LGA on this issue. We agree that the drafting is preferable and will support Ms Laidlaw's amendment.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 16, line 32—Leave out 'and'.

After line 39—

Insert—

and

(c) must be made within 21 days after the objector receives notice of the attribution of the particular land use to which the objection relates (unless the council, in its discretion, allows an extension of time for making the objection).

This amendment seeks to insert a time limit for the making of objections to the attribution of a particular land use to rateable land. It is consistent with procedures elsewhere for objecting to the valuation of rateable property, which are also subject to a time limit.

The Hon. DIANA LAIDLAW: The Liberal Party supports this amendment. Do the objection provisions with respect to valuations in other Acts also state a time limit of 21 days or is another figure prescribed? The time limit of 21 days has been raised with the Opposition as one that may not provide sufficient time for people to prepare their submissions on such important matters. Although I understand that the provision contains a discretionary power, it was thought that perhaps one week longer would mean that, in many cases, there would be no need to apply to the council to exercise a discretion. If it is standard in all other Acts containing similar provisions, the Liberal Party will not take issue with it.

The Hon. BARBARA WIESE: The 21 day time limit has been inserted to make it consistent with the earlier provision in the Act with respect to a time limit for valuation objections. This provision has been included at the request of the Adelaide City Council, which is happy with a 21 day time limit. I have not received any representations from anyone else to suggest that 21 days would not be adequate. In that case, it is satisfactory to have a 21 day time limit in both sections of the Act relating to objections. Should that prove not to be so in practice, the Government will review it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 16, line 41—After 'objector' insert 'in writing'.

This seeks simply to insert the word 'in writing' after 'objector' so that the subsection would read:

The council may decide any such objection as it thinks fit and must notify the objector in writing of its decision.

We believe that this is consistent with other areas of the Act.

The Hon. BARBARA WIESE: I think that this is a reasonable requirement, and I will support it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 17, after line 3—Insert new subsection as follows:

(13) A regulation cannot be made for the purposes of this section except after consultation with the Local Government Association of South Australia.

This amendment is moved following representations from the LGA, and I trust that the Minister has received the same representations. It provides that the LGA shall be consulted before a regulation dealing with the basis of differential rates is made for the purposes of this section.

The Hon. BARBARA WIESE: The Government supports the amendment. I must say that the Government had agreed to move an identical amendment following discussions with the LGA.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 17, after new subsection (13)—Insert new subsection as follows:

(14) For the purposes of this section—'land' means—

(a) any piece or section of land;

or

(b) any aggregation of land,

against which the council may make an assessment of rates.

This technical amendment, which was suggested by the Adelaide City Council, removes any doubt that may otherwise exist as to the capacity to differentiate between rateable properties that consist of parts of buildings.

The Hon. J.C. IRWIN: I wish that the desires of the Adelaide City Council could also be included in some of the other clauses where clarification is needed. As a newcomer to this place I am quite perplexed. We have talked at great length about the definition of 'land', which includes all buildings and structures and all other improvements to land and strata units. Yet, under the Minister's amendment, 'land' means something else. Why are there two different defintions of 'land', one at the beginning of the Bill and one half way through?

The Hon. BARBARA WIESE: Earlier in the week when we were dealing with the definitions clause—I am not sure whether the Hon. Mr Irwin was in the Chamber at that time—I indicated that the definition of 'land' as contained in the interpretation provisions of the Bill was there at the suggestion of Parliamentary Counsel. This is another draft-

ing issue that has been raised. Parliamentary Counsel assures me that the definitions included in the interpretation provisions include 'portion of land', and I accept that; others may not, but I do.

The Hon. Diana Laidlaw: I think the Minister and Parliamentary Counsel are alone on this.

The Hon. BARBARA WIESE: I do not know that we are, but certainly for the purposes of this section it seemed to me that there was good reason to clarify the points relating to portions of land. I think that the two provisions read in conjunction will assuage any doubts or reservations that anyone might have.

The Hon. I. GILFILLAN: I feel concerned about the matter. It strikes me that it is a rather confusing way of drafting. Having listened with some credulity to the explanation of the interpretation provisions given at the beginning of the Bill, I think that this is either a gratuitous repetition of what was explained as being the meaning of 'land' or that it proves that the earlier answer was wrong. I do not think that both can apply. If, for this section, 'land' means 'a piece or section of land', that begs the question that it does not mean 'a piece or section of land' in its original state, as referred to at the beginning of the Bill. I do not think we can have it both ways. If we accept the first interpretation—which I did, and maybe with some gullibility—then this is redundant.

The Hon. DIANA LAIDLAW: I was rather bemused when the Minister said that this was being inserted as a means of clarification. The advice that has come to me not only from the LGA but also from a number of councils that have looked at this measure (I must admit that I had not appreciated that this was brought forward at the suggestion of the Adelaide City Council), from people whom I respect in this field, suggests that the addition of another distinguishing variation to the definition of 'land' would only add to the confusion and uncertainty, which certainly was not the object in mind when this Bill was drawn up initially or as we have all sought to address it in this place.

The Hon. BARBARA WIESE: I think that perhaps I have not made perfectly clear one point about the use of the terminology in these proposed new sections. I will explain the matter now to assist honourable members. In the interpretation clause of the Bill the definition of 'land' covers the specific definition of 'land' as it appears throughout the Bill. The provision that we are now discussing relates to land or a proportion of land as it applies in a rating situation. The definition of 'land' at the beginning of the Bill does not necessarily deal only with the issue of rating; it also defines 'land'. For that reason I think it is reasonable to clarify the rating issue here, as requested by the Adelaide City Council, because it wants to make perfectly clear that its practice of rating particular portions of land on a site annual value basis is beyond question. That should be clarified in the Bill, and I think that is reasonable. The definition of 'land' at the beginning of the Bill embraces a broader issue than simply land as it applies in a rating situation.

The Hon. I. GILFILLAN: That is some of the sweetest sounding nonsense I have heard for a while. The first definition of 'land' includes a strata unit. A strata unit can actually be completely devoid of land. It could be stuck up in the air. If we want to move along this track constructively, I think that it is important that the definition of 'land' as including any piece or section of land or any aggregation of land should be included in the original definition, and let it rest at that.

Amendment negatived.

The Hon. J.C. IRWIN: New section 177 is one of the most important and contentious provisions of the Bill and relates to the ability of councils to declare a service charge in addition to a minimum rate. As the Bill stands, the service charge will be calculated according to provisions in new section 177, particularly subsection (6) *(a)*. The Minister may, by notice in the *Gazette*, prescribe a method or various methods for calculating service charges, and fix the maximum amount that a council may impose as a service charge for any prescribed service in a particular financial year.

So local government is being asked to accept a service charge arrangement it knows nothing about, so far as the calculation or method is concerned and, under new section 190 as it stands, accept totally the service charge in lieu of the minimum rate after 1989-90, except where ministerial approval allows the minimum rate to continue. I put it to the Council that this is an abysmal position for local government to find itself in after some years and many months of consultation with the Government and many other people.

This position is not acceptable to me and is rejected by the Opposition. What I think we can reluctantly accept is the service fee provisions remaining in the legislation, the ability of councils to set a minimum rate remaining in after 1989-90, and local government making its own choice about what alternatives to use. There is now also the alternative introduced by the Hon. I. Gilfillan.

If the service charge is seen to be working well, I have no doubt that the minimum rate will fade away and the service charge will take over. Legislative arrangements could be made when that point is finally reached, which will ultimately finish the minimum rate forever. I do not know when that will be: that is in the lap of the gods. This argument is all about money and what various parties judge is fairness and equity. The payout by government for rate support, and so on, is something I wish to address when we debate new section 190. The Centre for Economic Studies, which did the investigation work for the Minister, said in its conclusion:

> Our overall assessment after careful examination of all the options applied to the seven councils examined in the report is that option *(b)*, levy with the rate unchanged, provides the best compromise.

I think that we should hang on the word 'compromise'. The use of the words 'best compromise' is interesting, for it shows that even this option, if followed by the Government, is flawed in terms of price rating principles. The study concludes:

> However, what we can conclude with certainty is that a change to the levy scheme from the current minimum rate scheme with the rate in the dollar unchanged would result in an unambiguous improvement in the equity of the rate scheme, both because it levies rates more in proportion to the benefits received and because the extent of regressivity of rates applicable to those subject to the minimum rate is reduced.

So, again, we are in a position of receiving advice which is compromising. I hope that the Minister will not ever reach the stage of trying to control the rate in the dollar that councils wish to use so, even though the study's conclusion was based on the dollar rate being unchanged, there is no certainty that the dollar rate will remain unchanged or will even stay linked to inflation, and councils may come up with other innovative ideas to produce a rate. The study stated:

> . . . because it levies rates more in proportion to benefits received.

Is the study trying to say that, for instance, if schedule 13 costs are used as a service charge, and they work out at, say, $100 per property valuation, someone paying, say, $5 000

in rates is getting a fair proportion of service received? It is plainly a nonsense.

That sort of argument can work both ways and I get a little tired of continually hearing about regressivity. People forget about small business, rural people, high capital values and the ability to pay, which topics I have already addressed. On top of that calculation, I have seen many examples from many councils as to who will benefit from the abolition of minimum rates and the implementation of a service charge. Generally, the people who will benefit the least are those who are least able to afford it. It is obvious from these calculations that the very people that the Government purports to help will be most affected.

If the Minister thinks that she can overcome this problem by adopting the recommendations of the Centre for Economic Studies or any manipulation of its findings, I submit that all sorts of distortions will follow, in the same way that accusations of distortion are made about the *ad valorem* system of rating that is applied now by some councils. I do not care how much argument the Government tries to put forward about the difference between minimum rates and minimum charges for water. The justification for the difference cannot be explained to me or anyone else. Water rates are based on property valuations. I have made that point and others have linked it up before, so why is it good enough for the Government to extract minimum charges for water and not to apply the same logic to rates for local government?

Proposed section 177 (5) really is also a nonsense. As I have said, at this stage local government does not know what the Minister will allow as a calculation for a service charge. I ask the Minister to stick closely to her established principles. Any service charge should be based on factors that are not designed to bring out some sort of financial answer that suits the Government. She must now stick to the principles in relation to any figures that are manufactured. Local government can argue that the running of council is a service from which everyone benefits, and that includes loans and the repayment of considerable amounts of loan money, which is not necessarily part of the service charge. The same applies to a vacant block or low cost housing: it is all in the ball park. Everything is relative and everything has a bearing on the ultimate valuations of the vacant block or the low cost house.

I think that this whole argument highlights how little the Government understands local government and all the interwoven factors which go into its make-up and running. What benefits do I receive as a farmer from the parks and gardens and beautification of my local town, and what benefits does a shopkeeper or pensioner living in a town receive from the bitumen road that happens to pass my house? I was involved with local government for 10 years and I point out that the road which passes my home was a bicentennial project. I had nothing to do with voting for that project—I abstained. I point out that those things are interwoven into the fabric of local government. Whether you have a beautiful town for the benefit of people who live 14 or 20 miles out or whether you have beautiful roads 20 miles out of the town which the townspeople never see cannot be calculated very easily. It is very difficult to place a cash figure on it. My plea is to let local government make its own decisions in this matter of the service charge and in relation to the minimum rate so that it can get on with this job which it does very well.

The Hon. BARBARA WIESE: I will refrain from commenting on these extraordinarily selfish nineteenth century attitudes about local government, involving the provision of services and the relevant benefits to particular interest groups within council areas, and simply address the main issue. I point out that the Hon. Mr Irwin's speech was very interesting, but it was the wrong speech for the wrong clause. It should have been made when we were dealing with the Hon. Mr Gilfillan's point in relation to the levy. It seems to me that the Hon. Mr Irwin demonstrates a total misunderstanding of this provision, and I venture to say that it goes back to the document prepared late last year by the LGA which misunderstood this provision in exactly the same way.

Following discussions with LGA representatives we were able to clarify the misunderstanding. I am flabbergasted that, even with that discussion and the clarification which followed this and numerous other issues, the same arguments are put forward by a member of Parliament who is continuing the confusion created some months ago by that document. I suppose it is no wonder that this Bill has taken so long to reach fruition when there has been confusion abroad about issues as simple as this. This new section will allow councils to levy service rates for public utility types of undertaking, involving essential services in relation to land, water supplies and septic tank effluent disposal. It is not about the rating system discussed earlier which we will address later when we come to the minimum rate amendments. It simply provides for councils to levy a charge or rate on essential service public utilities. It is something that councils want and I would hope that, now that it has been clarified, it is something that will be supported by the Hon. Mr Irwin and other honourable members.

The Hon. T.G. ROBERTS: I can understand some of the frustrations evident in the Hon. Mr Irwin's statements. I think it is coming not so much from what the Hon. Mr Irwin believes should result from the new Bill as from the points of view that people in country councils have expressed to him on how rate revenue is raised and distributed within city councils, district councils and corporations, and the benefits that flow from those revenues.

In many country areas conflicts emerge between different groups who look outside their own council areas and see how revenues are spent and how people may benefit. Differences of opinion emerge within the metropolitan area as well. Beachside councils express concerns about the way in which they spend their revenue and how eastern suburb residents, for instance, use resources and facilities on which those beachside councils spend their revenue. They may argue that the per capita use of rate revenue by local residents is less than that applying to, say, Burnside residents in their own area.

In the end, when people are elected to local government, it is the ratepayers to whom they see themselves as being ultimately responsible. But in terms of legislative responsibilities, we have to raise the levels of understanding and consciousness of those people required to show leadership at local government level and enable them to raise their horizons to encompass the interests of everyone in a particular area, as well as establishing the resources to be shared and ensuring that the bases on which revenue is equitable.

I hope that the Hon. Jamie Irwin, who has had a long history of participation in local government, can see that, although in the past fairly strong regional competitive views have been advanced by local councils as to who are the consumers of the revenues raised and who are the payers, it is very difficult in a broad based community to identify and quantify just who pays and who gets the benefits. Hopefully, the Bill in those references to revenue raising measures helps to identify and answer some of those questions.

The Hon. DIANA LAIDLAW: I move:

Page 20, line 10—After 'residential tenancy agreement' insert 'under the Residential Tenancies Act 1978'.

New section 183 deals with liability for rates. Subsection (6) relates to a situation where an occupier derives rights of occupany from a residential tenancy agreement. As it is not clear in subsection (6) whether it is intended that the agreements referred to have the same meaning as in the Residential Tenancies Act, the amendment clarifies the situation and specifically provides that this subsection is to apply only to those agreements subject to the provisions of the Residential Tenancies Act.

The Hon. BARBARA WIESE: I am advised by Parliamentary Counsel that this amendment, too, is unnecessary. However, in the interests of compromise and in order to hasten the business of Parliament I shall be happy to support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 20, lines 32 and 33—Leave out 'lesser number of instalments' and insert 'single instalment'.

This is an important and key amendment that I move on behalf of the Liberal Party. It is one of the key areas that has been consistently presented to the Liberal Party by the LGA seeking considerable change. It deals with what is commonly referred to as the one way movement, and we argued that issue when talking earlier about differential rates. I will go into this matter because it is complicated. New section 184 provides for the payment of rates and addresses difficulties of ratepayers generally. There would be few members of this Parliament who would not encounter difficulties owing to the current requirement of a single payment. The Bill introduces a system of payment of half yearly and quarterly instalments, and the Liberal Party supports this concept strongly, as do councils and the LGA.

However, we do not support the application of this concept as provided in the Bill, which requires that once a council has moved away from a single annual payment to a quarterly or half yearly payment it will not have the option to move back to other alternatives. As I said earlier, the move is one way unless the Minister approves otherwise. This is unacceptable as it denies councils flexibility in representing communities as they see fit and subject of course to accountability at the time of the elections.

The Liberal Party believes very strongly that, in respect of their powers, councils should have the right to determine what payment method they will use to serve the best interests of their community. To add insult to injury, new subsection (3) restricts the Minister's own discretion to give approval to circumstances deemed necessary to 'alleviate extraordinary administrative difficulties'. That subsection further restricts the narrow provisions that will apply in terms of the application of these very sound principles and concepts of four instalments and two instalments, in addition to the single instalment that has been used for so long.

The Minister stated in her second reading speech that this new section contains provisions to encourage councils to move to a system of quarterly payments by the provision of special arrangements available in the first year of operation, which would allow councils to depart from the principle of equal instalment payments. The Liberal Party supports that. That conflicts with this excessively confining, one way provision, which will not encourage councils to experiment with or apply quarterly or half yearly instalments in the knowledge that they may not be able to move back. Councils will have to go to the Minister to obtain approval to change to another instalment system. This provision is not only contradictory but it is unfortunate in terms of getting the best out of the instlament system that the Minister has introduced.

My amendments to lines 32 and 33 address the problems that I have just outlined, and my remarks are valid for the amendments that I will move to line 38 and lines 42 and 46. The first amendment concerns proposed new subsection (2) *(a)* (iii), which provides:

> *(a)* where a council decides that rates of a particular kind will be payable in four instalments—
>
> (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 lesser number of instalments;

That means, essentially, that if a council sets a system of four instalments, it cannot go back to two instalments or one instalment without the approval of the Minister. Neither the Liberal Party nor the LGA finds that acceptable. As a result of my amendment, a council can move from quarterly to half yearly instalments in a subsequent financial year but cannot move from quarterly to single instalments in the subsequent financial year. Our amendment to proposed new subsection 2 *(b)* will allow that further step from two instalments to a single instalment.

The Hon. BARBARA WIESE: I oppose the amendment. In his second reading contribution the Hon. Mr Irwin indicated his understanding of the problem of many ratepayers when he acknowledged that for many years a lot of people have had problems in having to pay their council rates in a single annual instalment. It is now most unusual for accounts of this kind to have to be paid in this way. Invariably, householders are now given the option of being able to pay half-yearly or quarterly instalments for electricity, water, and other taxes. It is especially difficult for people in the lower income brackets to pay such a large sum of money once a year in a single instalment.

When this proposed new section was being drafted, I felt that I needed to weigh up the rights and needs of the people in the community and the rights and responsibilities of councils with respect to their ratepayers. In this case the rights of the ratepayers to have some certainty in relation to the requirement for payment of rates is paramount. It seems to me that when a council decides to move to six-monthly or quarterly instalments it should, in the interests of the people whom it represents, have to think very carefully about any move in another direction.

People need to have certainty in these matters, and I do not think it is reasonable that councils should have the capacity to chop and change in relation to something that has such a significant impact on their ratepayers. However, it did seem reasonable that there should be a provision in this proposed new section for a movement backwards, with ministerial approval, in exceptional circumstances. The sorts of circumstances that I have in mind are severe administrative difficulties that a council might encounter in having moved from one instalment system to another.

If it could be demonstrated to me that that had created enormous difficulties which could not be overcome, it would be reasonable for a council to be given the power to move, but only in those circumstances, because the ratepayers have rights, too. I think that this is a fundamental right for ratepayers. It is very difficult for people, particularly in the lower income brackets, to pay annually. This is a significant step forward, in that the Bill provides for payment by instalments, and people should be entitled to know whether that is to be half-yearly or quarterly so that they can build that into their annual budget.

The Hon. I. GILFILLAN: I indicate the Democrats' support for the amendment. I do not want to repeat the argument; I believe that it is the right of a council to make the

decision. I am a little surprised that the amendment does not allow the return to single instalments, but that is only a passing observation.

The Hon. DIANA LAIDLAW: To clarify that matter: the next amendment refers to two instalments and allows a council to go back to a situation of single instalments.

The Hon. I. GILFILLAN: I thank the Hon. Ms Laidlaw for explaining that apparent anomaly. I indicate our support for the amendment.

The Hon. J.C. IRWIN: I support the amendment. I certainly do not want to delay these proceedings, most points having been raised. I want to underline a couple of things. One is that it is a key philosophy of local government that decisions made in one year by a council should not bind the council the following year, or even a council that may be elected at a forthcoming election. This provision overrides that. It is all very well for Federal and State Governments to say that they do not mind binding up the council forever, once it has taken the one step to allow for rates to be paid by instalments. However, we have seen State Governments change the rules; that is done every day. For instance, the rules have been changed in relation to the ASER project and in relation to the Grand Prix, to suit the Government. But local government cannot do that without a matter being brought back to Parliament for further consideration.

The Minister also mentioned (and this applies to proposed new section 184 (2) *(b)* (iii) that I had said something in my second reading speech about some difficulty with paying rates in a single instalment. I have not gone back to have a look at that, but I meant to say that it does not matter what arrangements are made for paying rates in relation to the certainty of a person paying those rates. The certainty is that the person will pay more rates, because the system will cost more to run. With a single instalment rate of, say, $5 000, if a person has to borrow for that, a cost will be involved. If the council does not get that in the first month, or by way of the arrangements that would be in place to ease it out over four instalments, and gets the rest of its $5 000 somewhere near the end of the year, the council will have to borrow. So, on a simple calculation the rates will go up. So, I do not think it matters what arrangements are made.

That is the point that I was trying to make in the second reading debate. This becomes counterproductive, because the more book work, the more rate reminder notices and the more legal work in recovery of rates that is involved, the more costly the exercise will become. The certainty is that ratepayers must pay for that. The Government is not giving very much flexibility to councils once they have made that decision. Further, it is not hard to envisage that the State Government could act as Big Brother in holding up a grant to local government until it made this decision. Once it makes the decision, that is it, unless ministerial approval is given to do otherwise.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 20—
After line 38—Insert 'and'.
Lines 42 to 46—Leave out all words in these lines.

These amendments need little background information, as that was provided in relation to the previous amendment. However, I will explain the situation in regard to new subsection (2) *(b)* (iii), which provides:

> . . . where a council decides that rates of a particular kind will be payable in two instalments . . . 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.

We believe that that is dictatorial, unnecessary and does not take account of circumstances in local government, and we seek to delete that provision that council cannot return to a single instalment system.

The Hon. BARBARA WIESE: For the reasons I outlined earlier, the Government opposes this amendment.

The Hon. I. GILFILLAN: The Democrats support this amendment.

Amendment carried.

The Hon. J.C. IRWIN: What does proposed new section 184 subsection (6) mean? How does one define 'a principal ratepayer'? Is it the principal ratepayer in the district or in the city of Adelaide, or is it a number of principal ratepayers? Why is this leeway being given to the principal ratepayers when this Bill is all about those people who are not principal ratepayers?

The Hon. BARBARA WIESE: This provision, as with many other provisions, has been included in this Bill to provide the greatest possible flexibility for councils in the management of their financial affairs. It is intended to allow a council to make an arrangement with a principal ratepayer, which means the person whose name is entered in the assessment book as the person liable to pay the rates. It enables the council to make an arrangement with a principal ratepayer to pay rates in instalments which may be a variation from the instalment arrangement the council has made generally for ratepayers in its area. There may be all sorts of reasons why a council may wish to enter into a particular agreement with a particular ratepayer. This allows for that to happen.

The Hon. DIANA LAIDLAW: My proposed amendments to page 21, lines 35 to 39 refer to the payment of rates. New section 184 subsection (8) relates to the fine arising from the late payment of instalments of rates. Last December the LGA expressed to the Opposition its objection to the proposition that this fine, together with interest and arrears, were both to be determined by the Minister by way of a regulation and a notice published in the *Gazette* respectively.

The amendment on file in my name accommodates those objections. I note that the Minister has also heeded the concerns of the LGA and has proposed an amendment to paragraphs *(a)* and *(b)* which are the same as in my proposed amendment, but we differ in respect of paragraph *(c)*. Can the Minister explain why the system that she suggests under proposed subsection (3) of new section 184 should be more attractive to members of Parliament than that which I propose?

The Hon. BARBARA WIESE: The reason for the difference between paragraph *(c)* is that the amendment proposed by the honourable member I think was based on an earlier draft of an amendment that we contemplated, but it has been drawn to my attention that it is desirable to preserve what is contained in the Act, that is, a provision to allow for the total amount of money to compound. The amendment proposed by the Hon. Ms Laidlaw would not allow that to happen and, if the amount is not allowed to compound, this could mean something like 1 per cent to a council. I recommend that my amendment be supported as opposed to that of the Hon. Ms Laidlaw.

The Hon. DIANA LAIDLAW: I am happy to accept that.

The Hon. BARBARA WIESE: I move:

Page 21, lines 35 to 39—Leave out paragraphs *(a)* and *(b)* and insert new paragraphs as follows:

(a) the instalment will be regarded as being in arrears;

(b) a fine of 5 per cent of the amount of the instalment is payable;

and

(c) on the expiration of each month from that date, interest of the prescribed percentage of the amount in arrears (including the amount of any previous unpaid fine and interest) is payable.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 22, after line 2—Insert new subsection as follows:

(13) In this section—'the prescribed percentage' is to be calculated as follows:

$$p = \frac{PBR + 3\%}{12}$$

Where

P is the prescribed percentage

PBR is the prime bank rate for that financial year.

This amendment is consequential on the amendments relating to interest rates and it sets out in the legislation the formulas to be used. This has been done at the request of the Local Government Association in order to clarify what was intended in the first place.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 22, lines 13 to 15—Leave out all words in these lines after 'exceeding' and insert 'the prime bank rate)'.

This amendment is designed to insert the reference to interest rates and it proposes that interest on rates, the payment of which has been postponed, will be at the prime bank rate and not at a rate determined by the Minister.

The Hon. DIANA LAIDLAW: We accept the amendment.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 23, after line 29—Insert new subsection as follows:

(3a) If—

(a) a council cannot, after making reasonable inquiries, ascertain the name and address of a person to whom a notice is to be sent under subsection (2) or (3);

or

(b) a council considers that it is unlikely that a notice sent under subsection (2) or (3) would come to the attention of the person to whom it is to be sent,

the council may effect service of the notice by—

(c) placing a copy of the notice in a newspaper circulating generally in the State;

and

(d) leaving a copy of the notice in a conspicuous place on the land.

The Hon. DIANA LAIDLAW: I am happy to indicate that the Liberal Party supports the amendment.

Amendment carried.

The Hon. J.C. IRWIN: I refer to proposed section 187 (10) which provides:

If the owner cannot be found after making reasonable inquiries as to his or her whereabouts, an amount payable to the owner must be dealt with as unclaimed money under the Unclaimed Moneys Act 1891.

I understand that if the money is recovered it goes to Treasury. I put it to the Minister that it would be fairer if it went back to the council on whose land the sale was made.

The Hon. BARBARA WIESE: This provision has been inserted to continue existing practice. This type of provision currently exists in the legislation. It has been considered suitable for many years and we are simply continuing that practice.

The Hon. DIANA LAIDLAW: I move:

Page 24—

Line 27—Leave out ', free of mortgages and charges,'.

After line 27—Insert new subsection as follows:

(11a) The title vested in a purchaser under subsection (11) will be free of—

(a) all mortgages and charges;

and

(b) except in the case of land held from the Crown under lease, licence or agreement to purchase—all leases and licences.

The amendments relate to proposed section 187, which provides for the sale of land for the non-payment of rates. Proposed subsection (11), to which my amendments relate, provides:

Where land is sold in pursuance of this section, an instrument of transfer under the council's common seal will operate to vest title to the land, free of mortgages and charges, in the purchaser.

In respect of this provision the LGA has sought a specific statement that a clear title is to be transferred to the purchaser. We have sought to accommodate that request. We believe that the amendment clarifies and improves the drafting while not altering the original intention.

The Hon. BARBARA WIESE: I indicate that the Government supports the amendments.

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

Page 25, line 35—After '*Gazette*' insert 'and in a newspaper circulating in the area'.

Proposed section 189 relates to notice of declaration of rates. We believe that this notice of declaration should be not only published in the *Gazette* but inserted in a newspaper circulating in the area, because we believe that this provides the best way of informing local people of that notice.

The Hon. BARBARA WIESE: This is quite a reasonable requirement and I am happy to support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Lines 39 to 45—Leave out the words in these lines after '(or a part of its area)' in line 39.

The Hon. Mr Gilfillan has a similar amendment on file. This is the infamous amendment dealing with minimum rates. It is a key amendment of the Bill. Certainly, that has been the message presented to us on numerous occasions by the LGA and in correspondence from councils. In fact, in the small hours of this morning, I counted 89 letters that I have received on this subject which were all adamantly in favour of retaining the minimum rate. I have yet to receive any communication supporting the Government's wish to repeal the minimum rate provision. I will just briefly go over these matters because I think the issue has been very widely canvassed. Nevertheless, a number of points need to be made in response to the Minister's statement last night.

First, the Liberal Party is not being politically opportunist in this matter as it has been accused of being by members of the Government. We believe strongly in this matter as one of principle. I reinforce that, because when the LGA wavered for a time on this issue last December, I can assure the Minister that I and the shadow Minister of Local Government both told the LGA that we would not be shifting from our stand: our stand would remain consistent, and we would be moving to maintain the minimum rate, because it was our view that the majority of councils in this State wanted such a move. It is quite clear to us not only that minimum rates empower councils to fix a minimum amount payable as rates but also that this method of rating has helped ensure that all property owners pay at least a minimum amount so that everybody contributes to basic services and administrative costs from which everyone in the local community benefits.

It is proposed that sections 223 *(a)* and 228 be repealed, but we do not support that. Briefly, we have remained firm on this stand because, as a matter of principle, we believe that local government should be entrusted with a variety of rating alternatives, including minimum rating from which

it can choose the best and most appropriate rating system for its circumstances. We also believe that that is the expressed view of the overwhelming majority of councils in this State and, as I said earlier, not one council, to my knowledge, has informed the Opposition that it agrees with the Government amendment. I have never heard the Minister state in this Chamber, despite vigorous questioning from time to time, any one council that supports the proposition that she and the Government have put forward.

Moreover, I just cannot find a convincing argument from the Minister why this rate should be abolished. Certainly, those answers were not provided last night. It was a very spirited defence by the Minister of her position, but it certainly did not address the key issues that local councils have been presenting to her and the key questions that Liberal members in particular have been asking of the Minister for some time. It is a fact that the beneficiaries of this measure will be the South Australian Housing Trust, yet no-one knows by how much. The Liberal Party has at times suggested figures and the Minister derides those but never comes back with the actual figures.

The other beneficiaries of this measure no doubt will be land speculators with vacant land, but the losers will be pensioners who own their own homes and young people who are trying to buy their own homes. How the Government equates this measure with its professed philosophy and enthusiasm for social justice is beyond comprehension. It just does not add up and the Minister has not yet come clean with either the facts or the figures, the arguments or really what the underlying agenda is. On that basis, I repeat the Liberal Party's wish to see the maintenance of the minimum rate as an option for councils.

The Hon. BARBARA WIESE: I do not intend to spend much time on this matter, either. It has been debated at great length in many places. I would simply place on the record the key reasons for the Government's opposition to the amendment and to state again why it is that this is a matter which I have brought to the attention of Parliament and why it is necessary that there should be some change to the provisions that have existed with respect to the minimum rate. There is absolutely no doubt whatever that the use of the minimum rate provision by a large and growing number of councils in South Australia has come to the point where it far exceeds the intentions of Parliament when the minimum rate provision was inserted in the Act.

I have said on a number of occasions that the use by some of those councils is of dubious legality. Last night I quoted some cases that have been brought before the courts which would certainly indicate that there is a problem in some areas with the use of the minimum rate. It was never intended that its use should be limitless and there is a good body of legal opinion indicating that its use should be contained at a relatively low level.

We come back to the basic reason for the rating system in the first place. It is a rating system based on the value of property: any departure from that basic rating system, whether it be in the form of minimum rates, differential rates, or separate rates or whatever they might be, is to be used sparingly. Such departures are distortions from the main rating system which are not intended to replace or supersede the basic system upon which they are built. The way in which the minimum rate has been used by some councils in this State calls into question whether they actually use a rating system based on property. In some places it has been used as a flat tax on ratepayers.

During the course of discussions that I had on the preparation of this Bill, it was not suggested that local government was interested in moving to a flat tax system. If that was not wanted, we come back to a question of what local government does want, and it seems that councils would like to preserve the rating system which is based on the value of property. Therefore, that must be used as the basis and we must look at the various other provisions which depart from the basic rating system and ensure that any provisions that allow a departure do not create an unreasonable distortion. The departure is unreasonable if it places an unreasonable and unfair rate burden upon the owners of low value property.

The Hon. L.H. Davis: You didn't say that in October of 1985. What has changed since then?

The Hon. BARBARA WIESE: This was a very civilised debate until the honourable member walked into the Chamber. He will have his opportunity to speak to the Committee, so I ask to be heard in silence. He should have some respect for members in this place. A large proportion of the owners of low value property are low income earners. Not only is it a distortion of the rating system; it also has an unreasonable impact on people.

Whatever level of government we belong to we must keep in mind that we are not here for our own convenience or to preserve our own administrative structures. We are here to serve the people and do the best for them. Any Government that is responsible for a taxation system must take into account the impact of that system on the people who are being taxed. It is desirable—and I have never heard any member in this place or anywhere else suggest that it is not desirable—for a taxation system to be progressive, not regressive. The way in which the minimum rate provision has been used over time indicates that it is becoming increasingly regressive.

On a number of occasions I have referred to the conclusions of the study undertaken by the Centre for Economic Studies, which is a very respected and reputable organisation. It looked at the current use of the minimum rate, the alternative levy concept that I put forward last year and a range of other options that might in some way alleviate the problem that has emerged with the use of the minimum rate. The first conclusion was that the use of the minimum rate is unreasonable in many instances and, if there were an alternative, the levy concept would be the most equitable of the options available.

It seems to me that there has been an unwillingness on the part of a number of people in Parliament and in the local government community to accept the fact that there is distortion and, in some cases, abuse. I, as Minister of Local Government, responsible for this piece of legislation, having had that information drawn to my attention, have a responsibility, as does Parliament, to address the issue and to try to find some way of overcoming the problem that has emerged.

All through the course of the discussions that have taken place on this issue I have repeated over and over again to people in local government that I am willing to discuss any alternatives that they might want to raise as a way of solving the problem. However, there has been no acknowledgment that the problem needs to be addressed, let alone a willingness to discuss ways to overcome the issue. That is why the Bill provides for a phasing out over time of the minimum rate and for a range of other rating alternatives that will assist councils in making up some of the revenue they lose from the minimum rate provision.

The Hon. I. GILFILLAN: I have an identical amendment to the one that we are now debating. In effect, it retains the right of councils to charge a minimum rate without any variation. Therefore, the Democrats support it. I note with some concern that previous speakers have said that they did not wish to go over a subject that had been dealt with exhaustingly in the second reading debate but they proceeded to do just that; it is a second reading debate revisited. I have great forebodings as I see the Hon. Legh Davis poised to launch into the debate as well.

The Hon. L.H. Davis: The Minister has just given a second reading speech.

The Hon. I. GILFILLAN: I know. It is like a second track—we have all heard it before. It seems to me to be a monumental waste of time. I point out that the levy has now been included, thanks to a successful amendment that I moved earlier. If this amendment is successful—and I believe it will be—the minimum rate will be retained. I indicate that I have a subsequent and consequential amendment on file dealing with some changes to the definition of the area that can attract a minimum rate. However, more significant in that subsequent amendment is subclause (3), which provides:

> If a council has included a fixed charge as a component of a general rate—

and that is the levy that was successfully inserted a little while ago—

> it cannot fix a minimum amount under this section.

It is an either/or situation, and it seems to me that it is predictable to say that this Council will, through amendments, allow in the Bill the option for a council to choose a levy or a fixed charge component. That option is quite attractive to the Minister, the LGA, I understand to the Liberal Party and certainly to the Democrats, so one can expect that it will be used by more and more councils and that this will cause a consequential reduction in the number of councils using the minimum rate.

I think it is true that there are justifiable criticisms about the way in which the minimum rate is used in some circumstances. I repeat: the Democrats have insisted on its retention because we believe that councils have the right to make that decision. The argument in relation to how or whether they should use it should be conducted by logic and persuasion, by the electors, by the Government and by other officers who are concerned about it in face to face discussion with the LGA or the councils concerned.

The Hon. C.M. Hill: In other words, they can't have it both ways. If they charge a minimum rate they can't charge a levy.

The Hon. I. GILFILLAN: That is as I expect the Bill to pass. The Hon. Murray Hill has repeated the very clear message that I think will come from this Bill as amended, namely, that a council will have the choice to accept the levy—the fixed charge that is based on the general administration and other costs which will be levelled out and which is part of a component of a rate. However, if a council chooses that, it cannot charge a minimum rate, and vice versa. The Democrats support the amendment.

The Hon. L.H. DAVIS: Will the Minister indicate how many of the 126 or so councils in South Australia support the abolition of the minimum rate?

The Hon. BARBARA WIESE: I do not have that figure, but I can indicate to the Hon. Mr Davis that one of the councils that fully supports the abolition of the minimum rate is the Adelaide City Council. I understand that the Hon. Mr Davis is interested in running for the seat of Adelaide, and he might take proper account of the wishes of at least one council in the local government sphere when he is sounding off about issues that he knows little or nothing about. The Adelaide City Council thinks that the minimum rate provision is totally unnecessary and fully supports its abolition. I am sure that it will be very interested to hear that one of the prospective Liberal Party candidates for the seat that covers the area has taken such a stupid stand on the whole thing.

The Hon. L.H. DAVIS: The Minister has not answered the question that I directed to her, and I will repeat the question. The debate on minimum rates has been going on now for some two years, and surely in that time the Minister has gleaned at least some idea of the number of councils which oppose the abolition of the minimum rate. Could she advise the Committee how many councils have indicated that they are in favour of the abolition of minimum rates?

The Hon. BARBARA WIESE: I have already indicated that I do not have that figure. I do not know how many councils support the minimum rate. I really must question why the Hon. Mr Davis concentrates on this issue to the extent that he does. My role as Minister of Local Government is not to sit here and be a rubber stamp in relation to local government matters: my responsibility as Minister is to weigh up the interests of local government and the broader community and to make decisions based on my judgments about what is in the interests of the whole community.

I am interested to note that these views are shared by the shadow Minister of Local Government, and I point to a document which was prepared by the Local Government Association prior to the 1985 State election. It asked all political Parties a series of questions about local government issues. One question related to whether the Liberal Party intended to ensure that local government and the Local Government Association were fully consulted in the preparation of draft Bills and other matters that affected local government. The Liberal Party's position on that issue at that time was that it would consult with local government. The shadow Minister of Local Government, Dr Eastick, went on to say:

> We do not deny the right of a State Government, following such consultation, to then determine which facets of the consultation are heeded and which are pursued in the wider public interest.

A little later he went on to say:

> We will assess whether amendment or repeal is necessary or desirable in the interests of local government and the community as a whole.

So, it would seem that at least some members of the Liberal Party share my view that the State Government—and in this instance the Minister of Local Government—has a broad community responsibility.

Our role is not simply to reflect the views of councils; we must take into account the impact of any legislation and the way it is used in the broader community. It is my assessment, from the information that has been made available to me about the use of the minimum rate provisions in this State, that there is abuse taking place in some instances. There is increasing use which has grown by alarming proportions during the past four or five years, and I have a responsibility in the broader community interest to take that into account and to attempt to do something about that in order to provide justice for the broad community.

The Hon. L.H. DAVIS: Can the Minister name any councils apart from the Adelaide City Council which support the abolition of the minimum rate as proposed by the Minister?

The Hon. BARBARA WIESE: I cannot name another council. I do not have in my head the numbers and names of councils.

The Hon. L.H. Davis interjecting:

The CHAIRPERSON: Order! You can speak any time you wish in this Committee.

The Hon. BARBARA WIESE: I have tried to indicate to the Hon. Mr Davis and to the Committee that that is not a matter is of prime interest or importance to me in the determination of what should be contained in this legislation. Whether or not it has 100 per cent or 50 per cent local government support, it is my assessment that a problem has developed with the use of the minimum rating provision. I have a responsiblity to address it and try to do something about it. So the honourable member can stand here all night and ask me questions about which councils and how many there are, but it is not relevant to this debate. What is relevant is what it is right to do in the interests of the broad community, and I think that I have indicated quite clearly and adequately exactly what I believe is in the community interest.

The Hon. L.H. DAVIS: We have a remarkable proposition. We have the proposition put forward by the Minister of Local Government in no uncertain terms that she is unable to cite the number of councils which support her stand on minimum rates; she is unable to name any councils apart from the Adelaide City Council which support her stand on minimum rates. We have 126 councils—

The Hon. Barbara Wiese: We have not!

The Hon. L.H. DAVIS: We do not have any numbers from the Minister. We have in the order of 126 councils. It might be a few more than that—

The Hon. Barbara Wiese: It is not: it is less.

The Hon. L.H. DAVIS: Let us not quibble about that. It is pretty close to the mark.

Members interjecting:

The Hon. L.H. DAVIS: Madam Chairman, are we going to take note of that?

The CHAIRPERSON: Order! I call the speaker to order. I am not a chairman.

The Hon. L.H. DAVIS: So we have this remarkable proposition, Madam Chairman—

The CHAIRPERSON: Order! I am not a chairman.

The Hon. L.H. DAVIS: What would you prefer, madam?

The CHAIRPERSON: Chair, Chairperson or Chairwoman, but not Chairman. I am not a male.

The Hon. C.M. Hill interjecting:

The CHAIRPERSON: No, it does not.

The Hon. L.H. DAVIS: If we are to have a debate, man derives from *manus*, Latin, meaning hand, and a chairman is handling a meeting, just as in manage, management and manipulate. You would accept that, Madam Chair, but in deference to your wish I will address you as Madam Chair, although it is the position I address rather than the person, with respect. Before that little *contretemps* I was making the point that the Minister of Local Government is unable on the most critical of the clauses in this Bill even to tell the Council in debate how many and what councils support her stand on the abolition of minimum rates.

She says that it does not matter and, to use her words, 'It is not relevant to the debate; it is not of interest or importance to me.' Let me tell the Minister and members that it is of some importance and consequence to the Local Government Association, and the 120 or so councils in South Australia have taken a very strong exception to the Minister's arrogance in this matter. That has been reflected in the correspondence that we have received and I am sure that the Minister also has received it. It is just an incredible, arrogant and high handed approach for her to stand there and petulantly say, 'It does not matter what the Local Government Association says or what the local councils around the State say.'

On the one hand, last night in her second reading summary she said that she 'maintains a good deal of confidence and faith in local government' but, on the other hand, on this most important issue, she says that it is of no interest or consequence to her at all. Where is her confidence and faith in local government? How does that square with her assertion in her very lengthy address to the Council last night? Again, I address this matter to the Minister: how many South Australian councils support her stand? My understanding is that it is about four or five, but it could perhaps be one or two more. Would she care to nominate a figure, because at least it would be in the interests of this Council, the Local Government Association and the public at large to know just how much support she has for this proposition.

The Hon. BARBARA WIESE: I do not wish to dwell on this matter. The Hon. Mr Davis might want to go on all night and go over and over this point, but eventually there will be nothing left for me to say and he can sit here and talk to himself. I would like to address the misrepresentation of my position which he has just made to the Committee: I think it is important that that should be corrected. The Hon. Mr Davis suggested that I demonstrate arrogance because I do not wish to become engaged in a discussion about numbers of councils that support one particular position or another.

The Hon. L.H. Davis: You say it's not relevant.

The Hon. BARBARA WIESE: What I have said—and I will repeat it now—is that the numbers involved are not important to the argument. What is important here are ideas and facts; what is happening with this provision of the legislation; whether or not the provision of the legislation is being used appropriately and according to the wishes of the Parliament of the time when that provision was inserted; and whether or not it is consistent with the rating system as a whole. These are the issues that are important; these are the issues that should be addressed by the Parliament.

As to the question of whether or not one council or 100 councils have a particular point of view on a matter, it is the responsibility of this Parliament to deal with the issue and it is our responsibility as parliamentarians to represent the interests of the whole community. That is what this argument is and should be based on and there is nothing further to say on that matter.

The Hon. M.B. CAMERON: I will not say much because I think the matters have been well canvassed. I have been in this Parliament for some time and I recall the passage of a Bill to provide local government with a constitution to give it some say in its destiny. I think—

The Hon. C.M. Hill: Passed by a Liberal Government, too.

The Hon. M.B. CAMERON: Yes. I think perhaps the Minister should refer back to that debate and consider the intention of Parliament when that legislation was passed. That legislation provided local government with some say in its own destiny. Perhaps then, when the Minister has done that, and when a matter like this arises, she should look at the will of local government, the LGA and the

combined councils of this State. I think the Hon. Mr Davis is attempting to ascertain the majority view of local government. The Minister should understand that her role is not to dictate to local government but to listen to it, ascertain its views and then bring those views to Parliament.

The Hon. I. Gilfillan interjecting:

The Hon. M.B. CAMERON: Yes, that is right. I am not sure whether the Minister is adopting a paternalistic or maternalistic approach, but whatever it is she should understand that local government does have a role and it does have an opinion that should be listened to. The Minister should change her attitude and her approach to this whole matter.

The Hon. G.L. BRUCE: It offends me to have to sit here and listen to this debate. Members opposite are saying that the Minister should abandon trying to obtain justice and a fair deal for the people who suffer under this rating system because it is not popular with councils. I have been a member for seven years and I have sat on select committees that have looked at council boundaries.

The Hon. L.H. Davis: It's 8½ years.

The Hon. G.L. BRUCE: Well, 8½ years. Apart from one council I cannot recall any other that supported the move to diminish council boundaries. This Government made the decision—

The Hon. M.B. Cameron interjecting:

The Hon. G.L. BRUCE: That is right. We took the unpopular decision. If we had followed the popular decision and taken the easy way there would have been no amalgamation of councils anywhere in South Australia on a voluntary basis. We used our strength and force. Now, when there is the possibility of a bit of justice and equity for ratepayers, members opposite back off and say, 'Let's take the easy way even though it's not the right way.' I am amazed at the hypocrisy that is shown in this place.

The Hon. DIANA LAIDLAW: I rise to take issue with the comments of the last speaker and also to refer to the Minister's earlier comments. The Hon. Mr Davis has been trying hard to obtain basic facts and figures from the Minister—and I commend him for that—but clearly she does not have the answers and therefore cannot satisfy the Hon. Mr Davis in that sense. I point out that the Government alone believes that justice and equity are on its side with respect to this issue. It is quite clear from studies and extensive research done by the LGA, with the cooperation of councils around this State, that major hardships will flow to financially vulnerable people and families in this community. I will outline the reasons for this.

The first scenario based on this research by the LGA indicates that following abolition of the minimum rate councils would have to maintain their current level of services. The Government and the Minister would know as well as I (through my community welfare work) that the poor and most needy in our community require services to a greater degree than do the more affluent. So, if the minimum rate is abolished and councils are to maintain their current level of services, they will require the same income to maintain their works and services programs.

Therefore, councils will have no choice but to increase the general rate to return the same funds. Across the State, many more people will pay a general rate rather than a minimum rate, so most people in South Australia will be required to pay more in rates, with pensioners—particularly those who are home owners—and small business in general, and new home buyers in the outer metropolitan marginal seats (and that is the category in my addition) in particular, being hardest hit by this rise.

Therefore, I ask the Minister and particularly the last speaker to tell me where is the justice and equity in terms of the abolition of minimum rates in that scenario. The second scenario identified by the LGA arising from the abolition of the minimum rate would be that many councils will have to cut back on many of the services they provide, as the minimum levels of rates will be too high to sustain when simply applying the general rate. As a result, those people who may benefit from the abolition of the minimum rate in monetary terms will lose the services from which they benefit. Therefore, the poorer people in our community who, it is claimed by the Minister and other Government members, will supposedly benefit from the abolition of the minimum rate will in fact be losing because of a possible cut in services from which they currently benefit.

If people have to pay strictly on the general rate as related to the property value, councils will be pressured into spending more on property services than on human services. It is just beyond belief that the Government can rely on this argument of justice and equity, and it is a pity that this so-called social justice unit that the Government has set up at some considerable cost has not done an evaluation of this subject because I believe it would not reflect well on the Government.

The Hon. L.H. DAVIS: The Minister of Local Government, having said in October 1985, before the 1985 election, that minimum rates were all right, did a flip-flop in 1986, and for the next two years has been consistently advocating the abolition of minimum rates. Yet, in that time, she has been unable to ascertain how many councils and which councils in fact support her stand, and she is the Minister of Local Government! If she does not know, who does? And we are supposed to vote on this clause without knowing the support or otherwise from councils and the LGA for this proposition. Have you ever heard of anything so ludicrous!

I can tell the Minister that I am fairly confident now that there are 125 councils in this State. In fact, I was a massive one out, and I apologise for that, but at least we have that figure correct. Let us establish the much more important point of finding out how many of the councils actually support the Minister's stand. The Minister has mentioned the Adelaide City Council. The Adelaide City Council has not exactly been gung ho about the matter of minimum rates. As my colleague the Hon. Murray Hill would well know, the answer is very obvious because, really, minimum rates do not affect the Adelaide City Council. It is not in the same position as those many councils where minimum rates operate. So, minimum rates are not exactly a burning issue as far as the Adelaide City Council is concerned.

The Minister should understand that this latest demonstration of petulance and arrogance on such an important subject is just a continuation of the problem that local government has been facing in the past two years in dealing with this subject. The Minister finds herself in very real danger of being swept out to sea by a wave of resentment from local government around South Australia.

Deservedly, she is losing the confidence of local government in South Australia. So, it is no surprise to see in *The Bunyip* of 3 February 1988 the big heading 'Eastick lashes Minister'. The heading is bold for *The Bunyip* and the report states:

> Liberal spokesman on Local Government Dr Bruce Eastick says the Minister of Local Government Ms Wiese, should drop her obstructionist and maternalistic attitude towards local government . . .
>
> 'At the moment she is just punch drunk with her own sense of authority.'

That is probably a fair reflection of her attitude. The Minister has consistently refused to tell us how many councils out of 125 support her stand. Let me guess, and let the Democrats and anyone else in this Chamber have a guess. I will put money on the number being around four or maybe five. If the Minister knows better—she claims she knows nothing, and that is starting to come as no surprise to us—let her respond. If she does not respond, why does she not respond? She will not respond either because she is afraid to let the truth out in this Chamber and into the public domain because it would be a clear indication of the lack of support that she has for this proposition, or she does not tell us because she does not know; she has not done her homework and, to quote her again, she believes it is of no consequence anyway to know what local government believes about this important matter of the abolition of minimum rates.

I turn to another point in debating minimum rates. I refer to the twisting of the truth that occurred last night when the Minister in her second reading reply suggested that I was claiming that the Government was seeking to phase out minimum rating because it wished to save at least $20 million a year in pensioner concessions and Housing Trust costs. At least in her speech she had grace enough to admit later that it was not at least $20 million: the precise estimate was about $10 million to $20 million.

That was not my quotation. I derived that figure from a letter from the Secretary-General (Mr Hullick). The letter dated 24 March 1987 was read into *Hansard* (page 2748) by me on 16 February. Mr Hullick stated:

> It would appear that, if the Government were to proceed with the withdrawal of minimum rating, it could receive windfall gains in the order of $10 million to $20 million. These windfall gains would be made to the Government's pensioner concession program and to the South Australian Housing Trust.

The Minister lashed out in fairly reckless fashion on this and other matters in her lengthy but totally unconvincing reply last night. She attacked me for drumming up a figure when in fact all I had done was quote directly from the well informed Secretary-General (Mr Hullick) of the LGA.

Presumably the Government has some interest in this matter, and I again put it on the Minister to come clean on this point. She dilly dallied around the point last night, attacking my quotation which repeated what the Secretary-General had said. I assume that the Government has done some costing on it, so let us hear from the Minister now. She claimed that she would let members know last night. She did not. Tonight's the night.

The Hon. BARBARA WIESE: I will not go over the ground that has already been covered with respect to numbers of councils and which issues should or should not be included in a discussion on drawing conclusions on the minimum rate. I will address the last issue that the Hon. Mr Davis raised with respect to the amount of money that may be saved by the State Government through its various agencies that have some responsibility for providing public housing and assistance to the people in our community who are most in need. I simply repeat the statement that I made last night that it is virtually impossible to guess with any certainty what amount of money might be saved by the State Government overall, because too many variables are involved. It would be very difficult to extract that information from State Government sources, even if all things were equal, because it would take a lot of time and effort, and it is not an exercise that the Government considers worthwhile.

More particularly, the amount cannot be predicted because it is not possible to predict what action individual councils might take which would have an impact on the assessment. For that reason, it is not possible to make an accurate assessment. If the honourable member's information came from the Secretary-General of the LGA, he should question him a little more carefully about how he reached that conclusion. I can only assume that he was taking a stab in the dark. The Government has not been able to make an assessment, and I do not know what additional information the Secretary-General might have at his disposal to enable him to make such an assessment.

I refer now to the issues of equity raised earlier by the Hon. Ms Laidlaw. It is important for the Committee to understand the policies that are being pursued by the State Government. As money gets tighter and times get tougher, the Government is attempting to base the allocation of its resources and assistance, through its services, on a policy of need. The people with the greatest possible need have first priority. There is no doubt that the Government's attempts to modify the minimum rating system will assist those people who have the lowest value property in the community and who tend to fall into the low income categories.

Some of the assessments that have been made by the LGA about the impact of the abolition of the minimum rate have been based on the number of false assumptions. It has not taken into account the additional revenue raising capacity which is contained within the provisions of this Bill and to which individual councils would have access in reorganising their financial affairs in order to compensate for revenue lost through the withdrawal of the minimum rating system.

For that reason, the assessments of many commentators have not been as fair as they should have been. As for the contribution by the Hon. Mr Cameron, I simply say that it is interesting rhetoric but it really has not added much to the debate. I suggest that, in practice, the Liberal Party in Government has paid lip service to the idea of greater autonomy and independence for councils. Indeed, it passed an amendment to the Constitution Act which recognised local government but which did nothing in practice for local government. In many ways it was an empty gesture.

On the other hand, the Labor Party in Government has demonstrated by its actions that it is actually committed to providing greater autonomy and independence for local government. This Bill more than any other demonstrates that to anyone who has bothered to take a close look at, and understand, its provisions. Whether or not members of the Liberal Party accept that does not matter to me, because the broader local government community agrees that, by and large, they fully support the provisions of this Bill, and want to have access to those provisions as quickly as possible. It would be great if members stopped playing around and get on with it so that we can provide as quickly as possible these excellent new opportunities for local government.

The Hon. DIANA LAIDLAW: I agree with the Minister's claim, as I did at the second reading stage and earlier in Committee, that this Bill does provide greater financial autonomy to local government. This amendment simply seeks to extend those options and to reinforce that autonomy.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, H.P.K. Dunn, M.J. Elliott, I. Gilfillan, C.M. Hill, J.C. Irwin, Diana Laidlaw (teller), and R.I. Lucas.

Noes (7)—The Hons G.L. Bruce, T. Crothers, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, G. Weatherill, and Barbara Wiese (teller).

Pairs—Ayes—The Hons K.T. Griffin and R.J. Ritson.
Noes—The Hons J.R. Cornwall and C.J. Sumner.

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. I. GILFILLAN: I move:

Page 26, lines 1 to 6—Leave out subsections (2) and (3) and insert new subsections as follow:

(2) A minimum amount can only be imposed as follows:

(a) the minimum amount cannot be imposed against land that constitutes less than the whole of a single allotment;

and

(b) if two or more pieces of contiguous ratable land are owned by the same owner and occupied by the same occupier, the minimum amount may only be imposed against the whole of the land and not against individual pieces of it.

(3) If a council has included a fixed charge as a component of a general rate, it cannot fix a minimum amount under this section.

(4) For the purposes of this section, an allotment is—

(a) the whole of the land comprised in a certificate of title; or

(b) the whole of the land subject to a separate lease or a separate licence coupled with an interest in land.

Proposed new subsection (2) is the same as that in the amendment which the Minister has on file, and its purpose is to rationalise the actual unit to which a minimum rate can be applied. I have already referred to new subclause (3) which provides that a council cannot use the fixed charge or levy which is now part of the Bill and the minimum rate. Finally, proposed new subclause (4) defines again a little more precisely the detail of an allotment.

The Hon. BARBARA WIESE: Proposed new subsection (2) is consequential on the debate that we have just had concerning the levy and the minimum rate. However, the honourable member's proposed new subsection (4) is the same as proposed new subsection (3) in the amendment that I have on file. I am therefore happy to support that provision.

The Hon. I. GILFILLAN: I think that as a result of the success of our amendment previously, to which the Minister was opposed, my amendment will now be a preferred amendment because she would still require a council to have to choose one or the other. New subsection (3) confronts the situation that in the legislation there will be the option of the minimum rate or the levy. As the Minister's amendment was drafted, she did not foresee that option having to apply, so I would suggest to her that she now support my amendment as a result of the successful inclusion in the Bill of the so-called fixed charge levy.

The Hon. DIANA LAIDLAW: Perhaps I can help with this issue by indicating that the Liberal Party will be supporting the Hon. Mr Gilfillan's amendment.

The CHAIRPERSON: At this stage the Hon. Mr Gilfillan has moved his series of amendments.

The Hon. BARBARA WIESE: I wonder whether we could take new subsections (2), (3) and (4) separately, because I indicate that I want to support new subsections (2) and (4) but oppose new subsection (3) in order to be consistent with my position all along with respect to the levy and the minimum rate.

The Hon. I. GILFILLAN: That will not be consistent, because the fact is that now the two options are provided in the Bill. Do you want a council to have the right to be able to use both of them? If you oppose new subsection (3) it will mean that a council can use both the minimum rate and the charge. On reflection I think you will find that you will want to support new subsection (3) as well.

The Hon. BARBARA WIESE: Yes, that would be the second best position, but at this stage I oppose the whole thing. It does not matter a lot, I suppose. It will go through on the voices, and it really does not matter.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 26, line 28—Leave out 'prescribed rate' and insert 'prime bank rate for the financial year in which the amount is paid'.

This amendment is consistent with earlier amendments and it changes rates of interest from rates fixed by the Minister to rates fixed by the prime bank rate.

The Hon. DIANA LAIDLAW: The Opposition supports this amendment and the consequential amendments to lines 34 to 36.

The Hon. J.C. IRWIN: I support this amendment. If the ratepayer has overpaid, according to proposed subsection (3) of new section 190, instead of refunding an amount under proposed subsection (2), the council may credit that amount with interest at the prescribed interest rate for the next year's rates. If that ratepayer wants his money back, I do not see why they should not have it. They may be able to invest it and to use it better than could the council. I hope that the calculation of interest starts from the date of the overpayment of the rates and not after the date on which the objection was upheld.

The Hon. BARBARA WIESE: It is intended to preserve what is currently in the Act. The provision is already there for the council to use its discretion in this matter and this provision seeks to continue that opportunity.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 26, lines 34 to 36—Leave out subsection (5).

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 27, line 28—After 'area' insert '(or a part of the area)'.

This amendment clarifies any doubt which may exist regarding the application of a rate rebate for development purposes to a part only of the council area. This amendment has been moved at the request of the Adelaide City Council also.

The Hon. DIANA LAIDLAW: The Liberal Party accepts the amendment.

Amendment carried.

The Hon. J.C. IRWIN: I refer to proposed section 196, which sets out the functions of councils and the projects that they may undertake. Paragraphs *(a)* to *(l)* are rather like the foreword to a constitution, and it looks odd placed in the middle of the Bill. I cannot understand why something as important as this, which sets out what is almost a constitution for local government, is not in a more conspicuous part of the Bill. I have previously expressed concern about the need for local government to be wary of the temptation to take on the role of the State Government and compete with private enterprise and small and large businesses within its area. I think the Government will encourage this, and that is obvious in this provision. However, I hope the Opposition does not go down that same path. I do not mean that the Opposition does not support this provision, but I wonder how far local government will be encouraged in that direction.

As I have said before, local government can use sales tax advantages and other advantages when competing with private enterprise. I hope that it does not use those powers irresponsibly. The Minister makes great play of the arrangements in this provision, just as she did yesterday. The Hon. Mr Hill has expressed great interest in this provision and supports it wholeheartedly, as I do. However, that is on condition that it is used responsibly. I suggest to the Minister that these arrangements and others are paving the way for a dramatic reduction in Federal and State funding for

local government. In itself that is not a bad thing, as long as the Commonwealth and State Governments also reduce their taxing and charging effort on people who live in this State. The stone can be bled only so much and so far. However, there is no sign of this happening in South Australia: instead, taxes and charges and collections by the Commonwealth are ever increasing.

As the Minister and others have acknowledged, local government has only a limited tax base, and already there is clear evidence of the State Government muscling in on this increasingly with such things as land tax, which I have already mentioned tonight. Let us not forget about the state of play in South Australia with Grants Commission funding and the new arrangements for horizontal equalisation and human services which will see great reductions over a number of years whereby grant moneys will go from councils with high capital values to other councils. Of course, the recipients will benefit, but they will also benefit from some of the other things that will flow from this Bill. So there is a double edge. I imagine that the councils which receive the human services push in this State and use the horizontal equalisation of grants money from the Federal Government are the very councils which have Housing Trust tenants who may have benefited from the abolition of the minimum rate. I think that is questionable. Did the Minister consider this when she framed her thoughts and prepared amendments to the Bill? Those councils suffering from reductions will certainly need to raise funds in other ways or there will be a huge reduction in effort, services and local government employment.

So, again, I support the Government in the fact that councils do need some of these abilities to raise funds by means other than rates. All of this is without consideration of the great general economic downturn still expected to hit further in this State as made clear by some economic indicators and commentators. Section 196 (1) *(c)* intrigues me: it contains the words 'to protect health and treat illness'. I know that local government in partnership with the State Government has paid for and provided health inspectors and other inspectors covering a multitude of inspections dealing with public health, but I would like an explanation on treating illness. Is there a hidden agenda whereby the State Government will move to make local government through its councils maintain, or partially maintain, a whole range of hospital services in their areas? I particularly need some clarification on the protection of health and the treating of illness.

The Hon. BARBARA WIESE: It was a bit difficult for me to follow the contribution made by the Hon. Mr Irwin, because he seemed to be dealing with about 10 different things at once. If I can draw out what I think were the key issues contained in his contribution, I will make a couple of points about the provisions contained in this section of the Bill in a general way. In many respects these are the most significant provisions of the Bill in terms of the increase in opportunities that they provide for councils to become involved in activities of a kind in which they have never been able to engage before. This part of the Bill softens the *ultra vires* provisions of the existing Act to a very large extent and lifts all sorts of obstacles that previously have been in the way of councils to engaging in the development of community facilities and economic activities of all kinds which may very well be of significant benefit to the communities that they represent, and increasing their capacities to raise revenue and do a whole range of other things that have not been open to them before.

What we have tried to do in drafting these provisions is provide the broadest possible enabling provisions that we could think of, and provide restrictions only in those areas where it seemed absolutely essential to do so. Therefore, instead of starting from the premise that we want to restrict the activities of councils, we have started from the other end by saying we would like them to be able to do almost anything and there will be only some particular activities that for some reason or other need to be restricted or called in for scrutiny or something of that kind.

[*Midnight*]

It is not the Government's intention in drafting these provisions to in any way force councils into areas of activity in which they previously have not engaged. We are simply providing the wherewithal for councils to engage in those activities in which they wish to engage, and it is a decision for the individual councils to take.

The Hon. DIANA LAIDLAW: I move:

Page 30, line 43—Leave out 'prescribed limits' and insert '20 per cent of the council's total recurrent expenditure for the previous financial year'.

New section 197 sets out the detailed procedures a council is to follow in obtaining ministerial approval for a particular project. When the Bill was first introduced this section incurred the wrath of local government. In December the LGA stated:

The administration of this section at both the council level and department level is staggering. Not only is the Minister empowered to limit a council's powers by setting expenditure levels but may prescribe any other activity by regulation.

The submission circulated at that time stated very clearly:

There is no need for section 197.

The Liberal Party is not prepared to go as far as following the suggestion that the section be repealed, but we appreciate the strength of the LGA's concern, and accordingly I will be moving a number of amendments to curb and clarify ministerial powers and define more clearly councils' position.

I noticed and am heartened to see that the Minister must also have been approached by the LGA on these issues. She has accepted the validity of the LGA's arguments and has a number of similar amendments on file. This first amendment simply defines that a project will require ministerial approval only if it involves expenditure by a council in excess of some 20 per cent of a council's total recurrent expenditure for the previous financial year.

The Hon. BARBARA WIESE: I will support the amendments to be moved by the Hon. Ms Laidlaw with respect to the formulas relating to projects. I indicate to the Committee that these were matters that we began to discuss with local government in about the middle of last year. The formulas contained in my amendments that have been subsequently picked up by the Hon. Ms Laidlaw were the formulas that I raised and put to the LGA for discussion, and it subsequently agreed to them. It was not the other way around. It was not the LGA that approached me with these formulas; rather, I went to it. We discussed what limitations ought to be placed on these provisions and we were able to reach agreement. As the Hon. Ms Laidlaw moves these amendments, I indicate that the Government will be supporting them.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 31, lines 1 to 4—Leave out subparagraph (ii) and insert new subparagraph as follows:

(ii) in relation to which the council proposes to borrow or obtain some other form of financial accommodation, or to give a guarantee, where—

— the council is already expending at least 30 per cent of its annual revenue in interest (including

credit charges) and capital repayments; and

— the effect of the proposal would be (assuming no increases in net general rate revenue and no decreases in rates of interest or credit charges) to commit at least another 10 per cent of its annual rate revenue to such expenditure.

I do not want to be petty about these amendments, but I could not follow the Minister's last explanation. All of the Liberal Party's amendments have been ready to be placed on file and have been sitting in this Chamber since early December last, so I am not too sure what the Minister was on about. Like the last amendment, this amendment seeks to specify the circumstances in which councils will be required to obtain ministerial approval, this time in respect of projects where a council proposes to borrow or obtain some form of financial accommodation, or to give a guarantee.

Since placing this amendment on file early in December last year, I have, in the past few days, received a telephone call from the LGA advising that, if the criterion for requiring ministerial approval is tied to circumstances in which a council is already expending at least 30 per cent of its annual rate revenue in interest, including credit charges and capital repayments, the inclusion of the term 'rate' in the first part of the amendment makes the circumstances far too low. It was argued that this should relate to annual revenue, not the rate revenue. The example was given that the Adelaide City Council received such a large proportion of revenue from sources other than rates.

The 1985-86 ABS figures on local government borrowings have been brought to my attention. If we use the criteria in the first part of the amendment (the Minister's amendment has similar wording), one-third of councils in South Australia go well above the 30 per cent limit. Therefore, I have altered my original amendment by deleting the word 'rate' where it appeared before 'revenue'. This amendment was suggested by the LGA, which has continued to lobby for it.

The Hon. BARBARA WIESE: I will address the point that the honourable member raised first about the sequence of events leading to these amendments, but I will be brief. The formulas contained in my amendments and in the amendments placed on file by the Hon. Diana Laidlaw were contained in papers that were circulated to the local government community in the middle of last year for discussion and agreement. By November agreement had been reached on those issues and my amendments were drafted at that time. As I explained earlier, I did not put those amendments on file immediately, because I was hoping to be able to reach agreement on the minimum rate issues and to file all the amendments at once. That did not eventuate so it was not until February that I was able to file the other amendment that had been agreed to some months before.

I do not support the alteration of the Hon. Ms Laidlaw, which removes the word 'rate' from her amendment because the intention of the original proposition is that only those individual projects that would increase the total debt servicing by 10 per cent would be called in to be looked at. We are not looking at cumulative projects: we are looking at individual projects that might lift the debt servicing by 10 per cent or more, whether the current level of servicing is 30 per cent, 50 per cent, or whatever. I believe that the provision as originally drafted is preferable to the idea which has been put forward by the Hon. Ms Laidlaw and which would decrease the capacity for monitoring the projects in which councils are engaging because it lifts, by about half, the total revenue under review if we use the annual revenue figure rather than the annual rate revenue figure, which is something like 55 per cent rather than 100 per cent.

I am seeking to change the Hon. Ms Laidlaw's mind on this matter if it is at all possible to do so. I will explain, hopefully more clearly than I did previously, why I think the provision should remain as it is. At the moment, when we are measuring what is an acceptable borrowing limit for a council, we use rate revenue as the basis for making that assessment, and we are seeking with this provision simply to carry through that principle when we are dealing with additional borrowing capacity by way of these projects. We are saying that the basis of the measure should still be what proportion of the annual rate revenue is being put to debt servicing. At the moment, we say that 30 per cent is a reasonable level, and that has been accepted for a very long time.

In order for us to monitor adequately the new projects provisions, we are saying that, in relation to anything 10 per cent and above which builds on top of the 30 per cent, to which we have already referred, that would relate to a project that should receive some scrutiny. The reason for setting that level is that it means that, on the one hand, we will have the capacity to informally monitor whether a council is moving into a danger zone in respect of borrowing while, on the other hand, we will also be able to informally monitor the global borrowing limits, which we all have to live within. By using that as the basis of the measure, we will draw in a reasonable number of projects, while not being excessive.

But, if we moved to using annual revenue as the figure, we would be halving the ratio and therefore cutting out a huge proportion of those projects which would otherwise receive some scrutiny. For that reason, I think that it is important to preserve the original intention, which matter was discussed quite extensively by local government in numerous seminars around the State and which, in fact, was agreed to by the people who took part in those discussions as being a reasonable basis for the monitoring process.

The Hon. DIANA LAIDLAW: I wish to proceed with my amendment in the amended form. I do this after having had considerable discussion with a number of senior officers in the LGA yesterday and today, when I understand that some new information may have come to light. I remind the Minister that in 1985-86 at least 30 per cent of councils would have been caught under the provision as it stands. I am not sure whether the Minister thinks that she and her staff in the department have time to keep a close eye on that number of councils, whether they can be bothered with the paperwork in dealing with that number of councils, or whether she thinks that that would be the best use of Government and Public Service time.

I question that and, therefore, move the amendment. As I do that, I add that there is a two-fold check here and that is why the LGA believes that we should retain the reference to rate revenue in the second part but take it out in the first, because in the first part that rate revenue is so tied up with that 30 per cent figure that that is confining. Then we have the safeguards in the second part. If the Minister does not like it, she can defeat it and move her own amendment, which was on file and which was the same.

The Hon. BARBARA WIESE: I consider this to be a very serious matter. Just in passing, I observe that it is just another occasion on which the LGA is raising things at the last minute without consultation. This is not an issue that has been raised by the LGA with me or with officers of my department at any time. I am not suggesting that the LGA does not have the right to do that; what I am indicating is that this is exactly the sort of situation I have been dealing with over the past six or nine months. We would reach a point where we thought we had agreement on a range of

major issues and then suddenly some new thing would bob out of the blue to be debated.

In my view, this matter is of such importance that I believe it will become a major issue in a conference, which is what I think we are heading for with this Bill. I say that because these new project provisions in this Bill have never been tried before. The powers are very extensive, and for us not to err on the side of caution and have reasonable monitoring procedures in the early stages of the use of these provisions is potentially very dangerous.

I really believe that most people in local government would prefer to have reasonable monitoring provisions in place in the early days of the use of these provisions and if, over time, we have a clearer picture of the kinds of projects that councils might be interested in engaging in, and we have a clearer picture of what effect that will have on the affairs and financial management of councils, I am sure that the local government community and the Government would feel happier about easing those limitations we currently have in place.

I strongly urge members of the Opposition to reconsider this matter, because they are taking out of the realm of the monitoring process a very, very large proportion of potential council activity which, in the early stages of the operation of these provisions, is not desirable. This is a matter of such significance that I think it is important to have the Australian Democrats present when we debate it and eventually vote on it.

The Hon. C.M. Hill: They don't seem to be interested in the Bill.

The Hon. BARBARA WIESE: No, it seems that they have gone home. I would also like members of the Liberal Party to have an opportunity to hear further discussion and, if they are interested, participate in such discussions on this matter.

Progress reported; Committee to sit again.

ADJOURNMENT

At 12.27 a.m. the Council adjourned until Tuesday 1 March at 2.15 p.m.