Tuesday, 19 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 3.3 p.m. and read the prayer.

SUPPLY (1988–89, No. 1) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

WORKS AND SERVICES (ANCILLARY PROVISIONS, No. 1) BILL (No. 2)

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

QUESTIONS WITHOUT NOTICE

"HERALD" CARD

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct a question to the Minister for Transport. The Herald and Weekly Times Ltd is distributing a card to *Herald* subscribers entitling them to certain benefits, one of which is free travel on Metropolitan Transit Authority services at the weekend. What is the Herald and Weekly Times Ltd paying the authority for this privilege?

The Hon. J. H. KENNAN (Minister for Transport)—I have taken the question on notice, and if Mr Lawson would give me a copy of the documentation and the offer by the Herald and Weekly Times Ltd to which he referred, I shall be happy to provide him with an appropriate answer.

DEPARTMENT OF AGRICULTURE AND RURAL AFFAIRS

The Hon. B. P. DUNN (North Western Province)—I ask the Minister for Agriculture and Rural Affairs: is it a fact that the government is considering amalgamating the Department of Agriculture and Rural Affairs with the Department of Conservation, Forests and Lands as a means of further cutting the expenditure in those vital rural departments and, is so, at what stage is that proposal?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The answer is, "No".

TRANSPORT ACCESSIBILITY FOR DISABLED PEOPLE

The Hon. M. J. SANDON (Chelsea Province)—Can the Minister for Transport inform the House of progress on the study of access to transport in general and, specifically, for people with disabilities?

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Sandon for the question and congratulate him for being in his place when he was called; it is a skill I have not yet acquired.

The purpose of the accessible transport and people with disabilities study, which is one of the most far-reaching studies done in this area in Australia, is to develop recommendations that efficiently and equitably address the transport needs of people with

disabilities. The study by the Ministry of Transport does not focus just on public transport but also includes private transport, community transport and voluntary sector transport.

The study takes a wide definition of its target group, including any individual who has a temporary or permanent mobility impairment. The study has four parts: firstly, identification of transport needs; secondly, an audit of transport services; thirdly, a review of barriers to access, including additional barriers, design, legislation and income; and fourthly, the development of an action plan that takes account of resources constraints and the relative costs and benefits of particular options.

The study embodies a broad public consultation program, which has already commenced. The Ministry of Transport and the study consultants are currently engaged in discussions with unions and peak disability organisations, and surveys of individuals, local government and disability organisations are under way.

Approximately 2000 people with disabilities are being surveyed by personal interviews, conducted, where possible, by people with disabilities. Calls for public submissions were placed in metropolitan and regional newspapers in early February. Submissions closed last Friday but late submissions will be accepted.

In addition, 30 public consultation sessions will be held across the State, and some half a dozen have already taken place. I have opened two of the sessions, one in the city and one at Broadmeadows, and I shall be opening sessions at Geelong, Ballarat, Bendigo and Benalla in the coming weeks.

It is important that the House understands that a study of this type has not been conducted elsewhere in Australia. I hope that in the future other States will copy initiatives adopted in Victoria as a result of this study.

Both the Director-General of Transport and I are strongly committed to improving access to the transport system for people with mobility impairments. To that end, I have directed that no new light rail projects, apart from the north–south project operating at present, will proceed unless and until the vehicles are accessible to people with mobility impairments.

EMERALD POST-PRIMARY SCHOOL

The Hon. HADDON STOREY (East Yarra Province)—Will the Minister for Education confirm whether the government has made a decision to fund stage 3 of the Emerald Post-Primary School; if so, why has it taken so long to reach this decision in view of the promises made by the Premier when he opened the school in May last year?

The Hon. C. J. HOGG (Minister for Education)—This year there has been a very careful scrutiny of capital works projects because it is a difficult economic climate for such works to take place. I am certain that Mr Storey appreciates that, as will all honourable members.

I have not made any announcement about the school and other new works this year because of the way in which this Parliamentary sessional period has been conducted. After the sessional period I expect to make the appropriate announcements.

HOSPITAL FUNDING

The Hon. R. M. HALLAM (Western Province)—I direct to the Minister for Health a matter concerning a facet of hospital funding which intrigues me. Will the Minister explain to the House why hospitals are being forced to restrict patient intake when there is increasing demand for medical services and when a large proportion of hospital costs are fixed costs, which by all accounting rules suggests that efficiency would be improved by increasing patient throughput rather than by reducing it?

The Hon. D. R. WHITE (Minister for Health)—During the course of the 1987–88 financial year, when the level of funding for the public hospital system was not only maintained in real terms but also increased because of the nurse career structure decision, the arrangement that the government entered into with public hospitals for Budget purposes was to expect, for the same dollar yield, an increased level of activity—that is, an increased number of patients treated for the same dollar in yield terms—and that is the basis on which budgets were negotiated.

For the first six months of the financial year the 25 000 patient target for the whole financial year was well within being achieved, and that expectation is being maintained through the second half of the financial year. The government has informed hospitals that it will continue to negotiate with them during the last quarter of the financial year to assist them in maintaining the level of activity and, in fact, maintaining the level of throughput where it was clear that there was a significant demand for their services. Those discussions are being held by regional directors with the relevant hospitals.

If Mr Hallam has a case or any evidence to the contrary, I shall be pleased to hear from him. I point out that the performance of the public hospital system until 30 June 1988 will show substantial increases in the level of patient activity for a relatively stable level of finances in real terms, which means a significant improvement in productivity.

DIELDRIN AND DDT CONTAMINATION

The Hon. L. A. McARTHUR (Nunawading Province)—Considering the recognisable progress that has been made in Victoria in overcoming problems in the beef industry which came about because of dieldrin and DDT contamination, will the Minister for Agriculture and Rural Affairs inform the House if, and when, it will be possible for all cattle not to be lot tested at export meatworks?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Honourable members would be aware that following the detection of organochlorine residues last year—which subject has also been debated at length in this House—testing at meatworks was intensified, for obvious reasons, and paid for by producers in general.

At export works lot testing was introduced. An animal from each sale lot was tested and all animals in a lot were detained at the works until the results were available. That is obviously a good technique for export because it ensures 100 per cent cover of all the cattle to be slaughtered for export.

Following the intensive sampling of a large number of cattle properties across Victoria and other investigations carried out by my department, we are now in a position to nominate areas within Victoria that are low risk. My department completed a determination of these low-risk, or what we call "category 2", shires last week.

Starting from this week, most cattle from category 2 shires—and there are 93 such shires—will no longer be required to be lot tested at export works. The only exception are cattle from properties still under quarantine—and it is obvious why they should be tested. I am pleased to inform the House that more than half the registered properties in Victoria are now in category 2 areas. Currently, testing is occurring at the rate of 5000 a week. The number of tests will be almost halved, which will result in savings of $300 000 a month to the industry. Equally importantly, it will give a boost in confidence to the industry, which has gone through a tough time.

I pay tribute to the officers of my department who have worked so hard and so quickly on this difficult residue issue to free half of the State from lot testing.

CONTRACT CLEANING OF SCHOOLS

The Hon. R. S. de FEGELY (Ballarat Province)—I refer the Minister for Education to her refusal to consider contract cleaning of schools on the ground that cleaners do odd jobs around the school and also keep an eye on the premises. Does the Minister value

these services at $35 million, the saving the Auditor-General found could be obtained by using contract cleaning?

The Hon. C. J. HOGG (Minister for Education)—I am not certain how one puts a price on the services that are rendered when a good relationship exists between the school cleaner, the school council, the principal, and the teaching and student bodies. As I have said before, some of those services are literally priceless. It is hard, therefore, to estimate how much they cost.

A good many savings can be made within the framework of direct employment of cleaners. Some of those savings were pointed out in the Auditor-General's report and responded to by officers of the Ministry of Education. That shows the way on this issue for the next twelve months to two years and considerable savings can be made in that way.

This issue of direct employment covers not only the odd jobs that are done around the school by way of maintenance and keeping an eye on security but also the fact that most parents like to know who is in the school area on a regular basis. In the past few days I have visited schools and school communities and I have found that most parents like to be certain that strangers are not wandering around the school grounds. They like to be assured that people working at the school are known to the school community and the school council, and are people with whom the school council feels comfortable.

I instance the example of a school cleaner at the Beaufort school visited by Mr de Fegely and me, who had a story written about her in the local newspaper because of the fantastic service given by her before her retirement. That is the kind of relationship upon which no-one can put a price.

PLANNING AND ENVIRONMENT ACT

The Hon. W. R. BAXTER (North Eastern Province)—In view of the lengths to which Parliament went to ensure that the Crown was bound by the provisions of the Planning and Environment Act, why did the Minister for Conservation, Forests and Lands seek a total exemption for her department from the provisions of that Act?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—That was a decision of the government.

POINT NEPEAN DISCOVERY

The Hon. M. A. LYSTER (Chelsea Province)—I preface my question to the Minister for Conservation, Forests and Lands by passing on to her the compliments that have been expressed in my electorate office about the government's action in the passage of the National Parks and Wildlife (Amendment) Bill, which established the Point Nepean National Park.

Since the passage of that legislation, I have found there has been a significant new discovery associated with the Point Nepean National Park, and I ask the Minister to inform the House what action her department intends to take in regard to this discovery.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mrs Lyster for her congratulations and her question. I am pleased to inform the House that, since the passage of the legislation last week to create the Point Nepean National Park, I have been informed of an important discovery which clearly will heighten the public importance of this area.

Excavation of sand from part of the Point Nepean complex to provide for underground public access to that wonderful fort complex has revealed the carriage of an 1887 disappearing gun. Honourable members may well wish that it were a mechanism for most guns, but this is a most important historic find. It is a 101-year-old disappearing gun, and I am advised that the gun carriage at Point Nepean is the most complete example in the

world of a 6-inch disappearing gun carriage still mounted in its original position. The mechanism at Point Nepean is the only such example located in its original position.

The gun was named a disappearing gun because the mechanism raised it above ground level to fire and reset it below ground for reloading, which was obviously a quite significant technological development in those days. When the gun was installed in 1887, Australia was the first country in the world to use it. It remained in service until about 1910.

Clearly, the gun is of importance because of its rarity and its location. It is now in public possession and will be available to the public of Victoria for viewing. The Department of Conservation, Forests and Lands will now be able to use the gun to explain not only its operation but also the threats the Victorian community was under at that time, in the days of the Crimean war. Mr Mier wants to know in which direction it is pointing!

The department is investigating the conservation requirements to preserve the gun carriage where it is. I assure the House that the government will provide the appropriate funds to ensure its preservation and also its interpretation.

EDUCATION ALLOWANCES

The Hon. ROSEMARY VARTY (Nunawading Province)—In view of the fact that the education expense allowance was paid automatically to all families receiving the Commonwealth family allowance, why did the Minister for Education spend more than $100 000, including $67 000 of that amount for printing of pamphlets, advertising the allowance?

The Hon. C. J. HOGG (Minister for Education)—I thank Mrs Varty for her question. If Mrs Varty recalls the advertisement that was taken out in the two morning newspapers, the *Age* and the *Sun*, she will also recall that the advertisement had a double focus. Its purpose was to explain not only the new government allowance called the education expense allowance but also the education maintenance allowance, which is not an automatic allowance but which the government would want to be taken up fully.

It has been a matter of concern to the Commonwealth government, for example, that aspects of family support that require the filling out of application forms are not taken up fully—they were taken up at a rate of only about 25 per cent.

The government did not want that to happen in Victoria. The education maintenance allowance is a newly created allowance for primary school children and the Ministry of Education thought it was important for families holding the health card who would be eligible for the allowance to know that they were eligible.

The Ministry also wanted to remind parents, especially those with children at the secondary school level for the first time, that the allowance applied at the secondary school level and that it had been doubled at this level.

Given that this announcement had to be made, obviously it would have been stupid not to include information about both allowances, but I reiterate that the important point was to ensure that people knew about the education maintenance allowance, and that seemed to be the sensible way of doing it.

The honourable member may have noticed that the Department of Social Security is currently making greater efforts to direct to the attention of families the levels of assistance that are now available to them.

TAXATION CONCESSIONS FOR TREE PLANTING

The Hon. B. A. MURPHY (Gippsland Province)—Has the Minister for Conservation, Forests and Lands considered applying to the Federal Government for taxation incentives for farmers and landowners who are prepared to restore trees and native vegetation? Is the Minister aware that the South Australian government has applied to further extend the

allowance made under section 75D of the Income Tax Assessment Act to cover capital and maintenance expenditure for farm trees used for soil, water or nature conservation purposes?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—There are two parts to the answer. The first relates to the question of equity and whether taxation allowances are the most appropriate means of giving incentives towards tree growing which, of course, is an important matter across Victoria.

Of course, taxation concessions can apply only to those who pay tax and many people in the rural community do not pay tax because of their low income. I would be concerned if the major thrust of a tree growing incentive scheme were in fact, tax concessions, although I acknowledge that they may have a part to play in the total package. I shall also be interested to see the result of the South Australian government's initiative.

The Victorian government has used the incentive schemes much more broadly than just in the area of income tax concessions and it would have to be said that the government's land protection incentive scheme, with an allowance of approximately $600 000 a year, has been remarkable in its encouragement of tree farming groups. As well as that, the new landcare scheme, with an allowance of $200 000 a year, already has 1500 farmers involved in the total area of land protection.

A Federal Parliamentary Standing Committee has been established which will inquire into this matter and the Victorian government is pushing hard for the Commonwealth government to pick up the department's landcare program. Interestingly enough, the cattlemen's union of Queensland has picked up the program.

The Hon. B. A. Murphy—Has Joh joined?

The Hon. J. E. KIRNER—The union does not have Joh's support but he is not a great help these days anyway.

The matter has been carefully examined by a House of Representatives Standing Committee on Environment and Conservation, which last year published a report entitled, "Fiscal Measures and the Achievement of Environmental Objectives". The report is currently being considered by the Standing Committee on Soil Conservation, and the report will be available, with recommendations, at the next Federal meeting of the Australian Soil Conservation Council, which I shall be attending. I shall be pleased to report back further to Mr Murphy after I have attended that meeting.

VICTORIAN CERTIFICATE OF EDUCATION

The Hon. M. J. ARNOLD (Templestowe Province)—My question relates to the recently released Liberal Party education policy. In view of the matters contained in that policy, I ask whether the government will remain committed to the introduction of the new Victorian certificate of education and, in particular, to the inclusion of Australian studies as part of every student's program of studies.

The Hon. C. J. HOGG (Minister for Education)—I reassure Mr Arnold and the House that the Government remains firmly committed to the development of the new Victorian certificate of education and to its phased introduction in all schools. The VCE reforms are central to the government's policies aimed at increasing the proportion of students completing a full secondary education, ensuring that schools are delivering an up-to-date quality curriculum which is in tune with modern society, and meeting demands for higher educational standards. I am confident that the new courses being developed for the VCE will be a big improvement on existing courses and will cater more efficiently and effectively for the increasing proportion of students choosing to stay on and complete a full secondary education.

The courses will be up to date; they will have a much clearer focus on standards of achievement. They will achieve a better balance between academic and vocational learning; they will challenge students and offer them something worthwhile and of enduring value.

The decision of the Victorian Curriculum and Assessment Board that all students will undertake two units of Australian studies in Year 11 is sound. The intention is to further students' understanding of Australian society and to assist them to understand more about the work and vocational direction they might follow when they leave school. I am surprised that in 1988 some people would question the value of such a study.

PETITIONS

Flora and Fauna Guarantee Bill

The Hon. M. T. TEHAN (Central Highlands Province) presented a petition from certain citizens of Victoria praying for the passing, this session, of the Flora and Fauna Guarantee Bill, and that any amendments be directed towards strengthening the powers of protection rather than limiting the range of species and communities protected under the Act. She stated that the petition was respectfully worded, in order, and bore 116 signatures.

It was ordered that the petition be laid on the table.

Clarendon Street railway bridge

The Hon. J. V. C. GUEST (Monash Province) presented a petition from certain citizens of Victoria praying that the government desist from its planned demolition of the railway bridge over Clarendon Street, South Melbourne. He stated that the petition was respectfully worded, in order, and bore 1007 signatures.

It was ordered that the petition be laid on the table.

GROCERY PRICES BILL (No. 2)

The Hon. C. J. HOGG (Minister for Education), by leave, moved for leave to bring in a Bill to make provision for the regulation of grocery prices and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

PAPERS

The following papers, pursuant to the directions of several Acts of Parliament, were laid on the table by the Clerk:

Ombudsman—Report for the year 1986–87.

Parliamentary Committees Act 1968—Minister's responses to recommendations in Economic and Budget Review Committee's reports upon the Method of Remuneration for Visiting Medical Staff at Public Hospitals and a Labour Market Study for Radiologists (two papers).

Planning and Environment Act 1987—Notices of approval of the following amendments to planning schemes:

Bacchus Marsh Planning Scheme—Amendment L3.
Bairnsdale (Town) Planning Scheme—Amendments L3 and L6.
Bass Planning Scheme—Amendment L3.
Bright Planning Scheme—Amendment L1.
Cranbourne Planning Scheme—Amendments L3 and L4.
Geelong Regional Planning Scheme—Amendment R3.
Gisborne Planning Scheme—Amendment L1.
Kilmore Planning Scheme—Amendment L2.
Latrobe Region Planning Schemes—Amendment R2.
Maffra Planning Scheme—Amendment L1.

Marong Planning Scheme—Amendment L1.
Melbourne Planning Scheme—Amendment L1.
Metropolitan Region Planning Schemes—Amendments R1, RL2, RL3, RL4 and RL14.
Mildura (City) Planning Scheme—Amendment L1.
Mildura (Shire) Planning Scheme—Amendment L2.
Minhamite Planning Scheme—Amendment L1.
Rochester Planning Scheme—Amendment L1.
Strathfieldsaye Planning Scheme—Amendment L3.
Traralgon (City) Planning Scheme—Amendment L13.
Wycheproof Planning Scheme—Amendment L1.

Poultry Farmer Licensing Committee—Report for the year 1986–87.

Statutory Rules under the following Acts of Parliament:

Fisheries Act 1968—Nos 110 to 112.
Hospitals and Charities Act 1958—No. 108.
Racing Act 1958—No. 109.
Tobacco Act 1987—No. 107.

On the motion of the Hon. H. R. WARD (South Eastern Province), it was ordered that the papers tabled by the Clerk, with the exception of notices of approval of amendments to planning schemes and statutory rules, be taken into consideration on the next day of meeting.

SESSIONAL ORDERS

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That so much of the Sessional Orders as requires that no new business be taken after 10 p.m. and that General Business shall take precedence of Government Business on Wednesdays be suspended until the end of May and that, until the end of May, unless otherwise ordered by the House, new business may be taken at any hour and Government Business shall take precedence of General Business.

I expect the Legislative Council will sit four days this week and four days in the last week of sitting in two weeks' time. This is a traditional motion which I introduce at this time of each sessional period. It gives Government Business precedence over General Business and it also does away with the 10 p.m. rule.

I assure the House that 2 hours will be made available for General Business on Wednesday for the Opposition and, of course, the order in which business occurs from this day forward in this sessional period will be discussed among the three Leaders as to whether matters can be expedited. That position has worked in the past.

The motion was agreed to.

LEGAL PROFESSION PRACTICE (INCORPORATION) BILL

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The object of this Bill is to amend the Legal Profession Practice Act to allow for incorporation of solicitors' practices.

PRESENT POSITION

At present, the Legal Profession Practice Act makes it an offence for a company to provide services as a solicitor. The Act allows legal services to be provided only either by a solicitor as a sole practitioner or by a partnership of solicitors. The Law Institute of Victoria considers that this restriction imposes unnecessary burdens on solicitors and is not essential for the protection of the public.

The Law Institute has pointed to a number of advantages for practitioners flowing from incorporation, including the relative ease with which changes in senior personnel can be effected in a company in contrast to a partnership. A partnership must be dissolved and

reconstituted every time a partner leaves or dies, or a new partner enters the firm. This necessitates cumbersome changes to deeds and leases when partners join and leave the practice. Incorporation will remove some of the administrative problems inherent in a partnership structure. The legal entity will remain unaffected as partners join the practice, leave or die. There will be simply a change of shareholding and directors. The constant ownership of assets will in turn facilitate borrowing and giving of charges.

Incorporation offers substantial benefits over partnership in the provision of capital. A solicitor's practice is nowadays capital intensive. The acquisition of expensive communications, copying, data processing, information retrieval, computing, word processing and other equipment that is now necessary for an efficient legal practice must under present rules be financed by capital contributions by the partners, or by borrowing or leasing. Partnerships are unable to give security to a lender over many of the partnership's assets, such as receivables and work in progress.

At present, financiers who lend to solicitors' practices seek securities from individual partners in the practice. This security often cannot be provided without great inconvenience to the members of the practice. A practice which operates through a company will be able to offer securities, such as charges over the company's income and mortgages over the company's property and assets. These securities will be more acceptable to both financiers and the members of the practice.

Easier access to capital will mean that smaller firms, in particular, can expand and modernise and therefore remain competitive in the market for legal services without merging. The need to remain competitive is more pronounced now that a number of large Victorian firms have merged. Considerable sums of money are involved as fixed and working capital in a solicitor's practice. The satisfactory provision of sufficient capital is important from the point of view of the public because it will assist in maintaining the stability of the solicitor's business, in the expansion of successful and efficient firms and in the introduction of new and modern equipment aimed at providing a good service at an economic charge.

The Law Institute has urged successive governments over many years to amend the Act to allow companies to provide legal services. The government has accepted the desirability of allowing solicitors' practices to incorporate, subject to strict conditions to safeguard the public interest.

PROPOSED NEW ARRANGEMENTS

The Bill sets out in detail the conditions under which solicitors' practices will be allowed to incorporate and the manner in which they will be regulated.

Legal practices will be allowed to incorporate if the following conditions are satisfied:

(1) the memorandum and articles of association of the company must be approved by the Law Institute. The company must carry on business only as a legal practice and it must hold a practising certificate. This will ensure that the Law Institute retains control over all activities of the company;

(2) solicitors' companies will be incorporated as unlimited liability companies. This will ensure that a company will not be used as a device to limit the liability of the members of the firm to their clients;

(3) each director of the company must hold a current practising certificate, except in the case of sole practitioners. Because of the statutory requirement that a company must have a minimum of two directors, the Bill provides that a sole practitioner may set up a company in which the second director is a prescribed relative or a person approved by the Law Institute. I note that there are more than 1200 sole practitioners in Victoria. This modification to the conditions applying to multi-person practices will ensure that sole practitioners are not placed at a disadvantage in competing with

larger firms, whilst retaining adequate Law Institute supervision and control over company activities;

(4) all directors of the company who hold practising certificates will be liable for all Acts and defaults of the company as if the directors were engaged in practice as solicitors in a partnership. This will preserve the present civil and criminal liability of practitioners. In addition, directors will, of course, have onerous duties and responsibilities under the law applying to companies;

(5) all shares in the company must at all times be registered in the name of a person who holds a current practising certificate. In addition, all beneficial interests in the shares must be held by a person who holds a current practising certificate and must be disclosed to the Law Institute. This will ensure that a company cannot be used to alter the incidence of income tax;

(6) when the practising certificate of a shareholder of the company is either cancelled or suspended, the shareholder must automatically transfer his or her shares to the other shareholders of the company or to a person nominated by existing shareholders. If the person is an officer of the company, the person must resign his or her office immediately; and

(7) if a shareholder in the company dies, his or her share may be held by his or her legal representative for a period of six months, after which it must either be redeemed by the company or transferred to another shareholder of the company or to a person nominated by existing shareholders.

CONCLUSION

This Bill will provide a more attractive basis for many solicitors in organising their practices. Legal practitioners are a significant sector of small business in the Victorian commuity. The facility provided by this Bill is another example of the government's concern to ensure that a positive environment for small business is fostered in this State.

At present, solicitors' practices are subject to cumbersome and achaic restrictions deriving from the law of partnership. There is no justification on public interest grounds for perpetuating these restrictions. The proposals made in this Bill will have the effect of allowing solicitors the benefits of incorporation, while imposing strict conditions to ensure that the public interest is safeguarded. By facilitating the raising of capital, the Bill will help smaller firms in particular to expand and acquire modern equipment. This, in turn, will enable solicitors to improve their efficiency and to provide a better standard of legal services to the public.

I commend the Bill to the House.

On the motion of the Hon. B. A. CHAMBERLAIN (Western Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

MARINE BILL

The Hon. J. H. KENNAN (Minister for Transport)—I move:

That this Bill now be read a second time.

On 7 August 1987 my predecessor released draft proposals for a Marine Bill for public comment. The draft proposals have been very widely circulated with extensive publicity given to them. It is clear from comments made as a result of the public consultation that the proposals have wide public support.

The draft proposals form the basis of the present Bill, although a number of changes have been incorporated to take account of points made in submissions received from the public. I will refer to the more important of these shortly.

The purposes of the Bill are—

to re-enact with amendments the law relating to the registration of vessels and the pollution of State waters;

to implement certain international conventions; and

to provide for the efficient and safe operation of vessels on State waters.

Honourable members will be aware of the government's commitment to the repeal of outmoded legislation and regulations and the review and rewriting of Acts in plain English.

For some years now, transport legislation in Victoria has been undergoing a process of extensive review, commencing with the enactment of the Transport Act in 1983 and the remaking of the regulations associated with the Act. The next major stage in the review process was continued with the enactment of the Road Safety Act in 1986. These two Acts are important pieces of legislation and represent significant advances in the areas of transport legislation with which they are concerned.

The Marine Bill, which is of equal importance, consolidates and updates marine legislation in Victoria and represents the third major stage of legislative review in the transport portfolio. The necessity for a consolidation of marine legislation derives primarily from the fact that at present Victoria has eight separate Acts dealing with marine matters. As a result, there is a great deal of overlap and inconsistency.

In addition, some of the legislation is very out of date. For example, section 48 of the Marine Act 1958 still provides for the Marine Board to exercise the functions which, at the commencement of the Marine Board Act 1887, were exercised by the then Pilot Board of Victoria. Pursuant to section 256 of the Marine Act, the tonnage of foreign ships is required to be calculated in accordance with regulations made under the Merchant Shipping Act of 1894.

The Marine Bill consolidates the present arrangements into a coherent and coordinated legislative structure, suitable for the present and future needs for Victoria in the marine area.

The proposed legislative structure will result in the following matters being provided in the Marine Bill:

the registration of vessels;
the operation of vessels on State waters;
offences involving alcohol or other drugs;
pollution;
international conventions;
marine infringements;
the Marine Board of Victoria; and
general offences.

Essentially, these are the subjects at present provided for by the Marine Act 1958, the Motor Boating Act 1961 and the Navigable Waters (Oil Pollution) Act 1960. These Acts will all be repealed.

Ship-sourced pollution will be dealt with both by the Pollution of Waters by Oil and Noxious Substances Act 1986, when that Act is brought into operation, and by the Marine Bill.

The management and operation of Victoria's ports—including the ports previously provided for by the Marine Act 1958—will be covered by the existing legislation, suitably extended, relating to the ports of Melbourne, Geelong and Portland.

An important aspect of the Bill is that it consolidates the legislative requirements in relation to all types of vessels regardless of size, into the one enactment. At present the Motor Boating Act provides for recreational vessels up to 20 metres in length. The

provisions of the present Marine Act are, in general terms, adapted to meeting the requirements of commercial fishing boats and commercial vessels, although it also contains provisions of general application to vessels of all sizes.

The result, taking into account the extensive regulations made under each Act, is that there is confusion and inconsistency between the legislative requirements for various vessels. The Bill overcomes this while, at the same time, making it easier to have regard in a uniform way to international, Commonwealth and local authority requirements.

Although much of the Bill is a consolidation of existing legislation, a significant new feature of the Bill is the introduction of controls relating to alcohol or other drugs in association with the operation of vessels on State waters.

Part 4 of the Bill creates a number of offences relating to alcohol, including the offence of being in charge of a vessel while having a blood alcohol content of more than ·05 per cent. This Part has been introduced to cover the problems of alcohol consumption in conjunction with the rapidly increasing use of recreational boating.

I should like to take this opportunity of stressing that one of the primary purposes of the Bill is to provide for the efficient and safe operation of vessels on State waters.

In a report released in July 1987 dealing with boating facilities and the safety education program, the State Boating Council noted that boating is one of the fastest growing and most popular recreational activities in Victoria, with about 150 000 power boats and yachts using Victoria's coastal bayside and inland waterways every year. This has meant that over the past fifteen years the number of registered boats has more than doubled from 52 000 to 110 000. Consequently, there is a real need to improve boating facilities and to promote boating safety for the increasing number of boat users. The legislative structure provided in the Bill is directly aimed at meeting that need.

Specific provision has been made in the Bill for a boating facilities and safety education fee to be paid in respect of registered vessels. This adopts the recommendations of the State Boating Council in the report referred to, that, in lieu of the current system of boat registration fees, a new boating facilities and safety education fee be created to fund the upgrading of boating facilities and boating safety promotion activities. The proceeds of the introduction of this fee would be used on projects such as:

upgrading of the launching ramp at Laanecoorie, on the Loddon River;

improving access to the ramp facilities adjacent to the Bonnie Doon bridge at Eildon;

extension of the launching ramp and improved access to Lake Mokoan; and

various treatments of metropolitan boating facilities, for example, ramp construction and improvement at Mount Martha, Sunnyside Beach, Hastings and Frankston, and improving access to the Patterson River.

Arising from submissions received during the public consultation phase, a number of amendments have been made to the draft proposals. I take this opportunity of thanking those individuals and groups which went to the effort of preparing and submitting detailed submissions on the draft proposals. These were most helpful in clarifying the issues involved.

The membership of the new Marine Board of Victoria has been varied as a result of comments received. It now includes a representative of the Insurance Council of Australia, together with a representative of recreational boating and a representative of professional fishermen. Provision is made in the Bill for the sea pilots' representative to continue to be elected by licensed pilots, as at present provided for in the Marine Act 1958. In the interests of keeping the new Marine Board to a workable size, it has not been possible to agree to all the requests for representation that were received. However, I am confident that the new structure of the Marine Board will result in the board being sensitive to community needs in the areas in which it will be required to make decisions.

A number of submissions expressed concern that the blood alcohol provisions could cause difficulties where people are living on vessels. The provisions have been amended to make it clear that the blood alcohol provisions apply only while a vessel is under way and then only to the person actually having charge of the vessel. On this basis, an off-duty master will not be liable although, for other purposes, the master is regarded as being at all times in charge of the vessel.

Under-age operation of recreational power boats was another matter which caused some concerns. This has been overcome by amending the draft proposals along the lines of the relevant New South Wales legislation, although not to the extent of providing for compulsory licensing of boat operators, as is the case in that State. The State Boating Council is currently reporting on the issue of compulsory licensing of boat operators. Depending on the conclusions reached by the council, consideration can be given at that time for legislation to provide for compulsory licensing of boat operators in Victoria.

Some submissions commented on what was considered to be the excessively wide powers of inspectors under the draft proposals, particularly in relation to entry to private premises. While many people were apparently unaware that, under the present Marine Act, inspectors have very wide powers of entry to private premises, the Bill now requires inspectors to obtain a search warrant before entering private premises.

The size of vessel which should be allowed to enter or leave ports without being required to have a pilot on board was also raised in submissions. Following careful consideration of this issue, the Bill differs from the draft proposals in that vessels under 30 metres are exempt from this requirement, the length having been increased from 25 metres. While some submissions requested that the length be increased to 35 metres, it was considered that, in the interests of safety, vessels over 30 metres, which after all are large vessels, should be required to make use of the services of a pilot. The masters of vessels over this length can avoid this requirement by obtaining a pilot exemption qualification, which should avoid any difficulties for vessels regularly entering ports, such as commercial fishing vessels.

Some explanation should be given of the arrangements implemented by Part 10 of the Bill. Honourable members will be aware that the ports of Melbourne, Geelong and Portland are administered by separate authorities, each being constituted by a separate Act. The remainder of Victoria's ports, generally referred to as the outports, are proclaimed under the Marine Act 1958.

The outports were administered by the Ports and Harbors Division of the Public Works Department until 1983, when that division was transferred to the Ministry of Transport. In 1986 the Ministry of Transport entered into agreement with each of the port authorities for the authorities to become responsible for certain outports.

This was done pursuant to Schedule 2 to the Transport Act 1983. In effect, the agreements resulted in the port authorities assuming the Ministry functions with respect to the outports, on the basis of the necessary funding being made available from the Consolidated Fund.

The Bill restates the arrangements effected by the agreements by making appropriate amendments to each port authority Act. The amendments enable each port authority to account separately for the outports, with the exception of Western Port in recognition that, by reason of the type of usage of the outports, they do not function on a commercial basis.

While the Bill is largely a consolidation and updating of existing legislation, it has not been possible to provide in it for all outstanding issues, some of which are still under consideration. For example, a number of submissions suggested that the Bill implement in Victoria the international convention relating to the limitation of the liability of owners of seagoing ships. While it is agreed that this is a significant issue, the matter of adoption of this convention, or alternatively the 1976 convention on liability for maritime claims, is currently under consideration by the Australian Transport Advisory Council. The

advice of the Standing Committee of Attorneys-General has also been sought on some related issues. Pending a decision by the Australian Transport Advisory Council, it would be premature for Victoria to proceed unilaterally to enact legislation for the implementation of the convention.

Overall, many of the submissions received expressed approval for the consolidation and updating of marine legislation provided for in the Bill. This will be of great practical benefit to people involved with commercial shipping and with recreational boating. The provisions of the Bill will provide a coherent and coordinated structure for marine legislation in Victoria, suitable for Victoria's present and future needs in this area.

I commend the Bill to the House.

On the motion of the Hon. ROBERT LAWSON (Higinbotham Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

SUPPLY (1988–89, No. 1) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

In 1988–89, as in 1987–88, the Victorian government intends to introduce Appropriation legislation into this House during August in order to make the strategies and policies reflected in the legislation effective for as much of the financial year as possible. Honourable members are advised that this decision, which brings forward the Budget presentation by more than one month relative to the timing prior to 1987–88, is predicated on a May timing for the Premiers Conference and Loan Council.

The annual Appropriation Bill with respect to any particular financial year is not introduced into Parliament until some time after the beginning of that financial year. It is therefore necessary for the government of the day to seek Parliamentary authorisation of spending for the ongoing programs of government during the Supply period. This extends from the beginning of the financial year on 1 July until the time when the Appropriation Bill is passed, a period of up to four months in 1988–89.

The 1988–89 Supply Bill program provides for appropriation payments out of the Consolidated Fund for the expenditure requirements, both recurrent and works and services, of Budget sector agencies. Consistent with established Parliamentary principles, no new policies will be introduced during this time. Accordingly, Supply provisions are calculated on an unchanged policy basis. Honourable members can obtain more detailed information about the ongoing programs to which spending will be applied during the supply period from the 1987–88 Appropriation Act and supporting Budget Papers. The Supply Bill will lapse when the Appropriation (1988–89 No. 1) Bill is passed by both Houses.

The amount of Supply sought in this Bill is $3500·1 million—$3 500 105 000. This consists of $2813·9 million—$2 813 900 000—for recurrent expenditure and $686·2 million—$686 205 000—for works and services expenditure. The individual amounts for each program are shown in the table to clause 4 of the Bill.

With respect to recurrent expenditure, the amounts have been calculated on the basis of existing operating cost levels, including subsidies and salary and wage rate levels at 22 February 1988. These are the amounts estimated to be required to meet payments for these services during the period 1 July to 31 October 1988. The amounts are set out in the relevant column in the table to clause 4 of the Bill. It should be noted that it has not been possible to incorporate in the Bill the impact of the national wage decision of 5 February 1988. The implementation of the 5 February 1988 national wage decision through the appropriate wage fixing tribunals, and any other wage awards handed down after 22 February 1988 which affect expenditure during the Supply period, will be met through the

provisions contained in clause 4 (2) under well-established arrangements. This clause provides the necessary appropriation authority to allow Supply amounts for recurrent expenditure to be adjusted to meet the cost of such wage awards.

With respect to works and services expenditure, the total amount sought will enable the government to continue its works program during the first four months of the 1988–89 financial year. It is composed of the individual amounts shown in the relevant column in the table to clause 4 of the Bill. These amounts represent the cash flow which it is estimated will be required during the Supply period to enable the government to continue funding approved projects and those ongoing works activities such as maintenance of physical assets in which agencies are involved from year to year.

Clause 5 of the Bill allows the Treasurer to transfer funds from a program where Supply provisions are more than sufficient to another program within the same portfolio where Supply provisions prove to be deficient. This provision applies to both recurrent expenditure and works and services expenditure, and is similar to the provision contained in the Appropriation Act. However, it does not allow the Treasurer to transfer provisions provided in the Bill between recurrent and works and services expenditure.

The total amount for each agency cannot be altered by the Treasurer, only the proportions assigned to each program. It should be emphasised that this provision is meant to be exercised only on a limited basis and where such transfers would be consistent with the achievement of program objectives of the relevant Ministry. In addition, honourable members are reminded that the Treasurer is required to report back to Parliament in all cases where the authority is exercised.

An explanatory memorandum to the Bill has been prepared in a form similar to that provided in the past. The information provided in that memorandum is to aid honourable members in their consideration of the Bill. It indicates reasons why particular Supply provisions vary significantly from the provisions which would be expected on a pro rata basis for the four-month period this Bill covers. It also draws attention to changes in programs since the 1987–88 Appropriation Bill as a result of machinery of government changes or modifications of program structures.

The 1988–89 Supply Bill is similar in format to the 1987–88 Supply Bill in that certain non-specific appropriation matters are omitted, mainly relating to capital expenditure in the Ministry of Water Resources and the Rural Water Commission, but also including one area relating to education. They are provided for in the Works and Services (Ancillary Provisions, No. 1) Bill 1988, which will be introduced shortly.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. J. V. C. GUEST (Monash Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

WORKS AND SERVICES (ANCILLARY PROVISIONS, No. 1) BILL (No. 2)

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

The Bill provides for non-specific appropriation matters, mainly relating to works and services expenditure in the Ministry of Water Resources and the Rural Water Commission, but also including one area related to education. Technically, these non-specific appropriation matters are more properly handled in a Bill separate from the Supply Bill. Honourable members will be aware that a similar Bill was introduced in 1987–88.

It is appropriate that this Bill and the Supply Bill be debated jointly to facilitate consideration of the matters contained in them and joint debate will, therefore, be proposed.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. J. V. C. GUEST (Monash Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

COGNATE DEBATE ON BILLS

The Hon. D. R. WHITE (Minister for Health)—By leave, I move:

That this House authorises and requires the Honourable the President to permit the second-reading debate on the Supply (1988–89, No. 1) Bill and the Works and Services (Ancillary Provisions, No. 1) Bill (No. 2) to be taken concurrently upon the Order of the Day for the resumption of debate on either of them being read.

The motion was agreed to.

MEDICAL TREATMENT BILL (No. 2)

The debate (adjourned from March 23) on the motion of the Hon. J. H. Kennan (Minister for Transport) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Bill raises one of the most important issues that the House has discussed for some time. It raises matters of the utmost seriousness to the Opposition, and for that reason we have worked hard to arrive at our position—particularly because the Bill affects the lives and potential deaths of Victorians.

The Bill also deals with the powers to be given to individuals to make life and death decisions in respect of third persons. For those reasons, Parliament is entitled to examine the issues raised by the Bill carefully, sensitively and critically.

The Medical Treatment Bill was based on the work of the Social Development Committee, a hard-working committee which includes representatives from all parties.

On 17 December 1985 the committee was given the following terms of reference:

To invite public submissions, especially from those who care for patients, to consider, make recommendations and make a final report to Parliament before 11 September 1986, having regard to the greatly increased technological capacity to sustain life, on:

(1) whether it is desirable and practicable for the government to take legislative or other action establishing a right to die,

(2*a*) the fundamental question as to whether, and under what circumstances, if any, a person should have a right to die,

(2*b*) what is an acceptable definition of "death",

(3) the right of an individual to direct that in certain circumstances he or she be allowed to die, or assisted in dying, and the form which such a direction should take,

(4) the right of an individual who has not and is incapable of giving such a direction to be allowed to die, or assisted in dying,

(5) protection for medical, nursing and other professionals who allow an individual to die, or assist an individual in dying, including the need for guidelines for carers in the use of life sustaining equipment and procedures and the need for continuing counselling and after care,

The sixth term of reference is not relevant to this debate.

The first recommendation of the Social Development Committee was that it was neither desirable nor practicable for any legislative action to be taken establishing the right to die; and the second recommendation was that there should be legislative action clarifying and protecting the existing common-law right to refuse medical treatment, and that legislation should be introduced to establish the offence of medical trespass. There are two elements: firstly, that there should be no legislative action to establish the right to die and, secondly, that there should be legislative action clarifying the existing common law.

The current law provides that individuals have the right to refuse medical treatment—a clear right—and the consequence of that action is an obligation on doctors to adhere to the wishes of the patient. That law is clear and is acted on every day by hospitals and doctors throughout Victoria without the assistance of an Act of Parliament. However, there is a need to articulate that law because the committee found that there was confusion about the operation of the law.

One case that was highlighted in the media at the time the committee was undertaking its work was the case of John McEwan. That case highlighted the confusion that existed. In a submission I made to Mrs Dixon on 18 March 1987 I referred to that case and said:

> The McEwan case highlighted the fact that there is confusion about the application of the common law with regard to a competent patient's refusal of medical treatment. McEwan had access to legal counsel and if that counsel had been properly given he could have sought and obtained an injunction from the Supreme Court to restrain his doctors from treating him.
>
> The difficulties with his case arose, it would seem, from the fact that his doctors and perhaps his lawyers were afraid that the common law might allow an action based on negligence had treatment been withdrawn. In fact the common law with regard to trespass makes it very clear that the law of trespass overrides the doctor's duty of care and thus would not leave grounds for an action based on negligence provided that the patient had competently, freely and informedly refused treatment.
>
> The common law already provides for the right of a competent patient to refuse treatment and remedies should that right be violated.

That submission was quoted by the committee without demur as a statement of the law in Victoria.

An example of the operation of the common law was the recent case publicised in the *Herald* of 22 March of the lady dying from motoneurone disease. That lady was on a ventilator that extended her life but could not stop the process of dying. She was still lucid and expressed the view she did not want the ventilator to be used. Discussions took place between doctors, the family and the patient and, as a result of those discussions, the ventilator was removed and the lady died peacefully. Not one commentator suggested that the hospital that acceded to that patient's wishes was acting other than in accordance with the law. It clearly did act in accordance with the law. That is a clear example of the operation of the common law in Victoria, but still the Opposition says that there is a need to articulate that common law; to educate both doctors and patients on their rights and responsibilities.

The first report of the Social Development Committee published a paper by Sir Gustav Nossal, one of the most eminent medical authorities in the country, as to the desirability or necessity for legislation to replace the common law. An extract from that paper by Sir Gustav Nossal commented on whether Victoria needed to change the common-law right—which, as I have said before, is flexible of its nature—into a rigid Act of Parliament. Sir Gustav said:

> Under our system of governance, we have the rich twin heritage of statute law and case law. Each can contribute notably to societal progress. Case law is a kind of societal safety valve. If something appears to someone to be wrong, but no statute clearly prohibits it, case law and the appellate system will sooner or later shine a light on the issues, and, if necessary, new legislation through the political system will be triggered. In Australia, the paucity of landmark cases on the "right to die" issue seems to reflect that fact that the untidy, polyvalent, inchoate and unwritten methods of a diversified, free and humane society are working reasonably well.
>
> Laws, once enacted, are difficult to change. Medical technology and society's reactions to it, on the other hand, change constantly and with surprising speed. There are so many checks and balances already at work, as illustrated by our three examples. Laws or no laws, the question of how hard to try to prolong life will always be a medical decision, subtly different in each particular case. In an imperfect world, it is sometimes better to permit the shades of grey.

Since the committee made its report substantial changes have occurred in the law and in medical services available in Victoria. When the committee made its report it considered the fact that Parliament had passed an Act called the Guardianship and Administration Board Act. That board was not in operation at the time the committee was established in

1985 and has become operational only relatively recently. Part of the charter of that board is to care for the interests of people who are incompetent, including the making of medical decisions. That was partly adverted to by the committee.

The Social Development Committee's report was made in the middle of last year, and the board was not fully operational at that time.

We have had the experience of the Guardianship and Administration Board Act since then and the members of that board have an authority to make medical decisions in relation to incompetent people in this State.

The second Bill which has come into operation is the Health Services (Conciliation and Review) Bill. It again gives a broad charter for dealing with disputes on medical issues and has had a significant impact on the kinds of issues currently being discussed in the House.

The purposes of the Medical Treatment Bill are spelt out in the Bill itself and are:

(*a*) to clarify the law relating to the right of patients to refuse medical treatment;

(*b*) to establish a procedure for clearly indicating a decision to refuse medical treatment;

(*c*) to confirm a patient's right to appoint another person to make decisions about medical treatment if the patient becomes incompetent.

That should be read bearing in mind what I have just said about the alternative procedure available under the Guardianship and Administration Board Act which allows for decisions to be made for incompetent people by that board.

The scheme of the Bill is as follows: firstly, the Act does not apply to pain-relieving care and the ordinary provision of food; those are items which cannot be refused under a refusal of treatment certificate.

Secondly, a doctor and another person may together witness a refusal of treatment certificate where a patient over eighteen years of age refuses medical treatment generally or of a particular kind for a current condition after being informed of the nature of his or her condition.

Thirdly, a doctor must not undertake medical treatment which a person has refused. There is a penalty of $500 for breach of that provision.

Fourthly, a certificate ceases to apply if the partient's condition changes.

Fifthly, a person may provide for decisions about medical treatment to be made after he or she becomes incompetent by appointing an agent under an enduring power of attorney (medical treatment), which must be witnessed by two people.

Sixthly, the agent may refuse treatment for the third-party patient on the same conditions as he can refuse it for himself.

Seventhly, a doctor, acting in good faith and in reliance on a refusal of treatment certificate, is not guilty of misconduct or of a civil offence because of the failure to provide treatment.

Eighthly, the Guardianship and Administration Board may revoke an enduring power of attorney (medical treatment). Honourable members must look at the rocky path that the government had to go down to reach this stage. It illustrates the difficulty faced in trying to translate common-law flexible concepts into a strict Act of Parliament.

Early in October 1987 the government circulated a typed Bill. Subsequently, on 28 October 1987, another Bill was circulated which was different from the first Bill. Honourable members were assured by the government that the second Bill had broad support and should be passed through the Parliament quickly.

A few days later, on 9 November 1987, I was handed a set of proposed amendments, again with the assurance that the Bill was made perfect by them and that it would satisfy all reasonable objections.

Lo and behold, on 13 November I was given another more extensive set of twenty proposed amendments. It was days after honourable members had been assured that the Bill—first in its original form and then in its second and third forms—was right and that the Liberal Party should debate the Bill.

When the Bill was introduced on 24 October, the Liberal Party circulated it widely to seek the views of various community groups—doctors, lawyers, hospitals and——

The Hon. C. F. Van Buren—What about the archbishop?

The Hon. B. A. CHAMBERLAIN—We wrote to him, too.

The Hon. J. E. Kirner—You did not listen to him; you listened to your high priestess instead.

The Hon. B. A. CHAMBERLAIN—We sought views from different sections of the community and the reason the Liberal Party was not prepared to debate the Bill at that time was because there had been inadequate time for consultation. I quote from an article which appeared in the *Age* newspaper on 12 October 1987, in which I am quoted:

> Mr Chamberlain said the Bill, expected to be debated in the Legislative Council today, would go beyond the Parliamentary committee's recommendations. The issues raised were so important that there had to be time for adequate consultation and community debate.

At this stage, it has been only the Liberal Party that has gone out into the community and consulted with the various groups.

Honourable members interjecting.

The Hon. B. W. Mier—Tell us about the response you got.

The Hon. B. A. CHAMBERLAIN—That is coming. Is that the end of the saga? No. There were the original typed drafts and then a few days later there was the Bill; there were the amendments of 9 November and 13 November. What was going to happen? Were honourable members to come to Parliament in March 1988 and be presented with a Bill which reflected the views of those who responded to the original Bill? No! On 8 March, honourable members were handed another list of 38 amendments, after we had been assured by Mrs Dixon——

The Hon. M. J. Arnold—After consultation.

The Hon. B. A. CHAMBERLAIN—One would have thought that the government then had it right. What happened next was that there was another document, a preliminary draft of 11 March 1988, which differed from the 38 proposed amendments.

The Hon. J. E. Kirner—You cannot hide behind that; this is your worst speech so far.

The Hon. B. A. CHAMBERLAIN—Was that the end of it; had the government finally got its act together? No, it had not, because there is another Bill, dated 23 March 1988, which differs from the others again.

The Hon. J. L. Dixon—It is what you asked for.

The Hon. M. J. Arnold—Are you going to deal with the issue?

The Hon. B. A. CHAMBERLAIN—Yes; we shall be debating this for hours yet. On 23 March, the government once again shifted ground. After saying in November that the Bill was perfect, there were more amendments proposed on 23 March.

Is that the final position; has the government finally got it right? No, it has not. There is talk around the House that further amendments will be proposed. Has the government got it right this time? The Liberal Party has to do the government's work for it.

The Hon. J. E. Kirner—What you had to do was a deal, but you did the wrong one!

The Hon. B. A. CHAMBERLAIN—As I have said, the Liberal Party consulted widely on this issue.

The Hon. M. J. Arnold—You decided it was too hard!

The Hon. B. A. CHAMBERLAIN—I shall read to the House a list of those who responded to us. There were responses from the Faculty of Medicine, University of Melbourne; the Royal Australasian College of Surgeons; the Law Reform Committee of the Victorian Bar Council; Archbishop Little; Archbishop Penman; The Royal Australian and New Zealand College of Psychiatrists; the Salvation Army; the Right to Life Association Victoria; PIETA; the Law Institute of Victoria; individual barristers; individual doctors; the Australian Medical Association; the Department of Psychiatry, University of Melbourne; the medical staff at St Vincent's Hospital; the Royal Australian College of General Practitioners; the Faculty of Medicine, Monash University; St Vincent's Bioethics Centre and Dr John Buchanan.

I would have hoped the government would take this debate seriously. These are life and death issues that deserve to be taken seriously. The responses I have received deal with this Bill. I invite whoever will speak for the government on this issue to make available to the House the responses it received on this Bill. I invite the government to table in the House the responses it has received; it will be interesting to discuss them.

Members of the Opposition have approached the issue with open minds. We wanted to determine whether it was possible to translate the recommendations of the Social Development Committee into an Act of Parliament. If the high moral ground had been taken, why would I have bothered to devote hundreds of hours of work to this issue? The Opposition has dealt with this matter based on the responses it has received on medical, practical and legal grounds.

I shall go through the issues so that the House can be aware of the basis on which the Opposition made its decision. The Opposition did not become involved in the morality arguments of the issue because that is a minefield. This Bill can be dealt with on its merits with regard to medical and practical issues. I shall outline to the House the responses the Opposition has received. It will involve reading a considerable number of quotes but, given that this is a technical area, both legally and medically, it is important that the House has access to that information.

Clause 5, the central provision of the Bill, contains a number of elements. It provides that a doctor may issue a refusal of medical treatment certificate for a patient more than eighteen years of age who has refused medical treatment, witnessed by a doctor and another person, of a certain type for a current condition after being informed about the nature of his condition. A number of elements are involved in that. The patient must be an adult and the refusal of treatment must be witnessed by a doctor and another person who is unspecified. The refusal of treatment must involve a current condition after a patient has been informed of the nature of that condition.

In a letter dated 30 March, the President of the Australian Medical Association, Mr Ken Sleeman, deals with the concept of "current condition". He refers to the difficulty in translating that concept in a medical sense into a rigid Act of Parliament. He states:

> Of particular concern is the problem of any legislation being able to comprehend the nuances of medical treatment, particularly in the areas of high technology and intensive care. In such circumstances the patient's condition can change many times in a single day, and in that context a certificate issued in relation to the "current condition" could become quite meaningless.
>
> For example, a patient may have indicated that he did not wish to be resuscitated, should a problem be found during a cancer operation. But if that problem was unexpected, say a heart attack, should resuscitation be not performed?

The Hon. J. L. Dixon—Read our report!

The Hon. B. A. CHAMBERLAIN—It is not a question of reading the report; it is a question of reading the Bill.

The Hon. M. J. Arnold—Is Ken Sleeman now advising you on legal matters?

The Hon. B. A. CHAMBERLAIN—I am happy for the bar to advise me on these matters. Clause 7 provides that a certificate ceases to apply if the condition of a patient has changed.

In a letter from the Faculty of Medicine at the Monash University, reference is made to the difficulties involved in that concept. The letter states:

> The difficulties it may cause relate to the definition of changed circumstances. Some people dying from chronic illness pursue a regular downhill course with no dramatic changes from day to day. Other illnesses, however—and metastatic cancer is one of them—frequently become complicated by a catastrophic event eg. bowel perforation, pathological fracture. That is, a sudden sharp deterioration which may be amenable to treatment (surgical treatment in the two examples above) to restore the patient to the situation prior to the sharp deterioration. Will such complications of the underlying condition be a 'changed circumstance'?
>
> In practice what will happen is, if there is any doubt as to whether an event is a changed circumstance, the patient will be consulted. That is perfectly proper and reasonable, but if the patient is going to be consulted at every turn, then essentially the purpose of the refusal of treatment certificate is undermined.

The Bill defines palliative care, and I shall refer the House to that definition. The Bill proposes that, although a patient has a right to refuse medical treatment, he does not have the right to refuse palliative care. Medical associations have pointed out the problems in trying to make a distinction in those situations. Clause 3 states that medical treatment means the carrying out of:

> (*a*) an operation; or
>
> (*b*) the administration of a drug or other like substance; or
>
> (*c*) any other medical procedure—

but does not include palliative care.

Clause 3 provides that palliative care means:

> A medical procedure for the purposes of relief of pain, suffering or discomfort, including the provision of food or water (or other medical care) which is not burdensome to the patient.

The definition is absolutely critical to the Bill. In one instance, a patient can refuse medical treatment as defined, but, in the other instance, he cannot refuse palliative care. I shall refer to what the commentators say about that.

The Royal Australasian College of Surgeons believes the Bill is satisfactory and has only one comment:

> Palliative Care can sometimes involve an actual operation in order to relieve pain. The definition as stated on page 2 would seem to exclude this type of palliative care. I would hope that can be amended both in the Bill and in the refusal of treatment certificate.

I have received a submission from Professor J. W. G. Tiller, First Assistant, Department of Psychiatry at Melbourne University, who states:

> There is often no clear distinction between palliative care and treatment, despite the legislative assumption that there is such a distinction. This could lead to disputes whether some care should continue or not. For example radiotherapy to relieve tumour pain may be palliative, not curative, yet may retard tumour progression and be seen as treatment.

Other people have raised concerns about that matter.

Dr John Buchanan, the original Medical Director of the Citimission Hospice Program and consultant psychiatrist to the Palliative Care and Oncology Unit of the Repatriation General Hospital and the Oncology Unit of the Austin Hospital, is generally regarded as an expert in palliative care. His views are important given the emphasis placed on palliative care in the report of the Social Development Committee because most of the recommendations of the committee are not reflected in the Bill. They rely on other issues that can and should be implemented in measures dealing with care for the dying.

Obviously Dr John Buchanan is concerned about the Bill and he said the following about the refusal of treatment certificate:

'Refusal of treatment' should refer to a specific form of treatment, e.g. chemotherapy, rather than a blanket 'refusal of treatment'. see Part 2—clause 5 (1) (*a*).

The practical reason for this is that the terminally ill patient needs the doctor to treat distressing symptoms, especially pain.

We are now at pains, in teaching palliative care, to teach medical students that there is a great deal they can do for terminally ill patients and they must not abandon patients.

The terminally ill patient still needs treatment, but treatment directed at a different goal-relief of distressing symptoms, rather than cure.

A central part of this treatment that the patient still needs is pain control medication. Radiotherapy, and anaesthetic procedures, occasionally neurosurgery, may be needed as palliative pain control measures also . . . If legislation is going to interfere with the doctor-patient relationship, it must do so in a way that assists the difficult process of management of a terminal illness, rather than be a hindrance to the sort of palliative care that concerned health professionals wish to provide. In the long term the solution is better education of health professionals to ensure better communication skills.

It will be interesting to compare Mrs Dixon's responses to the Medical Treatment Bill (No. 2) with those of Dr Buchanan and others.

The Royal Australasian College of Physicians also commented on the palliative care provisions in the Bill. Lindesay Clark, the vice-president of the college, said the following in a letter dated 7 April 1988:

. . . in many cases it is difficult to distinguish between treatment designed to relieve a painful or otherwise distressing symptom—that is, palliative treatment, and treatment intended to prolong life. The decision to apply a treatment for relief of a symptom requires thoughtful and informed judgment untramelled by the threat of criminal proceedings. For these reasons we recommend that clause 6 be withdrawn.

Mr David Westmore, a urologist, said:

Within the definition of palliative care certainly should be included such drugs . . .

Honourable members should remember that drugs come under the definition of "medical treatment":

. . . as simple antibiotics or drugs to maintain blood pressure or to get rid of fluid (diuretics) which may well help alleviate discomfort, and would not be burdensome to the patient. I think it is also important that under palliative care a doctor be able to administer electrolyte solutions which would help the patient feel more comfortable and therefore should not be exclusive of palliative care.

A practising doctor is again saying that the central provisions of the proposed legislation are deficient and inadequate.

The sort of distinction the Bill tries to make between medical treatment on the one hand, and palliative care on the other hand, is impossible to translate into a rigid Act of Parliament because it does not measure up in the real world of medicine. I could provide the House with more quotes but I have made my point on the problem associated with the definition of "palliative care".

An important aspect of the Bill is the right of an agent to make a decision on behalf of a third person. That provision is extremely broad. Although currently the law allows decisions to be made for an incompetent person—by a member of the person's family or someone from the Guardianship and Administration Board—the Bill goes further by saying that, if a refusal of treatment certificate is signed for an incompetent person by an agent, firstly, the doctor must comply with the certificate and, secondly, the doctor is to be exonerated from all responsibility regardless of what he may think of the particular arrangement.

Although the report of the Social Development Committee dealt with terminal patients, the Bill gives agents the power to make decisions for persons suffering from life-threatening conditions that are reversible by treatment. I shall give the House a personal example of how that provision will operate. I carry with me a pen that looks like an ordinary pen; it is not a James Bond pen that turns into a ladder for an easy means of escape, but it is a high

technology pen that I use every day because I am an insulin-dependent diabetic. Therefore, I need to take insulin regularly during the day.

If I do not have the insulin, there is a chance that I may lapse into diabetic coma and, if untreated, I could die. According to the Bill, I may appoint a person as my attorney—for example, my wife. If I become incompetent and unable to make decisions for myself, according to the Bill, my wife can make those decisions for me. If my wife tires of me, she can sign a refusal of treatment certificate on my behalf so that when I need the insulin, I will not be given it. My condition is not terminal but if I do not have the insulin my life is threatened.

As a result of signing the certificate, my wife can then tell the doctor not to give me insulin. According to the Bill the doctor is obliged to comply with that request and he is completely exonerated from any liability. This provision has been included in both medical treatment Bills that have been introduced. It is absolute nonsense to suggest that that represents the common law of the State; it puts people in a situation that common law does not even contemplate. The Bill allows life and death decisions to be made by third persons that cannot be controlled.

The central definitions of the Bill are inadequate. I have shown that eminent doctors have stated that it is not possible to do the sorts of things the government wants to do in the proposed legislation. The Royal Australian and New Zealand College of Psychiatrists points out the real difficulties associated with the definition of "incompetence".

Honourable members should not forget that this Bill makes a distinction of when a person becomes incompetent because, at that stage, the agent can make decisions on behalf of that person. The Royal Australian and New Zealand College of Psychiatrists, which had given the Opposition a previous lengthy submission on this Bill, in a letter from its secretary, Edmond Chiu, dated 28 March stated:

> From the point of psychiatrists, this new Bill still has one major problem. The question of incompetence needs to be further addressed. In this new Bill there is no definition of incompetence, nor is there provision for the determination of incompetence and how this might be assessed and who will be given the responsibility in making this decision and judgment. It is likely that psychiatrists will be called upon to make some judgment as to the competence or otherwise of certain patients. This will create certain difficulties for those of us who will be requested to provide opinions and it is likely that by not clearly defining this area much legal difficulties will be created in the application of section 9 (1). I can foresee considerable legal challenges in this area, in the future.

The government claims that the Bill is designed to clarify the law, making crystal clear the rights of doctors and patients; yet the Royal Australian and New Zealand College of Psychiatrists is claiming the position is impossible as the Bill makes no attempt to define "incompetence", although it will give third parties the right to make life-and-death decisions in respect of incompetent patients.

What are the major elements of the Bill? In the major distinction between palliative care and medical treatment, the lines are blurred. Physicians, doctors and others have expressed major concerns in other areas as well. A group of people who will have to make the proposed legislation work have predicted considerable legal problems or, to use their exact words, "considerable legal challenges in this area in the future". The secretary of the Royal Australian and New Zealand College of Psychiatrists made other comments on the issue of the definition of "current condition". I have dealt with some of those issues. He also expressed concern about the definition of "palliative care".

The letter states:

> Another practical issue regarding palliative care is its somewhat restricted definition. Here I draw your attention to the possibility of a situation where a form of 'hunger strike' may present a problem. In such a situation if the patient refuses food and/or water could the medical practitioner enforce feeding of the patient with food and water under the provision of palliative care? In such a situation such palliative care maybe considered to be 'burdensome' or contrary to the patient's wishes.

The letter also deals with other issues. Psychiatrists, who will be central to the operation of the Bill, together with physicians and surgeons, are saying, firstly, that the Bill does not

attempt a definition of "incompetence" and, secondly, that in relation to other key issues and definitions, the Bill is seriously deficient in such a way that it is incurable.

I shall consider the other issues. The Royal Australian College of General Practitioners supports the view that the Bill should include a definition of "incompetence". In a letter to me dated 30 March the college stated:

> In the case of an incompetent person, the agent's decision could possibly facilitate legalised murder.

That is not my statement, but a statement of the Royal Australian College of General Practitioners. It is no wonder the Opposition is concerned about the proposed legislation. As I said before, the Opposition's concerns are in the area of practical medicine, as evidenced by those people who are caring for the dying. There are also legal concerns, which I shall deal with in a moment.

Although the Social Development Committee's terms of reference were limited to dealing with terminal cases, the Bill is not confined to terminal illness. The committee chose to go beyond those terms of reference and the Bill certainly goes beyond them. The personal example I gave before demonstrates how decisions can be made in respect of life threatening but non-terminal illnesses, to the detriment of a patient in a way with which a doctor must comply and for which the doctor is given complete exoneration.

I shall consider some of the other practical concerns. I have a letter from St Vincent's Hospital dated 5 April, signed by Dr J. N. Santamaria, Director, Department of Community Medicine, and Dr K Breen, Director of the Gastroenterology Unit, both of whom are significant in medicine in the State. In referring to the Medical Treatment Bill (No. 2) they say:

> We are consultant physicians who have recently read the Medical Treatment Bill which has only recently become available.
>
> We are deeply concerned about the implications of the Bill for practising doctors and these are set out in the accompanying document. The Bill has fundamentally departed from our original understanding of its purpose and consequently raises very real problems for the practice of medicine.
>
> We would be happy to discuss this matter further with you.

I have quoted the letter from Dr J. Santamaria and Dr K. Breen of St Vincent's Hospital because I envisage that there will be other references to St Vincent's Hospital during the debate. The comments of those doctors are important.

The letter also states:

> The Bill is fundamentally concerned with ANY patient who may present to a medical practitioner.
>
> The Bill will create a wide community awareness that it is possible to refuse even reasonable medical treatment for any condition. Whilst it may already exist under the common law, the legislation makes it much more EXPLICIT and consequently patients may be more readily subjected to quite strong pressures not to accept continuing treatment for chronic diseases, e.g.
>
> *chronic respiratory diseases with treatable exacerbations;
>
> *diabetes;
>
> *asthma;
>
> *ulcerative colitis;
>
> *hypertension;
>
> *chronic leukaemias;
>
> *thalassaemia and aplastic anaemia etc.

Those two eminent doctors have spelt out their professional duty as they see it. The letter continues:

> 3. Professional Duty
>
> At present, few patients refuse reasonable treatment or short term distressful treatment when a proportionate benefit is likely to occur in the long term. This is because a doctor has a duty to act in the patient's best interests,

to provide treatment that is proportionately reasonable. Whilst a doctor could be charged with trespass under the common law should his treatment be disproportionately distressful, the number of instances in which this occurs is small and could be reduced by appropriate education and training.

Under the new Bill, the doctor perceives that there will be an increased number of refusals of reasonable treatments and strong pressures will be exerted on him to fill out Schedule 1 and Schedule 3 certificates. If this occurs, his professional role will be eroded and his relationship to such patients will become increasingly impersonal as he faces the frustration of giving less than the optimal care for his patient. It is professionally most difficult for a doctor to stand aside when the patient rejects simple and not particularly distressful curative treatment.

The letter also deals with other issues such as competence and incompetence. The two senior doctors from St Vincent's Hospital also mention the issue of informing the patient of his or her condition and the possibility of fraud. They state, in conclusion:

This Bill goes far beyond its original intent to provide legal guidelines for the management of the terminally ill.

Dr Tiller from the University of Melbourne, a psychiatrist whom I quoted earlier, is concerned about this issue and the fact that the scope of the Bill is much wider than the terms of reference of the Parliamentary committee.

I shall deal now with the important issue of the consent of the patient and whether the decision is made voluntarily. I shall examine the issue from a legal perspective. The Bill provides for that issue by clause 5 (1) (*b*) and (*c*), which state:

(*b*) that the patient's decision is made voluntarily and without inducement or compulsion; and

(*c*) that the patient has been informed about the nature of his or her condition to an extent which is reasonably sufficient to enable the patient to make a decision about whether or not refuse medical treatment generally or of a particular kind (as the case requires) for the condition and that the patient has appeared to understand that information . . .

One of the submissions received was from the Bar Council. This document is a memorandum to the Law Reform Committee of the Victorian Bar from Mr T. H. Smith, QC, who is regarded as an expert in these fields. He deals with the provision of the Bill referring to the patient's decision being made voluntarily and without inducement or compulsion—clause 5 (1) (*b*)—and states:

The term "voluntary" or "voluntarily" has been used for many years as the test for admissibility of confessions in criminal trials. It has proved to be a most unsatisfactory expression.

Mr Smith, says that the term that is being used in the Bill has proved to be a most unsatisfactory expression. He continues:

For example, it has been held not to mean "volunteered"—that is, the test does not require that the accused volunteered his confession. Is that intended here or not? It has been said to involve a free choice but at the same time is satisfied notwithstanding substantial psychological or physical pressure on an accused, the inevitable result of which was the making of a confession. In the sort of cases to which the Bill is directed, patients will be under extreme psychological and physical stress. For many, ending their lives will be a blessed relief. In those circumstances can anybody be satisfied that the decison is made "voluntarily"? Further, can anyone really be satisfied that it is made "without inducement or compulsion"? I would suggest that the concern should be that the persons signing the certificate need to be satisfied that no individual person has been applying any pressure upon the individual. Further comment may be made that the expression "without inducement or compulsion" is entirely open ended and does not indicate the nature of the inducement or compulsion. This again could be clarified by indicating that what is of concern is the need to ensure that the decison is made free of any pressure from any person, be it a relative or member of the treating staff, etc.

He then deals with an essential element of this certificate, and to clause 5 (1) (*c*), which is the provision that the patient must be informed about the nature of his or her condition to an extent that he is reasonably sufficient to make a decision about whether to refuse medical treatment, and states:

I would have thought that information is either sufficient to enable a patient to make a decision or not sufficient to enable a patient to make a decision. To introduce the concept of "reasonably sufficient" is to suggest that something less than sufficient information is required. If the intention is to provide that the information be sufficient to the reasonable informed observer, then something to that effect should be stated . . .

It would be possible to sign a certificate saying that a person appeared to understand the information while having the gravest of reservations about whether the person did in fact understand the information.

I am not just nitpicking. These comments are made by eminent people, in this case a Queen's Counsel who is so highly regarded by the Victorian Bar that it uses his opinion to respond to the the Opposition's request for comments on the Bill. He states that there are serious deficiencies with the central concept of the Bill. The issue of the consent of the patient is also raised in statements by Drs Green and Santamaria and by Professor Tiller. I want to ensure that the House understands the Opposition's position on the Bill. I point out that there is in fact a common-law right of individuals in Victoria to refuse medical treatment. That right is exercised every day of the week and acted upon by doctors every day of the week. Some doctors, of course, do not do so and clearly, under existing law, they are guilty of assault and battery. The government argues that one would have to take them to court to enforce one's rights.

The Hon. W. A. Landeryou—When was the last conviction?

The Hon. B. A. CHAMBERLAIN—That is a good question and, in fact, it typifies the unnecessary nature of the Bill. There have been no prosecutions because there is not a problem, and that has come out in submission after submission: there is not a problem.

The Hon. D. R. White—You are saying this is not an issue?

The Hon. B. A. CHAMBERLAIN—The Opposition is saying that the present law is adequate; what should be done is for the public and doctors to be educated about their rights and responsibilities in this area. The Opposition will be urging the government to become involved in that issue. The Social Development Committee, in its own report, made recommendations in that area.

The Hon. D. R. White—You rule out legislation totally?

The Hon. B. A. CHAMBERLAIN—I am coming to that. The Opposition has approached this issue with an open mind. I would not have bothered going through this exercise if it had not genuinely welcomed the work of the Social Development Committee in this sensitive area. We bear in mind that of the 31 recommendations of the committee, only four relate to the Bill. The remainder deal with important issues such as palliative care, hospice care, and the relationship between patients, their families and doctors. Many of those issues could be implemented without legislation, if the government had the will to do so.

I repeat: the Opposition approached this issue with an open mind. It has been suggested that, because I am known to have certain views on life and death issues, I have been dictated to by one group or another. I wish to make clear a couple of points on that matter. The Premier, in his usual way, when he is short of an argument, becomes involved in personal attack. Today, in the other House, he suggested that perhaps I was a card-carrying member of the Right to the Life Association Victoria, which was certainly one of the organisations consulted by the Opposition.

I am not a member of the Right to Life Association Victoria; I have never been a member and I have never contributed any money to that association. I have been at odds with the tactics used by the association on many issues. However, because of the importance of this issue and because I was handling it on behalf of the Liberal Party, rather than making a recommendation to the Parliamentary Liberal Party, I put up four options, with no recommendation. The Liberal Party examined it on that basis. The options were, firstly, that the Opposition should accept the Bill with some amendments that were suggested by the St Vincent's Bioethics Centre. The second option was to limit the Bill to people making decisions on their own behalf and to eliminate provisions about agency matters, which appear to go beyond the recommendations of the Social Development Committee.

The third option considered by the Liberal Party was to limit the application of the Bill to patients with terminal conditions. I have already indicated that the Bill applies to all

refusal of medical treatment, and that is clearly beyond the scope of the recommendations of the Parliamentary committee.

The fourth option was that the existing common law was adequate but that a public educative program on this matter was needed. I made no recommendation to the Parliamentary Liberal Party and the party dealt with the matter in the light of those four options.

The party took its view after hearing strong argument from a whole spectrum of opinions. No doubt also those views would be expressed by the National Party and the Labor Party because all honourable members come from the same background, have the same sort of interaction with people and are subject to the same sorts of submissions from varying groups.

It is necessary to get this right because the Minister for Health has already asked me a question about this. The Parliamentary Liberal Party approached the issue with an open mind because few of the submissions received by the Liberal Party suggested that we reject the measure; they in fact considered it from different perspectives, such as physical and medical, psychiatric, social, and legal perspectives. When the Parliamentary Liberal Party considered those concerns and put them all together it came to the conclusion that it was impossible to define these concepts in law and that to attempt to do so had its own dangers.

It is possible to drive a truck through the concepts in the Bill. The basic distinction the Bill is supposed to make is between medical treatment and palliative care. Yet eminent medical people tell us that that is not a distinction one can make. I am not aware of the government having an answer to that problem.

I need not go through those arguments again because I have already placed on record this afternoon the concerns of medical practitioners about the attempts to define those issues. We know of the difficulties that faced the representative of the bar in trying to define the issue of informed consent—that is possibly not the right phrase but I refer to the words contained in clause 5 (*b*) and (*c*).

With all the goodwill in the world, the Opposition cannot accommodate the recommendations made on an all-party basis by the Parliamentary committee. The position taken by the Opposition is not so unusual. It is that there is an existing common law and a need to articulate it. We should consider the submissions made to the Parliamentary committee by the St Vincent's Bioethics Centre because the government has relied heavily on that organisation for input on the Bill. The Opposition has a high regard for that organisation.

The position being taken by the Opposition is consistent with the submission made by the St Vincent's Bioethics Centre on 29 May 1986. It is important to realise that because we have been beaten over the head about the views of the St Vincent's Bioethics Centre. I have already quoted the opinion of two senior doctors at St Vincent's Hospital about this attempt to legislate. However, Mr Tonti-Filippini made this submission to the Social Development Committee in 1986 as follows:

> In practice, this means that treatment must serve valid therapeutic purposes and be competently undertaken and the patient or the representative of the incompetent patient must be provided with relevant information or opportunities to freely refuse consent. Our experience . . .

That is, the experience of the St Vincent's Bioethics Centre.

> . . . as an acute care hospital is that these conditions are satisfied and that there is no need for legislative attempts to change the status quo.

The St Vincent's Bioethics Centre was telling the Parliamentary committee that there is no need for legislation. Mr Tonti-Filippini continues:

> However, with regard to the right to refuse treatment, there is scope for better communication between patients, their relatives, the treatment teams and others concerned with the care of patients.

That was a submission made by the St Vincent's Bioethics Centre to the Parliamentary inquiry and that is exactly the position of the Parliamentary Liberal Party.

The government has made much of consultation on this issue and, when one considers the work of the Social Development Committee and the hundreds of hours its members put in, one realises that an enormous amount of consultation went into its report. However, that same consultation has not occurred with this Bill. It is clear that only the Liberal Party—and probably the National Party—has widely canvassed the issues.

The totality of my file is available for anyone to inspect after this debate has concluded. My file will show a whole range of supporting views. However, after culling out the concerns expressed by medical, psychiatric, legal and other authorities, we came to the conclusion that one cannot translate those concepts into a rigid Act of Parliament.

The Premier said publicly last year that the Bill should go through Parliament last November. Mrs Dixon said that the Bill was in perfect form.

The Hon. J. L. Dixon—I have never used those words.

The Hon. B. A. CHAMBERLAIN—That is what we were told. Everyone in the Labor Party agreed that the Bill should pass. If it had, it would by now have been the subject of three separate amending Acts of Parliament to take account of the concerns that have since been recognised by the government. It is obvious that the government has recognised these concerns because of the subsequent versions of the Bill it has produced: its 38 amendments, the draft Bill of early March, the final draft Bill of 24 March, and further amendments that will be introduced.

The Hon. D. R. White—Will you allow a conscience vote, as you did about IVF?

The Hon. B. A. CHAMBERLAIN—I am happy to respond to that issue. The position of the Parliamentary Liberal Party is clear. Each member of that party is proud of the fact that on any issue that affects that member's conscience he or she is allowed to follow his or her conscience with no restrictions. No-one's consent is needed. All a person has to do is to notify us that he or she will vote according to his or her conscience.

The Hon. D. R. White—As you did last year on IVF?

The Hon. B. A. CHAMBERLAIN—As I did last year on IVF and as I did in 1984 on IVF.

The Parliamentary Liberal Party has taken a serious attitude to this issue. It has not been a glib or an easy decision. The concerns reflected are based upon the opinions of eminent people in the medical and legal fields in this State. The decision made by the Parliamentary Liberal Party has been made in good faith but—and it should be emphasised—it does not take away the rights of Victorians to refuse medical treatment under existing law and to have doctors comply with their wishes.

The Hon. K. I. M. WRIGHT (North Western Province)—The Bill deals with an extremely sensitive matter. On behalf of the National Party, I congratulate members of the Social Development Committee for the work they have done on the inquiry into options of dying with dignity. I refer especially to the chairman of that committee, the Honourable Judy Dixon, and to the National Party representatives, the honourable member for Gippsland South in another place and the Honourable Roger Hallam, who did a tremendous amount of work on this Bill.

Nevertheless, Mr Hallam appreciates the diverse views of the various parties on this matter. He was tireless in his efforts to reach a solution in the Bill that was acceptable to all. It is fair to say that he was largely responsible for the amendments that have been produced more recently to clarify the Bill.

I shall quote from the terms of reference of the Social Development Committee, which will shed some light on the subject now being debated. The terms of reference were to invite public submissions with respect to:

(1) whether it is desirable and practicable for the government to take legislative or other action establishing a right to die,

(2a) the fundamental question as to whether, and under what circumstances, if any, a person should have a right to die,

(3) the right of an individual to direct that in certain circumstances he or she be allowed to die, or assisted in dying and the form which such a direction should take,

(4) the right of an individual who has not and is incapable of giving such a direction to be allowed to die, or assisted in dying,

(5) protection for medical, nursing and other professionals who allow an individual to die.

As a result of its inquiry, to which at least 1400 submissions were forwarded, the committee made four recommendations that are of interest to the National Party, recommendations Nos 2 to 5, which read as follows:

2. That legislative action clarifying and protecting the existing common-law right to refuse medical treatment is desirable and practicable and should be brought about by the enactment of legislation to establish an offence of medical trespass.

3. That medical trespass be defined as occurring when a medical practitioner carries out or continues with any procedure or treatment where a competent patient freely and informedly refuses that procedure or treatment.

4. That the legislation also encompasses protection from criminal and civil liability on the part of a medical practitioner who acts in good faith and in accordance with the expressed wishes of the fully informed, competent patient who refuses medical treatment or procedures.

5. That the non-application of medical treatment does not in itself constitute the cause of death, where a medical practitioner is acting in good faith to avoid committing the offence of medical trespass.

The National Party believes the Social Development Committee took its brief very seriously. As I said, it conducted a wide-ranging and demanding inquiry, which received 1400 submissions and heard evidence from at least 150 witnesses. It generated much interest and sympathy for those who are the subject of the case studies quoted and contained in the report. I am sure most honourable members have experienced similar cases.

I have an uncle who was stricken with various medical complaints some four or five years ago. To all intents and purposes he is now a vegetable; he cannot recognise his children, me or anyone else. He does not seem to be in pain but his existence is without direction. Under common law, nothing can be done to resolve this situation. With regard to the terminally ill, frail aged and others who are suffering, that is another matter and the common law is constituted to deal with those cases.

The National Party questions the value of sustaining life, given the emotional cost and physical suffering. When the treatment becomes burdensome or intrusive, someone must make a value judgment. I suggest to the House that Australians are lucky in that the facilities, the wherewithal and the skills are available in this country to treat the exceedingly ill. However, countries such as Africa and, to a lesser extent, India are in the regrettable position of being unable to look after people who are desperately ill, and of limited means.

I refer to the responsibility taken by the medical profession, and it goes without saying that the vast majority of members of the profession are extremely dedicated and caring people. However, as Mr Hallam said, society has not really been fair in recognising the extent of technology today and the pressures under which doctors are working. I understand that the Leader of the National Party in this place, Mr Dunn, will make a contribution to the debate later and will quote the remarks of a doctor from Ballarat who has something to say on the subject.

The subject of dying is difficult to talk about. There are virtually no guidelines on that difficult matter. If a patient expresses a desire not to be the subject of continued medical

treatment and if that treatment may involve invasive and painful procedures, of course, the law can speak on that subject.

Sometimes the patient is no longer competent and is unable to make a decision or give an instruction as to his or her future. Then again, his or her family and friends may wish the pain and suffering to cease. The Social Development Committee found that the first priority was to ease pain and for the patient to have a peaceful death.

The Medical Treatment Bill (No. 2) gives effect to some of the committee's recommendations. It provides: clarification of the existing common-law right to refuse medical treatment; enactment of an offence of medical trespass, to be defined as occurring when a medical practitioner carries out or continues with any procedure or treatment where a competent patient freely and informedly refuses that procedure or treatment; and confers protection from criminal or civil liability on the part of a medical practitioner who acts in good faith and in accordance with the express wishes of the fully informed, competent patient who refuses medical treatment.

The committee found that patients often felt frustrated in not having the ability to refuse further medical treatment and, further, that most medical practitioners were reluctant to withdraw medical treatment because of doubt concerning legal consequences.

The Bill sets out the conditions for refusal of medical treatment: firstly, the need for a clear expression of refusal by the patient; secondly, that the patient's decision must be made voluntarily; thirdly, that the patient must be informed about his condition; fourthly, that the patient must be aged eighteen years or more; and, fifthly, it is an offence where a medical practitioner continues medical treatment despite a refusal. However, that does not prevent a medical practitioner from continuing to provide palliative care to reduce pain, suffering or discomfort. The Bill provides for situations where the patient is unable to make decisions. It also provides for a special or enduring power of attorney by an agent or guardian.

The original Bill was introduced last year, and this Bill was introduced on 23 March 1988. It is a fairly small but important measure. It contains a preamble and various definitions, such as that of palliative care. In that regard, clause 3 states:

> "Palliative care" means a medical procedure for the purposes of relief of pain, suffering or discomfort, including the provision of food or water (or other medical care) which is not burdensome to the patient.

It is interesting to note that that provision was not contained in the original Bill introduced in October 1987. The Bill also deals with the issues of refusal of treatment certificate; the offence of medical trespass; the cancellation, modification or cessation of a certificate; agents and guardians; and protection of medical practitioners. The Bill also contains a number of schedules that deal with the various matters referred to in the Bill.

The National Party is fully aware that there is sincerity in the proponents supporting the Bill. Again, the National Party appreciates the hard work of Mr Hallam, Mrs Dixon and others in making this Bill a reality. However, in discussing the Bill, the National Party realised there were some real concerns, the first and foremost of which relates to its belief that the common law is adequate in dealing with the cases now being debated.

It is rather interesting to read an article that appeared in the *Sunday Press* last weekend, dated 17 April 1988, which referred to the remarks of a former judge of the Victorian Supreme Court, Sir Kevin Anderson, QC. The article stated:

> The reality is that you've got so many law-making bodies who have legislative powers and vastly wider administrative powers than they had 40 years ago.
>
> For example, I once knew the 200 parts of the Police Offences Act. That's all changed now.
>
> The government has wiped out a whole system of law. It means that a case which once took seven days, now is adjourned for months.
>
> Also, there's a scandalous delay in the administration of criminal cases.

That last paragraph is irrelevant to this debate, but the statement does refer to the problem that the National Party perceives exists. The common law has served us well over the years and the National Party wonders whether it is a good idea to change it. There needs to be an educative program to inform all sections of the community that the common law does give them rights in these situations.

Another concern of the National Party is that Bills that appear to be of minor effect may be amended or extended by later governments to extensive proportions. Further, the Bill will not help the gravely ill who are currently incapable of making a decision on their own.

Above all, the Deputy Leader of the National Party in another place, Mr Hann, said quite correctly that the protection of the sanctity of human life is paramount. The National Party also feels that the new offence of medical trespass is an affront to or at least would offend the medical profession whose first duty is to save lives. Conflict could also arise between the medical profession and the legal profession. For those reasons, the National Party opposes the Bill.

It has been a difficult subject and I commend the sincerity and hard work of all honourable members who have been involved with it.

The Hon. J. L. DIXON (Boronia Province)—It is hard to know how to begin to comment on some of the statements made by Mr Chamberlain this afternoon. I suppose the one I found most offensive was his almost throwaway line that there is not a problem in this area. When asked to repeat that statement by the Minister for Health he did repeat that there was not a problem.

We ought to stop all the twisting and the little submissions and quotations being made and remind ourselves that we are talking about human beings out there who are in a difficult situation. Many of those in a difficult situation sought to come before the Social Development Committee and tell us about their circumstances.

Only two speakers so far have bothered to read or comment on any of the examples in the report on the Inquiry into Options for Dying with Dignity. All the examples in the report are true life examples.

Before I begin to speak about the process the Social Development Committee has gone through I should like to get back to the actual issue surrounding the Bill. That issue concerns the fact that society now has the increased technological capacity to sustain human life to an extent beyond which I would never have believed possible. Given that situation, one must look at the associated morality of the situation. Mr Chamberlain quoted some medical grounds for his views and, later on, I will answer those; but the basic question is one of morality and human rights.

As I listened to Mr Chamberlain I thought to myself that he is suggesting that members of the community ought not really know about some rights that they already have. He suggested that those rights ought not really be exercised. It is true that the community has those rights but he is suggesting that they be kept a little bit secret and not talked about. He is saying, "Let's hope that people do not know about them, that not too many people find out that they have those rights, and let us hope that they do not try to exercise them because it would be an awful nuisance and it would make it very hard."

That is the second aspect that I find most offensive about the debate—that honourable members consider the area to be too hard. Members of Parliament were elected by the people of Victoria and I thought the people of Victoria voted for us because they believed each one of us could do a few things that were hard, could sit here and talk about things and make decisions on areas that were hard.

However, I read Mr Guest's comments in the *Age* this morning and in his final paragraph he said that legislation always leads to litigation. It makes one wonder why we waste our time in this place if resolving problems leads to litigation! Why do we bother? Why do we sit here day after day passing Bills if it will always lead to litigation?

I should like to refer back to where it all began, as Mr Chamberlain said. It began in December 1985—a long time ago, and for members of the Social Development Committee it seems like forever. The committee went through an incredible process of learning together. Mr Chamberlain quoted Sir Gustav Nossal and the early submission from the St Vincent's Bioethics Centre. All members of the committee and the community were learning at that stage and gathering material and thinking about the problem. Even people involved in the debate were just beginning to articulate the problem. They were finally beginning to see something that the Minister for Health had the courage and the strength to see much earlier—that there was a problem and that somehow or other the Victorian government had to face up to a problem that may not have been on the party platform, but was an important issue. So we all began to learn.

Members of the public began to learn, too. They thought about what was happening. Medical people thought about what was happening in their hospitals. The church started turning its attention to the matter. Every church in the State stated turning its thoughts to the problem and thinking that it would have to come up with some decisions on this whole area of knowledge and what was happening to human beings in terms of things which, when we were young, we would never have thought could happen.

The Social Development Committee received 1400 submissions. Hundreds of people came before it. The committee visited institutions, it visited the nursing services and it visited John McEwan, who was in a most difficult situation. The whole process was a learning process for us and no member of the committee went into the situation knowing what would come out of it. There were no preconceived ideas of any kind—and I remind Mr Chamberlain and other members of the party of that fact.

I believe Opposition members do have consciences and that those consciences are troubling them. They have been snowed; they have had the wool pulled over their eyes and they have had spurious arguments put to them. They have lost the concept and the memory—if they ever had it—of dying relations and friends. They have lost the understanding of what it is like to be in that situation.

I should like to read just a few of the submissions in the report to establish what we are talking about. These are cases from the report entitled "Inquiry into Options for Dying with Dignity—Second and Final Report. April 1987." That is twelve months ago. All of these cases are anonymous. Although the committee had names and addresses at the time, they were published as anonymous extracts.

On page 22 of the report, example No. 15 reads:

> Just over 12 months ago an aunt was terminally ill with cancer. She attended Peter MacCallum and received radiation treatment and chemotherapy but the cancer spread everywhere in the finish. By the time she could no longer look after herself it was clear to anyone she was dying. She could only be admitted to Peter McCallum if she consented to more treatment—a callous, absurd suggestion, considering her condition.

She did not receive treatment after that time.

Example No. 23 states:

> I saw my sister who was practically paralysed with arthritis and in constant pain brought back from obvious near death from an infection (her face was grey) by being sent from a nursing home to Fairfield and brought back to a year of pointless suffering and paralysis for another year.
>
> How pointless to protract a life of suffering by artificial means—oxygen and the 'drip'.
>
> My other sister was brought out of a coma of several days—at the age of 91—to live in a state of almost helplessness—by the same means—artificial means. Why not let nature decide and leave people to go naturally?

Many more examples are contained in the report. I refer to several sentences from the final one, the example which stays in my mind. This sentence is from example No. 55:

> Ailing old people are not afraid of dying but we are afraid of not being allowed to die.

That is what I discovered most during the lengthy inquiry—that this was really the situation in our hospitals and was more serious than I had imagined. Example No. 55 further states:

> Medical advancement may have enhanced the ability to sustain the beating of the heart or blood circulating through a damaged brain but is that life, if the person is suffering, and is totally unaware of his surroundings and could not function without a machine attached to him? That is existence, not life!

That was from the mouth of a woman aged 76 years, living in a nursing home.

I suppose the supreme example was that of John McEwan. At the risk of its becoming a platitude, I think his case should be placed on record because John McEwan suffered incredibly and fought very hard for his rights, but was never able to exercise them.

Members of the committee spoke to John McEwan at his home. As honourable members would be aware, he wished to refuse medical treatment; no matter what he did he was not able to refuse that treatment. He tried all sorts of measures and every time he insisted on exercising that right he had great difficulty. At one stage he was classified as incompetent and his rights were taken from him.

Two members of the committee spoke to him at his home. He said that he had lost everything else through the accident except his brain, but that they had taken his brain away from him by declaring him incompetent. Honourable members ought to remember that case; Mr Chamberlain obviously is aware of it.

Mr Chamberlain most obligingly quoted sections of the report relating to John McEwan. It is clear that the common-law provisions were a difficulty in the McEwan case; they did not help him. The case was confusing and misleading, and John McEwan was not allowed to exercise any of his rights. What happened to John McEwan caused an outrage; this occurred during the course of our inquiry.

As honourable members and the public are aware, John McEwan eventually died. The committee followed the case and finally asked for the minutes of the inquest. Members of the committee were most moved by what they contained because they made an incredible impression on what we were concerned about, so much so that we included the minutes in the report.

I shall refer to the statement of Dr Joseph Toscano,the spinal specialist physician who treated John McEwan in his own home. I shall refer to several sections of his statement because most honourable members would have read the entire report.

Dr Toscano continued treatment of John McEwan when he was sent home from the Austin Hospital. The doctor was somewhat anxious about treating Mr McEwan because he had heard the publicity surrounding his case. When visiting he noticed that John McEwan did not have air-conditioning in his home. The doctor contacted the Austin Hospital but officials there informed him that John McEwan did not want air-conditioning in his home, and did not want anything that would particularly prolong his life. Dr Toscano had a discussion with John McEwan, as reported at page 311:

> He informed me that he wanted to die and he always wanted to die ever since he became quadriplegic and he was very angry that he had not been permitted to do so and that he had been certified at the Austin Hospital.

During the inquest Dr Toscano said:

> Again he told me his strong wish to die.

The nurses at John McEwan's home contacted Dr Toscano. At page 312 the notes show that a nurse said:

> . . . John McEwan was off the ventilator and did not want to go back on to the ventilator and he was becoming somewhat distressed. . . I told her that if she was concerned about his condition she had no alternative but to reconnect him to the ventilator and that she should tell him that it was my decision that he should go back on the ventilator.

That is what Mr Chamberlain is talking about—the statement that it was:

. . . my decision that he should go back on the ventilator.

John McEwan had to be reconnected if he became distressed even if it was against his own wishes. We are not talking about an incompetent patient; no-one had any doubt about the competency of John McEwan in his own home. Against his own wishes he had to have a ventilator connected.

Constant references highlight the fact that John McEwan was perfectly sane and competent. For many months he tried all sorts of things to end his suffering. He tried to refuse water and believed that by so doing he could refuse dialysis treatment because renal failure would occur, and that he might die in that way.

The saddest feature about the statement is that it speaks for itself. Dr Toscano referred to the fact that John McEwan, at his suggestion, had spoken to members of the committee investigating patients' rights. He also talked to the doctor about "hiring somebody to blow out my brains or to kill me, as I feel my wish to die is being frustrated". That is the level to which a human was being reduced. He could not use his arms, legs or any other faculty. He lay there and considered hiring somebody to blow out his brains because there was no other way to end his life. Mr Chamberlain is sure that there was no problem about the common-law right to exercise a refusal of medical treatment.

The Hon. B. A. Chamberlain—He was wrongly advised.

The Hon. J. L. DIXON—The John McEwan case is a clear demonstration that a problem exists.

Another example was submitted to the committee by the Austin Hospital. It claims that the problem is so real that it forwarded the committee the example to demonstrate how the problem needs to be addressed.

At page 111 of the report the following example is detailed:

Mr X was a 78-year old gentleman who was admitted to our ward area as an emergency admission via casualty.

Then follows a description of the illness of Mr X. He had serious cancer throughout his body. On page 112 the report states:

. . . there was not a great deal more that we could medically do for him.

His relatives were distressed over the deterioration they had observed over the past few weeks in Mr X's condition and well-being. At this time they emphatically expressed their wish that should Mr X arrest while in hospital they in no way wanted an emergency procedure of resuscitation performed on him and wished for him to be allowed to die peacefully with a degree of dignity assured.

His condition continued to deteriorate; the report states that on the Friday evening:

. . . Mr X requested to speak to a hospital chaplain. This opportunity was made available by paging the on-call chaplain. After talking to the chaplain Mr X requested that should he die that evening he had no wish to be actively resuscitated and would prefer to die peacefully. The chaplain relayed this request to the nursing staff.

That is frightening situation. The matter was then discussed by the medical staff. The senior medical officer then contacted the covering resident medical officer to pass on the patient's request that he not be resuscitated should he suffer an arrest. The case report continued:

I would like him to come and medically examine Mr X, in order that we could formally establish that Mr X would not be for resuscitation. The doctor examined Mr X, and agreed that he should not be for cardio-pulmonary resuscitation. However, he also stated that he could not instigate that decision until Monday morning, until he had consulted the Registrar and Consultants of the Unit, thereby allowing his decision to be reached on a team decison.

It was to be the decision of the medical officers; it was not to be Mr X's decison and it was not his relatives' decision but it was the doctors' decision. Why? Because of the common law situation the doctor was terrified. I do not blame the doctors or the health carers.

Honourable members can all guess what happened; unfortunately Mr X could not wait until Monday morning and he suffered an arrest and died. He was immediately given twenty minutes of active resuscitation but eventually it was agreed that he was dead. His relatives were distraught about what had happened and more so about the fact that an attempt had been made to resuscitate him against his, and his relatives' wishes. Mr X did not die with dignity as a consequence of this resuscitation attempt.

Doctors have used this case study to say that a patient must have the opportunity of determining his or her own destiny. Doctors can then respect a patient's wish to die with dignity. It is not the doctor's right as was the instance in this case study.

Mr X and his relatives did not want him to be actively resuscitated and that wish should have been respected. As a direct consequence of this decision, the relatives of Mr X were left wondering about the justice of the attempts to actively resuscitate Mr X thereby negating his right to die with dignity.

What more could the patient have done? He spoke to his relatives, to the chaplain and to the doctor; he spoke to everybody but, unfortunately, it was Friday afternoon and the doctor could not consider his request until Monday morning because the doctor had to protect himself.

The committee had many such cases put before it. Mr Hallam would know them off by heart as I do. He was certainly moved as I was. Eventually, the committee decided to call Dr Joseph Toscano because he was an example of a doctor who had openly admitted to not respecting a person's right to decline treatment. It was clear to the committee the Dr Toscano was an ordinary, caring, decent medical practitioner, as are the vast majority of medical practitioners. However, he felt threatened.

In response to a question from one member of the committee as to why the doctor did not respect John McEwan's request Dr Toscano said:

> Which one of you wants to be a martyr?

Mr Hallam will remember that comment. The committee members all sat feeling foolish because we all knew well that not many would martyr themselves in his place; it is difficult enought to stand up anywhere for something one believes in. The doctor was asked why he had refused to respect John McEwan's rights. He explained to the committee that he had been to an organisation called the Medical Defence Fund—I am sure Mr Chamberlain will know all about that organisation—who are a group of solicitors and barristers who protect the legal interests of medical practitioners. The organisation told Dr Toscano, "There is no possible way you can allow John McEwan to refuse medical treatment as you could be in serious trouble. You could not possibly allow him that opportunity".

The Hon. B. A. Chamberlain—They were wrong!

The Hon. J. L. DIXON—That is the advice that the organisation gave the medical practitioner. In fact, I speak for all members of the Social Development Committee in saying that we believe it was cynical, disgusting, misleading and vicious for Mr Chamberlain to say that the common law works in that way in every possible case.

The Hon. B. A. Chamberlain—I said, "It can be made to work".

The Hon. J. L. DIXON—Mr Chamberlain said that there were no problems with the operation of the common law and the community and that doctors should be educated as to what is the law. It is cynical, cruel and a non-caring to make that statement.

The Hon. B. A. Chamberlain—Exercising the right is the real problem.

The Hon. J. L. DIXON—Certainly there may be some people who will be able to exercise that right. I suppose all honourable members will be able to exercise that right as we are all fairly well educated and articulate, but many people are unable to exercise that right.

It is cynical to expect that situation to occur with the operation of common law. Would a dying patient make a phone call to find a suitable solicitor or barrister to arrange for the matter to be heard in court in two years' time? It is cynical in the extreme to suggest that dying people have recourse to common law. It has been suggested that if a doctor does not respect a patient's rights, the patient can change doctors. It is cynical in the extreme to suggest that a dying patient can change doctors.

Some honourable members will understand the vulnerable situation of a sick person's relationship with his or her doctor. It is a situation of trust. It is difficult for people to exercise their rights because they feel powerless and frightened. People are frightened to refuse medical treatment because they believe they will be dismissed by the doctor.

The Hon. B. A. Chamberlain—That can happen under the Bill too!

The Hon. J. L. DIXON—The committee considered all these matters carefully when it examined the so-called common-law right. Legal practitioners said they would not accept the common-law right. In one situation eight out of ten lawyers said that there was not a common-law right to refuse medical treatment. The situation was totally confusing. The committee was not satisfied with the operation of common law.

We were worried about whether the rights were there. In the discussions we had with Dr Toscano, Mrs Ray asked:

> Who decides whether it is helping a person or not if it is going against the person's expressed wishes; does the patient have any right to express an opinion about whether it is helpful or not?

Dr Toscano replied:

> I am sure that the patient has a right, but I do not think it bears any weight.

The Social Development Committee then examined the position where we could all agree about people refusing treatment—where treatment is being refused and people are not being kept alive on machines, and so on. The position that worried the committee was who would make that decision. That is something we have to make up our minds about: who will make that decison? I do not think medical practitioners want to or ought to make that decison. They are frightened and confused about making that decision to start with; therefore, they have to cover their tracks to ensure that they will not have litigation from a relative if the patient dies. The government believes in the basic human right that people can make decisions about themselves and their bodies. It is somebody else's right. It is not a doctor's right to make those decisions.

Mr Chamberlain held up his hi-tech pen, and that was impressive. He knows and I know that if one chooses not to take one's insulin, that is one's right. If any of us seek medical treatment from a medical practitioner we are not submitting ourselves as prisoners. A medical practitioner has a duty of caring and looking after us, but he is not our prison warder. Because we are receiving medical treatment in a hospital does not mean that we are prisoners. There is no moral law or moral theology that would espouse that view.

If one needs dialysis and chooses not to have it, there is no way that the medical practitioner can handcuff one to the dialysis machine if one is about to refuse treatment. A person has free right, a right to choose. It could be said that it is suicidal and patients should be compelled or informed carefully about that sort of decision, but it is still a right we all have. We cannot give anybody rights over things like that; even an agent under this Bill. Mr Chamberlain is well aware of it.

When Mr Chamberlain spoke on the Bill he said that the patient should never be in a position to refuse. Mr Chamberlain sought to confuse Liberal Party members as well as government members. I hope the government members were not confused.

When talking about the current position, Mr Chamberlain raised the case at St Vincent's Hospital where a patient was allowed to refuse medical treatment. We all read that case carefully. Is it not strange that when one patient refuses medical treatment it is front page news in the *Herald*!

The Hon. B. A. Chamberlain—Because the patient refused a ventilator.

The Hon. J. L. DIXON—Refused medication. The doctors at St Vincent's were placed in a difficult position. They spent weeks before making a decision. The proposed legislation provides a mechanism that will allow that to be carried out in a simple, straightforward way. It clarifies the position and does not place pressure on people.

Before I speak to the Bill itself, I shall pay some attention to a number of the reports that were included in the newspapers and circulated to members of Parliament. Some of those reports have led to the fear and confusion that has surrounded the Bill. I do not want to concentrate on those reports specifically, but part of the process of consultation was perverted by a campaign. Mr Chamberlain went through a long process that totally confused everybody about aspects of the Bill. When I listened to him, he was talking about Bills, draft Bills and so on. I sat and listened to his performance. I hesitate to call them lies, but what he said was not the truth. Consultation took place on the the Bill, and amendments were brought forward partly because of a campaign of fear, paranoia and suspicion. The Social Development Committee understood what the campaign was about and what it was doing to people in Victoria, and on that basis decided to tighten the Bill by amending some provisions to allay that suspicion and paranoia. I do not think most of it was necessary, but the committee was prepared to do that, and that is what consultation is all about. The amendments sought to resolve the major problems that were frightening people.

Mr Chamberlain and members of the National Party said to me that it would be much better if we had a clean Bill rather than an old Bill with amendments.

The Hon. B. A. Chamberlain—We did, and you were confused.

The Hon. J. L. DIXON—The government presented a clean Bill. The campaign conducted during the consultation period was destructive. There are still people in the community who may not have been convinced about some of those matters, and I shall mention a few of the points that were raised. The first matter that upset me was an article headed "Parents Attack Bill on Dying", which said that incompetent people could be legally killed by the refusal of medical treatment if the Medical Treatment Bill currently being considered by the Victorian Parliament becomes law.

Every person involved with the Bill knew that that was not the case, including Mr Chamberlain, but I did not hear him make any comment about it. To satisfy worried parents, the Social Development Committee reaffirmed that parents and next of kin are responsible for decisions about children. All we did in the report and this Bill was to confirm that.

In my view, the potential for abuse would be far less if the Bill were enacted. Yet we have had constant statements week after week. Many of the statements were unfair and many Liberal members were lobbied.

Mr Chamberlain assures me that a telegram he received was not considered at a Liberal Party meeting, but I am not sure how the press found out about that telegram. A Monsignor from Rome sent a telegram to the parish priest at Mill Park, and Mr Chamberlain received that telegram. I should be interested to know about the pleas from Rome, whether the Monsignor knew what Bill he studied, and whether he looked at the amendments and so on.

The Bill deals with incompetent patients in addition to competent patients. We believed it was fairly simple to clarify the common-law rights of competent patients in legislation and to give competent patients the right to refuse medical treatment.

We would have been abrogating our rights and responsibilities as legislators if we passed over making some attempt to allow incompetent patients to have some say. We do not know who makes the decisions at present. People always make decisions about incompetent

patients; they are not left without anyone making decisions, are they? Someone has to make those decisions.

Therefore, we believed the clearest way of doing that would be by using an agent. We thought for a long time about the living will legislation, which is in operation in South Australia. All the time we were looking at information so that people could make the most informed decisions possible.

We rejected the living will concept because we believed it would not lead to informed decisions and would present all sorts of problems. We considered that it was unsatisfactory. We opted for the agent or the extension of a power of attorney so that medical treatment was covered. At the time we believed that the existing power of attorney could be used, and that patients could simply grant a power of attorney to make decisions about their life and death and about their medical treatment in the event of their becoming incompetent.

However, after subsequent investigations we considered it was rather difficult and that a better way would be to appoint an agent for medical treatment so that the patient had a separate person dealing with medical treatment. It is important to understand that point—an agent appointed under a power of attorney can deal with financial matters, and so on; but during the consultation period people pointed out that one might not want the same person making decisions about health and medical treatment as well as about finances.

The Bill allows a person, when competent, to appoint an agent. That agent will act as the person concerned would, in the event of the patient becoming incompetent. In that case, at least, the person concerned—while competent—has made a choice, and has chosen that person himself.

Many cases were brought to our attention about who is considered to be the next of kin. To whom are doctors supposed to listen? What happens in a de facto relationship which has only just begun or which has been in existence for only a short time? Should the doctors listen to the partner in that relationship, or should they listen to the parents of the patient? There have been cases where it has been very difficult for the doctors to decide who was speaking on behalf of the patient. We believe in this case that, if patients choose to have an agent—and it is not compulsory to do so—they will have chosen people who they want to make decisions, and that will help the process considerably.

I should like to point out that there was fairly vehement opposition from the Right to Life Association Victoria to this aspect of the proposed legislation. The association did not believe one could actually allow somebody, while still competent, to have a say about the medical treatment he or she should receive if he or she were to become incompetent. I shall read to the House an interesting statement made by Mrs Tighe of the Right to Life Association in answer to a question asked during the proceedings of the Social Development Committee. We were speaking about people being incompetent, in need of life support, and so on. Mrs Tighe said, in reply to a question asked by Ms Sibree:

> Frankly, if I were in that situation, my greatest fear would be whether they were going to bump me off early.
>
> I am thinking of preparing a document that I will carry on me so that does not happen to me.

That is significant. Mrs Tighe is saying that it is all right for her to have such a document; that she is allowed to give instructions. She believes that would be reasonable in connection with her treatment because that is the kind of treatment she believes is morally right; but, if one has a different view, Mrs Tighe believes one certainly cannot have any say. That sums it up fairly clearly.

Human beings have the right to make those statements about their medical care, so long as they are competent. They should try to exercise that right. As someone on the committee once said, it is like a lottery: in some cases, if one is lucky, one will be able to exercise that right and, in other cases, one may not be able to do so. In the case of incompetent patients, at present it is very difficult for their rights to be respected. We are providing a simple mechanism whereby one can actually say—while one is competent—who is the most

important person in one's life and who one wants to make decisions about one's life and death. That is an important human right.

I shall focus a little on the proposed legislation itself and refer to some of the matters raised by Mr Chamberlain. It was a little unfair because Mr Chamberlain has had the information before him for a long period—in fact, before the Liberal Party meeting decision to oppose the Bill.

I shall foreshadow important amendments that the government will move during the Committee stage. The amendments concern palliative care, which was an issue raised by Mr Chamberlain. The subject is difficult and all honourable members acknowledge that the consultative process has been long and trying. We were very concerned to make sure that no-one was ever in the situation where he or she would be refused, or where anyone could refuse on his or her behalf, food and water. Working out that particular definition was difficult. Honourable members have before them the definition of "palliative care". That definition will resolve the problem. It means that palliative care is now divided into two separate elements; the first is the provision of reasonable medical procedures for the relief of pain and suffering and discomfort; and the second is the reasonable provision of food and water.

This definition will overcome confusion that has arisen because of the use of the term "medical procedures" as one which embraced the provision of food and water. I shall not go into further detail because the subject will be explained during the Committee stage.

The second problem raised by Mr Chamberlain concerned the term "circumstances". Mr Chamberlain found the word "circumstances" to be vague and confusing. Therefore, we are suggesting an amendment that will make it clearer. The amendment makes it clear that the cessation of the medical condition which gave rise to the issuance of a certificate brings the certificate's effectiveness to an end. If a person then becomes ill again, he or she could not rely on an old refusal of medical treatment certificate, but would have to issue a new one.

Another problem which Mr Chamberlain raised concerned fraud and the power of the guardian to take action which may be contrary to the best interests of the patient. The government proposes moving another significant amendment flowing from the concern that the powers of the guardian or agent should be carefully circumscribed.

Clause 9 of the Bill deals with the power of guardians or agents to refuse medical treatment for an incompetent person. The procedure to be followed before an agent or guardian can issue a certificate affecting an incompetent person is the same as that applying to a competent person.

The actual form of the amendment is such that the agent or guardian can refuse medical treatment only if the medical treatment would cause unreasonable distress to the person, or there are reasonable grounds for believing that the person, if competent, would consider that the medical treatment was unwarranted—which is an important point that Mr Chamberlain should consider carefully.

During the committee's inquiry, government members were keen to ensure that an incompetent patient had the same rights as a competent patient. The Bill provides a mechanism whereby the rights of incompetent patients can be exercised in a similar way to those of competent patients. I shall deal with the other medical issues that Mr Chamberlain raised during the Committee stage of the Bill.

Both Liberal and National party members who have spoken on the Bill have said that it deals with only 4 of the 31 recommendations of the Social Development Committee. The Bill does cover only some of those recommendations, but the recommendations must be seen as a package.

The Bill seeks to clarify a legislative right to refuse medical treatment. But it has also been introduced because the Minister for Health was sufficiently concerned to institute an

inquiry into such matters and because the government is concerned about both the rights and the dignity of the terminally ill. Recommendations made by the committee dealt with the not-for-resuscitation procedures, as well as many other issues.

In December 1987 the Minister for Health tabled a statement on the Social Development Committee's Inquiry into Options for Dying with Dignity. In that statement the Minister noted the action that the government has taken on all the recommendations, not merely those recommendations that are dealt with in the Bill. The first action that the government took was to introduce the Medical Treatment Bill. The government was also concerned to institute not-for-resuscitation guidelines.

Members of the committee were told disturbing stories about the way in which hospitals handled not-for-resuscitation cases. The government has requested all health care institutions to send their guidelines on the matter to Health Department Victoria so that those guidelines can be checked and a uniform policy can be formulated. That information has been provided by 57 health care institutions already.

The committee was concerned about the education matters that were raised by Mr Chamberlain. We asked Health Department Victoria to institute many recommendations which would enable people to understand the law, the informed consent procedure, and so on. The government has asked that that information be disseminated.

One of the most important recommendations made by the committee dealt with the issue of palliative care. One of my colleagues will speak about the work that the government has done in that area—which again is part of the whole package I referred to. The establishment of the first Palliative Care Council was announced by the Minister for Health some weeks ago. The Minister has recognised the contribution the Social Development Committee made to the establishment of the Palliative Care Council. Members of the community need to be educated about the issue of palliative care, care that is vital to dying patients.

People cannot be educated about such issues until the issues are clarified. The situation is confused at present. That is why the Bill, as part of a package, is important. An education program about palliative care has been instituted by the Minister for Health. People need to understand that if they refuse intrusive treatment in a major hospital because they cannot stand it any more, they will be able to receive palliative care when they return home. It is important that they understand that they will not be neglected.

Members of the Social Development Committee were told many times that people were frightened to refuse such treatment because of the fear that they would not be looked after and provided with treatment for their pain if they returned home. Many doctors were unable to cope with providing that type of pain relief. It is important that the government upgrade the level of palliative care.

The introduction of the Bill, which is widely supported, has come about as a result of a great deal of consultation. The people who were consulted about the measure were of great assistance in the formulation of the Bill. I shall place some of their names on the record.

First of all, I should like to express my appreciation for the courage displayed by the Minister for Health in his decision to refer the matters dealt with in the Bill to the Social Development Committee. It was an important decision to take, especially as the matters dealt with in the Bill were not, at that stage, party political matters.

I thank those staff members who worked with the committee and did a great deal of work on the Bill. I especially mention Mr Kevin O'Connor, who did so much painstaking and dedicated work over a long period. He was always prepared to consult with both people in the community and members of Parliament. I also thank my colleagues on the Social Development Committee. The recommendations made by the committee represent an outstanding achievement.

I assure those colleagues who are members of the Opposition that the provisions contained in the Bill accurately reflect the recommendations that were made. I believe the Bill will introduce a new era for patients, because it will ensure that ethical and moral considerations are to the forefront in the treatment of patients.

I briefly mention the support the committee received from the Anglican Church, the Catholic Church and the St Vincent's Bioethics Centre. The committee also received support from Pro-Life Victoria and the Probate Rules and Imposts Committee of the Law Institute of Victoria, as well as support from the Anglican and Catholic dioceses, Father Tom Daly and the Jesuit Theological College. Many other people provided support, including Professor Penington from the University of Melbourne, Professor Graham Ryan from the University of Melbourne, Mr Tony Coady from the Department of Philosophy at the University of Melbourne, Professor Max Charlesworth from Deakin University, Professor John Power from the Political Science Department at Melbourne University, the Reverend Alan Nichols and Father Bill Uren—who, at a press conference today, suggested that the Liberal Party should exercise commonsense in dealing with the matters raised by the Bill.

Many statements of support have been received from hospitals throughout the State. Support for the proposed legislation was also received from Ms Pauline Ross, Executive Director, Nursing and Client Services, Monash Medical Centre, and from Dr Olver, from the Peter MacCallum Hospital. It is a mix of support because it is a difficult matter.

Mr Chamberlain's emphasis was on the medical debate, but it is essentially a moral and ethical question. It is a question about people's human rights in the medical context, which makes it a very difficult matter.

I ask honourable members to consider the Bill very carefully and I commend it to the House.

The sitting was suspended at 6.32 *p.m. until* 8.8. *p.m.*

The Hon. J. V. C. GUEST (Monash Province)—It is most regrettable that Mrs Dixon, who has earned so much credit for her conscientious efforts to find solutions to what are undoubtedly serious problems, should have lost so much credit by her personal attack this afternoon on Mr Chamberlain, who, on the evidence of the past few weeks, but particularly today, has done more conscientious, intelligent and diligent work on this matter than anyone else in Parliament; and the fruits of that work were shown very lucidly this afternoon.

Mr Chamberlain was smeared in several ways, not just by Mrs Dixon, but by many cheap interjections. He was accused of an association with or of succumbing to the right to life movement. I hope those honourable members who said that heard Mr Chamberlain on the *7.30 Report* this evening, where he said quite unequivocally that he despised the tactics of that organisation and the way it tries to blackmail people.

The Hon. J. L. Dixon—He likes what they stand for, though.

The Hon. J. V. C. GUEST—As I said, Mr Chamberlain decried blackmail tactics.

The Hon. M. J. Arnold—They claimed victory, in fact.

The Hon. J. V. C. GUEST—I know it is understandable that Mr Arnold should be behaving like this after dinner.

The Hon. M. J. Arnold interjected.

The PRESIDENT—Order! The House will come to order. I suggest that Mr Guest ignore the interjections. I suggest also that Mr Arnold refrain from interjecting. He will have ample opportunity to speak in the debate.

The Hon. J. V. C. GUEST—The House has heard Mr Arnold leading the chorus of cheap interjectors in a way which was quite incomprehensible while dealing with such an

important and sensitive matter. Mr Arnold has accused members of the Liberal Party in general and Mr Chamberlain in particular of opportunism and giving in to the Right to Life Association. Mr Chamberlain is now owed an apology by Mrs Dixon and Mr Arnold, because it is clear that he has conscientiously sought to develop a well-researched position for the Liberal Party and for the Parliament so that this House can act as the safeguard it should be.

The Hon. J. L. Dixon—Back to the Dark Ages!

The Hon. J. V. C. GUEST—An example of Mrs Dixon's carelessness with the facts is that she picked up the second last paragraph of my letter in the *Age* this morning—obviously fresh in her memory, and totally misrepresented what I said. Mrs Dixon said that my letter asserted that all legislation led to litigation. It was clearly not what I said. I said that the most likely product of any legislation is litigation and further amending legislation. That can be fairly well substantiated and, in any event, it is not a statement——

The Hon. M. J. Arnold—You were stronger on the blackmail issue.

The Hon. J. V. C. GUEST—I strongly object and this House should strongly object to Mrs Dixon, who has lived with this issue for two years, carelessly refraining from putting any substantial arguments on the Bill and carelessly misrepresenting the facts. The reason I shall ultimately not vote for the Bill is because I have not heard of any case with which this Bill would deal effectively or any problem that this Bill would solve. Mrs Dixon did not address her argument to any solution or the detail of any solution, and the detail of how the solution would work. I have arrived at the conclusion that there is no balance of convenience shown for the passing of this Bill as opposed to the rejecting of it. It is obvious that the emotion generated by the issue is typical of issues where there is no clear-cut answer on one side or the other.

The Hon. J. L. Dixon—You will not let us have an answer!

The Hon. J. V. C. GUEST—It is only foolishness, some sort of emotion scarcely attached to one's ego, or some argument attached to the issue which allows one to come down on one side or the other with passionate certainty. I come down simply on the side of saying that, if there is not an adequate case made out for changing the law, honourable members should not take the risk of changing it.

This is proposed legislation designed to deal with hard cases. The expression, "hard cases make bad law" is familiar to lawyers and, I think, to others. For lawyers the expression refers to a well-understood situation where courts or Parliaments pick on the hard case and seek a remedy which is totally impractical as a general rule. They make bad laws because they are over-sensitive to the hard case and because they try to find a solution to individual circumstances which is likely to have unintended consequences.

The Hon. D. R. White—Have you had a look at the issue of resuscitation and civil liberties surrounding resuscitation?

The Hon. J. V. C. GUEST—Yes.

The Hon. D. R. White—I want to hear from you on it!

The Hon. J. V. C. GUEST—The Bill is evidence of the problem of attempting to find a solution to the hard case. It has obviously been hard for the government to make good law. There have been eight versions of the Bill and honourable members are to be presented with more amendments. Yet the government asks the House to have confidence that it is getting the Bill right now. How many more sets of amendments are honourable members to expect? I should have a great deal more confidence in the proposition that now, in April 1988, after many changes to this relatively simple legislation, we were going to get it right and that the balance of convenience was in passing the proposed legislation, if the government had shown that it had taken all the practical steps disclosed as necessary by the report of the Social Development Committee and by reflection on the problem itself.

Can the Minister for Health or Mrs Dixon say whether public hospitals, private hospitals, medical practitioners, nurses, and social workers are now all in possession of suitable guidelines to allow them to ensure that the common law as it is works as well as it can? Do they have forms for powers of attorney to give to people to sign and to give to relatives? If the government has not done that, I wonder how it envisages that the Bill will work?

Does the government envisage a patient in extremis will consult the Bill, rely on knowledge of the Bill, which for a layman is quite complicated, and then insist on the doctor—possibly an old friend or someone of whom the patient is in awe—producing the right form and giving the necessary explanation, when the doctor might strongly disapprove of the course which the form would allow or require? If hospitals, doctors and social workers actually have to make the common law or this Bill work, I have no confidence that the government, Mrs Dixon or any of the people she referred to as "we"—they were not members of the Parliamentary committee, but possibly of the caucus committee——

The Hon. J. L. Dixon—There is no caucus committee.

The Hon. D. R. White—You were referring to the Parliamentary committee?

The Hon. J. L. Dixon—Yes, the Parliamentary committee.

The Hon. J. V. C. GUEST—I am glad to have that matter cleared up. At times, Mrs Dixon was careful to refer to "members of the Parliamentary committee"; then she referred to "we". The members of the committee certainly did not recommend that half of the Bill which deals with appointment of an agent. That is something that has emerged——

The Hon. J. L. Dixon—What did we not recommend? You tell me.

The Hon. J. V. C. GUEST—Mrs Dixon does not care about details. At page 199 of the report of the Social Development Committee, under 6.8, recommendation 21 appears:

> That concerned members of the public consider the value of appointing a person to act on their behalf in case of their incompetency by way of an Enduring Power of Attorney.

That is in recommendation No. 21, also in the summary at the front of the report. There is no reference to legislating for agency in the report's recommendations.

Reference is also made to the incompetency of minors. There is nothing about that in the Bill.

The Hon. J. L. Dixon—There is a fair bit about it in the report.

The Hon. J. V. C. GUEST—Indeed, and Mrs Dixon's case is that the report is to be regarded as a source and justification for the Bill. I make the point that the Bill contains nothing about recommendation 17 of the Social Development Committee that the jurisdiction of the Guardianship and Administration Board in respect of major medical treatment be extended to include incompetent minors who are subject to State guardianship. As Mrs Dixon clearly pointed out, the Social Development Committee considered the condition of incompetent patients, but it did not recommend proposed legislation on that subject.

Mrs Dixon put much weight on the justification of this Bill being the committee's report. However, the "we" she referred to—the committee—did not recommend any legislation on the subject of appointing an agent. It is clear that all the difficulties about common law had resolved themselves in the minds of members of the Social Development Committee. The fact is that an enduring power of attorney can be given to cover anything the person giving that power of attorney is capable of doing.

Mrs Dixon referred to the need for a power of attorney or the appointment of an agent relating just to medical treatment, and there is no problem with that as the law stands now. An enduring power of attorney can be given to a solicitor, say, in relation to one's financial affairs to a spouse, brother or sister in relation to one's medical treatment. That

is quite clear under statute law as it currently stands. If that were not so, why would the Bill refer to the existing legislation? The Bill presupposes that provisions in the Instruments Act relating to enduring powers of attorney are sufficient to allow an agent given that power the ability to consent to or refuse medical treatment.

I accept that Mrs Dixon cares for the welfare of her fellow human beings and that she put a lot of that care into the report, as did all members of the Social Development Committee. The report has done a lot of good already. I was about to express a certainty, by my position on the Bill must rely to some extent on the inevitable uncertainty of all human affairs and not least in our efforts at law making. So I merely say it is most unlikely, after all the publicity generated in relation to the cases of Mr X and John McEwan, as well as the report of the Social Development Committee and the inquiry preceding it, that John McEwan would again suffer in the way he suffered or that the family of Mr X would suffer in the way described in the report.

I point out that Mr X does not appear to have suffered. He was lucky that he could not be resuscitated. However, there are difficulties about the case of Mr X. I strongly suspect that a view was put by a number of doctors at the Austin Hospital who saw a problem with some of their superiors who needed education.

The Hon. J. L. Dixon—How would you know, you stupid idiot?

The Hon. J. V. C. GUEST—I have read the material and made reasonable inferences from it. The Bill has a remote relationship to the report.

The Hon. D. R. White—That is an exaggeration!

The Hon. J. V. C. GUEST—The Bill is at least eight versions away from the report. Approximately 50 per cent of the material in the Bill has little to do with the report. It certainly ignores large sections of the report. The impetus of the government to introduce a Bill would not have arisen without the issuing of the report and the advocacy of Mrs Dixon. However, the report by no means justifies the Bill. We have gone a long way since the report was tabled in Parliament. The Opposition has heard many submissions and arguments, and Mr Chamberlain referred to many of the relevant submissions.

Another aspect that has not been mentioned is that the original impetus for the inquiry that led to the report had much more to do with euthanasia than the simple refusal of medical treatment. The submissions to the committee, according to those published, related to euthanasia and not to the subject matter of the Bill. I have read all the case studies and categorised them; I have classified all the 55 case studies included in the report.

I was conscious of the amount of work that had gone into the report on the part of Mrs Dixon and other members of the committee, just as I was conscious of the fervour with which some people support the Bill. Even if those people did not come to me to try to make a case, I wanted to be sure that I had considered the evidence as well as possible.

Of the 55 case studies, 38 were from people who wanted euthanasia to be legalised. Of those 38 cases, some related to how euthanasia was achieved. Approximately eleven of the cases related to satisfactory procedures, the only problem being that dying is usually unpleasant. Three or four cases were simply sad stories with no point relevant to any proposed legislation. There was no evidence of doctors refusing to do the right thing or acting in an inappropriate way.

Honourable members must get back to the cases of John McEwan and Mr X for any kind of relevant evidence in the report. Mr X did not give a power of attorney, and because of that, his relatives could not take any effective action. Presumably, they were overawed by the strong mind of a doctor, which is fairly probable and will occur regardless of the law. If the relatives had a power of attorney for Mr X, they could have rejected the resuscitation procedure on his behalf. Resuscitation invovles the physical dealing by hands and instruments with a human body. Without consent to those manipulations, the

resuscitation can amount to battery. If the relatives had the power of attorney, they could have said, "We have a clear statement from Mr X that we are his attorneys and his wishes are that no such procedures are to be carried out".

The alternative would have been for the relatives to have taken legal advice. If they had been properly advised, a solicitor could have got an injunction from a judge within an hour or so based on the instructions already given by Mr X. In that case, as soon as the relatives knew what the hospital was intending to do, they could have taken effective action to prevent it.

If they had felt strongly enough about it, they could have sued for assault or battery afterwards because they knew the wishes of the deceased, knew what he had told those responsible for his care, and they could have said that what was done was without his consent. I know that no case of assault or battery has been brought in such circumstances.

Mrs Lyster suggested that a case of medical trespass could be brought; but it is equally unlikely that a case of medical trespass would be brought. It is not the nature of Australians, in their relationships with the medical profession, to bring action. Whether the Bill would work depends on what the common law depends on now: that is the relationships people have with the caring professionals. The traditions and sensitivities that members of the caring professions have are all important.

As I have said before, one will not overcome the problem of doctors who take a moral view of what a patient is trying to do, even though suicide is no longer a crime, because the doctor may have ethical or religious views that make him most reluctant under any circumstances of law to participate in what he believes to be moral suicide.

I suggest that if one does not have that particular problem with one's doctor, on the whole one will find the medical profession, which has a few incompetents and a few who have more problems of their own than their patients, deals with these extraordinarily difficult cases extremely well. That has been my experience and the experience of those whom I have talked to. Of course, it will not always be the case.

One of the reasons it will not always be the case will equally affect the operation of the Bill. When one envisages the relationship between the ordinary Australian patient and his doctors and nurses, the patient would often feel it is insulting the medical profession to ask for the certificate that enables him to give direction to the doctor and legal definition to the protection the doctor needs to prevent his actions being questioned. It must be remembered too that the legal offence created by the Bill, medical trespass, is a punishable offence, an offence punishable in the same way as assault or battery. Generally the attitude is likely to be that the patient is already dependent on the doctor and would not want to bring himself to insist on anything that is not the doctor's wishes.

Assertion of the patient's rights depends on the proper practice being established in hosptials, in general practice surgeries, in specialists' rooms, with social workers and with hospital chaplains, to ensure that patients who might possibly need to make their views very clear can refuse certain treatment or give authority to do that for them to someone other than the medical profession. The committee showed that that had already been achieved under common law in many cases.

As government speakers have failed to deal with this aspect in detail, I shall do so now. Even if the Minister or the government do not take the project they instigated seriously, it is likely that many doctors will develop appropriate forms and practices. That is what one would have to rely on under the Bill. If a patient did get hold of the relevant form, it could well be because the doctor sought the protection given to doctors under this measure. That still does not justify the proposed legislation. As Mr Chamberlain said, the Bill goes too far in some cases in protecting doctors who do not need protection. This is especially the case with the agency provisions.

I turn now briefly to what will be the ninth version of the Bill. Mrs Dixon referred to the care taken, and the amendments made or proposed, to ensure that a patient cannot refuse

food and drink. At least two further questions arise from that: one is whether that means that the food will be forced into the mouth of a patient. Is it yet another case of the government not having thought the matter through? Does this really mean that the patient cannot refuse any food and drink?

A number of cases that were not commented on adversely which were related in the committee's report were of old people who simply refused to eat. Will those people suffering from the terminal illness of old age have their mouths levered open and food shoved into them? Possibly this is not just a failure of the government to think clearly but also a failure to bite the bullet. If the patients are not fed orally, will they have tubes inserted into their veins so that they obtain the nutrients compulsorily? The government has failed to spell out the detail of the proposed legislation that would help members of the medical profession in this respect as well as other drafting problems referred to by Mr Chamberlain.

Finally, is there anything that will stop a doctor from arranging to have a patient certified? If the circumstances that attended the case of John McEwan are feared to be circumstances that could arise again—the circumstances under common law being that the patient was certified because he expressed the wish to die—why should that not happen again under the Bill? It could depend, on the one hand, on the doctor's moral views or, on the other hand, it could happen because the doctor felt a genuine apprehension because someone who had much to gain out of life was making a decision in a state of depression amounting to mental incompetence. I do not envisage that the Bill making any difference to that situation.

In the end I reach this conclusion: I was listening to Mrs Dixon carefully because I have a mind still open to persuasion in this matter—although I am doubtful anything more can be put to me that I have not already heard. It would not trouble my conscience to vote for the Bill—it could not do any great harm voting for the second reading of the Bill—but I am totally unpersuaded that the measure solves any problem that cannot be solved some other way at least as well. For that reason, as a matter of principle, having to choose between voting for the second reading of the Bill and voting against it, I choose to vote against it.

The Hon. B. P. DUNN (North Western Province)—I shall not take up the time of the House to any great extent other than to address some comments to the principles contained in the Bill. It is suggested that this is a clarifying measure. The Bill goes further than that by seeking to introduce, in legislative form, procedures which will allow people to decline treatment that would sustain their life and which will allow them to appoint an agent to make that decision if they are incompetent to make a decision for themselves. The Bill is not only a clarifying measure, it is also a fairly extensive measure that, if passed, will be placed on the statute-book.

It is an important and far-reaching principle. It is a decision to terminate a human life, and honourable members are debating who should have the right to make that decision; that is the basis of the proposed legislation.

The Hon. Jean McLean—The person involved.

The Hon. B. P. DUNN—It is not just the person involved; the proposed legislation gives that right to an agent as well as to the person involved.

Honourable members know the history of this measure. The Bill follows the Mackenzie private member's Bill introduced in this House in 1980, the Refusal of Medical Treatment Bill, and the report of the Social Development Committee. I know the work that committee undertook, from discussions with the National Party's member on that committee, Mr Roger Hallam from this place, and I appreciate the work and the dedication of the committee members in compiling that report; I do not fault it in any particular way. It is possible to quote extreme cases in which the House could be led to legislate. On almost every piece of proposed legislation that is introduced the House could zero in on extreme

cases to justify an argument that the measure is necessary and vital and should become law in this State. However, as legislators we must consider the wider effects and the total implications of proposed legislation.

I have examined the common-law right. Even the committee agrees that that right covers most situations in this State. Page 43 of the report, in dealing with the law in Victoria, pointed to this right and indicated that some witnesses considered legislation establishing the right to die unnecessary because a patient already has a common-law right to refuse treatment. Many submissions and letters have clearly indicated to the committee that such a right is not known or understood by many people. However, that does not justify the need to pass legislation to clarify the issue. In my view, that means increased attention needs to be given to existing rights under common law that prevail in this State.

As I said before, the report pointed to that confusion and the lack of knowledge by patients of their individual rights. There is a need to concentrate on that lack of knowledge, and I understand the committee took up the matter of ensuring that people receive that sort of information.

Medical decisions of the kind under consideration in this debate are being made every day by medical people, with families and patients involved at that time. I believe judgments are being made in consultation with doctors and families. I have had some personal experience in the treatment of terminally ill patients, due to my son's involvement with leukaemia in 1973 when he received ten months of intensive chemotherapy treatment. At that stage my wife and I saw patients and doctors dealing with the day-to-day problems of managing terminally ill children. There may be exceptions, but I frankly believe doctors and medical people have the competency and understanding to be able to guide and assess the decisions that should be made, possibly better than the patients themselves on many occasions, and certainly better than an agent or someone else who may be appointed on the patient's behalf.

One may point to situations where that competency does not exist, but that would not justify the proposed legislation. What I am saying to Mrs Dixon is that, in my family's case, where we saw the management of terminally ill children—as our child was—the doctors and medical people concerned at the Royal Children's Hospital were able to manage the situation with the understanding necessary to bring the whole family together to decide what was best.

Many people under intensive care and on life support systems undergoing what is, on occasions, horrific treatment to deal with horrific diseases or injuries would, if they were asked at the time, with the influence of depression, pain and so forth, say: "I am finished; I do not want to go on; I would rather stop the treatment". Many would say that, and many have said that, but the treatment has not been stopped and they have led full and normal lives following that treatment.

Honourable members can quote as many instances as they like of cases where people, if they had been asked and had had the ability to make a decision, would have said: "It is my decision; I am finished; I cannot stand it any more". There are exceptions. Doctors are in a position to be able to make a balanced judgment, taking into account a whole range of factors—not just the patient, but the family, the treatment and the quality of the lives those people are likely to live if they recover. Many patients who thought they would not recover and wished they could avoid further treatment have recovered and gone on to lead full lives.

The Hon. Robert Lawson—Did your child recover?

The Hon. B. P. DUNN—No, he did not, but many people do recover from the treatment and lead happy and full lives.

I sought information on this matter and was furnished with a submission from the Surgeon-General of the United States of America, Dr Everett Koop, who has had considerable experience in dealing with terminally ill patients. He detailed the way in

which he would manage the situation of dealing with a terminally ill patient and deciding whether treatment should continue. I am not talking about agents making the decision in this case, but a guided decision by a person who understands the medical aspects, the treatment, what is involved and the likely prognosis. He gave the following case, which I shall quote only in part:

There have been many occasions when I have withheld extraordinary measures in the care of a patient in order not to prolong his or her act of dying. For me to withhold such treatment, I have to adhere to three self-imposed rules. I must know an extraordinary amount about the disease process under consideration. I must know an extraordinary amount about my patient. I must know an extraordinary amount about the reaction of my patient to the disease process in question.

Let me illustrate. There is a unique tumor of childhood called the neuroblastoma in which I have been interested for more than thirty years. I have developed a broad clinical experience with this tumor and understand its behaviour as it affects the lives of my patients. I have had referred to me an inordinate number of patients with neuroblastoma and no-one has reported a more favourable survival rate following treatment than have I . . .

Suppose that you presented me with your two-year-old daughter two years ago and that I diagnosed a neuroblastoma. Let us say that I removed the tumor surgically, then gave radiation therapy to your child, and then instituted a regimen of anticancer chemotherapy to be given on a continuing basis. Now after two years I see that your child is failing and I sit down with you to discuss her future. I might say something like this:

> 'We have known each other now for two years. I think you recognize with reference to the tumor affecting your child, that I know an extraordinary amount. I certainly have come to know an extraordinary amount about your little girl and an extraordinary amount about how she and her tumor get along with each other. I am sure that you can see as I can that she is failing. There is nothing more that I can do for her surgically. Radiation will not help at this stage of the game. And now I am going to suggest that we withhold the extraordinary chemotherapy that she has been receiving. If we continue the chemotherapy, it is my belief that your little girl will probably die in about six weeks. During the latter half of that, time, however, she will have excruciating pain which we will be able to control, but she will be very depressed during all of that time. In addition, on the basis of the way the tumor is growing, I think she will be both blind and deaf before she dies. If we don't give her chemotherapy, I think she will slip quietly out of this life in the next three weeks, but she will have little pain and will avoid the deafness and blindness.'

Further, he states:

I think that is practising good medicine for the child and for the family. I think it is practising medicine in the realm of trust between that little girl and me and between her family and me.

It is clear, therefore, that decisions made in circumstances like that can be tailored and made by the person other than the patient who is closest to the disease, and with a wider understanding, having worked through the treatment process. That person may be better equipped than the patient to make that decision; he certainly may be better equipped than an agent or guardian appointed on behalf of the patient.

Although that decision relates to a child, it could well apply to an aged member of one's family—a grandmother or grandfather. I wonder why the State should legislate if that system can work. Of course, one can point to extreme cases of difficulty—honourable members know they are there—but the question is whether we should legislate to cover those cases without considering the wider implications. I am particularly concerned about the provisions covering agents and guardians, particularly agents. An enormous responsibility will be placed on the shoulders of people appointed as agents at a time when such people are faced with delicate decisions.

For example, a son or daughter may be appointed as agent for his or her mother or father. Not being experienced in the trauma of intensive care treatment or in the facts of life of medical treatment, that person would be faced with a decision about seeing his or her mother or father suffering under life support systems in a hospital. Many people would not be well equipped in that situation to decide whether to terminate treatment, particularly if they involved a loved one.

On most occasions where an agent would be appointed, it would be someone closely related, certainly next of kin or a close family member, who would be appointed to serve in that way. It would not only be a very difficult decision for that person but also he or she may be ill-equipped to handle it, firstly, because of a lack of knowledge of medical

treatment and, secondly, because of the person's inability to put up with viewing his or her mother or father suffering in that way.

When dealing with patients who are terminally ill, or who are subjected to horrendous injuries, very few members of our society would be equipped to cooly and calmly make a decision, particularly to decide whether that person should be able to continue to have a chance at life, or whether treatment should be stopped. At that stage I should prefer to look to the person in whom I would have trust, that is, the person with the full understanding of medical treatment and practices—the doctor involved.

I understand there are difficulties in large metropolitan hospitals where people do not have the same doctor–patient relationship that is experienced in many smaller Victorian communities. In rural areas a doctor often deals with a person at that person's birth through to the delivery of his or her own children and beyond. There is an ongoing relationship of trust. I recognise that in some larger hospitals there is some cause for concern that a person with an illness might be dealing with a different doctor every day. I do not know whether that justifies the introduction of this Bill, whether it means that society should closely examine its health system and the ability to choose one's doctor, or the way in which the doctor–patient relationship can exist in those hospitals as it is meant to exist, and as it does exist in many small institutions. The appointment of an agent for patients in such circumstances is a step that should not be taken. It is fraught with danger and I am deeply concerned about its implications.

The Bill goes too far. I do not support the advocates of euthanasia. I do not support any legislation which takes a step, albeit a small one, down that path. This measure certainly takes a small step down that path.

The Bill could be described as the thin end of the wedge. If the measure were passed, it might lead to further amendments over a period which would widen its implications. I recognise that many people advocate that, but it would place a constraint on the doctor–patient relationship, and that relationship should be built on and not destroyed. The measure would be open to misinterpretation and possible abuse. Nothing that I have heard leads me to believe those dangers are not inherent in this Bill. On that basis, at this stage the obvious course for Parliament to take is to not pass the measure.

The Hon. M. A. LYSTER (Chelsea Province)—I must admit that, in considering my contribution to this debate, two words come to mind: "confusion" and "clarification". I see confusion in the minds of the Opposition and also in the electorate as a result of attitudes expressed by the Opposition. I hope in some way I, together with my colleagues, can clarify that concern because of the significant importance the government places upon this measure.

This is not radical proposed legislation. I shall refer to what I have learnt about the Parliamentary process since I came into this place in July 1985. I thought if a government wanted to act in an area that it knew was a very sensitive and delicate matter for the community, the best approach was its referral to a joint Parliamentary committee; that by framing terms of reference that had been canvassed extensively by the political parties, by ensuring support for those terms of reference and by encouraging the resourcing of the committee such a bipartisan approach would advance debate in the community on that matter of such sensitivity.

That is the process that I believed I was part of in the latter half of 1985. I saw the terms of reference that were given to the all-party Social Development Committee. Although I am not a member, I saw the members of the committee from the three parties truly agonise over their deliberations. After members had heard certain evidence and had been to certain places, I observed that they were truly affected by what they had heard and seen. I have spoken to members of that committee. Obviously, I am closer to my Labor Party colleagues, Mrs Dixon and others such as the honourable member for Box Hill, Mrs Ray, in the other place. I have heard their expressions of concern and, in later months, of relief as it became obvious to them that an agreed attitude to this sensitive matter was developing.

On the publication of the second report of the Social Development Committee I knew that all members of the committee were justifiably proud that, in dealing with a matter that was the cause of significant concern and personal anguish to most members of this House, they believed they had done credit to that reference.

I pay credit to every member of that committee. They are to be commended on their efforts to be objective, to collect evidence and to be as open minded as possible on the matter. Their conclusions were sensible. They addressed the questions that were originally given to the committee. Not only did they advance the debate but also they made a real contribution to the moral stability and welfare of the community throughout the State.

After the first draft of the Bill, I heard comments from the electorate I represent and I received many letters. I was interested to see how the government would take up some of the recommendations of the Social Development Committee and how it would address other recommendations about which I shall speak later.

I observed Mrs Dixon and other members of the committee seeking to accommodate every view expressed. That was not possible but I commend them for the way in which they sought so hard to ensure that if a Bill came before Parliament it would reflect the spirit of the views that were presented to them in their intensive and objective evaluation and examination of this subject and would further the cause of humanity in our State.

Mrs Dixon has traced the process of the rewrite of the two draft Bills. I believe every effort has been made at every stage to accommodate the concerns that have been expressed. Even after the drawing up of the Bill now before us, there was willingness to move if there was any area of concern. The area in which I have a particular concern is that of palliative care.

Mrs Dixon has foreshadowed some proposed amendments. She has gone through the issue again in an attempt to accommodate the concerns that have been expressed. There has been goodwill throughout until, out of the blue and despite a bipartisan, unanimous recommendation by the Social Development Committee, the Liberal Party and National Party here today have decided to reject to the proposed legislation.

That confuses me, as it confuses many people in the province I represent and many people working in the hospital area with whom I am familiar. I am not a lawyer like the two contributors from the Liberal Party; I do not have the background of eighteen months' involvement in the Social Development Committee that Mrs Dixon has. I come to this debate as a parent, a daughter and a daughter-in-law.

I do not understand the agenda. I do not understand this sudden turnaround on something that is so important to our community. I do not know whether it is pressure from lobby groups or whether some other agenda is running. I thought Parliament was approaching this important community issue in the right way. I have seen evidence time and again from the opposition parties as well as from my own colleagues of attempts to work together to address real issues, but Mr Chamberlain has today said in this House that this is not an issue.

The Hon. J. L. Dixon—Not a problem.

The Hon. M. A. LYSTER—That it is not a problem! I cannot agree that this is not a problem. It is a very real problem, Mr President, for the doctors in our hospitals who face this on a daily basis. It is a problem for our nurses and for every son and daughter in this community. It is a problem, tragically, for many parents. I know the Bill relates to people over eighteen years of age, but people over eighteen years of age have parents.

The Hon. A. J. Long—That is nonsense. You have no proof of that.

The Hon. M. A. LYSTER—Mr President, I shall ignore that ridiculous interjection as Mrs Dixon bravely ignored the interjections made while she was speaking. Those interjections accused her of presenting a "bleeding-heart" story. I found that most objectionable. If any person on this inquiry gave as much as any human being could give

it was Mrs Judith Dixon. To hear her accused by members of the Opposition of presenting a bleeding-heart story is most objectionable. I did not want to interrupt my colleague by taking exception to that interjection at the time, but I found it despicable. I know that is a side issue but, again, it is something that is confusing me.

I turn to the Bill. It has been claimed that a common-law right deals with this problem. Mrs Dixon described the process of the common-law right. People in terminal care do not understand, even if they know about the process, about approaching the Supreme Court. Moreover, their families, loved ones and friends are in no state to be considering that sort of process. If they do take the step of seeking legal advice, it is obvious from evidence given to the Social Development Committee that their knowledge is dependent on the person they consult. Different legal advisers can give different advice. It is up to family and friends to interpret that legal advice. The ability of a person to take up the common-law right is further confused.

Education is absolutely imperative. Regardless of which legal status is relied upon, whether it be common law or the provisions of the Bill, education is absolutely crucial. People must be aware of the avenues available to them so that they can seek the best prospect for their loved ones. That is why the Bill is only part of a package. Those who have read the recommendations of the Social Development Committee will know that a significant component of the recommendations is concerned with education of the community. That education has already commenced and the headlines in the newspapers tomorrow morning will be about education of the community.

I should like to think that those headlines in the newspapers tomorrow morning will be part of the educative process; that they will, in fact, move community thinking on, so that members of the community, particularly patients, realise that they do have some rights.

I am also concerned about the education of the medical profession. From the evidence that I have read and particularly the quotation given by Sir Gustav Nossal, I know that medical treatment can be divided into three categories: preventive health, curative health and palliative care. The confusion in the community relates to the difficulty of understanding the differences between those three categories, and I believe there has been too great an emphasis in our medical education institutions on the curative elements of the work of medical practitioners.

This government, in particular, deals with preventive health through many other structures that are perhaps not relevant to this debate, but that line between curative and palliative care is, I believe, crucial to an understanding of what this Bill and the Social Development Committee's report are all about.

I can only assume that there is still confusion in the minds of some members of the Opposition about the difference between curative treatment and palliative care. To me, that difference is quite clearly spelt out in the definitions in the Bill. I should like to read those definitions.

The Hon. B. W. Mier—They are not confused; they are interested only in votes—cheap, blackmail votes.

The Hon. M. A. LYSTER—Among the definitions contained in clause 3 is the definition of medical treatment, and honourable members are talking about the right to refuse medical treatment.

The Hon. B. W. Mier interjected.

The PRESIDENT—Order! I remind Mr Mier that he is not in his place and that all his interjections are disorderly.

The Hon. M. A. LYSTER—Clause 3 states:

"Medical treatment" . . .

This is what we are talking about—people having the right to refuse:

. . . means the carrying out of—

(*a*) an operation; or

(*b*) the administration of a drug or other like substance; or

(*c*) any other medical procedure—

The expression "any other medical procedure" is all-encompassing, but there is a rider to that:

. . . but does not include palliative care.

I believe there has been a dismissal of that rider to the definition of medical treatment. A person with a terminal illness has the right to refuse an operation. The person knows he or she is dying; he or she has the right to say, "I do not want"—in many cases—"yet another operation. I have had enough. I do not want it. Just let me be." I really cannot understand why that provides a difficulty to the opposition parties.

I refer to paragraph (*b*) of the definition of medical treatment, which is, "the administration of a drug or other like substance". Some of those people may be saying—and, indeed, they are saying it, as evidenced by what has been said to the Social Development Committee both by patients and their families—"I have had chemotherapy. I have had drugs. I do not want any more. I do not want any more curative treatment and I do not want"—as is expressed in paragraph (*c*)—"any other medical treatment'. What I want is palliative care".

They may not use those words, quite obviously, but what they want is to be able to die with dignity. That is where the palliative care definition becomes so important. Clause 3 of the Bill defines palliative care as "a medical procedure for the purposes of relief of pain, suffering or discomfort, including the provision"—for those who imagine for some reason that we are in some cruel, barbaric, uncivilised State—"of food or water". I have heard people say that this Bill will preclude the provision of food and water to people with terminal illness. I do not know where that view could possibly come from.

The Hon. B. W. Mier—I do—from Margaret Tighe!

The Hon. M. A. LYSTER—I cannot imagine what sort of barbaric thinking would lead anybody to imagine that this government would even contemplate including that in legislation; and, worse still, I do not know how anybody who had known of the effort, the compassion, concern and sensitivity that have gone into the Social Development Committee's inquiry could contemplate in any way that members of that committee would support proposed legislation that talked about not providing food and water to a person who was dying. There are some very sick minds around.

The Hon. B. W. Mier—There certainly are, and the public gallery is full of them!

The Hon. M. A. LYSTER—Again, I can only express my confusion about what leads people to say that sort of thing. I do not understand that. I have some familiarity, as many honourable members in this place do, with the difference between medical treatment and palliative care. Some years ago, my husband had a collapsed lung. He was clinically dead when he was brought to the casualty ward of the hospital. I am very glad to say that there was no question of whether resuscitation would be used on somebody so young and obviously without any permanent illness. I am very glad to say that he was resuscitated and, no doubt, will live to a ripe old age.

That is what is meant by "medical treatment", by "an operation, administration of a drug or other like substance, or any other medical procedure". It is commonsense. We are not talking about the rather silly options that have been presented to us by the Opposition.

Palliative care has been extremely important to this government. In 1986 the government initiated the State palliative care program. It funded eight home-based palliative care services for the terminally ill because of its belief in security and dignity for the aged.

Unfortunately, Mr Knowles is not in the House. He is often very quick to comment whenever I use the phrase "social justice strategy". It is real so far as this government is concerned, and I consider the palliative care program and the money that has been spent on it to be a very real example of this government's seriousness about addressing the needs of, particularly, the aged in our community. Palliative care is not just tokenism. It is very real to this government.

A discussion paper was produced in 1986 which spelt out quite clearly a number of principles, which I note were also listed by the Social Development Committee in its report. The subject is important enough for me to go through some of those principles of palliative care, and I hope there will be no grunts and groans from Opposition members, because they, too, support the concept; even their lead speaker, Mr Chamberlain, has said how strongly he endorses the notion of palliative care. Of course, he will support every effort that we make to increase those programs.

The first principle in the government's discussion paper is the right to receive the best possible care; and I shall stop after that very first principle. I wonder how there can be any belief that the government is looking to do anything other than ensure that people in stages of terminal illness are being treated with the greatest dignity possible when this is the first principle in its palliative care program. It is clear that that is the aim of the government.

I shall move on to the second principle—that every dying patient should have access to professional staff, to appropriate care and to the best possible quality of care. Would this be the principle of a government seeking to erode the principles for dying people? It just does not make sense.

I find myself continually coming back to my own confusion about the Opposition's attitude to the Bill. It is an area I feel quite strongly about because I do not understand the Opposition's change of heart. I should have thought there could not possibly be any political gain in it for Opposition members and I should have thought they would have learnt over the past four or five days that they are rapidly losing support. If they really want to become involved in a political debate, they have chosen the wrong Bill because the community cannot understand what they are doing.

I shall return to the view of the government in standing behind the Medical Treatment Bill (No. 2) and behind the Social Development Committee and its recommendations on palliative care. The government is examining the regionalisation of palliative care services to make them accessible to people so that, it is hoped, they will be able to remain in their own homes. Many sick people want to remain in their homes for as long as possible and, quite honestly, they want to die at home. The government is seeking to take measures that will assist them in ensuring that their wishes for their last weeks, days or months are carried out by using the excellent services of the Royal District Nursing Service. By these means, they will be able to be home for as long as possible, and they will go to hospital only if it is not possible for the family to cope with the situation at home.

Out-of-hours support for relatives is a further feature of the government's palliative care program. It demonstrates the government's understanding of the whole problem for the family when a loved member of that family is dying. It is never just the individual who suffers; there are the sons and daughters, the brothers and sisters, the very dear friends and even the neighbours who have lived next door for 40, 50 and 60 years who are affected by the terminal illness, as well as the patients themselves.

Those people all need support. They do not need support from 9 a.m. to 5 p.m., or even for 24 hours a day; but they do need support for the last stages of the person's dying; and for the grieving process afterwards. It is a process that the government strongly believes in and, therefore, built into all its palliative care programs is the provision for out-of-hours support for those who are near to the dying person.

Education is an important part of the government's principles in this area, not only for the community but also for the medical profession and beginning in the medical schools.

One of the recommendations of the Social Development Committee relates to encouragement of Health Department Victoria to initiate discussions with the medical schools of the University of Melbourne and Monash University—and I believe this has already started—to focus attention on encouragement and understanding in the medical education courses of the difference between curative care and palliative care. That change in focus is important. A move must be made away from the unnecessarily heavy emphasis on the curative aspect, which has, in turn, led to doctors feeling that they are failing their patients in some way when they move out of the curative focus.

I have to assume that the current training of doctors has led to the sort of attitude that Mrs Dixon quoted as being expressed by the doctor who treated John McEwan—that if he did not continue to try to cure or actively treat John McEwan, he was in some way failing his profession. I find that to be a most unfortunate view. Dedicated, committed, honest medical practitioners still feel that they are failing because the curative aspect of their treatment is not working.

One obviously reflects from this viewpoint that death is the end of all terminal illness—which is quite an unnecessary statement for anybody to have to make—yet the medical profession still, in some way, seems to believe that it has failed when the person dies, because it has not cured the person. For their sakes it is crucial that the attitude expressed in paragraph (*e*) of the preamble to the Medical Treatment Bill (No. 2) is encouraged. I shall read the whole phrase:

> To encourage community and professional understanding of the changing focus of treatment from cure to pain relief for terminally-ill patients.

The Hon. R. J. Long—That doesn't mean anything, of course.

The Hon. M. A. LYSTER—Our medical practitioners are still suffering from the belief that they must cure all the time rather than accepting that they can move from curing the patient to relief and palliative care. Mr Long interjected, "That doesn't mean anything".

The Hon. R. J. Long—That's right. The clause does not mean anything.

The Hon. J. L. Dixon—You don't mean anything!

The Hon. M. A. LYSTER—At this stage, I become almost speechless!

The Hon. R. J. Long—It is all bulldust!

The Hon. M. A. LYSTER—I am prepared to respond to that comment as it should be recorded in *Hansard* that a member of this House believes that issues moving focus of treatment from cure to pain relief are—and I do not want to use the expression that Mr Long used!

The Hon. R. J. Long—Preambles do not mean a thing.

The Hon. J. L. Dixon—They don't to people like you!

The PRESIDENT—Order! No member of the front bench is present in the Chamber. I shall suspend the sitting for 5 minutes.

The sitting was suspended at 9.30 *p.m. until* 9.35 *p.m.*

The Hon. M. A. LYSTER—Although much more could be said, I hope to have the opportunity during the Committee stage of contributing to this important issue. I reiterate my own distress and confusion about the attitude of the opposition parties as it has been expressed. It does not accord with what I have learnt about the process that Parliament has adopted for the addressing of important community issues.

On behalf of the people of Chelsea Province, and, indeed, of the whole community, I regard it as a tragedy that the government has not been able to expedite the proposed legislation which certainly has been presented to Parliament as a result of goodwill and with a bipartisan approach, as referred to specifically by the Minister for Health in his

November statement. He commended the approach and said that it was particularly pleasing to see that a genuinely bipartisan approach to the reference of the committee had been adopted, and that the members of the committee undertook the task in hand with deep compassion and seriousness. He said they should be commended for their work. I commend members of the committee for their work, which has resulted in the community becoming far more conscious of the issue. Certainly it is true that more families are now aware of their rights.

The PRESIDENT—Order! The level of audible noise in the Chamber is excessive.

The Hon. N. B. Reid—Because it's so boring!

The Hon. M. A. LYSTER—That interjection about my contribution being boring is an interesting one. It is adding further to my confusion about why the opposition parties are taking the attitude that they have presented today on such an important issue. Their arguments are not valid. A sensible and objective reading of the Bill demonstrates those objections are not valid, especially when taken in conjunction with the foreshadowed amendments referred to by Mrs Dixon. The opposition parties were well aware of the amendments before they took the vote in their party room.

I sincerely regret that those attitudes have been expressed. I do not know how people who are currently seeing terminally ill members of their families suffer would be feeling about the opposition parties tonight. I hope that the families of terminally ill patients will have the strength to go through what Mr Chamberlain has said is an accessible process—gaining Supreme Court injunctions. I hope that the medical profession will, without fear, observe the wishes of the patients they are treating. However, that appears to be in conflict with the evidence presented to the Social Development Committee.

The passage of the Bill will ensure that the families of terminally ill patients can have confidence that the patients' rights will be respected. Terminally ill patients will have more confidence if they can be assured that burdensome treatment will not be imposed on them. The opposition parties should support this important Bill. I urge the Opposition to reconsider its attitude to the proposed legislation.

All honourable members bring their consciences to Parliament and I hope that, no matter to which party they belong, they will reflect on the instances in their own families where the Bill may have application.

I have reflected carefully on how the Bill may affect my family. I have a reason for supporting the proposed legislation and I know that I am not alone in that situation. For many honourable members, either in the past or perhaps some time in the future, the Bill has personal application. I remind honourable members that not everyone in the community is as educated or articulate as are honourable members. I urge honourable members to reflect carefully when casting their votes on this important Bill.

The Hon. M. T. TEHAN (Central Highlands Province)—No honourable member doubts the commitment, sensitivity and effort that the Social Development Committee has put into its report entitled "Inquiry into Options for Dying with Dignity". My colleague, Mr Knowles, supported the report. I have heard the contributions of members of the National Party. I was moved by the contribution of Mrs Dixon, who is the Chairman of the Social Development Committee.

No honourable member in this House, and especially on this side of the House, has a doubt about acknowledging the right of a person to refuse medical treatment. I believe the right to die is a misnomer; it is used as a catchphrase to express the right to refuse medical treatment. That right is acknowledged; that right is operative.

The only issue that must be addressed is the difference between the parties on the way in which that right is exercised when people wish to refuse medical treatment. If the debate is on the legitimate decision-making process of a patient saying, "No, I don't want any more medical treatment", then perhaps the debate will not be in vain. People will realise

that they have a fundamental right and they will then exercise that right at the appropriate time. A person can then say, "No more, thank you; I do not want any more medical treatment; I do not want my life artificially prolonged; I want to be able to die in a dignified way without medical interference".

Each and every member of the Liberal Party supports the opportunity being available for people to say that, but whether that view is accepted is a matter for the medical profession, and I shall come to that. There is no argument about the fact that people should have the right to say, "No more medical treatment". It is a matter of the best way of accommodating that wish.

I have listened to the debate within my party and to the contributions from members on the government benches. I have read sufficient of the report of the Social Development Committee to understand the difficulties that people may have about expressing that right, especially in the two situations described my Mrs Dixon of John McEwan and Mr X. Mrs Dixon said that John McEwan had a difficulty with communication. It appears that problem can be addressed readily but whether it should be addressed by legislation is an entirely different matter.

There are two possibilities: firstly, to continue with the existing common-law rights and to educate people so that they have a better understanding of them; and, secondly, to legislate to incorporate those rights. A number of problems occur in incorporating those rights in legislation. It is difficult legislation on this sensitive, delicate and profound area. We must be cautious because we must be sure that legislation gets it right.

I know the common law encompasses this area, although perhaps not adequately or sufficiently, and that matter must be addressed by education so that people are aware of their rights; but to go to the other extreme and to legislate on this matter with the limitations of language and of the interpretation of the judiciary without the possibility of the flexibility of common law, leads me to say, "No". Let us wait and see if we have got it right. Let us see if what we are doing is better than the common-law right. Common law has tremendous value to offer in this sensitive area.

It works on the basis of individuals and individual cases. One must not forget that I started with the premise that patients over the age of eighteen years have the right to say, "I do not want any more medical treatment." Given the circumstances in which they make that choice, it becomes a medical assault, a medical trespass, for doctors to prolong treatment over and above the wishes of the patient.

There have been numerous examples. I can give examples of young children, as Mr Dunn said, being diagnosed with a terminal disease and the parents saying, "We will take the child home and we will care for the the child and it will die in our house." Their option was, of course, to have further medical treatment. They elected for that child not to do so. Let us not get it wrong, but that right is not in debate tonight and that right is not the subject of any misapprehension on this side of the House. The means of getting there is what is at stake.

Given that, common law allows flexibility within the varying circumstances of each individual case that comes before it. If there has been a case of medical trespass, if there has been a case of dying that right to die on the recommendation or the decision of the patient, common law is looking at individual cases. It is basic, it is on other precedents, it is bringing together all the circumstances of the case and it similarly has flexibility. It is not bound by our problem of terminology; it is not bound by our problem of precise definition; and it is not bound by our problem of conflict between definitions.

During debate we have heard of the grey areas between medical treatment and palliative care. Mrs Lyster spoke strongly of the difference between treatment and palliative care, but there is always that middle ground that creates a problem, and the proposed legislation could not and has not taken that out of the grey area by means of the definitions.

We similarly have problems of the type of illness, be it a terminal illness or an illness that is open to another form of treatment. The Bill cannot be clear, cannot be precise and cannot be conclusive on all the circumstances because the printed word has such limitations. We also have the problem of incompetence, and Mr Chamberlain quoted a psychiatrist who saw the problem of deciding whether a patient was competent or incompetent—one word, but it covers the huge area of maybe; yes; perhaps; to some degree; and, will it or won't it.

We are restricting the right of that patient by entering into a debate on a piece of legislation that cannot effectively ensure that all situations are covered. The proposed legislation, as I have tried to point out, has problems. It has problems of definition and it has problems of conflicting provisions.

One of the arguments put was that it would protect the medical profession. I think the medical profession is capable of protecting itself. I am more concerned for the protection of the patient. That might receive some ridicule from government members, but there is no doubt that the common law protects the rights of the patient, provided it is properly recognised by the patient when he or she is able, by the community and by the medical profession that there is a time when the patient is able to say, "I do not want any more".

If nothing else comes from the this debate, it will have alerted the community that people should make up their own minds, and that the medical profession is bound by that decision made by a person who is in a position to make that decision and communicate it. That is the fundamental basis, and protecting the medical profession should be secondary. We should not in any way restrict, limit or derogate from that broad right of the patient in order to protect the medical profession. The medical profession is capable of protecting itself.

Examples of instances where that decision has not been followed were given to the Social Development Committee—and I have listened to them with the concern that I am sure everyone else in this Chamber has felt—but I have no doubt, as Mrs Dixon herself said, that it was that difficulty in communication that was the problem in the John McEwan case; that the medical profession would not accept that he could say, "I have had enough, I do not want to be resuscitated". I am suggesting that once that educative process is brought into the community, once people know they have those rights, the difficulty will be corrected.

As someone said, "It is all very well for us to say that; we are in a position of authority, we are used to exercising our freedoms, we are used to knowing our rights and we can make it quite clear," but the rest of the community must be brought around to that way of thinking. The rest of the community must to some degree overcome these problems of conveying to the medical profession their own decisions. They must be encouraged—as I feel people should be similarly encouraged to stand up to school principals—to be able to say, "That is what I want. This is my decision. I will be the one to make the decision. I will listen to your advice, I will take into account what you say, but I will make the decision when comes to my own life and you will do as I suggest." I think this debate will have that effect.

Mrs Lyster said that there was confusion in the community. She is right; there is confusion in the community because, unfortunately or fortunately, we are living in a time when technology, progress, experimentation and scientific research are running far ahead of the ability of people to keep up and to understand. If there is anything we can do in these circumstances, it is to slow down the process, to be a little slower, to consider a little more, to perhaps take a longer time to make decisions, but not to hasten into laws, into imposing binding decisions on the community before we have fully understood what they are thinking, and before we have brought them up to the process of understanding where we are. This is where I differ from the government in that I believe the community is not yet ready to accommodate legislation, even if we could arrive at legislation that effectively and precisely gives form to the views that are encompassed in the Bill, which is not yet ready and not yet adequate.

Honourable members interjecting.

The Hon. M. T. TEHAN—No instances were given of parents or relatives dying. The patients well understand, if nothing else from this debate, that they have the right to say, "I do not want chemotherapy; I do not want any more operations; I do not want any more medical treatment." They have the right. That is what is forgotten. To incorporate that into legislation, and to tie it in so tightly as to take away the opportunity for instances to be looked at on an individual basis, is moving faster than the community wants.

The community has been inundated with all manner of situations in which they are not yet able to make the mental, moral or even emotional judgments to keep up with the way technology, medicine and science have gone.

We were precipitating matters by going into this Bill at this time. We do not have to protect the medical profession—as I have said, any profession is capable of protecting itself—and we have to go carefully and quietly and subtly with the community, and we have to go at their pace. There is no immediate need for this proposed legislation. Let us hasten slowly; let us consider the community; let them talk about it; let it come from them to us that they need to have this incorporated in legislation and that the common law is not sufficient.

It has been put before the House that the Liberal Party has been subject to pressure groups and lobby groups which have been working against it.

The Hon. J. L. Dixon interjected.

The Hon. M. T. TEHAN—I suggest to Mrs Dixon that, if anyone were to have been lobbied or pressurised, perhaps it would have been me because I am the newest member of this place and perhaps I would be most likely to be subject to that lobby group. Might I suggest that I received five telephone calls from members of a certain group and all they asked of me was time to consider the Bill. I did not receive one telephone call that asked me to do anything with the Bill. I have not had one personal approach to ask me to deal with the Bill in any shape or form. As I said, I received five telephone calls asking me to slow down the process.

Honourable members interjecting.

The Hon. M. T. TEHAN—Perhaps the Leaders received all the telephone calls and personal representations. However, I am saying that I did not. Therefore, there is one member of the Liberal Party, at least, for whom I can speak wholeheartedly, who was not subject to any pressure or lobbying. If I had been, I would have resisted on the basis that I would make up my own mind on an issue as important as this.

In conclusion I wish to summarise the right of people to refuse medical treatment. I have no doubt that the Social Development Committee has appropriate instances—and even many instances—where that right has not been able to be exercised because people have been in a situation of being influenced—"intimidated" is too strong a word—and have not been in a position to clearly state what they wanted. However, to introduce proposed legislation which has the possibility of so many problems, as the proposed legislation has, just to attack that part of the problem, is too extreme and is going too far. Let us address the problem that the Social Development Committee found.

The Hon. J. L. Dixon—In a different way.

The Hon. M. T. TEHAN—There is a problem, but the proposed legislation does not affect it or solve it at this time. In the meantime, while we wait for the community to catch up, find the perfect legislation and test the common-law situation, let us educate people to know and exercise their rights and to be able to communicate that their judgment is as valuable as that of a doctor—hopefully, in conjunction with the medical profession; if not, on their own. If we do that, the debate will have been worthwhile.

In conclusion, all proposed legislation should be examined on the basis of whether it is necessary. I think we are overlegislated and overregulated. In an area as sensitive, fundamental and important as this, let us hasten slowly and wait for the community to tell us that is what it wants rather than imposing legislation over and above the complete and adequate protection that the common law offers.

The Hon. G. P. CONNARD (Higinbotham Province)—Within a month or two of arriving in this place, during the debate on the motion for the adjournment of the sitting, I said to a Minister that I was sent by my local high school to take a course of action. Your predecessor, Mr President, sat me down and told me that I was here in my own right and should express my own views. It is in that context—on the instruction of your predecessor—that I make my remarks tonight.

I applaud the initiative of the government in tackling several important social issues. I remind the House of the debates that took place on in-vitro fertilisation, which was another initiative of the government. Those important debates certainly performed an excellent role in raising the knowledge of the community of the totality of human knowledge and endeavour in respect of those issues.

I am aware of the dedication of the Social Development Committee. I only wish I had been able to serve on that committee while it was discussing this important issue, but, as all honourable members know, Parliamentary life does not always lead one into the areas one chooses.

I had fairly close contact with the Chairperson of the Social Development Committee, Mrs Judy Dixon, and certainly with Mr Knowles, a Liberal Party member of the committee, during the period of the hearings. I have read the two reports of the committee not only with interest, but also with great attention. I understand the devotion of the committee in addressing this issue, which has been explored by members from both sides of the House. The various concerns have been made evident by several speakers tonight.

I, however, reject much of what Mrs Lyster said because she was essentially saying that we have detected a problem and there is a legal solution to it. I was far more attracted to the approach adopted by Mrs Dixon; she was not only concerned, but also upset by the knowledge she had accumulated during the hearings of the committee.

I should like to outline my concerns. An examination of the Bill reveals that it is speaking about rights. The preamble states that Parliament recognises that it is desirable to protect the patient's right to refuse unwanted medical treatment. The word "right" is repeated in clause 1, which in paragraph (*a*) states that the purpose of the Act is to clarify the law relating to the right of patients to refuse medical treatment. Paragraph (*c*) confirms a patient's right to appoint another person to make decisions about medical treatment, and so on.

The use of the word "right" concerns me. I spoke about the subject in the in-vitro fertilisation debate. On the one hand, "right", as expressed in this concept, reflects essentially the humanist point of view; it refers to the right of the individual and the individual alone.

On the other hand, the ethical, Christian or fundamental moral point of view is that one must respect the rights of the individual but note the rights of others. A profoundly different ethical view is involved. In my heart I adopt the ethical point of view; I must stand up for the rights of the individual, but I respect the rights of others.

In the earlier in-vitro fertilisation debates I adopted that fundamental, ethical view. I believe that the word "freedom" would have been more appropriate in the Bill than the word "right". Perhaps we should not be speaking about a right. At this point, I shall throw in the analogy of the debate on the gun legislation a few weeks ago when many honourable

members were speaking about rights. I do not believe people have rights in that context; I believe those rights should be considered to be freedoms.

In this context, freedoms also imply responsibilities. For example, if one has the freedom to carry a gun, one also must use that gun responsibly. In this Bill, if one has the freedom to refuse unwanted medical treatment, one must exercise that freedom responsibly. One has a responsiblity to one's family and the people with whom one is associated.

I have referred to the preamble of the Bill, and I shall not mention it in great detail again. If the purpose of the Bill is to clarify the law regarding the rights of patients, I suggest that what is being talked about is not only the freedom or the rights of patients, but also the necessity of accepting the responsibilities one has in making those decisions, responsibilities one has not only for oneself but also for others.

Those opinions are based on a fundamental ethical view of which I have spoken previously. It is an important ethical view, which is part of the Christian ethic that I was brought up with. Other people may not share that ethic, but I hope many do. It is an important ethical view, particularly as many people in the community share it.

Rights are not man-ordained. Rights are God-ordained, because it is God who gives man the freedom of choice, especially the freedom of choice to consider the freedoms of others. These are fundamental issues which honourable members, as leaders of the community, should examine carefully. Those honourable members who feel so inclined should express such views.

My initial response to the Bill was that it was all right and that it basically codified existing practices. On that basis I was prepared to accept what was contained in the Bill. In the quietness of my study, and in the quietness of my mind, I came to reject the concept that a person has a right to die when he or she chooses. I came to reject that concept because, basically, that may be suicide. The concept of saying that one has a right to die, being suicide, is something I reject from an ethical point of view. I believe the moment we come to depart this life is essentially God-given, and not man-given. The right the provisions in the Bill express is one that I reject fundamentally.

I recognise the dedicated way in which members of the Social Development Committee addressed the problems they were confronted with. I am aware of such problems because, as honourable members will know, I am closely associated with both hospitals and medical practitioners. I chair the ethics committee of a major metropolitan hospital.

The Hon. B. W. Mier—Tell us about the drugs you sell from your chemist shop.

The Hon. G. P. CONNARD—I am telling you about a case that the provisions in the Bill do not address. There is a patient in that hospital whose brain is so badly damaged that he has no brain recognition. He is totally fit in his normal bodily functions; he is not brain dead because he has the use of all his motor mechanisms. The patient has been in medical care for some time, and he is a man in his early 30s. Our medical people may address the ethics committee. As I understand it, they will say that this young man will need to be looked after by an institution for 30 or 40 years, because his body will not experience the impact of a normal ageing process. They will ask the ethics committee what is to be done about that young man.

I cannot accept that medical practitioners and nurses have either the right or the freedom to terminate that patient's life. I do not have a solution to such a problem. I do not expect that solutions will be found to the general problem in the short term. If required, the members of the ethics committee of which I am the chairman may take perhaps two years or more to discuss the problem. For the sake of that patient, we would attempt to examine the issue with the highest ethical standards that such a group of people can adopt.

I reject what is contained in the first part of the Bill because the very element that leads to a concept of a right to die has a connotation of suicide. I understand the intent of the Bill. I sympathise with the people who drafted the Bill. The preamble to the Bill says:

> The Parliament recognises that it is desirable to encourage community and professional understanding of the changing focus of treatment from cure to pain relief for terminally-ill patients.

The committee has already dealt with that agenda throughout Victoria and, indeed, throughout Australia. Members of Parliament have discussed such issues, and I hope that debate will continue.

There is no doubt that the community recognises the difficult circumstances that face medical practitioners in both advising patients and providing guidelines in relation to treatment options. I have a great deal of confidence in medical practitioners. I think members of the Social Development Committee were particularly impressed with Dr Alvis Kucers, who gave evidence to the committee. As the Director of Medical Services at Fairfield Hospital, he described the procedures that hospital adopts with people who suffer from many conditions that have already been prescribed.

In the main, medical practitioners are trained to handle such difficult issues; but I do not believe honourable members should let the matter rest with the medical profession. The debate on the Bill is important to the medical profession, to the nursing profession and to all those who have the responsibility of caring for sick and often terminally ill patients. Through the production of such documents as the report of the Social Development Committee, and through the introduction of the Bill, honourable members have contributed greatly to dealing with the agenda that was required from the inquiry which the committee conducted into options for dying with dignity.

I turn to the second part of the Bill. I shall not refer to the clauses that deal with the rights of an individual to determine his or her own future, but rather to clause 9, which deals with the powers of agents and guardians. Clause 9 has caused me great concern. It says:

> A person may provide for decisions about medical treatment to be made after he or she becomes incompetent by appointing another person as his or her agent.

The clause goes on to describe the means by which that objective can be attained.

Clause 9 is questionable. People may, with every goodwill, at a particular time in their lives indicate, by whatever means, that they wish to die; but to give certain powers to another person or an agent is draconian and most unusual. It allows another person to decide that someone shall die, and persons with religious, ethical or moral conscience would agree that no person has that right.

I understand the difficulties of patients described by Mrs Dixon and referred to by Mrs Lyster, but the fundamental issue is that my own heart and conscience cannot accept that any person should have the authority to terminate the life of another human being by any means and, consequently, I reject that clause.

Mrs Tehan asked whether the proposed legislation is right or necessary at this particular time. Parliament must consider such matters and appoint committees such as the Social Development Committee to examine and report on these matters so that we, as legislators, can place such matters before the people, including churches and other community groups, as has been done in this case.

This is not the end of the debate and I do not want Mrs Dixon or Mrs Lyster to think that if the Bill is defeated these concerns will disappear, because they must not and should not disappear. These concerns and moral questions are on the public agenda and will continue to be debated.

I do not support the Bill for reasons that I have delineated, but I would welcome the opportunity of examining and debating proposed legislation at some future time. I ask the government to note those concerns and, if possible, to address those matters through the legislative process.

Mrs Chamberlain said earlier that, in the main, common law addresses most of the issues raised by the Bill. Indeed, some of my colleagues on the Social Development Committee stated that the Bill codified existing law, and I understand that is true. I also

understand that by far the greatest majority of cases that come before medical practitioners, hospitals and nurses are handed delicately and appropriately.

I again ask the question: is the proposed legislation right or necessary? My conscience says that it is not right, and I doubt whether it is necessary.

I welcome the opportunity of contributing to the debate. I have listened to those honourable members who have spoken and many of the contributions have influenced my mind. However, I object to the sneering approach taken by Mr Mier to the views expressed sincerely by honourable members on this side of the Chamber, because all honourable members have attempted to address the issue seriously and conscientiously.

On the motion of the Hon. D. R. WHITE (Minister for Health), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

ENERGY CONSUMPTION LEVY (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

STAMPS (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

RETAIL TENANCIES (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

PIPELINES (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

STATE ELECTRICITY COMMISSION (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

HEALTH (GENERAL AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

BUILDING CONTROL (GENERAL AMENDMENT) BILL

The message from the Assembly relating to the amendments in this Bill was further considered.

Discussion was resumed of the Assembly's amendments Nos 4 and 10 and of Mr Walker's motion:

That the Council agree to the amendment made by the Assembly to amendment No. 4.

The Hon. W. R. BAXTER (North Eastern Province)—I thank the House for the courtesy extended to me last week in adjourning the debate on the amendment made by another place to enable me to take some advice. The matter came upon me quite suddenly as I was certainly under the impression—as I think the Leader of the Government was—that

there would be no contest about the matter. I was somewhat taken aback by Mr Hunt's indication that he proposed to insist on the amendment made by the Legislative Council in respect of the additional words appended to proposed new subsection (6C) which had been inserted by the Legislative Council during the Committee stage of the Bill.

I needed time to obtain advice because I was unable at the time to gather in my own mind the difference between the amendment made by the Council and the proposal suggested by the Legislative Assembly, as the two seemed to me to basically end up at the same point but get there by a different mechanism. I wanted to check for myself it that were true and, if it were, which was preferable. I wanted to discuss the matter with persons in my electorate, particularly some building surveyors who are concerned about the passage of the Bill.

I have had the opportunity of discussing the matter with the building surveyors upon whose advice I rely heavily. They are happy to accede to the proposal of the Legislative Assembly. I might say that the building surveyors are not happy to give discretion to private certifiers. However, they understand that Parliament has made the decision that there should be some directions available and, if the provisions proposed to be inserted in the Bill will allow private certifiers to speed up approvals and so avoid the whole process being bogged down, nothing will be achieved by not allowing the amendment to be put in place.

The amendment made by the Council would not have meant that certifiers had a discretion in a number of areas, but each building regulation would have needed to have been amended to specify whether a certifier had a discretion in respect of that regulation. It would have been a fairly time-consuming and complicated and to some extent confusing procedure, bearing in mind that there are some hundreds of regulations. The Assembly's suggestion seemed to me to achieve the same result but in a much simpler process. It was to be assumed that the certifier had a discretion except in those specific regulations which clearly set out that the discretion was to be exercised only by the relevant authority. Such would be a mechanism for providing a discretion for the certifier but retaining for the relevant authority discretions in matters of great importance or of great moment.

I had some concerns that the certifier, who is acting on behalf of an applicant and is being paid by the applicant, could be put in a position of being open to some suggestion or pressure that he exercise his discretion in a way which suited the applicant and which might have saved the applicant money or advantaged the applicant in some way; and that to encourage the certifier to take that course there could be some inducement offered, either overtly or, presumably, covertly. I did not want that sort of situation to arise.

I shall give an example of what I have in mind by referring to a multistorey building. The relevant building regulations might specify that there be 9-foot high ceilings. It could be open to the applicant to say to the certifier, "If we made them all 8-foot ceilings we could get an extra floor in that multistorey building". That would advantage the applicant because he would have more space to let. There may be some pressure on a certifier to accede to the suggestion and to exercise his discretion in the applicant's favour.

There clearly has to be some discretion exercised with respect to things such as ceiling heights, because not all need to be uniform. Computer rooms, for instance, tend to have what might be termed a false floor because a lot of the electrical equipment is underneath that false floor; as a result the ceiling height is lower than usual. I do not contest the fact that there must be provision for the exercise of discretion, but I want to make it clear that that sort of discretion should not be able to be exercised by a certifier when even in the most remote circumstances it might open the door to some funny business going on.

In discussions I have been able to have with the Minister for Planning and Environment today, I have asked that the Ministry for Planning and Environment identify for me those areas where discretion will not be exercisable by the certifier.

I list the different provisions and I seek an undertaking that those regulations will be among those where the discretion will be reserved for exercise by the relevant authority only and not the certifiers:

6.2 Classification in doubtful cases;

12.1 Protection works for adjoining property;

12.2 Formwork and falsework for ceilings;

13.3 Exemption for minor demolition;

17.1 (4) Ground level determination in doubtful cases;

17.3 (3) (*d*) Concession for use of lightweight construction in certain shops;

27.9 (3) (*c*) Point of discharge of carpark drainage;

31.3 Retaining walls protecting adjoining property;

44.1 (4) Point of discharge of drainage system; and

44.3 Drainage requirement to protect adjoining property.

There are several provisions included under regulation 49 relating to ceiling heights, which I have already mentioned.

The last regulation is:

55.4 Plumbing materials in unsewered areas.

They are important areas where discretion should be reserved to be exercised by the relevant authority; the certifier should not exercise discretion in cases involving those regulations.

I do not contend that the list I have read is exhaustive. I seek an undertaking from the Minister for Planning and Environment that they will be included in the regulations where discretion will not be available to the certifier.

Having indicated that and on the basis that the undertaking will be forthcoming, I indicate that the National Party is prepared to accept the amendment made by the Assembly and not to insist on the Council amendment, although I have some serious reservations as I expect the Municipal Association of Victoria may have some reservations.

I continue to maintain that this House has a responsibility to make its own judgments and consider itself an independent House of Parliament. However, on issues where there is some doubt I would come down on the side of the government having its way.

Honourable members should allow the government to legislate in the manner it thinks best when there is no large dispute about the two options that might be open. That situation applies in this case. From the representations I have received and the endorsement from the building surveyors, I believe the amendment made by the Legislative Assembly is satisfactory. On behalf of the National Party, I indicate that the House should not insist on the amendment made by the other place.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (*By leave*)—The regulations Mr Baxter has numbered and the descriptions he has given are regulations that the government believes should have discretions restricted to the municipal building surveyor. That is the assurance for which Mr Baxter asked. I wholeheartedly agree with the terms of the building survey. I agree with Mr Baxter's addition to the matter of ceiling heights. I was considering that inclusion myself, although I am not the Minister responsible for the Bill. I offer the assurance that Mr Baxter asked for, and I thank him for his support on this issue and for the Bill in general.

The Hon. H. R. WARD (South Eastern Province)—I would like Mr Hunt to have the opportunity of reading the remarks of Mr Baxter and the assurance provided by the Minister for Agriculture and Rural Affairs. I suggest that the debate be adjourned until later this day so that Mr Hunt can study the remarks.

On the motion of the Hon. H. R. WARD (South Eastern Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

ACCIDENT COMPENSATION (DISCLOSURE OF INFORMATION) BILL

The debate (adjourned from April 13) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. HADDON STOREY (East Yarra Province)—The Bill amends the accident compensation legislation that honourable members will remember was passed during that unfortunate time when the government had a temporary majority in this House. The government pushed through the legislation and created a tiger for itself which it has had great trouble controlling. The Bill was rushed; it was certainly not properly thought through and it has been the cause of the State incurring an enormous loss, currently in the region of $3000 million.

The Bill deals with a minor but important aspect of accident compensation. When this House sensibly established a committee to consider the accident compensation scheme, objections were made to producing information for that committee. That raised the question of the ability to disclose information under the operations of the accident compensation scheme.

It is important that the community has full access to what is happening with the scheme. It is a major piece of social legislation and is having a major impact on the finances of this State. It has ramifications that affect every employer and employee in the State, and the public is entitled to know as much as it possibly can about the way the scheme works, or does not work, and to be able to assess how the scheme can be improved. It was a matter of concern when it appeared that information could not be given to the WorkCare Committee and, therefore, to the public.

To the credit of the government, it made it clear to representatives of the Accident Compensation Commission who appeared before the WorkCare Committee that they should provide the information required by the committee. The Treasurer undertook to introduce proposed legislation to ensure that the information could be provided. It is as a result of that undertaking that the Bill is now before the House.

The Opposition supports the Bill. It believes it is necessary and is pleased that the government has introduced it. It will enable the publication of statistics and various explanatory information relating to WorkCare. The Bill provides that information should not enable the identification of a person. It is understandable in general terms that the affairs of an individual should not be disclosed in the information that is published. However, the Opposition believes the measure goes too far.

There is no reason why the request for information should not be made public. Why should the community not have access to the way in which the availability of information is handled by the Accident Compensation Commission? For that reason, the Opposition believes the Bill should be amended to provide for the publication of details of requests made, granted and refused showing a number of details about those requests. I shall give more information about the type of details that should be disclosed during the Committee stage of the Bill. Subject to that, which is simply an amplification of the provisions of the Bill and the ability of the public to obtain information about the scheme and its operation, the Opposition supports the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party supports the Bill. Although it is necessary now, it should not have been necessary in the first instance if the Accident Compensation Commission had not taken such a literal interpretation of section 243 of the principal Act. Although the Bill was passed during the hiatus when the government had a temporary majority in this House and was hell-bent on rushing through as much proposed legislation as it could while the majority lasted and did not scrutinise the proposed legislation as it might otherwise have done, Parliament never intended that section 243 should be interpreted as prohibiting officers of the Accident Compensation Commission appearing before a Parliamentary committee and informing the committee of the activities and standing, financial or otherwise, of the commission. However, that is the interpretation that Mr Markley, the Managing Director of the Accident Compensation Commission, and his board sought to place on section 243.

When this excuse, as I called it, of why the commission could not be forthcoming to the WorkCare committee was first trotted out, I was astounded and led to believe that the commission intended engaging in every possible excursion it could to frustrate the committee, delay its inquiry and hinder its deliberations.

I am glad that the Treasurer recognised that may be the situation and moved quickly to give an undertaking that an amendment would be introduced to clarify the issue and widen section 243 so that the commission would come clean, so to speak, with the committee. Since that debate the commission has been more forthcoming although Mr Markley has been anything but cooperative in some of his written answers to inquiries made by the committee and has sought to couch his replies in language that was extremely difficult to follow on a couple of occasions.

Nevertheless, the amendment makes it perfectly clear that Parliament expects the Accident Compensation Commission to cooperate with any Parliamentary committee in providing information. The amendment goes further than that in that it provides that the commission must provide information to certain other inquiries. I welcome that clarification although it would not have been necessary if a more practical view of the original Act had been taken in the first place.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 5 were agreed to.

Clause 6

The Hon. HADDON STOREY (East Yarra Province)—I move:

1. Clause 6, after line 10 insert:

'( ) After section 178 (2) of the Principal Act insert—

"(3) The Minister must cause a report of requests for approval of persons or bodies under sub-section (2) (*c*) (vi) containing, in respect of each request—

(*a*) the name of the person sought to be approved; and

(*b*) the reason for the request; and

(*c*) the date the request was made; and

(*d*) whether the request was approved or refused—

to be laid before the Legislative Council and the Legislative Assembly before the expiration of the fourteenth sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after each 30 June." '.

2. Clause 6, after line 14 insert:

'( ) After section 243 (2) of the Principal Act insert—

"(3) The Minister must cause a report of requests for approval of persons or bodies under sub-section (2) (*c*) (viii) containing, in respect of each request—

(*a*) the name of the person sought to be approved; and

(*b*) the reason for the request; and

(*c*) the date the request was made; and

(*d*) whether the request was approved or refused—

to be laid before the Legislative Council and the Legislative Assembly before the expiration of the fourteenth sitting day of the Legislative Council of the Legislative Assembly, as the case may be, after each 30 June." '.

3. Clause 6, after line 18 insert:

'( ) After section 244 (2) of the Principal Act insert—

"(3) The Minister must cause a report of requests for approval of persons or bodies under sub-section (2) (*c*) (x) containing, in respect of each request—

(*a*) the name of the person sought to be approved; and

(*b*) the reason for the request; and

(*c*) the date the request was made; and

(*d*) whether the request was approved or refused—

to be laid before the Legislative Council and the Legislative Assembly before the expiration of the fourteenth sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after each 30 June." '.

The amendments provided that the Minister must call for annual reports setting out details of requests for approval of persons or bodies under various sections of the Act.

An amendment moved by the Opposition in another place provided for quarterly reports to be made. The Treasurer said that that provision placed an undue burden of administration on the Accident Compensation Commission. The Opposition noted the Treasurer's remarks and has altered the amendment to call for annual reports. They will provide further information which will be of advantage to the community and help the community understand the workings of the Act.

The amendments were agreed to, and the clause, as amended, was adopted.

The Bill was reported to the House with amendments, and passed through its remaining stages.

ENERGY CONSUMPTION LEVY (AMENDMENT) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

The government's economic strategy was released in April 1987. One of the economic strategy initiatives announced was the abolition of the energy consumption levy for private gas consumers from 1 July 1988. Thus the purpose of the Bill is to implement this economic strategy initiative.

The Bill will provide for significant benefits to industry. First, to eliminate the administrative cost of compliance with the legislation. Business will no longer have to prepare monthly returns for the Business Franchise Office. Secondly, to eliminate the threat of the levy moving towards the originally targeted level of $1 per gigajoule in 1982 prices.

The energy consumption levy will be abolished for all consumers except the State Electricity Commission of Victoria. Contract customers of the Gas and Fuel Corporation of Victoria, with minimum annual consumption of 10 550 gigajoules, will have their levy payments rolled into their gas tariffs.

To facilitate its implementation a small number of customers who previously paid an energy consumption levy will no longer be required to pay an equivalent amount after 1 July 1988. These are Gas and Fuel Corporation customers who consume between 10 000 and 10 550 gigajoules of gas per annum and customers—other than the SECV—supplied directly by the Bass Strait producers.

The government will be foregoing revenue relating to those customers of the Gas and Fuel Corporation that I have just mentioned and from Esso/BHP customers. This amount is estimated at $1·56 million in constant dollars in future years.

The Bill is a straightforward piece of legislation. Clause 1 limits the energy consumption levy to the SECV. Clause 2 enables the Act to come into operation from 1 July 1988. Clause 4 sets out definitions and repeals sections of the Act no longer required for the operation of the Act. Clause 5 contains the transitional provision providing that the Act continues to apply in relation to billing cycles up to June 1988.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. J. V. C. GUEST (Monash Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

STAMPS (AMENDMENT) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

The main purposes of the Bill are:

1. to remove a potentially costly loophole from the Stamps Act;

2. to facilitate stamp duty relief in respect of corporate reconstructions; and

3. to remove duty from the transfer for full market value of call options on unissued debentures.

The Bill also includes technical provisions to clarify in relation to pro rata stamp duty on mortgages imposed under an anti-avoidance provision, section 137DA (2) (*a*) and to make various technical amendments following the introduction of the Road Safety Act 1986 and the Transport Accident Act 1986 including the reference to motor vehicle instead of motor car.

The loophole to be closed by the Bill was exposed by a recent High Court decision on a scheme which exploits a longstanding but little used exemption applying to transfers of shares consequent on the reduction of capital of a company.

I shall outline the scheme because it illustrates the sort of contrived arrangement now being touted by the tax avoidance industry and being adopted, even, it seems by some of our leading companies, to defeat the intentions of Parliament.

Company A wishes to sell an interest in property to company B without paying stamp duty on the transaction. The steps are as follows:

1. company A sets up another company—no duty is payable;

2. the other company is issued with redeemable preference shares in company A for cash paid to company A—no duty is payable;

3. the redeemable preference shares in company A are redeemed not for cash but by the transfer of property from company A to the other company. The High Court has held this amount to a reduction of capital. Accordingly the transfer of the property attracts the exemption for property transferred in pursuance of a reduction of capital and no duty is payable; and

4. company B subscribes for cash for shares in the other company which now has the property as an asset—no duty is payable.

Company B has successfully escaped the payment of stamp duty on a transfer of property which clearly is intended to attract stamp duty.

The scheme is so contrived as to be properly labelled a blatant rort. It also has very serious implications for revenue. It could be used to avoid duty on any otherwise dutiable transfer of property involving companies. Accordingly it could lead to a revenue loss in the order of $200 million a year. In addition it could lead to further inequities between those who pay tax and those in similar circumstances who do not pay. A few days after the adverse High Court decision, the Treasurer in another place announced the loophole from the date of announcement, 15 December 1987.

I should mention that the government has taken note of a concern expressed by the property law section of the Law Institute of Victoria that, notwithstanding the contrived nature of this scheme, the complete removal of the exemption in relation to reductions of capital could adversely affect genuine cases.

Historically there has been very little use made of the exemption but the government is proposing, in response to the property law section's representatives, that the exemption should be removed only where redeemable preference shares are involved and that the comptroller should have a discretion to apply the exemption in genuine cases.

The amendments to facilitate stamp duty relief for corporate reconstructions enable the Treasurer to exempt from stamp duty transactions arising from corporate reconstructions and require the Treasurer to report annually to Parliament, naming the firms assisted and specifying the assistance given in each case.

In 1984, as part of its economic strategy, the government announced that it would refund stamp duty—generally land transfer duty and share transfer duty—incurred by firms as a result of corporate reconstructions which do not involve a change of ownership. The policy intention is to remove stamp duty constraints from corporate reconstructions which meet certain guidelines because they generally tend to improve economic efficiency.

Guidelines governing these ex gratia payments have been published and decisions are made by the Treasurer on a case-by-case basis after examination and report by the Stamp Duties Office and the Department of Management and Budget.

Since 1984 ex gratia refunds totally $19·9 million have been made to 23 firms in respect of corporate reconstructions. Budgetary provisions must be made for these refunds, notwithstanding that there is no net effect on the Budget. However, there is no way of accurately estimating the funds required with the result that these transactions which have no net effect on a Budget can limit the availability of Treasurer's Advance for other purposes. This problem will be avoided by the use of the exemption mechanism, safeguarded by the requirement for a report to Parliament.

The proposed removal of duty on the transfer for full market value of call options on unissued debentures removes an anomaly by treating the transfer of call options on debentures in the same way as the transfer of the debentures themselves. The anomaly has not been a practical problem in the market but has come to notice in the context of a proposal by VivFin. It is proposed to make this new concession operative from 18 September 1986 when transfer of the debentures themselves was freed from duty.

Other technical amendments are also proposed in order to remove difficulties for taxpayers and to ensure consistency of wording in legislation.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. J. V. C. GUEST (Monash Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

ADJOURNMENT

Lake Weeroona, Bendigo—Mentone Girls Secondary College—Television and the Family report—National conference on reforestation program

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That the House do now adjourn.

The Hon. N. B. REID (Bendigo Province)—I raise a matter for the attention of the Leader of the Government, as the representative of the Minister for Planning and Environment, concerning Lake Weeroona in Bendigo. Lake Weeroona is approximately 7·1 hectares in area and has an average depth of only 1·15 metres, which means the lake is, in effect, only a shallow pond.

Lake Weeroona has regional significance because it is used for many family reunions and is a popular picnic area in Bendigo. It is a well-known tourist stop for buses and private vehicles. The facility has been developed by the Bendigo City Council over a number of years and it is one of the most picturesque spots in Bendigo. During the summer, as the Minister will be aware, the prolonged warm conditions combined with other factors, such as the lack of regular water inflow into the lake, the low water level, relatively high water temperatures, little wind, the considerable slope on the bottom of the lake and the subsequent injection of nutrients, have given rise to optimum conditions for excessive algae growth.

The Bendigo City Council is concerned about the algae growth in Lake Weeroona, and is prepared to take action and to play its part to improve the conditions of the lake. It is determined that it will pay for the maintenance of a comprehensive water monitoring program to ascertain the water quality of the lake. It is also suggested that it will pay for a redesign of the stormwater system on the western side of Charleston Road, opposite the Bendigo saleyards, in case any effluent discharged from the saleyards flows into the lake.

The council has asked that the State government be approached. I refer this matter to the Minister, requesting funding for the desludging and deepening of Lake Weeroona, which is a facility of regional significance. The Bendigo City Council is prepared to do its part. It is prepared to put its dollars where its mouth is. If the Minister could make available funding to the Bendigo City Council, it could improve the facilities in the area and make the lake an improved tourist destination.

The Hon. G. P. CONNARD (Higinbotham Province)—I direct a matter to the attention of the Minister for Education. I have recently had correspondence with the Mentone Girls Secondary College, which is a busy and highly successful girls college in the southern suburbs. The principal, Mr Michael Constable, who is an excellent principal like many in my area, has written to me indicating that several items were approved for the school out of the maintenance or minor works budget for 1987–88, specifically, three items: carpet, $8000; hall lighting, $7000; and kiln repairs, $2000.

The school has made a number of general inquiries to the Ministry without recieving adequate response. The first question is: when will the administrative details be completed to provide this promised expenditure? The school has not yet seen sight of this approved amount. It has received no definite response to this matter.

The school council has asked me to inquire from the Minister why there has been such a delay in fulfilling a normal budgetary item subject to administrative procedures. If perchance the answer to that question is that the region has insufficient funds to honour this approved expenditure, what alternative way was this budget sum spent?

The Minister will appreciate that, without answers being provided to these questions, the school council is unable to plan or implement its expenditure for 1988–89 because future budgeting is dependent on the Ministry's response to the previously budgeted and allocated funds for on the maintenance and minor works budget of the school. It is an important matter for this excellent school, and I ask the Minister to respond.

The Hon. ROSEMARY VARTY (Nunawading Province)—I raise a matter for the attention of the Minister for Education and ask whether she is aware of a letter and report which is being circulated in the eastern suburbs by the Federal member for Chisholm, Doctor Michael Wooldridge. The letter accompanies a report prepared by the National Health and Medical Research Council on Television and the Family, and makes some rather startling claims about the amount of time that children watch television each day. Is the Minister undertaking any initiatives at State level to ascertain what impact television viewing is having on school children?

The Hon. D. M. EVANS (North Eastern Province)—I raise with the Minister for Conservation, Forests and Lands a letter that I received from the Executive Director of the Forest Industries Campaign Association referring to its desire to make Australians aware of the need to plant an additional number of trees in Australia. In a letter of 8 March 1988 the association suggested that a priority objective could be for Australians to plant another 16 million trees—one for every Australian—by the end of 1988.

The letter also states that industry and State forestry services already undertake massive forest planting operations, which are supplemented by beautification works and other programs such as project Greenleaf, Greening Australia, the National Tree Program and Arbor Week, which already encourage Australians to plant more trees. This program is one the National Party has backed over many years, suggesting on many occasions that Australians should plant more trees, particularly trees indigenous to specific areas, and to replace trees in landscapes changed by farming practices where no natural regeneration takes place. This is specially important where existing trees are dying out for reasons other than salinisation.

The main objective of the association is that a national conference should be called to bring together all the programs for planting additional trees and for encouraging people from all around Australia to become involved. I ask the Minister whether she and her colleagues in other States of Australia are prepared to back a major conference on reforestation and to draw together all the groups interested in such a program as a bicentenary project.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—In debate on the motion for the adjournment of the sitting last week, Mrs Varty raised with me some errors in the Shire of Lillydale planning scheme. I considered the matter seriously enough to take it up myself and I now respond to the matter.

I raised the issue with the Minister for Planning and Environment and he has written to the shire on the matter. The errors in the planning scheme are the result of the Lillydale planning scheme base material being in poor shape at the time of the introduction of the new planning scheme under the new Planning and Environment Act on 16 February.

At the time the shire was offered the opportunity—as were all councils—of preparing its own planning scheme for 16 February. The Lillydale shire refused to assist in the process, so the Ministry of Planning and Environment spent about $16 000 on the task on its behalf.

Council officers were involved in the checking process but, clearly, there are some anomalies—Mrs Varty called them errors—still to be cleared up. The Ministry and the Minister have indicated their willingness to me to help the shire correct those anomalies. All it needs is the cooperation of the Shire of Lillydale. I ask Mrs Varty to take the matter back to the shire to indicate that willingness.

Mr Reid raised with me a matter to be transferred to my colleague, the Minister for Planning and Environment, and he asked for some assistance in the Lake Weeroona issue which was brought to his attention by the Bendigo City Council. I shall take up the matter with the Minister to see whether there is any capacity——

The Hon. N. B. Reid—The *Herald,* had an involvement in desludging one lake in the gardens.

The Hon. E. H. WALKER—The President, in his former career, had something to do with that project. I shall have the matter brought to the attention of the Minister to see whether some assistance can be provided.

The Hon. C. J. HOGG (Minister for Education)—Mr Connard raised with me questions about Mentone Girls Secondary College and maintenance and minor works projects to be undertaken. I shall make inquiries and ask for advice from Dr Jean Russell, the general manager of that region, or from Judith Clements, who does wonderful work and is an able assistant to Dr Russell. I shall obtain a speedy reply and shall inform Mr Connard of the result.

In response to the matter raised by Mrs Varty, I do not believe Dr Wooldridge's report has been drawn to my attention, and I should be grateful for a copy if she has one. I am aware perhaps not of the details but of the large number of hours that many children spend watching television. Indeed, before they go to school, many children watch television for a number of hours that would surprise honourable members.

I shall endeavour to discover whether some special work has been done in the Ministry of Education on the question of children and television viewing but, obviously—and I have been saying this for some time—the number of hours of television watched by children these days, either with their families or alone, is a factor that must be taken into consideration by today's educationalists and teachers. I believe the number of hours watched by children, or even the fact that there is a television in the home, means that the way in which reading is taught to children in grades prep and 1 is different from the way that it was taught 10, 20 and 40 years ago. Sometimes there is a misunderstanding about the need for a variety of methods to be used for teaching some of the basic subjects, but some methods are a response to the changing world. I shall respond further to Mrs Varty if I have any information available, and I shall be interested in obtaining that report.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Evans asked whether I supported the newly formed Forest Industries Campaign Association's request for planting 16 million trees and for the backing of a national conference. I support the tree planting program, as I support any tree planting program which will increase the number of trees in Victoria, as that addresses two crucial issues.

The first issue is land degradation. Trees are important in combating salinity, soil erosion and other land degradation problems. The second issue is the need for plantations to ensure sufficient resources to guarantee a continuing source of supply for the important timber industry. However, as Mr Evans knows, the Forest Industry Association is a fairly Johnny—or Julie—come-lately into this area. The conference may be of more use to the FIA than to the participants, who are already agreed on the importance of reforestation and tree growing and do not need to meet again to talk about it. What is needed is a well-funded State, Federal and voluntary sector and an industry program of reforestation.

The Hon. D. M. Evans—That is what they are aiming at, Minister.

The Hon. J. E. KIRNER—I know. However, we do not need to talk about it, we need to do it. I am pleased that the Commonwealth has begun that program and has offered some millions of dollars over three years. As Mr Evans knows, the State government has already tripled its target for reforestation.

The Hon. D. M. Evans—That was first begun under Mr Granter's Ministry.

The Hon. J. E. KIRNER—Yes, but it was a very low amount. That is not sufficient if the two targets of ameliorating land degradation and moving towards a proper base for plantation resources are to be met.

Although I do not think a conference is necessary, it is important to have continuing discussions and interchange of ideas and to put continuing pressure on the Federal government to ensure a proper reforestation program for eucalypts, as was achieved with the development of the pine industry after the second world war.

The motion was agreed to.

The House adjourned at 11.22 *p.m.*

QUESTIONS ON NOTICE

ESSO–BHP's DEVELOPMENT PROGRAMS IN BASS STRAIT

(Question No. 27)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Minister for Health, for the Minister for Industry, Technology and Resources:

(*a*) In view of Esso–BHP's announcement that it will defer development programs in Bass Strait to the value of $1 billion as a result of low oil prices, what loss of income to the government is expected?

(*b*) Has an assessment been made of the effect of this decision on employment in Victoria and of its impact on Victorian suppliers to the oil exploration industry; if so, with what result?

The Hon. D. R. WHITE (Minister for Health)—The answer supplied by the Minister for Industry, Technology and Resources is:

(*a*) Although Esso–BHP did initially announce deferral of its Bass Strait development program, it subsequently announced in June of last year that investment in petroleum exploration and development in Australia would, in fact, be substantially increased.

On the exploration side, this is expected to guarantee $600 million in new offshore and onshore exploration over the next five years, thereby boosting the chances of significant new Australian oil reserves being discovered.

On the development side, the decision is expected to lead, over the next few years, to new investment worth between $400 million and $600 million in Bass Strait, including the development of production facilities at six new fields.

There has also been an undertaking to reassess the Tuna B development which, if implemented, could see further expenditure of up to $800 million.

These new developments are expected to increase the average level of oil production in 1987–88. Whereas Victorian royalty receipts had been projected to decline in 1987–88 by as much as $30 million compared to the previous year, it now appears receipts for 1987–88 will only be marginally short of the 1986–87 level.

(*b*) A detailed study has not been made on the employment effects of reductions or increases in capital expenditure in Bass Strait. Given the capital-intensive nature of these operations the employment impact would be relatively small, once the initial construction phase was completed. Although the impact on suppliers to the oil exploration industry will be minimal, suppliers of services and materials to the oil development and production industry who would have been adversely affected by the deferral of these subsequent projects will now benefit from the increased activity.

PUBLIC WORKS EXPENDITURE ON GRAFFITI AND VANDALISM

(Question No. 77)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Minister for Agriculture and Rural Affairs, for the Minister for Public Works:

(*a*) What amount is spent by the Public Works Department on behalf of each of its agencies on—(i) the removal of graffiti; and (ii) repairs resulting from vandalism?

(*b*) What procedures does the Department employ to effect a reduction in the incidence of graffiti and vandalism?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The answer supplied by the Minister for Public Works is:

(*a*) Information on maintenance works expenditure has not been recorded separately by the former Public Works Department in categories which indicate expenditure on the removal of graffiti and repairs resulting from vandalism.

(*b*) With regard to procedures which the department employs to reduce the incidence of graffiti and vandalism, consideration is given at design level to the location of certain surfaces on buildings. Use of graffiti resistant

solutions may be employed in certain instances but each case is considered individually and in consultation with the client.

The Ministry of Housing and Construction (former PWD) has designed for the Ministry of Education electronic security systems which are being installed in selected schools. These systems detect the unlawful presence of persons in school buildings and have resulted in a reduced rate of arson and vandalism.

The Ministry of Housing and Construction technically overviews the systems which are maintained by the Security Section of the Ministry of Education.

EMPLOYEES OF DEPARTMENT OF CONSERVATION, FORESTS AND LANDS

(Question No. 105)

The Hon. N. B. REID (Bendigo Province) asked the Minister for Conservation, Forests and Lands:

(*a*) With respect to employees engaged by the Department of Conservation, Forests and Lands since the 1985 State Election—(i) how many have been engaged; (ii) what is the job title of each new employee; and (iii) how many are male and female, respectively?

(*b*) How many retirements, retrenchments and transfers occurred during that period, indicating the job title and sex of each employee?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The answer is:

Statistics on the number and gender of staff employed by the department are readily available in the department's annual reports.

The cost in terms of time and resources involved in providing the remainder of the information sought by the honourable member cannot be justified. To illustrate the amount of work involved, the department engages approximately 400–600 staff each summer, mainly for fire protection duties. In addition, the normal staff turnover is 7–10 per cent, that is up to 400 staff a year. This means that up to 3000 job titles would need to be manually identified and listed, involving up to 50 pages of *Hansard*.

Wednesday, 20 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 2.3 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

EDUCATION ALLOWANCES

The Hon. ROSEMARY VARTY (Nunawading Province)—I refer the Minister for Education to the answer to my question yesterday in which she justified the expense of advertising the education expense allowance. I now ask the Minister: how does she justify the expense of printing a separate glossy brochure solely on the education expense allowance which, according to information released under the Freedom of Information Act, cost $65 000?

The Hon. C. J. HOGG (Minister for Education)—Yesterday I explained that the government had initiated fresh allowances in the education area. It is most important that people understand the type of allowances that they are getting or the types of allowances to which they are entitled.

I explained yesterday that the advertisement inserted in the two daily morning newspapers referred to both the education maintenance allowance, which must be applied for, and the education expense allowance, which is paid through the Federal Department of Social Security.

In the interests of community education, the advertisements were placed to ensure that people know what they are entitled to receive and also to ensure that they communicate with each other about it.

Advertising the facts about both those allowances in the newspapers and producing a brochure—which was not particularly glossy—about the education expense allowance was absolutely essential and justified.

PLANNING AND ENVIRONMENT ACT

The Hon. W. R. BAXTER (North Eastern Province)—I ask the Minister for Conservation, Forests and Lands, in view of the lengths that Parliament went to ensure that Crown land be bound by the Planning and Environment Act, why the government totally exempted her department from the provisions of that Act.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—This was the question that Mr Baxter meant to ask yesterday; I have pleasure in responding to it.

It is important that in some areas of government activity, for example, that of national parks, there is an ability for the persons responsible, who are naturally the Director of the National Parks and Wildlife Division and myself in this case, to ensure that the planning for those parks is appropriate and that the conditions applying to most of the national parks are reasonably tight and not difficult for the community to understand.

In all other areas I am able to submit to exactly the same planning requirements as required of anyone else. In most cases the department will have no trouble doing that.

The Hon. W. R. Baxter—But your department is exempt.

The Hon. J. E. KIRNER—But I can choose to submit.

ONCE-ONLY LOGGING IN NATIONAL PARKS

The Hon. JEAN McLEAN (Boronia Province)—As successive governments have approved once-only logging operations in some national parks, which have caused serious concerns, particularly in the Lyrebird Creek area of Wonnangatta–Moroka National Park, will the Minister for Conservation, Forests and Lands advise the House what approach she is taking to deal with this concern?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mrs McLean for her question and for her interest in the area. Once-only logging operations in some national parks were approved following the recommendations of the Land Conservation Council. It is a mechanism about which some honourable members, and certainly a number of conservationists, have expressed concern; I share their concern. If an area is important enough to be made a national park, there is little point in logging that area.

Once-only logging in the Otways National Park was terminated in 1985 and the areas designated for logging in the Cobberas–Tingaringy, Bogong and Snowy national parks have now been completed.

Recently there was considerable concern about logging in Lyrebird Creek in the Wonnangatta–Moroka National Park, which was approved for once-only logging in 1983 in order to sustain supplies of sawlogs to Heyfield sawmilling groups.

Once the department began to log those areas it became apparent that the terrain was too steep and it was extremely difficult to conform with the special prescriptions which had been carefully worked out by the former Soil Conservation Authority and the then National Parks Service.

The Forests Commission set those prescriptions and, although the loggers tried to follow them—that matter was the subject of the *7.30 Report* a couple of nights ago—it was difficult indeed, particularly in terms of knocking down trees.

It became obvious that it was no longer appropriate to log the Lyrebird Creek area because of those site conditions. Therefore, I have approved the scaling down of that planned logging. All logging will cease in the Wonnangatta–Moroka park by 1 July 1988. That will mean that, except for the Grampians National Park, where a small amount of logging is still to be completed, no once-only logging will occur in Victoria by the end of the next couple of years.

TIMBER INDUSTRY STRATEGY

The Hon. M. T. TEHAN (Central Highlands Province)—The timber industry strategy of 1986 refers to the establishment by the government of a value-adding processing task force to examine and develop strategies for processing and seeking markets for Victoria's high-grade timber products. Will the Minister for Conservation, Forests and Lands advise whether this committee has been set up, how regularly it meets and when a report of its findings can be expected?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Yes, the committee has been set up. It comprises members of my department, the Department of Industry, Technology and Resources and the Department of Management and Budget. I do not check up on how often the committee meets and I certainly do not mean it to be a committee that writes a report and goes away. The committee's task is to continue to support one of the major aims of the timber industry strategy which is, of course, to obtain the best use of wood.

I must say in answer to the shadow Minister that I am delighted with the way the value-adding system is starting to work in Victoria. Some millers who were saying to me two or three years ago that they could not possibly use mountain ash or alpine ash for anything other than green scantling are now moving into integrated mills and using the best ash in

the way it should be used, that is, for veneer and furniture making. The Ezzard mill creek is a brilliant example of that. It is well on the way down the track to exporting alpine ash, which is known as Australian oak—a term with which I have a little trouble. Proposals have also been made by the Neville Smith industry for more value-adding work and there have been proposals from Gunnersons in the Otways.

Blackwood is also being sold. It is being harvested as part of the timber extraction on tender and demand is seven times as great as it was when the millers used to pull it out without knowing what they wanted to use it for. A number of other things are happening and I expect even more will happen as we consolidate long-term licences over the next two weeks or so.

One of the problems with logging in the timber industry in Victoria is that under a Liberal government loggers had no security because they had annual licences. No-one can do anything about future planning for value adding, for best use of wood, and for installing machinery that is needed to make the best use of wood with one-year licences. I look forward to fifteen-year licences being signed over the next couple of weeks and I look forward to responding to Mrs Tehan's next question on value adding.

GOLD OASIS FRUIT-PACKING COMPANY

The Hon. K. I. M. WRIGHT (North Western Province)—I commend the Minister for Agriculture and Rural Affairs for his decision to support the twelve-month extension of the Wine Grape Price Negotiating Committee. My question involves two matters.

Firstly, I refer to the loan by the Victorian Economic Development Corporation of $1 million to the collapsed Gold Oasis fresh-fruit packing complex and the $160 000 interest a year that that loan attracts, and, secondly, to Mr Barrie Beattie, the General Manager of the VEDC and the media announcement that he has been elected as President of the Footscray Football Club, and that he was until recently General Manager of the VEDC.

I ask the Minister, firstly, whether Mr Beattie's departure is connected with the adventurous lending policies of the corporation, and, secondly, what is the future, as he knows it, of the future operations of the Gold Oasis packing company?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Wright asked me a question a few weeks ago in regard to the Gold Oasis fruit-packing company. I responded to him on that occasion. I do not know whether I can add anything to that answer.

The Hon. K. I. M. Wright—There have been developments since then.

The Hon. E. H. WALKER—We were conscious that a Victorian Economic Development Corporation loan was involved, and I believe Mr Wright and I agreed on that occasion that the sooner the Gold Oasis company could get working on packing table grapes for Europe, the better.

In regard to Barrie Beattie, I was not aware that he had left the job that Mr Wright mentioned, but I am not the Minister for Industry, Technology and Resources. I shall convey Mr Wright's question to that Minister and obtain an answer as soon as possible.

PUNT ROAD WIDENING

The Hon. B. T. PULLEN (Melbourne Province)—I ask the Minister for Transport to indicate to the House the status of proposals to widen Punt Road between the Yarra River and Bridge Road. Some concerns have been expressed about the difficulties being experienced in saving some of the mature trees by both the Melbourne City Council and the residents of Punt Road. I ask the Minister to indicate the current status of planning for the widening of Punt Road and, in particular, to explain the situation in respect to the mature elm trees that will be affected by the proposal.

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Pullen for his question and his keen interest in this issue.

As a result of representations made to me by Mr Pullen, Mr Sidiropoulos—the honourable member for Richmond in another place—and other interested groups, I have recently directed the Road Construction Authority to reconsider its plans to widen Punt Road between the Yarra River and Bridge Road.

As the House would be aware, the plans originally involved the widening of Punt Road to a 6-lane 2-way capacity between Bridge Road and the river, and the proposal would have affected some 38 trees, 23 of which are European elm trees.

The Road Construction Authority has now prepared alternative plans which will form the basis of future road-widening work. The plans involve retaining Punt Road from the river to the Swan Street intersection in its current form. Minor works will be proposed for the Swan Street intersection to facilitate traffic flow, and no trees along the section of the road between the river and Swan Street will now be affected. The existing stand of elms will be preserved. The revised plans involve saving eleven elms south of Swan Street that would have been adversely affected by the original proposal.

Works along Swan Street and at the Swan Street and Punt Road intersection will proceed as proposed, and that will ensure that there will be safe and improved access for train and tram commuters and traffic to the National Tennis Centre. Those works will affect three elm trees on the western side of Punt Road.

Works to improve traffic flow at the Brunton Avenue and Punt Road intersection have been redesigned so that the same effect can be achieved without disturbing four of the five trees affected by the original proposal. Only one tree will be affected by the revised proposal.

The works between Brunton Avenue and Bridge Road will proceed as proposed. The revised proposal affects 21 of the 38 trees; that is 17 fewer trees than was envisaged by the original proposal. Of those 21 trees, only 9 are elms.

Together with the Department of Conservation, Forests and Lands and officers of the Melbourne City Council, the Road Construction Authority has investigated the possibility of relocating all trees that are affected by the proposal. I understand eight of the nine elms affected by the proposal can be relocated.

Works on Punt Road are expected to commence in May 1988 and to be completed within three years. I am satisfied, as a result of discussions that I have had with Mr Pullen, Mr Sidiropoulos and other persons concerned about the proposal, that substantially fewer trees will be affected, but the government's stated objective of improving traffic flows along Punt Road will be achieved, and the proposed widening will assist thousands of Melbourne motorists in their day-to-day travel, while protecting the environment and quality of trees.

POULTRY INDUSTRY

The Hon. F. J. GRANTER (Central Highlands Province)—It is my custom to ask the Minister for Agriculture and Rural Affairs a question about the poultry industry once in every sessional period, and I do so today because, as I understand it, the poultry industry in Victoria is in dire straits, especially in the Bendigo area.

Some poultry farmers are going broke, and if the price reduction for eggs of 5 cents a dozen as recommended by Professor Fels is upheld by the Minister for Agriculture and Rural Affairs, many other poultry farmers in the Bendigo area will find it difficult to make a living and will probably have to go on to social services.

What is the position with the poultry industry at this stage, and will the government accept the recommendations of Professor Fels?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—A number of the representatives of the Bendigo poultry industry came to see me last night and had the opportunity of speaking to the policy committee of Parliamentarians from the Labor Party. The poultry farmers were introduced by the honourable member for Bendigo West in another place, Mr David Kennedy.

A number of matters were discussed with the deputation last night, and the people left reassured that their concerns are being met. The comments I made to them will be made again in two weeks' time in a statement I will make to Parliament in response to the Public Bodies Review Committee report on eggs.

It is not my job to determine the price of eggs. I am aware that the Prices Commissioner has recommended a reduction in the price of eggs. I am also aware that the Victorian Egg Marketing Board, whose job it is to determine the price of eggs, has read the opinion and advice from the Prices Commissioner but has issued a press release indicating that it does not intend to take action on the matter at the moment.

Therefore, Mr Granter can be reassured that the price of eggs will stay as it is for the moment, but if it changes it will be because of a decision of the Victorian Egg Marketing Board, not of the Prices Commissioner or me.

The advice is completely understood, and I should be happy to make available to Mr Granter a copy of the government's position on the issue.

FERAL CATS

The Hon. D. M. EVANS (North Eastern Province)—I am sure the Minister for Conservation, Forests and Lands would be aware that feral cats are efficient predators and that small mammals, particularly ground-dwelling birds in Australia, have no natural defence against them.

What research, if any, has the Department of Conservation, Forests and Lands been doing to try to deal with this menace and reduce the population of feral cats in Victoria to protect our native fauna and especially our birdlife?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Evans is quite correct in saying that feral cats are disastrous to birdlife. I suppose the question is important; it is better than his question about feral dogs and feral people!

I am pleased to say that I do not have to examine this important issue entirely by myself. A Parliamentary committee has been established under the excellent leadership of Mrs Judy Dixon to examine the whole issue of animal and especially dog and cat welfare. The issue seems to strike at the heart of the system much more than do issues about humans, and I hope when the committee's report is tabled in Parliament it will deal with the issue of feral cats and will be accepted, as was the committee's excellent report which led to the introduction of the Medical Treatment Bill.

MEDICAL TREATMENT BILL

The Hon. B. W. MIER (Waverley Province)—Can the Minister for Health explain to the House why he adjourned debate on the Medical Treatment Bill in this House yesterday?

The Hon. D. R. WHITE (Minister for Health)—When the debate was adjourned last night I did not indicate to the House the reasons for the adjournment, but there has been some comment, and to clear up any misunderstanding as to the reasons for the adjournment, I should like to take the opportunity of making clear to the House why the adjournment was sought by the government on this sensitive debate.

The Opposition led a great deal of argument on the point that the current common law is an appropriate mechanism for dealing with issues affecting medical treatment and dying

with dignity. It was also stated at some length, particularly by the Leader of the Opposition in this place, that the reason for the common law not working adequately was——

The Hon. B. A. CHAMBERLAIN (Western Province)—On a point of order, Mr President, as I understand it this question relates to a matter that is before the House at present. The issues being canvassed by the Minister for Health are issues which were canvassed in a debate which the government has chosen to adjourn. I should have thought that the rule of anticipation would have prevented the matter being debated in this way.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, the question related to the reasons that the adjournment of the debate was sought. It does not contravene the rule of anticipation. It would be of benefit to all members if the reasons for seeking the adjournment of the debate were clarified.

The PRESIDENT—Order! I do not believe there is a point of order. The question is admissible, but the Minister for Health is reminded that he should not canvass matters raised but restrict his answer to an explanation to allow honourable members to understand fully the reasons behind the adjournment.

The Hon. D. R. WHITE—Much time was spent yesterday raising the issue as to the manner and the circumstances in which common law applies, and whether it applies appropriately. Much argument was led on that matter.

The government sought an adjournment because it is of the view that not only is this a sensitive issue, but also it is important to be able to meet the matters raised on two counts—firstly, whether common law is an effective mechanism, and secondly, whether it is correct that the reservations or concerns expressed by Mr Chamberlain and Mrs Tehan about the applicability of common law rested on the point that the government had not taken sufficient steps to inform people of their common-law rights?

The government sought an adjournment to give it the opportunity of responding on those points in view of the fact that the all-party Parliamentary committee in its deliberations quickly reached the view that there were inadequacies in relation to common law. Therefore there was not extensive discussion at the Parliamentary committee level about that particular matter, which ought now to be the subject of significant consideration in Parliament.

I further put the point that the other matters raised, particularly by Mr Chamberlain who led the debate in respect of definitions relating to palliative care versus medical treatment, are matters that could not only be more appropriately dealt with in Committee, but also in regard to definitions raise similar problems with respect to common law. In respect of the opinions that Mr Chamberlain quoted, it would be in the interests of the debate generally if the entire opinions—not only selective quotes—were made available to all members, because, as he indicated, many of the quoted opinions were from people who were writing in support of the proposed legislation.

The government will be responding on the issue as to its view that common law is not working effectively, and that even after taking into account the views expressed by Mr Chamberlain, and having provided educational material to the public, common law will not be an adequate mechanism.

Honourable members interjecting.

The Hon. D. R. WHITE—In reply to the interjections of Mr Long, with the assistance of Mr Storey, that is the sort of argument that ought to be pursued in the Liberal Party room.

SCHOOL RETENTION RATES

The Hon. J. G. MILES (Templestowe Province)—I refer the Minister for Education to her statement yesterday concerning government school retention rates, and ask whether it is a fact that the latest Australian Bureau of Statistics figures show that retention rates are

rising in all States of Australia but that Victorian government school retention rates are below the national average.

The Hon. C. J. HOGG (Minister for Education)—The retention rate has markedly improved over the past five years in Victoria. Retention rates have improved across the education system and across Australia largely because of the dynamic leadership given by the Federal government and because of Federal involvement in education. That Federal influence and a national agenda for education, one might say, is at last beginning to have its effect.

It was of interest to me to read in the *Age* some two weeks ago that during the Liberal Party conference a successful resolution was proposed by Victorian branch members. The Victorian branch, supported by the Leader of the Victorian Opposition, argued against Federal influence in education. It struck me that that was a retrograde step. I was amazed by it because I thought that if the Federal government had no influence in the sorts of programs that it emphasises and funds—the disadvantaged schools programs, country education and many programs that have been pace-setters throughout education—we would be the losers.

I also thought that without Federal influence in education we would not be seeing the kinds of retention rates we are seeing now. In my view it has been very much the emphasis placed on participation and retention rates, particularly by former Senator Susan Ryan, the previous Federal Minister for Education, that has brought about the nationwide trend. I am, of course, not yet satisfied with the retention rate in Victoria, but it has increased at a rate beyond the Ministry's projections this year—it has risen to 51·9 per cent. Next year the figure will be even better and by halfway through the 1990s we will have the sort of retention rate of which we can be proud.

STRAY ANIMALS

The Hon. D. E. HENSHAW (Geelong Province)—Can the Minister for Agriculture and Rural Affairs advise the House of the progress made by animal welfare agencies in tackling the problem of stray and unwanted animals?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—There are some indications that the number of dogs abandoned or strayed in metropolitan Melbourne each year is beginning to reduce significantly. The Lost Dogs Home in North Melbourne has recorded a 10 per cent reduction in the number of homeless dogs in the first quarter of this year compared with the first quarter of last year. While the decrease does not mean that the problem of homeless dogs and animals generally is conquered; the figure does indicate that the efforts of people such as Dr Graham Smith of the North Melbourne Lost Dogs Home are beginning to work, and I pay him credit for that.

Each year in Victoria about 45 000 stray or unwanted dogs are handled by local councils and animal welfare societies. More than half of those—over 20 000—have to be destroyed. If the figure for stray cats were to be added, it would be far greater. It is hard to estimate the populations, but if one were to add together the number of feral dogs and cats, particularly in metropolitan Melbourne, it would be well into the 1·5 million category. It is a big issue and it is being tackled.

Today I took part in a small ceremony at a pet cemetery in Rowville where a stray, unknown, unloved and unwanted dog was buried. I unveiled a small plaque——

The Hon. Robert Lawson—Was it dead?

The Hon. E. H. WALKER—I know the honourable member is a pet lover himself, and I do not think he meant that to be disrespectful. The point of the ceremony was to raise the consciousness of the public about irresponsible pet ownership. After Christmas and through January each year thousands of pets that have been bought and given as Christmas presents are left to stray and become feral and unwanted, which is a tragedy.

The Social Development Committee, which is an all-party Parliamentary committee that does a great job, although it is not always appreciated, is examining the whole issue of companion animals, as a reference, and we hope shortly to receive a report that will allow the preparation of proposed legislation on the matter.

I look forward to the companion animals legislation being paired with the Prevention of Cruelty to Animals Act to make a good basis for proper treatment of all animals in the State. I know that work is under way and will take some time. I also look forward to the work of the committee. There are signs of the programs that we have put in place beginning to work.

PETITION

Flora and Fauna Guarantee Bill

The Hon. C. J. KENNEDY (Waverley Province) presented a petition from certain citizens of Victoria praying for the passing, this session, of the Flora and Fauna Guarantee Bill, and that any amendments be directed towards strengthening the powers of protection rather than limiting the range of species and communities protected under the Act. He stated that the petition was respectfully worded, in order, and bore 8 signatures.

It was ordered that the petition be laid on the table.

NATURAL RESOURCES AND ENVIRONMENT COMMITTEE

Electricity supply and demand beyond the mid-1990s

The Hon. N. B. REID (Bendigo Province) presented a report from the Natural Resources and Environment Committee upon electricity supply and demand beyond the mid-1990s, together with appendices and minutes of evidence.

The Hon. N. B. REID (Bendigo Province)—I move:

That they be laid on the table, and that the report and appendices be printed.

In doing so, I shall make a few brief comments. The report that is being tabled today will have important significance to the economic future of Victoria and the residents of the State.

The inquiry has been long and arduous and has demanded a major commitment from members of the committee, research staff, secretarial staff, the staff of *Hansard,* and the participants in the inquiry who gave evidence before it. I take this opportunity of also recording my thanks to the deputy chairman of the committee, the Honourable Barry Pullen, and to all members of the committee for their commitment to the task.

I also thank the director of research, Mr Malcolm Knight, Mr Alan O'Neil, and Liz Roadley for their technical assistance on many issues and their professional approach to the whole inquiry. Many thanks also to the secretary, Vera Velickovic, for her cooperation and assistance and to Dianne Wilding for her dedication to the report.

I especially thank the staff of *Hansard* who had to endure many early mornings and long trips to fulfil their obligations to the work of the committee in recording what amounted to extremely technical evidence on many occasions.

The motion was agreed to.

PAPERS

The following papers, pursuant to the directions of several Acts of Parliament, were laid on the table by the Clerk:

Building Societies—Report of the Registrar for the year 1985–86.

Co-operative Housing Societies—Report of the Registrar for the year 1985–86.

Co-operative Societies—Report of the Registrar for the year 1985–86.

Friendly Societies and Benefit Associations—Report of the Government Statist, together with the Report of the Registrar of Friendly Societies, for the year 1985–86.

Planning and Environment Act 1987—Notices of approval of the following amendments to planning schemes:

Melbourne Planning Scheme—Amendment L2.

Mildura (Shire) Planning Scheme—Amendment L1.

Swan Hill (City) Planning Scheme—Amendment L1.

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the reports tabled by the Clerk be taken into consideration on the next day of meeting.

LOCAL GOVERNMENT REVENUE ASSISTANCE GRANTS

The Hon. R. M. HALLAM (Western Province)—I move:

That this House registers its grave concern at the impact of the new formula for distribution of revenue assistance grants to local government, and calls upon the government to seek an amendment to the formula, and its interpretation, with the specific objective of alleviating the plight of rural municipalities.

The recently revised formula for the distribution of revenue assistance grants to local government represents a disaster for rural municipalities and for the communities they represent. There has been a dramatic reduction in those grants to the smaller shires in particular, and a compelling argument exists for the Cain government to review the formula and intervene as a matter of urgency.

The shift in the allocations is biased and discriminatory. The Premier and the Minister for Local Government must see the need to intervene on the grounds of equity and social justice to have the situation redressed. The case I want to make revolves around two fundamental issues: the first is the clear need to change the formula; and the second is that the Cain government has the prime opportunity of having the formula amended. The Cain government is in the best position to provide the relief that is so desperately needed.

I turn to the first of those points: the need to change the formula. Before I start, I should explain that the new formula is to be phased in over four years and , to this point, we have seen but a quarter of that phasing in. We now have a concept of implied grants; in other words, grants which would apply, given that the formula were completely phased in. The effect of the change is clearly demonstrated by the raw data. I seek leave to have the two simple tables which were prepared by the Municipal Association of Victoria incorporated into *Hansard.*

The PRESIDENT—Order! I have examined the material and it falls within the appropriate guidelines.

Leave was granted, and the tables were as follows:

PERCENTAGE DISTRIBUTION OF GRANTS BY CATEGORIES, 1986–87, 1987–88 AND IMPLIED GRANT

LGDIS Category	*1986–87 Alloc*	*1987–88 Alloc*	*Implied Grant*
1. Inner Metro	33·34	33·29	31·81
2. Rural Cities	8·15	8·79	10·80
3. Outer Metro	17·71	18·76	23·30
4. Urban Fringes/Rural	4·87	5·18	6·46
5. Large Towns	7·38	7·85	9·07
6. Small Towns	0·90	0·88	0·81
7. Rural Shires	27·64	25·26	17·76
Total	100·00	100·00	100·00

Source: MAV (1988)

TOTAL INCREASES AND DECREASES IN GRANTS
BASED ON THE IMPLIED GRANT COMPARED TO 1986–87 BY CATEGORY

LGIS Category	*Size of Decrease (116 Councils)* $'000	*Size of Increase (94 Councils)* $'000	*Total changes (210 Councils)* $'000
1. Inner Metro	(6283·1)	9121·3	2838·2
2. Rural Cities	—	5665·3	5665·3
3. Outer Metro	(649·8)	12 694·7	12 045·8
4. Urban Fringes/Rural	—	3390·8	3390·8
5. Large Towns	(324·7)	4288·1	3963·4
6. Small Towns	(182·1)	165·1	(17·0)
7. Rural Shires	(13 722·5)	1908·3	(11 814·2)
Total	(21 162·2)	37 233·7	16 071·5

Source: MAV (1988)

The Hon. R. M. HALLAM—The first table is headed "Percentage distribution of grants by categories, 1986–87, 1987–88 and implied grant". This shows the drift in the allocations by category. It shows clearly that the rural shires have borne the lion's share of the turnaround. The table shows clearly that, whereas under the previous allocation formula rural shires were receiving 27·64 per cent of the total cake; under the new formula, their share will decline to 17·76 per cent. In other words, the loss represented in that category is one-tenth of the total cake. This represents a massive shift in the share going to that category.

The second chart shows the nature of that turnaround by analysing the totals of the increases and decreases in grants. The chart clearly shows that, in money terms, the rural shires category is the only category that is the net loser. The loss is almost $12 million, despite the fact that the funding cake increased in size.

One category of local government has been singled out to bear the brunt of the charge in the allocation of grant funds. I put it to the House that the facts speak for themselves. The change in the formula is biased and the effects of that change are discriminatory. Those figures represent the shift in money terms. The shift in real terms is far greater.

I shall examine those shires that have been the real losers under the formula. I shall give examples of those shires, particularly those that are situated in western Victoria, the area for which I have responsibility. The Shire of Arapiles received a grant of almost $190 000 in 1986–87, but under the new formula that grant is reduced to $42 000, a decline of 78 per cent. The grant received by the Shire of Ararat falls from $531 000 to $104 000, which is a massive turnaround. The Shire of Belfast received a grant of $121 000 in 1986–87, and it has had its share cut to $61 000. The Shire of Colac, which received $489 000 in 1986–87, has had that grant cut to $424 000. In 1986–87, the Shire of Dimboola received $444 000; that grant will now be cut back to $373 000. The grant of $267 000 made to the Shire of Dundas in 1986–87 haw now been cut to $42 000. The grant to be received by the Shire of Glenelg this year has been halved: it has been reduced from $554 000 to $242 000.

The list continues. The Shire of Hampden has had its grant reduced from $560 000 to $482 000. The Shire of Kaniva has had its grant reduced from $232 000 to $46 000—and in that case one wonders whether the Shire should have bothered to apply for a grant at all. The Shire of Kowree previously received a grant of $413 000; that amount has been reduced to $47 000, which is a loss of almost 90 percent of its grant allocation at one full swoop. The Shire of Leigh has had its grant reduced from $161 000 to $26 000. The Shire of Lowan has had its grant reduced from $338 000 to $238 000, a loss of $100 000. In 1986–87, the Shire of Minhamite received a grant of $242 000; that grant has been reduced by two-thirds to $84 000. The Shire of Otway has had its grant almost halved. The Shire of Portland, which had received a grant of $750 000, is to receive a grant of $237 000, a loss of $500 000 in a small shire.

The Shire of Wannon has had its grant reduced from $338 000 to $78 000. The Shire of Warracknabeal has had its grant reduced from $349 000 to $156 000. The Shire of Warrnambool received $650 000 in the previous year, and its grant has been reduced to $255 000. The Shire of Wimmera is perhaps one of the worst examples of what has occurred; that shire had received a grant of $341 000 in the previous year, and that amount has been reduced to $34 000, a loss of almost 90 per cent.

Those examples illustrate how draconian the cutbacks have been. I have written to both the Premier and the State Minister for Local Government and on 14 December last year I wrote to the Federal Minister who has responsibility for local government as well as his Opposition counterpart. In my letter I clearly explained the enormous impact that the new formula will have in rural Victoria.

I cited the City of Hamilton and its hinterland as an example. Although the City of Hamilton received an increase in funds—in other words, it has been described as a winner in the terminology used by the government—the facts are that each of the surrounding shires upon which the City of Hamilton depends heavily has received a massive cutbacks in funding. The effect on the City of Hamilton and the surrounding shires has been a turnaround in funding of $650 000 a year.

That must be described as a massive turnaround. Although the City of Hamilton could be described as a winner, I put it to that city that it could not sit on its hands when a massive turnaround was occurring in an area upon which it was dependent.

There must be an extraordinary loss of services associated with a massive reduction in funding. The government cannot allow certain sections of the Victorian community to suffer that loss without implications flowing through society; coming, as it does, on top of the reduction in road funding. The repercussions will have an extraordinary impact. Unless a turnaround occurs this reduction in funding will prompt a crisis in local government throughout rural Victoria.

The Hon. B. W. Mier—They had better amalgamate!

The Hon. R. M. HALLAM—I shall come to that in a moment; it is a good interjection. Because I have worked so closely with community services and because I understand that the former Minister has a great feeling for community services, I put it to her that she should inform the House what services will be reduced, because that is the prospect facing small municipalities. Will services be reduced in the home help, infant welfare, and the roads and bridges areas? The choice facing the smaller shires is very clear. They will either have to impose on their communities rate increases of approximately 30 per cent to 40 per cent or dramatically reduce services.

I have some sympathy for the council of the Shire of Wimmera, which faces a 90 per cent reduction in its revenue assistance grants. I remind the House that the title of the grant says what it should be used for—to assist revenue. The grant is to assist revenue, not to hinder municipalities; yet, because of the way it has been applied, the formula is working in the reverse.

The councillors in the smaller shires have an impossible task. They are told that almost all of the grants they received in the past from the Federal government will be wiped out, but they will still be under the same pressure from local communities to retain the services that they have operated in the past. It is placing those small shires and small communities in an untenable position.

An Honourable Member—They will have to get bigger.

The Hon. B. P. Dunn—His answer is that they have to get bigger!

The Hon. R. M. HALLAM—Funding reductions of that magnitude will have enormous implications on small communities. The funding is allocated from outside the boundaries of those areas, and so the multiplier effect occurs. I use as an example the Shire of Wannon, which services two relatively small communities, Coleraine and Balmoral. The loss of

almost $250 000 a year will have an enormous impact on those two communities. Will the services that those communities provide be wound down further? That loss must impact on the hospitals, the schools and the employment levels of the shire.

Unless there is a turnaround in funding, many of the smaller communities that I represent will not survive in the long term. The turnaround in government funding is the biggest and most sinister threat those communities have faced in their entire existence, and many communities will not survive.

The second point that I said was central to my argument, is the claim that the Cain government is primarily responsible for the formula and that the Cain government is in the best position to provide the relief that is required. It is important to establish that, because there are three central players: the Federal government, the Cain government and the Victoria Grants Commission. Each of those players has responded to criticism by passing the buck. In fact, they have all acted like Pontius Pilate and washed their hands of the issue, saying, "We are free of blame".

When I raised the issue with the Premier he said, "Roger, you must not complain simply because you do not like the umpire's decision." That would be a fair comment, except that the Premier briefed the umpire before he took the field. That is the central issue; it was the Premier who determined how the rules would be applied. On those grounds, the Premier of Victoria must accept the primary responsibility for the issue and the responsibility for the demise of local government throughout rural Victoria.

For honourable members to understand the roles of those three players I mentioned, it is necessary for me to outline the events that led to that change. In June 1986 the Commonwealth government enacted the Local Government (Financial Assistance) Act to provide an ongoing program of funding to local government throughout the six States and the Northern Territory. At the same time, the Federal government repealed the Local Government (Personal Income Tax Sharing) Act 1976, which previously provided the basis for the distribution of revenue assistance funding. Indeed, it was a concept introduced by the Whitlam government in 1973–74. As an aside, the rationale used by the Commonwealth government to move away from the concept of distribution based on personal income tax is another story, and I shall not go into that issue.

When the amending legislation was debated in the Commonwealth Parliament it was supported by all parties. One of the central features of the new 1986 legislation was:

> Each State shall, before 1 July, 1986 formulate principles for the purposes of allocating amounts . . . . amongst local governing bodies in the State, and shall give a copy of the principles so formulated to the Minister before that date.

That was the primary instruction; it was not directed to the Victoria Grants Commission, but to the State government. The State was required to formulate the principles—that was very clear—but that legislation further provided three quite specific instructions. It said that the State government must consult with local government in the determination of those principles. It said that the State government:

> . . . shall have regard to the objective of ensuring that the allocations of funds for local government purposes is made, as far as practicable, on a full equalisation basis . . .

The Act went on to define what was meant by full equalisation, which is a complicated process. The third instruction given to the State government was also most important—it was not given to the Victoria Grants Commission—and stated that the government:

> . . . shall ensure that no local governing body in the State will be allocated an amount in a year that is less than the amount that would be allocated to that body if 30 per cent of the amount . . . were allocated . . . on a per capita basis.

In other words, there was to be a safety net of the total funds being granted on a per capita basis.

I apologise for the complicated instructions but they come directly from Federal legislation. The bottom line is that the Cain government was given three tasks: it was told

to introduce those principles; to consult with local government, and to introduce the concept of full equalisation with a safety net. The Victorian government then decided to send the brief off to the Victoria Grants Commission. The government—the Premier, in particular—now has three excuses as to why it says it cannot be held responsible for the outcome.

The Premier has said that the government was told to consult and it has done so. The Premier is claiming that the change in instructions was imposed by the Commonwealth government and is using that as a defence. The Premier has said that the government sent the matter off to an independent arbitrator, to the Victoria Grants Commission and, "What could be fairer?". Both the Premier and the Minister for Local Government have held their hands up in mock horror and said, "How could you suggest that we have been unfair when we have followed that process?"

It will be shown how the Cain Labor government got around those instructions to produce a predetermined outcome. I refer to each of the defences in turn.

The government has said that it consulted with local government. I concede that there was a detailed consultation process. In the Victoria Grants Commission report of 1987 the details of that process are laid out. Of the 210 councils in the State, no less than 193 took part in the consultation process, and 45 written submissions were directed to the Victoria Grants Commission. Round one to Mr Cain.

While the Victoria Grants Commission claims there was general acceptance for its proposal to change the equalisation model from the direct measurement model to a balanced budget model—the primary change which is causing subsequent heartache—acceptance was based on the elementary notion that the new system might be easier to understand. In the past, no-one could get near the formula; it was shrouded in mystery and almost in mystique. The most common complaint of local government was that the formula could not be understood. Local government wanted the system changed so that it could be understood. That was the basis of the acquiescence.

The first thing local councils wanted to know was what the new formula would mean for them. It is a fairly fundamental question. Those councils were told by the Victoria Grants Commission that the information could not be released because it might prejudice the councils' view of the formula. The commission was saying, "You cannot get too close to the outcome because you might judge it on the outcome". What an extraordinary situation! The suggestion put to the municipalities is that a system which involves dollar signs cannot be judged because those judging it might be biased.

Those municipalities which are enormous losers would certainly have challenged the new formula had they had knowledge of its impact. They would have given it the thumbs down signal.

I quote from the 1987 report of the Victoria Grants Commission:

> The commission took the view that it would be unwise to attempt any definitive assessment of likely outcomes until there is some general agreement about the principles that should be employed . . .
>
> the commission believed that the important question to be resolved was that of the principles themselves. If it were agreed that the new model . . . met the Commonwealth's requirements and provided an equitable base for determining the allocations, then the allocations that flow from it have to be accepted.

The municipalities were not allowed to know what the outcome would be so that, at best, their support had to be in principle only. It is not too unkind to suggest that the municipalities did not know what it was they were agreeing to.

In any event, the municipalities were assured that the change in formula would not have any dramatic effect. A document was circulated by the Victoria Grants Commission

during the period of consultation. The document suggested that the changes to be made would be minimal. At point 39 of the document, the commission states:

> In Victoria, only minimal changes to the principles used by the grants commission will be necessary to conform with the (Commonwealth) principles. Therefore, it could be expected that changes to the pattern of allocations will also be relatively minimal.

I suggest that there would not be one member of the government who would undertake the task of selling the changes as being relatively minimal to those municipalities which have subsequently lost up to 90 per cent of their grants.

The Hon. A. J. Hunt—Over that percentage!

The Hon. R. M. HALLAM—The Premier cannot claim as a defence that consultations were held. It is clear that the municipalities were conned by the consultation process and that they are now paying for the government's duplicity.

The second defence used by the Premier and the Minister for Local Government is that the changes in principle were imposed from above by the Commonwealth government and that, therefore, the Cain government had no option but to accept them. Parliament has been told that it is not the fault of the Premier or the Minister for Local Government. I want to show that that is no defence, either.

The Cain government can point to the fact that the ground rules were changed. I admit that they were changed, but they were changed in only two aspects.

The first aspect related to the safety net provisions. Even when they were fairer, the safety net provisions caught very few municipalities in the past. On my investigation, I could find only two municipalities that were caught in the safety net provisions in any year. One cannot say that a change in the safety net provisions, which were catching only one or two municipalities before, is the reason for the dramatic turnaround. I repeat that Parliament has been told the changes were minimal. The State government can hardly blame its Federal colleagues for the massive shift in allocations when it claims that the changes imposed were minimal. The safety net provisions are not an excuse.

The new arrangements reduce the population component from the previous standard of 34 per cent to 30 per cent and eliminate the area component from the safety net, to which concept I am diametrically opposed. The new provision imposes a direct and insupportable penalty on municipalities, given that the sparcity of population must be a major factor in the delivery of services. As I have said, few municipalities received relief under the previous system, which was a great deal fairer. That cannot be used as an excuse.

One is left with one change imposed from above; it goes to the central issue of the motion standing in my name. In respect of grant allocations, the allocation from the Federal government now prescribes the standard as:

> . . . the average standard of other governing bodies in the State.

Whereas the previous legislation referred to:

> . . . a standard not appreciably below the standards of other governing bodies in the State.

It is a very subtle but absolutely crucial difference. In Victoria in the past, the top 25 per cent of the municipalities were used as the measuring stick to determine revenue-raising disability. The Victoria Grants Commission is now interpreting the change in legislation as requiring the need to take the average from across the 210 municipalities in the State; whereas the benchmark was determined on the top 25 municipalities, Parliament is now being told that the benchmark must be lowered to accommodate the average across the State.

Because of the lower benchmark, those municipalities that fall below the reduced Federal mark can expect to receive a much lesser grant; that is the cause of the problem. The net effect of it all is a dramatic loss of funding to rural municipalities.

I have carefully examined that legislative change; I believe it was deliberately misinterpreted. I am sure the Victoria Grants Commission put a construction on that change that was not intended by the Commonwealth government.

By taking the average across the 210 municipalities, a whole new range of inequities has been introduced. However, the legislation does not refer to the average standard of all other local government bodies; it refers to the average of other local government bodies in the State.

If one refers to the principles that were introduced by the Commonwealth government by way of instruction to the States when the legislation was changed, one finds a principle that goes to the heart of the point I am making. Point five that the Commonwealth government introduced provides:

> When assessing revenue disabilities by some measure of property valuation, local government grants commissions should use either classes of property or categories of councils.

It did not provide for a Statewide average but indicated that the commissions should use categories of councils.

The Victoria Grants Commission completely ignored a specific instruction from the Commonwealth government. That is how rural municipalities have been done in: it has been quite deliberate. If a small rural municipality compares badly with its neighbours for any reason, it must live with the results of that comparison; it has to lift its game. A judgment based on a comparison taken across 210 municipalities, in the State, including metropolitan and major municipalities, is unjust and unfair; in fact, it is crazy, unless it is done by design. I submit that the rules were deliberately bent to achieve a government objective, and I am cynical enough to believe it is simply a rerun of the amalgamation issue that the government had to abort in the face of massive public opposition.

That statement brings me to the third defence this government has used. It said that the formula was devised by an independent authority. I refer again to the comments made by the Premier at a public conference in Horsham. He said, "You cannot criticise the decision just because you don't like the umpire". In my view, the umpire was clearly influenced before he took the decision. I mean no criticism of the chairman or officers of the Victoria Grants Commission; I have found Mr Stevenson extremely helpful when I have taken problems to him on behalf of individual municipalities. I concede that at least he has taken the time and trouble to try to overcome the mystique that surrounds the workings of the commission. He is doing his job under trying circumstances, but there is no doubt in my mind that the commission was influenced by the government in the process of determining that formula.

I refer to a letter addressed to the then Chairman of the Victoria Grants Commission over the signature of the Minister for Local Government, dated 25 November 1986, in which he stated:

> I also note in the attachment to your letter the observation that "in Victoria, only minimal changes to the principles used by the grants commission will be necessary to conform with the principles predicated in the new legislation".
>
> In this regard I would draw your attention to the statement made by the Premier on 3 September 1986—a copy is attached. I do so for, as you would be aware, your report to me in this matter will be considered by government as the basis for its deliberations in determining the principles the Victorian govenment will submit to the Commonwealth Minister for Local Government and Administrative Services.

The letter thus confirms that it was clearly the accepted responsibility of the Victorian government to enunciate the principles. The letter also states:

> You will note that in his statement the Premier has made a number of comments directed to encouraging the more efficient and effective operation of councils. In that context the Premier indicated that the government would "provide other incentives for local government to become more efficient".

In conclusion, the Minister stated:

> In drawing attention to the Premier's statement of 3 September, I would ask that in formulating proposed principles you pay full regard to the Victorian government's policy in this area.

I could almost leave my case at this point. It must be conceded, undeniably, that the government sought to influence the independent arbitrator, the Victoria Grants Commission.

It just so happens that the statement of 3 September of the Premier included an announcement of the government's intention not to proceed with the amalgamation of local government. I find that an extraordinary coincidence. It contains a number of thinly veiled threats to achieve amalgamation by financial penalty, as distinct from the big stick that did not work up until that point.

I highlight one of the comments of the Premier:

> There will be an examination of more flexible funding arrangements for those which are efficient.

I wonder what the government had in mind. I suspect the Federal colleagues of this government would be most upset if they knew of the Cain government's deviousness on this point. I shall quote a letter from the former Federal Minister for Local Government and Administrative Services, Mr Tom Uren, to my Federal colleague, Bruce Lloyd, dated April 1987:

> With respect to your query concerning whether the Commonwealth would allow Victoria to use the financial weapon of Commonwealth grants to enforce local authority amalgamations, I can assure you that such use of funds would not be permitted.

It is significant that that comment came from the former Federal Minister for Local Government and Administrative Services. Many observers remember that same Minister giving an undertaking in 1986 at the Municipal Association of Victoria's annual session that no municipality would receive less under the new formula.

The Hon. A. J. Hunt—Who gave that undertaking?

The Hon. R. M. HALLAM—It was the then Federal Minister for Local Government and Administrative Services. He has confirmed that the Commonwealth would not allow the distribution of funds to enforce amalgamations. I put to the House that that is precisely what has happened. Any independent observer would conclude that this exercise, at worst, is a rerun of the amalgamation issue or, at best, a classic example of pork-barrelling simply because of the direction of the funds.

I submit that the government leant on the Victoria Grants Commission to achieve the desired result, a result that was predicated upon the redistribution of funds for political purposes. I also submit that the government knew of the outcome before the formula was released, and I submit that that is precisely why it did not want the computations to be released. It did not want any municipality to understand what it would receive under the formula until the principles had been set in concrete and could not be challenged. I also submit that, if that were not the case and no-one knew of the outcome of the formula, as we are now being led to believe, that is the best possible argument as to why the formula should be reworked as a matter of urgency.

If the Victoria Grants Commission did not know of the outcome, it knows it now. There has been an impact on rural shires, in some instances involving losses of up to 90 per cent, and that is the best possible argument for the commission to review its formula.

The fundamental question to be put to the government is: how can a new formula be described as fair and equitable when changes that the government describes as minimal have had such a dramatic effect on allocations and when the previous formula was also held to be fair and equitable by the same commission which now designs the change? Victorians were told that the previous formula was fair and equitable. They were told that by the same commission that is now saying it must change the formula for it to become more fair and equitable. That is extraordinary.

On behalf of rural Victoria, I appeal to the Cain government for a fair go. Rural Victorians are amazed by this change and ask where is the government's social equity. It is clear that many rural municipalities, by this formula alone, will be brought to their knees. I wonder whether that is being done by design. Several specific actions could be taken by this government to provide the relief which I submit is desperately needed.

The first is to seek a change in Federal legislation. That is a particularly appropriate way to go. If the Cain government claims that it is an innocent bystander, why does it not use its influence to have the formula changed, if it must be done, at the Federal level? A very good case can be made to reintroduce the sparsity of population component into the safety net provision, and to lift that safety net provision so that real relief can be obtained for rural industries which will suffer the greatest disadvantage on the delivery of services over large tracts of land. That is the first action that should be taken, and it should be done quickly.

The second action would be to issue an instruction to the Victoria Grants Commission to address many of the anomalies in the methodology that has been adopted. There should be a recognition of the variance in the standard cost of administration. Depending on whether the municipality is rural, provincial or metropolitan, obviously these costs of administration, in standard terms, must vary dramatically. Yet that factor is not fairly taken into account.

In addition, there should be an allowance for cases where services are provided voluntarily. In many rural municipalities services are provided by an organisation without assistance from the local government unit. However, under the bizarre workings of this formula, those communities are penalised in the grants allocated because that provision of services is not counted. In other municipalities, where it is counted, the local government unit provides it at the ratepayers' expense and receives additional grant funds for doing so. That is also a bizarre situation.

The third action would be for the Victoria Grants Commission to acknowledge that rural municipalities have less opportunity of augmenting their incomes. They do not have the opportunity of improving revenue through fees and fines. They do not have the same opportunity as their metropolitan counterparts, and that is totally ignored in the formula. The commission should also be instructed to release the index which serves as the basis for determining movements in aggregate property valuations. That is the cornerstone on which these grants are determined. Yet the municipalities are not able to gain access to that information. Even if that information could not be released publicly, municipalities are entitled to see and challenge that index on the ground of equity.

It would be simple for the government to review its reaction to the Municipal Association of Victoria proposal to reduce the impact of the change in formula. The association has come up with a compromise which says that in return for a number of specific undertakings there will be a safety net covering the loss of funds for any individual municipality.

The Hon. W. A. Landeryou—There is a safety net now.

The Hon. R. M. HALLAM—The association says that no municipality should lose more than 30 per cent of its pre-formula allocation. Those municipalities which are "losers" should be given the opportunity of coming to grips with the decline in funding; they should be given time to accommodate the change; they should have the opportunity of responding in such a way that the effect on their ratepayers is minimised.

I have been critical of the Municipal Association of Victoria because I believe it has sold out on this issue. When the change in formula was first announced, the association took the policy line that any change in the distribution had to come from future growth. In other words, no-one was to lose anything in money terms. I thought that was a reasonable approach.

However, the association has shifted from that policy and has been promoting a maximum of 30 per cent loss in allocation. The point that disturbs me about that policy is

that the association came to that view not because it thought its first policy was wrong but because the variance in the first formula was so wide. The association sold out. Because the association has to speak for every municipality across Victoria and thus represents "winners" and "losers", the compromise represents a substantial achievement. It had to sell the concept to the winners. That certainly says something about this compromise.

I was disappointed that the government blindly discarded the compromise put forward by the association. I was intrigued by the comments of the Minister for Local Government at the time those decisions were made. I refer the House to an article in the *Colac Herald* of 15 April where the Minister is reported as having said:

> . . . the MAV proposal would extend the gross inequity . . .

What a dreadful insult to the organisation now employed to design a new formula. The distribution prior to August 1987 was determined by the same commission. In its report, time and again the commission said that this was a fair and equitable distribution. The Minister now says that there were gross inequities, which is a dreadful insult. He also stated:

> . . . the MAV "safety net" would simply block implementation of the legislation and the least needy councils would be assisted by this proposal.

I am not sure what is wrong with the Minister when he describes municipalities in the far reaches of this State in those terms. The Minister must drive around with his eyes closed. I am referring to the distribution and availability of services to people in far-flung communities, which the Minister now describes as the least needy. That is extraordinary. The Minister says that, if any municipalities are having difficulty in responding, the government will consider assistance on a case-by-case basis.

The Hon. W. A. Landeryou—How else would you want them to do it?

The Hon. R. M. HALLAM—I want a fair formula so that we do not have to go through this case-by-case proposition. That is what the formula was meant to achieve. It appears the government is now saying the formula was not up to scratch and it will have to review it on a case-by-case basis. That is clear evidence that the formula has failed. I further quote the Minister:

> Municipalities that received reductions in grants are municipalities with a low rate effort, who deliver few services to their communities and have high administration costs.

Those claims cannot be supported on the facts. Indeed, one of the benchmarks this government is now using is the comparison of rating effort, in which it is comparing the revenue raised by rates to the value of the total property in the municipality. The government is saying, "If you do not measure up to the State average, your rating method must be poor". Many of the municipalities I represent fall below the State average of 9·3 cents in the $1.

The Hon. W. A. Landeryou—They sure do.

The Hon. R. M. HALLAM—I shall explain the position to Mr Landeryou. If it were demonstrated that a municipality obtained low rates through its efficiency, why should it be penalised? It is extraordinary that the government is now saying to these people, "Go home and lift your rates so that we can give you a government handout". I thought the distribution was supposed to be based on efficiency; yet the formula works in reverse.

The fourth thing the government could do, and do quickly, is direct the Victoria Grants Commission to review the principles of equalisation, especially regarding revenue raising. I remind the House that the task was given to the State government to devise the formula; it was not given to the Victoria Grants Commission. The commission was given that task by proxy; it was simply flick passed to it by the Cain government.

The commission has adopted the valuation of property as the direct measure of revenue-raising ability. That is patently inappropriate, but that is what has been done. It ignores the fact that there are different classes and types of property. All honourable members

would acknowledge that a farm property worth, for example, $200 000 would have a different revenue-raising ability than a commercial or residential property of the same value. The ability of a property to raise revenue depends not just on its value but also on its type and class. However, under this system, all properties are lumped together, and that is part of the inequity of the system.

It is critical that the mix of property in a municipality is ignored under the new formula. I submit that the mix of property is just as important as the aggregate value. If the commission were looking for authority to include the type of property in the formula, a range of authorities could be used. The first is Western Australia. Under precisely the same legislation as Victoria is currently tackling, the Western Australian government has recognised variances by property type and classification. It is operating under exactly the same instructions as the Cain government was given.

Another argument can be put forward. Local government recognises that the revenue-raising ability of a property depends upon its class and type. Otherwise, why would differential rates exist? That concept is built into the local government system, and everyone concedes it exists, except the Victoria Grants Commission via the agency of this government.

All honourable members would agree that the fundamental issue in revenue-raising ability is disposable household income, and that is the direction in which we should be heading. Commonwealth Ministers have said that to me. Taking the valuation by type and mix of property is not the best method, but it is a step in the right direction for moving towards household property income. It overcomes the problem of those who are asset rich and income poor, and there are many such people throughout the rural communities.

Perhaps the best authority is the Victoria Grants Commission itself. In its annual report of 1985, it states:

> The types of property within a municipality will also influence its capacity to raise revenue and therefore effects of variations in the mix of property types should be recognised. Thus, the commission separately measures capacity to raise revenue from residential property, capacity to raise revenue from commercial and industrial property and capacity to raise revenue from rural and other property. Allowance is also made for the relative proportions of each of the three classes of property in the total valuation of each municipality.

The commission has turned its back on that principle; the same principle it so openly supported only two years ago. A return to the principle used by the commission no more than two years ago would provide much of the relief so desperately needed throughout rural Victoria. Relief could be gained by a simple instruction to the Victoria Grants Commission.

I have established that the formula is biased, unfair and discriminatory. I have established that there is an urgent need for change. I have shown that the government has the clear opportunity and responsibility to effect that change. I have shown that it would be possible to overcome the inequities with a simple instruction to the Victoria Grants Commission to rework the formula within the guidelines laid down by the Victorian government.

I shall refer to the simple proposition that I put forward previously: I appeal to the government for a fair go for rural municipalities and their communities. The new formula is creating havoc within local government and within rural communities. I commend the motion to the House.

The Hon. W. A. LANDERYOU (Doutta Galla Province)—At the outset I acknowledge the cooperation of Mr Hunt and his colleagues in allowing me to leap forward in the order of this debate. I want to take issue with some of the assertions put to the House by Mr Hallam. As usual, he has done his homework and has prepared well for the debate. However, some of his observations, not just the conclusions, are wrong and I intend to tackle them.

The effect of the government's action is that 92 per cent of Victorians living in municipalities have received more in grants this year than they received last year. In other

words, the government has set out to help, and is helping, more Victorians. Municipal councils are in a position to adjust their incomes in terms of their rating revenue and to provide equity within the rating system by that form of taxation.

It is difficult when there are winners and losers when any government allocation is adjusted because some people get more while others get less. It is easy to scream and yell about those who get less without analysing why they are getting less. Exaggeration has been the order of the day.

I shall refer the House to an example involving the Shire of Kara Kara. Its funding has been decreased by 92 per cent, or $156 000, over the four-year phase-in period. This is not an abrupt change; it is being phased in.

The Hon. R. M. Hallam—Does that make it more palatable?

The Hon. W. A. LANDERYOU—It gives those who have been on the gravy train unfairly a chance to adjust. It gives those who are to receive more, because more people live in the municipality and because more services are provided, time to adjust.

The Shire of Kara Kara has a high valuation and its rate is 6·8 cents in the $1. The town of St Arnaud has a rate of 19·3 cents in the $1. If the Shire of Kara Kara elected to increase its rates to make up the shortfall in grants, its rates would still be below the State average of 9·3 cents in the $1. Whereas the town of St Arnaud performs most of the functions of municipalities,the Shire of Kara Kara does not provide eleven important functions, including: family and child health services, aged and disabled services, street cleaning, urban drainage, public halls, recreation services and street beautification.

It is fair to ask: where is the justice, as Mr Hallam argues, in suggesting to the ratepayers of St Arnaud that they should continue, either through Federal, State or municipal taxation, to subsidise the operation of the Shire of Kara Kara, which is inefficient, does not charge sufficiently and does not provide the level of services that one expects?

The Hon. K. I. M. Wright—Why should it; there are no towns in Kara Kara.

The Hon. W. A. LANDERYOU—If there are no towns and no people in a municipality, should the National Party raid the public purse for a municipality that does not require services? It cannot have it both ways!

The National Party puts an argument to this House from time to time that if one lives in rural Victoria—as the National Party curiously refers to its electorates—those who live in other parts of Victoria should pay more taxes to make life easier for those who reside in these so-called rural Victorian areas. How can the National Party put that argument day after day without blushing? It is difficult to understand how that can be so. Even the former Premier of Queensland, Sir Joh Bjelke-Petersen has finally woken up and no longer puts that argument.

The Minister and the government have improved the lot for 92 per cent of people in Victoria because of the change in the allocation of these funds. It is difficult to argue rationally against that situation. In addition, the Premier, the Minister and the government have said that any problems can be investigated. In a press release the Minister for Local Government said:

> The MAV proposal involves imposing a "safety net" that would limit any reduction in grants to no more than 30 per cent of the grant.
>
> Mr Simmonds said the MAV proposal would extend the gross inequity which existed prior to a new formula being introduced in August 1987 . . .
>
> "As the MAV proposal stands, there is no guarantee that the affected councils would not still be in need of the 'safety net' ten years down the track."

The Minister has endeavoured to bite the bullet; it is difficult to get councils to do that, as the proposal to amalgamate councils demonstrated.

Whatever the Minister tries to do, some conservative will always want to keep things as they are. I can understand the argument that these people want their own village councils, but they should not expect the people that the Labor Party members of Parliament represent to pay the cost.

In my view, big is not necessarily beautiful, but it is not fair or equitable for the National Party to suggest that this is not an efficient and equitable way of dealing with the matter. If the National Party wants its members to sit on the councils of municipalities without towns and without a certain number of people, because it is its heritage and tradition, I respect that view. If it is arguing for small councils and highly paid municipal officers, it should not expect the ratepayers of metropolitan Melbourne to meet the cost.

The Hon. R. M. Hallam—It has nothing to do with ratepayers; we are talking about the taxpayers.

The Hon. W. A. LANDERYOU—Most people who pay rates pay taxes. In the municipality in which I reside a high rate is forced upon ratepayers because of the level of services that the local community demands; we pay our way. I do not see how the National Party can expect the St Arnaud and the Kara Kara argument to apply. Why should the Town of St Arnaud ratepayers pay more because the Shire of Kara Kara does not impose the correct level of rates? Ratepayers would not have to pay as high as the average rate just to maintain the level of services provided by the grants that the council has lost.

The Hon. K. I. M. Wright—They are efficient councils!

The Hon. W. A. LANDERYOU—Mr Wright may say that; perhaps we should examine the cost of running them?

An Honourable Member—Ask him who the secretaries are?

The Hon. W. A. LANDERYOU—Mr Wright probably attended their children's weddings; I shall not give him a chance to record their names in *Hansard*. The Department of Local Government provided me with a computer print-out—it is available for honourable members to peruse—which lists the administrative costs of each shire. The Town of St Arnaud has an administrative expenditure of 81 cents per person compared with the Shire of Kara Kara which has an administrative cost of 188 cents a person.

The Hon. W. R. Baxter—Compare apples with apples!

The Hon. W. A. LANDERYOU—That is what I am asking the National Party to do. Those of us who live in the big apple have to pay high rates and taxes to make the lives of those who live in some parts of Victoria easier. That may be good, but the government has said that there is a safety net and councils who can present a good argument to the government, about them being unfairly treated in comparison with other councils or that they are expected to carry a heavier burden than others, will have their cases examined individually in accordance with the formula. That is fair and equitable.

That approach is fair for 92 per cent of the people of this State who will receive a better financial deal.

The Hon. M. J. Sandon—They can't spell equity!

The Hon. W. A. LANDERYOU—Mr Sandon is probably right. I am appealing to one of the brighter members of the National Party, Mr Hallam. It is unfair of the National Party to suggest to those on this side of the House that in some way National Party electorates should be given an advantage simply because the majority of people in those areas vote for the National Party.

An Honourable Member—He is not saying that at all!

The Hon. W. A. LANDERYOU—To examine that argument in terms of Ballaarat City, the Minister recently attended a meeting at Buninyong at which neighbouring councils attended. They were astonished to learn that grants for the City of Ballaarat were up 61

per cent; for the Shire of Buninyong they were up 6 per cent; for the Shire of Bungaree the increase was 25 per cent; for the Shire of Grenville grants were increased by 10 per cent; for the Shire of Bacchus Marsh the increase was 25 per cent; and the grants for the Shire of Sebastapol were up 72 per cent.

In every situation there are losers and there are winners. In this instance 92 per cent of the people of the State are winners; their position has been enhanced.

An Honourable Member—The losers come from the rural areas!

The Hon. W. A. LANDERYOU—The losers now have been the unfair winners in the past. If a particular municipality can put a case rather than boring honourable members witless in this House, it should accept the long-standing invitation of the Minister to argue its case.

The Hon. R. M. Hallam—The Minister did not respond to my letter.

The Hon. W. A. LANDERYOU—I do not believe that the case was put properly to the Minister; nor do I believe the National Party has a case that can deflect the government from its action of excellent reallocation. Funding is not unlimited and the approach that the government has taken has improved the lifestyles of 92 per cent of people in this State. There is still the opportunity to argue for the 8 per cent funding and if there are problems with that those honourable members deserve to be members of the National Party.

The Hon. A. J. HUNT (South Eastern Province)—I congratulate Mr Hallam on his lucid and comprehensive presentation to the House. I listened to Mr Landeryou but must say with respect that he is better when he spontaneously rises to speak on an issue on which he feels strongly rather than when he is speaking to a departmental brief.

It may be helpful to the House for me to go back into the history of general revenue assistance grants to local government because that history is instructive in examining and appreciating the purpose and the workings of equalisation grants.

Honourable members give credit to the Whitlam government in 1974 for commencing——

The Hon. B. W. Mier—You didn't at the time!

The Hon. A. J. HUNT—Mr Mier will have his chance a little later if he will only be patient and allow others to make their speeches.

In 1974 the Whitlam government introduced the first revenue assistance grants. There was a simple rationale behind those grants. It was recognised that local government no longer served property alone and that the rate base that was perfectly valid for services to property on which the rate was charged was inequitable in providing for the new services to people for which local government was being increasingly called upon. That was the basic issue.

It was further recognised that those people services could be met properly only from contributions from general revenue—from the taxation base of this country. The Honourable Gough Whitlam recognised those two principles and, to his credit, he acted upon them.

In 1976 the Fraser government not only endorsed those principles but took them further. Prior to the 1975 election, the Fraser government made it clear that it would give local government a fixed annual percentage of income tax revenue. In 1976, before the Commonwealth Act was passed, negotiations took place about what that percentage should be. Victoria led the way in saying it should be 2 per cent. The calculations on which that figure was based were produced in Victoria by the Local Government Department, which convinced other State governments that that was the appropriate figure to accept. The figure was adopted by the Municipal Association of Victoria and the Australian Council of Local Government Associations. The States and local government went to Canberra with a united voice.

The Honourable Malcolm Fraser said in 1976 that the Federal government could not immediately go to 2 per cent, it could go only to a certain sum—which happened to be 1·52 per cent in that year—but that it would move within a short time to 2 per cent of income tax collections going as of right to local government in recognition of the people services that local government now performed.

That was the basis of those grants. The increase happened over a two-year period between 1976 and 1978. The figure moved, if I recall correctly, to 1·75 per cent in 1977 and to 2 per cent in 1978. That was a welcome recognition of the true role of local government. I was sorry to hear that the 2 per cent guarantee was to disappear under the Hawke government and that it is now a matter of an annual decision about how much local government will receive. Local government is no longer being treated as a true partner in the system of government, where the three spheres of Federal, State and local government share the responsibility of serving the same people from the one set of taxation revenues.

The negotiations in 1976 went further as to the way in which that 2 per cent should be distributed. The Commonwealth government laid down some simple parameters. At least 30 per cent of the total had to be on the basis of population. The rationale for that was simple; the greatest generator of needs is people. That should be a self-evident truth. In that way at least 30 per cent had to be distributed on the basis of population and up to 70 per cent could be contributed on the basis of special needs, such as hardship and disabilities.

After detailed computer analyses and comparison of effects on municipalities, it was determined that the appropriate disposition for Victoria was 40 per cent as of right and 60 per cent based on needs and disabilities, which fell within the parameters laid down by the Fraser government and which was a basis readily approved by it.

In turn, within that 40 per cent that councils knew they would get as of right, there were two components: 85 per cent for population and 15 per cent for area. That recognised that municipalities with dispersed populations and longer roads would incur higher per capita costs. The remaining 60 per cent was to be distributed on the basis of special needs and disabilities in accordance with a Victoria Grants Commission formula that has operated ever since. What has now happened is that the as-of-right segment has disappeared. Furthermore, the change in the basis of revenue comparisons, to which Mr Hallam has referred, operates with severe detriment to those rural communities for whom the earlier formula recognised a need for special consideration.

Which municipalities have suffered most under the change? The Municipal Association of Victoria has said that this is simple to see, and that those which experience significant reductions share four characteristics. The first is a rate in the $1 below the State average. Rural communities have always had a rate in the $1 below the State average. Their ratepayers have a lower capacity to pay than the State average. Previously this was recognised by examining the top 25 per cent and comparing the capacity of the particular municipality to raise revenue with that top 25 per cent. The change of formula means that the starting point is the average for the State instead of the top 25 per cent. If a municipality is not rating as much as the average, regardless of its ability to pay, it loses out.

The second characteristic to which the Municipal Association of Victoria directed attention was that per capita valuations are above the State average. In a farming community where there is a lot of land, of course the average value of a property will be higher than the average value of a home in the suburbs. Thus the average per capita valuation will obviously be higher and the farming community is now being penalised for that fact.

The third characteristic of the municipalities which will lose under the new formula, according to the Municipal Association of Victoria, is that per capita expenditure on administration is above the State average. One would expect the percentage cost for administration in large municipalities like Camberwell or Moorabbin to be lower; it is shared over far more people. One would expect the administrative cost of a small

municipality with few people to be higher per head. Therefore, again, those small municipalities lose out.

The Hon. W. R. Baxter—Small in terms of population.

The Hon. A. J. HUNT—Yes, small in terms of population, with fewer people to share the costs.

The fourth characteristic was a large number of expenditure functions performed at a lower effort compared to the State average.

It is not possible for a small rural municipality to have such an extensive meals on wheels scheme, for example, nor is it normal for the percentage expenditure on library services and welfare services to be as great, but that does not mean that the municipality lacks efficiency or effort. Many of these municipalities are holding their budgets very tightly and thus spending at a comparatively low rate on some of these activities simply because the capacity of their ratepayers to pay more is not there.

The Hon. W. R. Baxter—They would be criticised for spending too much on street beautification, for example.

The Hon. A. J. HUNT—They would. What is now occurring is that those municipalities are put in a worse position again.

The Hon. R. M. Hallam—They are being penalised.

The Hon. A. J. HUNT—They are being put in a worse position than they ever were before.

Mr Hallam has referred to some figures on those municipalities, and I believe I should give some different ones to which he has not adverted. Under the new formula, 35 municipalities will suffer a reduction of more than 60 per cent; not all at once, but over a comparatively short period. They will suffer a reduction of more than 60 per cent in their grants. Twenty-three municipalities will suffer a reduction of more than 70 per cent; 12 municipalities will sustain a reduction of more than 80 per cent; and two, Kara Kara and Wimmera, will sustain reductions of in excess of 90 per cent. Each one of those municipalities is a shire. Not one of those municipalities is a borough, town, city or a suburban metropolitan municipality.

The burden is falling on one sector alone, and anybody with a sense of equity would recognise that the comparatively sudden loss of 90 per cent, 80 per cent, 70 per cent, or 60 per cent of grants to municipalities in this category is a disaster. That they should suffer an enormous imposition for a relatively tiny gain per capita to larger suburban metropolitan municipalities is entirely unfair. That is not a situation that was envisaged by the original system. It represents a transfer of income from the weak to the strong. One asks why.

Mr Hallam has examined those reasons with care, and there is little to add to what he had to say. However, I do want to add that "little". Mr Hallam referred to the letter from the Minister for Local Government to the Chairman of the Victoria Grants Commission dated 25 November 1986. I will not read what Mr Hallam has already read, but he did omit a quote that I believe is significant. The Minister said:

> Second is the matter of the formulation of the funding principles themselves. In considering your letter of 11 November 1986 I note your comments in the penultimate paragraph that you will be preparing detailed proposals for the principles to be employed in determining future allocations of general revenue grants which will take account of the views of local government that emerge from the consultation processes, and that you expect to be in a position to submit these to me by mid-February 1987.

As Mr Hallam said, the Minister then went on to express some surprise about the fact that only minimal changes to the principles used by the Victoria Grants Commission would be necessary. The Minister was saying, in effect, "Now look, here's a statement by the

Premier which constitutes our policy on local government and you are to take that into account". In fact, the Minister went further and said:

> . . . I would ask that in formulating proposed principles you pay full regard to the Victorian Government's policy in this area.

The Minister was saying that consultation is all very well, but one should not get carried away by it. He was saying, in regard to the minimal changes, "Just be careful about that, too! The real thing that counts is not that principle; it is the Victorian government's policy embodied in this statement of the Premier that I now forward to you".

As Mr Hallam has said, the statement by the Premier was dated 3 September 1986. Mr Hallam has quoted from it, but I shall quote another sentence. The Premier's statement said:

> For the future, the Commission will be required to direct its energies and resources to assisting councils that wish to restructure.

I have to acknowledge that that statement specifically related not to the Victoria Grants Commission but to the Local Government Commission, but that statement was being forwarded by the Minister for Local Government to the Victoria Grants Commission, directing it to adopt it as a Victorian government policy in determining the new formula. Is that not the same as saying, "You will adopt the same principle as the Local Government Commission has been directed to adopt"?

The Hon. R. M. Hallam—It is a direction by the back door.

The Hon. A. J. HUNT—Is that not, as Mr Hallam says by interjection, a direction by the back door to this commission, too, to direct its energies and resources to assisting councils that wish to restructure? Is it not suggesting that weaker councils might have to be forced into restructures or amalgamations? Is that not the result when one considers where the councils that will suffer reductions of more than 60 per cent are located—the far-flung smaller rural municipalities?

It is all very well for Mr Landeryou to call those municipalities inefficient and to imply that they should get together with other municipalities, but the local people do not want that.

The Hon. K. I. M. Wright—They are not inefficient, either.

The Hon. A. J. HUNT—No. As Mr Wright says, it is not inefficiency that causes greater costs in a small municipality serving a sparse and widely dispersed population. If two municipalities that are side by side, each covering a large area but having little in common, are forced to amalgamate, where is this sense of community identity that local government exists to serve? It disappears. No longer is there a sense of community at all. The more one forces differing communities with widely distributed townships, if any, into the one bag, the more the purpose of genuine local government to serve its local people and meet their needs and aspirations goes down the drain.

The Hon. R. M. Hallam interjected.

The Hon. A. J. HUNT—Mr Hallam says it is subverted; that is better language. The Opposition rejects the argument that these municipalities are inefficient. They simply suffer high costs and low capacities to pay because of their inherent natures.

Amalgamation is no solution to their problems. They need assistance rather than discouragement. A change in formula returning more closely to the previous situation is needed on a basis that recognises the lack of capacity of the ratepayers of these municipalities to pay. A safety net of the type suggested by the Municipal Association of Victoria is needed to prevent unwarranted and sudden decreases with disastrous effects upon municipalities.

The Liberal Party commends Mr Hallam on the enormous amount of research he has undertaken and on the clear way he has presented the motion, and we have no hesitation in giving our full support to the motion.

The Hon. R. S. de FEGELY (Ballarat Province)—It is imperative that I support the excellent motion moved by Mr Hallam. A number of municipalities within the electorate I represent are greatly concerned about the present formula on which allocations are being made to local councils by the Victoria Grants Commission. The motion is important to those mostly rural shires because their very survival depends on a change in the present formula.

It has already been suggested today that the formula could well be a backdoor method of forcing amalgamation on the municipalities that the government has decided are inefficient. Earlier I listened to Mr Landeryou who mentioned the Shire of Kara Kara and the Town of St Arnaud. He made comparisons between the two in the cost of administration and, regrettably, that is the sort of ill-informed assessment that has been made by the State government in arriving at the formula it wishes to foist upon local government in Victoria.

As Mr Hunt pointed out a few minutes ago, comparisons cannot be made between sparsely populated rural municipalities and densely populated metropolitan areas.

I should like to be a little more specific than my two colleagues who have spoken already have been in covering the major areas of concern thoroughly and well. I shall mention some good work that has been done by Mr Haynes, the Secretary of the Shire of Ararat, which is one of the municipalities suffering severely under the Victoria Grants Commission allocations.

I shall quote from a letter that the shire secretary wrote to the Prime Minister, the Premier, and State and Federal Ministers for local government on 19 November 1987. The letter states:

> The advice from the Grants Commission indicates that council's allocation for 1987–88 would have been $104 000 had the allocation been fully based on the new principles. This compares with an allocation of $531 342 for 1986–87 and represents a decrease of 80 per cent or $427 000.

The letter continues:

> What has happened to the principle of autonomy for local government? It also appears that the high spending and high rating councils are to be treated more favourably with Grants Commission allocations, regardless of any measure of effectiveness and efficiency. What is the logic behind this?

That has been aptly demonstrated by Mr Hallam and Mr Hunt in earlier submissions today. Why has this situation come about? The allocations, as they were laid down by the Federal government, were intended to be far more equitable than has occurred. As was stated by the Federal office of the Local Government and Administrative Services Department when assessing the revenue disabilities by some measure of property valuation, local government grants commissions should use either classes of property or categories of councils as the basis for allocations, and Mr Hallam mentioned that point earlier.

I shall go over that same ground again because it is absolutely critical to rural councils that this type of measure be adhered to. If that is not done, rural municipalities will be heavily disadvantaged. Honourable members have heard my colleagues quoting statements made by the Premier in September 1986. I reiterate one of the points made in the Premier's statement when he said to the Federal Minister:

> I would ask that in formulating proposed principles you pay full regard to the Victorian government's policy in this area.

Had the Victorian government been prepared to stick with the Federal government guidelines, municipalities in Victoria would have received a much more equitable proportion and allocation than they currently receive. However, because the Victorian government set its own guidelines, which it believed were in its interests, rural municipalities have suffered badly.

It was also interesting to note that in the annual report of the Victoria Grants Commission for that year it is stated that implicit disability factors are adjusted by the commission as a matter of judgment. This point brings another dimension into the argument. There is also some area where the commission can deviate from the formula and make special provisions for what it believes are special circumstances. The letter from Mr Haynes goes on to say:

> Thus, the commission still has plenty of scope to have a very significant impact on the level of allocations to particular councils.

Earlier in his speech Mr Hallam mentioned the drastic reductions that have been made in the allocations to some rural municipalities. I shall mention some of the shires in the area I represent. The Ararat shire has suffered a reduction in funding of 80·43 per cent; the Shire of Ripon a reduction of 68·8 per cent. The Shire of Hampden, of which I represent only a portion, suffered a reduction of 13·86 per cent. In the Shire of Kara Kara the reduction was 92·33 per cent. In the Shire of Donald, where once again I represent only a portion of the southern area, the reduction is 78·75 per cent.

Those councils are the ones most drastically affected. In the Western Municipalities District Assembly, in which there are approximately 17 shires out of 23 municipalities, all these shires can expect a decrease in allocation with a total reduction for the group amounting to $3 675 222 or 15·6 per cent in dollar terms only. This figure would be a 58·8 per cent shift away from the State average.

Where is the fairness, the equity and the social justice in these allocations to rural municipalities? In the Ararat shire there are approximately 29 expenditure items that do not receive government assistance.

The shire has been estimated to have a rating of 7·5 cents in the $1 as against a State average of 9·3 cents in the $1. That immediately places the shire at a disadvantage. What will happen among municipalities from now on is that where in the past they have been providing self-help services such as swimming pools and facilities for other activities at no cost to the taxpayer, municipalities may well write many of these things into their books to qualify for grants. These costs will then be added to the taxpayer's costs by qualifying municipalities for grants. The government cannot class it as efficiency if it intends to force councils to survive by doing that type of bookwork.

The areas of largest reduction include the Shire of Kara Kara and the Town of St Arnaud. The Town of Stawell, a badly disadvantaged area, was successful in obtaining its grants. The Shire of Stawell was badly disadvantaged. By contrast the City of Ararat fared the best of any of the municipalities in the area.

The Hon. B. A. Murphy—That is where the people live!

The Hon. R. S. de FEGELY—That is true; that is where the people live. But it is interesting to note that the vast reductions for rural municipalities are used as a means of putting pressure on them to amalgamate with the adjacent urban areas. That is a good example of a push towards amalgamation by the backdoor.

As has already been pointed out, obviously the government does not believe there is a problem with the present system, and in fact is happy with it. As Mr Hallam clearly pointed out, if the government observed a problem it would urge the Federal government to do something about it if, as the government tends to inform the House, the problem lies at that level. The problem is most certainly in Victoria, and it is in the way in which the Victoria Grants Commission has been directed by the government to implement the formula.

In its present form the formula is grossly inequitable and unfair. Victoria should be moving towards a valuation system whereby municipalities are split into commercial, rural and residential categories, thereby producing in most rural municipalities a much better result and a more equitable and fairer method of allocating grants. The system could be changed if the government had the will or desire to do so, but it will not do that.

Therefore, Victoria will have to wait for a change of government, which may not be very far down the track. The Opposition would then implement as a matter of urgency a call for a report into the whole method of allocating grants in Victoria to ensure that they are more equitable and that their distribution is carried out on a fairer basis than at present.

With those few words, I have the pleasure in supporting the motion.

On the motion of the Hon. C. J. HOGG (Minister for Education), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

GROCERY PRICES (AMENDMENT) BILL

The Order of the Day for the resumption of the debate on the motion for the second reading of this Bill was read.

The Hon. ROBERT LAWSON (Higinbotham Province)—Mr President, I direct your attention to the state of the House.

A quorum was formed.

The debate (adjourned from March 29) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That the following Order of the Day, Government Business, be read and discharged:

Grocery Prices (Amendment) Bill—Second reading—Resumption of debate.

and that the Bill be withdrawn.

This Bill came to this House some two or three weeks ago. It contained a twelve-month sunset clause from last year. The measure established the prices peg that the government believes has been successful. Debate on that Bill was adjourned until a time which took it to a point beyond the date when the sunset clause ran out.

It is not possible once the sun has set to make it rise again. It was not possible to reactivate the previous piece of legislation. It is the government's intention to reintroduce the basic measure, but with this year's date on it. To do that, I am moving to discharge the previous one and following that—if the discharge is allowed—the government will bring on Order of the Day, Government Business, No. 12, and the Minister for Education will move the second reading of the new Grocery Prices Bill.

The Hon. HADDON STOREY (East Yarra Province)—The Opposition does not oppose the motion. We recognise that the government left it far too late to introduce the Bill into this House so that the sunset clause operated before the Bill came on for debate in this House. Perhaps the Minister should also withdraw Order of the Day No. 12!

The motion was agreed to, and the Bill was withdrawn.

GROCERY PRICES BILL (No. 2)

The Hon. C. J. HOGG (Minister for Education)—I move:

That this Bill be now read a second time.

This Bill is being introduced to restore the powers to enforce the government's price restraint programs that existed under the the Grocery Prices Act 1987.

The Grocery Prices (Amendment) Bill 1988 was introduced earlier this sitting, for which the second reading was moved on 29 March. The amendment Bill sought to extend the 1987 Act a further twelve months by amending the sunset clause in the principal Act.

However, that Bill was not dealt with in the required time by this House, despite passing in another place. As the principal Act has now expired, it is not possible retrospectively to amend it. Therefore, the government has resolved to introduce a new Bill to re-establish the same powers as have successfully worked over the past twelve months to constrain price increases and protect the welfare of all Victorian families.

The arguments made against the extension of this legislation are based on ignorance and political expediency. I believe both opposition parties are obligated to reconsider their obstructionist stance and act to protect the interest of all Victorians rather than pursuing narrow, ideological arguments. It is particularly incumbent on the National Party to explain why it supported this exact legislation twelve months ago, just prior to a by-election, and now refuse to support it despite the indisputable achievements it has brought about.

The prices-peg program is designed to ensure that the wage restraint accepted by wage earners in recent times is matched by restraint in prices and government charges. A basket of essential groceries and a basket of State government household charges were pegged to a rise of no more than 6 per cent for the twelve months from 6 March 1987. That target has been met easily in both cases.

The State government household charges in the prices peg have risen an average of only 2·8 per cent since March 1987. The government is again committing itself to keep the basket average increase in State household charges below 6 per cent, and believes it will achieve another good result. The prices peg grocery basket rose a total of only 3·2 per cent for the full twelve months of the program. If prices had continued to rise at the same rate as in 1986, Victorians would have spent an extra $140 million on groceries. Victoria's success at restraining prices is confirmed by the consumer price index figures for the calander year 1987, which show the national inflation figure to be 7·1 per cent. The Opposition has claimed that inflation last year was less than 6 per cent—that is a reflection of its economic ignorance and inconsistency.

In 1986, Australian food prices grew faster than the CPI generally and Melbourne's food prices rose the fastest of all capital cities. In 1987, food prices grew at less than half the rate of the CPI and Melbourne was below the Australian average. This did not happen by some accident or quirk of a free market. It happened because the government alerted Victorian consumers to the fact that they were being treated worse than consumers in other States and forced greater competition between the major retailers.

The government's efforts at publicity and education were central to this dramatic turnaround, and the powers under the Grocery Prices Act were a key to ensuring that the system was not rorted or undermined by unscrupulous companies. Throughout the prices peg the government has won the support of manufacturers and retailers who, unlike the Opposition, understand that consumer confidence is critical to sales growth. By stepping in to put a lid on prices, the government has scared away the sharks and taken the heat out of price inflation. By rejecting this Bill the Opposition would be inviting the sharks back to feed on the pay packets of Victorian wage earners.

In 1986, Melbourne's food cost increases were 1·3 per cent higher than for the average of all capital cities. In 1987, they were 0·2 per cent lower. The prices-peg campaign is a major factor in this dramatic improvement. If the prices peg does not continue, the rate of increase might return to pre-1987 levels and the benefits of the prices peg would be lost. It has been suggested that the same result would have been achieved without any government intervention. This is absolutely incorrect.

Melbourne in recent years had above-average increases in prices as a result of higher profit margins and less competition than in other States. The advent of the prices peg has reversed this situation and the sharp focus on pricing issues at both State and Federal levels has severely curtailed food price growth. The gains that have been made via the prices peg cannot be allowed to be erroded. The prices peg has shown how intelligent

government action can encourage the private sector to exercise price restraint in the interests of the economy. We must continue to provide that responsible leadership.

The Opposition appears to be ignorant of what the Grocery Prices Act 1987 actually provided. Recent statements from the Opposition assert that the Act prevented increases above 6 per cent, when, in fact, the target for 1987 was not mentioned in the legislation at all. The Bill provided a simple enforcement mechanism to deal with unjustified increases. The government indicated it would use this power if a manufacturer failed to discuss the justification for price increases in excess of the government's 6 per cent target.

The National Party has argued publicly that despite the success of the 1987 Act it was not broad enough. It appears not to have read it. Sections 4 and 5 provided for the price of any grocery item, whether it was in the basket or not, to be controlled if the Minister is satisfied that an increase is excessive, having regard to the economic circumstances and the public interest. That is what this Bill also provides, and if there is any grocery product the National Party feels is increasing beyond the bounds of reason this Bill enables its price to be controlled.

The 170 commonly purchased items used by the government to monitor general grocery price trends are not the only poducts which may be controlled. They are, however, the key indicators and market leaders. Experience over the past twelve months confirms that restraining the market leaders forces competing brands to control their prices. The detailed statistics prove this; the remarkable turnaround in Melbourne's food prices confirms it.

I seek leave of the House to incorporate in *Hansard* a table showing the relative movement in grocery prices in Melbourne and Sydney over the past twelve months.

Leave was granted, and the table was as follows:

TABLE 1

COMPARISON OF PRICEWATCH GROCERY BASKET COST INCREASES FOR MELBOURNE AND SYDNEY

	March 1987	*March* 1988	% *Increase*
Melbourne	$67·16	$69·64	3·6%
Sydney	$65·81	$69·02	4·8%
Difference	$1·35	$0·62	

The Hon. C. J. HOGG—These figures come from the Federal Government's National Pricewatch Taskforce. In March last year this national survey confirmed that Victorians were being charged more than consumers elsewhere.

These differences are not due to any higher costs in Victoria—in fact, many costs are lower. The difference is due simply to high profit margins, less competition and less consumer awareness. After twelve months it can be seen that Melbourne's prices have increased substantially more slowly than Sydney's—3·6 per cent compared to 4·8 per cent. As a result, the difference in favour of Sydney has been slashed by half and the trend indicates that prices should be brought back in line over the next twelve months if the prices peg continues. These figures, incidentally, are based on a different basket from the prices peg, but show very similar results for the Melbourne increase, thereby confirming the accuracy of the government's surveys.

The government has retained the sunset provision and will be closely monitoring the success of the prices-peg program and future national wage decisions. The government will extend the sunset clause in the future unless there is a sustained slowdown in prices and Melbourne prices fall in line with those of the rest of Australia. In rejecting the earlier Bill, the Opposition has demonstrated that sunset clauses are not considered by it to be an opportunity for mature reflection but simply an opportunity for political troublemaking.

The Opposition has blatantly frustrated the extension of the original Act without presenting any sound arguments.

The government's research has failed to find a precedent for the non-extension of a sunset provision for such cynical motives. It is obvious that it is the Opposition that is playing political tricks, not the government, and the interests it is protecting are not those of ordinary Victorians.

It is interesting to note that 23 community-based price action groups have sprung up across Victoria, providing further evidence of the support given to this important campaign by Victorians. It is also worth noting that most of these groups are outside the metropolitan area. It is obvious that country people are very concerned that lack of competition in small towns should not result in excessive pricing.

The prices peg has a high profile among consumers. By successfully disseminating current price information, the government, through the prices peg, has made Victorian shoppers far more price conscious. They are now more discriminating about where they spend their money. Since the commencement of the prices peg, the major supermarket chains have responded with a much greater emphasis on everyday lower prices and greater competition.

Although the powers of the Grocery Prices Act 1987 have been used only once, they have been an important part of the equation in having meaningful discussions with manufacturers. The prices peg has been a great success in 1987 and must continue to make a valuable contribution to price and wage restraint in 1988. Victorian families are looking to the government to ensure an affordable grocery basket.

The introduction of the new Bill gives the Liberal and National parties a chance to reflect and to act to protect the interests of ordinary Victorians. The future of wage negotiation, the standard of living for Victorian families and the economic advancement of the State are three central concerns addressed by the Bill.

Let there by no mistake, the public demands effective steps to lower inflation. The Bill is an important opportunity of testing the maturity of the Opposition to address such fundamental long-term economic issues.

I commend the Bill to the House.

The Hon. H. R. WARD (South Eastern Province)—I suggest that the debate on this gimmick Bill be adjourned.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Acting President, I take exception to the use of the word "gimmick". I ask that it be withdrawn.

The Hon. H. R. WARD (South Eastern Province)—On the Grocery Prices Bill (No. 2), I move:

That the debate be now adjourned.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until later this day.

ENERGY CONSUMPTION LEVY (AMENDMENT) BILL

The debate (adjourned from the previous day) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. J. V. C. GUEST (Monash Province)—This is a Bill which gives effect to the government's stated intention to abolish the energy consumption levy from 1 July 1988, except it is maintained in respect of gas supplied to the State Electricity Commission of Victoria.

Since it will not save gas consumers money—with minor exceptions, because the levy will be included in prices—it is hard to find much virtue in the Bill. The levy should never have been imposed in the first place. In 1982 the government's voodoo economics wing mandated that the big gas consumers——

The Hon. Robert Lawson—Mr Acting President, I direct your attention to the state of the House.

A quorum was formed.

The Hon. J. V. C. GUEST—Perhaps I should begin again because I am sure many honourable members would like to hear me. As I said, the levy should never have been imposed in the first place. In 1982, the government's voodoo economics wing mandated that the big gas consumers who could best take competitive advantage of Victoria's low gas prices should be penalised for using gas. The levy was the means and it also fitted nicely the government's need for revenue to feed its spending spree, which would still be under way if the government had not run out of money.

The levy just might have made sense, after careful research, to give certain industries an extra incentive to conserve energy or use electricity instead of gas. However, I doubt that because, in the end, such reasoning involves the basic fallacy of governments which try to predict the future and to pick winners. As it is, the government has simply continued a heavy additional impost well beyond any need to do so.

The economic distortion, which the Minister for Health brought in, will now be built into gas prices because of the government's monopoly. Why the levy is being maintained in relation to the State Electricity Commission has not been explained. It seems to have no justification except to confuse people who try to make sense of the public authority accounts. That point is not made lightly. It is evident that that is the strategy of the government: to confuse people from year to year about public accounts of all kinds, in particular departmental accounts, but also public authority accounts.

It also lends support to the view that this government constantly seeks ways of changing its extremely complicated accounts so that comparison and obviously valid criticisms are made much harder. Unfortunately, it also impairs analysis and understanding. Despite the purposes that may well linger behind the government's apparently tax-abolishing and simplifying proposed legislation, the Opposition supports the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party does not oppose the Bill, which is honouring a budgetary commitment made by the government some time ago. The matter of energy consumption levies has been opposed by the National Party for many years. My colleague, Mr Evans, reminded me that, in 1982, when the matter was first floated, he moved and had carried in the House a motion opposing the consumption levy because it is a tax and repudiates one of the natural advantages of the State in having a plentiful and relatively cheap gas supply.

I share Mr Guest's puzzlement that it is still to be imposed on the State Electricity Commission, although it is being removed from other large gas users. It is hoped that in future the levy will be removed from the State Electricity Commission.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

STAMPS (AMENDMENT) BILL

The debate (adjourned from the previous day) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. J. V. C. GUEST (Monash Province)—The Bill does a number of desirable things, and the Opposition is willing to go along with it. It gives relief from stamp duty on corporate reconstructions. For a number of years the Treasurer has given relief amounting

to well over $10 million by ex gratia payment, which has to be provided for in the Budget, to persons and companies that have paid large amounts of stamp duty for the purpose of effecting a corporate reconstruction which is naturally intended to facilitate more efficient, effective and profitable business.

The Treasurer has decided that it would be much better to regularise those ex gratia payments in an Act of Parliament when rebates are given in such cases. That is what the Bill achieves.

The Bill contains a provision for the removal of stamp duty on transfers for full market value of call options on unissued debentures. That will facilitate the growth of Melbourne as a financial market. It was quite an anomaly that any such duty should have been payable. The Opposition therefore supports the removal of that duty being made effective retrospectively.

The only thing I would add in relation to that particular stamp duty is that it points to the extraordinarily unsatisfactory nature of stamp duty as a tax. It is not necessarily inefficient in the sense that it is usually quite painless and relatively costless to the government to collect stamp duty, but it is not costless for the industry and there is nothing especially rational—and certainly nothing economically rational—in the retention of stamp duty.

I point out this particularly petty impost that is now being removed as an example of the unsatisfactory nature of stamp duty generally and the distinct desirability that the move towards superior revenue-raising measures by the States over the past few years should be continued.

There is a provision in the Bill which can be reasonably described as technical, and the Opposition does not oppose it. The only one which it would regard as fairly contentious is the provision for taxing, by stamp duty, transfers on properties effected by reductions of capital, where that reduction of capital on a corporation-owned property is itself effected by the reduction of redeemable preference shares. Where that means of transferring property has been used, it has been quite clearly an artifical device for avoiding the ordinary stamp duty on transfers of real property.

The Liberal Party is against the unfairness of one person or one corporation escaping duty on transactions which, in substance, are the very same as those on which other people pay large amounts of taxation.

In this case the exemption which applies to reductions of capital, specifically to those of them which are effected by the use of redeemable preferences shares, is not, the Opposition was advised, one that has been much used, if used at all, for legitimate purposes—that is, ordinary non-tax avoidance purposes.

The Opposition naturally supports a restriction on this use of redeemable preference shares to legitimate cases. The only problem is that the Treasurer has sought to make this change in the law retrospective to 15 December. On 15 December the Treasurer gave notice of this change by press release. The press release was presumably communicated reasonably well to the commercial advisers who would inevitably be involved in the use of such a tax avoidance device.

One can never be sure that press releases have been adequately circulated. There are taxation services, to which most solicitors and accountants who deal with this kind of business subscribe, and one of those services would certainly have made sure it had at least available in its offices notice of the proposed change.

Nonetheless, there is an element of retrospectivity and, although the intention of retrospectivity is much misunderstood and much retrospective legislation, as I would describe it, is not objected to, such as, for example, the Land (Goonawarra Golf Course)

Bill which was dealt with last week, and went through with practically no mention of its retrospective character——

The Hon. W. A. Landeryou—It was corrrecting a mistake made by your Leader!

The Hon. J. V. C. GUEST—I am happy to speak about that Bill because it was not a mistake of the Leader of the Opposition in another place; it was an earlier mistake. It was possibly a mistake, but the fact is that the Crown unilaterally went about correcting that mistake in its own interest and, if it had done it correctly, it would have provided compensation. Mr Landeryou and I should have got together on that Bill. If the Bill had not been prematurely brought before the House for debate, I would have had something to say about it. We will uphold justice in the Shire of Bulla!

I return to the impact of retrospectivity. In this case the Opposition would only insist that, where tax is to be retrospective, the announcement of the intention must have been clear and must have been adequately circulated; the tax avoidance device in question must be one which is blatantly artificial; and, the government must then have moved with reasonable promptness to effect the change in the law and not, as the Federal Treasurer has been doing in recent years, leave over the actual enactment of quite complicated amending tax provisions for months, and even years, so that taxpayers are in an extraordinarily difficult situation in knowing how to comply with the law.

The final matter that I wish to comment on has already been commented upon by the shadow Treasurer in the other place. An exemption is provided for in the Bill through the exercise of the comptroller's discretion. The way in which the exemption is expressed has the effect of placing an excessive onus on those who seek an exemption. The emphasis should not be, as it appears to be in the Bill, on avoiding attempts to take advantage of the tax implications of an exemption.

It is both legitimate and proper for individuals and corporations to so arrange their transactions that they can take advantage of the available courses open to them to ensure that the least possible tax is payable, towards achieving an end which is not, of itself, a tax avoidance end. The exemption should be available to those who have at least examined the taxation implications of what they are doing. The exemption should not apply where the sole reason for engaging in a particular transaction is to avoid the payment of tax. That is a matter that the government does not appear to be remedying in the Bill. Because of the slight use that has been made of the exemption the Opposition will not oppose the Bill on that account.

If the government is not to find itself seriously at odds with large parts of the business community which feel that it is important, in order to protect their investments, that they should have a reasonably sympathetic government in office, it should look at its attitude towards the form of transaction embodied in the Bill, which illustrates that the government regards as illegitimate an attempt to avoid paying the maximum amount of tax. The government believes it is legitimate to try to tax people by whatever means, even through retrospective measures, if companies or individuals have avoided tax that the government believes should have been paid. With those qualifications, the Opposition supports the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The Bill deals with a number of technical matters concerning the Stamps Act, and I do not propose to dwell on those matters at length. I have been briefed on all aspects of the Bill. I confess to having had some difficulty in grasping the concepts that are contained in the Bill, although I believe I now have an understanding of them.

The National Party does not oppose the Bill, although it believes the matter of ex gratia payments should be clarified. It is an unsatisfactory arrangement if such payments are being made by the Treasurer without a clear legislative charter to do so. In respect of stamp duty being attracted by certain share transactions, it is clear that the matter should be put beyond doubt if unfair practices by certain business entities—or, to use the

Treasurer's word, "rorts"—are allowed to occur. I take with a large grain of salt comments made by the Treasurer about rorts. As Mr Guest has said, the Treasurer believes everyone ought to pay taxation at the maximum level, and he believes no-one has the right to legally arrange his or her affairs so as to minimise the payment of tax.

Victoria is the highest taxed State in Australia, especially when it comes to stamp duty on transfers of property. Since the Cain government came to office there has been a dramatic increase in the imposition of stamp duties. The Treasurer believes people transferring property are doing so as a means of evading tax. I do not believe that is so. However, the law should be clear as to what stamp duties are to be paid on certain categories of transactions.

Mr Guest referred to the practice of legislation by press release. In particular, he referred to the Treasurer's press release of 15 December last year, which announced that the changes the Bill deals with were to be made. I do not necessarily object to such a procedure. Such announcements about taxation measures should be made, and the changes that are announced should take effect from that moment onwards. To do otherwise would be to advantage certain people by forewarning them of the changes to be made. That would enable them to enter into arrangements to conclude certain transactions prior to a change in the law.

It is a well-established principle and practice with Budgets, both State and Federal, that announcements about taxation changes are made in the Budget and those changes take effect from Budget night. In this case the matter could not wait to be dealt with until the Budget was brought down. The Treasurer was responding to a decision of the High Court, a decision that would have opened the way for certain untoward arrangements or contrivances to take place. The Treasurer had no option but to issue a press release forecasting his intentions and making the date of the commencement of those changes the date of the press release.

The Treasurer moved to introduce legislative measures at the first opportunity—that is, as soon as Parliament resumed for this sessional period. That is more than can be said for his Federal counterpart, who tends to govern by press release and does not introduce the relevant legislative measures until, in some instances, years afterwards. A particular example concerns the vexed question of the capital gains tax, the proposed introduction of which was announced in September 1985. More than two years afterwards, the Federal Parliament was still waiting for the introduction of that legislative measure, and the community was still awaiting details of the proposed legislation. That created an unfortunate hiatus. The Federal government is to be condemned for allowing that situation to develop. That is not the only example; it happens to be a recent and graphic example. I do not object to the action that the Treasurer took in this instance. He has moved to have the Bill introduced into Parliament at the earliest opportunity.

The National Party does not oppose the Bill. I appeal to the Treasurer to ensure that the Stamps Act is reprinted as soon as possible. This Bill represents the fourteenth amendment to the Act since it was last reprinted; it has become a confusing document to decipher. There are many substantial amendments that need to be read into the last edition of the Act. I am aware that there is a mechanism for the reprinting of an Act. That mechanism may need some adjustment to ensure that the Stamps Act is reprinted as a matter of urgency.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 6 were agreed to.

Clause 7

The Hon. D. R. WHITE (Minister for Health)—During the passage of the Bill through the Legislative Assembly, the Opposition raised for consideration by the government an

amendment to clause 7. That clause 7 deals with the exemptions from stamp duty arising from the reduction of capital of a company, and empowers the Comptroller of Stamps to determine whether or not a scheme has been devised for stamp duty avoidance purposes.

The Opposition argued that the phrase "with a view to", appearing in clause 7, was too broad and would deny stamp duty exemptions in a number of legitimate cases in the reduction of capital. The government has considered the matters raised by the Opposition in another place and has agreed that the clause should be amended by substituting for the phrase "with a view to" the words "for the principal purpose of". This amendment will ensure that general reductions of capital not principally motivated by stamp duty avoidance schemes will continue to obtain the benefit of the stamp duty exemption.

Consequently, I move:

That it be a suggestion to the Assembly that they make the following amendments in the Bill:

1. Clause 7, line 22, omit "with a view to" and insert "for the principal purpose of".
2. Clause 7, line 35, omit "with a view to" and insert "for the principal purpose of".

The suggested amendments were agreed to, and the clause was postponed.

The remaining clause was agreed to.

Progress was reported, and the suggested amendments were reported to the House and adopted.

It was ordered that the Bill be returned to the Assembly with a message intimating the decision of the House.

ENVIRONMENT PROTECTION (AMENDMENT) BILL (No. 3)

This Bill was received from the Assembly and, on the motion of the Hon. D. R. White (Minister for Health), for the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), was read a first time.

WATER AND SEWERAGE AUTHORITIES (RESTRUCTURING) (POSTPONEMENT OF EXPIRY) BILL

The debate (adjourned from April 13) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. R. J. LONG (Gippsland Province)—In 1983 Parliament passed the Water and Sewerage Authorities (Restructuring) Act which established a number of water and sewerage authorities in Victoria. That Act contained a sunset clause providing for the Act to cease to have effect in 1986.

A measure to extend that Act was passed by this House in 1986 and similar action occurred in 1987.

The purpose of the Bill now before the House is to prevent the expiration of the Water and Sewerage Authorities (Restructuring) Act until 7 December 1989. It is a simple Bill. The Opposition does not oppose it and wishes it a speedy passage through the House.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party does not oppose the Bill because it is clearly evident that an extension of the provision is required. If the Act were allowed to run its course and the sunset provision took effect, some districts in Victoria would be left without water boards.

I am concerned about comments being made around country Victoria that pressure is being placed on some water boards to amalgamate into larger entities. Since the Public Bodies Review Committee made its initial report at the time of the former Liberal government and carried on its investigations during the early period of the present government, particularly when the current Minister for Health was the Minister of Water

Supply, the number of water trusts—now called water boards—has been reduced considerably. By and large, the National Party has no objection to that.

Concern is being expressed throughout country Victoria that pressure is being exerted subtly by the Rural Water Resources for some former reconstituted water boards to be reconstituted yet again to service much larger areas—perhaps into water boards covering the total catchment of a particular part of the State.

Although I am not contesting the view that that idea may have merit in certain circumstances, it does not necessarily mean it has merit in all circumstances. I am not attracted to the idea. A good case can be made for the retention of relatively smaller water boards serving small communities where they can be shown to be efficient and when they can enter into satisfactory arrangements with their neighbours as to the sharing of administrative costs and equipment. I place on record my concern at what appears to be occurring at the moment.

The other matter to which I allude is the changes to the revenue subsidy for water boards to assist in capital growth. Many ratepayers of small urban districts are being severely disadvantaged by the changes being imposed by the government. Instead of revenue assistance being available where the rate bill for that particular supply rises excessively—at the moment the threshold is $40 above the State average—the revenue subsidy comes into force. That is fair enough so far as it goes, but the department now requires—no doubt because of government policy—that all supply districts in a particular water board area be taken into account and an average rate be assessed. If the average rate does not cross the threshold, revenue subsidy is not available.

If one takes the example of a water board which supplies three separate districts—one might be quite large with several hundred assessments and the other two might be quite small with perhaps less than 100 assessments in each—and if an upgrading takes place in one of the smaller supply areas, the costs when averaged across that small number of assessments will be substantial.

I can instance a case where the averaging of costs will result in a 200 per cent increase in the water rate, yet when the cost is averaged across the water board's total area, because the preponderance of the assessments is in the larger town, the average increase does not cross the State threshold of being more than $40 higher than the State average: therefore no revenue assistance is available. It appears to be a severe injustice to people in small communities, many of whom have put up with quite inadequate water supplies for years and the supplies are only now being upgraded.

I refer to one small community which draws its water supply from an irrigation channel at the end of the irrigation system, some 60 miles from the reservoir. On many occasions the quality of the water at that end of the channel leaves a lot to be desired. The water is totally untreated and can be fairly murky at times. To its credit, the water board is installing a treatment works to improve the quality of the water. Without revenue assistance, there will be a severe impost on the consumers in that small town. They are not wealthy retired people or business people; they are railway sleeper cutters, station hands, and pensioners of one category or another.

In looking to its social justice policy, the government must revise the impact of its arrangements for assisting water supply upgrades. Justice is not being done to people in small communities.

There is not a case, either, for people in other towns in the water board's district who, over the years, have paid for the improvements to their water supply, to necessarily be required to subsidise the upgrading of the water supply in an adjoining town. The issue is causing a deal of ill feeling in the community. I am having discussions with the Minister for Water Resources, who is very sympathetic to the cases I have directed to his attention.

While the government's new policy on assistance is theoretically sound, its impact on small municipalities will disadvantage people who are already disadvantaged. I invite the government to reconsider the matter.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

LAND (TRANSACTION INFORMATION) BILL

The debate (adjourned from April 13) on the motion of the Hon. J. H. Kennan (Minister for Transport) for the second reading of this Bill was resumed.

The Hon. R. J. LONG (Gippsland Province)—The purpose of the Land (Transaction Information) Bill is to facilitate the development of an integrated computerised land information system which will, on introduction, reduce the regulation costs and the time spent by the public on land transactions. That system is known as the LANDATA system.

The development of a single lodgment point system has many advantages. Information of a change of ownership lodged at the Land Titles Office would be provided in bulk to the relevant rating authorities. Once the system is in place, it will save the community $8 million a year, which is a lot of money.

The other part of the system involves provision of such information as the location and address, title particulars, and ownership information. The LANDATA system was devised by the previous Liberal government and it is pleasing that the present Labor government is carrying on with the development of the system.

I was a conveyancer for many years. One thing that I always hated was trying to remember to advise rating authorities on the sale of a property. It is amazing how simple it is to forget. If the proposed system achieves the government's purposes, it will be a wonderful thing for this State.

The Hon. W. R. BAXTER (North Eastern Province)—It is fair to say that the Bill facilitates access to information which is already available to anyone who wants to find it.

The Hon. J. H. Kennan—It is not very easily available, though.

The Hon. W. R. BAXTER—As the Minister interjects, it is not very easy to find. The Bill will enable information to be made much more accessible and it is a welcome progress.

It has been claimed in some quarters that the Bill will enable a government to more easily tax the people, perhaps by way of land tax or increasing certain taxes. That may well be so, but it provides no reason for refusing to accept the benefits of technology; it is open to Parliament to oppose tax increases by other means. It would be adopting an almost Luddite philosophy to refuse to pass the Bill, which is a progressive initiative, simply because it might facilitate the taxing measures of government. To that extent, the proposed legislation is welcome.

The costs imposed on people through fees charged by solicitors in chasing up titles in particular are quite horrendous at times. When the LANDATA system is finally operating, it will go a long way towards putting the lid on those costs.

The Hon. H. R. WARD (South Eastern Province)—As somebody who is interested in communication to all parts of the world, I can see the operation of the LANDATA system having far-reaching effects on matters relating to the lodgment of titles, plans, and so forth. I hope there will be a further extension of the LANDATA system into large solictors' offices and others who are involved in the lodgment of plans.

Recently I had occasion to consider a situation similar to that raised by Mr Long. A rating authority was not notified about the disposal of a piece of land. As a consequence, the relevant water board did not bother sending a rate notice to the present owner of the

land until he approached the water board and explained that he had not received a rate notice for two years.

He was told he would have to pay the interest. The interest was later waived on the grounds that there had been an error and the interest was not due because of an error by the owner of the land. This matter is also of significance in view of the proposed legislation, which allows solicitors to form companies and to become officially incorporated. The operation of computer links will enable, through the register of titles—ignoring the operations of taxation or land tax—information on transfers of titles to be obtained efficiently.

I hope those matters will be considered in future. It cannot be done quickly, but it is a matter of programming. It would be of value to people in the country in enabling them to obtain information on titles locally rather than travelling to Melbourne or sending correspondence through the mail and waiting for a reply. I support the Bill.

The motion was agreed to.

The Bill was read a second time.

The Hon. J. H. KENNAN (Minister for Transport)—By leave, I move:

That this Bill be now read a third time.

I thank Mr Long, Mr Baxter and Mr Ward for their supportive comments. Having been associated in a former life with those issues, I believe what they have said is correct. The support that has come from the opposition parties and from users and potential users of the system has been helpful in the implementation of the system. The government thanks them for their support.

The motion was agreed to, and the Bill was read a third time.

GROCERY PRICES BILL (No. 2)

The debate (adjourned from earlier this day) on the motion of the Hon. C. J. Hogg (Minister for Education) for the second reading of this Bill was resumed.

The Hon. ROSEMARY VARTY (Nunawading Province)—This Bill replaces the Grocery Prices (Amendment) Bill that was on the Notice Paper earlier this week. It is an attempt to extend the government's much vaunted grocery prices peg legislation. Nothing honourable members have seen or heard of the operation of the legislation in the past twelve months, or nothing the Minister for Consumer Affairs in another place has said, leads the Opposition to conclude that the legislation has done anything other than perhaps make prices higher than they would otherwise have been.

The government has not been able to establish conclusively that its prices peg has kept prices lower in Victoria than they would otherwise have been. The government makes many assumptions about what may happen, but it has not been able to substantiate its claims. Honourable members would all like prices to fall; that is a natural desire of everyone, but for that to happen there would need to be a massive cutback in the increases in government taxes and charges.

The time required to be worked to buy food items is less nowadays, in the 1980s, than it was in the 1960s. Even though the price of a basket of staple goods has increased by more than 350 per cent from a base in 1966 to the price in 1987, the number of minutes required to be worked to generate the income to purchase those goods has fallen by more than half.

I shall quote a couple of instances of this from a report prepared by analysts in Tasmania, Peter Bennett and Associates. The interesting document examines the average Australian price in 1966 and the average price in 1987 for a basket of staple items. It considers the price changes that have occurred and compares average wages in 1966 and 1987.

Although the cost of the basket of goods has increased by 350 per cent, total average weekly earnings have increased by 711 per cent. The cost of the basket of staple items has increased by only half of the increase in average weekly earnings.

The average increase in the price of the basket of goods in Australia was 357·1 per cent; in Melbourne it was only 349 per cent; in Sydney it was 343 per cent; in Brisbane it was 360 per cent; in Adelaide it was 366·7 per cent; and in Perth it was 353 per cent. One notes that the increase in the price of the grocery basket in Melbourne was much less than that in other States.

Mr Geoff Sadler, the Group Managing Director of Coles New World, issued a press release dated 25 March, which states:

> Commenting on their second annual survey, Mr Geoff Sadler, Group Managing Director for Coles New World said that this was a reflection of the ongoing efficiency and competitiveness of the retailing and food industries.
>
> "The survey shows that shoppers are doing better each year, and that their money is going further than at any time in the past."
>
> "Food costs have risen far less than the consumer price index and, as this research indicates, to buy the basket of goods surveyed now only takes 7 per cent of earnings, whereas in 1966 it took almost 13 per cent."

Having considered the comparison between 1966 and 1987, I shall consider how Australian grocery prices compare with those for the rest of the world. The Australian Retailers Association has prepared a document called *Price Watch Surveys.* In a section headed "Facts" it is clearly indicated that a comparison of the prices of those fifteen staple grocery items with prices in the rest of the world reveals that Australia is in by far the best position. The price of the basket of staple items in 1986 was: $41.85 in Canberrra; $43.71 in London; $46.46 in Ottawa; $47.01 in Washington; and $47.36 in Paris.

The picture was the same in 1987. Again Canberra was the cheapest city at $36.18, so in fact the price had gone down. It was followed by Washington, Ottawa, London and Madrid. If we compare Australia with the remainder of the world, we discover that our grocery prices are the lowest.

I turn now to how shoppers spend their money. I shall examine that on two levels: the actual money spent; and the patterns of spending, which includes why they spend their money and where they spend it. Estimates prepared by a magazine, *Retail World,* published regularly to service the retail grocery trade, have been made for many years using figures available from suppliers, industry associations, research organisations and the Australia Bureau of Statistics. The most recent figures published in *Retail World* of December 1987 relate to retail sales for the year ending 30 September 1987 and demonstrate that shoppers spend $26 278 million in supermarkets, food stores and off-licence liquor stores. The breakdown includes $11 billion on groceries, $1·2 billion on fruit and vegetables, $3·4 billion on meat and delicatessen items, $2·8 billion on dairy products, $1·8 billion on variety, $2·1 billion on cigarettes, and $3·5 billion on liquor. Grocery items were almost half of the total of retail sales in those classes of shops for that period.

What causes prices to increase? In a large supermarket there are 10 000 line items, yet what the government is talking about is a basket of goods covering 170 items. I admit that the 170 items cover a fair proportion of sales in dollar terms, but it stands to reason that if each of the 10 000 line items has one price increase a year, there will be more than 190 price increases a week in supermarkets. Of course the natural reaction of people when they observe that one grocery item has increased is to say that prices have gone up again. That is true, but it is also the natural order of things, taking into account the increase in the cost of inputs. All price increases reflect other factors: local government rates and charges; State government charges, such as gas, electricity, fuel and so on; State government taxes, including WorkCare which is a tax of no mean order; Federal government charges; currency fluctuations, which have had a massive impact on all imported goods, including groceries over the past few years; manufacturing costs; and wage increases.

The National Prices Network in its May 1987 issue examined goods, including bread, cheese, coffee and toilet paper—this is a snapshot in time, not a survey taken over the

period 1966 to 1987—and found that these grocery prices were higher in Melbourne than in any other Australian capital. The prices were: Melbourne, $67.16; Canberra, $66.35; Sydney, $65.81; Brisbane, $65.77; Perth, $65.52; and Adelaide, $63.48. Surely that tells us something!

In 1987 grocery prices in Melbourne were higher than in any other State capital for the basket of items. What factors influenced the prices in Melbourne but did not apply to other States? The inescapable fact is that government taxes and charges in Victoria are higher than in any other Australian State. In Victoria the tax on every man, woman and child was $1021; in New South Wales, $881; in Western Australia, $770; in Tasmania, $704; in South Australia, $682, and in Queensland, $527. One comes to the conclusion that these taxes have had an impact on grocery prices in Victoria, and one of the major factors influencing that is this measure.

It was interesting to note that the Prices Surveillance Authority in Canberra was quick to point out that it is unfair to attempt to equate grocery prices with consumer price index increases. I refer to the House one of its publications which states:

> A further impression of inexorable price increases arises from a common view that the consumer price index measures the cost of living. It does not do so. The CPI is a measure of changes, over time, in retail prices of a constant basket of goods and services representative of consumption expenditure by resident employee housholds in Australian metropolitan areas. The current index is generally based on 1979–80 patterns of expenditure.

The tendency is to try to compare an index with actual prices, and it is fallacious to do so.

Earlier I referred to retail shopping behaviour because that is an essential element in examining where people go and why they are prepared to pay certain prices for goods that some people might say are not representative. In a document prepared by the Victorian Parliamentary Library headed "Retail Shopping Behaviour", it points out that:

> Conventional wisdom has it that retail shopping behaviour is governed principally by what a person or household wants, and where the person or household is located in relation to retail outlets.

That is an important point to bear in mind. I point out to the House that that is one of the important determinants of why people are prepared to shop at certain retail outlets. That is one of the changes that we have observed in shopping patterns in recent times.

There has been a concentration of retail outlets in major shopping complexes. There has been a move away from the convenience store around the corner where people used to shop. There are still milk bars but people now tend to shop at 24-hour a day trading outlets such as Food Plus, Majik Market and similar stores under a whole range of names. Because of that convenience element their prices are high. They tend to be located in outer suburban areas where they are easily accessible to the local community.

Neighbourhood shopping centres consist of a cluster of shops; they are usually strip shopping centres. They have different price structures to convenience stores. Subregional centres have larger and a wider variety of stores. They are usually enclosed in shopping centres and provide large parking areas. In the province I represent, Tunstall Square is a good example of a subregional centre. Regional shopping centres are frequently opened by large chains. They usually comprise two of more levels of large and specialty shops. The large retail outlets are actively competitive in gaining the grocery dollar.

How do people get to the shops? Transport is a critical element in determining where people shop. If one is ambulent but does not drive, one will go to the small shop around the corner. However, these days, most people have a car and, in many cases, families have two cars. Therefore, people are able to go to the shops or stores that are most convenient to them. That is likely to equate with where one has to take one's children to school or where other facilities, such as doctors, dentists and a range of other services, are provided. It is not always because the prices are cheaper that people choose to go to a particular centre; it is because it is convenient for them to do so.

The general tendency is for convenience to be valued more highly than marginal savings. If a young mother with three children has to use public transport to get to the shops, she

will obviously go to the shops nearest to where she lives, regardless of the prices she must pay. I am not sure whether any honourable members in this Chamber have had the experience of coping with getting three small children on and off public transport, but it is not easy. In that case, a mother must go to the store that is most convenient because the cost in time and convenience of doing other than that far outweighs any other consideration.

I shall now refer to retail price surveys. I shall make some comments about the statements of the Federal Prices Surveillance Authority relating to the validity or otherwise of retail price surveys. It makes some pertinent and interesting comments. A document prepared by the authority and incorporated in its annual report of 1985–86 states:

> However, important matters which bear on interpretation of price survey results are sometimes overlooked.

I suspect that they are conveniently overlooked by those people—members of the government—who try to impress the community with the so-called validity of certain organisations that undertake price surveys.

What are some of the factors of which the Federal Prices Surveillance Authority believes consumers should be aware? It points out that some goods may be cheaper because they have a "use by" date that is due to expire in a few days. When the "use by" date has been reached, the stock must be disposed of. Therefore, it stands to reason that a retailer wants the goods to be shifted by the "use by" date and will reduce the price. Similar reductions occur when shops are about to close. Consumers can get bargains on a whole range of perishable goods because, rather than the retailer throwing them out, he is happy to take whatever price he can get.

Promotional pricing is the method of using a loss leader, in other words, an item is priced below cost to draw patrons to a store in the hope that they will buy not only the loss leader but also other items. Stores mark down the prices of particular items to meet competition from nearby stores. The word "competition" is the key to the market movement of prices, and I shall refer to that later.

Another element affecting prices is the level of service provided to customers. Some stores have no frills and have boxes stacked to the roof where the customer simply takes what one wants out of the boxes. In some stores, customers must take their own shopping trolleys or carry boxes. No element of service is provided in that type of store, therefore, it offers lower prices. The stock holding levels of a store can influence the time taken to introduce price changes. If a store has a large stock of a certain item and the wholesaler has reduced the price, some time will pass before the price reduction is passed on to the consumer. The number of line items in a shop creates the impression of prices continually rising.

In that context, I shall refer to some of the local prices action groups. The group always put forward by the Minister for Consumer Affairs is the Knox Prices Action Group. That group is continually put forward as the doyen of prices action groups. The group was established as a Labor Party front. It was set up prior to the 1976 State election by the then candidate for the seat of Knox, the current Minister for Labour in the other place, Mr Crabb. When the honourable member for Knox became a Minister, the honourable member for Monbulk became the high priest of prices. One must question the credibility of that group.

The Knox Prices Action Group has had no impact on grocery prices in its area. Grocery prices in the Knox area have remained low because of the competitive supermarket that Jewel Food Stores Pty Ltd has in the area.

The Knox Prices Action Group says that it is because of its good work that prices are low in its area. That is nonsense! The competitive market forces keep prices down in the area.

Mr Brian Quinn, Managing Director and Chief Executive of Coles Myer Ltd commented in a speech he made to the Retail Management of Australia on 28 July 1987:

> I have previously resisted the temptation to make much public comment, about the various price watch and price check exercises which have been carried out during the past few months, but I am now no longer able to remain silent on this subject. I am forced to say that I have seldom seen our political leaders act with less responsibility. These campaigns have been carried out at great cost with the sole object of securing political points. They have involved half truths and untruths. They have been carried out on an incompetent and largely, dishonest basis. They have contributed nothing to the community and they do great damage to retailers, both large and small.

Those are tough comments. Honourable members would have to agree that they are valid. Mr Quinn then refers to the fact that price has now taken the place of the consideration of value. He continued:

> Value seems to be a concept which politicians simply do not understand.

He makes the point:

> If we continue to place price above all other considerations then we will eventually destroy all competition . . .

There is a limit beyond which retailers cannot go if prices are pegged too low.

I move now to the much vaunted price peg program, which was hailed with many hoorays as the answer to establishing a market level of appropriate grocery prices. There was a huge cost involved in its establishment which relates to my premise that price pegging does not reduce prices. Its cost was a huge waste of taxpayers' money. Documents I have obtained under the Freedom of Information Act from the Department of Management and Budget state that it cost $114 000 to set up the price peg program. Salaries were $65 000, price surveys and data management cost $25 000, microcomputer hardware cost $10 000, the fruit and vegetable hot line cost $9000, and establishment costs were $5000.

The secretariat was set up in the Department of Industry, Technology and Resources. The government expanded funding which provided no valid return to the community. Those funds would have been better spent on a range of community programs.

That is not the end of the story because a quarterly survey was undertaken which required the cost of a consultant. I spoke with the former Minister for Consumer Affairs, now the Minister for Property and Services, Mr Spyker, on 3AW on Saturday morning. He suggested that another $60 000 was incurred in the program costs for the year, which was split among the retail traders, the department and two of the grocery chains.

Price Waterhouse was appointed to undertake the surveys on grocery prices. The head offices of the major chains were visited so that the prices of those goods in the basket could be checked to discover whether they were consistent with the price lists of those chains. Stores were also visited each month to check whether their pricing structure was consistent with the prices peg. If that was the case the Department of Industry, Technology and Resources received an audit certificate.

That situation would be fine if all things were equal and the shop levels stayed the same, but there was a difficulty because each of the supermarket chains have a range of stores which sell goods at different prices. In other words, there are seven or eight different categories of stores depending upon each store's size.

During the course of the survey year, some stores moved to a different pricing category, which meant that although Price Waterhouse checked that their prices were those quoted on the head office price list, it took no account of the fact that the store might have changed its category to a level where prices were lower.

Of course, the certificate showed that the basket of goods had gone down—it could not do anthing else—but the base that was used was invalid. The audit certificate showed the survey prices were correct, but it took no account of the change in status of the stores.

I shall touch briefly on some of the comments made in the province I represent. The honourable members for Mitcham and Box Hill in another place have been saying that

the targets achieved have been better than those set when the government first introduced the prices peg. The figures that were released had no validity so I guess their comments were nothing more than political grandstanding. Part of the grocery prices peg was the theory that the government would also peg a basket of household taxes and charges.

The Hon. R. M. Hallam—Where is that in the Bill?

The Hon. ROSEMARY VARTY—It is not in the Bill but that is what the government said it would do. I have obtained documents under freedom of information that relate to the introduction of the State government charges index. The rationale for the introduction of that index is shown in the document I obtained from the Department of Industry, Technology and Resources headed "Introduction of a State government charges index", which states:

> The Victorian government is concerned to ensure that the cost to families of government taxes and charges is kept to the barest minimun.

That is an absolute joke.

> An integral part of this policy is the government's commitment to restricting the growth of total taxation receipts to the increase in consumer price index plus economic growth. This means that there will be no overall increase in the tax burden to the Victorian community as a whole.

I spoke before about attempting to equate increases in prices to increases in the consumer price index; it is not a valid comparison. This document continues:

> As part of a program of restraining increases in the cost of living the government has also decided to peg the total cost of a basket of essential government household services to 6 per cent over the next twelve months.
>
> It is important that the community be aware of the significance the government places on this price peg. Consequently the government has decided to prepare and publish a government charges index which will measure the change in the costs of the household basket of government services.

The items in the government basket were: public housing rents; Melbourne and Metropolitan Board of Works, water, sewerage, drainage, and planning rates; electricity charges; gas charges; motoring charges; and urban public transport charges.

It is interesting to find out whether the government stuck to its promise. To do this, one must bear in mind that the grocery prices index increased by only 3·8 per cent. By comparison, the normal increase in Board of Works rates was 3·6 per cent but that, of course, was compounded with new valuations and took no account of the water-by-measure increases. The net impact of Board of Works rates was a 7·3 per cent increase. The other items were: electricity, 5·1 per cent; gas, 4·8 per cent; public transport, 8·3 per cent; and third-party insurance, 26 per cent. Grocers and supermarkets were able to keep their price increases to 3·8 per cent by competitive market forces. However, the government made sure it increased its prices to the maximum level of 6 per cent.

Finally, I mention that when the agreement was first reached with the parties involved, especially the Retail Traders Association and the two major chains, it was agreed that the basket would comprise 170 items. It was also agreed that at no stage would the government publish a list of individual prices in that basket; that it would publish only the total of the basket each time a survey was done.

After the first survey, a list of every item in the basket appeared in our newspapers. Those prices were compared with recommended prices, median prices and so on. That shows that the government has not kept its promise about the agreement reached with the Retail Traders Association and the two major grocery chains. That is the sorry history of this government's performance. It is now attempting to extend the life of the grocery prices legislation, but that is something that the Opposition cannot support for the reasons I have outlined.

To suggest that government interference in the market place keeps prices down is nonsense. In fact, there is a good deal of evidence to suggest that price pegging causes

prices to rise to the predetermined level of that price fix. The Opposition does not support the Bill.

The Hon. R. M. HALLAM (Western Province)—When the government introduced the original Bill a little more than twelve months ago, the National Party considered the issues carefully before making a formal response. The National Party had grave misgivings about the thrust of the proposed legislation because it was contrary to everything the free market should determine and contrary to National Party philosophy.

Given that traders must have freedom to move in and out of the market and choose which lines they stock, the view of the National Party is that competition is the best possible determinant of a fair and equitable pricing mechanism. There is no such thing as a perfect market. Nonetheless, that is no justification for intervention in the form of price control.

I shall take the House through the exercise we discussed when this matter was last before the Parliament. The profit motive, which has become a dirty word in government parlance, is still the most powerful protective force for the consumer. I shall go briefly through that issue. Profit has two arms. The first is margin—that is, the difference between the buying and selling prices. There is no trader alive who would not wish to see that maximised. The second arm of profit is volume, which is normally dramatically influenced by the margin. When margins go up, competition normally forces volume down, and vice versa. The trader must determine the matrix of volume and margin that gives him the maximum net profit.

Prices in any trade are nothing more or less than collective decisons about the level of price and margin upon which profit maximised. In the food trade, the clear indication is that volume is the most important component. It is ironic that the prices-pegging measure should be directed at that trade. I know from experience that margins in the food trade are low. Indeed, many of the items ultimately chosen to be included in the basket are the traditional loss leaders, that is, sold at below their landed cost. The National Party had grave misgivings about an exercise directed at the food trade because of that factor and regarded it as inappropriate.

The other irony in directing a price-pegging operation to the food trade is that that trade has a unique factor—the professionalism of the shoppers. The vast bulk of purchases made in the food trade are made by the weekly shoppers who, in most cases, are housewives who regard it as part of their professional duty to spend each dollar wisely. Of course, in many cases, the housewives have no choice; they do so because of economic necessity.

The point I make is that there is less need for a price watch in the food trade than in any other trade; given the fact that the customers buy groceries on a weekly basis and are therefore in the best possible position to monitor prices, less supervision is needed.

Another area that made the National Party sceptical is the arrangements under which the Bill was introduced. Honourable members were told that it was brought forward as an urgent economic measure to address an erosion in household disposable incomes; yet they were told at the same time that the Australian economy was recovering and, furthermore, that the Victorian economy was leading that recovery.

It seemed to the National Party to be a shallow argument when, on the one hand, people were being told that everything in the garden was rosy and, on the other hand, virtually in the same breath, they were being told there was a need to control the price structure in an attempt to address the downturn in household disposable incomes.

The next point to which I refer is the practicality of choosing a basket of goods. Certainly it was chosen on the ground that those articles were the ones most commonly purchased. One does not need to be an Einstein to work out that the retailers have the opportunity of adjusting margins across all the other lines and that, in a normal supermarket that carries in excess of 10 000 lines, 170 items obviously represent a small proportion. As I said, many of the lines chosen were the traditional loss leaders, so the price peg is a joke.

The other practicality relates to the difficulty in lining up the starting point; in other words, establishing what prices operated at the time the price peg was commenced. Honourable members were given a list and told by the government that it would keep price increases down to 6 per cent. However, it was impossible to determine what those prices were. In fact, at the time the government announced its intention, it produced a price-peg document which appeared in most of the metropolitan daily newspapers and which, in my view, is nonsensical. In the case of each of those 170 items, the typical price and the lowest price were quoted. In other words, at the starting point two prices were quoted by the government. In many cases the margins were greater than the 6 per cent that honourable members were led to believe would be contained.

I shall quote just a couple of examples. For a 500-gram packet of Arnott's Family Assorted biscuits, the typical price quoted was $2, and the lowest price was $1.85, which is a variation of 8 per cent. For 750 grams of Weetbix, the typical price was $1.81 and the lowest price was $1.59, which is a margin of 14 per cent. The price of eggs varied from $2.02 to $1.91, which is a margin of 11 per cent. There was a 10 per cent variation in the price of Meadow Lea margarine, which is perhaps the most popular loss leader. Vegemite prices varied by 7 per cent. There were similar variations between the prices of many other products. The National Party was not quite convinced by the government's mechanism because there was a greater variation in the prices shown at the starting point than was apparently to be achieved over the twelve-month period.

In addition, we asked why, if the government was genuine, it wished to restrict the price peg to those operations that had more than twenty staff. Everyone in this Chamber would recognise that that simply captures the supermarkets whose prices are, in turn, the lowest in the trade. If the government were genuine, why did it not attack the smaller stores? The truth is that it chose the supermarkets because they were considered to be the appropriate stores to be kicked.

The National Party was also told at the time that the supermarkets were chosen because of profiteering—that was the terminology used. I put it to the House that no claim of profiteering has been sustained. Perhaps the most fundamental concern of the National Party was the claim that price control was warranted and justified on the ground that wage control had been introduced. It is the greatest con of all time to hear this trade-off between wage control and price control, because the difference is that the government wants to control prices to a maximum and wages to a minimum. That is not equitable. It is simply a con.

In other words, the supermarkets were told, "You cannot go above a certain price for these articles, but heaven help you if you try to employ someone at a rate lower than we believe is equitable for wages". I was not too impressed with that formula.

It was against that background that the National Party wondered about the government's real agenda. However, it could not see any major concern, provided that seasonal factors which would influence price fluctuations were excluded. The National Party sought and gained an assurance to that effect, and so it determined that it would allow the Bill through the House on the terms that the government sought, that is, for a trial period of twelve months.

We decided that although costs and certainly inconveniences would be involved in the monitoring of the system, the cost to the government and to the taxpayers was worth the gamble. In other words, the National Party was prepared, if the government was legitimate in its claims, to give it the opportunity of proving them.

At the time, Mr Landeryou argued—and I am sorry he is not in the Chamber because I would remind him of this—that if the government was wrong in its claims, it would be hoist with its own petard. I clearly recall him saying that. I suggest that the government has been hoist with its own petard. Mr Landeryou said that if honourable members took the statesmanlike approach they would let the Bill through. I believe we did take a

statesmanlike approach. We took up the challenge that the government held out to us and gave it twelve months to prove its point.

I shall refer later to the evidence about whether the claims made were achieved or substantiated. The National Party said twelve months ago in accepting the terms of the Bill that the onus was clearly on the government to establish that it would work. I do not believe the measure has proved anything. I do not believe the exercise of the price watch has achieved anything. In fact the only thing it provided was the glorious opportunity for the government to undertake some very smart public relations promotion.

There is no evidence that there has been a reduction in food prices overall as a direct result of the prices peg. In fact, it is fairly obvious that food prices in Victoria have moved by the same margin, irrespective of whether they were included in the basket. To me, that says a great deal about the effectiveness of the exercise.

When the grocery prices legislation was debated last year, the National Party said it believed the exercise would be futile, if not suspect, but that it was reasonable to give the government a chance to prove its point. The government has not done so, and the National Party is quite justified in withdrawing its support for the measure.

The sitting was suspended at 6.29 *p.m. until* 8.4 *p.m.*

The Hon. R. M. HALLAM—Prior to the suspension of the sitting for dinner I was explaining to the House that the National Party is unable to support the Bill. The National Party thought it was incumbent on the government to make the best of the opportunity handed to it twelve months ago, but it has not worked.

I shall comment on some of the claims made by the government in the Minister's second-reading speech on the Bill. According to the Minister for Education, the Bill has worked successfully over the past twelve months. The National Party simply cannot accept that fact. There is no evidence in the Bill of the success of the prices peg operation; in fact, it is clear that the price of foods outside the basket has shifted by about the same margin as those 170 items included in the basket.

The second-reading speech also implies that the National Party has taken an obstructionist stance on the measure, and that is an unfair claim because this time twelve months ago it was the National Party that gave the government the opportunity it said it required. In effect, the government said, "You give us a chance to prove our claims in relation to the Bill and the proof will be there twelve months hence". The National Party did that, so it can hardly be said that it has been obstructionist.

The second-reading speech refers to changes in the government's household charges, and there is a claim that increases have been held below 6 per cent. In fact, there is a claim that government household charges have been contained to an average increase of 2·8 per cent. I should like the government to provide evidence of that restriction to a 2·8 per cent increase. No evidence of that is given in the second-reading speech and, indeed, when I looked back through Budget documents, I found that the government had predicated its entire Budget strategy on an anticipated consumer price index increase of 7 per cent. Indeed, that same Budget was based on an increase in government taxes and charges of an identical amount—7 per cent.

I have done some calculations of government services and I have found that, over the past twelve months, the increase in government charges is actually 13 per cent. If, as the government says, government charges have risen by only 2·8 per cent, why did not the government provide evidence of this fact in the Bill? The Bill gives one no opportunity of testing the claims made.

The government then says that the prices peg grocery basket rose by a total increase of 3·2 per cent, but there is no evidence to support that claim either. The government has provided the House with a comparison with Sydney, based on articles quite different to

those included in the basket, and there is nothing to relate the claim of 3·2 per cent to the evidence provided.

The Hon. M. J. Arnold—You were happy enough to support it when the Bill was introduced.

The Hon. R. M. HALLAM—The government did not address the question of the level at which prices should start, and I highlighted to the House that some of the prices quoted in the government's own documentation showed variations of up to 14 per cent between the typical prices and the lowest price.

The Hon. E. H. Walker—This sounds like a rationalisation of a change of view to me!

The Hon. R. M. HALLAM—If prices had continued to rise at the same rate as in 1986, Victorians would have spent an extra $140 million on groceries, according to the second-reading speech. I wonder who worked out that figure? Why was the figure not taken back over ten years? The example is hypothetical and does nothing to justify the claims the government is making.

The second-reading speech also says that Melbourne was below the average for grocery prices in the nation. I asked the Library staff to investigate that point. I asked whether the prices peg campaign was working and the response, according to the prices task force figures contained in the Parliamentary Library for March, was that Victoria does not have the lowest prices; in fact, its prices are slightly higher than the average.

The Hon. M. J. Arnold interjected.

The Hon. R. M. HALLAM—Mr Arnold should note that the grocery items used are not the same as those in the prices peg basket, so the figures are not indicative.

The Hon. M. J. Arnold—So why make the point now?

The Hon. R. M. HALLAM—The government is asking the Opposition to buy a pig in a poke. It claims that grocery prices have gone from one amount to another yet it provides no evidence to sustain the point.

The Hon. M. J. Arnold—Why didn't you raise this point when the measure was introduced?

The PRESIDENT—Order! I suggest that Mr Arnold take note of the comments with which he disgrees and uses them in his own contribution later on. That is a better way of making his point than continually interjecting.

The Hon. R. M. HALLAM—The point I was making is that there is no evidence to sustain the claims outlined in the second-reading speech. Opposition members hear a lot of colourful rhetoric about rip-offs and sharks but these remarks do nothing to convince me that the Bill should be accepted. In fact, those remarks are almost an insult.

One of the claims made by the Minister in the second-reading speech was that the prices peg of the government had won the support of manufacturers and retailers who, unlike the Opposition, understand that consumer confidence is critical to sales growth.

By what miracle can the Minister claim to have won the confidence of retailers? That is the opposite view to that of the retailers, who are incensed by somebody coming into a very private aspect of their businesses and making waves.

Having spent about twenty years in the food trade, I can state that grocery prices are very private. It is a highly competitive industry, and the concept that retailers would enjoy baring their souls to a price monitor is absolutely absurd because it flies in the face of everything they stand for.

The second-reading speech further states:

> In the 1986, Melbourne's food cost increases were 1·3 per cent higher than for the average of all capital cities.

That assertion could not be sustained on the evidence with which the National Party has been provided. The speech further states:

> If the prices peg does not continue, the rate of increase might return to pre-1987 levels . . .

They may return, but yet they may not! There is nothing given to sustain the claim. The speech continues:

> It has been suggested that the same result would have been achieved without any government intervention.

The second-reading speech states that the campaign has been absolutely successful, but there is nothing to sustain that statement. The speech then refers to an increase in profit margins in the food industry. There is no reference to the profit margins before or afterwards. Is the government really suggesting that there has been a shift in the profit margins at supermarkets? If that is what is suggested, why not test the evidence, because I suggest that quite the reverse is the case.

The Hon. B. W. Mier—Rubbish!

The Hon. Rosemary Varty—It is less than 2 cents in the $1!

The Hon. B. W. Mier—How much was contributed to your campaign funds?

The Hon. ROSEMARY VARTY (Nunawading Province)—On a point of order, Mr President, I find the remarks of Mr Mier totally offensive. He is making an insinuation about donations to my campaign. I ask that his remarks be withdrawn.

The Hon. M. J. Arnold—Mrs Varty was not on her feet!

The PRESIDENT—Order! Mrs Varty finds the words of Mr Mier offensive and asks him to withdraw them.

The Hon. B. W. MIER (Waverley Province)—My remarks were addressed to Mr Hallam, not to Mrs Varty. It appears that I must have struck a sensitive note.

The Hon. H. R. Ward—Withdraw!

The Hon. B. W. MIER—I refuse to apologise because I was not speaking to Mrs Varty; she was not on her feet.

The PRESIDENT—Order! In listening to the debate I came to the conclusion that Mr Mier was talking to Mr Hallam. Does Mrs Varty find the words spoken to Mr Hallam offensive?

The Hon. Rosemary Varty—Yes.

The PRESIDENT—Order! Does Mr Mier understand that under the Standing Orders of the House, if an honourable member finds words offensive and asks that they be withdrawn, the obligation is for them to be withdrawn? I ask Mr Mier to withdraw the words.

The Hon. B. W. MIER—I should have thought Mr Hallam could have spoken for himself. I find it interesting that now Mr Hallam needs the assistance of the Liberal Party. If Mr Hallam is offended I will withdraw them but——

The PRESIDENT—Order! Mrs Varty is the person who finds the words offensive. Does Mr Mier withdraw?

The Hon B. W. MIER—I withdraw.

The Hon. R. M. HALLAM (Western Province)—I did not find Mr Mier's remarks objectionable because I thought they were too inane to qualify.

The National Party has argued publicly that despite the suggestion made in 1987, the Act was not broad enough—that is according to the Minister's second-reading speech—but that is an extraordinary comment. What was said by the National Party in criticism

last time was that the Bill should have been extended to cover stores other than those with staff levels of more than twenty. We said—and I repeat—that we were critical of the Bill because if the government is genuine in wishing to control prices, there are many other trades in which it should do so.

In relation to the high profit margins, the claim about the food industry is extraordinary. Even if the net profit on any grocery line was offered as a discount in the form of an inducement to customers, very few of those customers would regard it as attractive. That is the benchmark of margins in the industry; it is indeed small. It is absurd for the government to deliver throwaway lines saying that private margins had gone in either direction, without supplying any evidence. That is not supported by the facts as they are known, and certainly as put by the government.

The second-reading speech further states:

> In rejecting the earlier Bill, the Opposition has demonstrated that sunset clauses are not considered by it to be an opportunity for mature reflection but simply an opportunity for political troublemaking.

I cannot speak for the Opposition across the board. The fact that there was a sunset clause in the Bill was very significant in our considerations and in our decision taken twelve months ago. The National Party examined it and gave the government twelve months to prove its case. Indeed, the National Party treated that sunset clause with due respect. It was not simply a guise to cause political trouble.

The government believes that the Bill provides an important opportunity. I agree that it is an important opportunity. The government was given that opportunity twelve months ago, but the prices peg has not worked.

I have discussed the peg with a number of price-watching organisations. Many of them have not followed the basic rules. The first question I put about this issue, when it was brought to my attention, was, "Have you approached the retailers?" They had not done it. When I approached retailers on behalf of the organisations I discovered that the comparisons were made between a city store and a provincial store. When I inquired further I discovered that the provincial store was under severe pricing pressure due to the opening of another supermarket nearby. That meant that the pricing policy had to be changed. In the comparisons of those pricing policies, the price-watching organisations had a very warped view of the real situation.

The National Party is being asked whether it is treating the Bill with maturity. We have done so; we treated it on its merits twelve months ago. We have examined it seriously this time, but the government has not made the case of twelve months ago. On those grounds, the National Party cannot support the Bill.

The Hon. M. J. ARNOLD (Templestowe Province)—The presentation by the opposition parties on the Bill indicates the insensitive view that they hold of people in Victoria who each week have to buy groceries and necessities for their normal means of living.

The opposition parties are the first to cry that there should be wage restraint; to say that those workers who form the basis of the operation of our economy and of our society in Victoria are the ones who should tighten their belts and make sacrifices.

The 1987 Bill in relation to grocery prices—introduced by the government and supported by the National Party twelve months ago—provided an opportunity for people in the community who were willing to do so to make sacrifices for the betterment and progress of Australia in relation to wage restraints. Last year the National Party—it now appears, for its own political gains and needs—was willing to support the Bill, but now, twelve months later, is willing to resile from it. That again shows that the opposition parties will do anything for the sake of political expediency, and will ignore the basic needs of the ordinary man and woman in the cities and in the country who have to go to the supermarkets and to local grocery stores every week.

They must face the prospect of dealing with rising prices, despite the fact they have been willing to peg their wages under an agreement, an accord, for the betterment and

improvement of this country. It was apparent to the National Party when the legislation was first introduced, and it was apparent to the Liberal Party, that grocery prices on stable items in Victoria were out of control.

The government introduced legislation that has reduced price increases and Victoria leads the nation—which is something we should be proud of and something the government has managed to do with a range of matters. The government has maintained the highest employment rate and the lowest unemployment rate of any State over a five-year period. The government has maintained the best growth rate in the manufacturing industry of any State. The government has also kept prices under control. The National Party knows it and Morticia up there, Mrs Varty, knows it. I thought it was part of *The Addams Family;* we had Mrs Varty giving one point of view and Mr Hallam giving another part of the story, hand in glove, because they do not care about the ordinary people. That is their attitude and the way in which they deal with the ordinary people of Victoria.

An Honourable Member—And David Evans looks for all the world like Lurch.

The Hon. M. J. ARNOLD—You sit up there preening yourself and you have been hand in glove on a number of issues over the past few weeks that have reflected badly on the National Party, and the electorate will remember that.

Don't smirk at me, Mr Hallam, because you feel guilty over the fact that you have these people who have caved in to the Right to Life Association and you haven't got the guts tostand up on the Medical Treatment Bill (No. 2)! Don't smirk at me! It shows the duplicity——

The Hon. R. M. Hallam—Don't point at me because——

The Hon. B. W. MIER (Waverley Province)—On a point of order, Mr Deputy President, I detected a threatening comment by Mr Hallam and a gesture.

The Hon. R. M. Hallam—What about Mr Arnold? He is pointing.

The Hon. B. W. MIER—I insist that Mr Hallam withdraw his comment and his gestures.

The Hon. B. P. DUNN (North Western Province)—On the same point of order, Mr Deputy President, the comments made by Mr Arnold should be ruled out of order because he was attacking Mr Hallam about a debate that is not before the Chair at this time. He should be ruled out of order. The comments he made are totally irrelevant to this debate.

The Hon. W. A. LANDERYOU (Doutta Galla Province)—On the point of order raised by Mr Mier, a member of this House has objected to the terms and references used—and the gestures for that matter which were quite offensive—by Mr Hallam. If an honourable member finds the words and gestures used were offensive, Mr Hallam should withdraw and apologise. On the point put by Mr Dunn, it was not raised as an issue at the time. It is up to the honourable member to raise the objection at the time. What you should do, Mr Deputy President, is uphold the point of order and Mr Hallam should apologise and withdraw.

The Hon. D. M. EVANS (North Eastern Province)—On a point of order, Mr Deputy President, in defence of my colleague, Mr Hallam, I point out that some inflammatory statements were made by Mr Arnold at the time when he said that Mr Hallam did not have the guts to do certain things, and Mr Arnold made some quite menacing gestures at him. On the point of order, I suggest that it is not Mr Hallam who should be dealt with at this stage, it is Mr Arnold who made the inflammatory statement.

The Hon. HADDON STOREY (East Yarra Province)—On the same point of order, Mr Deputy President, Mr Mier has not suggested which Standing Order it is on which he has relied to put his point of order. I shall refer to the only relevant Standing Orders: Standing Order No. 134, which refers to a member making use of any expression; Standing Order No. 135, which refers to any member who objects to words used in debate, and

Standing Order No. 130, which refers to offensive words. There is nothing in the Standing Orders about gestures. Therefore, the point of order raised by Mr Mier is out of order.

The DEPUTY PRESIDENT (the Hon. G. A. Sgro)—Order! I remind honourable members that we are debating the Grocery Prices Bill. Mr Arnold did overstep the mark on one matter, and I rule any interjection out of order. The suggestion that Mr Hallam and Mr Arnold made gestures—I think they did point fingers at each other—I rule out of order, and I ask Mr Arnold to come back to the Grocery Prices Bill.

The Hon. M. J. ARNOLD (Templestowe Province)—I shall come back to the Grocery Prices Bill. I have obviously caused some offence to Mr Hallam. In the circumstances I should withdraw, and I do so.

In 1986 Melbourne's food cost increases were 1·3 per cent higher than the average of all capital cities. In 1987 they were 0·2 per cent lower. The prices-peg campaign was a major factor in that dramatic improvement, and if the prices-peg campaign does not continue the rate of increase will return to the pre-1987 levels and the benefits of the prices peg would be lost; accordingly, it is upon the heads of the opposition parties if they oppose the proposed legislation.

It is no good coming back to this Chamber arguing that prices have spiralled. The matter will be upon the heads of honourable members such as Mrs Varty and Mr Hallam and other opposition speakers for not participating in what obviously has been a program that has kept prices down to a certain extent, or has at least matched price increases with the fact that the workers of this State have shown wage constraint.

Figures an economic arguments have been put forward by opposition speakers, but I bet they would not stand outside their local supermarkets because they would know that the people going into and coming out of those supermarkets would be examining the prices and would know from their wage packets that in the past prices were out of control. People know that over the past twelve months there has been a balancing because of the legislation. They will know and will see, and the government will have the opportunity to put the argument when the time of the election comes, that the opposition parties were insensitive to the needs of those who have to pay out to buy groceries that are their staple means of survival and that the prices they have had to pay should not have been so high.

It is easy for us in this Chamber to live more comfortably than those who have to live from hand to mouth in certain circumstances, and from week to week. They should not have to pay high prices for the ordinary food items they we regard as being incidental. They struggle to buy those food items and they battle and toil from week to week.

The government provided the relief, and the National Party supported the government twelve months ago. As I said earlier, for political reasons the National Party supported the government, but they do not show the courage to stand up and do that at present. I repeat that their failure to support the proposed legislation will be upon the heads of the opposition parties.

The Hon. G. P. CONNARD (Higinbotham Province)—The Bill is a farce and represents the essence of political cynicism. Knowing the political skills of the Minister for Education, there is no way she could have written such a speech as that of the second-reading speech for this Bill. She is far more able to make her will known in the House than to present such a speech. The political cynicism of the government is shown in her speech when she said:

> I believe both opposition parties are obliged to reconsider their obstructionist stance and act to protect the interest of all Victorians rather than pursuing narrow, ideological arguments.

The Minister would never make such a statement; she is far more skilled than that. The speech was written for political purposes, which I shall point out.

I shall take honourable members back to the debate on the first Grocery Prices Bill in March 1987 and the purpose for which it was introduced. At that time the Liberal Party debated the political cynicism of introducing such a Bill prior to the Central Highlands

by-election. The government thought it was a good idea to introduce that measure prior to the by-election because it might attract some votes by presenting a bleeding heart to the community. That did not work.

The only honest member of the government at that time was Mr Crawford, who paid close attention to the debate. The speech he made was honest and I understood his perception of the measure. As a leading trade unionist in the Labor Party he believed the Bill was important to Victorians because it played a central role in the national accord. Although I rejected the concept of that Bill, at the time I complimented Mr Crawford on his remarks.

As I said, the introduction of the first Bill was an exercise of cynicism at its best. The Liberal Party also said that. When it was debated, the National Party, on the whole, accepted that point of view but said that the measure was worth a try. Twelve months later it has been discovered that the try and the exercise was not worthwhile. Mr Hallam admitted that. Perhaps in hindsight the National Party's view was correct because at least we have tried the cynical exercise; it has failed and thus the National Party has been convinced that it was not worthwhile.

Honourable members should consider the carelessness of the government introducing this and the previous Bill. On 24 March this year all of a sudden the government realised that the first Bill contained a sunset clause so it hammered the second Bill through another place and presented it here. That happened on the day before that sunset clause was due to expire. I had no difficulty in refusing leave for the second reading of the Bill on 24 March because the sunset clause had already expired and the Bill should no longer have applied.

Last week, the Minister for Agriculture and Rural Affairs said, when making a speech on the first Bill, that the measure would include a retrospective clause. That shows the carelessness of the government in organising its legislative program in this House. I would have taken the matter to the President if that had occurred, because it would have been impossible to include a retrospective clause when the Act had ceased to exist as of 24 March. However, someone must have alerted the government to that fact and now the House is debating what appears to be a new Bill.

The Minister stated that the Bill being debated today is exactly the same as the measure debated a year ago. The carelessness of the administration of the government is illustrated by the fact that, many days before the first measure expired, it had time to introduce and properly debate a new Bill. What political cynicism! The government is using this Bill as an entree approaching a State election. That is all it is! As my colleagues Mrs Varty and Mr Hallam have said, during the past twelve months the Bill has had no real effect. I have been informed that on only one occasion has the government exerted its authority.

Mrs Varty made a long speech in which she stated that the Act has produced no results despite the figures produced by the Minister for Education in her second-reading speech in Table 1, which compared pricewatch grocery basket cost increases. Let me examine the real figures. I refer honourable members to the figures I received from the Prices Surveillance Authority from price indexes compiled by the Australian Bureau of Statistics. They are authenticated figures and not farcical figures from community groups.

I shall quote only one or two of the figures indicating price increases on ordinary household commodities during the past twelve months. The average increase in the price of flour in Australia was 8·8 per cent, but in Victoria it increased by 10·1 per cent. Although these commodities are not necessarily in the government's grocery basket, they are household commodities. In 1987, the increase in the price of toothpaste nationally was 6·6 per cent whereas in Victoria it was 9 per cent. Yet the government tells us that the Bill worked! The price of ham and bacon decreased by 1·2 per cent nationally.

What about jam and honey? Members of the Labor Party seem to use these commodities—even the Prime Minister and the Federal Treasurer! Many people in the

community buy jam, honey and sandwich spreads. Nationally the prices of these commodities increased by 8·6 per cent; in Victoria by 9·6 per cent. These increases indicate that, despite the rhetoric of the Minister for Education and Mr Arnold, the Grocery Prices Act has failed.

Why has the legislation failed? Last year the Australian consumer price index rose by 3·8 per cent. Under the policies of the Victorian government, some grocery prices were pegged to a rise of no more than 6 per cent for the twelve months from March 1987. The grocery basket that was debated when the original Bill was introduced included only 170 items and yet the average-sized supermarket sells up to 7000 items.

The prices peg is a gimmick targeted at only 170 items out of a large volume of grocery commodities. The basket of groceries includes items of only one size. For instance, I have noticed that the jar size quoted for coffee is rarely available in supermarkets. I have noticed in my supermarket shopping that coffee is available in a 2 kilogram or a 500 gram size, and not in the size referred to in the grocery basket. If the government were sincere in its efforts at price restraint, it would introduce a total grocery package and not a partial package of 170 items.

Mr Hallam and Mrs Varty argued that the only efficient way to keep prices down is to allow free market forces to apply, with which I agree. I am attracted to the remarks made by Mr Quinn, the Managing Director of the largest retailer in Australia, Coles Myer Ltd, who recently said that Australia has been through a period of most intense competition among supermarket retailers in relation to food prices, and that this was no doubt a direct result of the high increases in prices over the preceding years because of the disastrous economic policies of the Federal government. That is where the blame lies—in the hands of the Federal government. The Bill is nothing but a cynical exercise for the benefit of the Victorian community approaching an election.

In my household shopping I notice the intense competition that exists between supermarket A and supermarket B. Metropolitan members of Parliament would agree—I cannot comment on behalf of rural members—that their letterboxes are filled with what is commonly called junk mail from various supermarkets competing with each other on grocery prices. Essentially it is the actions of the supermarkets that are containing price rises as compared to the consumer price index. It has nothing to do with the Act and the forces that are supposedly within it.

Therefore, despite the government's attempts to peg grocery prices, overall prices in Victoria have increased at about the same rate as in other States. However, as I have said, in many instances, Victorian grocery prices exceed those of other States and perhaps we should ask why that is so. I suggest that the high prices are caused fundamentally by the policies of the government.

As the Opposition has said on many other occasions, Victoria has the highest taxing government in the nation. State government taxes mean that every man, woman and child attracts tax of $1021 a year. That is $150 a head more than in any other State. Victorian payroll tax is higher than in any other State except New South Wales. That iniquitous tax has increased by more than 4 per cent in the past year alone.

If the government is serious about prices, why has it not addressed petroleum franchise fees which have increased in the past twelve months by 10·4 per cent? That tax penalises producers who transport their food products to Melbourne for distribution.

As the Opposition has demonstrated, the public authority taxes in Victoria are four times higher than those in other States. Consequently the producers and distributors of grocery items in Victoria pay more in State taxes and charges than producers in any other State in the Commonwealth. These taxes include the iniquitous financial institutions duty, land tax and stamp duties. Proceeds from these taxes have increased by 13·8 per cent over the past year.

On top of this, manufacturers and distributors are faced with increases of more than 6 per cent in water charges. Electricity charges have increased and third-party insurance costs have risen by 26 per cent. The government is increasing taxes and charges at whim, but expects the private sector to peg its prices and absorb the higher taxes.

During the debates on other Bills before the House, honourable members have pointed out that poverty—including middle-class poverty—is on the increase. Victorian living standards are falling.

Instead of addressing the problem, all the government can do is to put the lid on 170 grocery items. If this is the way the government is addressing the problem through its poverty plan, it shows itself to be a tired old government that should be dismissed, as it will be, when the next election takes place.

It is a farce for the government to introduce such a cynical Bill as this. When the original Bill was debated last year, Mr Crawford said that he wished it could be extended to a wider range of commodities. If that is part of the Labor Party's philosophy—as perhaps it could be—the government should have constructed a wider net of goods and interrelated the Bill with the current philosophy of the Federal Labor government to achieve Mr Crawford's objections. However, the Victorian government did not even respect that; it did not respond directly to the original accord. No-one knows that better than Mr Crawford and other members of the Labor Party. The government has been silent on that issue in recent days.

The Opposition has no difficulty in rejecting the Bill because it is a farce and shows a complete and utter cynical disregard for Victorian citizens. The high taxes imposed by the government have created difficulties for the manufacturing and distributing sectors of our economy.

I am surprised at the ability of the grocery industry generally to contain prices. I endorse one sentence in the Minister's second-read speech which states:

> The government's efforts at publicity and education were central to this dramatic turnaround . . .

I acknowledge that view, but it is the only view I would encourage in the second-reading speech, which is a masterpiece of cynicism.

Governments and Parliaments should acknowledge that our community in general—and especially the middle-class community—is being driven down in its ability to pay its bills and rents. The government has written many papers on strategies for social justice and economics. The papers are great and cost a lot of money but, although they are distributed widely, the government does not follow them.

Honourable members and the citizens of Victoria should not be fooled by either Mr Arnold's rhetoric or the Minister's rhetoric. The Bill is a farce; it is not worth debating.

If the government were sincere it would have considered the issues that Mr Crawford raised when he spoke on the matter on 16 March last year. Honourable members should have had the opportunity of considering the issues Mr Crawford raised. That has not occurred. The government has introduced the Bill in a tongue-in-cheek manner, knowing of the opposition of both the Liberal Party and the National Party to its provisions and hoping that the people of Victoria will be deceived prior to an election

With hindsight, perhaps the position adopted by the National Party at the outset was a correct one. The measure has been tried and it has been found wanting. The government has been unable to adopt proper price controls—if such controls are necessary, and I do not believe they are. I encourage my colleagues to vote against the Bill.

The Hon. K. I. M. WRIGHT (North Western Province)—I compliment the members of the opposition parties who have spoken in the debate. In particular, I compliment Mr Hallam for the quality of his remarks. One cannot doubt his depth of knowledge of this particular matter. Mr Hallam was the director of a large grocery store in his electorate,

and that experience has given him an unsurpassed knowledge of the matters that are dealt with in the Bill.

The Hon. B. W. Mier—Yes, I know! He's got a vested interest, just like the previous speaker, who owns a chemist shop.

The Hon. K. I. M. WRIGHT—Mr Hallam has an excellent knowledge of financial matters and his knowledge——

The Hon. G. P. CONNARD (Higinbotham Province)—On a point of order, Mr President, I heard the remarks made by Mr Mier. Since I have been a member of the House I have not owned a chemist shop, and I ask him to apologise.

The PRESIDENT—Order! Is the honourable member referring to the reference to his ownership of a chemist shop?

The Hon. G. P. CONNARD—On the point of order, Mr Speaker, Mr Mier accused me of having a vested interested in the matter because I own a pharmacy. I reject that point and I ask him to apologise for the remarks he made.

The Hon. B. P. Dunn—No, "withdraw".

The PRESIDENT—Order! The honourable member is quite some distance from Mr Mier. All I heard from Mr Mier was some mention of a pecuniary interest; and I think he was referring to Mr Hallam. Mr Mier may not be aware that Mr Hallam is not involved—

The Hon. B. P. Dunn—Neither is Mr Connard.

The Hon. B. W. MIER (Waverley Province)—Mr President, if Mr Hallam is no longer involved in his supermarket activities I apologise for making those comments.

The Hon. K. I. M. WRIGHT (North Western Province)—Mr President, I found it disconcerting to be competing with Mr Mier while I was speaking on the Bill. Mr Hallam has an outstanding knowledge of financial matters and he is a great asset to this House. I was upset about the way in which Mr Arnold attacked Mr Hallam.

I have no hesitation in supporting the stand taken on the Bill by members of both the National Party and the Liberal Party. Members of the National Party supported the original Bill because we thought we had nothing to lose by giving the proposal a try. I agree with the previous speakers who said that the Act has been ineffective. Although more than 10 000 items are sold in supermarkets, only 170 items are considered in the basket of groceries prescribed in the Act. The Act is ineffective and a complete waste of time.

Unlike other honourable members such as Mr Connard, who said that he makes most household purchases, I have never entered a supermarket to do that particular chore. I have told my wife that when I retire from this place I will take over that task. Recently my wife informed me of an interesting incident that occurred while she was shopping in the local supermarket. The incident highlights the concerns the National Party has with the Bill. Several months ago my wife went to the local supermarket to buy a particular type of plastic box, the price of which was $1.02. As she was purchasing the item, a supermarket assistant told her that she was purchasing it just in time because she was about to mark up the price of that plastic box. My wife said, "Are they new stock?" She was told that the plastic boxes that were to be marked up were existing stock. My wife asked what price they were to be marked up to, and the sales assistant said, "To $1.70." That increase was to occur at one fell swoop!

My wife went away and some time later she came back to purchase the same item. It was priced at $1.70. In half an hour the price had increased from $1.02 to $1.70. I am not a mathematician——

The Hon. A. J. Hunt—That is an increase of 68 per cent.

The Hon. K. I. M. WRIGHT—I was about to say it was an increase of 70 per cent. What is the use of the legislation if increases such as that can occur? The plastic box was a small item. Some items may increase in price from $7 to $17, an increase of $10. I support the comments made by Mr Hallam and by the other speakers who opposed the Bill. I sincerely believe the legislation is ineffective and unworkable, and I oppose the Bill.

The House divided on the motion (the Hon. R. A. Mackenzie in the chair).

Ayes	19
Noes	21
Majority against the motion ..	2

AYES	NOES
Mr Arnold	Mr Baxter
Mrs Coxsedge	Mr Birrell
Mr Crawford	Mr Chamberlain
Mrs Dixon	Mr Connard
Mr Henshaw	Mr de Fegely
Mrs Hogg	Mr Evans
Mr Kennan	Mr Guest
Mr Kennedy	Mr Hallam
Mrs Kirner	Mr Hunt
Mr Landeryou	Mr Lawson
Mrs Lyster	Mr Long
Mr Mier	Mr Macey
Mr Murphy	Mr Miles
Mr Sandon	Mr Reid
Mr Sgro	Mr Storey
Mr Van Buren	Mrs Tehan
Mr Walker	Mrs Varty
	Mr Ward
	Mr Wright
Tellers:	*Tellers:*
Mr McArthur	Mr Dunn
Mr Pullen	Mr Knowles
PAIR	
Mrs McLean	Mr Granter

AGRICULTURAL ACTS (AMENDMENT) BILL (No. 2)

The debate (adjourned from March 30) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. R. I. KNOWLES (Ballarat Province)—The Bill amends eleven Acts and seeks to repeal two other Acts that deal with agriculture and related matters. A number of the amendments proposed in the Bill are the result of a report by the Public Bodies Review Committee, on its examination of three agricultural negotiating committees.

The second-reading speech of the Minister for Agriculture and Rural Affairs outlined in detail the proposed changes to the Acts, and I do not intend to canvas those changes but to refer the House to the provisions with which the Opposition has some concerns.

The Bill amends the Abattoir and Meat Inspection Act, and the Opposition understands and supports the proposed amendments to that Act. However, it is concerned that the representatives of primary producers on that authority are not necessarily drawn from a panel of names put forward by the Victorian Farmers Federation. That matter was taken up by the Minister and he has agreed to move amendments in Committee that will cover that concern of the Opposition.

The Minister has readily agreed to meet all the concerns expressed by the Opposition, with the exception of one provision, and the Opposition understands that, when the Bill is in Committee, the Minister will propose amendments covering those particular concerns.

As I said, the Bill seeks to give effect to the recommendations of the Public Bodies Review Committee. In so far as they relate to the Broiler Chicken Industry Act, the government has accepted the recommendations of that committee, with one exception. The Victorian Farmers Federation is concerned that the government has not adopted the recommendation of the committee that ensures that any arbitration of a dispute between the growers and processors avoids exploitation of growers. That is an important issue because of the nature of the industry.

Discussions have taken place between the various parties concerned, and the Minister has agreed to propose an amendment which will give effect to the precise recommendations of the committee and which will meet the concerns of the Victorian Farmers Federation. The Opposition, therefore, has no objection to those proposed changes.

The amendments to the Tomato Processing Industry Act propose that arbitration follows the guidelines laid down by the Minister. As a result of concerns expressed by industry, the government has backed away from that issue and will propose amendments to remove those particular provisions.

The only outstanding area of concern is that the government proposes that arbitration should be restricted to accepting either the price proposed by the growers or the price proposed by the processors. I am advised that the Tomato Processing Industry Negotiating Committee has worked extremely well and that there has been a capacity for the arbitrator to settle on a price different from the highest price offered by the processors and the price nominated by the growers. It is my understanding that the government intends to proceed with that provision. The Opposition believes the present arrangements have worked satisfactorily, given the nature of the industry, and will insist on the arbitrator having the capacity to strike a price which does not equate with either the price offered by the processors or the price proposed by the growers.

When the Bill was circulated the area of greatest concern related to the proposal to repeal the Wine Grape Processing Industry Act. This is a particularly difficult problem. The Public Bodies Review Committee recommended that the negotiating committee be disbanded and a grape exchange be established. This was the path down which the South Australian industry headed. I am advised that the grape exchange proposed by the Public Bodies Review Committee simply has not worked in South Australia. The cost of running the exchange for the number of grapes that are sold through it is $50 per tonne. The industry sees absolutely no value in the establishment of a grape exchange.

It is also my understanding that the government has rejected the proposal of the Public Bodies Review Committee to establish a grape exchange. On the information available, the Opposition would have to agree that that is a sensible decision. The industry in general and the growers in particular are not concerned about the abolition of the negotiating committee, provided a genuine free market operates. The reality of the industry is that that is impossible to achieve as there are something in the order of 3000 potential growers and three companies that buy grapes for processing. The growers are concerned that a free market will not exist, and that they would be at the mercy of the wine-processing companies.

The issue is complex because of the operation of section 92 of the Australian Constitution. South Australia has effectively embarked on deregulating the wine grape-growing industry in that State. To achieve a satisfactory arrangement where there could be an intervention, agreement is required between South Australia, New South Wales and Victoria. Currently, the negotiating committee has a statutory role in the Sunraysia district, which covers both Victoria and New South Wales. As I explained, it does not operate in South Australia and that creates some real problems for the operation of the committee. I am advised that in recent years it has been a sellers' market and, therefore, the negotiating committee has not

had a valuable role to play; its role is of greater importance—in the eyes of the industry—when it is a buyers' market.

Representatives of the industry have approached the Opposition seeking support for the deletion of Part 12 of the Bill, which relates to the repeal of the Wine Grape Processing Industry Act 1978. This creates some difficulties for the Opposition because, under the powers of the Act governing the Public Bodies Review Committee, a recommendation of the committee will take effect twelve months from the date of the tabling of its report. To simply delete Part 12 of the Act would keep that committee operating from the time the proposed legislation is proclaimed until August this year.

As a result of the approaches made to the government by the Opposition and the National Party, the Minister for Agriculture and Rural Affairs has agreed to the continued operation of the committee for a twelve-month period until June next year. The Minister made that announcement yesterday. The decision to retain the committee for a further twelve months does not solve the problems of the industry, but it does provide time for the industry to work with the government in an attempt to find better solutions to the difficulties the industry faces.

I indicate that the Liberal Party stands ready to play a constructive role in trying to find a solution to that problem. It is not an easy problem because it involves overcoming the difficulties presented by section 92 of the Constitution. In a situation which involves 3000 potential suppliers of wine grape and only three purchasers, it is impossible to have a fair and free market operating. The problem confronting the growers is that their investment decisions are of a long-term nature; it is five years from the time that vines are planted until they come into production.

With the possible exception of the changes proposed to the Tomato Processing Industry Negotiating Committee, the Opposition supports the government's proposed amendments to the Bill.

The Hon. B. P. DUNN (North Western Province)—The National Party has also taken part in fairly lengthy negotiations in recent days on the proposed legislation. I thank the Minister for Agriculture and Rural Affairs for the way he has entered those discussions and for the assistance we have received from some of his staff members.

In attempting to reach common ground on some of the issues where there were slight differences, no major problems arose, but in a number of areas the grower organisations in particular considered that the Bill could be improved or changed. As a result of those suggestions, the Bill basically meets with the agreement of the three parties in the House.

In going through some of the aspects of the Bill, I indicate the areas of concern to the National Party and some of the changes we have suggested which will overcome those problems.

The Bill amends the Abattoir and Meat Inspection Act. There was one slight change which we believed needed to be made. Under clause 3 (2) the members of the Abattoir and Meat Inspection Authority appointed under subclause (1) (*d*), (*e*) and (*f*), relating to producers:

> . . . shall be appointed from panels of names submitted by bodies that in the Minister's opinion represent the interests of livestock producers, domestic meat processors and export meat processors respectively.

It was the view of the National Party and the industry that the representatives of livestock producers should be selected from the Victorian Farmers Federation, the organisation responsible for the pastoral industry in this State. It is the body that the National Party looks to and is the obvious choice for producer selection as representatives on the authority.

The National Party put that to the Minister for Agriculture and Rural Affairs and we understand he has agreed to move an amendment which will stipulate that those members will be selected from a list of names provided to him by the Victorian Farmers Federation. The National Party is pleased with the progress made on that issue.

Clause 4 relates to slaughterhouse licences. The clause neeeds some explanation because previously a slaughterhouse could be licensed on a number of grounds, one of which was the throughput and another that a processor could own a slaughterhouse if he had a store or a retail meat outlet.

Large supermarkets such as Coles New World have their own red meat outlets and have been able to provide a slaughtering process that comes under the definition of "slaughterhouse" in the Abattoir and Meat Inspection Act. Those processors have not met the standards expected of works where there is high throughput, and the standard that should apply in that case is the standard that would apply to a licensed abattoir.

The Minister has taken away that ability from a retail meat establishment or a store, and has left in the provision that relates to throughput. The throughput requirement is to be increased from 5000 units—the unit is based on one sheep—to 15 000 units. I hope that provision will not disadvantage any of the smaller slaughterhouses that operate in the State.

If a small slaughterhouse on the border of those 15 000 units a year, which is not a large operation, experiences difficulty in licensing, the Minister may have to take up that case. Otherwise, the National Party understands the government's view as expressed in this clause and, if there is a major throughput from one of those big operators, the standards need to be of the highest possible order.

Clause 9 relates to agricultural chemicals. The major thrust of the government's effort in regard to chemicals is to restrict the use of dangerous chemicals, in particular, and to increase penalties. The increases in penalties provided in clause 10 are quite significant. In the present climate of concern about chemicals, not just in agriculture but right through the community, stringent provisions need to apply. A number of changes will be made to this clause, and the Minister will no doubt outline those changes when the Bill reaches the Committee stage, but, within reason, the National Party believes a tough stand needs to be taken against those who misuse chemicals, those who sell chemicals not properly labelled and those who sell unregistered chemicals. That is where the dangers lie.

Many of the penalties are being increased from $500 to $10 000; that is the order of increase in the proposed penalties for offences under the Bill. The Department of Agriculture and Rural Affairs has provided me with a list of those penalties.

This Bill relates to a conglomeration of agricultural Acts. I have some concerns about clause 11, which relates to the Bees Act, because the Minister is proposing to prescribe a fee for registration by regulation. I understand the fee is to be 6 cents a hive. The provision will allow the Governor in Council to prescribe those fees under regulation. The National Party fears regulations because the government has misused them in the past. The National Party understands that it is unable to move an amendment, as it has done with many Bills in the past, allowing either House to reject the regulation. In this case, one must rely on the goodwill of the Minister and the government, and on the fact that the fees will not be increased beyond increases in the consumer price index, according to the Subordinate Legislation Act, or they will be subject to a regulatory impact statement. That is the only safeguard on the the fees that the government may impose on beekeepers.

I hope the government has discussed the proposal with beekeepers; I am sure it has. It could be in for a rude awakening if it considerably increases their fees. I hope the government will treat beekeepers sensitively. The National Party cannot limit the government's power; it cannot move an amendment to allow this House to disallow the regulation.

The Hon. E. H. Walker—That is only a technical matter. There are many opportunities when you can, in fact, include the type of clause you are talking about.

The Hon. B. P. DUNN—I am referring to the clause in the Bill.

The next part of the Bill concerns the broiler chicken industry. The poultry industry in this State is decentralised to some extent. Many graingrowers in Victoria have constructed sheds and actually involved themselves in the chicken meat industry. Many of the warm areas of the State have ideal climates to produce faster growth rates and, therefore, producers can operate successfully in this industry. There are many broiler industry sheds in my district, and they are working well. They supplement the graingrowers' incomes.

The Public Bodies Review Committee undertook a major report into the Victorian Broiler Industry Negotiation Committee and made a number of recommendations. The committee's work in this area has been excellent.

I particularly congratulate the National Party members of that committee, the honourable member for Swan Hill in another place, Mr Steggall, and Mr David Evans, together with Mr Knowles on a number of occasions, for being prepared to stand up and be counted. They have submitted inportant minority reports, one of which concerns the latter part of this Bill, namely, the wine grape industry. The honourable member for Bulleen in another place, Mr Perrin, was also a signatory to that minority report. Everyone agreed that the Wine Grape Processing Industry Negotiating Committee should be retained in this area. I shall deal with that issue later.

The National Party consulted the Victorian Farmers Federation chicken meat group in regard to what the Minister proposed in the Bill and the way in which it departed from the recommendations of the Public Bodies Review Committee. The producers considered that the government should have kept to the report of the Public Bodies Review Committee in full. One can identify where the Bill varied from the report. The report basically included a recommendation that would prevent the exploitation of growers by processing companies. That view is widely held throughout the industry. The growers are at the mercy of large processors. There seem to be fewer processors in the chicken meat industry than previously; there are now only two of them. The growers grow for a fairly small fee and the processors exploit them on occasions by way of the growing fee, which has been the subject of arbitration in this State by the Prices Commissioner. The growers disagreed with his carrying out that role.

A dispute about that growing fee has occurred; it is ongoing. The negotiating committee is vitally important to try to protect the interests of growers and to negotiate a growing fee that is satisfactory to the industry and has some acceptance by processors. It is not an easy role. Agreement was not able to be reached on the last occasion, and the Minister sent the matter to the Prices Commissioner, Mr Alan Fels, to arbitrate upon.

There is still a dispute surrounding that ruling. The executive officer of the chicken meat group, Ross Davies, when referring to this provision in a letter to me, said:

> You will note that the recommended clause for insertion 8A (*b*) is different to the recommended clause 3 (*b*) contained in the Public Bodies Review Committee report. This clause has excluded "the VBINC sets growing fees and establishes terms of trade which will prevent exploitation of growers by processing companies".

They are the words that were not included in the Bill. Further, he states:

> This is a serious omission and changes the meaning of the second objective recommended by the Public Bodies Review Committee. Firstly, we would like to question why the reference to growers has been excluded. The Public Bodies Review Committee inserted this clause for a reason, that is, to further stabilise the industry by preventing the exploitation of growers by the processing companies.

That group is disturbed by this fact. The issue has been discussed with the Minister for Agriculture and Rural Affairs. I hope an amendment will be moved in the Committee stage to take the views of the Chicken Meat Group of the Victorian Farmers Federation into account because that will then satisfy its members.

A whole range of issues covering the chicken meat industry must be taken into account in the future. The Public Bodies Review Committee, in the recommendations on page 41 of its report on the Victorian Broiler Industry Negotiation Committee, said:

> The Committee was impressed with the operations of the VBINC. . . .

The body has effective operating methods and, to date, has exhibited a capacity to prevent recurrences of the serious disharmony that periodically afflicted the industry prior to the enactment of the Broiler Chicken Industry Act 1975.

The Parliamentary committee recommended that the negotiating committee should continue operating and also recommending adopting the objectives which I have touched on, and which, to some extent, are picked up in the Bill. Basically the industry has worked successfully. It is difficult to negotiate between producers and processors in an industry such as this. The National Party believes it is vital that the negotiating committee should continue and is delighted that the Minister has taken on board the views expressed by the industry and the National Party.

Amendments to the Dairy Industry Act 1984 are contained in clauses 15 to 17 and have the support of the National Party. They relate to repealing a number of licences required by milk vendors, milk shops and milk vending machines. That was part of the government's economic statement with which the National Party agrees.

Amendments to the Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977 are contained in clauses 19 to 23. Basically they are designed to move from having regulatings governing the market to having by-laws. A number of people have expressed concern to the National Party about that change because, to some extent, it will limit the input that government will have on the operations of the market. The National Party recognises that there are problems with the market and that there is dissatisfaction among many of those involved in its operation. There needs to be a major inquiry into that area. A safeguard exists in that by-laws must be approved by the Minister for Agriculture and Rural Affairs. In clause 23 under the heading "By-laws" there is reference to proposed new section 38 (1) which states:

The Trust may, with the approval of the Minister, make by-laws for or with respect to. . . .

In the end the Minister is ultimately responsible for approving by-laws to cover the operations of the market. I recognise that much concern has been expressed by many people from all sides of this area and that these provisions will not remedy that situation. An ongoing inquiry is required. I understand that the Public Bodies Review Committee is investigating, or is about to investigate, the operation of the market.

The Hon. E. H. Walker—No, I do not think the Melbourne Wholesale Fruit and Vegetable Market was included in the list of bodies referred to that committee.

The Hon. B. P. DUNN—I thought it may be subject to future investigation.

The Hon. D. M. Evans—It is on the list but we have not reached it.

The Hon. B. P. DUNN—Mr Evans informs me that it is on the list but the committee has not reached it at this stage. The Minister will be required to take a hands-on approach in approving by-laws and closely monitoring what is occurring. The Minister will be responsible for making or approving the by-laws. They will be made through him, or with his approval.

The Hon. R. I. Knowles—Not for long, though!

The Hon. B. P. DUNN—Until the next State election! The by-laws will be made by and through the responsible Minister.

Clause 24 deals with the use of small leghold traps in urban areas, which is a significant issue with some people. Victoria already has legislation banning the use of leghold traps on Crown land. They are allowed to be used on certain private land and the National Party has no objection to small leghold traps being banned from use in urban areas. It is obvious that in some areas which are urban in nature, and perhaps earmarked for future development, they could be a real danger to the people who traverse those properties.

The other major area of the Bill to which I shall refer in some detail concerns the Tomato Processing Industry Negotiating Committee. The Public Bodies Review

Committee inquired into that committee and found that it had discharged its functions in an effective manner, but that a number of changes should be implemented to improve that committee's efficiency.

Page 93 of the report of the Public Bodies Review Committee, which lists the conclusions, states:

A majority of tomato processors submitted to the committee that the TPINC has set prices for processing tomatoes which have been too high. They argued that the TPINC's price-setting function should be abolished.

These are the processors to whom I am referring. The report continues:

The committee rejects this argument and belives that there is no conclusive proof that prices have been set too high.

The Public Bodies Review Committee then recommended that the committee should continue to exist. It states:

The committee recommends that the number of representatives on the Tomato Processing Industry Negotiating Committee be reduced to four processors and four growers.

The Bill will do just that: it will reduce the number of members on that committee. The industry was not impressed with that provision but is prepared to live with it. The area in which the tomato industry group of the Victorian Farmers Federation differs from the government and the Bill is on the final offer on arbitration. The Bill contains a concept which apparently provides for an appeal to the Minister; that where a negotiating committee is unable to reach common agreement on the negotiated price, under arbitration either one of the offers will have to be accepted. The Public Bodies Review Committee recommended the adoption of the final offer on arbitration in its report. On page 95 under "Recommendation No. 9" it states:

The committee recommends that arbitration of the price for processing tomatoes be based on a system of final offer selection and that the final offer of both parties shall be the last offer placed on the negotiating table prior to the breakdown of negotiations. Discussions between processors and growers should not be permitted between the breakdown of negotiation and the beginning of arbitration. Arbitrators should take into account the range of factors which were specified in Recommendation 7 when selecting one of the two offers.

The arbitrator has no power to reach a decision or make a determination that is between the two ends of the scale.

The Hon. D. M. Evans interjected.

The Hon. B. P. DUNN—I understand those arguments.

The Hon. E. H. Walker—It has possibilities.

The Hon. B. P. DUNN—I understand that the Minister for Agriculture and Rural Affairs is keen on it, and it does have some application. However, the tomato industry group of the Victorian Farmers Federation has suggested to the National Party that it should not be part of the proposed legislation. During the inquiry by the Public Bodies Review Committee into the tomato industry, the tomato industry group of the Victorian Farmers Federation gave some support to the suggestion that that form of arbitration could be used. However, a letter from the tomato industry group states:

However in doing so it has noted that the final offer procedures have not been widely adopted and have operated effectively and efficiently in the past will limit arbitrator discretion. Conventional arbitration procedures have operated effectively and efficiently in the past with the Committee having failed to agreed on only three occasions since 1976.

The VFF Tomato Section would strongly support deferral of the proposed amendments under Item 30 of the Bill pending the establishment of appropriate guidelines. Until these guidelines are agreed and established conventional arbitration procedures should apply.

During the Committee stage of the Bill, the National Party will propose amendments to achieve what the tomato group of the farmers federation has included in that letter. The proposed amendments will remove the Minister's proposal for final offer arbitration and will retain the existing system.

I shall now refer to the wine grape processing industry and its negotiating committee. The report of the Public Bodies Review Committee dealing with that matter is excellent. A minority report has been issued by three members of the committee, namely, the honourable member for Swan Hill in the other place, Mr Steggall, the honourable member for North Eastern Province, Mr Evans, and the honourable member for Bulleen in the other place, Mr Perrin. They disagree with the majority report of the Public Bodies Review Committee which recommended that the Wine Grape Processing Industry Negotiating Committee no longer continue and should cease to be effective from August this year.

I shall quote a number of points included in the minority report. It is valuable reading for anyone who is interested in this industry. I, along with my colleague, Mr Wright, represent a substantial number of the wine grapegrowers in this State.

The Wine Grape Processing Industry Negotiating Committee was established in 1978. In the conclusions of the minority report, it is stated:

> We consider that the Wine Grape Processing Industry Negotiating Committee should continue its existing statutory functions. We believe that the Wine Grape Processing Industry Negotiating Committee has discharged its functions in an effective manner but that a number of changes should be implemented to improve the body's efficiency.
>
> A majority of wine processors submitted to the committee that the Wine Grape Processing Industry Negotiating Committee has set prices for procssing wine grapes which have been too high. They argued that the Wine Grape Processing Industry Committee's price-stating function should be abolished. We reject this argument and believe that there is no conclusive proof that prices have been set too high. Prices for processing wine grapes have declined by 39 per cent in real terms during the last four years. Prices previously reflected true market signals prior to 1986 with all parties in agreement. If prices have been too high then this probably reflects a failure to consider all relevant parameters affecting the processing wine grape market rather than a failure of the statutory pricing function in itself.

The minority report recommends that a wine grape exchange should be not developed in this State. Such an exchange has failed in South Australia, and the members who wrote the minority report have had the foreseight to see that. They state:

> Members supporting this minority report are not satisfied the evidence submitted to the Public Bodies Review Committee supporting a wine grape exchange was conclusive enough for these recommendations to be adopted.

What wisdom they showed in that recommendation! Honourable members know—and Mr Knowles touched on this point—that the grape exchange in South Australia has been a dismal failure.

The Hon. R. I. Knowles—An expensive failure.

The Hon. B. P. DUNN—That is right. Of the 200 000 tonnes of grapes in South Australia, in 1987 only approximately 1187 tonnes were handled by the wine exchange and in 1988, less than 1000 tonnes were handled by the exchange. Its impact on the market in South Australia has been hopeless. The Public Bodies Review Committee majority report recommends a move in that direction. That would be disastrous, and I commend the Minister for not adopting that recommendation.

If a free market existed, the situation would be different. However, Mr Knowles pointed out that there are only three real purchasers of grapes in the Sunraysia area: Lindeman Wines Pty Ltd, Hardy Thomas and Sons Pty Ltd and Orlando Wines Pty Ltd. Those companies purchase grapes from the multitude of growers who supply them for wine processors.

The National Party believes a negotiating committee is necessary. Some authority must be empowerd to arrive at an agreement between the buyers, the processors and the producers. Therefore, the National Party strongly opposes the suggestion that the Wine Grape Processing Industry Negotiating Committee cease to exist, which is what the Bill proposes.

The Minister for Agriculture and Rural Affairs has received representations from members of the wine grape processing industry and the opposition parties seeking the

continuation of the Wine Grape Processing Industry Negotiating Committee until June next year. I commend the Minister for agreeing to that decision.

The industry has admitted that changes are needed. It is not perfect, but it would be tragic to see the committee go out of existence at this time. The decision to allow it to continue to operate until June next year provides some breathing space. It throws the challenge to the industry to try to improve its operations.

Having made those remarks, I shall not repeat them during the Committee stage. I commend the Minister for taking on board the views put to him, and I believe the parties have reached common ground on most issues included in the Bill.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

1. Clause 1, line 7, omit "and".

2. Clause 1, line 8, omit paragraph (*c*).

The omission of paragraph (*c*) was spoken to by both spokesmen opposite, the intention being to repeal the Wine Grape Processing Industry Act 1978. The government has reversed that decision and therefore the word "and" and paragraph (*c*) are not necessary.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 2

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I thank Mr Knowles and Mr Dunn for their support of the Bill and for the constructive way in which they have undertaken negotiations with me in regard to a number of issues which they have both outlined in detail. I appreciate that they have gone through the issues during their second-reading speeches and therefore will not be making long speeches during the Committee stage. No doubt they will make some comments.

The Bill is important. There are not many agricultural Bills passed in this House. This is an omnibus Bill; it has many significant parts with some significant reforms, which have been commented on by the spokesmen for the other parties.

The clause was agreed to.

Clause 3

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

3. Clause 3, after line 23, insert—

"(2) The livestock producers' representative shall be appointed from a panel of names submitted by the Victorian Farmers Federation.".

4. Clause 3, line 24, omit "(2)" and insert "(3)".

5. Clause 3, line 24, omit "(*d*),".

6. Clause 3, line 26, omit "livestock producers,".

7. Clause 3, line 28, omit "(3)" and insert "(4)".

8. Clause 3, line 30, omit "(4)" and insert "(5)".

9. Clause 3, line 32, omit "(5)" and insert "(6)".

Amendment No. 3 contains the essence and the following amendments are consequential. The matter has been spoken to by honourable members opposite. A capacity for the Victorian Farmers Federation to supply the Minister with a panel of names of livestock

producer representatives to be chosen will be inserted in the Bill as a result of these amendments. I shall not go into detail about the matter.

The provision is common in other Acts of Parliament relating to the membership of various boards in the primary industry area. The Victorian Farmers Federation is clearly the proper organisation to suggest a list of names from which the Minister—who happens currently to be me—makes a choice. I am happy to move that amendment; I understand it will receive support from members opposite.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 4 to 7.

Clause 8

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

10. Clause 8, page 5, lines 2 and 3, omit "of the day or night".

The amendment deletes the words "of the day or night". Proposed section 12C (1) states:

An authorised person may at any reasonable time of the day or night and with such assistance as is necessary—

(*a*) enter and search any premises . . .

The words are unnecessary. They have caused concern to some readers of the Bill. I am happy that they be removed because the proposed section will read more sensibly. The words should not have been included in the first place.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 9 and 10.

Clause 11

The Hon. R. I. KNOWLES (Ballarat Province)—I omitted to make the point in my second-reading speech that the Opposition proposed an amendment to clauses 11 and 18 to insert the normal disallowance clause, which the Opposition has moved for insertion in a number of Bills. However, we were advised that that action was beyond the scope of the Bill and therefore we were not able to insist upon this amendment. As Mr Dunn indicated in his second-reading speech, the Opposition parties expect the government not to abuse the power it has under the Act.

The Hon. M. A. Birrell—Madam Acting Chairman, I direct your attention to the state of the House.

A quorum was formed.

The clause was agreed to, as was clause 12.

Clause 13

The Hon, E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

Clause 13, line 18, after "conditions" insert—

"; and

(*c*) to ensure that exploitation of growers does not occur.".

This issue was debated by both Mr Knowles and Mr Dunn. It became apparent that the use of the word in the context of the Public Review Committee report was such that it could have ended with an interpretation that was not intended by the writer. That is an odd thing to have to say but there was a concentration on this notion of exploitation where it may have been that in the administration of the clause it may have referred only to the notion of no exploitation rather than a broader range of issues. To correct that, the word "exploitation" was withdrawn. However, it was apparent to me that the Victorian Farmers Federation broiler industry group was unhappy with that because it considered a certain strength of that clause had been lost.

On the suggestion of Mr Knowles, a much better approach was to take the notion of exploitation out of a complex sentence and make it an issue on its own. That eliminates the problem to which I first referred. I know it sounds complicated but I believe a better circumstance has arisen and I am happy to move this amendment. Although it is in my name, it was suggested by Mr Knowles that paragraph (*c*) should be added. It lives by itself and ensures that the exploitation of growers does not occur. I do not believe anybody in the Chamber would disagree with the sentiments expressed in that way.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 14 to 29.

Clause 30

The Hon. R. I. KNOWLES (Ballarat Province)—I invite the Committee to vote against this clause. As I spelt out in the second-reading debate, I understood that the government had actually decided to withdraw the clause as currently drafted with the exception of sub-clause (3). However, the Minister has not introduced an amendment. If he had, the Opposition would not have objected to that amendment.

The Hon. B. P. Dunn—Are you moving to delete the whole clause?

The Hon. R. I. KNOWLES—Yes, that is what I am inviting the Committee to do. I understand that the Minister would prefer that sub-clause (3) remained, allowing the arbitrator to select only either of the final offers of the parties. However, the Opposition has indicated previously that this negotiating committee has worked extremely well and that it is the committee to which the Minister's suggestion should be applied, even if one accepts the concepts advanced by the Minister in support of his proposals.

The Hon. B. P. DUNN (North Western Province)—A number of aspects of this clause concern the industry. That is why the National Party will vote against the clause as a whole. It basically refers to guidelines established by the Minister that negotiating committees must take into account. Those guidelines are unspecified at this stage. The National Party believes this power should not be conceded and it does not need to be given to the Minister. He has not had that power in the past.

The clause deals with the issue of final offer arbitration. I made clear the view of the National Party on that issue during the second-reading debate. The existing arbitration procedures have worked well enough in the past and have allowed better flexibility in final offer arbitration. The arbitrator can accept only either one of the final offers of the parties.

The Hon. R. I. Knowles—It makes people more realistic.

The Hon. B. P. DUNN—Maybe it does, but the Tomato Processing Industry Negotiating Committee and the industry body do not want to be used as guinea pigs for a trial run. I know the Minister is enthusiastic about this concept, but the National Party will vote against the clause in total.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I have had discussions with honourable members opposite and I understand they will be voting against the clause. I shall not call a division on the matter. Mr Hunt is on the Public Bodies Review Committee and has had a significant effect on that committee within his fairly short stay to date.

The Hon. B. P. Dunn—He worries us.

The Hon. E. H. WALKER—He has worried me in regard to the egg industry, too. I was very taken with the notion of final offer arbitration because of a real concern about the inability of negotiating methods in a number of areas of primary production to reach what are known as good and sufficient responses. The tomato processing industry is not one of the problem areas. It has not done badly; in fact, it has been complimented in the Public Bodies Review Committee report.

Other areas of industry have had significant difficulty. Two such industries are the wine grape processing industry and the broiler chicken industry. It is difficult when there is no incentive for two parties to come close in their offers. They make ambit claims, very distant and distinct, and the arbitrator is left in a tough position. I would implore these groups to come to a solution by negotiation rather than by arbitration.

The Hon. A. J. Hunt—Final offer arbitration forces the situation.

The Hon. E. H. WALKER—Unfortunately, the present situation in these areas has not brought about that result and the arbitrator has had a difficult job and has, in many cases, come under considerable criticism. Final offer arbitration addresses that problem specifically and the two parties to a negotiation understand that one or other of the final offers will be chosen and that the arbitrator, or whoever is selected to do that job, will be realistic about their final offers.

The Hon. A. J. Hunt—They cannot afford ambit claims.

The Hon. E. H. WALKER—They cannot afford to maintain ambit claims and they are simply ruled out of court. Final offer arbitration brings the matter together, almost by force. That could be a solution to some of the negotiating committees' problems. I am keen for that process to begin in the primary industry area where how it works can be observed and perhaps it can be applied in other areas. That will not be the case with this Bill but I am happy to discuss the matter with honourable members opposite to see whether it can be used in some circumstance down the track, because it might just be the answer. I see Mr Hunt is agreeing with me.

The clause will be deleted. That will simply mean that the status quo will be maintained and we will live to suggest this method on another day.

The clause was negatived.

Clause 31 was agreed to.

Heading to Part 12

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

11. Heading to Part 12, line 14, omit "REPEAL" and insert "AMENDMENT".

The heading reads "Repeal of the Wine Grape Processing Industry Act 1978". As has been said by speakers today, I have changed my approach. I did so after discussion yesterday with the opposition parties and with representatives of the wine grape industry from Sunraysia, especially the growers. They convinced me that the current situation should be sustained for another twelve months. That does not mean it will necessarily be sustained indefinitely, as Mr Dunn and Mr Knowles made clear.

The Hon. B. P. Dunn—You may not have to address that.

The Hon. E. H. WALKER—It is possible for the government to sustain itself for many years to come, but I may not necessarily be the Minister for Agriculture and Rural Affairs.

All that the amendment seeks to do is to change the heading to Part 12, and the subsequent insertion of a new clause will put substance to it. The amendment now before the Committee seeks to take out the word "Repeal" and insert the word "Amendment".

The amendment was agreed to, and the heading, as amended, was adopted.

Clause 32

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—In the light of my comments on the previous amendment, I invite the Committee to vote against this clause, which relates to the repeal of the Wine Grape Processing Industry Act 1978 and the Wine Grape Processing Industry (Amendment) Act 1984.

The clause was negatived.

New clause

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

13. Insert the following new clause to follow the heading to Part 12:

Wine Grape Processing Industry Committee to continue in existence temporarily.

"AA. After section 4 of the *Wine Grape Processing Industry Act* 1978 insert—

Committee to continue in existence until 30 June 1989.

"4A. (1) The Negotiating Committee continues to exist until 30 June 1989.

(2) Sub-section (1) has effect despite the fact that the Public Bodies Review Committee in its report laid before both Houses of Parliament on 1 September 1987 recommended that the Board should cease to exist.

(3) Section 4P (4) of the *Parliamentary Committees Act* 1968 does not apply to that report.".'.

The new clause simply confirms that honourable members agree that the Wine Grape Processing Industry Committee should continue in existence temporarily until 30 June 1989. The matter has been well canvassed.

The new clause was agreed to.

Title

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

14. In the Long Title, omit "and the *Tomato Processing Industry Act* 1976 and to repeal" and insert ", the *Tomato Processing Industry Act* 1976 and".

The amendment simply corrects the title to take account of the amendments that have just been made.

The amendment was agreed to, and the title, as amended, was adopted.

The Bill was reported to the House with amendments, including an amended title, and passed through its remaining stages.

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), was read a first time.

BUILDING CONTROL (GENERAL AMENDMENT) BILL

The message from the Assembly relating to the amendments in this Bill was further considered.

Discussion was resumed of the Assembly's amendments Nos 4 and 10 and of Mr Walker's motion:

That the Council agree to the amendment made by the Assembly to amendment No. 4.

The Hon. H. R. WARD (South Eastern Province)—Mr Hunt has canvassed this subject in great detail, and I remind the House that the problem relates to the vexed question of private certifiers exercising discretions vested under the legislation in statutory authorities.

The Hon. A. J. Hunt—And doing so in favour of their own clients.

The Hon. H. R. WARD—That is right. It would be a disastrous situation, in cases where a major organisation had its own certifiers, for them to carry out their duties perhaps in favour of the organisation's clients.

It was agreed previously by the government and Mr Hunt that a framework would be put in place in regard to the functions of private certifiers and that the details would be worked out later. I have already said that the problem of discretions to be exercised by private certifiers arose, and it was referred to by Mr Hunt as a "sticking point".

Mr Hunt argued and explained that it was quite wrong for private certifiers to exercise discretions vested in statutory authorities on behalf of their clients, and he cited the example that it was rather like a lawyer certifying that his client was going to win a case.

After the problem arose, negotiations on the issue took almost a month to resolve. The result of that work was the proposal of an amendment which reserved for statutory authorities the right to exercise the discretion on all major issues. These issues were also listed by Mr Hunt.

The amendment made in this House provided that the regulations could provide for a private certifier to exercise discretion on minor matters, and that if the government overstretched that discretion and conferred a major matter on a private certifier by regulation, consideration could be given to addressing the problem by this House seeking to disallow the regulation.

The proposals were then put forward and clearly argued by Mr Hunt on a number of matters. However, the subject was put forward and debated in another place in such a way as to say the government could go along and put up its own buildings and named structures such as gaols, hospitals and so on. A number of problems occur when someone does not check something in those buildings.

However, it is also important to ensure that such checks occur in many of the smaller buildings. As I said, it is easy to name massive structures, but often there are many smaller structures that require checks to be carried out by the local building surveyors or the certifiers approved by the council. It is absolutely necessary to ensure that that occurs and that one is not just left with the thought, "I hope the government is right".

The local municipalities or those people carrying out the duties of certifying the buildings say that that will be last on the list because they will not be paid. That is an easy way out. They will say, "We will just leave that. We might get back to it later on." Although they may say that their own certifier would be able to examine the building, that is not good enough. The Liberal Party is disappointed that there has been a turnaround in the other place.

The Hon. A. J. Hunt—They welshed on an agreement!

The Hon. H. R. WARD—That is right, and the Liberal Party will continue to oppose the amendment of the other place because an important principle is involved.

The House divided on the motion (the Hon. R. A. Mackenzie in the chair).

Ayes	24
Noes	16
Majority for the motion	8

AYES	NOES
Mr Arnold	Mr Birrell
Mr Baxter	Mr Chamberlain
Mrs Coxsedge	Mr Connard
Mr Crawford	Mr de Fegely
Mrs Dixon	Mr Guest
Mr Dunn	Mr Hunt
Mr Evans	Mr Knowles
Mr Hallam	Mr Macey
Mr Henshaw	Mr Miles
Mrs Hogg	Mr Reid
Mr Kennan	Mr Storey
Mr Kennedy	Mrs Tehan
Mrs Kirner	Mrs Varty
Mr Landeryou	Mr Ward
Mrs Lyster	
Mr McArthur	
Mr Mier	

AYES		NOES
Mr Murphy		
Mr Sgro		
Mr Van Buren		
Mr Walker		
Mr Wright		
Tellers:		*Tellers:*
Mr Pullen		Mr Lawson
Mr Sandon		Mr Long
	PAIR	
Mrs McLean		Mr Granter

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That the Council do not insist on amendment No. 10 with which the Assembly have disagreed.

The Hon. A. J. HUNT (South Eastern Province)—The amendment was a simple one to make the Building Control Act bind the Crown. The Minister raised some objections to that proposition. He suggested that gaols and the like, where security was involved, ought to be exempt.

The Liberal Party provided for that suggestion in the amendment. In another place, the Minister used that same argument, which had already been provided for, as a ground for rejecting the amendment.

The Liberal Party is disappointed. The Crown should have been bound to a limited degree and with the safeguards and the let-outs provided in the amendment. The Liberal Party cannot understand why the government is rejecting the amendment or why the Minister raises the same hoary old objections after those objections have been met.

However, the Bill is an important one. It is vital that it be implemented and put into operation as quickly as possible. The Liberal Party is not prepared to prejudice the Bill by calling for a division on the issue at this stage. It will vote against the change made by the government; it will not call for a division on it because the Liberal Party wants to ensure that the Bill comes into operation as quickly as possible. It is already long overdue.

The Hon. W. R. BAXTER (North Eastern Province)—I adopt a similar view to that of Mr Hunt. I am disappointed that the Assembly has not seen fit to adopt the amendment made by the Council, but for the reasons outlined by Mr Hunt I shall not insist on it either.

The motion was agreed to.

It was ordered that the Bill be returned to the Assembly with a message intimating the decision of the House.

RETAIL TENANCIES (AMENDMENT) BILL

The Hon. J. H. KENNAN (Minister for Transport)—I move:

That this Bill be now read a second time.

As honourable members are aware, the Retail Tenancies Act 1986 came into operation on 21 September 1987. Although this Act has been in operation for only a relatively short period the benefits of the Act—such as the requirement for a disclosure statement, a minimum term for a first retail tenant, rent review, and compensation—have been recognised.

With the implementation of the Act it has come under much closer scrutiny and I am grateful to a number of interested parties for pointing out one area of the Act that could benefit from an amendment.

Clause 3 (*a*) of the Bill makes a minor amendment to section 8 (2) of the Act to provide a clarification of periods. Section 8 (1) of the Act in summary provides that the landlord must give the tenant a copy of the lease or the terms signed by the landlord and the tenant within 28 days after the lease is entered into or terms agreed. Section 8 (2) provides that if a landlord contravenes subsection (1) the tenant may give the landlord a written notice of termination at any time within 28 days after entering into the lease. The periods in both these subsections are the same and are therefore potentially unworkable. When the previous Retail Tenancies Bill was introduced it allowed fourteen days in the equivalent of section 8 (1) and 28 days in the equivalent of section 8 (2). Following consultation with interested parties who claimed the period of fourteen days was too short, a change was made to 28 days. However, no change was made to the equivalent of section 8 (2). Clause 3 (*a*) of the Bill overcomes this problem by substituting the figure 42 for the figure 28 in section 8 (2) of the Act.

Concern has also been expressed as to whether section 15 (1) (*b*) of the Act refers to two or three alternate periods. The subsection provides for when the landlord must give the tenant annual estimates of items of expenses specified in the lease. Some ambiguity is perceived as to the time. Clause 3 (*b*) clarifies the intention of section 15 (1) (*b*).

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. J. G. MILES (Templestowe Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

The House adjourned at 10.33 *p.m.*

QUESTION ON NOTICE

ADDITIONS TO HISTORIC BUILDINGS REGISTER

(Question No. 13)

The Hon. M. A. BIRRELL (East Yarra Province) asked the Minister for Transport, for the Minister for Planning and Environment:

(*a*) How many applications were received by the Historic Buildings Council for additions to the Historic Buildings Register in 1983–84, 1984–85 and 1985–86?

(*b*) How many of those applications were processed in each of those years?

The Hon. J. H. KENNAN (Minister for Transport)—The answer supplied by the Minister for Planning and Environment is:

Year	*Applications received*	*Applications dealt with*	*Number added to Register*
1983–84	44	70	24
1984–85	219	155	21
1985–86	225	259	27

Thursday, 21 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 11.2 a.m. and read the prayer.

FLORA AND FAUNA GUARANTEE BILL

This Bill was received from the Assembly and, on the motion of the Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands), was read a first time.

QUESTIONS WITHOUT NOTICE

PUBLIC TRANSPORT ROLLING STOCK

The Hon. B. A. CHAMBERLAIN (Western Province)—I ask the Minister for Transport whether the government has abandoned the policy which has been discredited by the Auditor-General of selling and leasing back public transport rolling stock and, if so, when the policy was abandoned.

The Hon. J. H. KENNAN (Minister for Transport)—It is nice to see Mr Chamberlain in the House during question time. In answer to his question, there has been no general abandonment of that policy.

RAILWAY OPERATIONS

The Hon. B. P. DUNN (North Western Province)—Is the Minister for Transport aware of statements made in Bendigo yesterday by the Managing Director of the State Transport Authority, Mr Keith Fitzmaurice, who is also responsible for V/Line, that V/Line's operations in that region had suffered severely in both the passenger and freight areas because of the government's decision to sell off railway land and the adverse effect that had on the railway image in that region?

What assistance will the Ministry of Transport provide to win back the lost patronage and goodwill that existed; can the Minister advise whether this trend is common in other areas of the State, where V/Line's image has suffered as a result of the government's policy of selling off railway land; and what action the government is taking Statewide to win back that support?

The Hon. J. H. KENNAN (Minister for Transport)—I am not aware of the comments to which Mr Dunn refers, but I am aware of discontent in some parts of the community about the government's policy on sale of land. As Mr Dunn would be aware, that matter has been attended to.

I point out that V/Line has conducted a very vigorous marketing policy in the past couple of years and, in overall terms, I believe the image of V/Line and of transport generally has been improved enormously under this government. That improvement is reflected in a number of ways.

The Hon. B. P. Dunn—You destroyed it all!

The Hon. J. H. KENNAN—As I indicated, not only has patronage increased over the past few years but also the per capita subsidy paid to public transport under this government has fallen by 20 per cent; and, indeed, under this government public transport consumes less of the State Budget—13·5 per cent rather than 16·5 per cent—than it consumed under the former administration. Under this government the public transport deficit has fallen quite dramatically in real terms, and patronage has increased. Honourable members

would be aware that rolling stock has improved enormously. Mr Chamberlain referred earlier to the enormous refurbishment of rolling stock that took place.

In terms of country areas, the Opposition has made a promise generally to shut down country rail services because it wishes to privatise the public transport system. Because of the low cost recovery on country lines, privatisation would lead inevitably to the closure of country passenger and rail freight services. All that has been forthcoming from the Opposition is a promise to privatise public transport—of course, Mr Dunn would recall the Lonie report—which on the one hand would lead to an increase in fares on those lines in the city area that would continue and to closures in the country on the other hand.

The Hon. A. J. HUNT (South Eastern Province)—On a point of order, Mr President, the Minister is debating the issue.

The PRESIDENT—Order! I am inclined to uphold the point of order. The Minister has covered the question fairly well, and I ask him now to wind up his reply.

The Hon. J. H. KENNAN (Minister for Transport)—Thank you, Mr President. Honourable members opposite would be aware that V/Line has been very successful in boosting its image in country areas and obtaining greater cost recovery in both the freight and passenger areas. Unlike the Liberal Party, the government will not shut down railway lines, wind up public transport or privatise it.

COMMONWEALTH GRANTS FOR MEDICAL CARE

The Hon. B. W. MIER (Waverley Province)—I direct my question to the Minister for Health. It has been reported recently that Medicare and Commonwealth grants to the State for medical care may be abolished and replaced by a private health scheme. Can the Minister explain to the House what effect that proposal would have on Victoria?

The Hon. D. R. WHITE (Minister for Health)—Firstly, on behalf of the Victorian government I place on record that we are strong supporters of Medicare and indicate that clearly there are suggestions abroad that Medicare ought to be abolished. I place on record the implications that would have for the public hospital system.

The abolition of Commonwealth grants to the States for medical care would mean that public hospitals would charge much closer to the full cost of their services, and that would mean that fees could be expected to triple, to between $350 and $450 a day.

Obviously, health insurance premiums would have to jump dramatically to cover those extra costs. If everyone were charged at the same rate a family would pay at least $27 a week for basic cover.

A person currently earning approximately $500 a week who uses only Medicare would experience an increase of about 450 per cent annum in health costs. An end to Medicare would also mean an end to the universal health care system currently enjoyed by all Victorians.

In addition, the Federal Opposition is also proposing, with the abolition of Medicare, to introduce a risk rating whereby people who are most at risk would pay more for their health cover. The implication of the policy on top of the abolition of Medicare is that young and healthy people would pay less than average for their health cover—perhaps around $20 a week—while less healthy people would make up the difference and pay between $30 and $35 a week for health insurance.

Those who would pay more are the elderly and the sick. The idea is that the older people get, the more they would pay, and this is part of the humanitarian policies of advocated by Mr "Ironbar" Tuckey on behalf of the Federal Opposition, whose major plank is to abolish Medicare and impose the cost on the sick, the elderly and the aged.

In response to that measure, the State government has put on record a proposal to the Federal government that increased funding should be provided to the public hospital

system under a revised Medicare arrangement. The arrangement ought to include funding for AIDS treatment, funding for azidothymidine or AZT drugs and funding for palliative care for both in-patient treatment and community-based treatment. The building and capital works program which was part of the settlement of the New South Wales doctors' dispute ought to be included in the arrangement, and in addition there should be an increase in real funding to the States.

I expect the Federal government will respond positively to the proposal and that there will be a health Ministers' conference in May to produce a revised Medicare arrangement resulting in additional funding being provided to the States for the public hospital system.

These measures stand in stark contrast to the proposals of "Ironbar" Tuckey, which would be supported by the Opposition in this State, and which would have disastrous consequences for the sick, the aged and the elderly.

The Hon. W. R. Baxter—What is the difference between the aged and the elderly?

VICFIN BORROWINGS

The Hon. ROBERT LAWSON (Higinbotham Province)—The Minister for Transport will be aware that VicFin—the Victorian Public Authorities Finance Agency—approached the Austrian market in 1987 to borrow $200 million to finance rolling stock in Victoria. Will the Minister give details of this transaction and also explain why the details have never been made public?

The Hon. J. H. KENNAN (Minister for Transport)—The Treasurer is the Minister responsible for VicFin, and Mr Lawson will have to take up that matter with the Treasurer.

The Hon. Robert Lawson—But you are responsible for rolling stock!

The Hon. J. H. KENNAN—In relation to the rolling stock, under the government extraordinary and noticeable improvements have been achieved in the public interest, in the context of a decease in the deficit, a 20 per cent reduction in per capita subsidies to public transport and a reduction in the percentage of government funds provided for public transport in the State.

In the last few years of the former Liberal government honourable members heard threats to close rail lines generally and the deficit was rising. Opposition members do not like the fact that under the present government the percentage of State funds provided for public transport has fallen from 16·5 per cent to 13·5 per cent. The per capita subsidies have been reduced by 20 per cent and the deficit has fallen in real terms, resulting in a much better rail system. They do not like the heat!

The PRESIDENT—Order! Nobody likes the heat and I will cool it down shortly!

The Hon. HADDON STOREY (East Yarra Province)—On a point of order, Mr President, in the Minister's first sentence he said that the question would be referred to the Treasurer; therefore, everything else he has said is quite irrelevant.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, the government is delighted that the Opposition is here for the first time this week for question time, to take a point of order, because its members have not been here all week. Let them ask a sensible question.

In respect of the question, when the Minister indicates that he will refer the matter to the Treasurer, that does not preclude him from making observations himself.

The Hon. B. A. CHAMBERLAIN (Western Province)—As to the point of order, Mr President, the question was simple. Mr Lawson asked: is it a fact that the government raised $200 million in foreign exchange for Metropolitan Transit Authority rolling stock, and, if so, why was that matter kept secret?

As all honourable members would be aware, the Victorian public does not own its rolling stock. It has been sold to the Swiss, the Austrians, the Japanese and everyone else.

Honourable members interjecting.

The PRESIDENT—Order! The House will come to order.

The Hon. W. A. Landeryou interjected.

The PRESIDENT—Order! I remind Mr Landeryou that he is not in his place—he could be in another place shortly!

As to the point of order, I believe the Minister for Transport has now completed the answer to the question. Therefore, the point of order has lapsed.

NURSING HOME CARE

The Hon. K. I. M. WRIGHT (North Western Province)—I understand there are plans by the Federal government to alter funding for nursing home care, which could have serious ramifications for Victoria, where there is the highest level of dependency among nursing home patients. Will the Minister for Health advise the House what steps the government is taking to head off the threat to the standard of nursing home care in Victoria? Will he also advise the House what ramifications it will cause to health services, particularly in the Bendigo area, if the Federal government proceeds with the proposals currently under consideration?

The Hon. D. R. WHITE (Minister for Health)—I anticipate that the Federal Minister for Housing and Aged Care, Mr Staples, will this afternoon be making a statement going to the heart of the matters raised by Mr Wright.

Last evening I took the opportunity, with the Victorian aged services peak council, of making presentations to the Federal government with respect to the nursing home situation in Victoria. It is true that Victoria has fewer nursing home beds per capita than other States; the government has not sought to change that, and has indicated it needs additional nursing home beds but that it much prefers the home and community care programs and hostel programs, which enhance the opportunity for people to remain in their own homes for as long as possible.

It is important to have and maintain a viable nursing home industry, both the church-based, not-for-profit nursing home beds and the private, for-profit nursing home beds. It is not surprising that Victoria, having fewer nursing home beds than other States, has a higher level of dependency among its patients in nursing home beds, and that ought to be reflected in Commonwealth policy.

The point made to the Commonwealth last night is that Victoria would not agree to any Federal proposals unless there were adequate funding, and if there were any proposals to change the mix of hours for personnel in nursing care it must have the support of the Victorian aged services peak council, particularly the representatives in those discussions on behalf of the council, namely, Brian Moss and Richard Whiting. That was the purpose of last night's meeting.

The government looks forward to making further comment after the Federal Minister has made his statement this afternoon. I hope and look forward to his making a statement that further secures and enhances the delivery of nursing home services in Victoria.

SPACE TECHNOLOGY

The Hon. B. T. PULLEN (Melbourne Province)—I refer the Minister for Conservation, Forests and Lands to the Madigan report on space technology tabled in Federal Parliament in 1985. That report made a key recommendation that remote sensing should be used

more widely in Australia in the areas of conservation and management of natural renewable resources.

Since that time, consideration improvements have been made in the development and applicability of remote sensing and, in particular, in areas such as management research and monitoring of wild fires and matters of that type. It is an important area and I ask the Minister: what is the government doing in Victoria to take up that challenge, and are there any proposals to introduce that technology in our management services in relation to environment and conservation areas?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank the honourable member for his question and his understanding of the matter. The use of remote sensing is a significant tool in the management of public land and, indeed, of private land, and the Department of Conservation, Forests and Lands is among the leaders in the States on this issue.

Next Tuesday I shall be opening a four-day seminar and workshop program entitled "Remote Sensing in Victoria". My department is co-sponsoring the proceedings, along with the Royal Melbourne Institute of Technology and other organisations interested in the industry. Remote sensing describes the use of satellite and airborne scanner imagery for mapping and monitoring resources. In recent years significant advances have been made—as anyone who has been to the Australian Institute of Marine Science would know—in the use of satellite imagery for conservation management.

The department has decided to take advantage of this technology in a number of ways. We are the first State government agency in Victoria to acquire a computer that can be used to analyse data obtained by remote sensing. Several other departments and teaching institutions have since followed our lead. The most important question becomes: what will we use it for? The first area for which we will be using remote sensing is in the measurement of forest clearing. The debate about forests has centred around whether there is more forest or less forest and what causes the denuding of the land and whether reforestation techniques and national park preservation is actually increasing forestation cover in Victoria.

We have not been able to tell that in any sensible way. By the use of remote sensing, we will be able to measure the current extent of forest cover across Victoria and the extent of clearing on public and freehold land. We can also receive, via this very sensitive imagery, a view of which vegetation we have on which areas, and by using that in a longitudinal way over a number of uses, we will in the future be able to tell more clearly how our policies are affecting us and will also be able to be clear about having our policies implemented and about land clearing since 1972, for which we actually have manually collected records.

Two other areas are of significance: one is to measure the impact of fuel reduction burning of our vegetation. This system will give us a clear measure of whether we are having cool burns—which are in fact not so devastating.

The Hon. R. I. Knowles—I thought the Ministerial statement was coming later.

The Hon. J. E. KIRNER—I shall do both, if you like! The second area is seagrass mapping. A number of honourable members have been concerned about the loss of seagrass in the Western Port area. We are now using, with the techniques developed by the Australian Institute of Marine Science, remote sensing to measure seagrass growth in Corner Inlet and we shall be extending that to Western Port.

PRODUCTIVITY INCREASES IN TRANSPORT SYSTEM

The Hon. HADDON STOREY (East Yarra Province)—When was the Minister for Transport advised that the second-tier 4 per cent wage increase for transport workers was not cost neutral, and what steps did he take to ensure that it was cost neutral in accordance with the requirements?

The Hon. J. H. KENNAN (Minister for Transport)—I understand the embarrassment of the Opposition in relation to public transport issues. The government has managed public transport, and is continuing to manage it, in a most effective way. Ultimately, offsets in relation to the 4 per cent increase will be achieved during this year. I remind the House that the public transport deficit was blowing out of control under the previous Liberal government.

During the six years in which the Labor Party has been in government, the real public transport deficit has decreased. The subsidy per head of population has decreased by 20 per cent and the funds allocated to public transport as a percentage of the State Budget have decreased under this government. Despite that, what do we get from the Liberal Party? A proposal to privatise!

The PRESIDENT—Order! I have been listening to what the Minister for Transport has said. The question was specific; we have heard some comments about this matter during question time, even today, so I invite the Minister to answer the question in terms of the way it was asked.

The Hon. J. H. KENNAN—In relation to the question of cost neutrality raised by the Opposition—

Honourable members interjecting.

The Hon. J. H. KENNAN—Members of the Opposition are bleating again. They are beauties in this place! Members of the Opposition ask questions, do not like the answers and take points of order against their own questions. That is typical of their political behaviour in this place.

In terms of cost containment, which is what the question was about, in recent years, the government has done a remarkable job in the tranport area. Members of the Opposition know that fewer people have been employed in the public transport system in recent years. As I said at the outset, the offsets for the 4 per cent increase will be achieved this year.

The situation was different with a previous honourable member for Western Province. He was less of a bleater than the present lot who take their instructions from people like Margaret Tighe. Half the time members of the Opposition do not bother to come into this Chamber—they have a press conference during question time! If one tries to find out who is holding the press conference, one cannot see him because he is surrounded by reporters; the person holding the press conference is invisible. Members of the Opposition are invisible in this place!

The PRESIDENT—Order! Not only is the Minister for Transport not addressing his remarks to the Chair, but he is ignoring an honourable member wishing to take a point of order.

The Hon. ROBERT LAWSON (Higinbotham Province)—On a point of order, Mr President, I do not understand how Margaret Tighe got into a discussion on the transport portfolio. I ask the Minister to answer the question.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, I direct the attention of the House to the fact that the decision for the 4 per cent wage increase made by the Commonwealth Conciliation and Arbitration Commission has the following features: all employers and all sections of the trade union movement must take into account not only present and current productivity improvements but all past activities related to productivity improvement. Nowhere have those achievements been greater than in the transport sector.

The PRESIDENT—Order! I do not follow the point of order.

The Hon. D. R. WHITE—You want to talk about relevance, read the decision!

The PRESIDENT—Order! I ask the Minister for Health to apologise to the Chair for those remarks.

The Hon. D. R. WHITE—Mr President, if you take exception to the remarks I made, I withdraw them.

The PRESIDENT—Order! There is no point of order, but I understand that the Minister for Transport has completed his answer.

The Hon. J. H. Kennan—No.

The PRESIDENT—Order! If the Minister has not completed his answer, I remind him of the guidelines regarding answering questions without notice. I have given him a great degree of latitude. I invite him to wind up his answer in the terms in which the question was asked.

The Hon. J. H. KENNAN (Minister for Transport)—Thank you for that ruling, Mr President. I have answered the question about the 4 per cent wage increase that was raised.

PLANNING AND ENVIRONMENT ACT

The Hon. W. R. BAXTER (North Eastern Province)—In the light of the answer of the Minister for Conservation, Forests and Lands to my question yesterday—this is the third occasion this week that I have had to raise the application of the Planning and Environment Act to the Minister's department—will the Minister give the House an undertaking that, where pines are to be planted on former freehold land that has been acquired by her department, the department will make application to the responsible authority for an appropriate planning permit in the same manner as a private operator has to make application under the Planning and Environment Act?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—It is the third time that Mr Baxter has asked me this question and so I shall go through my answer in words of one syllable. Two days ago, Mr Baxter asked a question; it was correct that the provision about the Act binding the Crown was put into the legislation by way of an Opposition amendment. The government considered that issue and decided—as I said yesterday—that, except for those areas affected by schemes around Port Phillip Bay and the area along the urban stretches of the Yarra River and the Dandenong Creek, all other areas ought to be exempt from the provisions on the Planning and Environment Act.

The basis for the exemption was that my department is clearly bound by other Acts of Parliament such as those on national parks, reference areas, forests and wildlife, to manage land in certain ways. It is not always appropriate—in many cases it is certainly not appropriate—to have that particular Act of Parliament breached in any way by another planning process.

Having said that, as I said yesterday, we are now in the process of developing a new lands Bill, which will look at the issue of how to ensure there are proper and coordinated planning processes on public land. When that lands Bill is finally debated and passed by Parliament, a process will be in place that will ensure that the concern that Mr Baxter has rightfully raised—which progressively has been put more correctly—will be addressed.

The Hon. W. R. Baxter—Do you mean it is an education process for you and me; it has taken three days?

The Hon. J. E. KIRNER—It would have to be by the best teacher in the State system.

ROAD FUNDING

The Hon. M. J. ARNOLD (Templestowe Province)—The Minister for Transport has not had much opportunity to express his views on transport this morning, but honourable members will recall that I asked a question in relation to road funding in the province of Templestowe and the Minister was able to inform the House about the dramatic increase in expenditure on roads in that province. Can the Minister inform the House about the increase in the level of expenditure on road funding throughout Victoria?

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Arnold for his continuing interest in transport and I congratulate him for his fortitude in not taking points of order on his own question.

By way of preface to the question, if you will allow me that indulgence, Mr President, I thank Mr Arnold for asking the question about road transport because all of my comments this morning have been on rail transport.

In the financial years since 1982–83, the government has committed a total of almost $1800 million to the construction and maintenance of Victorian roads. In the same period, the Commonwealth government committed almost $1400 million to roads in this State. In current dollar terms, the increase in annual State funding between 1982–83 and 1987–88 financial years has been 55 per cent. In real terms the increase in commitment was 16·5 per cent.

In the last financial year, expenditure on roads has been maintained at the same percentage level of total State outlays. The percentage of funds from State sources as a percentage of total road expenditure in Victoria has increased steadily from 52·8 per cent in 1984–85 to 57·9 per cent in 1987–88.

The government's financial commitment to roads is in stark contrast to action taken by the Opposition during the final years of its former life. During the last six years of the then Liberal government's administration, State government expenditure on roads declined in real terms by 17·5 per cent. In the past six years government expenditure on roads has increased in real terms by approximately 17 per cent. There is the contrast. During the last six years of the previous Liberal government, such expenditure declined in real terms by 17 per cent; and during the same period, Commonwealth government expenditure on roads declined in real terms, under the Fraser government, by a similar percentage. It is clear that under Labor governments, both State and Federal, there has been a greater commitment, in real terms, to road funding than was the case under previous conservative administrations.

The METRAS and NATROV documents that were released by my predecessor outline strategies for the development of the road system within Victoria. Those documents are fine examples of the government's commitment, not only to increasing the level of expenditure and, as I have demonstrated, to maintaining it, but also to the proper prioritisation of those areas that are important in the development of service corridors, such as the R5, between industrial areas and goods distribution centres.

Similarly, the METRAS strategy recognises the importance of upgrading heavily utilised urban arterial roads to improve the amenity of neighbourhood areas. The two-lane upgrading program focuses on both outer suburban areas and developing areas such as the City of Doncaster and Templestowe, which, as a result of Mr Arnold's continued good work in Templestowe Province, has experienced a dramatic increase in road funding.

There is an ongoing annual commitment by the government of at least $22 million in that area. The City of Doncaster and Templestowe has recognised the importance of that program, and the benefits it has received from it, in correspondence that officers of the city have sent to Mr Arnold.

VICFIN BORROWINGS

The Hon. A. J. HUNT (South Eastern Province)—I ask the Minister for Transport whether it is a fact that the Minister was advised, in December last, of the VicFin borrowing on behalf of the Metropolitan Transit Authority of $200 million from Austria? If that is a fact, as I am sure it is, will the Minister proceed to answer the question posed to him by Mr Chamberlain?

The Hon. J. H. KENNAN (Minister for Transport)—The Opposition is continually attacking the government's methods of funding rolling stock in the State. As I have said——

Honourable members interjecting.

The PRESIDENT—Order! The House will come to order! Members of the Opposition will allow the Minister to answer the question.

The Hon. J. H. KENNAN—Members of the Opposition do not like the fact that, because of the policies of the government, there has been a huge improvement in the quality of rolling stock. All members of the Opposition promised to do was to shut down the system. Now they are promising to sell it off to private enterprise.

Members of the Opposition continually attack the government's methods of financing, yet they do not like the improvements that have occurred because of it. There has been a dramatic improvement in the quality of rolling stock and a decline in the level of both the subsidy and the deficit. The Opposition is aware of that. In the past three years there has been an enormous improvement——

The Hon. A. J. HUNT (South Eastern Province)—On a point of order, Mr President: my question directly related, firstly, to the Minister's knowledge and, secondly, to the need for an answer to Mr Chamberlain's question. The material the Minister is providing to the House is unresponsive and has nothing to do with the question.

The PRESIDENT—Order! As Mr Hunt is well aware, Ministers are granted a degree of latitude in the way in which they answer qustions. A certain degree of preamble is allowed, which I am sure the Minister has completed, and I am sure he will now answer the question.

The Hon. J. H. KENNAN (Minister for Transport)—I shall repeat the answer that I gave to Mr Chamberlain. The Opposition wants to attack the government's method of financing and VicFin, but it knows that the government has dramatically improved the rolling stock of the transport system and, at the same time, reduced the deficit.

When the Opposition was in government the deficit was out of control. The government's spending on public transport has reduced in real terms and as a percentage of the Budget. The system is more efficient and exhibits far better financial management than was ever shown by the Liberal Party.

The Opposition's proposals are to bag the fact that the deficit of the transport system has fallen and rolling stock has improved. Instead of implementing the Lonie report, which promised to close down the transport system, the Opposition now wants to sell it off to private enterprise.

CONSTRUCTION OF DAM AT HORSHAM

The Hon. D. E. HENSHAW (Geelong Province)—Can the Minister for Agriculture and Rural Affairs advise the House of the progress of the construction of a dam at Horsham, a dam that is being built for the storage of sewerage effluent to prevent discharge into the Wimmera River?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Honourable members would be aware of the pollution problem in the Wimmera River due to the discharge and treating of effluent from the City of Horsham. It has been a difficult problem, particularly for towns downstream, such as Dimboola, because the whole Wimmera catchment is an internal catchment and flows into a lake system rather than into a major river system and out to sea.

The high nitrogen and phosphorus levels in the treated effluent have encouraged vegetation growth in that river system. When I first became Minister for Planning and Environment, some five or six years ago, I tackled that problem and I have had to tackle

it since, not only as the Minister for Planning and Environment, but also as the Minister for Agriculture and Rural Affairs.

This effluent problem has caused considerable difficulties for the two municipalities concerned, as well as others, and significant hostility has built up between Horsham and Dimboola over that period. After many years of protracted negotiations, a creative solution to the problem will be completed soon. Mr Dunn would understand the problem, because it is his electorate. The solution involves the government purchasing land adjoining the Victorian Crops Research Institute near Horsham, a very important establishment, particularly for wheat growers. A 650-megalitre storage dam which will store treated effluent is nearing completion on the property owned by the government. The irrigation of the new crop varieties with the treated effluent is a creative solution to the problem.

In solving one problem the government is able to advance its research into crops. This use of treated effluent makes it possible for a second crop to be grown during the summer/autumn period, which will double the rate at which new varieties are developed. This innovative irrigation process will significantly shorten the time for developing new strains. In fact, using current procedures, it takes approximately twelve years to develop a new variety which can ultimately be used by wheat farmers, and that period will be reduced dramatically. As I said, the solution is a creative one, because both the water quality of the Wimmera River and Victoria's crop breeding program will be enhanced.

I know that there has been community concern about the dam itself. Some honourable members understand that as well. Late last year, the Minister for Transport, when he was the Minister for Planning and Environment, and I had to review the matter rapidly and determine whether to proceed in a time span that was quite critical. If a quick decision had not been made it would have affected a determination of the Environment Protection Appeals Board and a later decision of the Planning Appeals Tribunal, which determined that the issue had to be resolved by 22 May this year. The lack of a quick decision would also have involved additional cost. The government determined to continue with the dam after a short review of the project.

Last week when I was in Horsham I took the opportunity of visiting the dam site. The dam is near completion and I was most impressed with its design and the progress made on it. I invite honourable members who are interested in this kind of project—particularly one such as this which has so many elements to it—to have a look at the dam because the work has been very well done.

The embankments are not obtrusive and when they have been fully grassed and another row of trees has been planted, the dam will be hardly noticeable. It is difficult to see the dam from the nearby houses; it is not obtrusive.

The new dam will become a point of interest and will attract visitors to the area. It has been designed as a haven for wildlife, particularly for bird life, in conjunction with the Department of Conservation, Forests and Lands.

The Hon. W. R. Baxter—Will there be a bit of duck shooting on it?

The Hon. E. H. WALKER—Who knows; it will probably be banned. As I have said, the new dam will provide a sanctuary for wildlife, which is a good use.

I refer to the payment of the costs of the dam and related works. The purchase of the extra land for the irrigation farm cost approximately $1 million and has been paid for by the government. The construction of the dam cost around $700 000 and that cost has been shared on a 50-50 basis by the City of Horsham and the government. The pumps and pipes to the dam cost $1·3 million and were paid for by the City of Horsham. The $1 million irrigation system was paid for by the government. There has been an excellent sharing of the costs of the project.

The communities of Horsham and Dimboola in particular will be the benefactors of some good and creative decision making and cooperation between local government and

State government. I am proud to say it is a good solution to a tough problem; it will solve a pollution problem and benefit the wheat farmers of this State.

HEALTH (GENERAL AMENDMENT) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

This is one of the key Bills to be introduced by the government to modernise Victoria's health laws. The purpose of the Bill is to reform the law as it relates to the public health. Its proposals are the culmination of a great deal of work by the Health Legislation Review Unit under the leadership of Mr Alan Rassaby.

I take this opportunity of pointing out to the House that, in formulating its recommendations to the government, the unit has conducted extensive consultation. The unit, for example, has carefully considered more than 400 written submissions from interested organisations and members of the public as a result of the release of the seven discussion papers on the reform of health law that form the basis of the Bill. It has also held numerous seminars across Victoria aimed at local government.

Moreover, the Bill now before the House incorporates many of the suggestions for improvement that were proposed to the unit in the 100 submissions received following the initial introduction of the legislation into the Legislative Assembly last year.

The current law applying to the public health is found, essentially, in the Health Act 1958. The Act has a long history, and many of its provisions continue to reflect its colonial origins. Much of the Act is anachronistic and no longer meaningful or appropriate, in modern health law. Despite its shortcomings, the Health Act underpins a wide range of public health programs.

It is, therefore, essential that, if the Act is to continue to meet today's needs and those of the future, it be flexible, as well as functional. The Act must also clearly express the roles to be played by Health Department Victoria and by local government in the provision of public health services.

The significance of this Bill is that it signals a change in direction as to the way in which those services are to be provided. Under an amended Health Act, Health Department Victoria will be encouraged to be more a standard setter than an inspector, and will have a cooperative, consultative relationship with community organisations and local government.

The Bill will insert into the Act a statement of objects establishing clear goals for the delivery of services. It will repeal, or substantially modify, provisions which no longer serve a useful purpose or which duplicate functions of newer agencies such as the Environment Protection Authority. It will also clearly identify the functions of the Chief General Manager of Health Department Victoria and of municipal councils.

A major underlying theme is that local government will continue to play a key role in the delivery of public health programs. However, the Bill will remove unnecessary controls and restraints so that councils can determine their own priorities in response to the particular needs of their residents.

Finally, the Bill encourages broad public participation in debate on issues affecting the health of the wider community—mostly notably, through the introduction of health impact statements. It is not my intention to take up the time of the House by discussing each of the clauses in detail. Nevertheless, it may be helpful to honourable members if I outline the thinking behind some of the more important innovations contained in the Bill.

The Bill provides for the repeal of laws requiring the annual registration of special trades and for the transfer of responsibility for administration of tips and waste management to the Environment Protection Authority. The streamlining of controls will be of considerable

benefit to industries, like the pig industry, which are currently subject to multiple regulatory schemes, and it will eliminate duplication between State government departments and between State and local governments.

New laws on regulation of accommodation for hire will replace archaic provisions on common lodging, boarding and apartment houses, while streamlined nuisance laws represent a major overhaul of a confused but important area of law.

Significantly, public health will in no way be compomised by these measures. Indeed, the Bill will promote more stringent public health standards, among other things, through the adoption of new water laws, which will enable regulations to be made on such matters as the sampling and disinfection of water supplies and the reporting of waterborne illnesses.

Of particular importance are the provisions on infectious diseases, including AIDS. The Bill places a clear responsibility on infected persons and those at risk to behave responsibly. Those who fail to act responsibly may be prosecuted or may be required to be examined, tested, counselled or, in certain circumstances, isolated.

At the same time, the civil liberties of infected persons and those at risk are promoted through new anti-discrimination laws and, in the case of AIDS, through provisions requiring that the privacy of persons with human immuno-deficiency virus—HIV—be preserved and that persons tested for HIV receive adequate information about the nature of the condition and its treatment.

The Bill also emphasises the importance of preschool immunisation. The requirement that parents or guardians provide evidence of immunisation against prescribed diseases prior to school entry will be an important weapon in the fight against measles. It should be noted that Victoria will be the first State in Australia to adopt in legislation this National Health and Medical Research Council recommendation. Exceptions have been provided where immunisation is medically inadvisable or in the event of conscientious objection.

The proposals in this Bill represent the first major updating of the law relating to the public health. Not only will they enable both Health Department Victoria and local government to respond more readily to changing community needs, but they will also delete from the statutes unnecessary and outmoded provisions that no longer have a place in modern health law.

I take this opportunity of thanking Mr Alan Rassaby and his team, local government and all sections of the community who responded, for the excellent work that has been done in producing what the government regards as a first-class, quality Bill.

I commend the Bill to the House.

On the motion of the Hon. M. A. BIRRELL (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

PIPELINES (AMENDMENT) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

The Pipelines Act 1967 was substantially amended twice previously, in 1983 and 1984. Neither of these amendments has yet been proclaimed. It is intended that they be proclaimed simultaneously with these amendments.

The delay in proclamation was considered desirable pending finalistion of a pipeline strategy and the development of model regulations by a national committee. Regulations to be made will be similar to the model regulations.

It is unfortunate that this has taken so long. However, the benefits that will flow on from the work undertaken in the meantime far outweigh any minor inconveniences caused by the delay. The Bill will link the two previous amendments and address other deficiencies in the Act brought to light during the intervening period.

Among other things the Bill provides for a clear basis for making regulations, and allows Australian standards and codes of practice to be adopted in part or in whole. Previously there was little flexibility when standards mentioned in regulations underwent updating or change. The Bill will allow greater clarity of intent.

The provisions for the cancellation, variation and renewal of pipelines permits and licences have also been reviewed in the light of recommended changes to the operating regulations. It is appropriate that these sections be reviewed at this time as renewals of licences and permits—issued since 1967—will commence later this year.

The opportunity has been taken to review and amend any parts of the Act that do not plainly set out necessary procedure and powers to do certain things. This is especially so in the areas of applications to vary existing permits, licences, renewals, and—most importantly—the removal of disused pipelines. Honourable members will appreciate the value of clarity in this legislation. Wherever possible the requirements placed upon owners and operators of pipelines have been set out in some detail. The efficient and safe operation of these important works must be ensured.

I turn now to the Bill itself. Primarily it is comprised of machinery clauses to link the previous amendments together and new provisions to assist with the renewal and amendment of licences and permits.

Clause 7 clarifies the process by which permits are renewed. The power of the Minister to amend or add a condition is clearly set out. Clause 9 mirrors these provisions for reissued licences. Clause 11 includes new sections 29 and 29A to provide power for the Minister to recommend the cancellation of a licence. Honourable members will note that this power is exercised only after the Minister considers that a licensee has not complied with a condition of the licence. This non-compliance could have potentially very serious effects because of the hazardous properties of the materials transported. The ultimate power for the Minister to cancel a licence is, therefore, considered necessary.

Clauses 12 and 14 provide a power to prescribe a pipeline operation fee and to better provide for regulation-making powers. The currently prescribed pipeline operation fee is charged at a rate for each kilometre of pipeline operated. This amendment clarifies the powers contained in the Act and permits the continuation of this style of charging.

I have previously mentioned the other main effect of clause 14, which includes a power to adopt standards and items of Commonwealth legislation by reference. This reduces the length and complexity of the regulations.

Clause 15 corrects a minor error introduced by the Conservation, Forests and Lands Act in 1987, and is proposed to be deemed retrospective from 1 July 1987.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. ROSEMARY VARTY (Nunawading Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

SUBDIVISION BILL

The debate (adjourned from April 12) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. A. J. HUNT (South Eastern Province)—The thrust of this Bill is universally supported, not only by the parties in this House but also by every profession and

organisation having anything to do with real estate. The Bill, therefore, will pass with the Opposition's blessing, although we will seek to still further improve it.

The Bill sets out to create the simplest possible procedure for subdivisions of all descriptions and for matters connected with subdivisions. It seeks to cover conventional subdivisions and resubdivisions, stratatitle subdivisions, cluster subdivisions, consolidation of titles—which if one thinks about it is subdivision in reverse—excisions for acquisition and the creation, variation and removal of easements and covenants.

I foreshadow at this point that the Opposition will have some disagreement with that last aspect, which is unnecessary to the real thrust of the Bill. The Bill envisages that there will be three simple steps affecting subdivisions. The first will be the obtaining of a planning permit, where that is required, although it is the government's intention to have as-of-right provisions so far as possible. Thus no planning permit at all will be required in many cases.

The second step is certification of the plan replacing the old form of sealing, and the third is registration. The Bill further envisages that controls and standards will be exercised under the Planning and Environment Act not the Subdivision Act, so that discretions under the Subdivision Act will be minimised and the delays they cause eliminated so far as that is practicable.

Other features of the Bill are that reserves will vest in the municipality or relevant authority upon registration of the plan, which is much simpler than the old form of transfer. The Bill enables the creation of bodies corporate with respect to any subdivision and requires their creation where there is common property, and sets out the basic framework for those bodies corporate.

The Bill also envisages that subdivisions may be staged if the planning permit or planning scheme requirements so permit. The Bill further seeks to allow preselling for all types of subdivisions, and in the case of building subdivisions of the strata title kind enables this to occur at an earlier stage than previously.

The Bill also seeks to increase the public open space contribution from the existing 5 to 6 per cent or, where money in lieu is accepted, to 8 per cent. The Opposition has some disagreement there. The Bill sets out a framework only and heavily depends on regulations. They, unfortunately, have not been drafted. Much is left to those regulations.

In December I wrote to the Minister for Planning and Environment pointing out the importance of the regulations and asking him to have them drafted, if possible, before the Bill was debated; if not, to provide the Opposition at least with a framework. I also suggested to him that all the major bodies affected by this Act should participate in a working party to draft the regulations so that general consensus will be achieved in advance.

Last week I received a reply indicating that a working party will be established involving all major organisations. I also received a copy of the framework of the regulations, which are heading in the right direction. I understand that copies have been supplied to all honourable members and I am informed that organisations which wish to obtain a copy have only to contact Mr Owen Lennie, the Director of the Development and Building Control Division at the Ministry for Planning and Environment, and it will be supplied.

Thus the arguments the Opposition has about the Bill are with the detail rather than with its thrust. It is a good Bill which has been a long time coming. Its genesis was in the report of the Hayes Residential Land Committee issued in 1976 which recommended the consolidation of all subdivisional procedures into one Bill. The Building and Development Approvals Committee—BADAC—which was established shortly after, in September 1979 confirmed the findings of the Hayes committee and spelt out what a subdivision Bill should contain.

My colleague in the other House, the honourable member for Benambra, then the Minister for Planning, appointed a working party. Some eight years later in June 1987, a Bill was circulated to the public for comment. That draft Bill was the subject of widespread community consultation, and as a result about 50 changes were made to that draft and a new Bill was presented to Parliament in September. At my suggestion, the previous Minister for Planning and Environment, now the Minister for Transport, convened a conference of all interested organisations in October to hear their comments about the Bill and to see whether consensus could be reached on points of difference. At that conference 43 of the 46 clauses were questioned; points were raised and constructive suggestions were made.

In February the Ministry responded to the matters raised in October and provided me with its instructions for amendments, and at that stage about 30 or so further amendments were proposed by the government. I replied on behalf of the Opposition on 1 March, pointing out that there were many further issues on which changes needed to be made to protect the interests of the community.

My response was taken into account in the first set of actual amendments that were received, of which there were then 52. I responded on 7 March in greater detail. Since then the department has also had conferences with the Institution of Surveyors Victoria and the Law Institute of Victoria. The next draft was produced at Easter time and contained 156 amendments, which took up many of the issues raised by the professional associations and the Opposition.

I responded to that on 7 April pointing out that there were still inadequacies. A further draft was received a week ago and that increased the number of government amendments to 165. After further oral discussions, the final draft was presented a few days ago with 176 amendments, one of which has subsequently been changed. There are 176 government amendments and 24 Opposition amendments making the total 200. The Opposition also proposes four amendments to the government's amendments. If all the amendments are accepted, we will have an extremely good Bill.

I pay tribute to the willingness of the Minister to consult and to Mr Owen Lennie, of the Ministry for Planning and Environment, who has listened patiently to our arguments on every issue. He has not always agreed but sometimes we have convinced him of the desirability of an amendment. Most of the difficulties have been resolved and the areas of disagreement are now comparatively narrow.

I shall turn now to the major differences between the government and the Opposition. Although the Opposition accepts the thrust of the Bill, it is too all-embracing and goes further than the need. This is evidenced in the treatment of easements, covenants and vesting orders. The Bill assumes that easements and covenants are necessarily part of the subdivisional process. That is simply not true. Many private easements exist between one landowner and another where no subdivision is envisaged or intended. There is no reason why the creation of such easements, their variations or their removal ought to be part of the subdivisional process and require certification by a council.

Certainly, the council ought to be notified, but no council approval need be required. After all, these are simple issues between adjoining landowners that do not impinge on subdivision in any way. In addition, every interest outside the public sector believes we should not interfere with matters of purely private rights. The Subdivision Bill has no place in dealing with those matters.

Against this aspect of the Bill are the developers, the real estate agents, the legal profession, the Institute of Surveyors Victoria and all those who are affected by the provisions. They unanimously oppose it; it is unnecessary. Therefore, the Opposition proposes that this unnecessary provision be removed. The advice the government received from the Registrar of Titles was that the Bill does not appreciate all the complexities of private easements. It assumes that something simple is being done when it is not. The same provisions relate to covenants, as does the same reasoning.

The council needs only to be notified of vesting orders where someone claims land by adverse possession. The council should have no part in saying, "Yes" or "No" to whether someone acquires land by adverse possession. The council is entitled to be notified and that is all.

All honourable members fully recognise the desirability of contribution for open space. The Liberal Party does not underestimate that need. A week or so ago Mrs Tehan forcefully drew attention to the need for adequate urban open space. However, honourable members should remember that any increase beyond the 5 per cent currently required is a further impost on house and land purchasers. The cost must be borne by them.

In recent times the Liberal Party has publicly drawn attention to the escalating price of land. Currently the community cannot afford any actions that would further increase the price of land. Young people are being driven out of the market. As a result, the Liberal Party has decided, in their interests, to oppose any increase in the open space requirement beyond 5 per cent.

Another major difference between the Opposition and the government is that the Bill does not bind the Crown. The Opposition accepts the proposition that, on an initial Crown subdivison from which Crown grants issue, the Crown ought not to be bound. There is no reason why the Crown should not comply in other respects with the same provisions that apply to the ordinary citizens on subdivision of land in urban areas. Thus the Opposition will be seeking to ensure that the Bill, as it should, binds the Crown.

I turn now to further criticisms of the Bill. One must criticise the time taken to produce the proposed legislation. I also criticise the inclusion of three clauses at the end of the Bill that have nothing to do with subdivision. The government has used the Bill as a vehicle to slip in further provisions that ought to have appeared in a separate Bill.

The Southgate Project Act gives the developers of that project certain advantages that are not applicable to citizens at large. Clauses 44, 45 and 46 lift those provisions from the Southgate Project Act and enable them to apply wherever the Minister decides land is special land. That process appears to be very dangerous and has no place in this Bill. It is a separate matter. Therefore, the Bill seeks to repeal the Southgate Project Act because the provisions will apply generally to whatever the Minister of the day sees fit. The Opposition does not like that approach and thinks it is sneaky.

A further criticism is that the major change to the preselling provisions appears nowhere in the Bill. It arises by implication only.

New and wider rights of preselling are a serious issue. The Bill should have addressed that issue squarely and set it out so that honourable members could vote either "Yes" or "No" on it. If one does not like the provision there is no point at which one can vote against it; it is simply inferred from various changes in the subdivision procedure.

Furthermore, honourable members will recall that I said, in the case of building subdivisions, that preselling may occur at an earlier stage. Under the existing law, preselling can occur when there is virtually practical completion, when the walls are up, and the precise boundaries of the strata unit can be determined.

Under this Bill the result will be that preselling can occur when the footings are in—a very much earlier stage, indeed. It can occur as soon as the boundaries can be determined, even if the walls are not built.

The Hon. E. H. Walker—That is not much prior to the other arrangement.

The Hon. A. J. HUNT—I am saying that matters of this nature, which make substantial changes to the law, ought to have been addressed expressly in the Bill, and not left to implication.

The Hon. E. H. Walker—It is not as big a difference as you are saying; it is a little more realistic, in my view.

The Hon. A. J. HUNT—That may well be. I am suggesting that it should have appeared expressly so that it could have been discussed by honourable members, and they could have the option of voting one way or the other. Now the result is that, if one accepts the Bill—although it is nowhere mentioned—these changes will result. That is not the right way of going about things.

I turn to the schedules. In the schedule it is the practice to include only consequential amendments. Schedule 2 goes far beyond consequential amendments. Many amendments of a substantive nature, which are not directly addressed in the Bill or in the second-reading speech, appear in Schedule 2. That is a very bad practice for Parliament.

If there are amendments of a substantive nature to other legislation, they ought to be addressed in the body of the Bill because most people do not even bother to read schedules. If they do, they cannot understand them without having the twenty or so other Acts at hand to refer to.

I mention the nature of some of the profound changes to the existing law; amendments to sections 8A, 9AA, 10, 11, and 32 of the Sale of Land Act provide for far-reaching changes, and they were not explained in the second-reading speech and do not appear in the Bill itself. The changes appear only in the consequential amendments, which are not consequential at all.

I note that the government recognises now that Schedule 2 does not deal only with consequential amendments because it changes the title of Schedule 2 to deal with "Amendment of other Acts" rather than "Consequential Amendments". However, it is a very bad principle for Parliament, and it ought not be repeated. On another occasion the Opposition may well consider rejecting substantive amendments that do not appear in the Bill itself.

My next criticism is that the owners of stratum titles are left inadequatley protected. Not many stratum titles are left; there are about 6000 in this State and their owners deserve proper protection. Furthermore, for the strata title type, much of the protection for owners which exists under the current Act disappears from this Bill and is left to be dealt with by regulations. That, again, is not good Parliamentary practice, for basic rights ought to be dealt with not in regulations, but in legislation which comes before Parliament.

Nevertheless, as I indicated, the government has been receptive to changes the Opposition has suggested and I believe the 176 amendments proposed by the government, the amendments to those amendments which the Opposition proposes, and the 24 further amendments that the Opposition will submit, will provide the framework for a good Bill which will be workable and which will be welcomed by the general public and by all those interested in the real estate market and the development industry.

I wish to thank the Minister and his staff for the cooperative way in which they have been prepared to work with the Opposition with a view to getting the best possible Bill.

The Hon. W. R. BAXTER (North Eastern Province)—I commend Mr Hunt on the work he has done on the Bill and the contribution he has made to the House this morning. I suppose when one has had the background in Parliament that Mr Hunt has had and has held the Ministerial positions he has held over the years, one tends to build up a tremendous store of knowledge. It is of benefit to Parliament that Mr Hunt is able to impart that knowledge to the House on occasions such as this. He certainly has an excellent understanding of the principles enunciated in the Bill.

I simply point out that the National Party intends to support the proposed legislation, but with similar reservations to those expressed by Mr Hunt.

I was somewhat intrigued by the assertion made in the second-reading speech that:

> This is the most advanced subdivision legislation in Australia, and will be a model for other States.

That claim was made about the original Bill. We are now up to 204 amendments to the Bill. It makes one wonder about the basis on which the assertion was made.

As Mr Hunt outlined to the House, the Bill was the end result of a twelve-year gestation period. Dozens of changes have been made. Therefore, in future speech writers need to be more careful about making such sweeping assertions that are subsequently proven to be very wrong, indeed. I only express the fervent hope that, with the 204 amendments that are to be made today, the Bill ends up being a model for the rest of Australia. I am not knowledgeable enough in this subject to be able to make that claim, but I hope that that is the situation because of the tremendous amount of work that had been put into it. The fact that amendments are being provided right up to the last minute gives me some cause to doubt that that will be the situation.

The Bill, as has already been pointed out, certainly links the subdivision procedures much more closely with the Planning and Environment Act. It repeals the Cluster Titles Act, the Strata Titles Act, and removes certain provisions from the Local Government Act.

I have received expressions of concern from local government that perhaps local government powers were being eroded in some respect. I do not believe that that is the case; I think it is a simplification of the involvement of local government in the subdivisional process without there being any erosion of responsibility or the powers involved therein. The provisions set out for certification rather than sealing will be to the advantage of local government. Therefore, I certainly do not oppose them.

Careful planning in land use is essential. To some extent the new Planning and Environment Bill and this Bill address that matter. However, I sound a warning. I would not want to be too prescriptive in what is being done and I have some reservations about the residential planning options currently circulated. There are grave dangers inherent in going down that track. I take comfort from the fact that the Bill has been amended so many times since the first draft hit the deck. I hope the same will apply to those other proposals and that the end result will be a workable document that will not include the aspects in the present proposal that give rise to deep concern.

I endorse the remarks of Mr Hunt about the open space requirement of the Bill being increased from 5 per cent to 6 per cent. The second-reading speech claims that that is a minor increase. I was not very good at mathematics at school but my understanding is that an increase from 5 per cent to 6 per cent is in fact a 20 per cent increase—one-fifth. That is substantial and cannot be characterised as a minor increase in open space requirements. Not only do I believe such an increase is unwarranted, for the reasons Mr Hunt gave, but I also have my own concerns about the principles of open space requirements being extended. The existing 5 per cent requirement is leading to all sorts of problems in some subdivisions because the cost to a local municipality of maintaining that space sometimes leads to a lack of maintenance and the open space areas turn into veritable jungles, firetraps and havens for vermin. In some cases, the population is put at risk from undesirable elements in the community loitering in these areas.

It depends on how the open space is allocated in the subdivision as a whole. If it is used for recreational facilities, such as a sportsground, it probably has value. However, I have concerns with the modern planning concepts of green belts running up between residential blocks so that backyards face green areas. It sounds nice and it looks nice on the plan but I am not certain that it is practicable in real life.

I allude to some of the planning undertaken by the Albury-Wodonga Development Corporation, not so much in Victoria but definitely in New South Wales—and there is no reason why it would not apply in Victoria. I refer specifically to the new subdivisions at Thurgoona, where this concept of planning with open space requirement by the use of green belts at the back fences of houses is proving difficult and unpopular in practice. I sound a warning about that aspect because it has not worked in practice. If open space requirements were increased by a further 20 per cent, those problems would be exacerbated.

The repeal of the Strata Titles Act and its incorporation in the proposed Subdivision Act requires the regulations or requirements for bodies corporate to be continued. They are not included in the Bill; they will be contained in the regulations. I share Mr Hunt's concern that no draft form of the regulations has been provided. I have a document that outlines the proposed regulations and addresses strata title and body corporate requirements. I am a member of a body corporate and I know that legislation causes a good deal of heartburn in that area, especially in bodies corporate with large numbers of members who have little in common with each other except that they own pieces of property under a strata title subdivision.

I appeal to the Minister to be sensitive in formulating regulations for bodies corporate because it is an area that can lead and has in the past led to much ill feeling. I flag my disappointment that the regulations are not available for Parliament to examine before a decision is made on the Bill as a whole, and ask that the regulations be formulated with a good deal of care.

I also share Mr Hunt's concern about the schedules. The amendments certainly go beyond the concept of consequential amendments and the heading is misleading because many people looking at the heading "Consequential amendments" would think that they do not need to give any consideration to those amendments because they run on consequentially as a matter of course and are of no significance. In fact, the amendments go much further than that and, as Mr Hunt has said, the government has acknowledged that by proposing to change the heading.

The Hon. A. J. Hunt—It is worrying.

The Hon. W. R. BAXTER—It is a worrying trend if Acts of Parliament are to be amended in a substantial manner by the schedules of unrelated Bills. That is a procedure about which the House should protest. On this occasion, that protest has been made by Mr Hunt and me and we will take more drastic action if that procedure becomes the norm.

I do not propose to say anything further during the second-reading debate. A large number of amendments will be dealt with and I shall make one or two interventions as appropriate at the Committee stage.

The motion was agreed to.

The Bill was read a second time and committed.

The Hon. A. J. HUNT (South Eastern Province) (*By leave*)—In view of the volume of amendments, I seek leave to be seated at the table.

The CHAIRMAN (the Hon. G. A. Sgro)—Leave is granted.

Clause 1

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

1. Clause 1, line 6, after "creation" insert ", variation".

This clarifies the purpose of the Bill by stating that the Bill applies to variation of easements and so on. It is reasonably self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

2. Clause 1, line 7, omit "and" and insert "or".

The amendment is consequential upon the first amendment, and it is self-explanatory.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 2

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I should like to make a few points quickly. I thank Mr Hunt in particular for his comments during the second-reading debate. I believe Mr Baxter made the point very well that Mr Hunt has had a long and distinguished background in this area. He understands the topic very well. Mr Hunt has been through a long series of negotiations and cooperation with the relevant Minister and the staff of the Ministry for Planning and Environment. I thank him for his comments and cooperation.

Of the 176 amendments that I shall move in Committee, a significant number are a result of that negotiation and cooperation, so they are, in a sense, a combined piece of work on this whole issue of subdivision. The amendments will improve the Bill, and I doubt whether there will be substantial disagreement. There may be a couple of divisions on a couple of amendments, but there will be no major disagreements.

I also thank Mr Baxter for his comments. He, too, has a significant grasp of the issues. He is often a little humble about that and he tends to withdraw as if he were not well informed. I do not believe that is true. He has a significant grasp of the issues.

I thank both Mr Baxter and Mr Hunt and the parties they represent for their contributions and I hope the Committee is able to deal with the Bill very quickly.

The clause was agreed to.

Clause 3

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

3. Clause 3, after line 17 insert—

'"Applicant" means—

(*a*) a person who submits a plan to the Council for certification; or

(*b*) a person who wishes to have a certified plan registered.'.

The amendment is self-explanatory. It contains a definition of "applicant".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

4. Clause 3, page 2, lines 15 and 16, omit "and is specified in the planning scheme".

The amendment clarifies the definition of "encumbrance".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

5. Clause 3, page 2, after line 17 insert—

'"Land affected by a body corporate" means the lots of which the owners for the time being are the members of the body corporate together with the common property for which the body corporate is responsible.'.

The amendment inserts a new definition of "land affected by a body corporate", which expression is used throughout the Bill. I believe the matter is well understood.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

6. Clause 3, page 2, after line 20 insert—

'"Lot entitlement" in relation to a lot affected by a body corporate, means the lot owner's interest in the land affected by the body corporate.

"Lot liability" in relation to a lot affected by a body corporate, means the proportion of the administrative and general expenses of the body corporate which the lot owner is obliged to pay.'.

The amendment inserts in clause 3 definitions of "lot entitlement" and "lot liability". The definition of lot entitlement is inserted to clarify the meaning of this technical term which is used in connection with subdivisions by a body corporate.

The definition of lot liability is similarly inserted for clarity.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

7. Clause 3, page 3, lines 16 and 17, omit "and is specified in the planning scheme".

It is consequential on a previous amendment.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

8. Clause 3, page 3, after line 17 insert—

'"Site value" means market value on the assumptions that there were no improvements and no leases, mortgages or charges affecting the land.'.

The amendment inserts a definition of the technical term "site value". It is inserted to ensure that site value used for valuation of land under the Bill is comparable to connected legislation.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

9. Clause 3, page 3, after line 19, insert—

'"Works" includes any changes to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.'.

The amendment inserts a definition of "works" in clause 3. It is inserted to ensure that the definitions of "works" and "buildings" are the same as those in the Planning and Environment Act 1987.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 4

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

10. Clause 4, lines 25 and 26, for "implication of law" substitute "in accordance with a direction in a planning scheme".

The amendment deletes references to the creation, variation or removal of easements and so on by implication of law in clause 4 (1) (*c*), but clarifies that directions in the planning scheme come under the Bill. Creation, variation and removal of easements and so on in the process of subdivision or consolidation are already encompassed under clause 4 (1) (*a*) and (*b*).

The Bill does not otherwise alter the law as it relates to these matters, except in regard to registration.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

11. Clause 4, after line 26, insert—

"(*d*) the registration of the creation, variation or removal of an easement, restriction or encumbrance; and".

The amendment inserts a new paragraph (*d*) in clause 4 (1), stating that the Bill applies to the registration of easements and so on, whether in the process of subdivision or consolidation or whether by expression or implication by law.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

12. Clause 4, after line 27, insert—

"( ) This Act does not apply to the disposition or acquisition of any land which can be lawfully sold under section 8A of the *Sale of Land Act* 1962 without being subdivided.".

The amendment inserts a new subclause in clause 4 and clarifies the link between the Bill and section 8A of the Sale of Land Act 1962.

The Hon. A. J. HUNT (South Eastern Province)—This is a particularly important amendment because, without it, existing rights to sell land without subdividing it may have been put in jeopardy. I mention the case, for example, of a farmer who has land on two sides of a stream, perhaps not in one title because, traditionally he has always had the power to sell each of those parts that are divided by a natural feature in that way separately without subdivision.

Without the provision that the amendment seeks to insert, that right would have been lost. This proposed clause, together with the further amendments that will be made later to proposed new section 8A of the Sale of Land Act will be substantially restored—I must say, they will not be restored completely, but at least they will be restored substantially—and retained. I shall deal with that issue further when the Committee deals with proposed new section 8A of the Sale of Land Act.

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

1. Clause 4, after the words inserted by the immediately preceding amendment following line 27, insert—

"( ) This Act does not apply to the acquisition of any land through a vesting order under section 62 of the *Tansfer of Land Act* 1958.

( ) Despite sub-sections (1) (*c*) and (1) (*d*), this Act (except sections 23, 25 and 36) does not apply to the creation, variation or removal of any easement, restriction or encumbrance or to the registration of the creation, variation or removal of an easement, restriction or encumbrance unless the creation, variation or removal relates to the subdivision or consolidation of land.".

Honourable members will recall that during the second-reading debate, I advanced substantial reasons why vesting orders and easements and covenants which are of a private nature and have no connection with the subdivision or consolidation of land should not be dealt with by the Bill. To do so merely complicates a satisfactory existing legal system and creates legal doubts unnecessarily.

I point out that everyone concerned with the actual administration of subdivisions disagrees with the course proposed by the government of including these purely private matters in a subdivision Bill when they have no connection with subdivision.

The amendment I have moved seeks to take out vesting orders and these purely private easements and covenants—or variations or removal of them—from the operation of the Bill. Of course, the Bill will still have minor relevance in relation to sections 23, 25 and 36. In section 25, we are providing for a form of notice to the council instead of the complicated procedure of obtaining council approval in advance on these matters that are really of no concern to the subdivision.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government disagrees with the amendment. The Opposition's amendment inserts two new subclauses in clause 4 of the Bill and its purpose is to remove the application of the certification of registration procedures to: easements, restrictions and encumbrances which do not relate to the subdivision or consolidation of land; and to alteration of titles in relation to vesting of the order prior to acquisition.

This represents a substantial attack on the purpose of the Bill, which was set out earlier in clause 1. The purpose of the Bill is to place the local council at the centre of the

administration of easements, restrictive covenants, and encumbrances, but particularly easements.

The boundaries between these concepts are not completely clear, so all three have been included in the Bill. The object is to have a single method of registration of plans encouraging standard documentation and simple procedures and a single first port of call in the process.

By making the council this first stop, the local authority is able to keep abreast of changes as they occur and is in a position to point out potential conflicts or other problems with what is proposed. This measure works in well with other council powers such as drainage planning, building control, road construction, rating and so on.

The arguments against the provisions in the Bill amount to an attack on local government, and the proposition is that despite the lack of discretion under clause 6, councils will be obstructionist and will cause delays. The possibility that a council may possess vital information or have a central role seems to be ignored, but the matter has been a point of some disagreement during the discussions that have occurred.

I do not wish to call for a division on the matter in that I have understood the essence of the point Mr Hunt makes. The government simply disagrees with it on the points I have made.

The Hon. A. J. HUNT (South Eastern Province)—I do not need to add that in no way is the measure an attack on local government. It is unnecessary for local government to have to agree to a vesting order. It would be crazy if local government were to have the right to refuse an application of a vesting order as well as the registrar having the right.

The Registrar of Titles is the person who has to be satisfied. The only interest of the council is in obtaining information that is available, although the council will have an interest in requiring consolidation if the land acquired is less than the minimum lot size. That opportunity is preserved by my amendments.

The council has a right to be notified, and that right is preserved by a later amendment, so there is no attack on local government in that case. Exactly the same remarks apply to non-subdivisional easements and covenants.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

13. Clause 4, after line 30, insert—

"( ) Parts 2, 3 and 4 (except sections 24 and 25) do not apply to plans submitted under section 98CA or 98CF of the *Transfer of Land Act* 1958.

( ) This Act does not apply to subdivision by the Crown in order to issue a Crown Grant under the *Land Act* 1958.".

The amendment inserts subclause (3) to clause 4 of the Bill relating to the application of the Bill. Its purpose is to clarify that conversions of subdivisions from company title to body corporate do not need to proceed through the certified planning process.

An alternative procedure applies under the *Transfer of Land Act* 1958 by virtue of the insertion in the Act of new sections 98CA and 98CD, replacing provisions in the repealed *Strata Titles Act* 1967.

The amendment also inserts a new subclause (4) in clause 4 ensuring that when the Crown is subdividing land by way of Crown grant, the Act will not apply. The initial alienation of Crown lands from what may be a huge unalienated parcel of land does not fit the scheme of the Bill.

The Hon. A. J. HUNT (South Eastern Province)—The Liberal Party agrees with the proposition that the Crown ought not to be bound in the case of an initial Crown

subdivision. The Opposition disagrees on the assumption that the Crown should not otherwise be bound, and it will be dealing with that point at the appropriate time.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 5

The Hon. A. J. HUNT (South Eastern Province)—I move:

2. Clause 5, line 32, omit "In spite of any rule of law to the contrary" and insert "Subject to section 4".

The amendment is consequential upon my first amendment accepted by the House and it supersedes the Minister's amendment No. 14.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

16. Clause 5, after line 35 insert—

"( ) A subdivision by acquisition by compulsory process under the *Land Acquisition and Compensation Act* 1986 does not require the lodgement of a plan until the acquisition is complete and a plan is lodged under section 35.".

The amendment inserts a new subclause to clause 5 of the Bill. It ensures that there is no incompatibility between the Land Acquisition and Compensation Act 1986 and the Bill. The plan required under clause 33 of the Bill occurs after acquisition has been effected by notice in the *Government Gazette.*

The procedure does not interfere with the process of acquisition but clarifies the identify of the remainder of the land and provides an opportunity for adjusting easements, if this is desirable.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition does not oppose the thrust of the amendment, but as an amendment to the amendment moved by the Minister for Agriculture and Rural Affairs, I move:

1. In the proposed amendment to clause 5, omit "by compulsory process".

If an acquiring authority is acquiring land it ought not be discouraged from completing the acquisition by agreement, wherever this is possible. If the acquiring authority has to go to the council with an extra plan causing delays there and have the plan certified, it may well be a powerful deterrent to completing the purchase by negotiation rather than by compulsory process.

The Hon. W. R. Baxter—And they might get caught up in the time limits, too.

The Hon. A. J. HUNT—They might, indeed. In any event, it is much simpler for the acquiring authority if it merely proceeds. Obviously it is much simpler for the acquiring authority if it really has to lodge a plan with the council in respect of the acquisition when that acquisition is completed, whether it was completed in a voluntary way or through the use of compulsory process.

It makes no difference to the authority and it ought to make no difference to the council. All the council wants is to be notified. It certainly does not require any veto power in cases such as this.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The proposed change to the government's amendment seeks to exempt acquisitions by agreement from most of the procedures in the Bill. The government does not believe the change to the amendment is necessary because the planning scheme will exempt sales to public authorities for utility services from planning approval, and government amendment No. 69 exempts subdivisions excising land for utility purposes from the open space requirement.

The government's amendment No. 18 allows the authority, with the consent of the owner—which would be forthcoming if the acquisition is with the agreement of the

owner—to lodge the plan of subdivision, and this could be made an administrative practice.

Item 40 in Schedule 2 allows a statutory authority to purchase or acquire land by agreement before a plan is certified, so the owner does not have to wait for the money, and the change proposed to the amendment is not in accordance with the scheme of the Bill.

I know the amendment has been a matter of some discussion, but the government does not accept Mr Hunt's amendment on my amendment.

The Hon. W. R. BAXTER (North Eastern Province)—I am attracted to Mr Hunt's argument because I should have thought that Parliament had gone to some lengths with the Land Acquisition Bill to overcome the problems endemic in its predecessor, where all sorts of difficulties arose with the compulsory process and notices to treat and the like.

The new Land Acquisition Bill gives every possible encouragement for acquisitions to be agreed to without resort to compulsory process. It appears to be placing an impediment in the way of that occurring. In his subsequent explanation the Minister did not give any reason why it should not be extended to all acquisitions under that Act, and why it should be confined to the compulsory process.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government considers that the key issues are handled in later developments that it intends to implement.

Mr Hunt's amendment on the amendment was negatived, and Mr Walker's amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

17. Clause 5, line 36, omit "An owner" and insert "A person".

The amendment caters for an applicant for subdivision not necessarily needing to be the owner or the owner's agent. The amendment, together with the insertion of the definition of "applicant" and other consequential amendments in the Bill, will provide flexibility.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

18. Clause 5, page 4, lines 3 and 4, omit sub-clause (3) and insert—

"(3) The Council can accept and consider a plan submitted to it for certification even if a planning permit is required but has not been issued.

(4) Any person may, with the written consent of the owner, submit a plan to the Council for certification."

The amendment clarifies the intent of clause 5 (3) of the Bill. It allows for a council to accept and consider a plan of subdivision before a planning permit is issued.

The amendment was agreed to, and the clause, as amended, was adopted.

The sitting was suspended at 1.3 *p.m. until* 2.7 *p.m.*

Clause 6

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to vote against this clause. It will be replaced by proposed new clause AA.

The clause was negatived.

Clause 7 was agreed to.

Clause 8

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

20. Clause 8, line 23, omit "owner" and insert "applicant".

The amendment proposed is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

21. Clause 8, line 28, after "removed" insert ", unless the authority has agreed to the easement, restriction or encumbrance in connection with the planning scheme or permit or otherwise".

Again, this amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

22. Clause 8, line 30, omit "33" and insert "35".

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 9

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

23. Clause 9, line 36, after "requires" insert "specified".

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

3. Clause 9, line 36, after "alterations" insert "or provision as to services".

With the amendment made by the Minister, a referral authority must inform the council within the prescribed time that it requires specified alterations. There is an omission in that concept. Honourable members will recall that the government is moving to have standard conditions for subdivision which will take them out of the planning process in many cases, particularly if the residential development provisions circulated by the government are approved.

Thus, statutory authorities would not be called upon at the planning stage where those standard conditions apply for any view at all on the provision of services. In fact, there will be no planning application required in many cases. There comes a point where the statutory authorities must lay down their conditions as to the provision of services. It is insufficient simply to enable the statutory authorities to require amendments to the plan.

To give an example of the case of a subdivision in the metropolitan area, perhaps on the outer fringes, the Melbourne an Metropolitan Board of Works is both the sewerage and water authority and may make three very important requirements as to provision of services. It may require sewerage mains of a specified diameter to be provided and to be linked into existing mains at a given point; it may make a similar requirement with respect to water; and it may require a payment towards headwork costs as a condition of the subdivision. These are all requirements as to the provision of services. They may not have been addressed at the planning stage because there may have been no planning stage as a result of the planning scheme giving as-of-right opportunity for the subdivision. They must be addressed at some stage.

It is for these reasons that I desire added to the right of the authorities to require specified alterations, a right to them to require provision as to services. If this is not done, there will be times when that issue is not addressed.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The problem is that this amendment gives the service authorities two bites at the cherry. That is not intended. It will also suggest that they disregard the planning stages, or downplay the planning stages. Mr Hunt talks about the fact that there may not be a planning stage. Personally, I am not sure what he means by that.

The Hon. A. J. Hunt—Yes, it is.

The Hon. E. H. WALKER—Mr Hunt could explain it a little better to me. I oppose what Mr Hunt is saying on the basis that I do not believe it will create good practice. I understand Mr Hunt is talking to his amendments Nos 3, 4 and 5 rather than amendment No. 3.

The Hon. A. J. Hunt—Yes.

The Hon. E. H. WALKER—These amendments to clause 9 appear to give referral authorities a discretion to make provision as to services under the proposed legislation. It runs counter to the express policy of the Bill to have all substantial requirements made at the planning approval stage. That is the intent of the Bill. I simply say that the government opposes the amendment because it gives service authorities two bites at the cherry and will downgrade the importance of the planning stage.

The Hon. A. J. HUNT (South Eastern Province)—If the Minister does not want to protect his statutory authorities, I will not force a division. It is certainly not intended that statutory authorities should have two bites at the cherry, but the Minister's rejection of my amendment may mean that they will have no bites at the cherry. That is the problem. I pointed out as clearly as I could that if the residential development provisions are adopted there will be no planning requirement at all because the subdivision will be as of right if it complies with those provisions. There is no planning stage at which the statutory authority can make a requirement. In that event, the statutory authorty needs protection.

If the Minister does not want to give it, that is his problem and it is one that will no doubt have to be addressed by the next government.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—It is not as bad as that. Clearly, there is an alternative. If there is no planning procedure or planning permit required, the scheme will require a reference to the service authority, so that that issue is caught up. Mr Hunt has a point, but I do not think he understands that there is a fail-safe mechanism to pick up the point he is putting.

The Hon. A. J. Hunt—What if it does not?

The Hon. E. H. WALKER—It does.

The amendment was negatived.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

24. Clause 9, line 38, after "requires" insert "specified".

The amendment is consequential.

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—In view of the Committee's decision on amendment No. 3 standing in my name, my amendments Nos 4 and 5 become inapplicable and I shall not proceed with them.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

25. Clause 9, line 39, omit "owner" and insert "Council and the applicant".

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

26. Clause 9, page 6, line 3, omit "an" and insert "a specified".

The amendment is consequential.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

27. Clause 9, page 6, after line 5, insert—

"(5) If a plan contains all the specified alterations required by a referral authority, the authority cannot require any further alterations or refuse to consent to the plan.".

The amendment is self-explanatory.

The Hon. A. J. HUNT (South Eastern Province)—I had an amendment to amendment No. 27, but in view of the Committee's decision on my amendment No. 3, it becomes inapplicable and I shall not proceed with it.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 10

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

28. Clause 10, line 8, omit "owner" and insert "applicant".

29. Clause 10, line 10, omit "owner" and insert "applicant".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

30. Clause 10, line 14, omit "all".

This amendment simply removes some unnecessary wording.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

31. Clause 10, lines 15 and 16, omit "or refuse to certify the plan".

This amendment removes a possible ambiguity between clause 10 (4) and clause 6. New clause AA—which will subsequently be moved—will replace clause 6 of the Bill and provides that the council must certify a plan if alterations required by the council have been made and the other requirements have been met.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

32. Clause 10, line 24, after "alteration" insert "required by the Council".

The amendment is self-explanatory.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 11

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

33. Clause 11, line 26, after "owner" insert "or a person with the consent of the owner".

This amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

34. Clause 11, page 7, line 9, omit "owner" and insert "person who made the application to amend the certified plan".

This amendment is also self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

35. Clause 11, page 7, line 17, omit "licensed".

There is some unnecessary wording and the amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

36. Clause 11, page 7, line 17, omit "the amendment" and insert "an amendment applied for by an acquiring authority".

The amendment clarifies that if a surveyor prepared the plan, the surveyor must be informed if an amendment is required by an acquiring authority. It is self-explanatory.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 12

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

37. Clause 12, line 20, after "easements" (where first occurring) insert "(other than easements referred to in sub-section (2))".

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural affairs)—I move:

38. Clause 12, line 24, after "easements" (where first occurring) insert "(other than easements referred to in sub-section (2))".

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

39. Clause 12, lines 28 to 41, and page 8, lines 1 and 2, omit sub-clause (2) and insert—

"(2) An easement or right is implied and attached to a lot and the common property of a building subdivision if—

(*a*) it provides—

(i) support, shelter or protection; or

(ii) passage or provision of water, sewerage, drainage, gas, electricity, garbage, air or any other service of whatever nature (including telephone, radio, television and data transmission); or

(iii) right of carriage way with or without vehicles over areas marked on the plan for the purpose; or

(iv) full, free and uninterrupted access to and use of light for windows, doors or other openings enjoyed at the time the plan is registered; or

(v) maintenance of overhanging eaves existing when the plan is registered; and

(*b*) it is necessary for the reasonable use and enjoyment of the lot or the common property; and

(*c*) it is consistent with the reasonable use and enjoyment of the other lots and the common property in the subdivision, and

(*d*) where it is attached to the common property, the benefit is enjoyed by a lot owner who is a tenant in common in that common property.".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

40. Clause 12, page 8, line 6, after "easement" insert " , even if the lot or common property is not part of a building".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

41. Clause 12, page 8, line 8, omit "has a right of" and insert "can gain".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

42. Clause 12, page 8, line 9, after "lot" insert "for the purpose of using the easement".

43. Clause 12, page 8, line 9, after "in" insert "gaining access to or".

44. Clause 12, page 8, line 10, omit "or right of access".

45. Clause 12, page 8, line 13, after "easement" insert "if reasonable care is taken in gaining access to and using the easement".

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—The Committee has just amended subclause (5) of clause 12. I move:

6. Clause 12, page 8, lines 11 to 13, omit sub-clause (5).

The amendment will omit the entire subclause. There is a good reason for that. There is a duty of care when using easements, and that should be preserved. In some circumstances, that duty of care is weakened by this clause. I do not believe the subclause is necessary. The common law is perfectly capable of looking after rights between users and owners of easements, and the subclause simply muddies those rights.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government does not agree. Although I accept the sense of what Mr Hunt is saying, one of the main purposes of the subclause is to encourage the registration of easements through the protection of claims for damage. The main concern was the lack of duty of reasonable care, which has been inserted by the government in the previous clause.

The Hon. A. J. Hunt—That goes part of the way.

The Hon. E. H. WALKER—It does, but I do not accept what Mr Hunt is saying. The government does not accept the amendment.

The amendment was negatived, and the clause, as amended, was agreed to.

Heading to Part 3

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

46. Clause 13, part heading preceding this clause, omit "REQUIREMENTS UNDER PLANNING SCHEMES" and insert "STATUTORY REQUIREMENTS FOR PLANS".

It is a matter of omitting certain words and inserting certain words. The amendment is self-explanatory.

The amendment was agreed to, and the heading, as amended, was adopted.

Clause 13

The Hon. A. J. HUNT (South Eastern Province)—I move:

7. Clause 13, line 17, omit "(*a*)".

This is a step towards my amendment No. 9, which would ensure that the Bill binds the Crown except in cases of original Crown subdivisions. It is important that the Crown should be bound by the rules that apply to its citizens, although the Opposition accepts that the Bill need not apply to initial Crown subdivisions. That has already been provided for. The amendment, together with amendments Nos 8 and 9, will ensure that, except for Crown subdivisions, the Bill binds the Crown.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes the amendment and will call for a division, if necessary. The amendment binds

the Crown by open space requirements and other provisions of planning schemes. That is not sensible or workable. The procedures in Part 3 of the Bill cannot be appropriately applied to the Crown.

The Committee divided on the question that the expression proposed by Mr Hunt to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	18
Noes	20
Majority for the amendment ..	2

AYES	NOES
Mr Arnold	Mr Baxter
Mrs Coxsedge	Mr Birrell
Mr Henshaw	Mr Chamberlain
Mrs Hogg	Mr Connard
Mr Kennedy	Mr de Fegely
Mrs Kirner	Mr Dunn
Mr Landeryou	Mr Evans
Mrs Lyster	Mr Guest
Mr McArthur	Mr Hallam
Mrs McLean	Mr Hunt
Mr Mier	Mr Knowles
Mr Murphy	Mr Long
Mr Pullen	Mr Miles
Mr Van Buren	Mr Reid
Mr Walker	Mr Storey
Mr White	Mrs Tehan
	Mr Ward
	Mr Wright
Tellers:	*Tellers:*
Mr Crawford	Mr Lawson
Mrs Dixon	Mr Macey
PAIRS	
Mr Kennan	Mr Granter
Mr Sandon	Mrs Varty

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

47. Clause 13, line 18, omit "33" and insert "35".

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

8. Clause 13, line 18, omit "or".

9. Clause 13, line 19, omit paragraph (*b*).

The amendments follow from the successful division the Committee has just been involved in which will have the effect of binding the Crown except in the case of an initial Crown subdivision.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 14

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

48. Clause 14, line 22, omit "owner" and insert "applicant".

49. Clause 14, line 23, omit "and" and insert "including".

50. Clause 14, line 31, omit "certify the plan" and insert "approve the engineering plan".

51. Clause 14, line 32, omit "owner" and insert "applicant".

52. Clause 14, line 35, after "altered" insert "engineering".

The amendments are consequential and are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 15.

Clause 16

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

53. Clause 16, line 18, after "supervision" insert—

"; and

(*c*) enter into an agreement with an owner providing that works or other things required by the planning scheme or permit may be completed after registration.

(3) Division 2 of Part 9 of the *Planning and Environment Act* 1987 applies to an agreement under subsection (2) (*c*) as if the Council or referral authority were the responsible authority.".

The amendment inserts a new paragraph (*c*) which gives councils and referral authorities certain powers in relation to work that is required as part of a development. It enables the council or the referral authority to enter into an agreement with the owner to allow works to be completed after registration of the plan of subdivision agreement until the provisions of the Planning and Environment Act are incorporated allowing for bonds and guarantees. The amendment provides much needed flexibility and has wide support in the industry.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

54. Clause 16, line 19, omit "owner must maintain" and insert "applicant is responsible for the maintenance of".

55. Clause 16, line 21, omit "owner" and insert "applicant".

56. Clause 16, after line 23, insert—

'( ) In this section, "works" means works that—

(*a*) are required by or for the Council or a referral authority to provide roads or public utility services to the land; and

(*b*) are or are to be the responsibility of the Council or a referral authority after the maintenance period.'.

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 17

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to omit clause 17.

The clause was negatived.

Clause 18

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

58. Clause 18, line 28, omit "A Council" and insert "If a requirement for public open space is not specified in the planning scheme, a Council, acting as a referral authority under the *Planning and Environment Act* 1987".

The amendment provides that a planning scheme may make provision for open space and that provision prevails over the default provision of this clause. A council using the provision of this clause does so as a referral authority and must use the requirement at the planning approval stage.

Honourable members note that the planning schemes must be approved by the Minister and may be disallowed by this Chamber or the other place and so considerable safeguards exist against arbitrary open space requirements in schemes.

The purpose of the provision is to encourage rational planning of open space requirements in open areas rather than creating a blanket approach. The drafting makes it clearer than exists in clause 18 (1) (*a*) and (*b*).

I did not believe that I would ever stand in this place and speak about the value of either Chamber disallowing a regulation or amendment to a planning scheme but in this case it has merit.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition is opposed to the amendment for the reason that the 5 per cent requirement for open space should not only be retained but also should be standard throughout the State. The amendment provides the opportunity for a higher percentage to be fixed by local planning schemes and we therefore oppose the government's amendment.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party opposes the amendment for the reasons I canvassed during my second-reading remarks in addition to the reasons given by Mr Hunt, both in his second-reading speech and now.

The National Party believes the 5 per cent figure is appropriate. To increase that figure by 20 per cent which is envisaged would be excessive. I realise that is not the amendment that is before the Chair but I foreshadow that the National Party intends to oppose the increase to 6 per cent.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

59. Clause 18, line 28, omit "owner" and insert "applicant".

60. Clause 18, line 29, after "plan" insert "of subdivision".

61. Clause 18, line 30, after "aside" insert "on the plan".

62. Clause 18, lines 30 and 31, omit "to the satisfaction of" and insert "satisfactory to".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

10. Clause 18, line 31, omit "6" and insert "5".

The proposed amendment seeks to retain the existing 5 per cent figure instead of increasing the open space contribution to 6 per cent. The Minister will be well aware that this is not done with a view to limiting open space—we are certainly not in favour of that—but it is done with a view of containing escalating land prices.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes amendment No. 10 circulated in Mr Hunt's name, which is connected with Mr Hunt's proposed amendment No. 11. The proposed amendments to clause 18 will preserve what the government considers to be the unsatisfactory situation with respect to public open space requirements, and goes against the recommendations of the residential development provisions task force. They also have the effect of going against the express views of the Municipal Association of Victoria. The government will call for a division if Mr Hunt perseveres with his proposed amendment.

The Committee divided on the question that the expression proposed by Mr Hunt to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	18
Noes	21
Majority for the amendment ..	3

AYES	NOES
Mr Crawford	Mr Baxter
Mrs Dixon	Mr Birrell

AYES	NOES
Mr Henshaw	Mr Chamberlain
Mrs Hogg	Mr Connard
Mr Kennedy	Mr de Fegely
Mrs Kirner	Mr Dunn
Mr Landeryou	Mr Evans
Mrs Lyster	Mr Guest
Mr McArthur	Mr Hallam
Mrs McLean	Mr Hunt
Mr Mier	Mr Knowles
Mr Murphy	Mr Lawson
Mr Pullen	Mr Long
Mr Van Buren	Mr Macey
Mr Walker	Mr Miles
Mr White	Mr Storey
	Mrs Tehan
	Mr Ward
	Mr Wright
Tellers:	*Tellers:*
Mr Arnold	Mr Reid
Mrs Coxsedge	Mrs Varty
PAIRS	
Mr Kennan	Mr Granter

The Hon. H. R. WARD (South Eastern Province) (*By leave*)—There was an agreement that Mrs Varty would be paired with Mr Sandon. I did not see Mrs Varty come into the Chamber while the pairs list was being prepared. As a result of being in the Chamber, Mrs Varty has been counted in the Division Lists. Mrs Varty's presence was overlooked; she should not have been in the Chamber.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (*By leave*)—I thank Mr Ward for his explanation. It would not have affected the result of the division had Mrs Varty not been in the Chamber. The matter has been noted in *Hansard;* and I accept Mr Ward's explanation. But it had better not happen again!

The expression proposed by Mr Hunt to be inserted was so inserted.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

63. Clause 18, lines 31 and 32, omit "(or, if another percentage is specified in the planning scheme, that percentage)".

The Hon. A. J. HUNT (South Eastern Province)—The Liberal Party opposes the principle, but the Committee has already made a decision on the matter.

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

11. Clause 18, line 35, omit "8" and insert "5.".

The amendment has the effect of retaining the existing 5 per cent if the payment is cash in lieu of open space.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes the amendment but the Committee has already made a decision on the matter and the government will not call for a division on the amendment.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

64. Clause 18, lines 35 and 36, omit "(or, if another percentage is specified in the planning scheme, that percentage)".

65. Clause 18, page 10, line 9, omit "owner" and insert "applicant".

66. Clause 18, page 10, line 10, omit "higher percentage" and insert "percentage other".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

12. Clause 18, page 10, lines 9 and 10, omit sub-clause (4).

The amendment enables the council and the owner to agree to a percentage other than the 5 per cent. They can probably do that anyway without that provision, and its insertion in the Bill may only encourage particular councils to make requirements in excess of 5 per cent and to hold up owners who do not agree with it, even if it is not specified in the planning scheme.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes the amendment. The amendment deletes subclause (4) of clause 18, which allows for flexibility in the open space requirement by providing for agreements to vary the amount of open space.

The Law Institute of Victoria believed the subclause as amended by my amendment No. 66, was necessary for the smooth operation of the system. The institute supports the government's view and the amendment is opposed.

The amendment was negatived.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

67. Clause 18, page 10, line 12, after "subdivided" insert "whether the requirement was made before or after the commencement of this section, unless sub-section (6) applies".

68. Clause 18, page 10, line 14, omit "if" and insert "and".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

69. Clause 18, page 10, after line 16, insert—

"( ) If any amount is paid to the Council under this section and the Council is satisfied that it is no longer intended to subdivide the land to create any additional lot, the Council may refund the amount paid to it.

( ) A public open space requirement is not required if—

(*a*) the subdivision is of a class of subdivision that is exempted from the public open space requirement by the planning scheme; or

(*b*) the subdivision is for the purpose of excising land to be transferred to a public authority, Council or a Minister for a utility installation.".

The amendment clarifies exemptions from the requirement in respect of open space. Planning scheme exemptions will include a number of cases now covered by the Local Government Act, but with greater attention to the impact of the type of subdivision in the area. The insertion of the proposed subclause clarifies the position of councils regarding the refund of contributions if a subdivision does not proceed.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition supports the amendment and, in fact, requested it. However, the amendment moved by the Minister does not go far enough and so I move, as an amendment on the amendment:

3. In the proposed amendment to clause 18, after paragraph (*b*) insert—

"; or

(*c*) the subdivision subdivides land into two lots neither of which is capable of further subdivision.".

The amendment on the amendment seeks to exempt from the open space provision a subdivision of land into two lots. That accords with the existing law. I am not going quite

so far as the existing law, because I refer to "two lots, neither of which is capable of further subdivision."

I urge the government to agree to my amendment and indicate that the Opposition will call for a division on the amendment if the government does not support it.

The principle is already established in the existing law and the government, itself, has acknowledged that because in the schedules to the Bill the government, in respect of building subdivisions, is expressly referring to open space contributions where there are more than two lots. I seek to adopt the same principle, so I urge the government to accept the principle in this amendment. If the government agrees to the amendment the Opposition will not oppose the exemptions to be proposed by the Minister.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government will not oppose the amendment.

Mr Hunt's amendment on the amendment was agreed to, and Mr Walker's amendment, as amended, was adopted.

The Hon. A. J. HUNT (South Eastern Province)—I move:

13. Clause 18, page 10, after the words inserted by the immediately preceding amendment following line 16, insert—

"( ) If a public open space requirement has been complied with, the plan of subdivision must be endorsed with a statement to that effect.".

The amendment is designed to ensure that people will know when the open space contributions have been met in respect of a given piece of land.

The principle is that the open space contribution shall be charged once only. When one goes along with a plan of subdivision one does not know whether or not there has been a previous open space contribution. It is possible for someone to be charged when there has already been a consideration in respect of the particular land. This is a defect in the existing law that ought to be overcome by the Bill. People ought to know where they stand and, by the simple expedient of their noting the fact of payment on the plan of subdivision, anyone who deals with the land subsequently will know whether or not the open space consideration is met.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—There is no disagreement with the policy as expounded by Mr Hunt, but it was proposed to do this by regulation because new technology will make endorsement on plans inefficient as a method of making information available.

I understand the difficulty of whether the council or the registrar should have the responsibility, but it is for those reasons that the government opposes the amendment.

The Hon. A. J. HUNT (South Eastern Province)—If the Minister will give a firm assurance on behalf of the government that the issue will be dealt with by regulation, I will not press for a division.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—That firm assurance is offered.

The amendment was negatived, and the clause, as amended, was adopted.

Clause 19

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

70. Clause 19, line 19, omit "at the expense of the owner".

71. Clause 19, line 22, omit "owner of the land" and insert "applicant".

72. Clause 19, line 28, omit "another valuation at the owner's expense" and insert "a revaluation at each anniversary of the submission".

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 20

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

73. Clause 20, lines 37 and 38 and page 11, lines 1 and 2, omit sub-clauses (3) and (4) and insert—

"(3) A Council must not sell public open space unless—

(*a*) the land meets the minimum lot size requirements in the planning scheme; or

(*b*) the land is sold to the owner of neighbouring land and the owner consolidates the open space and the neighbouring land.".

74. Clause 20, page 11, line 4, after "scheme," insert "or sold only".

Again the amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 21

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to vote against this clause. Amendment No. 143 standing in my name sets out new clause CC, which I shall later move and which will replace clause 21. It clarifies that planning requirements must be met before the statement of compliance will be issued. The requirement for a certificate of occupancy to be issued in relation to a building subdivision has been deleted, as the requirement for substantial completion of building works under the new clause should be adequate. This will give flexibility to developers of buildings which are to be subdivided and sold.

The clause was negatived.

Clause 22

The Hon. A. J. HUNT (South Eastern Province)—I move:

14. Clause 22, line 18, after "22." insert "(1)".

The amendment paves the way for amendment No. 16 standing in my name, which I understand will be approved by the government.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

76. Clause 22, line 19, omit "the plan appears to the Registrar to have" and insert "it appears to the Registrar that the plan has".

77. Clause 22, line 22, omit "owner" and insert "applicant".

78. Clause 22, line 28, after "sent" insert "by the Registrar".

79. Clause 22, lines 29 and 30, omit "the period in the notice has" and insert "30 days have".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

15. Clause 22, line 32, after "(*e*)" insert "in the case of a plan of subdivision or consolidation,".

The purpose of the amendment is to limit the application of subclause (*e*) to plans of subdivision or consolidation.

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

16. Clause 22, after line 32 insert—

"( ) Where a valid plan has been lodged in the Office of Titles for registration during the period of 12 months after the commencement of section 44, the Registrar may, if in his or her opinion the circumstances so warrant, extend the period of validity of the plan by no more than 12 months for the purpose only of enabling the plan to be registered.".

The amendment is in essence consequential upon an amendment to clause 44 which I shall move later and which I understand the government will accept.

This is perhaps a convenient time to explain the interaction of the two amendments. Clause 44 contains a defect in drafting in that a plan of subdivision sealed under the old Act, even 25 years ago, could suddenly be presented for registration under the proposed legislation. That surely is not intended. My amendment to clause 44 will limit registration to plans not more than five years old at the date of lodgment. Plans under the new legislation are deemed to have validity for five years; that surely is long enough. The validity expires, however, at the end of the five years. There may be some plans presented in four years and nine months under the proposed legislation. That would leave only three months for registration and then the plans would lapse.

Amendment No. 16 deals with that situation and provides that in the first year of operation of the new Act, if a plan is valid at the date it is lodged at the Land Titles Office, the Registrar of Titles may extend the period of registration by up to one year. It is to allow this little flexibility during the first year of operation of the new Act.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 23

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

80. Clause 23, lines 36 and 37, omit "person directed under the planning scheme" and insert "Council or the person benefitting from the direction if the planning scheme so requires".

81. Clause 23, line 37, after "a" insert "certified".

I believe the amendments to be self-explanatory.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

17. Clause 23, after line 40 insert—

"( ) A person whose interest in land is divested or diminished by a direction of a planning scheme required by a Council or referral authority has a claim for compensation under the *Land Acquisition and Compensation Act* 1986 as if the Council or referral authority were the Authority for the purposes of that Act.".

The purpose of the amendment is to add a new subclause to clause 23, which enables people's rights in easements and the like to be affected by directions in the planning scheme. A person's easement can be extinguished as a result of a direction in a planning scheme. For example, a valuable right of access may be lost as a result of a direction in a planning scheme, which may in turn substantially diminish the value of the owner's property; yet there is no provision for any compensation to be paid. The view of the Opposition is that such a direction is in the nature of a compulsory acquisition and the effects of it should be compensated for as if it were a compulsory acquisition. What else is it if there is an expropriation of one's rights under the Bill as a result of a direction in a planning scheme? There must be adequate protection for owners affected in that way.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—As I understand Mr Hunt, he is seeking an undertaking from the government in this regard.

The Hon. A. J. Hunt—I go a bit further than that.

The Hon. E. H. WALKER—On behalf of the government I undertake to ensure that planning scheme amendments will not be approved if the proposal is properly viewed as an acquisition and should proceed under the Land Acquisition and Compensation Act 1986. If the proposed planning scheme amendment deprives the owner of the land of an interest in a valuable easement—say, a right of way—for the purposes of a council or public body, the government would regard any significant reduction in the owner's property value as an acquisition. As such, it will not be approved as an amendment. I give Mr Hunt the assurance that the government views the matter seriously. What he seeks by his amendment will be achieved by other means.

The Hon. A. J. HUNT (South Eastern Province)—I should have preferred the amendment to have been agreed to. It would have more adequately secured the interests of owners. I cannot disregard the Minister's undertaking and I am heartened by the fact that it is not merely his personal undertaking but it is expressed as an undertaking given on behalf of the government. If I have it clearly, the undertaking is that, where it amounts to an expropriation which diminishes the value of an owner's property, no direction under a planning scheme will be sanctioned; am I correct in that?

The Hon. E. H. Walker—As I understand it, you are correct.

The Hon. A. J. HUNT—In those circumstances, I shall not press to a division.

The amendment was negatived, and the clause, as amended, was adopted.

Clause 24

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

82. Clause 24, line 6, after "plan" insert "freed and discharged from any mortgage, charge, lease or sub-lease".

83. Clause 24, line 8, after "plan" insert "freed and discharged from any mortgage, charge, lease or sub-lease".

84. Clause 24, line 13, omit "implied easements" and insert "easements or rights implied by section 12 (2) or (3)".

85. Clause 24, line 18, omit "part of the land set aside as a".

86. Clause 24, line 22, after "lodged;" insert "or".

87. Clause 24, line 24, after "certificate;" insert "or".

88. Clause 24, lines 29 to 31, omit sub-clause (5).

The amendments may be taken in globo and I believe they are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 25

The Hon. A. J. HUNT (South Eastern Province)—I move:

18. Clause 25, page 13, after line 2 insert—

"( ) On registration of the creation, variation or removal of an easement, restriction or encumbrance which does not relate to the subdivision or consolidation of land, the Registrar must notify the Council of that registration.".

When the Committee amended clause 4 to remove private easements from the operations of the Bill, I indicated that the Opposition would have no objection to placing an obligation on the registrar to notify councils of the creation, variation or removal of those private easements. Therefore, the government's initial purpose is achieved in a simpler way. The amendment provides for notification of the registration of easements, covenants and the like by the registrar to local councils, to carry out the view I expressed in an earlier part of the debate.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I believe this amendment is consequential on amendment No. 1 moved by Mr Hunt. The government has no opposition to it.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 26

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

89. Clause 26, line 4, omit "An owner" and insert "A person".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 27.

Clause 28

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

90. Clause 28, line 24, after "plan" insert "providing for the creation of one or more bodies corporate or".

91. Clause 28, line 26, omit "the bodies corporate are" and insert "each body corporate for which the plan provides is"

92. Clause 28, after line 28 insert—

"( ) the owners for the time being of the lots are the members of the body corporate; and".

93. Clause 28, line 32, omit "names of the bodies corporate as nominees" and insert "name of the body corporate as nominee".

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 29

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

94. Clause 29, lines 8–10, omit sub-clause (4) and insert—

"( ) A member of a body corporate is not liable to pay or contribute to the funds of the body corporate a proportion of any amount required to discharge a liability of the body corporate exceeding the member's lot liability.

( ) An action does not lie against a member of the committee of the body corporate who acts in good faith and in accordance with this Act and the regulations in respect of anything done or omitted to be done by the body corporate.".

This amendment is also self-explanatory.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 30

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

95. Clause 30, line 22, after "land " insert—

"; or

(*f*) amalgamate with another body corporate but preserving all rights of persons other than the body corporate and its members and all liabilities of the body corporate and its members to third parties; or

(*g*) reinstate damaged or destroyed improvements, if this requires a change to the registered plan".

96. Clause 30, line 23, for "a plan" substitute "a new plan of subdivision".

97. Clause 30, line 24, omit "owners" and insert "members".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

98. Clause 30, after line 26, insert—

"( ) A lot owner who is a member of a body corporate may submit a new plan of subdivision for certification if the changes to the subdivision affect only the lot or lots of which he or she is the owner and do not affect common property.

( ) If the Council agrees that the changes are minor, the body corporate or the lot owner may submit a plan showing the changes to be made to the registered plan, despite sub-section (2) or (3).

( ) Changes to a registered plan take effect when the plan under this section is registered.".

The amendment seeks to insert a new subclause to enable a landowner to submit a registered plan of changes affecting only the lot or lots owned and not affecting any of the common property, as with a scheme of redevelopment. It also inserts a new subclause providing that a replacement plan of subdivision does not have to be prepared if the council agrees that changes to the registered plan are minor.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

99. Clause 30, line 27, omit "modification" and insert "alteration".

100. Clause 30, line 27, after "plan" insert "under this section".

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 31

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

101. Clause 31, line 30, after "31." insert "(1)".

102. Clause 31, line 32, after "entitlement" insert "or lot liability".

103. Clause 31, after line 32 insert—

"(2) In making any change to the lot entitlement, the body corporate must have regard to the value of the lot and the proportion that value bears to the total value of the lots affected by the body corporate.

(3) In making any change to the lot liability, the body corporate must consider the amount that it would be just and equitable for the owner of the lot to contribute towards the administrative and general expenses of the body corporate.".

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 32

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

104. Clause 32, lines 34 and 35, omit "on the plan".

105. Clause 32, line 36, omit "The" and insert "A".

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

19. Clause 32, page 15, line 2, after "is" insert "the address of the premises or".

The clause deals with the notification by the registrar to the body corporate and the rather complicated system of sending the notification to the registered address. Accountants who act as company secretaries change addresses from time to time, and addresses become obsolete. However, there is a simple remedy because the members of the body corporate normally reside at the address; so a notice addressed to the body corporate at the place where the body corporate is, and its members live, will reach the appropriate person, whereas when a notice is sent to the registered address it may be sent to someone who has long since departed, such as the company secretary. The amendment is giving the registrar an added option to send the notification to the premises.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government is not happy with this amendment. As Mr Hunt said, it seeks to amend clause 32 (3) to allow service of a notice to a body corporate by addressing the notice to the "premises". This would alter the existing law, which was intended to be continued by provision to be made by regulation. The body corporate currently must display on the building a plate

with the address for service of notices, which must agree with the address registered in the Land Titles Office; and where that address is a subdivided premise, a mailbox for notices must be provided. The government believes the current law is superior to the Opposition's proposition, and therefore it will oppose the amendment.

The Hon. A. J. Hunt—Will you be providing for that under regulations?

The Hon. E. H. WALKER—I believe so; that is the comment I made earlier.

The Hon. A. J. Hunt—If you can give an assurance, I will accept it.

The Hon. E. H. WALKER—I am happy to give Mr Hunt an assurance that the government will be making provision, by regulation, for the circumstance I outlined in my comments.

The amendment was negatived.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

106. Clause 32, page 15, lines 2 and 3, omit "on the registered plan" and insert "in the records of the Registrar".

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 33

The Hon. A. J. HUNT (South Eastern Province)—I had proposed to move amendments Nos 20 and 21 to this clause seeking to omit the word "compulsorily", but in view of the earlier decision of the Committee I shall not proceed with those amendments.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

107. Clause 33, line 10, after "subdivided" insert "by the acquisition".

108. Clause 33, line 13, omit "of the members of" and insert "affected by".

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

22. Clause 33, lines 23 to 26, omit sub-clause (6) and insert—

"( ) If a person acquires land through a vesting order under section 62 of the Transfer of Land Act 1958, the Registrar—

(*a*) must notify the Council of the vesting order; and

(*b*) must require a plan of consolidation if the land does not comply with the minimum size of lots under the planning scheme.".

Its purpose is to ensure that the registrar notifies the council of a vesting order and that, where a vesting order relates to a piece of land that is less than the minimum lot size, that land will be consolidated with adjoining land.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This amendment is consequential on the Opposition's amendment No. 1; the government agrees with it.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 34.

Clause 35

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

109. Clause 35, line 2, omit "development" and insert "subdivision in accordance with the planning scheme or the planning permit".

110. Clause 35, line 4, after "(2)" insert "Despite section 33,".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

111. Clause 35, line 6, omit "development" and insert "subdivision if conditions specified in the planning scheme or permit allow this to happen".

This amendment to clause 35 (2) clarifies that if lot entitlements or liabilities are to be changed by legislation at subsequent stages in the subdivision, it must be mentioned in the conditions of the planning approval.

The Hon. A. J. HUNT (South Eastern Province)—As an amendment to amendment No. 111 moved by the Minister for Agriculture and Rural Affairs, I move:

4. In the proposed amendment to clause 35, omit "conditions specified in the planning scheme or permit allow this to happen" and insert "this is not inconsistent with the planning scheme or permit".

As unanimity of corporate members is required in any event, that ought to be sufficient, providing the change is not inconsistent with the planning scheme or permit. To require, as the government's amendment is attempting to do, that it be specifically authorised by the planning scheme or permit is going unnecessarily far. It may not have been adverted to at all at the time of planning decisions, whenever they may have been. It is sufficient if the new proposal, unanimously agreed to by members of the body corporate, is not inconsistent with the requirements of the planning scheme or permit.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The eloquence of Mr Hunt is remarkable. I indicate that the words that Mr Hunt is suggesting that we use reflect a less constrained attitude to entitlements and liabilities, and in his few short words he has convinced me that his amendment is a better form, and I am happy to accept it.

Mr Hunt's amendment on the amendment was agreed to, and Mr Walker's amendment, as amended, was adopted.

The clause, as amended, was adopted.

Clause 36

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

112. Clause 36, line 8, omit "arises" and insert "or any other matter arises under this Act".

113. Clause 36, line 12, omit "for arbitration of the dispute" and insert "an order determining the dispute or other matter".

114. Clause 36, lines 13 to 16, omit sub-clause (2) and insert—

"( ) A Magistrates' Court may refer a dispute or other matter to which sub-section (1) applies to the County Court, on its own motion or on the application of a party if the Magistrates' Court is satisfied that it ought to be so referred having regard to—

(*a*) the fact that the dispute or other matter raises a question of general importance; and

(*b*) this Act and the regulations; and

(*c*) the complexity of the matter; and

(*d*) the amount (if any) in dispute.

( ) A member of the body corporate, an administrator or a person with an interest in the land affected by the body corporate may apply to a court of competent jurisdiction for—

(*a*) an order requiring the body corporate to alter the plan in any of the ways set out in section 32 (1) or 33; or

(*b*) an order restraining the body corporate from altering the plan; or

(*c*) an order in relation to damaged or destroyed buildings or improvements.".

115. Clause 36, line 20, omit "to replace the body corporate".

116. Clause 36, after line 20 insert—

"( ) A person (including a Minister, the Council or a public authority) for whose benefit a requirement or duty is imposed on a body corporate by its rules or by-laws or by this Act or the regulations may apply to a court of competent jurisdiction for an order compelling the body corporate to carry out the requirement or perform the duty and the court may make such order as it thinks proper."

117. Clause 36, line 22, after "appointment" insert "or make such other order as it thinks fit on an application under this section".

118. Clause 36, line 30, omit "30" and insert "32".

119. Clause 36, lines 30 and 31, omit "a Court or the Administrative Appeals Tribunal" and insert "the Court".

The amendments are either consequential or self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 37

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

120. Clause 37, line 36, after "owner," insert "an applicant,".

121. Clause 37, line 40, omit "33" and insert "35".

122. Clause 37, line 40, omit "36" and insert "38".

123. Clause 37, page 17, line 5, after "Act" insert—

"; or

( ) relating to orders of a Court".

124. Clause 37, page 17, lines 7 and 8, omit "Administrative Appeals Tribunal" and insert "County Court".

125. Clause 37, page 17, line 11, after "or" insert "in relation to".

126. Clause 37, page 17, line 15, omit "(1) (*c*)" and insert "(*d*)".

127. Clause 37, page 17, line 16, omit "Tribunal" and insert "Court".

128. Clause 37, page 17, line 18, omit "33" and insert "35".

The amendments are consequential.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 38

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

129. Clause 38, line 22, omit "owner" and insert "applicant".

130. Clause 38, line 28, omit sub-paragraph (iv).

131. Clause 38, line 36, after "has" insert "unreasonably".

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 39

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

132. Clause 39, line 16, omit "20 (4) and 34" and insert "and 36".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 40.

Clause 41

The Hon. A. J. HUNT (South Eastern Province)—I move:

23. Clause 41, lines 34 and 35, omit paragraph (*f*).

The amendment proposes to omit clause 41 (1) (*f*), which duplicates the regulation-making power under the Surveyors Act. I am sure the Committee would agree that there ought not be identical regulation-making powers, or comparatively close regulation-making powers, under two Acts. Two sets of regulations prepared by two different Ministries or departments under different Acts lead only to confusion. It seems to me that it is appropriate to leave the existing regulations under the Surveyors Act which appears to operate

adequately at present rather than to envisage new regulations under the Subdivision Act when this Bill is passed. If it is found that any regulations under the Surveyors Act are inadequate, the Minister for Planning and Environment could ask the Minister for Property and Services to present an amendment to the regulation under the Surveyors Act, but having two regulations that could well be in some conflict seems to me to be a recipe for disaster. I might say the same applies to paragraph (*h*) which duplicates provisions under the Land (Transaction Information) Bill.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Hunt seeks, by this amendment, to omit subclause 1 (*f*) and he makes it clear that his comments also apply to subclause 1 (*h*), which contains the regulation-making powers for surveyors involved in laying out a subdivision. The government's proposed amendment No. 174 will enable the surveyors handbook to contain much of this information. The regulation-making power is provided to ensure that standards for plans, survey marks and the laying out of subdivisions are prescribed. There will be no duplication or overlap under the Surveyors Act or the surveyors handbook, and for that reason the government opposes the amendment.

The amendment was negatived.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

133. Clause 41, lines 39 and 40, omit paragraph (*h*).

134. Clause 41, page 19, lines 13 to 17, omit paragraphs (*a*) and (*b*) and insert—

"(*a*) prescribe fees including—

(i) different fees for different classes of applications, determinations, documents or things done under this Act; and

(ii) composite fees payable to the responsible authority for consideration of an application by the responsible authority and any referral authority or the Council; and

(iii) fees related to the costs and value of works; and".

135. Clause 41, page 19, line 26, omit "(*c*) and insert "(*b*)".

Amendment Nos 133 and 135 are consequential. Amendment No. 134 is self-explanatory.

The Hon. A. J. HUNT (South Eastern Province)—In moving these amendments, the Minister is omitting paragraph (*h*) which would have been in conflict with the Land (Transaction Information) Bill, and really the argument for that is exactly the same as I have advanced for the Surveyors Act. It is ironical that the Minister is doing one of the things that I asked but not the other when the same reasoning applies to both requests. The Opposition accepts the amendments.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

24. Clause 41, page 19, after line 34 insert—

"( ) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act* 1962.

( ) Disallowance of a regulation under sub-section (4) is deemed to be disallowance by the Parliament for the purposes of the *Subordinate Legislation Act* 1962.".

The Committee has already discussed the fact that the regulations under this Act will need to be extensive. They will need to contain many provisions that really ought to have been in the Act itself. At the moment those regulations have not been drafted, although an outline has been provided of what they will contain.

As we do not know what the extensive regulations will contain, it makes it all the more essential that either House of Parliament has the right of veto over them, just as either House would have a right of veto if the material had been included in the Act.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Notwithstanding certain remarks I made earlier, the government is, in principle, implacably opposed to the notion of one House of Parliament being able to disallow regulations. It has said this often and restates it now. It has become the practice of the government to make that point and then not to divide on it. I do not intend to call for a division now.

It was a sad day when in recent days a situation that had existed for decades, if not the lifetime of Parliament, was altered. In the past, regulations could be disallowed by both Houses or not at all. The government is still opposed to this amendment, which is moved almost every time a Bill is introduced.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 42

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

136. Clause 42, line 40, omit "569F,".

The amendment corrects an error and is self-explanatory.

The amendment was agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

25. Clause 42, page 20, lines 3 and 4, omit "or 12 months after the commencement of this section, whichever is later,".

The amendment corrects the anomaly that would have allowed old subdivisions up to 25 years' old to be presented. The amendment limits the presentation period. It is consistent with another amendment to which the Committee has already agreed.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

137. Clause 42, page 20, line 5, after "plan" insert "and, for this purpose, a statement under section 569E of the *Local Government Act* 1958 and a statement of compliance are to be treated as equivalent and a plan of strata subdivision does not require a statement of compliance".

138. Clause 42, page 20, lines 10 to 12, omit all words and expressions after "Act" and insert "but where the subdivision is pursuant to a permit issued under the *Town and Country Planning Act* 1961 or the *Planning and Environment Act* 1987 before the commencement of this section, the Council may make any additional requirements or require referral to any referral authority if this is in the public interest.".

139. Clause 42, page 20, line 15, after "plan" insert "as if this section had not come into operation".

140. Clause 42, page 20, after line 15, insert—

"( ) With the written consent of the Council, the owner of a restricted unit on a plan of strata subdivision or a restricted lot on a plan of cluster subdivision may apply in the prescribed form to the Registrar to remove the restriction and the Registrar may amend the plan in accordance with the application.

( ) The provisions of the *Strata Titles Act* 1967 and the *Cluster Titles Act* 1974 continue to apply to dealings with accessory units and accessory lots shown on any plan of strata subdivision or plan of cluster subdivision.

( ) A plan of subdivision, including a plan of strata subdivision and a plan of cluster subdivision, or a plan of consolidation, which has been sealed by a Council before the commencement of this section may be amended in accordance with section 11 as if it were a certified plan.".

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 43.

Clause 44

The Hon. A. J. HUNT (South Eastern Province)—I invite the Committee to oppose clause 44 and also clauses 45 and 46. In my remarks during the second-reading debate I

described the way these clauses deal with matters that have nothing to do with the Subdivision Bill and by the back door, as it were, seek to import the provisions of the Southgate Project Act into this Bill in a way that allows the Minister to declare special projects so that the normal subdivisional rules will not apply. That is a sneaky way to work. If the Minister wants the Bill for that purpose, he ought to introduce a separate measure.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This matter is close to my heart. The government does not accept the explanation offered by Mr Hunt. As he said, these amendments seek to delete the important major project provisions from the Act.

These provisions are required by major developers, especially of mixed-use developments; to mention a few: the Southgate project; the Riverside Quay project, which is important and well under way; the Victoria project, which has gone ahead rapidly in recent days; the most important bayside project, which I hope will be under way in a few months; and the Como project, which is a private sector project on private sector land. In those cases special necessities exist. Mr Hunt's comments are not applicable; this capacity is necessary.

The clause was agreed to, as were the remaining clauses.

New clauses

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

141. Insert the following new clause in Part 2 to follow clause 5:

What must the Council do?

"AA. (1) The Council must certify a plan within the prescribed time if—

(*a*) the plan complies with the planning scheme, this Act and the regulations; and

(*b*) the land is under the *Transfer of Land Act* 1958 or steps have been taken to bring the land under the Act; and

(*c*) every referral authority has given consent; and

(*d*) all alterations required by referral authorities have been made; and

(*e*) regulations which require the marking out of lots at ground level have been complied with; and

(*f*) alterations required by the Council have been made; and

(*g*) where the lot boundaries in the plan are specified by reference to a building, building works have reached a stage at which the boundaries of the lots can be accurately determined; and

(*h*) where the only access to a lot is over Crown land, either a road has been reserved or proclaimed or the Minister administering the *Land Act* 1958 has consented in writing to the use of the land for access; and

(*i*) where a plan removes or varies an encumbrance, the planning scheme has directed the removal or variation or there is a court order for the removal or variation; and

(*j*) where a plan removes or varies a restriction—

(i) the planning scheme has directed the removal or variation; or

(ii) the Registrar has declared that the restriction has been released or varied; and

(*k*) where a plan removes or varies the whole or part of an easement—

(i) the planning scheme has directed the removal or variation; or

(ii) the Registrar has declared that the easement has been abandoned or extinguished; or

(iii) the easement was set aside for the purpose of a council, public authority or other person which has requested or consented to the removal or variation; or

(iv) all parties interested inthe easement or the part of it have agreed to the removal or variation.

(2) If the conditions in sub-section (1) are not met, the Council must refuse to certify the plan and give its reasons in writing to the applicant within the prescribed time.".

This replaces clause 6, which I mentioned earlier, with clearer drafting. Amendment No. 19 omitted clause 6.

The only substantive change is to omit the previous paragraph 6 (1) (*e*) requiring the public open space contribution to be made before certification of the plan. It is more appropriate that this be deferred until the plan is about to be registered and a statement of compliance is sought.

The new clause was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

142. Insert the following new claims to follow clause 12:

Certification evidence of compliance with Act.

"BB. Where the Council certifies a plan, the certification is conclusive evidence that the provisions of this Act relating to certification including any preliminary requirements, have been complied with, unless, before the plan is registered, an order is made under section 39 (3) and served on the Registrar.".

The new clause is self-explanatory.

The new clause was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

143. Insert the following new clause to follow clause 20:

Statement of compliance with statutory requirements.

"CC. A Council must issue a statement of compliance to the applicant in the prescribed form as soon as possible after—

(*a*) the applicant has given it the prescribed information; and

(*b*) it is satisfied that—

(i) all requirements of and under this Act and the *Planning and Environment Act* 1987 have been met; or

(ii) there is an agreement to secure compliance with these requirements.".

New clause CC is self-explanatory and was referred to previously.

The new clause was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

144. Insert the following new clauses to follow clause 29:

Member's insurance.

"DD. Nothing in this Act or the regulations limits the rights of a member to effect a policy of insurance in respect of destruction of or damage to a lot owned by him or her or his or her interest in the common property."

Winding up of a body corporate.

"EE. (1) A body corporate, a member of the body corporate, and administrator or a registered mortgagee may make an application to the County Court for winding up of the body corporate.

(2) The Court may order the body corporate to be wound up if it decides that is just and equitable.

(3) A person claiming an estate or interest in the land, a creditor of the body corporate and an insurer who has insurance over any part of the land have a right to be heard in an application.

(4) Notice of an application must be served on the Registrar who must record the notice in the prescribed manner.

(5) The Court can make any directions or impose any conditions or vary, modify or cancel the order as it thinks fit.

(6) Where the Court makes an order, the applicant for the order may apply to the Registrar for the amendment or cancellation of the plan and the Registrar may amend or cancel the plan in accordance with the order.

(7) The body corporate is dissolved when the Registrar amends or cancels the plan and, subject to the Court order, the lots and common property (if any) become a single lot and vest in the former lot owners as tenants in common, in proportion to their lot entitlements.

(8) After amending or cancelling the plan, the Registrar must notify the Council.".

The new clauses refer to matters such as member's insurance and winding up a corporate body. They are self-explanatory.

The new clauses were agreed to.

Schedule 1

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

145. Schedule 1, last line, omit "not to exceed".

The amendment simply omits the words "not to exceed".

The amendment was agreed to, and the schedule, as amended, was adopted.

Schedule 2

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

146. Schedule 2, heading, omit, "CONSEQUENTIAL AMENDMENTS" and insert "AMENDMENT OF OTHER ACTS".

The amendment changes the heading to reflect the character of some of the amendments that have been made in Schedule 2.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition agrees to the amendment, but I reinforce the point I made that the so-called consequential amendments go well beyond that. It is bad Parliamentary practice to deal with them in this way.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

147. Schedule 2, item 3, before the amendment inserting new sections after section 21 insert—

"2A In section 20, sub-section (15A) is repealed.".

148. Schedule 2, item 3, in proposed new section 21A (1) (*b*) (i), omit "two or more" and insert "more than two".

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:

29. Schedule 2, item 3, page 23, in proposed new section 21A (2) omit "8" and insert "5.".

Its purpose is to retain the open space contribution in respect of building subdivisions at 5 per cent, as at present. The Committee has, of course, already dealt with that issue.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This amendment follows the Opposition policy which was expressed, I think, in amendments Nos 10 and 11 earlier in respect of the open space contribution being kept to the existing 5 per cent. The government disagreed with it then, and disagrees with it now.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

149. Schedule 2, item 3, page 24, in proposed new section 21A (2), omit all words after "bears to" and insert "half the area of the land".

150. Schedule 2, item 3, page 25, in proposed new section 21B (1) (*b*), after "is satisfied that if" insert "that".

151. Schedule 2, item 3, page 25, in proposed new section 21B (1) (*b*), after "provisions" insert "of the planning scheme or".

152. Schedule 2, item 7, in the proposed amendment to section 17C (1), omit "42" and insert "44".

153. Schedule 2, after item 10, insert—

'10A In section 28 (3) (*a*), after "Act" insert "or the *Subdivision Act* 1988".'.

154. Schedule 2, item 12, before the proposed amendment to section 569BA (2), insert—

'11A In section 569BA (1), for "whether before on or after the commencement of this section" substitute "before the commencement of section 45 of the *Subdivision Act* 1988".'.

155. Schedule 2, item 14, omit 'omit "under the *Strata Titles Act* 1967" ' and insert 'after "the *Strata Titles Act* 1967" insert "or the *Subdivision Act* 1988" '.

156. Schedule 2, item 19, in the proposed amendment to section 258BB (3), omit "42" and insert "44".

157. Schedule 2, omit item 27, and insert—

'27 In section 3, in the definition of "Subdivision", for "enabling any of the parts to" substitute "which can".'.

158. Schedule 2, item 28, after the proposed amendment of section 6 (2) (*k*) insert—

'28A After section 20 (3) (*b*) insert—

"(*ba*) under section 19 (2) or (3), if the amendment proposes a change to provisions relating to land set aside or reserved as public open space; or" '.

159. Schedule 2, item 31, in proposed new section 68 (3A) after "1987" insert ", unless the permit contains a different provision".

160. Schedule 2, item 32, in proposed new section 91 (4), for "forfeited" substitute "surrendered".

161. Schedule 2, item 38, page 30, in proposed new section 8A (1) (*a*) (ii), omit "any Crown plan" and insert "the latest Crown plan".

162. Schedule 2, item 38, page 31, in proposed new section 8A (1) (*a*) (vi), omit "42" and insert "44".

163. Schedule 2, item 38, page 31, in proposed new section 8A (1) (*a*) (vii), after "later" insert "registered".

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

164. Schedule 2, item 38, page 31, after proposed new section 8A (1) (*a*) (vii) insert—

"(viii) a separate parcel of land which meets the minimum lot size requirement in the planning scheme (if any) and which existed and could be sold separately prior to the commencement of section 46 of the *Subdivision Act* 1988; or

(ix) a separate parcel of land which existed and could be sold separately prior to the commencement of section 46 of the *Subdivision Act* 1988 but which does not meet the minimum lot size requirement in the planning scheme, if the parcel is sold to the owner of neighbouring land and that owner consolidates the parcel with that neighbouring land; or".

The Hon. A. J. HUNT (South Eastern Province)—This is a very important amendment, indeed. It links with a very early amendment the Opposition made to the Bill to say that it did not apply to acquisition or sales of property lawfully made under clause 8A of the Sale of Land Act. The amendment seeks to preserve, so far as possible, the existing rights to which I then referred.

I want to make it clear, however, that this amendment to the Sale of Land Act does not completely restore the existing law. If one has on the one title pieces of land which are divided by a physical barrier or by other land, it will be possible to sell them without subdivision, provided they comply with the applicable minimum lot requirements in the local planning schemes or, if not, are sold to a neighbour for consolidation.

What the government is doing is grafting a new principle on to the existing rights. Therefore, the Opposition accepts the fact that some people are going to lose some rights, and I suggest they had better see their solicitors pretty quickly if they want to get separate titles.

The Hon. W. A. Landeryou—Are you touting for business?

The Hon. A. J. HUNT—No! However, basically, apart from the requirements in future that the land either be of minimum lot size or sold for consolidation, the existing law is confirmed where otherwise it would have been abrogated.

This is an important amendment which was sought by surveyors, the Law Institute of Victoria and farming organisations. Indeed, it was sought, as a matter of equity, by pretty well everyone who has had any concern with the Bill. I am grateful that the government has acceded to the pleas and met the requests for substantial restoration of the existing law.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

165. Schedule 2, item 38, page 31, in proposed new section 8A (1) (*b*) (ii), omit "42" and insert "44".

166. Schedule 2, item 38, page 31, after proposed new section 8A (1) (*b*) (iii) insert—

"or

(iv) a separate parcel of land which meets the minimum lot size requirement in the planning scheme (if any) and which existed and could be sold separately prior to the commencement of section 46 of the *Subdivision Act* 1988.".

167. Schedule 2, item 38, page 31, after proposed new section 8A (1) (*b*) insert—

"(*c*) Any land (whether or not under the operation of the *Transfer of Land Act* 1958) which is a part of any land referred to in a sub-paragraph of paragraph (*a*) or (*b*), if the remainder of that land—

(i) was disposed of under section 569 (2A) of the *Local Government Act* 1958 or any corresponding previous enactment to the Crown or a public statutory body; or

(ii) was compulsorily acquired by an acquiring authority under the *Land Acquisition and Compensation Act* 1986 or any corresponding previous enactment; or

(iii) was disposed of to an adjoining owner under section 569D (3A) of the *Local Government Act* 1958 or any corresponding previous enactment.".

168. Schedule 2, after item 46 insert—

'46A. After section 9AA insert—

Insurance.

"9AAA. If a body corporate created by a plan of subdivision will be required by the *Subdivision Act* 1988 or regulations under that Act to effect insurance on registration of the plan, the vendor must effect insurance in accordance with that Act or the regulations as if the vendor were the body corporate, until the plan is registered.".'.

169. Schedule 2, item 59, page 33, in proposed new section 11 (1), for "*Subdivision Act* 1987" substitute "*Subdivision Act* 1988 for any insurance required by the regulations to be effected by the body corporate".

170. Schedule 2, item 63, in proposed new section 32 (2) (*h*), after "by the body corporate" insert "and particulars of the liabilities and contingent liabilities of the body corporate, including any liabilities or contingent liabilities arising from legal proceedings, and expenditure or proposed expenditure by the body corporate known to the vendor which may result in an increased liability of the lot owner".

171. Schedule 2, item 63, after the proposed new section 32 (2) (*h*) insert—

"(i) Particulars of any quarantine imposed or Order made in relation to stock on the land under the *Stock Diseases Act* 1968 due to the presence of a specified chemical residue in excess of a specified level, whether or not the quarantine or Order is still in force.".

172. Schedule 2, for item 64, substitute—

'64. In section 32 (3) (*ba*)—

(*a*) after "1958" insert "or registered under the *Subdivision Act* 1988"; and

(*b*) after "approved" insert "or registered"; and

(*c*) after "sealed" (where twice occurring) insert "or certified".'.

173. Schedule 2, item 69, in proposed new section 3 (2), omit "42 (1)" and insert "44 (1)".

174. Schedule 2, after item 72, insert—

'72A. In section 32 (1) after "surveying" insert "or subdivision of land, standards and content for plans and documents under the *Subdivision Act* 1988".'.

175. Schedule 2, item 103, page 37, in proposed new section 98CB (1) (*a*), omit "certified".

176. Schedule 2, item 103, page 40, in proposed new section 98CD (1), omit "The following" and insert "In addition to sections 24 and 28 of the *Subdivision Act* 1988, the following".

The amendments were agreed to, and the schedule, as amended, was adopted.

The Bill was reported to the House with amendments, and the amendments were adopted.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a third time.

I thank honourable members for their patience; the Bill required a significant number of amendments. However, it reflected only the great deal of work that had been done leading up to today. I thank Mr Hunt for his contributions, both prior to today and during the debate.

The Hon. A. J. HUNT (South Eastern Province)—Before the Bill is dealt with in another place, I hope the Clerks and Parliamentary Counsel will check the cross-references. I believe we have got most of them but, with the addition of new clauses, it makes it absolutely essential to double check the references to clauses that are being included in the amendments, some of which could well be wrong after the renumbering. I ask that this be done carefully before the Bill is dealt with in another place.

I also thank all the organisations that contributed so much to both the government and the Opposition in directing attention to the deficiencies in the Bill and the ways in which it could be improved.

Perhaps three-quarters of the government's amendments, if not more, came from those sources and from pressure from the Opposition. The Opposition, in turn, is greatly indebted to the many organisations that assisted and took an active interest in the Bill.

While it is invidious to name any particular organisation without mentioning others, I think the Institution of Surveyors Victoria deserves special mention. It took enormous interest and made a great contribution at every stage. In the past month or so, too, a special contribution was made by the Law Institute of Victoria, and its comments have been absolutely invaluable in contributing to improving the measure. Therefore, I publicly acknowledge that fact.

The motion was agreed to, and the Bill was read a third time.

SUPPLY (1988–89, No. 1) BILL AND WORKS AND SERVICES (ANCILLARY PROVISIONS, No. 1) BILL No.2

The debates (adjourned from April 19) on the motions of the Hon. D. R. White (Minister for Health) for the second reading of these Bills were resumed.

The Hon. M. A. BIRRELL (East Yarra Province)—I address my remarks to those parts of Supply dealing with the Department of the Premier and Cabinet, the Department of Management and Budget, and Health Department Victoria, and I shall be focusing the concerns of the Liberal Party on the ways that public funds are spent, especially on ongoing programs that the government is seeking to re-fund.

There has been an unprecedented misuse of public funds for political purposes. Those funds have been used to commission public opinion polls that have been used by but not paid for by the Labor Party. Documents released to me under freedom of information and other documents that fell off the back of a truck reveal that the Cain government spent more than $3 million from 1984 to 1988 to pay for opinion polls that have been used for the government's own political purposes. There could not be a more classic and extravagant example of taxpayers' money being squandered.

The tragedy is not only that this money has been wasted by the government but also that the government is embarking upon an expansion of its opinion poll program. It is intended within the next few months to spend close to $500 000 on expanding what is known as the Public Attitudes Monitoring Program run from the Department of the

Premier and Cabinet. That $500 000 will be used to commission opinion polls and surveys that will be the basis of briefings to Cabinet members, senior public servants and Ministerial advisers.

It is an open secret that those opinion polls will be used as the basis for the election preparation of this government. It is outrageous that public money is being used by a government in this way when it should be provided only by political parties.

I shall outline the expenditure the government has engaged in and is currently planning in this area. I stress that the Public Attitudes Monitoring Program is unprecedented and has its base only in Victoria and only under this government.

The history of the program is that it was established by the Department of the Premier and Cabinet in 1984. At that time, a friend of the Labor government, Mr Irving Saulwick, was appointed, without any public announcement, to the position of opinion poll consultant to the Cain government at a cost of more than $500 a day.

The Hon. B. P. Dunn—He now runs the VDIA.

The Hon. M. A. BIRRELL—As Mr Dunn interjects, he now runs the Victoria Dairy Industry Authority. In fact, he has two jobs. He receives $500 a day from the government to assess the opinion polls that the Labor Party improperly commissions at public expense and on top of that he runs the VDIA. He has received $500 a day for an indeterminate number of days each year since 1984 for poring through the opinion polls that have been commissioned under this program.

No unforced public statement has ever been made by the government on this program. The government has never in any honourable terms explained the reason for the expenditure and it has never been able to convince people that the project is anything other than a grubby political exercise. I have been following the course of the program since 1984 and I regard it is the single worst example of misuse of public funds.

The first instance was on 17 August 1984 when the *Age* newspaper reported that the Metropolitan Transit Authority had commissioned a $30 000 study to find out what people wanted from and thought about Melbourne's public transport system. From then on, no public announcements have been made about the program. Social Data Research did that study.

What did we find out? We have not heard one word from the government about its expenditure of more than $3 million on this program. At a time when funds are not available for urgent public projects, the government has an open cheque for its political projects. At a time when people in the health system are being told that they must pull in their belts, the government has plenty of money to throw around on projects that are designed to help its re-election. Why? Because the Australian Labor Party does not have the funds to pay for this and it is dipping its nose into the trough.

The Hon. B. P. Dunn—It will need a lot of help, too.

The Hon. M. A. BIRRELL—Yes, it will need a lot of help. This story is not just about waste, it tells us something about the government. It tells us that it is a government that is tired and lacking in ideas and must rely on opinion polls for its advice. This is a government that is so bereft of initiatives that it commissions opinion polls before it thinks up ideas for its Budget. This is a government that so clearly internally recognises the failing of the health system that it commissions opinion polls on how it can get out of the mire.

None of the surveys is made public. It is only because we found it under the Freedom of Information Act that we have any information. Why does the government not release these polls? When I first raised this matter—and I took it as far as the Full Court of the Supreme Court, and won—the government told me, "No, you can't have the opinion polls." These are opinion polls paid for with public money that outline public opinions that are being withheld from the public! The bottom line is that the government does not

want to trust us with the surveys of community attitudes. That is because the surveys are so damaging and because they are being used for the ALP's electoral work.

In the old days, political parties paid for their own opinion polls. I served on the State strategy committee of the Liberal Party under the Hamer government and I know very well the expense to the Liberal Party of opinion polls at that time. That is how it should be. The money should not be taken out of Treasury. However, that is what the government is doing.

Other instances of this waste have recently come into my possession and I shall go through them in detail because it is the government's plan not just to secretly keep these existing opinion polls in a locked-up cupboard but also to commission more without telling the media or the public that it is doing so. The government is secretly commissioning and spending millions of dollars on these opinion polls.

Perhaps the Minister for Health, who is in the Chamber, can tell us about one of these opinion polls that has never been announced publicly. An opinion poll was commissioned in June 1987 by The Research Business to "undertake a survey of public attitudes to the public health system in Victoria".

The Hon. D. R. White—I do not know about that.

The Hon. A. J. Hunt—Don't they tell you, either?

The Hon. M. A. BIRRELL—The Minister for Health has never heard of it. He cannot get a nod into *Hansard.* Is that a "No"?

The PRESIDENT—Order!

The Hon. M. A. BIRRELL—No response from the Minister. No wonder! In June 1987, $23 200 was spent by the government, which, at the same time, was telling hospitals, "Look, pull in the belt, there is not enough money."

The Hon. D. R. White—What is the survey?

The Hon. M. A. BIRRELL—It was a $23 200 survey done for the government by a consultant known as The Research Business to undertake a survey of public attitudes to the public health system in Victoria.

If the Minister has any doubts, I have a document signed by the Premier indicating what it was. Just to refresh the government's memory, the Effectiveness Review Committee of the Department of the Premier and Cabinet, in its request to engage consultants, had the following recommendation to make about the survey:

That approval given for the Health Department . . .

—which the Minister for Health is supposed to be running—

. . . to engage "The Research Business" to undertake a survey on public attitudes to the public health system in Victoria at a cost of $23 200.

Has the Minister still not heard of it?

The Hon. D. R. White—I shall follow it up.

The Hon. M. A. BIRRELL—At least the Minister's answer is now not quite a "No". In the question about priority, the request document stated:

High priority—Result of survey may influence the direction of health initiatives in 1987–88.

This is the government that was so sure of its direction that it needed to commission an opinion poll to tell it what was the short-term political benefit! The poll was not provided to the shadow Minister for Health, Parliament, the media or the public; the Opposition had to obtain the information under the Freedom of Information Act and pull it away from the government.

The document, dated 15 October 1987, which is signed by the Chief Administrator, Ms Lorraine Benham—the Minister knows her—from Health Department Victoria, further stated:

> In view of the confidential nature of the services, public tenders were not called.

That tells us two things: the government wanted to keep the information from the public because it was "confidential"—it was not proud of it, and had to keep it secret; and, because of that, it decided to go to the final step, not to even call tenders.

The document then indicated what the poll information was used for. It stated:

> A report was required and material supplied was incorporated into a communication strategy.

That is what the opinion poll was used for: a communication strategy for the government,which was a clear political use to try to deal with a hot potato. The government knows very well that it is failing in the health system. Its response has been not to improve the system but to try to manage its way out of it through glossy public relations material.

Furthermore, in 1986 or 1987—the date is now known—$140 000 was given by the government to Social Data, a consultancy group, "to undertake market research for the government's economic strategy." The government gave that consultancy firm $140 000 to do opinion polling and survey work to tell the government what the public's attitude was to its economic strategy and how it could better sell it for its own political advantage.

I regard that as being the proper work of a political party; I do not regard that type of opinion polling as being the proper use of public funds. However, even if it were a proper use of public funds, there is a necessary condition; that is, that the opinion polls should be released for public consumption. If the government says that these opinion polls are needed, how can it then argue, after the event, that the opinion polls should not be released? What does it have to hide? Who will be hurt by their release? The fact is that honourable members will find out something about the way the government is running the State—something that is very ugly.

The list of costly polls goes on and on. There have been plenty of reviews of the health system. I do not know whether the Minister knows about the opinion poll carried out by Nexus research on 28 January 1986. That cost the State $39 600. It was an opinion poll to tell the Minister how to lift the government's game in terms of "public attitudes to its health system".

Does the Minister know about the $41 360 spent on engaging Ross Hepburn to do consultancy work on the health system on 2 December 1985?

The Hon. D. R. White—Have you seen any of those?

The Hon. M. A. BIRRELL—The Full Bench of the Supreme Court said that I should have access to them, but the government is again appealing to the Supreme Court to stop me from gaining that access.

The Hon. D. R. White—Do you mean in relation to the work of Ross Hepburn?

The Hon. M. A. BIRRELL—All of them, except for the most recent ones, which I did not know existed until a couple of weeks ago.

The Hon. D. R. White—I mean, have you seen any of them?

The Hon. M. A. BIRRELL—I have seen only one. I am glad the Minister has raised that with me, because I did not allude to that fact in my earlier remarks. The Minister's predecessor, the present Minister for Planning and Environment, had the honesty—I do not know if it was the wisdom—to release to me one of the opinion polls carried out about the health system. Ironically, he did so on the day before I took him before the Administrative Appeals Tribunal, where I would have won access to it anyway.

I need do no more than refer to the way an article in the *Sun* described the opinion poll. That article reflects accurately what was contained in all of those opinion polls commissioned by the government into the health system. The article written by Ken Merrigan that appeared in the *Sun* of 12 April 1985 stated:

> Most Victorians believed the State government had done a bad job in running public hospitals, according to a once-confidential government poll released yesterday by the Opposition.
>
> It revealed that 62 per-cent were critical of the government's performance.
>
> The findings showed the "biggest gripes" with hospitals were staff shortages, delays, the nurses dispute, bed shortages, and the government's priorities and funding priorities and funding levels.

The poll was conducted in September for Health Department Victoria by Australian National Opinion Polls. I have seen that opinion poll, but that was undertaken back in 1985. The public has a right to see all those opinion polls that were commissioned out of the taxpayers' pocket. What plausible argument could be mounted against that?

As I said earlier, this issue is more important than just pointing out that this has been a case of misuse and waste of public funds. It tells us something about the way the government runs its health system, that it is not acting in the best interests of the State, but is acting in the short-term interests of a political party—the Australian Labor Party.

How could any government hold its head up high when it is revealed that, prior to putting together the last Stage Budget, it commissioned an opinion poll supposedly asking the average man and woman in the street what options he or she would find most popular? It did not ask what hard options are best for the State or what complex economic decisions needed to be made to reduce taxes or boost economic growth: The government asked for some quick, off-the-top-of-the-head, soft, short-term political options that would sound nice.

Just so that the government does not deny it, I refer to the fact that Mr George Brouwer, the Secretary of the Department of the Premier and Cabinet, signed a letter on 20 April 1987 to the Secretary of the State Tender Board, in which he supported the commissioning of Data Sciences Pty Ltd to conduct an opinion poll on:

> . . . expenditure options in the Budget.

The letter also mentioned the fact that:

> The total quotation of $90 750 is considerably higher than last year.

That did not stop the government, however, from having the opinion poll conducted.

All of this is small beans compared with the largest of the opinion polls, which was conducted by that great mate of the Labor Party, ANOP Research Services Pty Ltd. The most recent large handout to the ANOP company was for $359 800 on 27 July 1987. Documents released to me under the Freedom of Information Act show that the Premier personally signed a requisition summary on that date commissioning the ANOP company to conduct four opinion poll studies at a cost of $89 950 each.

An accompanying letter from Mr George Brouwer, Secretary of the Department of the Premier and Cabinet, indicates:

> ANOP's tender falls on the high side of tender quotations . . .

That did not stop the government from using that company to conduct the polls. I suspect that there was a certain convenience in commissioning ANOP Research Services Pty Ltd to do the opinion poll work for the government at the same time as the Australian Labor Party was commissioning that company to do its political work.

How much does it add up to overall? The Opposition's estimation is in excess of $3 million over the past three years, and the list with which I have been provided informally

or through the Freedom of Information Act shows that slightly less than $2 million has been spent on 29 separate opinion polls.

My concern is that the government is just about to expand the program again. These opinion polls are a vital political tool for any political party. When they cost nothing and are conducted in secret the value is enhanced enormously, but I challenge the government to come clean on its extensive public opinion poll program and to release those opinion polls, if it has nothing to hide.

The bottom line is that the government should abandon immediately its plans to spend further sums on the opinion polling program. If the current expenditure rate is continued up until the election, the government will probably have spent $5 million in five years on opinion polls. The indications are that the government is spending more and more every six-month period.

As I mentioned previously, on 27 July 1987 the Premier had no hesitation in expending $359 800 on four opinion pols from ANOP Research Services Pty Ltd. Clearly he is on the verge of doing a similar thing again.

The issues covered by the polls—which prove the government's political intent—include polls on social justice, the economic strategy, budget options, shop trading hours, schools, liquor law reform, rural issues, preschools and public transport. The list goes on and on. All of them deal with hot political topics and I should like to know why the Opposition cannot see the results.

The government should immediately end the Public Attitudes Monitoring Program. It is a matter of deep regret that so much hypocrisy comes from the government which tells so many community groups that there is no money for them. At the same time, when a political project is in the wind, the government has plenty of money available—an endless stream of funds for those political opinion polls.

The Hon. R. M. HALLAM (Western Province)—The Bill simply allows an extension of the government expenditure program to cover that period from the first day of the new financial period until the Budget for 1988–89 is passed by Parliament.

The tradition is that under the Bill, no new expenditure programs are considered, and funding is provided simply to cover the programs and priorities already enunciated by the government. In those circumstances, support of the Supply Bill becomes a formality.

I restate the National Party view that Parliament should retain the right to deny Supply. It always had that power, but it should be the ultimate sanction held in reserve and used only in exceptional circumstances. Indeed, I cannot ever envisage those circumstances arising, and I place on record that the National Party will be supporting the Bill.

It is against the current economic backdrop in Australia, and two particular aspects of that backdrop, that the National Party believes the Cain government should redirect its policies and priorities. I refer, first of all, to the worsening balance of payments crisis in this State, and, secondly, to the stock market crash that occurred in October last year.

The single most worrying feature of the Australian economy is the national debt. Currently it is the vicinity of $110 000 million—a horrific level, particularly when considered in comparison to the 1983 level of approximately $36 000 million.

Several times I have submitted that the government is building an enormous legacy to be faced by future generations of Australians in the servicing of that debt. The average debt per family is approximately $26 000, yet we continue to run up enormous debts each month. Indeed, yesterday's newspapers record a further deficit of $1185 million in the balance of payments for the month of March.

It has almost reached the stage where the government runs the flag up if it can hold the monthly deficit within $1000 million. It is an extraordinary situation, and I am amazed

that Australians generally and, indeed, the economists of this nation, are not jumping up and down all the time over this issue.

The community is told that the situation is under control, but the facts are that an enormous proportion of future trade from this nation will be consumed directly in the servicing of debts already incurred and debts continuing to be incurred. That is the first factor that the Cain government should take into account, and the first indication that it needs to question its policies that have led to its well-earned reputation as the highest taxing, highest spending government the country has ever seen.

I turn to the stock market crash that occurred in October last year and sent ripples throughout the economy. We have not seen the last of those effects; they are still being identified, and assessed, and we do not know what the ultimate outcome of the crash will be.

It is a compelling argument for the Cain government to get down from the merry-go-round which it climbed on when it came to power. The Treasurer cannot make decisions in a vacuum. His income is someone else's expenditure and the size of the government in this State requires that each of his decisions has a ripple effect throughout the economy. Whether by design or not, each decision the Treasurer makes has a macro-effect.

The mad scramble to implement social change is grinding to a halt, as is the campaign to redistribute wealth. The great Labor experiment is over.

The opposition parties have consistently criticised the government for its attitude on taxes and charges and on its expenditure. Consistently we said there can be no Santa Claus in government. Each time $1 is distributed it has to be taken from a member of the Victorian community. It is now becoming clear that those paying the enormous cost foisted on them by the government are the ones the government says it represents—the average workers in our community.

I turn now to the government's record, first of all in expenditure. In 1981–82 when the Cain government came to office the departmental appropriations totalled $3931 million. In 1987–88 the Budget for those same departmental appropriations totalled $9561 million. That is an increase of $5630 million over six years. Those distributions have more than doubled over the six-year life of the government.

The consumer price index movement in the same time has been 58 per cent, so clearly there has been a massive increase in real terms. At the same time we keep hearing the Premier call for restraint, which is an indication of the government's double standards. As a matter of interest, I should also compare the distribution in relation to community welfare. In 1981–82 that component of expenditure represented $142·5 million or 3·6 per cent of total outlays. In the current Budget for 1987–88 the figure has increased to $508·3 million, an increase of more than 250 per cent over those six years. That now represents 5·3 per cent of total government outlay. They are the facts of the situation.

I refer to State taxation: in 1981–82 the government collected $2084 million in the form of State taxation; the 1987–88 Budget indicates an expectation of $3640 million, an increase of 75 per cent, compared with the consumer price index increase of 58 per cent in the same period. That is a clear indication that taxes have grown dramatically in real terms.

The comparison I have used refers to a tax definition excluding charges in relation to electricity, water and gas. From my investigations I found that those charges have risen by 13 per cent over the past twelve months. If one includes those charges in the definition of taxation one finds that taxes have doubled during the past six years under the Cain administration. That represents a penalty of approximately $1000 for every man, woman and child in the Victorian community.

It is quite tricky to discover how those household charges—water, gas and electricity—have been excluded from the definition of taxes and charges. It is particularly appropriate

because they represent a large part of the reason for the levying of a public authority dividend tax on the authorities providing those services. Those taxes have increased more than fourfold under the government's administration. Taxes of $540 million a year will be imposed on public authorities. Those sorts of authorities have almost been taxed out of existence. Victorians have heard about wealth tax in the past, but this would qualify as stealth tax! No wonder Victorians have become indifferent and callous towards the government.

Not all the funding has come from taxation. This is not a pay-as-you-go government. Many of the priorities and policies of the government have been funded on the never-never. Future generations of taxpayers will meet the real costs of the government's mismanagement. That is an enormous legacy of commitment to be passed on to future generations by the Cain administration.

I now refer to a comparison of debt levels in Victoria. At 30 June 1982 the net debt of the public sector of Victoria was $11 428 million. According to that same definition of debt, the expectation at 30 June 1988 is $22 740 million. In other words, the debt of the State has almost doubled over the past six years, during the Cain administration. The government has been able to duplicate in six short years what it took previous governments all those years from Federation to achieve. That will remain its legacy.

Perhaps the worst feature is that much of the debt has been procured to fund shortfalls in revenue. More evidence is now emerging that the debt has been incurred to meet recurrent outlays. That is the classic kite-flying that we recognise as being dangerous in the private sector—in other words, borrowing more to meet yesterday's debt. That is known in everyday language as the classic oozly bird syndrome, and everyone knows what happened to the oozly bird!

The burden of debt is growing and, as the Treasurer said in his Budget speech on 12 August last year, as reported on page 105 of *Hansard*:

> Steps are being taken also to moderate the rising cost of debt service to the Budget.

That is the first acknowledgment by the government that all is not rosy.

I turn to the terminology of moderation. The House has been told that the debt cost will be moderate. It is interesting to consider that because 17 cents in each $1 of government revenue raised from its own resources in 1981–82 went to the servicing of debt burden, but in 1987–88, 25 cents in each $1 will be expended for that purpose. In other words, $1 in every $4 raised from the government's own resources will go towards meeting the interest bill. That is not the real picture; it is worse than that, given that over that term interest rates have generally increased, and therefore Victoria can expect the servicing cost to increase as each of the debts is rolled over.

An enormous legacy is being passed to future generations of Victorians. We are meant to be consoled by the Treasurer undertaking to actively pursue an improvement to the level of debt. Honourable members are told that there will be improved management, but the Treasurer's version of improvement in management is what has led to the mess Victoria is in today. Can we rely on the Treasurer's version of management? I do not think we can.

I referred to some examples of his version of management and have highlightened two, namely taxes, which have doubled under the Cain government and debt, which has also doubled. There is grave concern in relation to debt, and particularly, about the component raised to meet yesterday's debts.

Is this the same Treasurer who designed the $90 million golden handshake in the transport sector which did not work? The people who accepted the handshake were not the ones who had been determined to be redundant to the industry. Those whom the government encouraged to leave the industry stayed on. The employees who were not required to be changed were replaced. That cost of $90 million was expended for nil effect!

Is this the same Treasurer who converted $600 million of Victorian government assets to $1200 million worth of lease commitments—a commitment that will have to be met by this community until the year 2000? That is not smart business.

Is this the same Treasurer who forced the Melbourne and Metropolitan Board of Works to bail out the government in relation to the Thomson–Cardinia dam, thereby effectively selling the rights to the water which had been promised to the downstream users? That was scurriluous!

Is this the same Treasurer who now determines to sell $200 million worth of assets to prop up the Budget? If there are excesses, why was it necessary to determine the level beforehand, because it is clear that the $200 million target was set long before any judgement was made as to what assets were to be declared excess?

Is this the same Treasurer who introduced a public authority dividend tax on the Grain Elevators Board, when it is clear that the body is not a public authority, and when, indeed, the funds provided in the first place for that authority came from the growers? It is grossly unfair on those who are directly involved.

Is this the same Treasurer who introduced the concept of productivity savings when he could not even explain how the aggregate savings were determined, and when, before the Parliamentary Estimates Committee, it was established that much of the productivity improvements involved direct and explicit outlays of capital which must require additional costs, but which were excluded from the computation of the productivity savings? To that degree savings are quite illusory.

Is this the same Treasurer who is responsible for agencies losing hundreds of millions of dollars because they incurred debts exposed to the vagaries of currency variations when protective mechanisms are available in terms of swapping or hedging arrangements?

Is this the same Treasurer who allows government agencies to punt on the stock market, with the result that every Victorian had his or her fingers badly burnt last October? Is this the same Treasurer who supervised changes to the third-party insurance scheme and is therefore responsible for additional massive losses?

Is this the same Treasurer who is the architect of WorkCare, which was rushed through Parliament during the hiatus following the initial election in Nunawading Province—an arrangement from which Victorians are reaping a rotten reward, an ill-conceived scheme with accumulated losses reportedly totalling approximately $1600 million after 22 months of operation? We are told that those losses are now approaching $3000 million.

The Treasurer complains that he was done in the eye by insurers in the liability for claims arising now but which can be traced back to the pre-WorkCare period. In either situation, I put to the House that the Treasurer is culpable.

If the transitional agreement was not watertight, it should have been. We obviously sent a boy on a man's errand. That is a small factor in the WorkCare performance and, by any test, WorkCare has been an unmitigated disaster and one that will cost the Victorian taxpayers dearly in the future. I put it to the House that the Treasurer is the person who was responsible for all those schemes, priorities and plans and who now says, "Trust me to actively pursue improved centralised management of debt." That is his terminology. I would not trust him to manage almost anything. He may be a good theoretician, but he is found wanting in terms of his practicality of the theory.

When in the past I have outlined similar criticisms, I have been asked to put my views on behalf of the National Party and to give an alternative. When the National Party responded to the Budget debate last August, I laid out in some detail the strategies that we would undertake to redress the irresponsible management of this administration. In a document entitled "Pre-Budget Discussion Paper", I gave an outline of plans to control and reduce spending, to address the explosion in the Public Service, to reduce the level of borrowings, to re-examine spending priorities, to review revenue resources, particularly

the tax restructure, and to overcome much of the duplication that exists between the various tiers of government. That is a matter of record, and I do not intend to go through that in detail.

The Hon. B. T. Pullen—What areas would you cut?

The Hon. R. M. HALLAM—I put that on record last time around. I have read the Liberal Party's plan to drastically redirect the thrust of the government's financial mismanagement, as recorded in *Hansard* and put forward by the honourable member for Brighton in another place. I place on record that the National Party wholeheartedly supports that strategy. I personally hope the honourable member for Brighton is the Treasurer in the next government and I also hope the National Party is part of that government so that we have the opportunity to assist and endorse those initiatives.

I believe the first hundred days of that government will indeed be crucial. The National Party stands ready to take the tough decisions that would be applicable in those circumstances.

I shall deal briefly with three areas in relation to the Supply Bill, the three areas of highest expenditure, which, in my view, are symptomatic of the mess that a new government would inherit. I turn firstly to education. In the current Budget education has been allocated a sum of $2460 million for recurrent expenditure, almost one-third of the total Budget. The education system is in total shambles. We have spent so much time and effort amending the administration in the education system that we have lost sight of the ultimate goal, which should be to turn out graduates who are able to take their place in the community.

The school committees with which I am most involved complain bitterly about the plethora of reports, discussion documents, position papers and working parties, yet, at the same time, those communities continue to demand that greater emphasis be placed on the basics, the three Rs. The government has missed the forest for the trees.

The government has now conceded that, in relation to secondary education in Victoria, we can expect enrolments in the State sector to decline by an average of 10 000 students a year for each year up until 1990, a loss of 100 000 students within the State secondary system. That says a lot about the system. That dramatic turn-away reflects the fact that we are having so many problems with the administration and, indeed, the structure of our schools. It says a great deal about the problems when the government, as its first priority each year, determines, in conjunction with the unions involved, what will be the relationship between teacher numbers and student numbers.

The government is coy about conceding that half of those 100 000 students lost to the State system will go into the private system, the church school system. That says something about the State system. More and more parents are prepared to pay the penalty for turning their backs on what is essentially a free system and to make the sacrifice that is necessary to place their children in the private school system. I wonder what it will take for the penny to drop for the government and for the teaching profession within the State system, because there must be massive problems when the loss is so great. It says a great deal about the professionalism of the teaching profession represented in the church school system. The wheel has turned when more and more people are showing concern about a Christian upbringing and the advantage of the church system.

I shall spend some time on the subject of health. The health vote was $1600 million for recurrent expenditure this year—20 per cent of the total vote—and $1600 million for capital expenditure. What do we have? About the most significant factor that emerges is a blow-out in the waiting list for elective surgery. There are 25 000 people on the waiting list and something must be dramatically wrong if that is the case. I do not accept the terminology "elective surgery". People would not elect to place their names on that list. It represents much-needed surgery and the system should provide that opportunity for people who need those services.

One of the aspects of hospital funding, which I broached with the Minister for Health during question time yesterday, concerns hospitals in small rural communities because those hospitals have had question marks placed over them. I put it to the Minister that the National Party does not accept the criteria being used to measure efficiency in those hospitals. The hospitals have simply joined a long list of facilities that rural communities now fight to retain. Many of those facilities have been placed under risk by this administration. We have seen risks to our courthouses, to our one-man police stations, to our local government units and to our various government departments. The latest are the State Electricity Commission offices. Indeed, as I outlined in the House yesterday, there has also been a serious downturn in revenue assistance grants. Our race dates are under threat, which is extraordinary. Threats to our hospitals are of grave concern. Unless there is a turnaround——

The Hon. D. R. White—Which hospitals?

The Hon. R. M. HALLAM—I shall go through them. Unless there is some turnaround there will be nothing left of the hospital system in country Victoria. The Hamilton Base Hospital is facing a deficit in its recurrent budget of $300 000 and was forced to take action that will result in a restricted intake of patients. That is against a situation where there is no shortage of demand. In fact, demand is increasing.

I put it to the Minister for Health that many of the costs faced by any hospital, including Hamilton Base Hospital, are fixed costs—in other words, costs that will be incurred whether patients are taken in or not. If much of the cost structure is fixed cost, one would have thought that by increasing the throughput efficiency would be improved. Apparently the opposite is the case. It is a no-win situation.

What are the hospitals to do? Is the Minister asking them simply to cut back their budgets or asking them to improve efficiency? The Minister cannot have it both ways. If the hospitals achieve their budgets in relation to revenue, or achieve a level beyond that, the Minister takes it off their budgets next time around; therefore, they cannot win. It does not matter what they do, they are caught in a bind. Is the Minister imposing on them a system that requires them simply to cut back the costs of operation, irrespective of what that means, or is the Minister asking them to lift efficiency? I put it to the Minister that that is not understood by the hospitals. They need to know what their initial——

The Hon. D. R. White—I am happy to look at the Hamilton Base Hospital, but the issue is understood.

The Hon. R. M. HALLAM—The third issue to which I shall briefly refer is transport, and I am sorry that the Minister for Transport is not in the Chamber. The transport vote is $804 million of the recurrent outlay, which is approximately 10 per cent. Transport represents another disaster. It continues to incur monumental losses, as it has done over many years. It is becoming a major millstone around the neck of this State.

The objective of the metropolitan system is to achieve the recovery of half of recurrent costs. It is clear that the system is not doing that; it is falling further behind each year. The country freight service is even worse; it has a target of 100 per cent cost recovery.

As was highlighted by a question asked this morning by my colleague, Mr Baxter, the country freight service is experiencing a massive drop in patronage that will be extremely difficult to win back, and I shall explain why. Each time a farmer or carrier decides to incur the capital cost of buying a road vehicle, which may cost $110 000, to cart his own grain or crop to a seaport, that farmer has been lost to the rail freight service for all time. Once he has made that decision, he must service the outlay. It is extremely sad that those decisions are being taken every day, which means more volume is being lost to the rail network in the long term. It will take a major policy decision to turn that position around.

Each time a farmer decides to use the road network as opposed to the rail network, the problems of road funding are increased. Evidence can be seen of that throughout the State. More and more of the road network is falling into disrepair. At the same time, despite

what the Minister for Transport said this morning, evidence shows that road funding is not keeping pace with demand. Much of the road funding is being redirected. The Minister himself said that road funding was being diverted on the basis of traffic counts. That is fine; I do not object to those claims being made in the metropolitan area. Metropolitan people are entitled to demand a good road service. However, when the government continues to redirect road funding based on traffic counts alone, the country road network is completely neglected.

More and more of the shires of the State are taking conscious and deliberate decisions to revert roads that were once sealed to gravel. Hundreds of kilometres of roads are subject to such decisions. Some 30 years ago, with the technology and equipment that was available, authorities had the wherewithal to seal those roads; 30 years later, with the technology and equipment that is available today, we cannot find what it takes even to maintain those roads. That is the sorry state facing Victoria today.

Many frightening aspects are involved in the drift of road funding, and I have highlighted them previously. The first is the annual rate at which funding derived directly from motorists is being siphoned into the central coffers of government—some $7000 million to the Commonwealth government and $600 million to the Cain administration. Of every $1 taken from the Victorian motorist, only 18 cents finds its way back to road funding in this State. That was the original intent of the tax levied on the motorist.

There is a further aspect of the hiving off that I wish to highlight because it is a direct penalty on country people. Country communities rely more heavily on fuel than do people living in metropolitan areas. However, every time a country person buys an article, the price of the article is inflated by the freight component. Country people must pay more for articles than people in metropolitan areas. That is accepted, but the component for freight is inflated by the tax levied on fuel that is taken by the central governments. It is extraordinary and almost laughable that the Liberal Party should now be debating a consumption tax when this country already has such a tax. It just happens that it comes via the taxes levied on fuel. Worse still, the existing consumption tax is clearly biased against country communities.

The government has now conceded that, of the 8500 bridges in this State, more than half—that is more than 4000—are due for replacement. I do not need to tell the House the cost involved. Those operations are so far behind that the costs will have to be faced well into the future. Because of the dimension of the nation and because of our reliance on export and rural industries, Australia's road network becomes an even more vital aspect of our infrastructure, and that makes this government's mismanagement even more culpable.

Because these and other examples of the government's mismanagement are being recognised by Victorians, the Cain government will be dumped at the next State election. Its epitaph will record that it was the highest taxing, highest spending government in the history of this nation. I hope that the National Party is part of the new government so that it will have the opportunity of assisting in the massive redirection of policy that I submit is so obviously and urgently required.

The Hon. C. F. VAN BUREN (Eumemmerring Province)—I have much pleasure in supporting the Supply Bill. I shall dispel some of the nonsense uttered by members of the conservative parties. The Budget was brought down by an excellent Treasurer. The problem with the conservative parties is that they continually preach gloom and doom. The Liberal and National parties have no policies. The Liberal Party has leadership problems; even the president of the party says it has leadership problems. No wonder members of the Opposition come to this Chamber and forecast gloom and doom and try to knock the government for taking action!

Mr Hallam proposed the same policy put forward by the Liberal Party, which wants to sell the public transport system. This government has a vision, unlike the National Party government in Queensland. Heaven help the people of Victoria if that type of government

is elected in this State! Corruption is thriving in Queensland, but Victoria does not face that problem. This State has an honest, straightforward government.

I shall take the opportunity of focusing on some of the achievements of the Cain government. When the Labor Party came to power in 1982 in this State and in 1983 in the Federal sphere, it inherited a mess. The country was in a mess after the Fraser–Howard years and Victoria was in a mess after the Hamer–Thompson years. Inflation was high and people could not get jobs. Taxes were high, and that was the policy promoted by the National Party in coalition in the Federal sphere. There was no policy or direction; legislation was made on the run. A change of government both at the State and Federal levels gave the country focus and direction.

An article in the *Business Review Weekly* of April 1988 states:

> Victoria's Treasurer, Rob Jolly, knows the painful side of running a State's finances. Since the Cain Government came to power in 1982, it has launched an ambitious economic strategy aimed at strengthening Victoria's export and technology bases.
>
> Workers' compensation charges to business have come down, exports have risen and Victoria's statutory authorities have some of the most sophisticated treasury operations in the country.
>
> Critics have seized upon the negatives. They say the Government's WorkCare program will cost much more in the future because of abuse.

The Opposition is accusing the government of mismanagement but the Opposition is supporting its mates in the insurance industry. The insurance industry does not provide the facts and that is causing the problem with WorkCare.

The Hon. R. M. Hallam interjected.

The Hon. C. F. VAN BUREN—Mr Hallam and the Opposition should examine what the Treasurer, the Premier and the government have done for Victoria. We now have industrial peace; prior to 1982 there were constant strikes. One would open the paper each day to find that someone was on strike. The Liberal Party had a confrontational policy to smash the union movement, which was unsuccessful.

The Cain government has created jobs. It was elected on the platform that it would give the people the right to work and it has been successful because the people have jobs. The inflation rate when the government came to power in 1982 was between 12 per cent and 13 per cent. That is vastly different to the current inflation rate.

The Hon. R. M. Hallam—Are you saying the 18·7 per cent is acceptable?

The Hon. C. F. VAN BUREN—The government has pegged prices. It introduced a Bill on this matter but the Liberal Party opposed it because big business was opposed to it. That Bill would have benefited the working people but the Liberal Party took the position it takes every time the government introduces such a Bill.

The Cain government has opened up new markets overseas in China, Japan and the United States of America. The government is well respected. It has opened up new markets for manufactured goods which has created employment; that is something that we can be proud of. The Premier is respected in those countries.

The timber industry was in a difficult state before the Labor Party came to office.

The Hon. M. J. Sandon—They didn't have a strategy.

The Hon. C. F. VAN BUREN—The Liberal Party did not have a strategy, except to chop down trees. The Treasurer provided $5 million to implement the timber industry strategy which has created jobs and it is a safeguard for rural industries. In the Gippsland area jobs were being lost but the government, by its strategy, has done something of which it can be proud; it has created more jobs.

When one compares this time to the era of the former Liberal Premiers, Sir Rupert Hamer and the Honourable Lindsay Thompson, one will note that with the fewer industrial

disputations that have occurred during the past twelve months, the days lost have dropped compared with those in 1982. There are fewer strikes and problems with the unions. Victorians appreciate that achievement.

Tenants are now protected because the government has legislated on tenants' rights. However, the conservative parties are all doom and gloom; they do not want to provide for tenants' rights but the government has protected these people.

The building industry is moving ahead with more development occurring than there has been for a long time. In my area of Berwick and Pakenham there is a growth corridor in which houses are being built and developments are going ahead. Rowville also has increased development.

The government has created jobs in the building industry and the industry is stable. It is not like it was in the days of the conservative government—which is what Mr Hallam and the Opposition want Victoria to return to. In those days there were continual disputations. People were not willing to invest in developments but now the government has stabilised the industry so that people can have confidence to invest their money in this area.

In my area recently, I attended an opening of a complex as the representative of the Minister for Planning and Environment, Mr Roper. I spoke with one of the big developers in the area and asked him how stable the industry was and whether he had any problems with builders and so forth. He answered that he did not because the industry was harmonious and they were able to negotiate contracts before the job began so that everyone knew what they were doing and they could then go ahead and build. I asked the developer whether there was any hold-ups and he told me that there were no hold-ups on building sites.

I am proud to be a member of the government party because in the education area we have new schools and a positive attitude, as opposed to the negative attitude taken by the Opposition. A lot has been done in the education area.

I am proud also of WorkCare. Most programs have difficulties initially but when one compares the situation with that of the workers compensation scheme under which five years down the track an injured worker was still going back and forth to court without the opportunity of returning to work, one sees that the situation is now much improved.

Under the old system a worker who was buying a home could suffer the likelihood of losing it because of the time it took to have the matter dealt with. After five years the injured worker would be given a cheque out of which was taken five years of pension payments but meanwhile the worker had lost everthing.

Workers did not have any dignity under that scheme. Now workers receive 85 per cent of their salary and they are able to meet their commitments when they are injured and off work.

Many injuries are caused by the neglect of employers who do not ensure that safety precautions are taken. There are a few problems to be ironed out with WorkCare but workers do have dignity under that scheme.

WorkCare is one of the finest things that the government has put in place and I am proud to be part of a government that has had the guts to proclaim this legislation. The Treasurer was the key instigator in drafting the legislation for WorkCare and he should be congratulated. I am not ashamed to go anywhere and stand in any forum as a member of a government that has introduced a reform of which every working person can be proud.

The government has introduced many other measures. An important measure involved the action that the government took to establish the Portland aluminium smelter. Before the Labor Party came to office in 1982, the Liberal government was having trouble in establishing the smelter. When the government came to office, capital was obtained for the project through negotiation and a partnership arrangement was set up. The government

was criticised from pillar to post, but the aluminium smelter was developed, and many jobs were created in the Portland area. That is a good example of the success the government has had.

Mr Birrell, who is not in the House at present, often criticises the government's health policies. I shall give the House an example of the action the government has taken on health matters. The government moved the operations of the Queen Victoria Hospital from its site in the city to Clayton, and in the process established the Monash Medical Centre in an area where it was needed. In the province I represent, the Eumemmerring Province, the Dandenong and District Hospital once received trauma cases from areas as far away as Gippsland. The establishment of the Monash Medical Centre has been of great assistance because it has reduced the number of trauma cases that are directed to the Dandenong hospital. The Minister for Health is to be congratulated for the work he has done. His predecessor also did a good job in the policies that he implemented.

The government has abolished the toll on the West Gate Bridge. People who travel by car from Melbourne to Warrnambool or Geelong over the West Gate Bridge no longer have to pay a toll. Further, the government has enacted legislation that deals with the manual lifting of heavy weights, which has had the effect of reducing back injuries and introducing safer working practices. When the government introduced those measures the Opposition opposed them, as is their usual practice. The government has had the courage of its convictions to introduce measures that are essential for the betterment of people who work in Victorian industry, especially where heavy lifting is involved. In the province I represent the Nissan factory at Clayton has adopted the prescribed manual lifting standards, and they have operated successfully.

The government introduced the Firearms (Amendment) Bill (No. 2), but in this House the Bill was opposed by the Opposition. The government was prepared to bite the bullet, in literal terms, in introducing the Bill.

The Hon. N. B. Reid—I thought they spat the bullet out!

The Hon. C. F. VAN BUREN—The government was willing to negotiate with the Opposition, but the Opposition cannot make up its mind on the issue. The problem is a lack of leadership in the Liberal Party—not in this place, but in the other place. The President of the Victorian Liberal Party said that the party had a problem with the Leader of the Opposition. I agree that there is a complete lack of leadership within the Liberal Party.

One of the great successes of the government has been the implementation of its social justice strategy. The Opposition does not understand what the concept of social justice means.

An honourable member interjected.

The Hon. C. F. VAN BUREN—When the Liberal Party can make up its mind on the firearms legislation, the government will be prepared to negotiate with it.

The government allocated $42 million in the Budget for expenditure on social justice measures. Opposition members should take the time to read the volume entitled *People and Opportunities*. In part, the introduction to that booklet states:

> Economic development and social justice are the two major goals of the Victorian government. Together they express the government's commitment to a fair society based on firm economic foundations.

The government released its social justice strategy in 1984. Victoria now leads the nation in economic performance and job growth. Victoria has a higher employment level and a lower unemployment rate than any other State. The strategy states:

> In encouraging sustained economic growth, the government's ultimate interest is the well-being of the people. So where it creates new opportunities, the government also needs to ensure that these are shared by the whole community.

Furthermore, concern about who benefits from economic growth should be matched by concern about who bears the burden of economic constraint.

I am proud to be part of a government that adopts such a social justice strategy. All government departments have adopted the themes contained in that strategy. When the government came to office it had to re-educate the Public Service about such strategies. Under previous conservative governments the Public Service was not forced to carry out policies in the social justice area. The social justice strategy is a key priority of the government. Victorians should be proud of the action that the government has taken. Other State governments have taken notice of the government's performance, because the social justice strategy is working so well.

Honourable members interjecting.

The Hon. C. F. VAN BUREN—Members of the Liberal Party may laugh, but when the newly elected Premier of New South Wales, Mr Greiner, was in Victoria recently he wanted to see Mr Cain to find out how to run a government properly. Mr Greiner said openly that he wanted to see Mr Cain for that reason.

The Federal Labor government has created 1 million jobs since it came to office. That policy was part of the Labor Party's platform and I am proud to say that the Prime Minister, Mr Hawke, and the Federal Treasurer, Mr Keating, have ensured that, with good economic management, Australians are able to find work.

The government has created 1 million jobs in that time, which is at a rate twice as high as the average for the Western World; and it is four times the average rate experienced under the Fraser Liberal government. The Leader of the Federal Opposition, Mr Howard, offers Australians a return to those days of the Federal government.

The Federal government has reduced the rate of unemployment to 7·4 per cent. Although the rate is a little too high, the government is taking action to reduce it. When the Federal Labor Party came to office, the rate of unemployment was running rampant at 13 per cent.

The Federal government has introduced a family package, which is one of the best things that has happened for a long time. The effect of the package has meant a gain of $22 per week per child, and a greater sum for teenage children aged thirteen to sixteen years. Almost 600 000 working people have benefited from the family package, as well as 1·2 million children. The Prime Minister is keeping to his target of trying to reduce poverty by introducing a package worth $500 million. The Federal government is close to achieving the promise it made to abolish children in poverty by the 1990s. I am sure the Federal government will succeed. It has introduced many measures to deal with the problems that Australians are facing. Honourable members will be aware of the economic mess that the Federal government inherited when it came to office. Inflation was running rampant at that time, but the Federal government has reduced the rate of inflation.

The Federal government, in conjunction with the Cain Labor government, has brought interest rates under control and it is predicted that they will be 6 per cent by the middle of this year. Housing loans are now available at reduced interest rates and working people are benefiting by this policy.

I listened to the radio this morning and concern was expressed that, because housing loans were cheaper and more easily available, there is no backlog in applications. This is an outstanding achievement by the Federal and State governments.

The introduction of a national accord for wages bargaining is another outstanding achievement of the Federal government. It has been the basis for industrial harmony between the union movement, employers and the government. Employees have enjoyed regular pay rises and know how much they will get in their pay packets. The Liberal Opposition, when in government, could never have achieved this. Every time representatives of the then Liberal government appeared before the Conciliation and Arbitration Commission on national wage cases they opposed any pay rise for workers.

That is the Liberal Party's record. The union movement is now able to negotiate with the Federal government on behalf of all workers, and the second-tier wage increase is an example of those negotiations.

Under Labor governments, both Federal and State, the productivity of Australian workers has increased. That could never have been achieved under a Liberal government. Industrial disputation is at an all-time low; a Howard-led Federal government would create greater industrial disputation—that is what the Opposition is all about.

People on fixed incomes have benefited from Federal government policies. Age pensions have risen by 8·4 per cent in real terms. When Mr Howard was the Treasurer in a Federal Liberal government the value of age pensions, in real terms, was reduced by 4·1 per cent. Under a Labor government, the age pension has almost reached the important target of 25 per cent of average weekly earnings. Age pensions are indexed twice a year, at a cost of $1 billion. The Federal Labor governments' policies ensure that people on age pensions are adequately cared for.

The Federal government has doubled the funds available for public housing. Since the government came to power 220 000 more families now live in public housing. The government has reformed the taxation system and has a firm taxation policy. What is the policy of the Liberal Party? It has the John Elliott policy, the Howard policy, the Peacock policy, the Sinclair policy and now the John Stone policy. When the Liberal Party last went to the people with its taxation policies it was exposed—it has no taxation policies.The Liberal Party wants to introduce a consumption tax that would affect the people least able to afford it.

The Hon. Rosemary Varty—Come on!

The Hon. C. F. VAN BUREN—That is a fact. I ask Mrs Varty: did you support the motion for a consumption tax at the recent Liberal Party conference?

The ACTING PRESIDENT (the Hon. M. J. Sandon)—Order! Mr Van Buren should come back to the Bill.

The Hon. C. F. VAN BUREN—The Cain and Hawke Labor governments have reduced taxation, to the benefit of all Australians, which destroys the myth put out by the Liberal Party that people are worse off than before. A Liberal-National Party Federal government would increase taxes and charges and sell off the assets of all Australians. A Liberal government would revert to the dark old days of opposing national wage rises.

I am proud to be a member of a State government that has such an outstanding Treasurer. The Treasurer has turned the Victorian economy around and it is now on the right track. When the Labor Party came to office in Victoria, the State was in real trouble. Its overseas markets had collapsed and the manufacturing sector was in trouble. The Minister for Industry, Technology and Resources, in conjunction with the Federal Minister for Industry, Technology and Commerce, has put the manufacturing sector of the Victorian economy on the right track and dragged it into the twentieth century, so that it can now compete with overseas markets.

The Hon. B. P. Dunn—The wool industry saved Australia.

The Hon. C. F. VAN BUREN—Mr Dunn still believes that the Australian economy is riding on the sheep's back. I support the Bill and commend it to the House.

The Hon. J. V. C. GUEST (Monash Province)—These two Bills are the last gasp from a graffiti-led government. April 1988 will be remembered for the splendid irony that the beloved device of this trivial government—handing out grants of $500 to $1000 for some supposedly worthy local cause—has blown up in its face and marks the time when the people of Victoria have finally recognised the true character of the government.

Victoria has all the natural advantages to assist a government that purports to manage the economy of the State. Its climate is superb, except for some difficulties about a certain

changeability of our weather; its geographical position is excellent when compared with Sydney—the only comparable city in the country; it has a large amount of economically usable land, excellent schools, a sound economic base and a culture derived from our serious-minded forebears.

The Hon. B. P. Dunn—What about agriculture?

The Hon. J. V. C. GUEST—Victoria has an excellent agricultural industry on excellent land that is utilised by skilful primary producers. It also has a strong mining industry, comprising the Collins Street miners centred in Collins Wales House and 35 Collins Street, whose companies mine the whole of Australia with the skills and money based in Victoria, and I do not say that lightly. Victoria's medical research institutes, institutes inherited from previous governments, are the best in Australia.

The purpose of the Bill is to allow the government to continue its spending program, and it is tempting not to allow the government to continue. It seems a very attractive prospect that this House might precipitate the Premier's choice of the date for the election.

The Hon. M. J. Sandon—You have again put yourself in the driver's seat, ignoring what the people want.

The Hon. J. V. C. GUEST—From a political point of view, the Opposition does not mind when the election is held, but action is needed now from an economic point of view for the public benefit.

The Supply (1988–89, No. 1) Bill and the Works and Services (Ancillary Provisions, No. 1) Bill (No. 2) contain provisions for further Supply during the first four months of the next financial year and are not concerned with any change of policy. The Bills are concerned only with further Supply to allow for the continuation of existing programs according to existing principles, which is not enough.

It is a disaster for the State of Victoria that the government will not act. I shall not cover the ground which has been covered so well by the extremely able shadow Treasurer who pointed to the substance of the problems facing this State. The government has managed to bring this State to ridicule and shame. Victoria is now scoring the highest marks in the negative polls, criticisms and comments of informed commentators. The Institute of Public Affairs, a well-financed and well-resourced body with highly qualified commentators and researchers——

The Hon. M. J. Sandon—What, Rosemary West?

The Hon. J. V. C. GUEST—I think Mr Sandon is referring to Katherine West, who wrote for the *Australian* newspaper in company with Des Keegan and other enthusiasts who are somewhere to the right—beyond any of us in this House. I do not think that Katherine West is connected with the Institute of Public Affairs.

I might inform Mr Sandon and other members of the House that Des Moore, who was one of the most senior officials in the Federal Treasury—and he is not the only former member of that staff—has written a splendid article in a publication of the Institute of Public Affairs, in which he refers to Victoria under the heading, "The Public Finance Hall of Shame". It is Victoria and the Victorian government which leads all other States of Australia in its achievements in being recorded in the public finance hall of shame.

WorkCare is the No. 1 disaster of any government managing any economy in the English-speaking world today.

The Hon. E. H. Walker—It is a fairly grand statement.

The Hon. J. V. C. GUEST—I confined the statement to the English-speaking world, as I have no doubt that in Nigeria or possibly on the Ivory Coast there might be a Treasurer who would take longer than Mr Jolly, the Treasurer, to realise that he is on the learning curve, has not learnt much, and has a lot to learn in the area.

WorkCare achieved a deficit of $1·7 billion within 22 months. That $1·7 billion has to be found by future generations or, at any rate, by future taxpayers or future lenders who can be conned by this extraordinarily ingenious government which must have employed all of the out-of-work tax avoiders and specialists from the firms of solicitors and accountants that were put out of business by Part IV of the Income Tax Assessment Act and by the punitive enthusiasms of the Commissioner of Taxation over the past few years.

One might have thought that WorkCare would have something good about it. It has not started to develop anything good on its profitability or its ability to finance itself over the period that the government quite falsely predicted, because its deficit now must be of the order of $3 billion. Honourable members know that through its investments the Accident Compensation Commission lost more than any other investing body and a major proportion of its funds. I shall come back to that later and deal in detail with the extraordinary performance of a body set up only in 1986. It plunged into the stock market until it had invested 57 or 58 per cent of its investments in equities on a roaring bull stock market. Finally, in the space of about three days, it lost something in the order of $250 million. It is a fund which must pay out sums needed to compensate sick and injured workers on a day-to-day basis.

Although it can be said that the Accident Compensation Commission has long-term liabilities and might appropriately invest in long-term investments, that cannot be said of this body over the past two years because it never got itself into a healthy financial position where it could say that the money is set aside for long-term investments for years to come. It was totally imprudent to invest something close to 60 per cent of its funds in equities and suffer the loss of something of the order of a quarter of its total funds in the debacle of last October's stock market crash.

As I said, one might have thought that there could have been something to be said for the WorkCare system, but its income has been less than predicted.

So far as industry is concerned, a survey conducted by the Australian Chamber of Manufactures showed that 52·6 per cent of industry surveyed in a widely-distributed survey had not experienced a reduction in compensation costs. Honourable members should remember that a reduction in compensation costs was what it was all about: a reduction in the costs to industry, a reduction so that industry in this State could take off, free from the burden of the heavy recurring costs about which so much complaint had been made.

The Australian Chamber of Manufactures survey found that 43·7 per cent of industry was paying more under WorkCare than it had paid before. It found that 24·2 per cent of industry reported that WorkCare had subsequently increased compensation costs. There is the No. 1 entry in the public finance hall of shame.

The No. 2 entry shows what the government has done to the reputation of this State, a reputation which is all important if investment is to be encouraged in Victorian business. I refer to the absurd early retirement scheme in the Ministry of Transport, which has been referred to often, but in no more telling terms than the words on the front page of the *Herald.* The Legislative Council Estimates Committee opposed the legislation, for rather obvious reasons, which are apparent when one reads the *Herald* and its reference to the "$90 million learning experience". That was a nice way of describing it by the Director-General of Transport, who had not been responsible for the scheme.

He did not want to state the truth, which was an absolute, unmitigated disaster, because it involved paying out $87 million of borrowed money to provide for the early retirement of 2325 employees who were, in many cases, the most valuable employees who could not easily be replaced and who, therefore, had to be employed again on short-term contracts, and the further employment by the end of the financial year of 2565 employees, leaving Victoria with no net benefit but an additional debt of $90 million and all the interest costs involved.

It is not just a series of quarterly indicators that have caught up with this government. It is a sign of the times when a feature article in the *Australian* by an excellent financial journalist, Lim Say Boom, who has been known in the press gallery as a journalist for the *Australian Financial Review*, states:

> For Mr Jolly, the reality behind conservative economic guru Milton Friedman's celebrated line that "There's no such thing as a free lunch" must be becoming painfully obvious.
>
> The costs are rolling in and adding up. Mr Jolly's partially successful strategy of boosting a depressed State economy through high government spending has created more problems in its wake.

I point out that the strategy of high government spending that he described as partially successful was entirely maladroit; it did not press where it was intended to press. It did not spend the money at the times when it was meant to spend money. The analysis the Liberal Party published two years ago showed that the countercyclical policy had, in fact, completely missed the cycle.

The Hon. D. R. White—What did you say?

The Hon. J. V. C. GUEST—It was the government's policy and intention to make it countercyclical, but it completely missed the cycle it was intended to counter. It reinforced what happened anyway. The article also stated:

> In the process, the Cain government appears to have something of a cash junkie, increasingly reliant on quick financial "fixes" paid for by huge asset sales, disguised debt, unorthodox lease and lease-back deals, cleverly contrived schemes to beat Commonwealth limits on State borrowings and even squeezing money out of public utilities.

That nicely summarises what the Opposition has been trying to get over to the general public that will remove this government——

The Hon. D. R. White (to the Hon. H. R. Ward)—Tell us what he is talking about, Roy.

The Hon. J. V. C. GUEST—The Minister for Health, as the representative of the Treasurer in this House, knows all too well what the significance of this matter is. I must give him credit, as he has probably tried to tell his colleagues for years about the trouble they are getting into with the funny money tactics of the Treasurer.

The reference to "cash junkie" in the quotation is important; people are discovering that the government is desperate to get its hands on cash. The Opposition has known it for years. The government has found one way after another to get cash to pay the bills for the services, capital investments and other ingredients of its Budget, year after year, to be put off until the time of repayment, which has involved the need for increased revenue to pay the lenders. The government is now in such a desperate position that it has had to contrive the Victorian Equity Trust as the most blatant and obvious way around the legal limits of the Australian Loan Council; although if it had not been for the foolishness of the Federal Treasurer this would not be so. The purpose of the trust is obviously to ensure that the government can survive just another year until the next State election without having to raise taxes or make difficult decisions about cost cutting that would allow it to finance its extravagances honestly, but, instead, it has put onto future generations the real burden of financing its current extravagances.

Let us look briefly at the problems in education, health, law and order, and public transport because the ultimate charge against the government is that it has borrowed money at increasing rates of interest throughout most of the 1980s and has raised taxes by 100 per cent since coming to office, without giving value for money. Nobody objects to the government making a good investment. However, it may be better in most instances if it left that to the private sector.

The Hon. M. J. Sandon—How much are your investments worth?

The Hon. D. R. White—Yes, how did you go last year?

The Hon. J. V. C. GUEST—I fared very well. The government should have had me managing some of those investments, rather than the mug punter Treasurer who lost $120 million. It is a bit late now.

The Hon. D. R. White—It is never too late, James!

The Hon. J. V. C. GUEST—I assure the Minister that the shadow Treasurer and I will do this for the State after the next election, without a fee. We will not be charging what those private sector——

Honourable members interjecting.

The PRESIDENT—Order! I suggest that Mr Guest ignore interjections and continue with his contribution on the Supply Bill.

The Hon. J. V. C. GUEST—Before I deal with the failure of the government to use the funds raised by taxation and borrowing to good effect—I have shown honourable members that it has not given the State value for that money—I shall look briefly at some of the answers the government gives. The government admits that the debt figure—it cannot avoid admitting it because the Auditor-General has done so—has increased by 99 per cent since it came to office. The government claims the debt figure has not increased considerably as a percentage of non-farm gross domestic product, but the figures do not include everything. As I observed earlier, year after year the government has been building up more devices for taxing future generations. Taxpayers face rate burdens, superannuation payments and now the Victorian Equity Trust. This is one of the themes of the government. That debt figure does not take into account sales of assets; $500 million worth of assets have now been sold off. There would be nothing wrong with selling off most of those assets, provided the funds obtained were used to reduce the debt.

That debt burden has been considered in conjunction with the varius loopholes that one can easily find between the works and services and Supply Bills which are supposed to provide for recurrent expenditure and for capital expenditure; but one discovers that $500 million, like so much other borrowed funds, has gone into the funding of recurrent expenditure. Worse still, the government has funded the increasing burden of leasing charges, which have been incurred, from capital funds. Those leasing charges amount to almost half of the total value of the debt incurred in the sale and lease-back of rolling stock by the transport authorities.

During the tenure in office of this government the interest burden on borrowed funds has increased from 17 per cent to 24 per cent of revenue raised by State sources. It was bad enough that it was once 17 per cent of State revenue. Now almost one-quarter of all State revenue is being used to pay the interest bill on borrowed funds. That points to another assertion by the government in support of its justification for the huge increases in taxation. There has been a 100 per cent increase in taxation in the six years of the Labor government. The government says that it is not a large proportion of non-farm domestic product, but the government's increased borrowing right throughout the 1980s was conducted under circumstances totally different from the 1970s position. In the 1970s interest rates were negligible in real terms, but through the 1980s they have grown to a point of being very high interest rates. Interest rates are now beyond the historically established 3 per cent or so used for securities, which is the 3 per cent mentioned in the prospectus for the Victorian Equity Trust as a long term gilt-edge security.

The government has proven that it came into office with preconceptions, but it has not had the courage to admit its mistakes and that its preconceptions have been brought about by heavy borrowing to stimulate the economy. The reality is that the borrowing climate was completely changing from whatever might have justified the borrowing of funds at a real interest rate of 1 per cent to an actual interest rate of 5 or 6 per cent in real terms. The government cannot justify that ideologically motivated expenditure.

Again the government points to Victoria's relatively good statistical record in areas such as unemployment. However, in all these areas in which the government so prides itself,

Victoria has always been at the forefront. A few years ago Victoria's unemployment rate was the lowest of all States in the Commonwealth. Despite that, there are now an additional 27 000 unemployed people in Victoria than there were in the last days of the Liberal government. Some 27 000 people, together with those whose real standard of living has dropped in those years, are wondering what a Labor government has done for them.

One reason Victoria is in trouble and one of the symptoms of mismanagement by the Treasurer and the government is the $918 million lost on the stock market crash in addition to the $700 million in foreign exchange losses. The reality is that that figure is more than $1 billion because the figures used to arrive at $918 million were estimates based on figures other than those at the high point of the stock market.

When one examines the figures at the high point of 30 September 1987, one discovers that the loss was more than $1 billion. This is not something that the Treasurer can lightly brush aside because whatever investment policies were used, whatever private sector investment managers were employed by the Accident Compensation Commission, the guidelines on investment policy are the responsibility of the government, and particularly of the Treasurer.

Honourable members will recognise that the Treasurer has since given instructions after the horse has bolted. In February he told government authorities that investment exposure to stock market equities must be reduced. What a pity he did not do that in that exciting period between June and the end of September 1987!

The Hon. D. R. White—Is that what you did?

The Hon. J. V. C. GUEST—Yes. When the Accident Compensation Commission's percentage in equities came down between 30 September 1987 and the low point after the stock market crash—a reduction from $470 million to $233 million—there was a loss of almost 50 per cent of the value of its equities, and the reduction in percentage terms was from 56 per cent to 39 per cent. I suppose 39 per cent looks reasonable, but if it is achieved by losing $250 million, it is not a good proposition.

There were other institutions that also had a high exposure to equities and some of them, including Monash University and the University of Melbourne, as recorded in the Auditor-General's report, might well justify that high investment in equities. It is one matter to be involved with funds that are meant to produce income for an institution with an indefinite life and a completely different matter to have investments that are required for paying out benefits. It is completely different again to become heavily involved in the stock market, as did the Accident Compensation Commission, which commenced its investment policies when the bull market had been running for a considerable time. Although the State Electricity Commission Superannuation Fund seems to have been well managed when compared with other pooled funds for employees' superannuation, there are other professional investors, such as the BT Australia Ltd group, which have achieved much better results.

Honourable members should recognise that the real test of the Treasurer and the Minister for Industry, Technology and Resources can be assessed by examining the Victorian Economic Development Corporation, which is a body with equity investments. One discovers that with an issued capital of only $32·5 million, part-time board members of the corporation have tried to pick winners across the spectrum of the share market.

The corporation's latest annual report shows that it provided $1·2 million for loss on equity investments for 1986–87. However ignorant, who managed to lose money in 1986–87 on the stock market? Only the Victorian Economic Development Corporation! That was during the biggest bull market that has been seen for decades on the Australian Stock Exchange.

If the Treasurer or the Deputy Premier were willing to apply to themselves the standards imposed on the private sector by the National Companies and Securities Commission, we would have a statement of the way the Victorian Economic Development Corporation

fared in 1987–88. We would know how it fared up to January 1988 at the very least. When the Minister for Health addresses the House, it would be helpful if he informed us of the state of the VEDC's portfolio up to date.

In the run up to the crash, the corportion boosted the number of its investments from 22 to 31 at a book value of $13·2 million; the rate of return on capital investment was only 3·7 per cent for 1985–86 and 15 per cent for 1986–87. That 15 per cent is really pretty phoney and it is not even impressive because at the same time professional equity investors were showing gains of 45 per cent and conservative pool funds were showing gains of 40 and 50 per cent in 1986–87. The reality of that figure was that it was produced by a one-off capital gain of $10·4 million on the sale of the corporation's 50 per cent stake in the Hong Kong Bank of Australia Ltd last financial year.

It had that investment as a special privilege because it was the Victorian Economic Development Corporation; it was given a favour not through any decision to take investment bought on the market after valuation but it was given the traditional privilege of the stag. That is where its profits came from. This led to yet another absurdity by the government.

The government took a dividend of $4·9 million out of the VEDC on the basis of that one-off capital profit. The corporation's own income showed a loss on equity investments of $1·2 million. That is a small but serious symptom because not only the Treasurer but also the Deputy Premier is playing with expensive toys instead of soberly running this State's finances according to conservative traditional principles that have regard to the fact that politicians are not businessmen. Like businessmen, they are not infallible; they have a great many other things to do besides playing the stock market.

On education, we have found the numbers employed in the education system under the Cain government increasing by approximately 6000 from about 40 000, apart from those employed in the bureaucracy; yet the number of students has decreased by 26 000. Education is costing the State vastly more than it did in 1982, yet there is universal dissatisfaction with the State system as evidenced by the continuing flight to the independent system. No wonder that continues because there are many good State schools, many satisfied parents, and happy children learning from dedicated teachers but there is no confidence in the government's handling of the education system.

Ultimately, the government is beholden to the unions. That is the way the people see it and why Victoria's reputation suffers in this area of provision of services just as it does in the area of financial management. The customer is not receiving the benefit. Who had the benefit of the last major move in the education system? Simply, its unionised teachers.

There is the pretence of the 4 per cent second-tier wage rise being justified by increases in productivity—a completely illusory notion. On top of that, teachers have been given three days off at the end of the school year; three days less in which the children of Victoria will be equipped to compete in the job market and to help Australia compete with countries like Japan, which has been leaving Australia for dead.

The unions are this government's Achilles heel. One overwhelming reason at the base of all other reasons why Victorians will reject this government is that for all the good intentions the government may have and for all the understanding some Ministers may have—I do not dispute the understanding of the Minister for Health and the Minister for Agriculture and Rural Affairs, who are present, on many issues—as a party, the Labor Party is beholden to the greatest upholders of restrictive practices, the greatest instinctive monopolists in the country, the very people who put narrow sectional gains before merit, performance or service.

It is a sad day in Australia when the Labor Party does not allow accredited journalists to its conference unless they prove they are union members. Because of the molly-coddling of successive governments—especially Labor governments—unions have become the refuge of those who feel inadequate or uncompetitive, those who live on myths and legends

and, to some extent, the history of far past times to try to justify their totally uncompetitive and antisocial behaviour in the present day. Who believes this? Nearly everyone in the community, including the majority of unionists, knows better than those who support a lot of unions just how antisocial and unconstructive is the leadership that is tied to the Australian Labor Party.

Let us again consider another area of failure; another area where one can state with overwhelming certainty the criticism that the borrowings and taxes have not given us value. Two months after the Cain government took office, the then Minister for Health declared that he had inherited the best health system in the country. Now, after years of industrial problems, the waiting lists are increasing, misleading statistics about government expenditure are being produced; misleading statistics are being produced to justify the sale of public hospitals, including the closure of Prince Henry's Hospital, one of our major public hospitals; and there has been a 40 per cent increase in public hospital charges in the past year.

Yet we find that the public hospital waiting list, which we were promised at the last election would be reduced, has risen by a factor of three to some 25 000 people in December 1987. Some 25 000 people are facing serious problems because the government has totally failed to use the money it has extracted from the taxpayers of this State and the money borrowed on the credit of future taxpayers of this State to do anything useful in the area of health.

In the area of housing, likewise, from June 1982 to June 1987 the Ministry waiting list has risen from 16 000 names to more than 34 000; a factor of more than two. One has only to examine the figures for arrears of rent and compare those to any comparable Ministry or commission in other States to recognise that one of the major factors in this failure to provide adequate public housing in the State is the inadequate use of the public housing stock we have.

Arrears of rent amounting to $14·5 million, after some $4 million had been written off, as reported in the last report of the Auditor-General, are some four times as high as the arrears in New South Wales where the public housing stock is twice as large. What we are looking at is a total failure of management; not just the financial mismanagement of this State, but the mismanagement of detail in each individual Ministry.

It is not surprising really, when one considers that all the career public servants that were appointed under the former Liberal government, with just one remaining exception, have been systematically weeded out by this government and replaced by people congenial to its ideas. The picture of mismanagement is made clearer still when one examines the 600 or 700 dwellings which have remained unused by the Ministry of Housing and Construction—sometimes for many months; sometimes in the course of being maintained and being renovated; but often having already been maintained and renovated and with nobody actually bothering to check up to see that that was the case.

It is a disaster when one takes it at face value. It is an absurd disaster when one compares that situation with the position in other States which did not even have the beneficial history of many years of previous honest Liberal governments to provide the sound basis on which this government started its career in government.

The Hon. D. R. White—Is the Auditor-General one of our appointees?

The Hon. J. V. C. GUEST—The Auditor-General is someone who will be very welcome to continue in the service of the State of Victoria under a Liberal government.

The Hon. D. R. White—Who appointed him?

The Hon. J. V. C. GUEST—The Parliament appointed him. The Auditor-General is responsible to Parliament. There have been some appointments which this government has regarded as being too important to its reputation for it to be seen to make political appointments. It is significant that two of the better appointments of this government

have been in areas where the persons concerned do not deal directly with Ministers and they are not required to do the day-to-day bidding of Ministers and, therefore, be particularly congenial. I refer to the Governor of this State, who was possibly one of the best appointments of this government, and the Auditor-General.

I dare say that the Minister for Health leads me on to consider the very real reason why the government may be loath to appoint somebody to simply do the government's political bidding without regard to a wider view of the State's welfare. We know the Public Service is seething with people whose innate integrity, honesty, and competence makes them anxious to see the end of this government so that at least they can do a decent, honest job for the State.

In the area of transport there has been not only the notorious early retirement scheme but also the fact that losses year by year, without even counting the interest charges and without counting the horrendously expensive sale and lease-back arrangements, have trebled to more than $1 billion a year in the time of this government—a burden so great that only radical measures will possibly make the public transport system of sufficient benefit to the State to justify its continuance at all.

The government knows already that a large part of its work force is inefficient and redundantly employed. The government knows very well that there are 600 or 700 guards who have no function. This goes to prove the point I was making that this is a government that belongs to the union movement—the most troglodytical, backward-looking part of the union movement which simply will not allow members of the government to keep their preselections and, at the same time, perform an honest job in the management of assets of this State.

Let me mention areas of neglect by the government because at least it cares about public transport; it is part of its doctrine to care about public transport. It cannot help but care about public health; it cannot help but care about education—it is, after all, one of the main delusions of a socialist government that it can remake our society by getting hold of the education system.

One area of neglect that honourable members should consider is the poverty that exists in the country. This government is now seen to put country interests so far down its list of priorities that it cannot honestly expect to win any seats outside the metropolitan areas at the next election. Recent Australian Bureau of Statistics figures show that thirteen of the fifteen poorest electorates in Australia, measured by average family income, are in the country. The Mallee, for example, is one electorate in Victoria where family income, on average, is under $20 000, yet there are many other electorates where the average family income is between $28 000 and $43 000.

In the country, too, is where one goes to find the horrendous unemployment figures of 18 to 25 per cent in some cases. It is not as though the government has been trying to do justice as between all members of the community to look after those most in need. The government has been neglecting large numbers of people and has not been able to make its core of metropolitan government functions work.

Let us look at one of the largest manifestations—or symptoms, I might also call it—of the government's incompetence. I refer to the Victorian Equity Trust which has just been launched. I do not pretend to have digested all the contents of its prospectus—a prospectus, I notice, which has the imprimatur of the Corporate Affairs Office and which has nicely avoided the kinds of restraints, standards, and criteria that are applied to the private sector.

If it has merit, it is a tribute to the tax avoidance industry. As I said before, some of those who are now unemployed are probably the ones who are unemployable but who survived from the bad old days of the bottom-of-the-harbour schemes by feeding ideas to this government. We have a device, not necessarily entirely a way of saving tax but, as

originally conceived by this Treasurer, a way of getting around his Federal colleagues' strings on excessive borrowing and it is billed as equity.

It is billed as a way of providing equity funds for public authorities which have, to a shameful degree, been made to depend on this government because borrowings have doubled. In fact, the proportion of their asset values to borrowings on the other side of the balance sheet over the period of the Cain government has been used to finance expansion, to finance working capital and to pay the increasing taxes which this government has levied through the public authority dividend. One could not disagree that equity capital is desirable under those circumstances, but this is not equity capital that is provided. How can one say it is equity capital in any ordinary sense when there is no risk to the investor?

The government guarantees the Victorian Economic Development Corporation and the VEDC will undertake to purchase the units in the trust in four years' time according to a scale which will virtually guarantee returns of 1 per cent or more above the rate that semi-government securities would provide over that period. Where is the risk that justifies giving a higher return? The government cannot dispute the idea that risk and return go together. It is stated in the last Budget Papers and it is stated in the Victoria Equity Trust's own prospectus that the return corresponds to risk.

Where are the incentives? One of the characteristics of equity capital is that good management produces higher profits and higher rewards. The cost savings go to the holders of equity. The improvements, as a result of more demand from effective marketing, go to the holders of equity. Where is the incentive? There is no incentive, of course, because the so-called equity holders will have no input into management, nor will the management of the public authorities have any direct incentive as a result of the setting up of the trust to improve their performance in these respects.

There will be no personal liability and none of the obligations of directors under the Companies Code which might land on them if they borrow in certain circumstances. There are no sanctions and it is not even the government's own public authorities that will ultimately bear the burden of loss if the VEDC finally pays out the unit holders.

Another important distinguishing factor between the so-called equity issues and what one would expect to come across in the lawful, honest commercial world is the absence of any statement of what the government was paying to the underwriters. I should like the Minister for Health to answer on this issue. What is the percentage fee, the absolute fee, being paid to J. B. Were and Son and McIntosh Hamson Hoare Govett Ltd? That is not stated, so far as I can determine, anywhere in this extraordinarily large document—the prospectus of the Victorian Equity Trust—nor is it surprising. Who are the sub-underwriters and what are they being paid? In particular, I ask if the Minister for Health could find out because I might raise the matter again in the debate on the motion for the adjournment of the sitting this evening. In any event, I hope he will answer later in this debate. Are those sub-underwriters statutory authorities? Are they government bodies? Are they, in fact, underwriters? Will there be publicly controlled moneys going into investment in the Victoria Equity Trust?

This trust is not only in essence a means of obtaining cash now to pay the government bills which can be recycled via public authority dividends into recurrent expenditure—in fact, paying interest bills for the government and putting the burden of actually paying and raising the taxes to pay on the lenders, the investors, for future financial years—it is also a way of avoiding the decisions that should be made this year.

It would be helpful to hear the government's true justification for the Victorian Equity Trust. It would also be helpful to hear the government's true justification for the typical legislative changes we get year after year—of which we have had several examples this year—which makes true accountability much more difficult because they obscure the comparisons that one would otherwise seek to make between years and because they add considerably to the time it takes to understand, by careful analysis, the documents published—always tendentiously by the government—on the financial affairs of the State.

The fact that months later, by use of freedom of information legislation or by noting careful comparisons between figures in subprogram documents, annual reports and so on, one might get some better idea of the truth. That is not really the point. When we are making decisions in this House, while the focus of the press and the public is on the decisions being made about Budgets, we need honest figures that allow proper analysis and true comparability and accountability.

I pointed out yesterday that the Energy Consumption Levy (Amendment) Bill embodied one of the fiddles that this government goes in for. The giant fiddle there was to take a levy, never justify it, not abolish it in reality but only in name, and to incorporate that into gas pipes. The Victoria Arts Centre (Debt Transfer) Bill, which will do a splendid thing for the Arts Centre, will also unburden its large debt and incorporate that into the overall debt of the State. It will be buried there and it will simply help the government's ever-pressing necessity of covering up its tracks so that one can never, at a glance, see how this State has progressed from year to year under the stewardship of the Treasurer.

The Supply Bill itself manages to illustrate this problem, and I refer only briefly to the explanatory memorandum, which contains a statement of major changes that have been made between the passage of the 1987–88 Appropriation Act and the introduction of the Supply Bill. In fact, there should not be changes in any event without a comprehensive statement of what would have been the case were those changes not made. It makes it quite impossible to make comparisons and then to form a judgment about the appropriateness of a Bill that makes provision for supplementary appropriation that honourable members are required to pass.

The first and second pages of the explanatory memorandum contain a long list of changes. Perhaps I should refer to the details embodied in the notes attached to the table in the Bill, where one finds as good an illustration as anywhere else of the total obscurity which was produced by this verbiage in the notes that one received. Under the current description of programs and the recurrent works and services expenditure that is related to them, the statement appears to the effect that it is just as an indication of the program under which the expenditure has occurred. That is all it is.

In fact, it does not allow any kind of comparison to be made, and when one actually examines this indication, one finds that under the current table, in the section dealing with education, Program No. 291 deals with education Ministry services and the details of expenditure. Opposite that program identification, one notes the expression "281 (Part)". It does not say which part, so one is unable to trace the changes from a Budget that is only seven or eight months old to the Supply Bill, which is meant only to continue existing programs into the financial year ahead.

That is symptomatic of the whole state of the documentation provided, the whole state of financial management of this State and also of the government's terror that anybody should ever promptly find out the true state of affairs.

The Liberal Party is not without a remedy. Complete remedies for what the government has brought on the State are unlikely to be found, but the Liberal Party has a program that the shadow Treasurer has already announced. It is called the Victorian public finance rescue strategy. I should like to take the House through the aspects of that strategy. It is comprehensive, and the object of the strategy is real relief from State taxes and charges for every family and business and a dramatic reduction in government intrusion into people's lives and business activities in Victoria.

The elements of the strategy are as follows. Firstly, there is a commitment by the Liberal Party to making Victoria a low-tax State, which it suggests should be adopted by the government. The second feature is that a May mini-Budget should be introduced rather than waiting until August, well into the next financial year, to bring about the necessary changes.

The Liberal Party does not believe the necessary changes will be made by the government in August either, but, rather, that next year there will be a blatant election Budget, a blatant

attempt to cover up the long-term Budget necessities that have been forced on this State by this irresponsible government through the disaster of WorkCare and the sale and lease-back of assets, which can only mean the increasing depletion of the assets of this State.

The Liberal Party has a commitment to make this a low-tax State. It believes the government ought to accept this commitment, too. The Liberal Party wants a May mini-Budget to be introduced with expenditure restraint operative as soon as possible and, in all cases, not later than 1 July 1988.

Thirdly, the Liberal Party would commit itself in the 1988–89 Budget to reducing recurrent expenditure by 3 per cent in real terms in all Ministries, subject only to two important exceptions: the important areas of the Victoria Police Force and public hospital services.

Fourthly, it would discipline Ministries so that no new program could be commenced out of existing resources, that is, after the application of the 3 per cent real reduction. Therefore, resources for new programs would have to come from savings in other areas.

Fifthly, there would be a reduction of new public sector borrowings by restraint on capital works and in the use of borrowings for recurrent purposes.

Sixthly, there should be an improvement in the efficiency of management of cash surpluses to ensure that investment income is maximised. We would avoid taking on surplus loan allocations, which we believe the government should also do, simply because they are available, unless the expected investment yield is less than the cost of the funds.

Seventhly, a major point of departure for the Liberal government will be to use the proceeds of asset sales for the reduction of debt, commencing with the highest cost liabilities.

Eighthly, there is a need to radically change the policy of the government on foreign exchange exposure and to allow only unhedged foreign exposure where it is an investment directly related to the earning of foreign currency in the appropriate currency.

Ninthly, the government should set guidelines that prevent WorkCare and other agencies from making excessive commitments to the stock market and other high risk investment markets. The reasons for that are given abundantly in the examples with which I have already dealt.

The tenth feature of the Liberal Party's strategy which should be taken up by the government is to confine lease-back arrangements to legitimate commercial transactions where the financial return exceeds the cost of finance obtained, which is not to be used as a means of simply raising revenue in the way it has been used by this government.

The eleventh feature is to abandon the sale of deferred annuities and other financing transactions which would simply defer liabilities to future generations of Victorians.

The twelfth point is that there must be a reversal of the growth in public sector manpower: firstly, by using natural wastage and the redeployment of personnel to ensure that public sector employment falls in absolute terms by at least 50 per cent of the natural attrition rate—and it must be remembered that approximately 7 per cent of public sector employment is lost every year to retirement and, therefore, it is only necessary to replace half of those retiring; secondly, by redirecting administrative manpower from administration to service positions so that the people of Victoria gain more efficient services; and, thirdly, by imposing absolute staff ceilings so that no agency can create new positions without Cabinet approval on the basis of demonstrated necessity.

The thirteenth feature is to ensure that the national wage case principles are strictly applied to require that superannuation and second-tier wage increases are based on practical and achievable productivity offsets instead of the fictitious programs pursued by the

government, which are shown up in the minority report of the recent Estimates Committee inquiry.

The fourteenth point is to confine the upward reclassification of Public Service and other public sector positions to cases of actual increases in position demands. The fifteenth point in the policy is to halt all expenditure on advertising and promotion of government agencies, Ministers and government policies.

The sixteenth point is to return to the private sector, with preferential rights for employee participation, existing public activities that do not provide a sufficient benefit to the Victorian community. There are many instances of that; the obvious ones are Victorian Government Printing Office and the State Insurance Office, and one could look to further examples of the metropolitan bus services, which are known to cost $1 a kilometre more than the services run by the private contractors.

This strategy shows beyond doubt that the Opposition is ready for government. It has an alternative economic strategy ready to go right now or whenever an election is called. It is a strategy the government could have put in place, if it were capable of admitting the errors it has made over six years and if it were capable of admitting the true state of Victoria's finances. It has brought the State to its knees by mismanagement.

On the motion of the Hon. H. R. Ward, for the Hon. N. B. REID (Bendigo Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

The sitting was suspended at 6.35 *p.m. until* 8.7 *p.m.*

HEALTH (GENERAL AMENDMENT) BILL

The debate (adjourned from earlier this day) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. M. A. BIRRELL (East Yarra Province)—The Bill is a significant rewrite of the laws relating to public health in Victoria and, from the outset, I should say that many of the proposals in it are not embraced by the Liberal Party and, when in government, the Liberal Party will be keeping a close eye on them.

The proposals increase the load on local government without increasing the financial support for it, and the Liberal Party also has reservations about the State government's decision to remove a limited number of powers from local government and transfer them to other government agencies.

The proof of the alleged value of those changes will be in the success of those agencies in dealing with the new powers and, as I will indicate further on, the Liberal Party has concerns based on representations to it about the ability of those agencies to do the work of local government in the areas concerned.

Other important aspects of the Bill relate to AIDS, and the Liberal Party will use this debate to discuss that issue and discuss the need for new legislative provisions that deal with some of the extreme cases of individuals who have had AIDS.

The Liberal Party's view on the regulation of public health is that the bodies best able to deal with that area are those closest to the issue. In most cases that will mean that local government is the appropriate body to rely on to enforce standards and to deal with complaints that have been raised by members of the community.

Local government has a very proud and well deserved reputation for doing an outstanding job in terms of public health, and it has received recognition from all political parties. In the name of rationalisation the government is suggesting some changes that are of concern to the Liberal Party.

In the second-reading speech the Minister for Health stated:

The Bill provides for the repeal of laws requiring the annual registration of special trades and for the transfer of responsibility for administration of tips and waste management to the Environment Protection Authority.

The streamlining of controls will be of considerable benefit to industries, like the pig industry, which are currently subject to multiple regulatory schemes, and it will eliminate duplication between State government departments and between State and local governments.

New laws on regulation of accommodation for hire will replace archaic provisions on common lodging . . .

Significantly, public health will in no way be comprised by these measures.

Certain concerns about that aspect of the Bill have been put to the Liberal Party by local government.

I refer to a letter from Mr Alan K. Lee, Shire Manager, Shire of Melton, dated 26 February 1988. The concerns expressed therein perhaps encapsulate the concerns of many local authorities about the changes to municipal responsibilities under the Bill. Part of the letter states:

It appears there has been a significant widening of council's responsibility in the health area. Whilst council accepts this added responsibility it is concerned that where innovative public health programs are undertaken it won't be funded to cover equipment and staff resources.

It is unacceptable to transfer or add new responsibilities to local government without ensuring that local government has the financial capacity to meet its new legislative requirements.

It is quite legitimate for the municipalities to complain when the State government says, "This is your new role", but does not identify sources of revenue to meet the expenses of that role. For that reason the Liberal Party has reservations about the plans put by the government.

It is the right of the Cain government to determine administrative responsibilities, but the Liberal party will be keeping an extremely close eye on the changes that are being made and will review the new provisions when it is in government.

The particular area of concern that has been raised by local government relates to the repeal of the special trades provisions of the Health Act 1958. In a very well prepared and detailed submission dated 9 March 1988 presented to me by Mr G. Page, of Maddock, Lonie and Chisholm—who are the solicitors for many municipalities—the following point was made about the special trades provisions:

The repeal of the special trades provisions of the Health Act 1958 is of some concern. Firstly, there currently exist some consents and registration conditions which apply to special trades which commenced prior to planning controls and prior to any requirement for Environment Protection Authority approval. Conditions which may be necessary for the proper operation of these trades may no longer be enforceable. Further EPA approval may not be required.

We have in mind a number of current client cases where motor vehicles or motor vehicle parts are stored on land in connection with a motor car wrecking business or a motor repairer's business which commenced prior to operation of section 696C of the Local Government Act and which have non-conforming use rights pursuant to planning legislation. At present the only control available to councils is the ability to prescribe conditions as part of a special trade registration which arises because the Third Schedule includes any trades usually carried on in or in connection with motor vehicle wrecking yards, junk yards and obsolete machinery yards. As registration is year by year, the effect of the repeal will be that registration is no longer required and the ability to require storage of vehicles or vehicle bodies or vehicle parts in an orderly manner will be lost. The conditions may not be serious enough to justify a nuisance prosecution but are unsightly in the extreme.

That is a practical voice on a practical issue. The government has said it does not want duplication and that the Environment Protection Authority should look after it. That is a decision the implications of which the government must bear. The Liberal Party sounds an alarm about the fact that the Environment Protection Authority may not be up to the task and, without any doubt, local government has done a good job in that area.

In the submission Mr Page further states:

No doubt special trade provisions are being repealed because of alleged duplication involving approval from the Environment Protection Authority or other government departments. We would submit that because of the numbers of inspectors employed in the various departments when compared with the health surveyors employed by councils, the ability to attend to problems and to maintain supervision of these types of premises will be substantially reduced. Departmental inspectors will tend only to react to complaints which are received.

I take very seriously the concern that has been aired in that correspondence that the Environment Protection Authority will be reactive rather than proactive, and that it will be a distance away from the complaint as against local government, which is very close to the immediate concerns of the surrounding communities.

Therefore, it is with some reservation that the Liberal Party will not oppose these plans, because we know that the government has a broad mandate to make some changes, but it will certainly keep a close eye on it and looks forward to reviewing the area when in government.

The Shire of Warrnambool, in a letter to Mr Alan Rassaby, the Project Director, Review of Health Legislation Branch, Health Department Victoria—a copy of which was sent to me on 2 February 1988—echoed similar concerns on behalf of many shires that are concerned about the changes. In that letter the Shire Secretary, Mr Alan J. Bowes, made the following pertinent comments about the special trades provisions:

The proposed legislation assumes that council control over special trades currently contained in the Health Act 1958 is no longer appropriate in the context of powers available to the Department of Planning and Environment, Department of Labour, Department of Agriculture and Rural Affairs and to local government, but council does not hold this view. For council to retain adequate control and supervision over such trades within the municipality, these sections of the Health Act need to be retained. Certainly council has planning control under its IDO, but once a trade has been established and problems later arise that may constitute a nuisance, council can then only fall back on the nuisance provisions of the Health Act, which is rather like "shutting the gate after the horse has bolted".

That argument is one that the Liberal Party believes is logical. I again sound the warning that the Cain government should make sure that the Environment Protection Authority does its job well, so as to ensure that this attempt to allegedly remove duplication will end up being in the public interest.

Other councils have taken up this issue with the Liberal Party, but I shall conclude by drawing attention to a letter written by J. T. Kerr, Town Clerk of the City of Werribee, dated 8 April 1988. The letter is addressed to the Minister for Health and a copy was sent to me and makes the following points about the repeal of the special trades provisions which is envisaged in the Bill:

In our experience, the other agencies identified do not supervise, control and investigate the industry in Werribee to an adequate degree in order to protect the environment, the public or the worker. This council uses an independant consultant to assess the operations of industries, including special trades, and invariably the consultant uncovers deficiencies in operations not identified by the other government agencies. These deficiences have been life threatening.

If special trades and existing section 42 (*b*) are removed from the Health Act, council will have no power to prevent dangers to health.

It is on the government's head that it makes this change. There are approximately 200 health surveyors in Victoria. Will the Minister explain how many inspectors the Environment Protection Authority would put into this type of work; how many there are now as compared with previous years; and, particularly, whether any new inspectors will be appointed to the authority to examine special trades and to take on this type of responsibility? The concerns of local government are genuine and concern an important part of the Bill.

The second Part of the Bill relates to new legal initiatives to control the spread of AIDS. The Minister for Health made it clear in his second-reading speech that these initiatives form part of a package. The Liberal Party appreciates that this package of provisions was

arrived at after a great deal of consultation and has the support of many members of the medical and legal communities. The initiatives deal with a deadly new virus on which the Act is currently silent.

We take the view that, in the case of an individual who is knowingly transmitting AIDS, that person should be dealt with severely under the law. It will be a rare case, and the Liberal Party does not join with the minority who seek to treat AIDS as a cause for victimising individuals in society. However, in the rare case of someone who is knowingly transmitting an infectious disease, there should be no legal doubt that that person is in breach of community standards and will be dealt with in the appropriate manner. Currently there is doubt. There is simply no way of controlling the situation. I am not aware of cases in Victoria where this is occurring, but there certainly have been cases in New South Wales and Queensland. These provisions will be a step towards dealing with that matter.

The Liberal Party has, as part of its outlook on AIDS, a belief that we need to focus on high-risk groups. We should have, as the primary basis for our approach to reducing the incidence of AIDS, an education and consultation campaign. There must, however, be legislative backing and a capacity to penalise individuals in certain cases and, therefore, legal sanctions against those who knowingly spread AIDS should be put in place. The Liberal Party recognises that there is some community debate about this issue and will not use this Bill as a vehicle for outlining a more general policy on the control of AIDS.

I conclude by indicating that during the Committee stage of the Bill the Liberal Party will outline some difficulties with individual clauses of the Bill, in particular those raised with us recently by the Australian Medical Association and others. The Liberal Party looks forward, both during the Committee stage and privately, to discussing those matters with the Minister for Health.

The Liberal Party will move an amendment during the Committee stage to insist that any regulations made under the proposed legislation may be disallowed by either House of Parliament. There are some sweeping powers to be granted, particularly to the chief general manager, under this proposal. Disallowance is a safeguard, and it is important for the Legislative Council to insist that it have the right to disallow any regulation should that regulation be offensive. The Liberal Party will, therefore, be moving an amendment to that effect.

Within the context of the substantial reservations I have outlined with regard to some clauses of the Bill, the Liberal Party does not oppose the proposal.

The Hon. K. I. M. WRIGHT (North Western Province)—This is the third draft of the Bill that has come to our attention. It is difficult for honourable members to reconcile the various Bills with the comments and criticisms that we receive from interested parties because as soon as one Bill is disposed of, another one is in its place. One has to reconcile the clauses of this Bill with those of the previous Bill and then reconcile both of those with the principal Act. A considerable amount of time is involved in doing that.

I thank my colleagues in another place, the honourable members for Mildura and Swan Hill, for their assistance and Mr Alan Rassaby of Health Department Victoria. As the National Party has only five members in this House, each of us is handling one in five of the Bills introduced. I am at present dealing with this health Bill, another health Bill, a local government Bill and two other major Bills. It is difficult to be a position to debate each of them. Usually, debate on Bills of this nature is adjourned for a week, but at this stage of the sessional period the National Party is cooperating in much shorter adjournments. For its part, the government is tolerant and sympathetic regarding the times when debates are resumed. It can be chaotic, because one minute we are debating one Bill, and the next minute there is another Bill. After the next election the National Party might have one or two additional members, which will make things easier.

This Bill is like the curate's egg, good in parts. The National Party is not keen on the first Part of the Bill, but is supportive of the Part that deals with infectious diseases and

stricter controls. I note that AIDS is referred to in the Bill as HIV, an immuno-deficiency virus, which is apparently a more correct description.

A major factor in the spread of AIDS is the homosexual community. In Victoria more than 2000 people are suffering from the various categories of AIDS, and more than 95 per cent of those cases can be directly attributed to homosexual activity. The cost to the taxpayer and the government is already more than $1000 million. AIDS is easily prevented simply by people having only one sexual partner. I shall not say any more about AIDS because the President of Fairield Hospital, Mr Connard, will touch on that subject at a later time.

The reference to local government in the Bill is horrendous. The community does not realise precisely the implications of the Bill; councils are just starting to realise the implications. The National Party has had discussions with the Municipal Association of Victoria, and it is slowly coming to appreciate the difficulties the Bill will cause.

Under the Bill, councils will be directed into certain activities. Some of those activities will be impossible to perform. The Chief General Manager of Health Department Victoria will have absolute powers over the 210 local councils in Victoria. The Bill is the missing link in the Local Government Bill. The National Party was puzzled by that Bill, and it now realises the full implications.

The Chief General Manager of Health Department Victoria can delegate public health responsibilities to local councils. He can impose those responsibilities on an officer of council. That will deprive the council of any say in the matter and will leave the ratepayers to pick up the tab. That is why differential rating figures so strongly in the Local Government Bill.

I have received much correspondence about the Bill, and I shall refer briefly to some of it. The Shire of Wycheproof has expressed concern about special trades. It wants provisions dealing with that to be retained in the Act. The shire believes that if those provisions are removed from the Health Act there will be little control over special trades. The shire is also concerned about the controls on septic tanks. It cannot see any benefit in the control over septic tanks being transferred to the Environment Protection Authority. It believes it would be better if control were retained by health surveyors. In discussions prior to the debate in this House, I learnt that the EPA already has some measure of control because it sets the regulations.

The Shire of Dundas has written to my colleague, Mr Hallam. It refers to the provision about the Crown not being bound by measures relating to nuisance. It believes that is anomalous. A nuisance is a nuisance wherever it occurs, and the shire believes the anomaly should be corrected. It has requested that the National Party move to amend the Bill to ensure that the Crown is bound by the provisions in the same way as everyone else. It is a major problem and should be considered in all the areas in which government is involved.

The Victorian Hospitals Association Ltd is an influential organisation and represents hospitals in Victoria. It has raised a number of matters with Mr Birrell and me in our capacity as spokespersons for our parties on health matters. The association is concerned about clause 9, which deals with section 25 of the principal Act. It refers to vesting in the chief general manager the powers and duties of a medical officer of health and a council health surveyor. It believes any such power and duties should be exercised only after full consultation on the advice of suitably qualified experts.

The association also referred to proposed new section 119. It has advised me that it is uncertain about the term "unlawful discrimination". That implies that there could be lawful discrimination. I ask the Minister to inform the House what lawful discrimination is.

The City of Mildura expressed concern about proposed section 44 (3). It states that if a nuisance is likely to occur, the council must refer the matter to a justice who may summon the person to appear before the Magistrates Court. I and other honourable members

directed that to the attention of the Minister and Health Department Victoria, and a new provision will be substituted.

The City of Mildura referred also to proposed section 228 (1) (*b*), which refers to boarding houses and common lodging houses.

The Hon. R. I. Knowles—Mr President, I direct your attention to the state of the House.

A quorum was formed.

The Hon. K. I. M. WRIGHT—I hope the Minister can answer the concerns of the City of Mildura regarding mobile hairdressers who, obviously, do not operate from a specific premises. Despite that, it stands to reason that there should be controls over such operations.

Concern has been expressed about proposed section 5A, which refers to the objects. Proposed section 5A (*b*) states:

> The objects of this Act are—
>
> (*b*) to help people live as full a life as possible no matter what their pre-existing level of health.

How will that provision help the sufferers of AIDS and people suffering from other diseases and illnesses?

Proposed section 5B (*d*) states that a function of the chief general manager is:

> To equip individuals and local communities to take responsibility for their own health.

Any discerning honourable member will appreciate that "local communities" means "local councils". Local councils will be lumbered with the cost of that program. Another function of the chief general manager is:

> (*f*) To monitor the activities of, and to assist, other agencies which have an impact on public health and, if necessary, advocate on behalf of the Victorian public for the adoption and enforcement by those agencies of appropriate standards.

It would be appropriate to say that many councils operate from their own resources and for them to be subject to the chief general manager for appropriate standards will cause difficulties.

Part 1B of the Bill refers to health impact statements. It is likely there will be a large number of such statements, which will be at council cost.

Clause 6 refers to the delegation by the chief general manager. Section 8A (1) (*d*) states in part that a function can be delegated to:

> . . . any council or officer of a council . . .

That could mean the most junior officer of the council, who could have a function or power delegated to him or her by the chief general manager. I ask the Minister to explain the implication of that provision.

Clause 11 provides for the functions of councils. It states:

> "29A. The function of every council under this Act is to seek to prevent diseases, prolong life and promote public health through organised programs including the prevention and control of—
>
> (*a*) environmental health dangers; and
>
> (*b*) diseases;

The National Party believes this is an imposition on councils. These are dangerous provisions. Before I am called to order, I direct to the attention of the House clause 219 of the Local Government Bill, which is linked with this Bill because that clause refers to the suspension of a councillor. It states:

> The Minister can recommend to the Governor in Council the suspension of all councillors of a council who fail to perform a function they are required to perform.

This health Bill is linked with the Local Government Bill. New section 29A continues:

(*c*) health problems of particularly vulnerable population groups . . .

(*f*) monitoring the activities of and assisting other agencies whose work has an impact on public health and, if necessary, advocating on behalf of the people within the municipal district for adoption and enforcement by those agencies of appropriate standards . . .

(*h*) ensuring that the municipal district is maintained in a clean and sanitary condition.

That will be difficult. The Shire of Mildura has under its control the Sturt Highway stretching right through the municipality, through Mildura to the South Australian border and the Calder Highway from the boundary around Hattah Lakes through to Mildura. It has the problem of keeping these roads in a clean and sanitary condition.

Honourable members from the city who travel on country roads will realise there are numerous kangaroos in the area. According to the Bill, this will mean that many kangaroos are bowled over and killed on these roads, and this will create a significant responsibility for the councils. Clause 29B (3) states:

Every council must review its municipal public health plan annually and, if appropriate, amend the plan.

Again this is a demanding responsibility on the council.

Clause 12 provides for the special powers of the chief general manager, and it states:

"36A. If, in the Chief General Manager's opinion, there is an emergency or sudden necessity, the Chief General Manager may do all or any of the following:

(*a*) Order a council to perform any duties that the Chief General Manager directs;

A municipality, which is an autonomous body, can be directed by the chief general manager to perform any duty that he directs. Mr Laurence Maher, of the Law Institute of Victoria, has pointed out that the clauses relating to nuisances do not properly define the term.

The Hon. M. A. Birrell—That has been fixed.

The Hon. K. I. M. WRIGHT—It has been pointed out that the definition of "nuisance" has been amended following debate in another place. Section 39A, which appears on page 7 of the Bill, overcomes that problem.

Clause 13 provides for a proposed section 42 which relates to the offence of causing a nuisance and states:

A person must not—

(*a*) cause a nuisance;

The Victorian Hospitals Association has sensibly suggested that that should be "purposefully cause a nuisance", because someone can cause a nuisance without intention, and it would be incorrect for that person to be charged with an offence under the provision.

Clause 15 provides for the protection of water supplies; this is an important clause. The National Party supports it.

In the North Western Province, which is represented by Mr Dunn and myself, there are open channels at Heathcote and in other towns, which previously were diverted through non-urban areas but, because of the explosion of population, houses were built alongside these open channels. In one street, near a kindergarten and a primary school, there are 29 children, and there is an open channel that enters the street. It is amazing that a fatality has not occurred there. One channel has four children residing on one side of it and three children residing on its other side.

The clause refers to the pollution of water and the protection of water supplies. When the water is low mosquitoes become a problem as well as pollution. I commend the regional director of health, Mr John O'Neill, who acted properly and quickly in conjunction with the Rural Water Commission of Victoria and this matter has now been resolved. The channels are now being replaced with underground conduits.

The Victorian Hospitals Association pointed out that there is not a definition of a medical officer for health. I believe that is a valid comment but, after discussion with departmental officers, I understand there is a definition in section 3 of the Health Act.

I have already mentioned clause 21, which refers to unlawful discrimination and I ask whether there can be lawful discrimination. The clause makes it an offence for a person to infect another person. Mr Birrell has referred to this matter. There are very few social crimes that would be greater than for a person to knowingly spread the disease of AIDS. It would be a heinous thing to do.

Proposed section 123 (2) in Division 4, which relates to the power of the Governor in Council to proclaim an emergency, states:

A proclamation—

(*a*) must state the area to which it applies; and

(*b*) last for the period, not exceeding two weeks . . .

Now the period is to be four weeks. The National Party believes that is an inadequate period. I ask the Minister to explain to the House what is intended by that clause.

Under the heading "Division 6—Special Provisions Relating to the Human Immuno-deficiency Virus", there are stipulations concerning the information to be given to a person requesting a test for HIV. I understand that the human immuno-deficiency virus is the most dangerous stage of the disease of AIDS. The National Party strongly supports the provisions in the Bill which refer to infectious diseases and AIDS, as well as to the nuts and bolts of the administrative matters dealt with in the Bill.

However, the National Party has great difficulty with and concern about the horrendous clauses that provide for the transferring of important powers to local government, without local government receiving sufficient funds from the government to carry out those powers. The Bill is linked with the Local Government Bill, which provides for the introduction of differential rating so that local councils can raise more money from ratepayers to fund the exercise of the powers transferred to them.

On behalf of the National Party I will move a reasoned amendment. I shall not comment further on it because I have previously covered the points it deals with. I move:

That all the words after "That" be omitted with the view of inserting in place thereof the words "this Bill be withdrawn and redrafted to—

(*a*) more adequately express the methods of the provision of health services in Victoria and the transfer of duties from the Health Department to local government; and

(*b*) make provision for adequate funding to cover the added responsibilities placed on city and shire councils".

The Hon. M. A. LYSTER (Chelsea Province)—The government will oppose the reasoned amendment moved by Mr Wright. I oppose the reasoned amendment because I have been closely involved with the people who have been redrafting the Act in such a major way.

The Minister for Health invited me to join the advisory committee in 1986. That advisory committee was chaired by Dr Terry Carney of Monash University. I should particularly like to comment on the excellent review process that has been followed since that time, which has resulted in the drafting of the Bill. The committee was representative of community attitudes and I shall comment about some of the people who were members of the committee because the way in which the committee operated reflected the wish of both the Minister for Health and the government, which was that a major rewriting of the Health Act be undertaken to reflect more accurately the needs of all Victorians.

Some of the members of the advisory committee were Dr Terry Carney of Monash University, and Mr Alan Hughes from the Victorian Hospitals Association. I shall not mention all the names, but the committee included representatives from the Health Issues Centre, the Environment Protection Authority, local government, the Law Reform Commission, the Attorney-General's Department, the Victorian Council of Social Service,

Health Department Victoria, Community Services Victoria, the Victorian Trades Hall Council and the Department of Community Medicine at the University of Melbourne.

Those representatives met regularly to examine recommendations and discussion papers, as well as possible ways of arriving at legislation that was appropriate for the Victorian community, not only for 1988 but also for the next century. Those representatives acknowledged that any proposed legislation should be sufficiently flexible to meet the needs of the community.

As I read through my notes of the process that has taken place since March 1986, I discovered my copy of the minutes of the first meeting, which, as one would expect, was addressed by the Minister for Health. I shall quote briefly from those minutes, which, because they are minutes, are in summary form. In his opening address the Minister said that he wanted the health legislation to be rationalised. The Bill represents a commonsense approach to the way in which proposed legislation should be drafted. Secondly, the Minister said that there should be a shift from regulation-driven administration to a policy of goal-directed administration, where that was reasonable, possible and desirable. Thirdly, the Minister argued for a proper balance to be struck with other levels of government and non-government organisations. The third point the Minister raised, which emphasised the need for a close relationship between various State government departments and local government, has been competently addressed in the Bill.

Recently, I spoke about a particular review process that addressed sensitive matters in the community—and I was referring to the operations of a joint Parliamentary committee. The Bill is not the result of such a review process; nevertheless, it was important that the process of redrafting the Act was properly undertaken—and it is important to explain the review process that has been followed and has resulted in the introduction of the Bill.

Most honourable members will be familiar with the discussion papers that were prepared by the review team. They were excellent discussion papers that helped to focus the minds of relevant people in the community on the issues that should be addressed by any legislation which is concerned with public health. The first paper to be presented was an overview of public health legislation; and it was an excellent summary of the need for such legislation, what the goals of such legislation should be, what particular areas should be addressed, and how both the review team and the advisory committee believed health legislation in Victoria should be focused into the next century.

That discussion paper was followed by papers on particular issues such as infectious diseases, nuisance, municipal tips, the sanitation system, the waste management system, special trades, and the use of waste water. Throughout the time that the discussion papers were being prepared, consultation was occurring with bodies which were represented on the advisory committee and on other bodies throughout the State. Local government, because of its importance in the delivery of health services was a prime target for consultation from the beginning of the process to which I have referred.

The people in local government who are essential to the implementation of health legislation are the health surveyors. There have been meetings with regional groups of health surveyors in Ballarat, Horsham and Rutherglen, to ensure that the review team was confident of its ability to be cognisant of the views of health surveyors. A questionnaire was compiled in conjunction with the Swinburne Institute of Technology and the Australian Institute of Health Surveyors Victoria, which was of great value to them. The questionnaire sought the views of health surveyors about their current role, together 56th their thoughts on the roles they should have in the future, as well as their training needs.

Because health surveyors are such important people in the implementation of health legislation, the response to the questionnaire was valuable to the review team. Again, because of the importance of local government in the implementation of such legislation, meetings were held that were cosponsored by Health Department Victoria and the Municipal Association of Victoria. Meetings were held in Bairnsdale, Horsham, Shepparton and Camberwell, each of which lasted half a day, and each of which attracted a large

attendance. The meetings provided the review team not only with valuable information but also with the opportunity of making the issues raised in the discussion papers the subject of further discussion.

Consultation occurred with the trade union movement. There was a colloquium on the problem of infectious diseases which is a major part of the proposed legislation. A conference on this was held on 15 April 1987, sponsored by the Australian Association of Community Physicians, the Department of Community Medicine, University of Melbourne, the Department of Social and Preventative Medicine, Monash University, and the Fairfield Hospital. That was an important gathering, and the information that flowed from that conference was very valuable to the review team.

Members of the review team have been speaking to meetings throughout the State, including meetings of regional consultative councils, which play an important part in Victoria's information distribution network.

Advertisements have been placed in Melbourne papers. Consultations were held with district health councils, where they exist, and a series of seminars was conducted on the important issue of acquired immune deficiency syndrome. The seminars involved groups who have a special interest in the subject and they prompted further discussion in the community.

Discussions were held with many local councils. The first seven discussion papers prompted responses from 171 councils, and 79 councils responded to the first draft of the Bill. In addition, responses were received from water boards, regional weights and measure groups, regional health groups, the Municipal Association of Victoria and the Metropolitan Municipal Association.

Every major group involved in the implementation of the proposed legislation has had ample opportunity to express its views on any matters raised and to address itself to possible anomalies between the proposals and the real world. I concede that it is easy, in the drafting of legislation, to make errors about some practical aspects but, through this excellent process of consultation conducted by the review team, every opportunity has been given for all those concerned to express any problems that they may have.

I have been extremely impressed by the response of the review team to those concerns. I pay tribute to the work done by Mr Alan Rassaby and Beba Loff for the way that they have overseen the rewrite of the proposed legislation. It has been a momentous task and I have nothing but praise for the conscientious, assiduous and creative way that they have approached their task, right up until this evening. They have listened to community concerns, have examined them and given advice to the Minister about the way in which those concerns should be addressed. I again offer my congratulations to them for the way in which they have done their work.

I now wish to canvass the objects and one or two clauses of the Bill. The objects of the Bill are extremely important and embody the very philosophy of the proposed legislation. The objects are:

(*a*) to ensure equity in health; and

(*b*) to help people live as full a life as possible no matter what their pre-existing level of health; and

(*c*) to reduce the incidence of disease, disability, distress and symptoms of ill health; and

(*d*) to reduce the incidence of untimely death.

Those four objects encompass all that any government should be seeking as a goal, and I acknowledge that those objects are a goal. The government may not achieve all of those goals in their entirety. But every organisation must have corporate goals upon which strategies may be developed and I believe the government could do not better than to accept those four objects for its major public health legislation.

I now deal with each of the objects separately. I read a report that indicated there was no need to have as an object: to ensure equity in health. I believe sufficient evidence is

available to indicate that it is in fact appropriate for that object to be incorporated in legislation as a goal at which any government should aim. Equity in health seeks to ensure that members of the community, regardless of their status, sex, class, race and ethnicity or region, have equal opportunities of access to good public and private health services.

When I saw that object I was reminded of the fine report of my colleague, Mrs Kay Setches, the honourable member for Ringwood, on the status of health of women in Victoria, which highlighted the differential nature of access to health services, according to one's sex. The examples quoted in that report highlighted the problems of women in rural areas, who felt isolated from health services, particularly health services with which they could identify and about which they could feel comfortable. The report showed that equity in health services is still not available to many women throughout Victoria.

The Hon. G. P. Connard—Mr Acting President, Mrs Lyster's contribution to the debate is so riveting that more honourable members should be present to hear what she has to say. A quorum is not present.

A quorum was formed.

The Hon. M. A. LYSTER—As I said, the position of women in our community exemplifies the fact that while we—that is, the Parliament of Victoria—may aim for equity in the provision of health services, there is still a long way to go.

When one considers the regional distribution of services in my own region 8 one sees that, as a result of history, psychiatric services have not been equitably distributed. I am proud to say that the government is taking action to ensure that psychiatric services which have in the past been heavily concentrated in region 7 will be redistributed and will be provided in my region.

That leads to the second object of the Bill which is:

> to help people live as full a life as possible.

This object has specific relevance for people with disabilities, whether they be physical, psychiatric or intellectual disabilities. The object clearly typifies the wish of the government to enhance people's potential, regardless of their health or of any disabilities from which they may be suffering. The government has taken a commendable and excellent step in seeking, for example, to relocate patients from Willsmere Hospital—not to close beds, which was the habit of a decade ago, but to relocate patients into more appropriate community-based dwellings. This is intended to achieve the objects outlined in proposed section 5A (*b*):

> to help people live as full a life as possible.

The government is seeking to achieve the aims of the International Year of Disabled Persons to ensure that education, employment, mobility, housing and, most importantly, community attitudes are improved in response to the needs of people suffering from disabilities.

The third object of the Bill is:

> to reduce the incidence of disease, disability, distress and symptoms of ill health;

That is a predictable object of any piece of public health legislation.

One hundred years ago public health legislation would have been preoccupied with rats, typhoid, infant mortality, the provision of water supplies and sewerage. We live in different times. It is more appropriate that present proposed legislation reflects the public health problems of the 1980s and 1990s and the Bill does that.

The Bill encompasses the notion of community general health—not just the diseases with which we are familiar but a broader definition of health which moves into the environment in which we live and seeks to promote a healthy environment.

I hope to have an opportunity during the Committee stage to comment further on some specific provisions of the Bill which I believe are features of it and reflect the government's concern to achieve a healthy environment. I refer to the importance of immunisation of children prior to school entry, which is a specific recommendation of the proposed legislation.

I shall raise now the importance of genetic research as it is not mentioned specifically. The Bill encourages research and mentions it as an expectation by any government of its health department.

Members of this House would expect me to comment on the importance of immunisation because they will be aware of my role as chairperson of the Statewide standing committee on specialist child and family services. The committee has an interest in generalist services for children and how those services affect the need for and the incidence of treatment by specialist services for children in our State. In that context, the immunisation program supported by Health Department Victoria is an integral part of the specialist services program.

I believe the Victorian government is the first government in this country to take up in legislation the 1982 recommendation of the National Health and Medical Research Council by ensuring that parents will be required to produce a certificate of immunisation of their children prior to school entry, with certain options for those parents for whom that presents a difficulty.

The last objective of the Bill is:

> to reduce the incidence of ultimely death.

In reading this object, I was immediately reminded of an area of great concern to many members of the community, particularly the Aboriginal community in Victoria.

Honourable members will know that the life expectancy of Aborigine's in the community is twenty years lower than it is for other Australians. Indeed, when referring to untimely and premature death for those aged between 35 and 45 years, the figure for Aborigine's is the terrifying figure of twelve times greater than the rate for the rest of the population.

I hope—as I am sure all honourable members hope—this object of the Bill as it relates to premature death among the Aboriginal population will be further addressed by the government, as it has made the health of the Aboriginal population an area of major concern.

The objects of the Bill are fine guiding principles for any health department and so I do not need to comment on the Bill further. However, in case clause 7, which relates to data collection, is not raised in the Committee stage, I mention it now. Clause 7 inserts a new section 9, which provides:

> 9. The Chief General Manager must—
>
> (*a*) establish a comprehensive information system which includes information on—
>
> (i) the causes, effects and nature of illness among Victorians and groups of Victorians; and
>
> (ii) the determinants of good health and ill health; and
>
> (iii) the utilisation of health services in Victoria; and
>
> (*b*) analyse and disseminate this information widely to members of the public.".

Clause 7 is a vital part of the Bill. Representatives of many groups in Victoria have approached me through my work with specialist child and family services and have said that this is one area in which Health Department Victoria has been unable to assist in the promotion of health in the community. Clause 7 and all that will flow from its application will yet again result in Victoria carrying the flag and setting the example for good practice in public health throughout the country.

One of the most important features of the Bill is that it will ensure that Health Department Victoria has a structure which reflects its functions. As a result of the proposed legislation

it will be divested of unproductive and inappropriate functions, which will either be relocated to other departments or will be dispensed with entirely, because there is much that currently exists that is not necessary any more.

Interdepartmental cooperation, particularly the examples that have been quoted in respect of the Environment Protection Authority, will be fostered. I hope relationships with the Federal government will also be fostered. I believe the relationship between the State government and local government will improve as a result of the proposed legislation. As Mr Birrell said, because local government is closest to the concerns of the community, the Bill locates many functions in the correct and proper place. As a result of the proposed legislation each arm of government will understand the roles, functions, responsibilities and accountabilities of the other. The result will be that the public health legislation will be appropriate to take Victoria into the next decade.

The task of rewriting the Health Act has been monumental. It has been carried out in an exemplary manner. I commend the process that has been followed. I have been fairly close to that process. I commend those who have been involved, particularly Mr Rassaby and his team. I also thank all the parties who have been involved in the past two years working towards ensuring that this State has legislation of which if can be proud. The Minister for Health asked for legislation that would truly reflect current thinking in the health field. I believe the wishes of the Minister have been fulfilled. I commend the Bill to the community because I believe it will serve its interests, and I commend it to the House.

The Hon. G. P. CONNARD (Higinbotham Province)—I acknowledge, with a degree of pride and pleasure, that Mr Robert Lawson, my colleague in representing Higinbotham Province, is currently in the chair as Acting President.

At the outset I shall indicate my specific interest in this important Bill, namely, Part VI, relating to the management and control of infectious diseases, as Chairman of the Committee of Management of the Fairfield Hospital, and Chairman of the Macfarlane Burnet Centre of Medical Research.

Before I explore some of the issues in that part, I shall comment on Mrs Lyster's contribution, which I thought would have been more appropriate for debate on the Health Services Bill, currently in another place. I hope she does not repeat those interesting historical facts when she deals with that Bill.

The Liberal Party has had consultation with interested groups, including the Australian Medical Association, which sent a communication to my colleague, Mr Birrell, today. I have not had time to thoroughly digest that document, but many of the concerns of the association should be addressed in regulation rather than by this Bill. I hope the Minister for Health will read the correspondence and take note of the concerns expressed by the association, perhaps overcoming some of those concerns by regulation.

The Hon. K. I. M. Wright—They are a bit late, aren't they?

The Hon. G. P. CONNARD—The correspondence is late, and I regret that because I should like my party to have considered those matters in more detail.

I turn to the concerns expressed by my colleague in the National Party, Mr Wright, who has moved a reasoned amendment to the second-reading motion. In a report to the City of Moorabbin regulatory services committee,the group manager, health and regulatory services, Mr A.R. Holland who, as the House knows, is also the current president of his professional association, expressed concerns about the first part of the Bill to which Mr Wright adverted. His remarks are encapsulated in the following quotation from the council minutes:

> It is of major concern that too great an emphasis is being placed on the use of the "nuisance" provisions of the Act to solve all manner of problems . . .
>
> It could be argued that with the regulation-making powers provided under the Health Bill and the Local Government Bill (No. 2), all of these matters will be dealt with adequately. However, it is not considered

appropriate to introduce these Bills as Acts unless suitable regulations are enacted simultaneously, or immediately after, and only following appropriate consultations with the practitioners.

This report is dated 29 February this year. It suggests that the introduction of the Bills is not appropriate unless suitable regulations are enacted almost immediately. The Liberal Party does not intend to vote with its National Party colleagues, but I seek from the Minister an assurance that he will introduce suitable regulations almost simultaneously with the enactment of these Bills so that the health surveyors can continue their jobs, taking care of the concerns Mr Wright described.

I turn now to Part VI, which relates to the management and control of infectious diseases. The provisions are a rewrite of past provisions. I compliment the Minister on the appointment of Mr Alan Rassaby and his ability to negotiate——

The Hon. M. A. Birrell—That is your personal view, is it?

The Hon. G. P. CONNARD—It is a personal view and that of my party as well as others; he is a fine officer. I acknowledge the Minister's timely introduction of this Bill.

The Bill will remove a number of the provisions which, for various reasons, are unenforceable and will replace them with wider powers. Concern may be expressed about those wider powers, but traditionally the Chief General Manager of Health Department Victoria, and the Chairman of the former Health Commission, have always had extemely wide powers and even wider powers when dealing with infectious diseases.

The proposed legislation clarifies the powers of the chief general manager to order examinations such as blood tests, as well as counselling and the isolation of patients as referred to in proposed section 122. There has always been an implied authority in the previous legislation that people could be held and treated at Fairfield Hospital.

The proposed legislation makes it absolutely clear that, in certain cases of contagious disease or an issue determined by the Chief General Manager of Health Department Victoria, people can be ordered to be examined, counselled and isolated. The original Bill provided for quarantine but the Fairfield Hospital suggested that the appropriate word was "isolation". Honourable members will recall that quarantine is a Commonwealth term. There is specific Commonwealth legislation referring to quarantining patients. One can be quarantined only by order of the Commonwealth Department of Health in Canberra. Such Commonwealth patients will then be placed in the national high security unit at Fairfield Hospital for clinical treatment.

The Bill also clearly states that, for the first time, it will be an offence to knowingly infect another person with an infectious disease, and this is a new provision. The word "knowingly" covers cases where the person suspects that he or she is infected, and that has to be read in conjunction with proposed section 120, which also provides that it is a defence if the infected person has been informed or has voluntarily agreed to accept the risk of infection. That is a particularly important provision in the Bill.

Adequate provisions are contained in the Bill to protect people who may be infected with an infectious disease. The interpretation attached to Part VI is quite clear and makes provision for people to be protected from unlawful discrimination, to have their privacy respected, to receive information about the medical and social consequences of the disease, and to have access to the available and appropriate treatment. This is very important, and I suggest that Fairfield Hospital is the right and appropriate place for people suffering from infectious diseases to have available to them the correct treatment.

I recognise that the Minister for Health acknowledges that. Fairfield Hospital, particularly with its infectious diseases unit, and experience with human immuno-deficiency virus—HIV—which should be used in preference to AIDS, which is an inappropriate term, is the main provider of clinical and research facilities in this State.

The provisions relating to HIV are good because they provide for the chief general manager to make an order in writing stating that he believes a person to be infected with

HIV, and requiring that person to be examined and tested, to undergo counselling, and to be isolated at the place stated in the order.

The chief general manager may also authorise a member of the Police Force to arrest, without a warrant, a person who requires isolation or a person who is not so isolated. The member of the Police Force may enter premises and use any force that is reasonably necessary. This, of course, may cause some outcry from people such as civil libertarians, but this is the way it must be. There is no doubt, historically speaking, that Health Department Victoria has had draconian powers over many decades, but it has not used them indiscriminately or stupidly. They have been used only for the protection of the community and such powers should remain in force.

The Bill provides for tests for HIV, and states that the medical practitioner must not carry out a test on a person unless it is requested, and the medical practitioner is satisfied that that person has been told of the consequences of being tested, and the results of the tests are made known to the person. It is important to have a sequential arrangement for people who have this unfortunate disease. Sufferers certainly require additional counselling. I have great pride in saying that the institution of which I am chairman is appropriate to conduct such counselling. The hospital is doing it now, and doing it well.

People attending the infectious diseases section also require additional counselling. What that means is, before somebody is tested, he or she should be counselled, and also afterwards. I trust that the appropriate facilities will be made available for this to occur, that is, additional staff must be provided for counselling services. I point out to the Minister that additional funds may be involved in that suggestion.

This is an enormous problem at the hospital in that its medical social work department cannot keep up with current counselling, without the requirement of compulsory counselling now being introduced. Yet this is an important proposal that will be introduced by the Bill.

The Minister for Health and the Chief General Manager of Health Department Victoria have been to Fairfield Hospital and are well aware of the problems, but the Bill places clear obligations on any institution that provides a service for testing because those tests must ensure absolute privacy. As I have said in this House on a previous occasion, HIV is not totally a homosexual disease. There are many bisexual men who must be assured of privacy so that they can have the confidence to attend an institution with testing facilities.

The Bill clearly states that a person in charge of a laboratory service undertaking the testing must ensure that written records are kept relating to the number of tests carried out, the number of persons tested and the categories into which they fall, including those that have been diagnosed for the first time. This information must be sent to the chief general manager at the end of each prescribed period. It is interesting to note that the information concerning antibody positive persons must be passed on to the chief general manager. I suggest to the Minister that it would be better if the information were kept at the institution that is regarded as being the leading authority in this State—the Fairfield Hospital. We will need to observe great caution dealing with patients to maintain confidentiality, but the Fairfield Hospital has already done that with success.

I turn now to proposed section 134 where provision is made covering the right of action against persons who have been infected with HIV through blood or tissue donations, and their right of redress. This is a significant provision and in the future may require further amendment. However, at this stage the Fairfield Hospital is content with it. In summary, the provisions in the Bill are very timely in view of the problems Victoria will face with HIV. It is a brave step on behalf of the government to introduce such a measure and it should be commended.

Mr Acting President, I note the incidence of HIV and its cost to the community. I seek leave to have incorporated in *Hansard* four tables.

The ACTING PRESIDENT (the Hon. Robert Lawson)—Order! I understand that the President has examined these tables and is of the opinion that they are suitable for incorporation. Is leave granted?

The Hon. K. I. M. WRIGHT (North Western Province)—Mr Acting President, I do not believe the tables have been shown to the National Party. It is a tradition in this House that documents to be incorporated in *Hansard* should be referred to the President, the responsible Minister and the spokespersons from the other parties.

The Hon. G. P. CONNARD (Higinbotham Province)—Mr Acting President, I apologise to Mr Wright, but I believe I have shown these tables to him on another occasion. I should have ensured that he was shown them again this evening, and he is now being provided with them.

Leave was granted, and the tables were as follows:

TABLE 1

TOTAL ACTUAL AND PROJECTED COSTS AT FAIRFIELD HOSPITAL

	1986–87	1987–88	1988–89	1989–90	1990–91
	$M	$M	$M	$M	$M
Inpatient Treatment	2·580	4·200	8·250	16·000	30·000
Outpatient Services and Administrative Services	·240	·560	1·200	1·800	2·400
*AZT	—	1·050	3·600	6·000	11·000
Associated Drugs and Tests	·300	·420	1·400	2·400	4·400
State Reference Laboratory	·562	·700	1·100	1·400	2·000
National Reference Laboratory	·478	·509	·600	·800	1·000
Sub Total:	4·160	7·439	16·150	28·400	50·800
Research Unit	·380	·540	1·000	1·500	2·000
TOTAL:	4·540	7·979	17·150	29·900	52·800

* Does not allow for any widening of guideline

Full Catchment Y/E	1989	$140 000
Extra	1990	$ 28 000
Costs	1991	$ 52 000

These figures are conservative.

TABLE 2

ACTUAL AND ESTIMATED CUMULATIVE CASES OF CATEGORY A AIDS CASES AT FAIRFIELD HOSPITAL

AS AT	31.12.85	23
	31.12.86	57
	31.12.87	121
	31.12.88	266
	31.12.89	585
	31.12.90	1258
	31.12.91	2456

TABLE 3

ACTUAL AND ESTIMATED INPATIENT DAYS

AIDS AND AIDS RELATED CONDITIONS

Y/E	30..6.87	3 102
	30.6.88	5 800
	30.6.89	11 000
	30.6.90	20 000
	30.6.91	35 000

TABLE 4

ACTUAL AND ESTIMATED AIDS RELATED OUT PATIENT ATTENDANCES AT FAIRFIELD HOSPITAL

1985–86	1 276
1986–87	3 067
1987–88	6 000
1988–89	11 000
1989–90	17 000
1990–91	22 000

The Hon. G. P. CONNARD—As honourable members will be aware, these tables refer specifically to Fairfield Hospital. Fairfield Hospital is the main centre in Victoria involved in treating infectious diseases, and is resourced by Health Department Victoria.

The excellent Executive Director of Fairfield Hospital, Mr Phillips, prepared a forecast of total actual and projected costs for AIDS at Fairfield Hospital from 1986–87 to 1990–91. Referring to Table 1, for 1986–87 the total cost of the disease was $4·54 million. As there was little incidence of the disease in the previous year, the costs were absorbed in the general hospital costs. The advice I have been given is that the number of cases of this disease doubles every ten months; therefore, for 1987–88 the projected cost is $7·979 million; for 1988–89, $17·15 million; for 19 89–90, $22·9 million; and by 1990–91, $52·8 million. These figures are just for the treatment of this one disease.

That figure can be multiplied five times to estimate the national cost. In four years the national cost will be more than $1 billion. AIDS is divided into three categories, AIDS A, B and C. AIDS A describes those suffering with the disease in full flight. The patient has the virus and all the secondary symptoms; almost certainly it will be fatal. The figures for actual and estimated cumulative cases of category A AIDS cases at Fairfield Hospital are given in Table 2 incorporated in *Hansard*. I shall not read them other than to say that on 31 December 1985 there were 23 reported cases of AIDS; by 31 December 1991, it has been estimated there will be 2456.

Table 3 lists the actual and estimated in-patients days for patients suffering from AIDS and AIDS-related conditions. The list is representative of the three categories of AIDS. For the year ended 30 June 1987, 3102 in-patient days were recorded; by 30 June 1991, it is estimated that 35 000 in-patient days will be recorded. Table 4 lists the AIDS-related outpatients attendances at Fairfield Hospital. In 1985–86 there were 1276 attendances and, by 1990–91, 22 000 have been estimated. The reason I had these tabled incorporated in *Hansard* was to place on the public record the severity of the disease, which should be of concern to our community.

Fairfield Hospital is the leading Victorian institution for providing clinical and nursing care for the majority of AIDS patients. It is supported by the Macfarlane Burnet research institute, which has a newly founded virology unit headed by Professor Ian Gust. Not only is Professor Gust a well-known Australian virologist but he is also well-known internationally. Under his direction the new virology unit will have a major research component.

Within the Macfarlene Burnett research institute, there will be five virology research units, which will draw experts not only from this country but also from overseas. They will try to discover a cure and the appropriate drugs to treat the unfortunate AIDS sufferers. With a degree of pride I say that Mr Richard Pratt headed a fundraising appeal committee for the new virology research units. The appeal opened in the latter part of last year. More than $2 million was raised in less than four months with the support of the corporate sector. More funds will be sought for that research. I am appreciative of Mr Pratt and his committee for their magnificent report.

The committee should be concerned about the spread of AIDS by anal intercourse. In the main, it is spread by the homosexual community. If this subject is not treated carefully,

I envisage a serious revolution by the community against homosexuals. I do not care who is ill or dying, or whatever category illness a person may be suffering from, the patient deserves the appropriate and sympathetic treatment funded by the community. Because of the high costs associated with the treatment of this dreadful disease I can envisage a serious backlash by the community.

The Hon. K. I. M. Wright—Save one AIDS patient at the expense of 50 others!

The Hon. G. P. CONNARD—That is part of the ethical problem, but the problem we may experience in the community is that the high costs may be borne by many in the community. If that occurred, I should regret it. Irrespective of how the disease is contracted, we have a moral duty to provide any sufferer with the necessary treatment.

The homosexual community has helped its brethren. Not only has it raised money but it has also been linked with the Fairfield Hospital in trying to provide the appropriate support mechanisms that HIV sufferers need. The link between the Fairfield Hospital and the Victorian Aids Council is strong. I hope that continues.

These important issues should be aired. I rarely compliment the Minister for Health, but he has given the Fairfield Hospital tremendous financial and moral support. Through his Ministry, Fairfield Hospital has been provided with the physical means to continue to treat and care for HIV patients. Not only on behalf of Fairfield Hospital but also on behalf of the people suffering from this disease, I thank the Minister for recognising the problem and for his personal support.

This is not a party issue; it is a community issue. The Minister will confront no opposition on this particular issue and I hope he never will. From time to time this House is able to deal with issues of genuine community affairs issues that have crossed party lines. The former Minister for Community Services recognises that they were not party issues but community issues. We must work across party lines and over the barriers of the central table in this Chamber to help solve these problems.

I am certain that, as time goes by, honourable members will hear more from me on this issue. The Liberal Party will not support the reasoned amendment of the National Party because, despite what Mr Wright said about not having enough time, sufficient time has been allowed and consultation has taken place. However, because Mr Wright is busy with several shadow portfolios, perhaps he did not have sufficient time. The Liberal Party supports the general intention of the proposed legislation.

The Hon. M. A. BIRRELL (East Yarra Province)—I point out formally that the Liberal Party will not support the reasoned amendment. To do so would be to defeat the Bill and, in that sense, Parliament would be rejecting universally supported controls over the spread of AIDS. I am sure the National Party does not really want the Liberal Party to do that.

The Liberal party shares the view of the National Party upon which the reasoned amendment is based, which is that local government deserves a fair go. I adverted to that subject during the second-reading debate but, because the vast bulk of the Bill has to do with AIDS and because the proposed legislation is needed now, the Opposition cannot support a reasoned amendment that would have the effect of killing the whole proposal.

The Opposition will continue to keep a very close eye on the impact of the measure on local government. The Opposition will certainly voice the concerns of local government and act on them when it is in power.

The Hon. W. R. BAXTER (North Eastern Province)—I appreciate Mr Birrell's predicament and he is right in saying that the provisions of the Bill dealing with AIDS have universal approval and deserve to be enshrined in legislation at the earliest possible date.

Mr Birrell went on to acknowledge that the Bill has some obnoxious provisions, especially in relation to local government, and I do not accept his reasoning that the House should pass a Bill that contains obnoxious provisions just because desirable provisions are

incorporated within it. If we were to accept that principle, we would be providing the government with an avenue to pass through Parliament all sorts of measures by attaching obnoxious provisions to highly desirable provisions.

All the reasoned amendment asks for is a redrafting of the Bill to take account of certain remarks and objections voiced by Mr Wright and by local government. As Mr Wright said earlier, by interjection, the matter is quite simple: the Bill can be split into two parts easily and the AIDS provisions can be passed by Parliament next week and the other provisions can be further examined.

Therefore, I want to place on record that the National Party is in no way standing in the way of the passage of the provisions dealing with AIDS. That matter can be attended to expeditiously, quite simply, even with the adoption of the reasoned amendment.

The House divided on the question that the words proposed by Mr Wright to be omitted stand part of the motion (the Hon. G. A. Sgro in the chair).

Ayes	31
Noes	5
Majority against the amendment	26

AYES	NOES
Mr Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Chamberlain	Mr Wright
Mr Connard	
Mrs Coxsedge	*Tellers:*
Mr Crawford	*Mr Evans*
Mrs Dixon	Mr Hallam
Mr Guest	
Mr Henshaw	
Mrs Hogg	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Landeryou	
Mr Lawson	
Mrs Lyster	
Mrs McLean	
Mr Macey	
Mr Miles	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mr Storey	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr Ward	
Mr White	
Tellers:	
Mr McArthur	
Mr Mier	

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. D. R. WHITE (Minister for Health)—In response to the matters raised by Mr Birrell about special trades and the need for, in his view, additional resources for the Environment Protection Authority, I place on record the following comments.

Councils have other powers they may exercise to control industry, including planning and nuisance powers. In addition, since the advent of special trades legislation 150 years ago, new agencies have been created that also place standards upon industry. For example, almost all special trades are "scheduled premises" under the Environment Protection Act, which means they cannot be established without EPA permission. They are also licensed on an annual basis. There is currently a duplication in pollution control between the EPA and councils.

The Department of Labour now has an extensive role in the occupational health and safety area, thus the need for council officers to become involved in these types of disputes at the workplace has been substantially diminished. In addition, abattoirs and slaughterhouses, which are special trades, are also supervised by the Department of Agriculture and Rural Affairs and in some cases by the Commonwealth Department of Primary Industry.

Representatives have been made to the review which suggest that certain industries, such as piggeries, have been dissuaded from establishing in Victoria because of the current state of overregulation and the stigma of being classifed as a special trade. Business groups have also claimed differential treatment of similar industries in areas controlled by different councils. Repeal of special trades legislation may encourage more industry to establish in this State.

I make it clear that what we are indicating here is that there is duplication and that, as a result of the transfer of responsibility for special trades to the Environment Protection Authority, given the functions it already undertakes and personnel already employed, there should not be a need for additional resources.

In response to the matter raised by Mr Connard about the timing of the implementation of the regulations, regulation making will commence over the next couple of months and will be introduced progressively over the next twelve months.

The clause was agreed to, as were clauses 3 to 7.

Clause 8

The Hon. D. R. WHITE (Minister for Health)—I invite the Committee to vote against the clause. Following representations made to the government, we will not now proceed with clause 8.

The Hon. M. A. BIRRELL (East Yarra Province)—It was in response to a letter to me from the Executive Director of the Australian Medical Association, Mr Ron Hastings, that the Opposition aired these concerns about clause 8 with the government. Mr Hastings described this clause as "a sweeping provision" and it would seem there is no need for it. We are pleased that the government is withdrawing the clause in response to those representations.

The clause was negatived.

Clauses 9 and 10 were agreed to.

Clause 11

The Hon. K. I. M. WRIGHT (North Western Province)—I shall not go over the ground I covered during the second-reading debate. In summary, I said that clause 11 devolves power on councils that will be costly. The issue is tied up with clause 219 of the Local Government Bill, which has yet to be debated in this House and which gives the Minister the power to dismiss councillors for not carrying out the provisions of that clause. The National Party is echoing the concern of councillors and will oppose that clause.

The Minister has not yet responded to some of the matters raised in the second-reading debate. He responded to Mr Birrell's concerns but he did not respond to the matters raised by the National Party.

The Committee divided on the clause (the Hon. G. A. Sgro in the chair).

Ayes	31
Noes	5
Majority for the clause	26

AYES	NOES
Mr Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Chamberlain	Mr Hallam
Mr Connard	
Mr Crawford	*Tellers:*
Mrs Dixon	Mr Evans
Mr Henshaw	Mr Wright
Mrs Hogg	
Mr Hunt	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Landeryou	
Mr Lawson	
Mrs Lyster	
Mr McArthur	
Mr Macey	
Mr Mier	
Mr Miles	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mr Storey	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr Ward	
Mr White	
Tellers:	
Mrs Coxsedge	
Mrs McLean	

Clause 12 was agreed to.

Clause 13

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

1. Clause 13, page 11, line 12, after "47D." insert "(1)".

The purpose of the amendment is to allow either House of Parliament to disallow regulations that are made under part of this proposed legislation.

The Liberal Party firmly believes that no regulation-making power should be absolute and that Parliament should have the opportunity of defeating a proposal which has been put through in a regulation. Given the concerns about certain aspects of this Bill, the Opposition will insist on regulation disallowance powers in every stage where a regulation-making power is mentioned.

The Hon. D. R. White—But you need speak on it only once.

The Hon. M. A. BIRRELL—Yes.

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

2. Clause 13, page 11, line 17, after this line insert—

"(2) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act* 1962.

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 14 to 20.

Clause 21

The Hon. D. R. WHITE (Minister for Health)—I should like to move an amendment that has not been listed at this stage. I move:

Clause 21, page 19, line 12, after "it" insert "of him or her".

The reason for the amendment is that the government believes the insertion of those words will clarify the provision.

The Hon. M. A. BIRRELL (East Yarra Province)—The amendment appears to meet the concerns raised by the Australian Medical Association about the interpretation of this provision. The Opposition therefore supports it.

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

3. Clause 21, page 28, line 32, after this line insert—

"(3) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act* 1962.

(4) Disallowance of a regulation under sub-section (3) must be taken to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 22 to 25.

Clause 26

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

4. Clause 26, page 31, line 15, after "213." insert "(1)".

5. Clause 26, page 31, line 40 after this line insert—

"(2) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act* 1962.

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purpose of the *Subordinate Legislation Act* 1962.".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 27 to 30.

Clause 31

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

1. Clause 31, line 16, after "31." insert "(1)".

2. Clause 31, after line 20 insert—

'(2) In section 376 of the Principal Act, after "376." insert "(1)".

(3) At the end of section 376 of the Principal Act insert—

"(2) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act* 1962.

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.".'

The amendments were agreed to, and the clause, as amended, was adopted.

Clause 32

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

6. Clause 32, page 33, line 37, after this line insert—

"(2D) Regulations made under sub-section (2C) may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act* 1962.

(2E) Disallowance of a regulation under sub-section (2D) must be taken to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.".

The amendment was agreed to, and the clause, as amended, was adopted, as were the remaining clauses.

The Bill was reported to the House with amendments, and the amendments were adopted.

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a third time.

In so doing, I thank the Liberal and National parties for their support for the substantive measures in the Bill, and I thank Mr Alan Rassaby and others in the team for their work in producing this major piece of legislation over a significant period.

The motion was agreed to, and the Bill was read a third time.

STATE BANK BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

LEGAL PROFESSION PRACTICE (INCORPORATION) BILL

The debate (adjourned from April 19) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Bill is important to the solicitors of the State. It it designed to give legal practitioners the opportunity of incorporating their practices. Many professionals have that opportunity these days, because of restrictions in the Legal Profession Practice Act, it is not possible for the legal profession to incorporate.

As stated in the second-reading speech, the Law Institute of Victoria has over many years urged successive governments to amend the Act to allow solicitors' companies to provide legal services. At one stage the Law Institute asked the former Attorney-General, Mr Haddon Storey, to legislate along these lines, and Mr Storey prepared a Bill. Unfortunately, at that stage the Law Institute elected not to proceed because of difficulties it foresaw with the operation of the Trade Practices Act of the Commonwealth Parliament. However, the profession now joins most other professions in saying that it wants the advantages of incoporation.

Parliament has had to examine whether those advantages can be given to the legal profession without concurrent disadvantages to members of the public who are dealing

with lawyers. The Legal Profession Practice Act dictates who can provide legal services, and currently they may be provided only by a sole practitioner or partnership, which is a group of individuals working together for the purposes of profit.

The problem is that, particularly in larger firms where the personnel in the partnerships are constantly changing, all sorts of difficulties are created. A corporation, on the other hand, has perpetual succession and its own legal identity and it goes on regardless of the change of the personnel of the shareholders.

In addition, when there are changes in the membership of the company it is a relatively simple matter to transfer shares, whereas, if a partner retires or dies, it is a complex matter to accommodate those changes, which mean additonal tax returns to the date of death, or, in the case of a retiring partner, the date that the partner leaves the firm. There are also problems with the partnership raising funds because it is necessary to deal with each individual, and in a large firm in Melbourne where there could be 30 or 40 partners, potentially all the partners have to enter into loan agreements with banks and so on. In this case incoporation has the advantage of being a separate entity, having perpetual succession, going on forever, and it is relatively simple to deal with the changes in the shareholders.

The Bill sets a number of preconditions before a legal practice can be incorporated. Firstly the memorandum and articles of association of the company must be approved by the Law Institute. The Bill makes reference to the nature of the memorandum and articles. Secondly, the company must carry on only the professions of the legal practice. For example, it cannot be selling cars at the same time. Thirdly, the company must hold a practising certificate. Fourthly, and importantly, the company must be incorporated as an unlimited liability company. In other words, whereas many people in business form a company to obtain the benefit of limited liability, in this case Parliament is saying that a solicitor who incorporates his practice cannot hide behind limited liability to escape responsibility for his clients.

There is a concept of unlimited liablilty. It means that if the liabilities of a company exceed both the assets and the unpaided liabilities in shares of the company there is the ability to have recourse to the shareholders.

The fifth requirement is that each director of a company must hold a current practising certificate. As honourable members would be aware, each company has to have at least two directors, and there is a requirement that each director must have a current practising certificate. Approximately 1200 sole practitioners are registered in Victoria, and consequently an arrangement had to be reached whereby a second director could be appointed in addition to the sole practitioner. It has been arranged in that way so that a spouse or a child or some other person approved by the Law Institute of Victoria may be the second director. The sole practitioners are not precluded from entering the scheme.

The sixth condition of incorporation is that all company directors holding certificates of the company may be liable for all acts and defaults of the company as if the directors were solicitors in partnership. They cannot use the company to evade their liability under other requirements. That is very important for the protection of the public.

The seventh condition is that all shares in the company must at all times be registered in the name of a person holding a current practising certificate. Restrictions are placed on who can make a transfer of shares. The final major condition is that when the practising certificate of a shareholder is cancelled or suspended the shareholder must transfer his or her shares to the other shareholders in the company.

With those conditions, Parliament is seeking to ensure that the public continues to be protected. Those concerns are covered by the various conditions. Having assured itself on those points, and knowing that the legal profession is looking for the Bill, I indicate that the Liberal Party supports the Bill, but I must declare my interest as a solicitor who is not

in partnership but who could be in a legal company at some stage. I have a potential interest in the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—I am surprised that a Bill of this nature has not come before the House earlier because it seems to be a commonsense move. I note the remarks made by Mr Chamberlain. When Mr Storey was Attorney-General he prepared a Bill, because of objections by the Law Institute of Victoria he decided for various reasons not to proceed with it.

It is surprising that it has taken so long for what is a fairly common practice in virtually every other industry and profession to be introduced into the law profession. It seems that firms are entitled to the facility and simplification that the corporate structure provides.

I note that the formation and subsequent dissolution of partnerships is a very complicated, time-consuming and costly business. I do not know whether solicitors find it difficult to get on with each other but if one peruses the changes that are notified in the journal of the Law Institute of Victoria from time to time one sees that many partnerships are being dissolved, and not always due to retirements because of age. It seems to be a case of shifting sands!

I am aware from my own experience, although not as a solicitor but from helping clients of firms, that partnerships that have been dissolved or radically altered by the departure of former partners can cause complications. I regard the incorporation procedure as being a step forward.

However, as Mr Chamberlain has outlined, there are some significant differences to what would normally apply in incorporation. I think appropriate safeguards need to be used in this profession, and without doubt, the most important is that the body created will be of an unlimited liability nature so people need not fear that if there is negligence on the part of a solicitor he will be able to hide behind the limited liability structure that may apply in the normal corporate sense, and the client could thereby be denied due recompense. I am pleased that that provision is included in the Bill.

Other safeguards including the necessity for all shares to be held by a person who has a practising certificate are commendable. Safeguards are provided to ensure that the practitoners have absolute control of the incorporated body, and I therefore do not see any danger of outside interests being able to make policy decisions.

The National Party regards the Bill as a welcome initiative. It will particularly assist country legal firms, many of which have one practitioner or two partners, and I am sure they will benefit from the Bill.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. C. J. HOGG (Minister for Education)—Firstly, I thank members of the Opposition for their contributions. I move:

Clause 2, line 6, after "day" insert "or days".

The amendment was agreed to, and the clause, as amended, was adopted, as were the remaining clauses.

The Bill was reported to the House with an amendment, and passed through its remaining stages.

FLORA AND FAUNA GUARANTEE BILL

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

That this Bill be now read a second time.

THE PURPOSE OF THE LEGISLATION

This Bill provides for the enactment of a landmark piece of conservation legislation—for a flora and fauna guarantee. Two lifetimes are all it has taken to change the face of Victoria. In that short interlude a land of forests and woodlands, wetlands, heaths and grasslands, teeming with wildlife, has been transformed. What seemed to be a boundless expanse was opened up to yield its riches. But we did not always treat the land well. We have discovered that there are limits to how hard it can be pressed, and the signs of stress are now clearly evident: through the erosion of soils, the spread of salinity and pest plants and animals, and through the steady decline of our wild animals and our native vegetation.

However, a quiet change is spreading across Victoria. On farms and in the forests, in rural towns and in the metropolis, more and more people are joining in the task of restoring the land. Where once farmers were clearers of trees, now they are planters. Where once nature was seen as the enemy, we are now working together to restore wetlands, to re-establish habitats for native species.

This change of heart has come none too soon, however, because our native species are in peril. In fact, they face the greatest threat to their survival that has occurred in the whole history of evolution. Our records show that at least 20 species of mammals, 2 species of birds, and 35 species of vascular plants have vanished from Victoria in the space of 150 years. Furthermore, at least 700 native species are threatened right now. This means that about one in five of all the native verterbrate animals and vascular plants still living in Victoria is facing the prospect of extinction. This is not a situation that any section of the community believes should be allowed to continue.

In recognition of this, the government has prepared legislation for a native flora and fauna guarantee. This Bill will provide the basic legal powers, and the modern, efficient and effective management systems which are needed for the protection of the State's native species. It provides a framework for public participation, and for updating the provisions of the Wild Flowers and Native Plants Protection Act 1958 and for their consolidation into the new legislative structure.

The conservation of our native species is something that must involve a cooperative effort by both the government and the community. The task is simply too great to be shouldered by either alone. The mandate, the need for the Bill, the exhaustive consultation process involved in the development of the Bill, the objectives of the Bill and the benefits of having it have all been covered extensively in the second-reading speech in another place.

CONTENTS OF THE BILL

The Bill establishes clear objectives, including the aim to guarantee that all Victoria's taxa of native flora and fauna, other than those expressly excluded, can survive, flourish and maintain their potential for evolutionary development in the wild. A taxon is a taxonomic group such as a species.

The Bill will formally establish a Scientific Advisory Committee. The committee's primary task is to advise the Minister on the purely technical question of whether a species or a community of flora and fauna is threatened and whether a particular process is really a threat. A secondary task is to provide management advice to the Minister and director-general, which would be considered along with advice from many other sources. A formal process, involving public participation, is set out for determining the listing or delisting of taxa, communities and potentially threatening processes. There is also a requirement that, as soon as possible after a listing, an action statement be prepared.

Provision is made for the preparation of a flora and fauna guarantee strategy that would give an overview of the whole program, including resources available, the program for implementing the Bill's objectives and the means of minimising the social and economic impact of that program. The Bill establishes a procedure for preparing flora and fauna management plans, involving public consultation. The director-general is also empowered to determine the critical habitats of taxa and communities.

The key new power which would be established is that of the interim conservation oreder—an ICO. It is designed to give immediate and comprehensive protection so that there is a breathing space during which a program for long-term protection can be worked out for a particular critical habitat. These orders will be used only as a last resort where there is no other viable alternative available to protect the taxon or community. The Minister will make the last resort decision after consultation with the chairpersons of the Land Protection Council and the Conservation Advisory Committee. An interim conservation order could be applied at short notice, if necessary without prior notification. However, during the first 90 days of its operation there is an obligation on the director-general to consult with those affected by the order and other interested parties with the intention of fine tuning the order so that it is not unnecessarily restrictive and can so far as possible, meet the needs of all interested parties. If necessary, the order may be extended for up to an additional two years in the case of listed items. Where a compelling case exists, the order could be applied for a short time to taxa or communities which are undergoing assessment for listing. Where an ICO is being used to protect a nominated item, the determination of the listing must be completed within 90 days.

Interim conservation orders may override existing use rights where the exercise of those rights would jeopardise a listed taxon or community. Compensation, however, would have to be paid. Long-term protection of habitat at the end of the operation of the order would be provided, so far as possible, through voluntary agreements with the land manager or other relevant parties. Where such cooperative arrangements were not possible, statutory protection could be applied under the provisions of other relevant Acts, in particular the Planning and Environment Act 1987.

The powers to protect flora from taking, trading, keeping, moving or processing are broadened from those provided in the Wild Flowers and Native Plants Protection Act 1958. However, the very wide exemptions of private landholders, and those with the landholder's permission, from controls over taking where protected flora is not offered for the purposes of sale have been carried over. The handling of protected animals would continue under the Wildlife Act 1975.

The Bill provides that:

(A) possession of protected flora is evidence, and in the absence of evidence to the contrary, is proof of possession of protected flora in contravention of the legislation;

(B) a certificate of an authorised officer is evidence, and in the absence of evidence to the contrary, proof that a plant is a protected plant of the kind stated in the certificate; and

(C) in proceedings under this Act, a certificate of the director-general indicating whether an interim conservation order was in force in respect of a particular area of land is evidence, and in the absence of evidence to the contrary, is proof of the facts stated in the certificate.

RESPONSE TO CONCERNS

The government decided several years ago that the Bill would not provide for general vegetation clearance controls. To reinforce this decision, the interim conservation order is, on private land, limited to the protection of the critical habitat of threatened species or other taxa, and cannot be applied for the protection of the critical habitat of threatened communities. The order is also subject to rigorous consultation requirements, to appeals against its terms and conditions, to compensation for non-speculative losses and costs

arising from the application of the order and to appeals against the determination of compensation.

Landholder rights in relation to the interim conservation order are exactly the same for owners of land as they are for lease or licence holders. These rights cover consultation, appeals on the terms and application of orders, compensation, and appeals on compensation.

It should be noted that clause 43 (10) in this second Flora and Fauna Guarantee Bill provides for appeals against the determination of compensation to be taken to the Land Valuation Board of Review by way of a cross reference to the Land Acquisition and Compensation Act 1986.

The Bill establishes that the Conservation Advisory Committee and the Land Protection Council have the right to advise the Minister on any matters arising from the administration of the Bill. This includes giving advice on the criteria for listing, the Scientific Advisory Committee's recommendations, the preparation of management plans and the making and application of interim conservation orders. Where these committees provide comment to the Minister on the listing recommendations of the Scientific Advisory Committee, the advice must be made available to the public.

In addition, the Conservation Advisory Committee and the Land Protection Council and its associated Land Protection Regional Advisory Committees may advise the director-general on any matters arising under the proposed guarantee legislation for which the director-general has responsibility. This includes giving advice on interim conservation orders and management plans.

Other bodies such as the Victorian Farmers Federation, the Timber Industry Council, the Victorian Sawmillers Association, the Victorian Chamber of Mines, the Conservation Council of Victoria, the Victorian National Parks Association, field naturalists' clubs and farm tree groups will be consulted from time to time as is appropriate to the issue under consideration.

When making a draft flora and fauna management plan the director-general must consult with any landholders whose interests, in the director-general's opinion, may be directly and materially affected by such a management plan. A notice must also be given to affected landholders when a draft management plan has been completed.

Land management cooperative agreements and codes of practice made under the Conservation Forests and Lands Act 1987 would be able to be used for the purposes of the proposed flora and fauna guarantee legislation.

Where the proposed legislation calls for notices to be published in a newspaper and it is specified that the newspaper should be one circulating in the area relevant to the notice, it is the government's intention to use very localised newspapers in most circumstances. Local newspapers seem to have a higher readership rate per area covered than regional papers.

Listing of taxa and communities does not determine specific areas of land or elements of waters which are to be the subject of conservation concern. This must be done separately. The listing process under the proposed legislation is therefore not comparable with National Estate listing under Federal law.

No regulatory controls of any sort nor any requirements to take regulatory action arise from the action of listing a potentially threatening process under this Act.

There is a provision for a critical habitat to be kept confidential so that a landholder's or other manager's property is not subject to unwelcome or damaging visitor pressure. Also there is nothing, in any way, in the Bill which gives or extends rights of private citizens to enter a person's property.

The controls contained in the Bill are designed to be flexible and targeted so that the maximum conservation effect can be achieved with the minimum level of impact on landholder and other interests.

The Bill provides for the issue of permits for the control of protected plants, including those which are members of listed taxa or communities. Such permits can be issued only if the controlling action does not threaten the conservation status of these plants as a taxon and does not threaten the conservation status of the community of which they are a member.

Propagation of rare and threatened plants will generally be encouraged. Consequently, it is expected that for most plant species, a licence will not be required to authorise the keeping, trading in, moving or processing of propagated plants.

CONCLUSION

There is no doubt that this measure represents a marked improvement on what has gone before. If the 700 or so native species that are currently facing the prospect of extinction in Victoria are not to suffer the same fate as the 57 species which have already been lost, it is essential that the Bill is passed with its full complement of provisions.

I commend the Bill to the House.

On the motion of the Hon. M. T. TEHAN (Central Highlands Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL

For the **Hon. E. H. WALKER** (Minister for Agriculture and Rural Affairs), the Hon. J. H. Kennan (Minister for Transport)—I move:

That this Bill be now read a second time.

BACKGROUND

The Bill makes a number of significant improvements to the State's criminal injury compensation scheme. The Bill reflects the government's commitment, in line with its social justice policy, to ensuring that appropriate support and assistance should be available to the innocent victims of crime and violence. The changes proposed in the Bill are based primarily on recommendations made by the Parliamentary Legal and Constitutional Committee in its major report on support services for victims of crimes, tabled last November. The Bill also contains amendments based on recommendations of the Crimes Compensation Tribunal drawn from its experience.

The Bill contains the second major increase in the level of tribunal awards made by the government since it took office in 1982. In 1982 the maximum amount recoverable by a victim of crime in this State was about $10 000. Following a major review of the Act undertaken by a working party headed by Alan McDonald, QC, the maximum level of compensation was doubled to about $21 000 and the pecuniary loss element of compensation was indexed. The effect of indexation of the pecuniary loss element has been to raise the maximum amount payable to about $27 500. The government now proposes that the maximum level of payment be increased to $50 000. Regulations will soon be made to that effect. This very substantial increase in the maximum level of payments—from about $10 000 to $50 000, a 400 per cent increase in the space of five years—is a practical illustration of this government's commitment to ensuring adequate compensation for victims of crime.

As honourable members will appreciate, the criminal injuries compensation scheme is funded entirely from the consolidated revenue. In the financial year 1986–87, the Crimes Compensation Tribunal made 2695 awards totalling $6·8 million.

CURRENT SCHEME

As the scheme now stands, compensation is available to victims of crime and, in cases in which the victim has died, to his or her dependants, for pain and suffering—maximum level $7500; expenses, such as medical, dental, and funeral costs resulting from the crime—maximum level $3000; and pecuniary loss through incapacity for work—maximum level indexed $17 000.

LEGAL AND CONSTITUTIONAL COMMITTEE REPORT

In November 1987, the Parliamentary Legal and Constitutional Committee reported on support services for victims of crime. Chapter 2 of the report is devoted to crimes compensation.

The committee's proposals largely reflect those made by a New South Wales task force which reviewed criminal injuries compensation in New South Wales in 1986. That task force found that Victoria had the best scheme in Australia, and recommended that, with some modifications, it be used as the model for new legislation in New South Wales.

The Legal and Constitutional Committee's main recommendations relate to the determination levels of compensation for criminal injury. In particular the committee found that current limits on compensation payments are too low. The key elements of the Bill substantially adopt the unanimous recommendations of the committee.

As honourable members will be well aware, the constraints on government spending are as tight as they have ever been. At the same time many worthy programs compete for those scarce resources. The government's social justice strategy accords a high priority, in the allocation of those resources, to protecting and enhancing the opportunities for and the quality of life of those most needing it. Consistent with that strategy and with the recommendations of the committee the government has agreed to raise substantially the available levels of compensation. The increases in each category of compensation will be as follows:

1. Compensation for pain and suffering

The maximum award payable for pain and suffering will be increased by 167 per cent, from $7500 to $20 000. This generous increase will significantly benefit most victims, since payouts for pain and suffering represent over 90 per cent of total compensation awarded by the tribunal.

2. Expenses

The Act currently contains three limits on the payment of expenses incurred as a result of the crime: only expenses incurred in the first year after the crime are able to be compensated; an award can be made for only 80 per cent of those expenses; and a limit of $3000 applies.

It should be noted that payments are made only for expenses actually and reasonably incurred and which arise from the crime.

The Legal and Constitutional Committee felt that the current limits were unduly restrictive. It called for the removal of the monetary limit and of the 80 per cent rule and it proposed that the one-year limit on expenses be extended to two years.

The current limits do cause hardship in some cases: for example a rape victim may need more than one year of costly psychological counselling. The government has accepted the committee's criticism. In fact the government has decided to go further than the committee's recommendation and not restrict the payment of expenses to a two-year limitation, but to provide compensation for all expenses, subject to approval by the tribunal and to the overall limit on awards of $50 000.

3. Pecuniary loss

At present, maximum awards for pecuniary loss are set by reference to benefits available under the Workers Compensation Act 1958. Thus, the maximum benefit available to a person with dependants, who is totally incapacitated, is $326 per week for twelve months. Benefit levels are to be raised to accord with WorkCare payments. The current maximum is $457 per week.

Compensation for pecuniary loss will normally be payable for a maximum period of one year, but the present law which restricts claims under this heading to a maximum of one year is modified. In future an applicant may at the end of one year seek an extension of the order to cover a second year's pecuniary loss.

Only a very small number of victims require compensation for more than one year, but the government recognises that extension of the present time limit will greatly benefit those victims who have suffered very serious injury and who are not adequately compensated by other schemes.

These changes will be made by the Bill and by regulations to complement it.

MONITORING OF SYSTEM

The new system of criminal injuries compensation will be reviewed after two years of operation. The purpose of the review will be to ensure that equitable compensation is paid to genuine victims of crime. In order to assist the review process, the government will monitor the value and nature of compensation payments.

OTHER AMENDMENTS

The Bill also effects other worthy changes to the Act that have been proposed either by the committee or the tribunal itself:

1. REMOVAL OF DISCRIMINATION AGAINST VICTIMS OF FAMILY VIOLENCE

Section 20 (2) (D) of the Act discriminates against victims of domestic violence by prohibiting recovery unless the criminal act was reported to the police. In many instances, victims have a good reason for being unwilling to report an assault to police, often preferring to seek assistance from health professionals and counsellors.

A similar provision in Australian Capital Territory Law was criticised by the Australian Law Reform Commission which noted:

> If it is necessary to guard against fraudulent or collusive claims on the compensation fund, then this should be provided in a general provision, rather than in a provision which singles out victims of domestic violence. Fraud and collusion can after all occur in other contexts.

In line with this philosophy and consistently with other government measures against family violence, the Bill repeals section 20 (2) (D) and inserts a general provision preventing awards in cases of fraud or collusion between the victim and the offender.

2. MAINTENANCE AWARDS IN SEXUAL OFFENCES CASES

The Bill empowers the tribunal to award maintenance in the very rare case in which a child is born as a result of a rape or incest offence.

3. PROCEDURAL REFORMS

In future, awards will be payable by way of periodic instalments in appropriate cases. Further, the tribunal will be empowered to hold directions hearings to resolve issues at an early stage. The title of the Secretary to the Tribunal will be changed to the registrar. The tribunal will have power to delegate to the registrar administrative and quasi-judicial functions. These changes will streamline the operations of the tribunal and reflect the procedural flexibility given to other administrative tribunals.

SUPPORT SERVICES FOR VICTIMS OF CRIME

I should add that, in consultation with interested organisations, the government is currently examining the other recommendations made by the committee in relation to support services for victims of crime. It will respond to them formally in the near future.

CONCLUSION

It goes without saying that nothing can adequately compensate some vicitms for the physical, emotional and psychological trauma they suffer as a result of crime. Nonetheless, the government accepts fully its responsibility to assist victims who have been severely injured to re-establish themselves in the community. The Bill will provide a more humane and generous regime of compensation to this worthy end.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. B. A. CHAMBERLAIN (Western Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

FIREARMS (AMENDMENT) BILL (No. 2)

The Order of the Day for the committal of this Bill was read.

The Hon. W. R. BAXTER (North Eastern Province)—On behalf of Mr Hallam, I move:

That it be an instruction to the Committee that they have power to consider a new clause to provide that where either House of Parliament has disallowed a regulation under section 49 (1A) of the *Firearms Act* 1958, no regulation, being the same in substance as the regulation so disallowed, shall be made within six months after the date of disallowance unless the resolution to disallow has been rescinded by the House of Parliament by which it was passed, and for regulations made in contravention to be void and for a further new clause to make provision as to the membership of the Firearms Consultative Committee.

The motion was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

That it be an instruction to the Committee that they have power to consider a new clause to effect the amendment of the *Crimes (Family Violence) Act* 1987 to enable police to search for and seize firearms after complaint for an intervention order and to provide for their subsequent disposal.

The motion was agreed to.

The Bill was committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—In the time that this Chamber, the Lower House and the community have spent debating the Bill I believe the context of the introduction of the Bill has been forgotten. I remind honourable members that the context of the Bill was the tragedies of Hoddle Street and Queen Street.

I do not need to remind honourable members who would have read the newspapers of a few days ago that an M14 rifle was used in the Hoddle Street killings. Tonight the Committee is discussing the prohibiting of that type of gun as well as other guns.

I remind honourable members that this debate is not yet over in the community and, when the Bill is passed—if it is passed—the debate will continue, because 51 per cent of the community are women, who together with a large proportion of men who are not gun owners are extremely concerned that the issue of violence involving the use of guns has not yet been tackled.

The government's position is clear; it has not shifted from the underlying principle that the fewer guns there are in the community, the fewer chances there will be of violence occurring.

The underlying purpose of the Bill remains clear. There has also been a fair amount of discussion in the media about the government's backdown on the Bill. There has been no greater backdown on the Bill than the backdown of the Liberal Opposition. On December 17 last year the Leader of the Opposition in the other place said:

> The Parliamentary Liberal Party recognises that one of the major ingredients in reducing violence is the legislative authority of the Parliament to reduce the number of guns in our society. The Liberal Party believes metropolitan Melbourne should become a no-shooting zone.

At another time—indeed, four days earlier—he said that he had the firm view that the government had done the right thing in banning all semiautomatic rifles. That view of the Liberal Party is dramatically different from the views contained in their proposed amendments.

The proposed amendments of the Liberal Opposition do not reflect what the government believed was an agreement it had with the Liberal Opposition—they reflect some of that agreement, but not all of it.

The government believed it was agreed that all sales of firearms would be through licensed gun dealers to better control the lawful possession of firearms. It believed there would be a prohibition on the advertising of private gun sales; a total prohibition on the use and ownership of military-style semiautomatic rifles, requiring their surrender, and therefore leading to a reduction in the number of guns; and the removal of the automatic entitlement to obtain a permit to purchase currently enjoyed by farmers and members of gun clubs. All applicants for a permit to purchase would need to demonstrate a good reason to own additional firearms, which would lead to a reduction in the proliferation of firearms.

The government believed there would be tighter controls on the renewal of licences, to ensure that good reasons still exist for the ownership of firearms; the introduction of a requirement for all security guards to undergo a practical pistol safety course before obtaining a pistol licence and carrying a pistol in public; the introduction of a requirement that firearms and ammunition must be separately and securely stored when not in use; and a substantial increase in penalties for the misuse of firearms.

Apparent agreement on such matters represented an improvement of the existing Firearms Act. Some of those provisions, such as the introduction of a requirement that firearms and ammunitions must be separately and securely stored when not in use, are still contained in the Bill and are supported by both the government and the Liberal Party.

I am distressed to find that the proposed amendments that deal with the total prohibition on the use and ownership of military-style semiautomatic weapons, the removal of an automatic entitlement to obtain a permit to purchase, and tighter controls on the renewal of shooters' licences, represent a shift away from what the government believed was agreed to.

The government will still proceed with what it sees as its contribution to the agreed position on the Bill. The government will move to omit the requirement for applicants for shooters' licences who are sporting shooters to be members of an approved sporting shooters' club. That has resulted from the refusal by shooting clubs to cooperate with the government to take greater responsibility for their sport. The criterion for the issue of a licence will remain as a good reason to possess a firearm.

The government will also move to amend the firearms regulations to remove the prohibition on rim-fire semiautomatic rifles. All centre-fire semiautomatic rifles will continue to be prohibited weapons but the Registrar of Firearms will issue authorities for the possession and use of such rifles by persons who have a genuine need to use them.

Such authorities will be issued only in respect of centre-fire semiautomatic rifles having a magazine capacity of less than eight cartridges. Genuine deer hunters will be authorised to possess and use such rifles for that purpose, and authorities will be issued to any other individuals or classes of persons who can demonstrate a genuine need to use semiautomatic rifles.

All individual applicants for an authority will be required to provide a statutory declaration as to their bona fides. The government will provide an amnesty period of three months, which will apply from the date of the proclamation of the Act, during which time the owners of semiautomatic rifles will be required to apply either to the registrar or another authority to both possess and use that rifle, or surrender that rifle to the registrar.

I understand the Liberal Opposition will amend the Bill to provide that compensation will be paid for the surrender of prohibited weapons that were lawfully owned and registered before such weapons became prohibited. The amount of compensation will be assessed having regard to the market value of the weapon immediately before it became prohibited, as well as to the condition of the weapon at the time it is surrendered. Under such an arrangement an applicant for compensation will have the option of obtaining a valuation from a licensed gun dealer or accepting the standard pre-determined market value of the firearm as assessed by the registrar in respect of each make and model of weapon.

Some concern has been expressed about the removal of the exemption from the licensing provisions of the Act currently enjoyed by members of rifle clubs. The transitional provisions in Clause 24 (2) of the Bill will provide for the issue of a licence to a rifle club member without the need to demonstrate a good reason to possess that firearm or to complete a firearms safety course. Further, by virtue of section 22AA (2AA) of the current Act, a rifle club member will not be required to undergo a cooling-off period before the issue of the licence.

Every effort has been made to make the transition from Commonwealth regulation to State law as smooth as possible. The government will be moving further amendments to the Bill as a result of the consultation it has had with the Liberal Opposition; and those proposed amendments will be outlined later in the debate.

The Hon. B. A. CHAMBERLAIN (Western Province)—I shall not be moving the first amendment circulated in my name because, as is obvious, the subsequent proposed amendment requires a subsection (2) in the provision.

I move:

2. Clause 2, line 9, omit "or days".

The proposed amendment is to ensure that the Opposition is not caught by the Bill in the same way it has been caught by other legislation, where the government selectively proclaims those provisions of the legislation that it likes and does not proclaim other provisions of the legislation that it does not like.

Such situations have occurred with the legislation dealing with in-vitro fertilisation, with the Local Government (No. 2) Bill in relation to local options, and in relation to the Prostitution Regulation Act. Because the government has shortchanged Parliament by such slick tricks, it has been necessary for both the Liberal and National parties to take this action.

The Hon. R. M. HALLAM (Western Province)—The National Party will support the amendment moved by Mr Chamberlain. It is identical to amendment No. 2 circulated in my name. I shall not reiterate the comments of Mr Chamberlain, except to say that the National Party supports his amendment for the reasons he has outlined.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

3. Clause 2, lines 10 and 11, omit sub-clause (2) and insert—

"(2) Section 7 comes into operation six months after the day on which section 1 comes into operation.".

The purpose of the amendment is to ensure that there is sufficient time for the firearms safety course provided for in clause 7 in relation to pistols to be set up.

I have been advised by officers of the Ministry that preparations for the course are well advanced; but it will still be some time before the course is available. The amendment provides for a moratorium of six months from the date on which the Act comes into operation, to enable the course to be fully operational.

The Hon. R. M. HALLAM (Western Province)—I support the amendment moved by Mr Chamberlain for the reasons he has outlined.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—Amendments Nos 1, 2 and 3 in my name go to the thrust of clause 2. I do not intend to put those amendments to the Committee. Amendment No. 2 would have sought to change the proclamation date and that is now unnecessary because of a previous amendment. Amendment No. 3 also had the purpose of delaying the proclamation of the clause. The National Party intends to encourage the government to adopt the concept of increased penalty for an indictable offence involving the use of a firearm in other provisions of the proposed legislation. That concept is captured by subsequent amendments that will be moved by Mr Chamberlain. It is on those grounds that I do not intend to proceed with amendment No. 3.

The clause, as amended, was agreed to, as was clause 3.

Clause 4

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to omit this clause. In conjunction with a later amendment, the omission of the clause will restore to the function of the Firearms Consultative Committee the approval of sporting shooters' clubs for the purposes of the Act.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition welcomes the amendment. When the Bill was first circulated the Opposition indicated that it would oppose compulsory membership of gun clubs. The Opposition, as a matter of principle, objects to any form of compulsory membership, whether it be of unions or other organisations. The government had proposed that all shooters who did not fall within certain occupational categories had to be members of gun clubs.

The second element of the provision was that it enabled the government to approve gun clubs. The Opposition feels that is totally undesirable and that the function should be left to the Firearms Consultative Committee, in which all parties have confidence. The effect of this and the later amendment is that the Firearms Consultative Committee should make a recommendation to the Governor in Council, who would grant approval. Recent statements of the Minister, although rather gentle, show that the government does not like people speaking out against it on these issues. The provision had all the elements of political censorship of gun clubs, because, it being a Governor in Council decision, approval could be withdrawn. If a sporting shooters club, approved under the provision, disagreed with the government, it faced the prospect of having its approval removed. There was potential for blackmail. The Opposition indicated earlier that it would oppose that concept. It is pleased that the government has seen the impracticality of its proposal. Victoria has approximately 20 000 to 30 000 gun club members and 300 000 shooters, and the proposal would not have worked.

I recall a statement that I issued within two or three days of the draft Bill being circulated that states that I would recommend to my party that it oppose that principle. The National

Party also opposed the provision and I am pleased that the government has taken that step.

The Hon. R. M. HALLAM (Western Province)—The National Party also registered the most strenuous opposition to the concept of forcing the vast majority of sporting shooters to join sporting shooters' clubs. The government's intention was to require club membership as a qualification for the issue and renewal of a shooter's licence. That was bad enough, and the National Party opposed that provision, but the government's intent was even more significant, because the provision meant that the government would approve individual clubs.

As Mr Chamberlain stated, that opened the door to blackmail. That concept was used against the Sporting Shooters Association of Australia (Vic.). The Minister told that organisation to watch itself or its approval would be withdrawn. It would have meant that members of clubs represented by that association would lose their entitlement, under the Bill, to own firearms. The problem with that was that they would not have qualified to own a firearm by joining another sporting shooters' club, because the provision required a qualification period of six months. This was a dangerous provision.

Clause 4 had the effect of downgrading the role of the Firearms Consultative Committee, and the National Party was concerned about that because the committee has worked successfully and its function should be protected. It is for those reasons that the National Party is delighted that the government has determined that clause 4 should be omitted.

The Hon. B. A. MURPHY (Gippsland Province)—I support the deletion of the clause. Many individual shooters, particularly in Gippsland, objected to belonging to sporting shooters' clubs, not only because of the cost of membership, but because it was to be made compulsory to join a club. Those shooters would be bound by rules of the club to which they did not necessarily agree.

There are some advantages for sporting shooters in belonging to a shooting club, because they could receive further education in the use of firearms and safety procedures, but those people who require that education would join a club anyway. I congratulate the government on the omission of the clause.

The clause was negatived.

Clause 5

The Hon. R. M. HALLAM (Western Province)—I do not intend to proceed with amendments Nos 5 to 11 in my name. The National Party will support the deletion of the clause.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to omit this clause. The government's decision to omit this clause has been most difficult. The clause goes to the heart of the issue that the community wants addressed. Proposed section 3A stated the objects of the Bill to be:

(*a*) to establish a presumption against private ownership of firearms; and

(*b*) to establish the principle that the ownership of firearms is not a right but a privilege to be conferred on persons who satisfy objective standards; and

(*c*) to change any remaining perception in the community that ownership of firearms is a matter of right; and

(*d*) to restrict the number and availability of firearms in Victoria; and

(*e*) to protect the public from injury or the threat of injury and prevent injury to property through the misuse of firearms; and

(*f*) to condemn the use of firearms in the community for the resolution of personal or interpersonal conflict.

It is with a heavy heart that the government proposes this amendment. It does so in order to attain an agreed position that will move the community forward in lessening violence in society.

The Hon. B. A. CHAMBERLAIN (Western Province)—I appreciate what the Minister says. The Opposition found the words and concepts used in the objects of the Bill to be overblown and deliberately provocative. Anyone examining the proposed legislation would find the intention of Parliament in the objects of the Bill. The Opposition's view was that the clause was unnecessarily provocative.

The Opposition would adopt a set of objects such as were put forward by my colleague in another place, the honourable member for Mornington. I am sure that honourable members would have gone along with the amendments to the government's proposal as proposed by Mr Cooper, the honourable member for Mornington in the other place, which were as follows:

(*a*) to protect the public from the criminal or irresponsible misuse of firearms; and

(*b*) to condemn the misuse of firearms in the community for acts of violence, crime and vandalism; and

(*c*) to foster education in the safe use and handling of firearms; and

(*d*) to restrict the number and availability of firearms in Victoria to licensed shooters for lawful purposes.

The proposals are in the same spirit as what the Minister is saying, but the result would have been reached in a different way. Going to the terms of "rights" and "privileges" is unhelpful.

There is a universal condemnation of the use of firearms in domestic violence and other situations. The Opposition will be proposing significant amendments in that area because one of the things that must be pointed out is that, although the Premier said much about the concern of firearms being used in a domestic violence dispute, there was absolutely nothing in the Bill which addressed itself to the matter.

The proposals the Oppostion will put up will be supported by my colleague Mr Hallam. They will give the Police Force a power it does not currently have; when called to a domestic violence dispute, a police officer will now be able to immediately remove any firearms.

Those concrete approaches will be the great strength of the Bill as it passes through Parliament. I am pleased that the government is withdrawing the objects of the Bill as originally outlined in clause 5.

The Hon. R. M. HALLAM (Western Province)—I agree with the Minister for Conservation, Forests and Lands when she said that clause 5 went to the heart of the matter being debated. It caused nothing short of a furore in the community. The government sought to move against firearms ownership by declaring that it was no longer a right. While the National Party condemns the misuse of firearms, the ownership of a firearm is a right of law-abiding and responsible citizens of this State.

The amendments I shall propose seek to capture precisely the views put by Mr Chamberlain. The National Party has no qualms about condemning the misuse of firearms in acts of violence or crime. That should stand on the record. The National Party seeks to ensure that as far as possible only responsible and law-abiding citizens will have access to firearms in this State.

The National Party was totally opposed to the government's original objects as set out in clause 5 of the Bill and would have sought to dramatically amend those parts which were the subject of opposition. It is delighted that the government has decided to withdraw clause 5. I agree with Mr Chamberlain that it was only rhetoric and yet it was the issue which caused much heartache throughout the community.

The Hon. N. B. REID (Bendigo Province)—While I concur with the government's decision to omit clause 5, I make some comments on proposed new section 3A (*e*):

to protect the public from injury or the threat of injury and prevent injury to property through the misuse of firearms.

Certainly no-one on this side of the Committee would disagree with the objective that that provision seems to impose on the community, but we object to the manner in which it will be imposed. Over the past five years, since 1983, members of the Liberal Party have tried to stress that the way to achieve the objective contained in proposed new section 3A (*e*) is to educate the community and train it in the safe use and handling of firearms. If the government had pursued that course from 1983 instead of waiting until now to institute a proper education and training course in the safe use and handling of firearms, the position in Victoria may have been of a sounder nature.

The Hon. B. T. PULLEN (Melbourne Province)—I support the comments made by the Minister for Conservation, Forests and Lands, that the government has accepted the deletion of clause 5 to have the proposed legislation passed by Parliament. That is quite clear to every honourable member who has followed the debate and the negotiations that have been part of it.

Mr Chamberlain and Mr Hallam have put on record their opposition to the concepts encompassed in the objects of the proposed legislation. It is important that they have done so because it reflects one of the principal differences in philosophy between the government and the Opposition in this debate. The community should realise that clause 5 has been withdrawn by the government under duress to facilitate some legislation being passed by Parliament. The original objects are still welcomed by large sections of the community. The opposition parties have indicated that they do not stand for the original objects of the Bill; they stand against them.

The Hon. B. A. MURPHY (Gippsland Province)—I agree with proposed section 3A (*b*), (*c*), (*d*), (*e*) and (*f*), but (*a*) would have confused a number of people. The government is seeking to include as an object of the proposed legislation:

> to establish a presumption against private ownership of firearms;

I think the government was saying that, if one belonged to a sporting shooters' club, the ownership was no longer private; but I am still not sure what the government intended. People in the community could not be persuaded that they should not be allowed to be in possession of a privately owned firearm. The government lost the other subsections because the first subsection was not clear and was not agreed to by firearms owners.

The clause was negatived.

Clause 6

The Hon. R. M. HALLAM (Western Province)—Clause 6 relates to the procedures applying to a gun dealer arranging a person-to-person firearms sale. The National Party opposes this concept on the grounds that it is unnecessarily complicated and involves additional costs. The Firearms Act and this Bill go to great lengths to recite the offences relating to illegal sales of firearms, that is sales other than to a licensed shooter. There is an additional protection of a permit to purchase as provided in the Bill.

Members of the National Party have thought the situation through very carefully. We are prepared to concede that the amendment proposed by the Liberal Party, which superimposes a second channel in that a sale can be witnessed and effected by a police officer, is a reasonable compromise. On those grounds, we have decided not to proceed with amendment No. 12 standing in my name.

The clause was agreed to.

Clause 7

The Hon. R. M. HALLAM (Western Province)—One of the effects of clause 7 will be to introduce a course on firearms safety approved by the Firearms Consultative Committee. It relates to licences issued in respect of the ownership of hand guns. The National Party

has some real problems in practical terms with this provision because it it refers to an annual licence.

If there is any delay in the introduction of the safety course that is outlined in this clause, the licences of many people, particularly those in the security industry, will be placed at risk. I do not intend to move an amendment because I do not believe we can get around that problem. The National Party is not prepared to argue that the course should not be provided but wants the Minister to know that a substantial number of people who will need to qualify under the proposed legislation will be put at risk if the course is not introduced shortly.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I commend Mr Hallam's concern. It is a concern the government acknowledges and all haste has been taken to ensure that the course is ready on time.

The clause was agreed to.

Clause 8

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

3. Clause 8, lines 26 to 42 and page 4, lines 1 to 5, omit sub-clause (1).

The effect of the amendment is to omit subclause (1), which means that one of the criteria retained for the issuing of shooters' licences is the requirement that an applicant have good reason to possess a firearm. Clause 8 (1) attempts to define what constitutes good reason for limiting the issue of shooters' licences to people who have a genuine need for firearms in their jobs, to primary producers and to genuine sporting shooters. The last category were to be members of approved shooting clubs, as evidence of their bona fides. Unfortunately the sporting shooters' clubs are not prepared to cooperate with the government in this initiative to restrict the ownership of firearms to those who have a genuine need for them nor to take a greater responsibility for their sport. Therefore, the government intends to remove that requirement from the Bill.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Minister's comment that sporting shooters' clubs are not prepared to cooperate with the government should be placed in perspective. Those organisations are run by volunteers who show their interest in the sport by going out each week and arranging ranges and targets. Many of them have done considerable work because of their long-term interest in the sport. Many are concerned about the proposal that they take on increased responsibility because of the possible implications for personal liability.

Firstly, if they were given the job of vetting applicants and were required to give certificates indicating that a person is the right sort of person to own a firearm, and John Smith who had been given such a certificate went off the planet and shot someone, they would be concerned about their position in this litigious age. The beneficiaries or family of that person could take action against the hard-working club secretary, who would be putting his personal assets at risk.

Secondly, practical problems arose from the fact that there are approximately 20 000 or 30 000 members of sporting shooters' clubs at present, but, under the government's original proposals, another 300 000 shooters would somehow or other be transformed into club members. It was an impractical proposal. The clubs did not have the resources to cope with the anticipated increased membership. The government had not thought it through. For the Minister now to blame shooting clubs, claiming they did not cooperate, is to blame the clubs for the government's incompetence on this issue. I do not believe the remarks of the Minister that the clubs refused to cooperate with the government on this issue can be allowed glibly to slide by.

The Hon. R. M. HALLAM (Western Province)—Mr Chamberlain has almost taken the words from my mouth because I also thought the comments of the Minister for Conservation, Forests and Lands were unfair. The National Party was delighted to note

that clause 8 (1) was to be deleted from the Bill because it sought to restrict eligibility in relation to the issuing of or renewal of licences to categories of people who were primary producers, those who had been members of approved clubs for six months, or those with an occupational need for firearms. The National Party strongly opposed that concept from the first time it was announced.

The National Party claimed the proposal was unjust and unwarranted. It does not agree with the concept of compulsory club membership for precisely the reasons Mr Chamberlain outlined. It would have made clubs primarily responsible for vetting members, and this would have involved 300 000 shooters. It would have been an impossible task for the clubs and, as Mr Chamberlain said, National Party members did not see the point in it anyway because many of the shooters who would have been forced to join those clubs would not have benefited directly from the facilities offered by those clubs. It was something of an insult to suggest that many of those 300 000 shooters would benefit from the training courses, because many of them are experienced shooters.

One of the alternatves put forward by the Liberal Party was to encompass a fourth category of persons who had good reason to possess firearms. The National Party regarded that as a subjective test, and discarded that suggestion as well. Because it would have involved 250 000 shooters, or thereabouts, the task would have become simply enormous and no-one would have been prepared to run the gauntlet of the fourth category to demonstrate good reason for owning a firearm because, if that person failed that test on application for renewal of a licence, it would not have been possible for that person to go back and qualify through club membership, because the Bill required six months' club membership; it was not an alternative. The National Party intended to oppose the subclause strenuously and, for those reasons, I am delighted that the government has determined to withdraw it of its own volition.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

4. Clause 8, page 4, line 17, after "person" insert "without fee".

The amendment seeks to amend proposed new section 22AA (4) (*a*) so that it will state:

In the case of a licence issued to a person without fee by reason that the person is engaged in primary production. . . .

Certain conditions apply. Amendment No. 8, which the Committee will deal with later, will make it clear that no fee is payable under proposed new section 22AA (7) by any person engaged in primary production, by members of that person's family or by that person's employees. It is nothing new. The concept is already contained in the Act. The Opposition wanted to clarify that the licence, having those conditions, will extend to the family and continue to be without fee.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

5. Clause 8, page 4, line 19, after "IIIA" insert ", is a member of the family of such a person or is an employee of such a person".

The amendment seeks to extend the definition to members of the family of the farmer, or the employee of such a person.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—I move:

14. Clause 8, page 4, line 20, after "to" insert "purchase,".

The amendment seeks to insert one important word, namely, "purchase,". It seeks to amend proposed new section 22AA (4) (*a*) (i) and further amendments will seek to insert that word in proposed new section 22AA (4) (*a*) (ii) and 22AA (4) (*b*). The three amendments

are consequential to the thrust of my major amendment, amendment No. 52, which attacks the concept of the permit to purchase. If amendment No. 52 standing in my name is supported by this Chamber, all references to the permit to purchase will be deleted from the Act.

I shall spend a couple of minutes foreshadowing the effects of amendment No. 52 because the National Party is entirely opposed to the concept of the permit to purchase, and has been since it was first suggested. It would add to the administrative quagmire of firearm control in this State, on top of a registration system that has completely broken down. The National Party asks: if an applicant is refused a permit to purchase any particular firearm, why was that person granted a shooter's licence?

Indeed, as is happening now, if an applicant is refused a second firearm because he already has a first firearm in that category, why was he given the first? If he is such a bad risk to the community, he should not have been granted the licence in the first place. The National Party's contention is that there should be a testing process. Indeed, the National Party would support the principle that the government should be more stringent than it is at present. The control should be at the point of licensing, not at the time of purchasing the firearm.

The National Party believes the permit to purchase system is completely illogical. It has argued against the system on every occasion this issue has been brought into this Chamber and it will continue to argue against it.

The facts are that through a Liberal Party amendment at least some component of the shooting fraternity will be granted an automatic entitlement to a permit to purchase, namely, primary producers and members of approved gun clubs. The National Party supported that amendment but it still argued against the concept of a permit-to-purchase system. The National Party supported the Liberal Party's amendment because it was half a loaf, and therefore, better than no loaf at all. But the National Party still contends the permit-to-purchase system is wrong in concept. It will not do anything towards addressing the criminal misuse of firearms in this State. The provision will force shooters to join clubs simply to obtain permits to purchase or to provide access to automatic entitlement. The National Party has nothing against shooters joining clubs but this concept encourages them to join clubs for the wrong reason. They should be encouraged to join clubs because it will provide them with access to good shooting facilities, not because it provides them with automatic entitlement to permits to purchase. That is insane.

The permit to purchase does not address the main reason for introducing this measure: to restrict the number of firearms in Victoria. The National Party has opposed this proposition on every occasion. It is nothing more than humbug. The provision was introduced as a hurdle to discourage private firearm ownership and for no other purpose. The National Party implores the Committee to take on board my comments and to do precisely what has been done by the new Liberal government in New South Wales: to throw out completely the concept of permits to purchase.

On those grounds, I ask the Committee to support my amendment No. 14, which will amend clause 8 to fit the situation that would apply if the permit to purchase were no longer salient to the law in this State.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Hallam has eloquently and correctly outlined his position, which is diametrically opposed to the government's position on this issue. The government believes the maintenance of the permit-to-purchase system is an essential part of the framework for ensuring that this community has greater protection from the use of guns. The government opposes the amendment.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Liberal Party's position has been to support the permit to purchase. It is aware of many criticisms of the concept and has an open mind on alternatives. A Liberal government in New South Wales is now

trying out a new system and it will be interesting to observe how that works. The Opposition has been examining the New Zealand system, but at this stage it is inappropriate to agree to the amendment moved by Mr Hallam.

One point that has been sheeted home to the Opposition and the National Party in the past ten days is the need to juggle this Chinese jigsaw puzzle of firearms legislation—we certainly need a new Act—and to also examine the various firearms control concepts. The Liberal Party has an open mind as to the thrust of the National Party's amendment but at this stage believes it is inappropriate. The Opposition does not support the amendment.

The Committee divided on Mr Hallam's amendment (the Hon. G. A. Sgro in the chair).

Ayes	5
Noes	32
Majority against the amendment	27

AYES	NOES
Mr Baxter	Mr Arnold
Mr Dunn	Mr Birrell
Mr Hallam	Mr Chamberlain
	Mrs Coxsedge
Tellers:	Mr Crawford
Mr Evans	Mrs Dixon
Mr Wright	Mr Guest
	Mr Henshaw
	Mrs Hogg
	Mr Hunt
	Mr Kennan
	Mrs Kirner
	Mr Landeryou
	Mr Lawson
	Mrs Lyster
	Mr McArthur
	Mrs McLean
	Mr Macey
	Mr Mier
	Mr Miles
	Mr Murphy
	Mr Pullen
	Mr Sandon
	Mr Storey
	Mrs Tehan
	Mr Van Buren
	Mrs Varty
	Mr Walker
	Mr Ward
	Mr White
	Tellers:
	Mr Kennedy
	Mr Reid

Progress was reported

ENVIRONMENT PROTECTION (AMENDMENT) BILL (No. 3)

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The Bill has two main purposes.

The first purpose is to enshrine into the Environment Protection Act the "polluter pays" principle. That principle is that persons who conduct operations or occupy premises from which there is a potential for environmental damage are responsible for such damage

rather than the public. The principle is part of the government's policy. It places the responsibility for environmental clean-ups arising from an operation on the person who may profit from the operation, rather than the public who might indirectly profit from the operation but are directly affected by any environmental damage.

To further this purpose, the Bill amends the Environment Protection Act by:

1. requiring certain operations to provide a financial assurance for potential pollution clean-up costs;

2. allowing courts to make compensation orders for environmental clean-up costs after a defendant is found guilty of an offence which resulted in the need for clean-up operations;

3. allowing the Environment Protection Authority to recover its internal laboratory analysis costs which it necessarily incurs in proceedings under the Act; and

4. removing deficiencies which unjustifiably limit or impede proceedings for the recovery of clean-up costs or make them ineffective.

The second purpose is to reaffirm the importance which this government and the community put on environment protection. The Bill does this by:

A. ensuring that the Environment Protection Act and the Litter Act operate efficiently and free from unnecessary technicalities and restrictions; and

B. by increasing penalties and thus ensuring that environment protection legislation has adequate "teeth" to be a deterrent.

To further this purpose, the Bill amends the principal Act by:

1. creating an offence of aggravated pollution which is intentionally or recklessly creating a serious risk or damage to the environment or to public health. The offence has a penalty commensurate with the seriousness of such consequences;

2. increasing the penalty for pollution offences under the Act which are committed intentionally. Penalties are also increased for offences under the Act, the Melbourne and Metropolitan Board of Works Act and the Sewerage Districts Act dealing with the illegal handling, dumping and abandoning of industrial waste. The penalty under the Water Act for the offence of polluting a water supply after a notice is given requiring the activities causing the pollution to cease is also increased;

3. extending the offence of "causing an environmental hazard" by recognising that such hazards are not only caused by "waste", but can also be caused by any substance;

4. extending the ambit of the Act to include "infectious" so that that type of material may be regulated in the future by the management systems in the Act that govern other potentially polluting and dangerous substances;

5. increasing the time limit for commencing prosecutions for offences which by their nature may not be detected for lengthy periods;

6. simplifying the proof of formal and technical matters in proceedings;

7. making driving as well as owning a vehicle which does not have the prescribed emission control equipment fitted or emits noise above the prescribed permissible level an offence so that there is scope for the EPA to prosecute the person who in fact has taken the responsibility for the mechanical condition of the vehicle;

8. broadening a head of regulation-making power in relation to noise-reducing equipment fitted on vehicles to ensure that it is wide enough for regulations to appropriately control the fitting and repair of that type of equipment.

9. giving the EPA the power to delegate the powers and functions bestowed on it by other Acts;

10. increasing the maximum limit below which minor works pollution abatement notices and minor works noise control notices may be issued from 50 penalty units to 100 penalty units—$10 000—and simplifying the administrative procedure for their issue; and

11. making various housekeeping amendments to the principal Act and the Litter Act.

FINANCIAL ASSURANCE FOR CLEAN-UP COSTS

The EPA's response to pollution incidents sometimes requires significant expenditure to minimise, prevent or clean up pollution. That expenditure may be required urgently. A quick response to environmental emergencies can minimise damage and reduce the final amount of the clean-up costs.

For example, in April 1985 a large fire broke out in a chemical warehouse in Footscray. As a result of the fire, there was a threat that chemicals would flow into the Maribyrnong River. The EPA acted quickly and successfully to end that threat. The costs of minimising and preventing pollution arising from that fire were in the vicinity of $900 000. Those costs have been paid by the government. If the chemicals had entered the river, significant damage would have occurred and clean-up costs would have been much higher.

The majority of clean-up operations are paid for by the polluter. However, if liability for clean-up is denied, recovery of costs may be difficult because of the complex legal issues which are sometimes involved. Liability for the clean-up costs from the Footscray chemical fire is still being disputed before the courts. If clean-up costs cannot be recovered, the public purse bears those costs.

Other situations in which pollution clean-up costs may be difficult to recover include where:

1. the polluter is insolvent; or

2. the site is abandoned, leaving contaminated soil and equipment for the authorities to clean up. This has already occurred several times in Victoria. Even if the previous occupiers can be located, the issue of liability for the clean-up of the unoccupied site is often contested.

To reduce the number of situations in which recovery of clean-up costs is difficult, the Bill allows the EPA to require financial assurances from operations where there is a potential for severe pollution by conditions in works approvals, licences, pollution abatement notices and transport permits. The assurances can be utilised by the EPA if a clean-up is required. The types of assurance include letters of credit, certificates of title, guarantees, bonds and insurance policies.

The Bill allows requirements for financial assurances to be placed only on Schedule 4 premises—that is, premises which reprocess, treat, store or dispose of prescribed industrial waste—premises that handle more than the prescribed quantity or the prescribed concentration of a notifiable chemical—that is, a chemical for which the EPA has certified that there is not a satisfactory facility for its destruction or disposal in Victoria—and waste transporters. Operations that do not fall into those categories cannot be required to provide a financial assurance. The Bill recognises that operations in those categories have a special risk of extremely expensive environmental clean-ups which the operation may not be able to pay for in the short term unless provision is made for that possibility.

The Bill allows the EPA to require the assurance to be in effect even though the works approval, licence, pollution abatement notice or permit may no longer be in force. This is because problems with polluted sites or pollution spills may not be detected or fully appreciated until some time after a site is vacated or a spill is thought to have been cleaned up. The EPA intends to build in a time frame for the release of an assurance in the assurance requirements. The assurance will be released earlier if the EPA is satisfied that there are no potential problems.

If an emergency situation in which the provider of the assurance refuses to pay for the clean-up, the EPA intends to immediately utilise the assurance to finance the clean-up. In non-emergency situations in which the provider of the assurances refuses to pay for the clean-up, the EPA intends to seek mediation or arbitration in relation to the payment of the clean-up costs and the utilising of the assurance to pay for those costs.

The requirement for an assurance and a refusal to vary or release an assurance are all matters which the Bill makes appealable to the Administrative Appeals Tribunal.

RECOVERY OF CLEAN-UP COSTS ON A FINDING OF GUILT

A clean-up after a pollution incident may be conducted by the EPA or the EPA may require the polluter or the occupier of the premises from which the pollution arose to carry out the clean-up by serving a clean-up notice. Other bodies such as the MMBW or the Port of Melbourne Authority may also incur costs in the clean-up. The costs of those bodies may be billed to the EPA or may be claimed directly from the polluter or occupier. The EPA's clean-up costs may be recovered as a civil claim under the Act.

A prosecution under the Act may follow a pollution incident. In a prosecution, the offence must be proved beyond a reasonable doubt. Currently, if a defendant in a prosecution is found guilty of an offence under the Act, there is no compulsion on that defendant to pay clean-up costs arising from that offence. If the defendant refuses to pay those costs, civil proceedings must now always be instituted to recover them. Those civil proceedings essentially cover the same ground as the prosecution on the issue of liability to pay clean-up costs, but the civil claim needs to be proved only on the balance of probabilities rather than beyond a reasonable doubt. Litigation that essentially covers the same issues in both criminal and civil proceedings is unnecessarily duplicating. It delays the recovery of compensation and increased legal costs. This is recognised by section 92 of the Penalties and Sentences Act which allows a court to make an order against a person found guilty of an offence to pay compensation to a person who has suffered loss or damage as a result of the offence.

To overcome the unnecessary delay and expense that arises from the duplication of criminal and civil proceedings under the Act, the Bill clearly allows the recovery of clean-up costs that are related to the commission of an offence under the Act by an order under section 92 of the Penalties and Sentences Act. Those costs may be recovered by any person who incurs them. The clean-up costs that the Bill provides can be recovered in that order include costs that are anticipated but are not as yet incurred. Pollution clean-ups may continue for a considerable period of time; consequently a clean-up may not be completed by the time a prosecution is completed. The amount of the anticipated costs will have to be proved as are other anticipated costs in litigation, such as anticipated future losses and expenses in personal injury litigation.

All the prosecutions under the Act are dealt with in the Magistrates Court except for the proposed offence of aggravated pollution, which is indictable, but may be tried summarily. An order made by a Magistrates Court is appealable as of right to the County Court and on appeal the matter is re-heard afresh. Consequently, in summary prosecutions under the Act, a defendant will have at least two full opportunities available as of right to contest an order under section 92 of the Penalties and Sentences Act. Of course, such an order cannot be made unless the charge is first proved beyond a reasonable doubt. For those reasons the jurisdiction of the Magistrates Court to make an order has not been limited.

Courts have sometimes refused to make orders under section 92 of the Penalties and Sentences Act for various reasons unrelated to the merits or evidence of the claim. Reasons for such refusals have included insufficient court time being allocated after the completion of a prosecution to determine the claim, or the defendant not being in a position to defend the claim as insufficient or inadequate notice of the claim was given, or the court is of the view that the claim is a matter which has a civil flavour and therefore would be better handled by civil proceedings. To overcome these difficulties, the Bill requires that, in relation to an application for an order for clean-up costs arising from the commission of

an offence under the Act, notice of the application must be given to the defendant. Affidavits may be used at the hearing of the application upon a copy of the affidavit and notice being given to the defendant and provided the defendant does not object. The purpose of the notice and affidavit provisions is to ensure that courts and defendants will be in a position in which they are prepared for a claim to be determined following the completion of a prosecution. By these devices it is anticipated that courts should not be placed in a position where in their view it would be preferable for the claim to be dealt with by the civil proceedings.

OFFENCES OF INTERNATIONAL POLLUTION AND IMPROPER HANDLING OF INDUSTRIAL WASTES

The Bill increases the penalties for certain offences under the Environment Protection Act from 100 to 200 penalty units and under the Melbourne and Metropolitan Board of Works Act from 50 to 200 penalty units. The increased penalties in the Environment Protection Act are for offences in relation to improperly handling industrial waste, causing an environmental hazard and pollution offences which are committed intentionally. The increased penalties in the Melbourne and Metropolitan Board of Works Act are in relation to offences dealing with the illegal discharge of trade waste to sewer and contravening the industrial waste provisions of that Act. The reason for increasing the penalties is to maintain an adequate deterrent against improper handling of potential pollutants and to emphasise the seriousness of improper handling of industrial waste.

AGGRAVATED POLLUTION

The increases in penalty are sufficient to deter and punish some intentional polluting acts. They are, however, inadequate where the effects or the potential effects of intentional or reckless polluting acts, possibly motivated by profit, are serious and may potentially be irreversible.

Recent incidents, such as the intentional disposal of carcinogenic and non-biodegradeable polychlorinated biphenyls in waste fuel oils, has demonstrated the inadequacy of penalties under the Act in those circumstances. Significant concern has been expressed by the community that inadequate penalties contribute to serious pollution incidents. Stronger penalties are required as a realistic deterrent to activities that threaten both the environment and the health of the community.

The government is also concerned that penalties should be severe enough to discourage irresponsible operators from becoming involved in the waste management industry in Victoria. In particular, this government is determined that the situation does not arise in Victoria, as has happened in some countries, where criminal elements have become involved in waste management.

The Bill creates a new offence of "aggravated pollution" which is committed where a person intentionally or recklessly causes serious damage or a substantial risk of serious damage to the environment or to public health. The offence is indictable but may be tried summarily. The Bill makes the necessary consequential amendments to the Magistrates Courts Act. The maximum penalty for the offence is a $40 000 fine or two years' imprisonment or both if dealt with in the Magistrates Court and a $500 000 fine or a maximum of five years' imprisonment or both if dealt with by a higher court.

The Bill thus provides for substantial maximum penalties adequate for an appropriate sentencing range for this type of offence. This will act as a powerful deterrent against ignoring the safety of the community and the environment.

The creation of an offence of aggravated pollution is fully supported by the associations representing responsible industries, who are keen to ensure that the public image of industry is not damaged by irresponsible and reckless operators.

I commend the Bill to the House.

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

That the debate be now adjourned.

The Opposition is having difficulty with some of the provisions in the Bill and therefore it will have to consult on them. I propose that the debate be adjourned until the next day of meeting on the understanding that the Opposition will be able to confer with the Minister before it is debated.

The Hon. E. H. Walker—That is acceptable.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until the next day of meeting.

ADJOURNMENT

Speed limit through Narrawong—Penalty payment in speeding fine—Teachers at Police Training Academy, Glen Waverley—Victorian Equity Trust—School bus safety—Privatisation of public transport—Railway land at Spotswood—Closure of government road in Shire of Woorayl—Brighton and Middle Brighton railway stations

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That the Council, at its rising, adjourn until this day, at eleven o'clock.

The motion was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:

That the House do now adjourn.

The Hon. B. A. CHAMBERLAIN (Western Province)—I direct to the attention of the Minister for Transport a matter relating to the small town of Narrawong, which is to the east of Portland. The small community, which is situated on the highway, is concerned about the safety of its residents, particularly its children who attend the local schools. A petition has been signed by almost every adult in that community requesting that the speed limit through the town be reduced from 80 kilometres to 60 kilometres an hour.

The school principal has expressed concern about the safety of the students attending the primary school. I wrote to the former Minister for Transport, the current Minister for Planning and Environment, Mr Roper, and also to the Minister for Education requesting their support in this application.

The matter has been before the Road Traffic Authority which tested the area and found that 85 per cent of the traffic travelling through that town was travelling at 88 kilometres an hour down the highway to Portland.

I ask the Minister to direct the Road Traffic Authority to reduce the speed limit to 60 kilometres an hour for traffic travelling through that town.

The Hon. K. I. M. WRIGHT (North Western Province)—I direct to the attention of the Minister for Conservation, Forests and Lands who acts for the Minister for Police and Emergency Services in this place a matter concerning Miss Deborah Louise Howser of 88 Hawthorne Grove, Mildura, who incurred a fine of $135 for travelling at an excessive speed on 22 December 1987. Miss Howser paid the fine on 22 February 1988. It was approximately four weeks overdue, due to the fact that it had been the Christmas period, and she was young.

The cheque was returned to Miss Howser with a request for a penalty payment of $9 for lateness, which was also paid but the payment was made after the expiry date. The cheque was again returned to Miss Howser with an explanation that the matter had been referred to the Magistrates Court at Elsternwick for collection on 29 March 1988.

Miss Howser telephoned the Magistrates Court and she was informed that her papers had not reached the court but that, when they did, an extra $30 would be added to her list of costs.

My constituent believes—and I fully support her in this matter—that she has been treated unfairly. She is struggling to pay the fine, and I ask that the Minister intervene so that it will not be necessary for that extra $30 to be paid.

A person driving a truck can knock another person down and then be let off with a bond. When one compares that with this case, it is obvious that the situation is inequitable.

The Hon. HADDON STOREY (East Yarra Province)—I raise with the Minister for Education a matter concerning the members of the Ministry of Education who have been working at the Police Training Academy, Glen Waverley. These persons are part of a service that has been provided by the Ministry of Education in a number of different areas of government. They have been working at the academy as members of the Ministry of Education; in effect they have been seconded to the college. Eight teachers and one clerk are involved.

Three weeks ago, they were told that they had been transferred to the category of being on leave without pay and that their employment would be taken over by the Police Department. That is the only information those persons received. They were not consulted about the matter and they have not received any official notification of what will happen to them. Yesterday was the day they would have normally been paid, but that did not occur.

I spoke to the Minister for Education about the matter and she was good enough to make some inquiries and telephone me with the information that matters had been clarified. I understand those persons were paid today but they are still in the dark about their future, their status, what will happen to their entitlements as employees of the Ministry of Education and whether their employment will be taken over by the Police Department.

I ask the Minister to examine the matter further and to ascertain why there was no consultation with or official notification given to these people. It appears that they have been summarily transferred, almost by word of mouth. I ask the Minister to ensure that those persons will be reassured as to their employment, their status, and so forth. If they are to be transferred to the Police Department they will no longer have the opportunity, as Ministry of Education staff, to be transferred to other positions within that Ministry. It appears to be insensitive handling of the episode. I ask the Minister for those assurances.

The Hon. J. V. C. GUEST (Monash Province)—I direct to the attention of the Minister for Health, who represents the Treasurer in this place, a matter to which I referred earlier today about the underwriting of the Victorian Equity Trust. I ask, firstly what the underwriters J. B. Were and Son and McIntosh Hamson Hoare Govett Ltd are being paid, and whether it is a percentage of the funds raised? Secondly, who will be the sub-underwriters; thirdly, what will the sub-underwriters be paid; fourthly, will there be public authorities who are acting as sub-underwriters or who have otherwise committed themselves to taking units in the Victorian Equity Trust?

If the Minister cannot answer those questions now, I ask him to give some indication of when those questions can be answered:

The Hon. N. B. REID (Bendigo Province)—I direct a matter to the attention of the Minister for Transport; it also concerns the Minister for Education. I have received correspondence from Mr D. Anthony, the Executive Officer of the East Loddon School Council, regarding the safety of children travelling on school buses. I note that Mr Dunn has also raised the question of school bus safety.

The letter concerns the internal travelling arrangements on school buses, and children alighting from and entering school buses. The school council had observed overseas trends

in Ontario, Canada, where built into buses is a stop sign activated by the driver so that when a bus stops to drop off children, all traffic is required to stop while the bus has the flashing sign on display. I ask the Minister for Transport to consult with the Minister for Education on the serious problems involved in country areas and attendant safety measures required where large numbers of school buses traverse country areas.

The Hon. M. J. SANDON (Chelsea Province)—The Minister for Transport would be aware of the fact that privatisation is an issue that was raised recently in the public arena.

The transport policy of the Liberal Party would seem to embrace privatisation in a general sense; and that would mean that railyards around the State, such as those in Bendigo and Ballarat, could be placed in jeopardy. Will the Minister provide an undertaking with respect to the government's policy in opposition to privatisation so that an effective public transport system can be maintained in general and, in particular, in areas such as Bendigo and Ballarat where jobs and the infrastructure of those regional centres may be placed at risk? Will the Minister give an undertaking about the government's commitment to those areas?

The Hon. G. P. CONNARD (Higinbotham Province)—Will the Minister for Transport advise what plans he has for disused railway land at Spotswood? The land is prime real estate located quite close to the city. Does the Minister have plans for opening up the land for housing and, if so, when will they be implemented? If his plans do not include housing, what other plans is he considering?

The Hon. M. T. TEHAN (Central Highlands Province)—The matter I direct to the attention of the Minister for Conservation, Forests and Lands concerns two land purchases made at public auction in December 1987 on the Cape Paterson–Inverloch Road and Straun Road, which runs off that road.

The land was purchased under a new plan of subdivision which had been approved by the Shire of Woorayl on the basis that it was an approved subdivision. The description, in terms of the planning certificate, indicates that the Cape Paterson Road is a sealed government road and that Straun Road is an unmade government road. The purchasers have been advised that, as from 20 April, the access from the coast road to Straun Road will be closed. The advice was telephoned to the people concerned by an officer at the Yarram branch of the Department of Conservation, Forests and Lands.

The area involved is 4 metres deep; it cuts across the foreshore reserve area, but leads onto the coast road. There are a number of similar private roads further along the coast road, across the foreshore. The decision has meant that total access to those blocks has been removed. There is no access from the other end of Straun Road because, even if it is classified as a government road, it is classified as an unmade road and must be subject to some form of unused road licence.

Both these properties, for which substantial amounts of money have been paid, have lost their access to the Cape Paterson-Inverloch Road. I ask the Minister to consider these matters of serious economic loss and the impossibility of the owners being able to build houses on the blocks, in view of the lack of road access. I ask the Minister what she can do about the matter.

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct to the attention of the Minister for Transport a plan by the Metropolitan Transit Authority to sell two parking areas at the Brighton and Middle Brighton railway stations. The land is to be sold and flats and townhouses are to be erected on the sites that are used for commuter parking.

It seems odd that, if the government is trying to encourage people to use the rail services, it sees fit to cut off the options of people wanting to use car parks adjacent to railway stations. Will the Minister examine the matter and rectify what is obviously an oversight on his part?

The Hon. D. R. WHITE (Minister for Health)—Mr Guest asked a question about the underwriting fees associated with the establishment of the Victorian Equity Trust. I shall direct the matter to the attention of the Treasurer and provide an answer in due course.

The Hon. J. H. KENNAN (Minister for Transport)—Mr Chamberlain referred to speed limits, and I shall take up the matter to which he referred and advise him further.

Mr Sandon referred to privatisation, particularly as it relates to Bendigo. I understand the Leader of the Opposition in another place visited Bendigo recently and raised the matter referred by Mr Sandon. I understand that much of the difficulty stems from factionalism in the Liberal Party in Bendigo, due to the fact that the honourable member for Bendigo East in another place defeated Mr Reid by one vote in the preselection—after head office intervened and disqualified three voters who chose to vote for Mr Reid.

At the time the Leader of the Opposition visited Bendigo in order to shore up his leadership, he promised the honourable member for Bendigo East in another place, a position in the Ministry, if the Liberal Party were ever elected to government. This took place on Friday 15 April when we were in the middle of the privatisation debate. Honourable members know about the sorry history concerning the Leader of the Opposition removing Mr Reid's shadow portfolio from him in 1985, and promoting the honourable member for Bendigo East to the job of secretary to the shadow Cabinet. The Leader of the Opposition has gone further and, in the context of the visit to Bendigo last week, sought to buy the support of the honourable member for Bendigo East in case there is yet another challenge—as there no doubt will be—to his leadership.

The PRESIDENT—Order! The remarks of the Minister for Transport are not relevant to the question that was asked, and I ask him to move on to the next item.

The Hon. J. H. KENNAN—Mr Reid, the honourable member to whom I was just referring, also raised a question. Despite the matters to which I have just referred, I shall take up the matters Mr Reid raised with the Minister for Education. The government will not be engaging in any privatisation in respect of the transport matters he raised.

Honourable members interjecting.

The Hon. J. H. KENNAN—I shall now follow the instructions from you, Mr President, in good faith, and answer Mr Lawson's question about car parking at the Brighton railway station.

He asked about the sell-off of railway land in Brighton and Middle Brighton, as you probably heard, Mr President. It is literally a joke because the Leader of the Opposition has promised to sell off everything to do with transport. Yet honourable members in this House get into a bit of a blue about selling off some railway land. If they are worried about that, what do they say about their Leader being reported in the *Business Review Weekly,* the *Age* and on the Schildberger program as promising to privatise the lot?

The government is committed to encouraging patronage——

The Hon. HADDON STOREY (East Yarra Province)—On a point of order, Mr President, I have been reluctant to take a point of order because I have been waiting for the Minister for Health to come back into the Chamber and give an answer in response to the point of order. Since he is not here, the Minister has once again strayed away from the question and is talking about irrelevancies. He is also wrong about what the Leader of the Opposition in an other place said.

The PRESIDENT—Order! I uphold the point of order and ask the Minister to answer the question raised.

The Hon. J. H. KENNAN (Minister for Transport)—In relation to the privatisation issue, Mr Lawson raised the matter of railway land in Brighton and Middle Brighton. It is government policy—as he correctly pointed out—to increase patronage. Under this government, patronage has increased substantially.

The Hon. Robert Lawson—Yes, political patronage.

The Hon. J. H. KENNAN—No, not political patronage, patronage of transport services has increased. The government has been committed to an increase in patronage and that is shown by the fact that in the years 1978 to 1982 the transport deficit under the previous government rose 34 per cent. In the years 1982–83 to 1987–88 it fell 11·3 per cent.

Work was done on the Sandringham line to provide a proper integration of parking facilities, shopping facilities and so on. Part of the new transport policy will be to ensure a facilitation in every sense of improved patronage and commitment by the government to the public transport sector. That, of course, sits uncomfortably with his Leader's policy.

The Hon. G. P. Connard—The Minister did not answer my inquiry about railway land in Spotswood.

The Hon. J. H. KENNAN—I do not have anything relevant to contribute to that question tonight and I am nervous about Mr Storey getting stuck into me on points of order. If Mr Connard would particularise in writing the land in Spotswood to which he refers and what he proposes might be done with that land I might be in a position to give him a considered response in due course.

The Hon. C. J. HOGG (Minister for Education)—Mr Storey last night raised a matter of concern. I have received some broad advice, with which I can furnish him now, and I shall give him a detailed written reply later. It would appear that a variety of arrangements exist for members of the Teaching Service to take up employment or leave to go to other organisations. There has been in the past no formal policy in the Schools Division regarding release arrangements and, therefore, there has been a lack of consistency in the treatment of individual cases over many years.

An overall review of Ministry release arrangements is currently being undertaken to rationalise procedures to guarantee equitable treatment of both organisations and Ministry personnel who are selected. It is expected that that review will be completed soon.

My predecessor, the present Minister for the Arts, decided in 1987 that the cost of salaries and administration of staff on release to inner Budget agencies should be the responsibility of the host organisations. This was done on the basis that those organisations currently reimburse the Ministry the costs associated with those individuals and should, therefore, have direct responsibility for their administration to avoid double handling.

It should be stressed that these changes will in no way affect an officer's existing salary and conditions of employment entitlements nor do they affect an officer's career rights within the Teaching Service. The changes are purely mechanical in the interests of more efficient administration.

With regard to the specific issues raised by Mr Henderson, his salary and conditions of service entitlements remain unchanged and he is not detrimentally affected in any way. It should be noted that most conditions of service are the same for both the Teaching Service and Public Service. Mr Henderson will have the same access to professional development initiatives that he currently enjoys.

Current arrangements for promotional assessment will continue in the same way. Tenure arrangements will remain unchanged. Officers on release will have access to return to school-based positions subject to positions being available. It is fair to say that the issues raised by Mr Henderson are being considered as part of a review of Ministry release arrangements.

It was never intended to vary salaries and conditions of release without extensive consultation with host organisations and unions. However, the changes which have taken place are, at this stage, purely mechanical and designed for efficient administration and are not affected by the review that is currently in process. After the review has been completed and the policy line developed, the consultation process will continue.

I apologise for any concern or difficulty that has been experienced by Mr Henderson. It is sometimes of concern when something arrives out of the blue without sufficient explanation. It may have been a good idea to have carried out consultation earlier rather than later. I shall furnish the details to Mr Storey.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Wright raised what he considered to be the unfair treatment of Deborah Howser. I shall refer that matter to the Minister for Police and Emergency Services in another place and ensure that he receives a proper response.

I regard the matter raised by Mrs Tehan as serious. I had in fact heard about the issue and I have asked her for a note about it. I have not as yet received a response. Two issues are clearly involved. One is the attempt by my department—an appropriate attempt—to limit access along the Cape Paterson–Inverloch Road, which is similar to the area in east Gippsland where people take inappropriate access to the beach and therefore cause dune erosion.

I take the issue of social justice seriously and I shall consider the matter and see whether it falls within my realm to balance the two issues. It is possible that it might not be in my realm. However, I shall provide Mrs Tehan with a considered response.

The motion was agreed to.

The House adjourned at 12.49 *a.m. (Friday).*

Friday, 22 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 11.3 a.m. and read the prayer.

ANZAC DAY LUNCHEON

The PRESIDENT—Order! Before commencing the business of the day I make an announcement with regard to the fact that some honourable members have been invited as hosts to the Anzac Day luncheon. As honourable members would be aware from discussions last night, the House will retain the normal rising time for the luncheon period. Therefore, it will be difficult for many honourable members to attend the luncheon, but pairing arrangements have been made by the parties concerned in that regard.

QUESTIONS WITHOUT NOTICE

ASSET SALES

The Hon. B. A. CHAMBERLAIN (Western Province)—I ask the Minister for Transport: what is the Metropolitan Transit Authority's target for its 1987–88 assets sale program, and will the authority achieve that target?

The Hon. J. H. KENNAN (Minister for Transport)—As honourable members would be aware, various issues relating to the sale of land are now being addressed. I am unable to give a precise estimate of the outcome between now and 30 June. We expect sales to progress smoothly in the next few months.

AGRICULTURAL SERVICES

The Hon. B. P. DUNN (North Western Province)—I refer the Minister for Agriculture and Rural Affairs to recent suggestions by him that there has been no reduction in the provision of departmental services to Victorian farmers.

To support his claim, will the Minister table in the Parliamentary Library a full disclosure of comparative staff numbers and resources for all direct services to the producer, and also veterinary and diagnostic services? As part of that disclosure will the Minister provide full details of current unfilled vacancies in positions providing direct services to the producer and positions made redundant during the time of the government's office?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The information Mr Dunn asks for is not private in any way—it is public information—although it may not at the moment be scheduled in the form he asks for. I am happy to ask my department to prepare schedules of the kind that he requests and to make that information available. If Mr Dunn thinks that is best done by having that information in the Parliamentary Library, I shall do that. It might take some time to obtain the information in the form he asks for. I am not sure that it presently exists. It is clearly public information and I shall make it available.

NEPEAN HIGHWAY TRAFFIC

The Hon. M. A. LYSTER (Chelsea Province)—Can the Minister for Transport advise whether, despite the improvements in public transport in the Chelsea Province, there has been a significant increase in the volume of traffic along the Nepean Highway as a result of an increase in housing in the southern part of that province, resulting in significant traffic problems, particularly along the Frankston to Mordialloc section of the Nepean

Highway? Will the Minister for Transport advise what steps his Ministry is taking to address those problems?

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mrs Lyster for her question and note that she, together with Mr Sandon and the honourable member for Frankston North in another place, have recently brought to my attention the traffic problems in the Mordialloc–Frankston corridor, and the inconvenience that it has caused to communities in that area.

As a result of representations from Mrs Lyster, Mr Sandon and the honourable member for Frankston North, I have directed my Ministry urgently to prepare a road and traffic management strategy statement with a view to relieving these problems in both the long and short term. Honourable members may not be aware that the southern suburbs of Melbourne—of which Frankston, in particular, plays an important role—house approximately 28 per cent of Melbourne's population and provide the largest number of jobs outside the central region.

The government's metropolitan strategy foresees further growth in that area, and Frankston is, of course, the most southerly of the district centres. Those facts add to the urgency of addressing the current and future problems in this corridor. These measures will provide not only short-term alleviation of current problems but also a framework for the coherent implementation of longer-term measures.

The strategy will, therefore, consider traffic management measures to alleviate current congestion and an integrated program for new roadworks in the corridor. The strategy statement will offer a range of initiatives to be implemented during this and the coming financial year and for the longer term—that is, over the next five or ten years. The strategy statement will draw together data and proposals for this corridor that are being developed by the various transport authorities. Consideration will be given to the use of signal coordination of regional areas in Melbourne—SCRAM—on major roads in the corridor and the use of the accident blackspot program, which has been successful. I expect that local municipalities and interested groups will be considered in the development of the strategy statement.

I am confident that the blueprint that the strategy statement will foreshadow, together with recommendations in METRAS and proposals in Metplan will not only contribute to the relief of current traffic problems in the area but also assist in the ordered development of the Mordialloc–Frankston–Mornington Peninsula corridor.

TRAM REVENUE

The Hon. HADDON STOREY (East Yarra Province)—Can the Minister for Transport confirm that the Metropolitan Transit Authority's tram system collects approximately $42 million a year in fare revenue, and that the cost of fare collectors employed by the MTA is $39 million a year?

The Hon. J. H. KENNAN (Minister for Transport)—Members of the Opposition will be aware that, in regard to the cost of services, the government has implemented a substantial number of changes designed to reduce the public transport deficit. They will also be aware that between 1978 and 1982 the deficit increased by some 31 per cent. Between 1982 and 1988, the deficit has decreased by 11 per cent. Therefore, during the last four or five years of the former Liberal government, the deficit increased by 31 per cent and has decreased under the leadership of the Labor government by 11 per cent. Mr Storey asked a question about the cost of running the tram system.

The Hon. ROBERT LAWSON (Higinbotham Province)—On a point of order, Mr President, this is the fourth time honourable members have heard this non-answer. I ask that you direct the Minister to answer the question.

The PRESIDENT—Order! There is no point of order.

The Hon. J. H. KENNAN (Minister for Transport)—The Liberal Party now wants to increase the cost of running the tram system when this government has improved it enormously. The Government has extended the system, and the new trams are there for all to see. At the same time, the government has reduced the deficit and the overall running costs of the transport system. Before the 1988 State election, the then Liberal government's response to that, when it knew it would be thrown out of office, was to close the public transport system.

The Hon. HADDON STOREY (East Yarra Province)—On a point of order, Mr President, yesterday you ruled that the Minister could expatiate to some limited extent when answering a question, but you directed him to answer the question. The Minister has not yet touched upon my question, and I ask you to bring him back to order to answer the question.

The PRESIDENT—Order! Mr Storey is well aware of the procedures regarding questions without notice—they have been in place for a long time—whereby Ministers can make comparisions and give a preamble before answering the question. I am sure the Minister for Transport has finished his preamble.

The Hon. J. H. KENNAN (Minister for Transport)—The Opposition is now promising to sell off the transport system. Its proposal for raising revenue from trains and trams is to multiply the fares by two or three times. The Opposition wants to flog off the transport system to private enterprise. That will inevitably result in a doubling or trebling of the fares. That is the proposal of the Opposition, and it is all we are hearing about.

The PRESIDENT—Order! The Minister for Transport is continuing to debate the subject. The question was not complex in regard to comparisons between expenditures, I ask the Minister to address the question.

The Hon. J. H. KENNAN—In the comparison you referred to, Mr President, the Opposition simply wants to increase fares. The government is about providing a fair and equitable public transport system. The government has kept increases in fares below increases in the consumer price index. The subsidy for public transport, the matter to which Mr Storey referred, has decreased under this government by 20 per cent. The government has improved the tram system and reduced the subsidies.

Members of the Opposition are still whingeing. Its alternative to expand the public transport system that the government is operating efficiently is to flog it off and throw it away.

WONNANGATTA STATION

The Hon. D. M. EVANS (North Eastern Province)—Given that the Minister for Conservation, Forests and Lands was not prepared to transfer leases of Wonnangatta station on purchase, will the leases be reallocated to other mountain cattlemen?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—There is not doubt that Mr Evans shares with some other people an interest in flogging dead horses. The answer is, "No".

FINANCIAL MANAGEMENT COURSE FOR MALLEE FARMERS

The Hon. L. A. McARTHUR (Nunawading Province)—I direct my question to the Minister for Agriculture and Rural Affairs and I preface my question by commenting on the fact that his Ministry and the government have made a real achievement in their response to the Mallee communities over the past few years, and to continue that response I understand that the Minister and Mrs Heather Mitchell, President of the Victorian Farmers Federation, launched a course on financial management for Mallee farmers at Swan Hill earlier this year. Would the Minister inform the House of the response of the Mallee farmers to that course?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—It is true that Mrs Heather Mitchell and I, as Minister, launched that course in Swan Hill in February. The course was structured to cover the key issues of farm finance in a practically orientated way. The course is run by local TAFE colleges with help from my departmental officers.

The course involves 24 hours of teaching which will be organised in a way that suits the needs of farmers undertaking the course. Time and location are flexible. The response has been excellent. I have been advised by my department that approximately twenty courses will be run this year with an average of fifteen participants. As an aside, the first question I have had from the new New South Wales government is for urgent details on the course as it wishes to run a similar course.

It is encouraging to see that farmers in the Mallee are responding in such a positive manner. Overall, the situation in the Mallee is improving. It has been difficult for farmers across the board particularly in the central part of the Mallee. The number of properties for sale in the area have reverted to normal levels and land prices have increased in recent times.

Given reasonable seasonal conditions—hopefully there will be good rains soon—there will be an increase in the area sown to wheat, which last year was down. The outlook for field peas remains good and wool prices are at records levels.

There are still farmers in financial difficulties. However, a range of services are in place to assist them I am sure Mr Dunn would agree. I pay tribute to the Mallee Crisis Committee for the self-help approach of Mallee farmers. It is an interesting reflection of the more positive outlook in the Mallee that there is a proposal to change the name of the Mallee Crisis Committee to the Mallee Community Development Association.

I congratulate a number of people who have worked over the past few years such as the inaugural Chairman of the Mallee Crisis Committee, Mr Gerry Leach; the coordinator, Ms Maureen Walsh, who works from Felton House in Sea Lake, and Councillor Graham Charlton, who has been there during the past eighteen months to two years. Those people have done a tremendous job. The situation is looking better and it is hoped that it will be even better by the end of the year.

ASSET SALES

The Hon. R. I KNOWLES (Ballarat Province)—Is it a fact that the Minister was advised in December that the asset sales targets for the Metropolitan Transit Authority assets was to be $15·2 million and not $30 million as set out in the Budget?

The Hon. J. H. KENNAN (Minister for Transport)—I have already indicated to the House in relation to asset sales that there has been a review of that situation and as a result of that review we have announced our position. We expect sales to proceed smoothly during the course of the year.

ROAD SPEED LIMITS

The Hon. K. I. M. WRIGHT (North Western Province)—I direct my question to the Minister for Transport; he will not have much trouble with it.

The Hon. N. B. Reid—It must be an easy one!

The Hon. K. I. M WRIGHT—It is a constructive question. A number of councils in my electorate have drawn to my attention difficulties they have with resealing of roads because the signs that indicate that motorists should slow down and so forth are a problem in that motorists are not slowing down sufficiently. I agree that it would be a good idea that some definite speed limit should be placed on travelling in the area.

A designated speed limit for traffic over that newly sheeted road should be provided.

Honourable members interjecting.

The PRESIDENT—Order! The Minister is having difficulty in hearing the question. Would honourable members please remain orderly.

The Hon. K. I. M. WRIGHT—I am talking about roads all over the State that have been resheeted where flying stones have become a menace to windscreens. I ask the Minister to consider a speed limit of, say, 60 kilometres an hour for roads in those circumstances.

The Hon. J. H. KENNAN (Minister for Transport)—Mr Wright has raised a matter that cannot be dealt with by general policy. The matter of speed limits is a question of the assessment of specific roads and each section of them. Speed limits on various roads are constantly under review and are often a point of contention. The situation will have to remain on an ad hoc basis, although it has been directed to my attention that in relation to Bendigo—in which I understand Mr Wright has some interest—the promise of the Leader of the Opposition to Mr John, the honourable member for Bendigo East in another place, about a future Ministry has put the National Party's nose out of joint because it has hoped that at some future time it may have had a role to play.

The PRESIDENT—Order!

The Hon. J. H. KENNAN—There will not be room for Mr John, the honourable member for Bendigo East, let alone Mr Reid.

HERRING ISLAND

The Hon. B. T. PULLEN (Melbourne Province)—I express to the Minister for Conservation, Forests and Lands my concern at a proposal described in the *Age* this morning. A group of developers envisaged a large tourist development on Herring Island situated in the Yarra River. Community reaction—and indeed my own—is that such a development would be totally incompatible with the conservation of habitat and wildlife of that island. I ask the Minister what status, if any, that proposal has with the government.

The Hon. M. A. Birrell—Put a toxic waste dump on it!

Honourable members interjecting.

The PRESIDENT—Order! There is far too much interjection and disorder in the House. The Minister is capable of answering the question on her own without suggestions from either side.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Pullen's alarm when he read the *Age* this morning was probably matched only by mine; I am responsible for the committee of management that is responsible for the management of Herring Island. I thank Mr Birrell for his suggestion that Herring Island be an alternative site for a waste disposal unit, but the government will not accept that proposal, nor will it be proceeding with any development proposal for Herring Island.

The Hon. N. B. Reid—Another red herring!

The Hon. J. E. KIRNER—That is an excellent interjection. It was from Mr Reid this time, not from Mr Lawson, which is a nice change. Honourable members would know that Herring Island is significant, not so much because of its natural vegetation which has almost disappeared, but because it is an important wildlife refuge. It would be obscene in conservation terms to develop it in any way other than to enhance its natural environmental qualities.

The government receives proposals from time to time to develop the island. That little job in the newspaper this morning was, I believe, an effort of yet another developer to obtain some free publicity. The government has also received a proposal for the development of an Aboriginal cultural centre on the island. That is also inappropriate, although with the work being done in restoring the indigenous vegetation and, eventually,

the natural and cultural interpretation of the area, it will be appropriate to involve Aboriginal groups.

I assure the House, the local members and the two councils that we are opposed to the proposition and that the government will not be proceeding with any commercial development on Herring Island.

CHAIRMAN OF ROAD CONSTRUCTION AUTHORITY

The Hon. M. A. BIRRELL (East Yarra Province)—I should like to ask a question of the Minister for Transport.

The Hon. D. R. White—What? It should be for me!

The Hon. M. A. BIRRELL—The Minister for Health will probably have to answer this question anyway, because the Minister for Transport is incapable of doing so.

Why is the Minister for Transport planning to axe the recently appointed head of the Road Construction Authority, Mr Stoney; and is it a fact that the Premier and the Minister for Consumer Affairs are vehemently opposed to his plans for the pending dismissal?

The Hon. J. H. KENNAN (Minister for Transport)—The suggestion that Mr Stoney is to be dismissed is a load of rubbish.

SCHOOL SUPPORT CENTRES

The Hon. G. A. SGRO (Melbourne North Province)—Can the Minister for Education explain to the House how the new school support centres will provide services for schools?

The Hon. C. J. HOGG (Minister for Education)—I thank Mr Sgro for his question and his ongoing interest in education initiatives and, indeed, in the schools in the province that he represents.

The restructure of the Ministry of Education was long and difficult. The important results of the restructure are the half a dozen or so school support centres in each of the eight regions. To make abundantly clear what school support centres do, it is important to place on record that they are not bureaucratic outposts of the regional office. In fact, they provide direct assistance to schools.

They are to respond to local school community needs particularly in matters of curriculum, special programs, student services and integration, equal opportunity and assistance for school councils. This support will be provided in a variety of ways, including professional development programs for school staff and principals; in-service programs for parents, students and school council members; special assistance to students, either individually or sometimes in groups; consultancy services for teachers, principals, school councils and students; and generally the dissemination of information to schools and the development of resource centres.

In the past support services were rather more dispersed and very often long distances from the schools. The school support centre concept provides a coherent rather than a fragmented approach. For example, a curriculum consultancy may previously have been provided from the regional office or from a centre some way across the region. This support will now be available much closer to schools, better meeting their individual needs, because school support centre staff will get to know their schools a lot more closely.

Staff from a wide range of areas—curriculum, special programs, multicultural education, equal opportunity and integration—are being brought together to provide a genuine team approach to supporting schools. Teams of people with expertise in different areas, but areas that often complement each other, will be working together in the same spot, in the same environment, and under the same roof.

That will obviously enhance the work they can do and bring a much greater measure of support to the schools around them.

PETITIONS

Flora and Fauna Guarantee Bill

The Hon. C. J. KENNEDY (Waverley Province) presented a petition from certain citizens of Victoria praying for the passing, this session, of the Flora and Fauna Guarantee Bill, and that any amendments be directed towards strengthening the powers of protection rather than limiting the range of species and communities protected under the Act. He stated that the petition was respectfully worded, in order, and bore 79 signatures.

It was ordered that the petition be laid on the table.

The Hon. M. T. TEHAN (Central Highlands Province) presented a petition from certain citizens of Victoria praying for the passing, this session, of the Flora and Fauna Guarantee Bill, and that any amendments be directed towards strengthening the powers of protection rather than limiting the range of species and communities protected under the Act. She stated that the petition was respectfully worded, in order, and bore 111 signatures.

It was ordered that the petition be laid on the table.

STATE ELECTRICITY COMMISSION (AMENDMENT) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:

That this Bill be now read a second time.

In a recent examination of the regulation-making powers contained in the State Electricity Commission Act 1958, the Chief Parliamentary Counsel has observed that the Act is deficient in several areas where powers to make regulations are given. In addition, it has been observed that modern Legislative practice is to deal with emergency procedures for supply of essential commodities in an Act of Parliament rather than in regulations.

The main substance of the Bill relates to the provisions being incorporated in the State Electricity Commission Act to deal with the supply of Electricity in emergency situations.

Section 46 of the Act is amended to provide a clearer definition of "electrical installation" to enable specially trained employees of the State Electricity Commission or municipal electrical undertakers to make connections to metering customers' supply terminals.

The remainder of the Bill relates to amendment of the regulation-making powers of the Act and is concerned either with the more accurate description of matters about which regulations may be made or specific details which regulations may contain.

There have been regulations in place over the past 50 years controlling and regulating the use of consumption of the State's electricity supply during times of emergency. Their purpose has been to provide for the orderly and equitable use of the available electricity by the various interests reflected in the community and to prevent disruption or destruction of the electricity supply system.

It is proposed that the present system of regulations be replaced by appropriate powers in the Act. The provisions of the Bill empower the Governor in Council to proclaim, when required, an emergency situation to preserve public safety and secure the electricity generation and reticulation systems in the event of a supply shortage. Provison is then made for dealing with the emergency through a system of suitable powers exercisable by the Minister to give directions to ensure an equitable distribution of available electricity.

The amendments proposed are consistent with recent amendments to the Gas and Fuel Corporation Act 1958 and with powers contained in fuel emergency legislation. It should

be noted that the emergency provisions of the Bill are not intended to apply to or affect private generators of power in respect of the use of that power in their own premises or works.

The proposed amendment in section 46 to the definition of an electrical installation further narrows the meaning of that expression. The limitation is necessary to ensure that specially trained, competent personnel of the commission and electrical undertakers who are engaged in connections, repairs or alterations to metering and customers' supply terminals are authorised to carry out this work.

In section 110, amendments to paragraphs (*ba*), (*bb*) and (*bc*) are proposed to enable the addition of the word "protection" to the expressions "cathodic system" or "cathodic systems" to more correctly describe the nature of these systems.

The proposed amendment to section 111 (3) (*a*) is necessary for the smooth and efficient adoption by the commission in its administration of regulations under the Act of up-to-the-moment amendments to technical and safety standards published by the Standards Association of Australia or other recognised standards bodies.

This amendment enables the commission to call up documents, codes, standards, rules, specifications or methods introduced or developed after the date of introduction of the particular subordinate legislation. The high number of standards called up, and the regularity with which they are amended, would otherwise require amendments to regulations on almost a weekly basis.

The amendment will ensure timely adoption of variations in standards and enable the use of new technology and materials to benefit electricity customers throughout Victoria and ensure that uniform standards apply between the electrical industry in Victoria and other States.

The amendments proposed to section 111 (1) deal with discretions and exemptions in regulations to be made under the Act. The commission needs, in special and controlled circumstances, to be able to vary particular requirements contained in regulations or standards or documents called up in regulations.

The proposed provisions allow for variations by way of the exercise of discretions or granting of exemptions which are currently embraced in existing regulations and are well accepted and understood by the electrical trade in Victoria.

Exemptions and variations are necessary to accommodate exceptional circumstances which call for a variation of the regulations. To do otherwise in such instances would involve considerable expense and inconvenience without increase in the safety of installations.

An amendment to the regulation-making provisions in section 57 (3) expressly includes the testing of electrical appliances. This clarifies the power of the State Electricity Commission to test or to require the testing of electrical appliances in its important role of monitoring the government's energy efficiency labelling program. A saving provision is inserted in the Bill to sanction the several matters the Bill now authorises or clarifies.

In summary, the amendments introduced by the Bill will provide for more effective control of the electricity supply system in emergency situations and will also provide for a clearer and more flexible system of regulation of the electrical trade and electrical work in this State.

The Bill was amended a number of times in another place. Minor changes were made to parts of clauses 4 and 8. A further amendment was made to clause 4 to ensure that compensation is paid for equipment or goods that have been requisitioned by the State Electricity Commission. In the case of a dispute as to an amount of compensation proposed by the Minister, the commercial arbitration provisions shall apply.

Clause 6 was amended to ensure that the person involved is given access to a document which contains a decision made by the officer or employee concerning an exemption from the regulations.

I commend the Bill to the House.

On the motion of the Hon. ROSEMARY VARTY (Nunawading Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

MINISTERIAL STATEMENT

Greens Bush, Mornington Peninsula

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I desire to make a Ministerial statement.

On 21 January 1988 the Minister for Planning and Environment, Mr Roper, and I jointly announced the purchase of some 170 hectares of Greens Bush for approximately $2 million, with provision for the remaining land that could not be purchased to be protected with revised planning controls and by convenants.

Unfortunately, although there is overwhelming support in the community for the need to protect the area, a campaign has been waged by a few people, often using false and misleading statements, which opposes rather than builds on the government's actions to obtain further community contributions. In my view, aspects of this campaign are counterproductive to the interests of conservation and warrant this statement to the House.

In making this statement it is important to recognise that both Liberal and Labor governments have exercised a commitment going back to 1974 to save this important remnant of bushland on the Mornington Peninsula.

As the values of Greens Bush are well established and not disputed it is sufficient to mention them only briefly. Greens Bush, an area of some 900 hectares, is located only about one and a half hour's drive from Melbourne, at Main Ridge. Its importance is highlighted by the fact that only 7 per cent of the Mornington Peninsula maintains remnant native vegetation which is critical to the survival of the wide variety of animals and birds found on the peninsula. Greens Bush is the only one of the six major areas of remnant vegetation that is not already protected in State or Commonwealth reserves. There is considerable diversity of vegetation types, and wildlife habitat is correspondingly diverse and supports a rich variety of birds and mammals.

Greens Bush is an excellent example of the type of areas recognised by the State conservation strategy as requiring protection because of their conservation and landscape significance in the rural fringe of metropolitan Melbourne.

Funds for land purchase at Greens Bush for conservation purposes were provided in a 1974 agreement signed by the Premier of Victoria and Prime Minister Whitlam covering the Melbourne South-East Sector Land Assembly Program. This agreement provided Commonwealth grant funds for two-thirds of the expenditure with the State providing the remainder. The whole of the Greens Bush area was included as highest priority in the program. In June 1975, some 500 hectares was purchased for about $1·3 million. This land was included in Nepean State Park.

Unfortunately, the Commonwealth government under the Honourable Malcolm Fraser decided to withdraw funding assistance in 1976 when the program was only partially completed. In the absence of Commonwealth grant assistance the program was no longer feasible.

Between 1975 and 1985 the Green family continued to farm their land. Since 1985 when it became known that the Green family wished to subdivide the 400-hectare property, the Department of Conservation, Forests and Lands, the Ministry for Planning and Environment and the Shire of Flinders have been discussing with them land acquisition and planning controls.

The Green family in October 1985 submitted a plan of subdivision to the Shire of Flinders Council. The council received numerous objections to the proposal but made determinations to grant permits for a 26-lot subdivision. A number of objectors appealed against the shire's determinations and the appeals were heard by the Planning Appeals Board in October 1986. The appeals were "called in" by the Minister for Planning and Environment who upheld the recommendation of the Planning Appeals Board that the appeals be allowed. It was considered that the subdivision as proposed would be detrimental to the values of the area. The board also made a number of recommendations on what would be required in order for the subdivision to comply with the provisions of the Shire of Flinders planning scheme.

An ideal solution would have been to purchase the whole of the Greens' farm. An approach was made to the Commonwealth for further financial assistance which unfortunately was not forthcoming. Recognising the large amount of money required, the limited State funds available and the need to meet very high priorities elsewhere in the State, a public appeal was launched to raise funds for purchase of part of the property.

My Parliamentary colleague, the Honourable Alan Hunt, shadow Minister for Planning and Environment, agreed to chair the appeal committee under the auspices of the Victoria Conservation Trust. I am indebted to him and his committee for their efforts. The Greens Bush appeal ran for more than one year and raised $1·3 million—including $460 000 of Government funds. The hundreds of donations to the appeal demonstrated the tremendous community support for the project.

Based on biological information provided by departmental specialists, an area of some 170 hectares of land was identified by my department and approved by me for purchase out of the remaining 400 hectares held by the Green family.

Briefly, the bases for purchase included:

acquiring perennial swamps in the headwaters of Lightwood Creek;

obtaining the least disturbed natural vegetation associated with providing a link between the three sections of Nepean State Park separated by the Green family land;

providing additional habitat for a range of animal species;

protecting Main Creek with its fern gullies and wet heathlands and its tributaries;

facilitating the free spread of wildlife throughout the park;

providing an interesting route for a section of the Two Bays walking track;

assisting park management by improved access for management vehicles, easier fencing of boundaries, closure of unnecessary roads and greater ease with fire protection and suppression works;

It should be noted that the creation of a significant link along Main Creek was also a requirement of principal donors.

Valuations of the land identified were determined by the Valuer-General's Office, an independent valuer and the Green family's valuer. On this basis the current market price was established and the land purchased for $2 044 080 by the Victoria Conservation Trust. The cost of compulsory acquisition of the land would clearly have been substantially greater, and those who suggest the land should have been purchased for less fail to understand the valuation and acquisition process. I wish to pay tribute to the vital role played by the trust in assisting with land purchase as well as in fundraising.

To enable this purchase to take place, funds have been allocated from my department's budget with some expenditure deferred until August 1988. The department's overall expenditure on this project will then be almost $1·2 million. The size of this financial commitment to Greens Bush can be measured by the fact that, in 1987–88, the departmental funds available for purchasing of land for national parks, State parks and historic parks are of the order of $1·524 million.

In determining which land to purchase, it has also been a requirement to recognise the rights of the landholders to retain certain land. In summary the purchase involved:

possibly the most successful public appeal for funds for land purchase held in Victoria;

a major commitment of government funds. Over $3·3 million including the earlier land purchase in 1975;

proper procedures for the identification and purchase of the land.

Members of this House will be aware that the purchased land along with the southern section of Nepean State Park is part of the proposed Point Nepean National Park provided for in the legislation already considered by the House in this autumn session of Parliament. This will ensure that this environmentally and historically significant land will become a lasting feature on the Mornington Peninsula.

The remaining 230 hectares which could not be purchased will be protected with revised planning controls and by convenants. An inappropriate subdivision inevitably would be of detriment to the conservation values of this land and Nepean State Park. The Governor in Council has approved an amendment to the Shire of Flinders planning scheme enabling special controls on use and development of the land. This amendment takes into account the subdivision guidelines provided by the Planning Appeals Board.

Under the amendment, the land which is currently in eight separate titles may be subdivided into eighteen lots which is the same yield as allowed under the previous planning controls. Stringent and environmentally sensitive controls are also provided under the amendment.

Features of the subdivision include:

larger lots than previously required abutting the purchased wetland;

building envelopes located away from roads and purchased land;

30 per cent of the land identified as bushland and wildlife conservation envelopes which are fenced to keep out domestic stock and on which grazing, tree clearing and slashing are prohibited;

further controls to prevent clearing and felling of mature vegetation outside these envelopes;

no cats and strict controls over dogs.

The landowners are obliged to enter into covenants with the Victoria Conservation Trust in order to provide long-term protection of the bushland and wildlife conservation envelopes. The protection of this vegetation ensures a valuable addition to the habitat being directly protected through government purchase.

I believe this is a sensible and practical alternative to outright purchase by the government. It respects the present landowners' rights for the land and gives an opportunity of buying and caring for the land to people wanting to live in an environmentally important area.

I mentioned earlier that false and misleading claims have been made about the government's action on Greens Bush. I do not want to dwell on these; however, I totally refute claims made that the wrong land was bought, donations have gone into government revenue, and that allowing a subdivision is inconsistent with the Planning Appeals Board's

determination. These allegations are totally unfounded, and are mischievous in the extreme and counterproductive to raising money for Greens Bush.

Finally, what about the future? Although it is recognised that the most important wetland area has been purchased, there is a case for purchasing another 50 hectares within the catchment of Lightwood Creek which does include some additional wetland.

In particular there is an 8-hectare area that should be added to the park but is not for sale. The location of the area is shown on a map of Greens Bush which I have lodged in the Parliamentary Library. I have written to Mr Mike Green, the owner, requesting him to give my department first option if he ever wants to sell this land.

I believe the target for further fund raising should be at least $1 million. This would allow the purchase of those remaining areas with the highest values. The Victorian government, with community assistance, has played its part by bringing the highest priority areas into public ownership. It is now up to the conservation groups to take the lead by forming a fundraising committee. I understand that the Victoria Conservation Trust is pleased to continue to accept donations.

Our action on Greens Bush is a demonstration of the government's commitment to the conservation strategy in general and to urban nature conservation in particular. It must now address other very high priority areas elsewhere in the State. What has already been achieved is significant and worthwhile, and to claim that it is inadequate is a negative approach. The challenge now lies with those genuinely interested in conservation to work together in a positive way to assist in the further protection of Greens Bush.

The Hon. A. J. HUNT (South Eastern Province)—I move:

That the Council take note of the Ministerial statement.

I am pleased, on behalf of the Opposition, to endorse the Ministerial statement in its entirety; a reaction that is not normal to all Ministerial statements. However, the preservation of Greens Bush has long been a bipartisan matter.

The original arrangements were made between the former Whitlam and Hamer governments in 1974. It was envisaged that substantial funding would be granted over a period. Half the land was obtained at that stage, and I was personally associated with the purchase. Unfortunately funds did not become available for the purchase of the balance, and I believe those interested in conservation need to recognise that, in a period of capital stringency, there will never again be sufficient funds to enable governments to purchase every worthwhile piece of land.

It therefore follows that, if local communities wish to preserve desirable land, they must work together with government to do so. That will often mean community appeals matched by government funds. I think conservation groups have learnt quite a deal from the Greens Bush appeal; they have learnt from some of the successes of the appeal and also from some of the failures, to which I shall advert a little later.

I dare say that what happened at Greens Bush is a pattern for the future for other worthwhile conservation purchases involving local communities and, indeed, the wider community working with the government. Those who believe the piece of land is worth preserving will need to work for it. They will need to participate in the raising of funds. Governments of whatever political colour will tend more to assist those who are ready to assist themselves and participate in the raising of funds.

The fact is that the government has made it clear that it had no money for the purchase of this land; land that many people on the peninsula, and from far wider afield, believed was very precious indeed, supporting as it does some 200 kangeroos, an abundance of wildlife, and a variety of flora and fauna.

When a committee was established by the Victoria Conservation Trust, with the approval of the Minister, the possibility of matching funds arose. I do not believe that would have

arisen without a demonstrable local effort taking place at the time. The fact that funds were raised locally and in the wider community did, I am sure, induce government to put in money. The fact that the fundraising was comparatively large, induced the government to make a second contribution. The fact that the moneys raised were insufficient to purchase all the land that was desirable induced the government to make a third contribution, payable from next year's funds.

All that occurred because people were willing to work for the preservation of this area. Unfortunately, however, there were some who called themselves conservationists who contributed in no way to the appeal but, on the contrary, sought to undermine it. Their efforts diminished the amount raised by the committee and hence the area of land that was purchased. They believed the government should buy the land. Of course, that was an impossible dream.

Therefore, they considered the appeal was an unfair one calling upon private citizens. When it was obvious that they were wrong on that point, they said the government was going to pay too much. That is nonsense.

Anyone who understands the valuation and acquisition process knows that the government is bound by valuation advice and must pay in accordance with the valuation. Three valuers were involved in this case, and they reached agreement on the price that ought to be paid. Had the matter proceeded by way of compulsory acquisition with payment of solatium and other expenses, clearly the amount paid would have been vastly greater.

Claims were made that the wrong land was purchased. The land that was purchased was determined by the department on the best advice possible. It is true to say that not enough land was purchased. More land should, desirably, have been purchased, and I hope more land will be purchased. But, the land that was purchased was the land which was the most vital of all. That land should be added to, if at all possible, by buying further land in the catchment of Lightwood Creek.

There were others who made claims that the government should stop the Green family farming the land. That, of course, is nonsense. There were those who said that no subdivision whatever should take place. That was, in effect, an attempt to deny the Green family its rights under the planning scheme. Of course, it overlooked the fact that the land was already in eight titles comprising nine allotments which could have been sold off individually without any subdivision at all.

That would have been the most disastrous result of all, because the boundaries of the old titles had no regard whatever to conservation values; and the sale of nine separate existing allotments by the family would have been a disaster for conservation in the area. In any event, the Planning Appeals Board, when it withheld approval of the subdivision, indicated the conditions on which it would grant subdivision. It is clear that the Green family would have been able to subdivide in the longer term.

What the government did was to achieve a better result than would have been achieved under the terms of the Planning Appeals Board's indication of what would be approved. The most vital land was purchased and, in respect of the balance, conservation conditions were imposed, with the agreement of the family, which would not otherwise have existed. The subdivision that the government approved has many desirable features that could be considered as models for other cases where full purchase cannot be achieved. Those conditions included the entering by the landowners into a conservation covenant with the Victoria Conservation Trust, a comparatively new approach, and a very worthwhile one.

In all, almost three-quarters of Greens Bush has passed into public ownership over the past decade or so, including an area purchased by the Shire of Flinders, which maintains the park-like nature of the area. The balance is being protected in a unique way, which will assist to conserve it while recognising the rights of the owners.

I deeply regret that the Commonwealth government has not assisted in any way in the second-stage purchase. I know the Minister has made direct representations to the Commonwealth government, as, indeed, did my committee. Those representations should be renewed and assistance should be sought for the purchase of further land, including the catchment area of Lightwood Creek, and those representations should be pressed by both parties at the Federal level. I shall contact the two Federal members in the area and invite them to press the case as strongly as possible with the Federal Cabinet, especially in view of the Commonwealth's long-held interest in the land.

Finally, I express my thanks to the many people who worked very hard in connection with the appeal, as well as to the donors who contributed amounts both large and small to fund the appeal. Those donors included school children who contributed small sums which, when aggregated, were quite significant. I thank the members of the committee who gave of their time in a voluntary capacity to serve the cause of conservation.

I sincerely trust that the efforts of those who undermined the appeal will not be repeated in other cases; and that in the future those who are interested in conservation will work together with fundraisers on similar appeals in the interests of conservation in Victoria. I believe that is the only way we will preserve sufficient of our heritage.

The Hon. D. M. EVANS (North Eastern Province)—I move.

That the debate be now adjourned.

At some stage I should like the opportunity, on behalf of the National Party, of making comments on the matter, because interesting issues and points of principle have been raised in the statement, particularly concerning the manner in which the Greens Bush issue has been handled—and I say that in a positive sense. I congratulate Mr Hunt for the action he has taken in this matter.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until the next day of meeting.

FIREARMS (AMENDMENT) BILL (No. 2)

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of clause 8.

The Hon. R. M. HALLAM (Western Province)—I shall make some comments in relation to the amendments to clause 8 that will be moved by the National Party, both because they are so complex and because the running order is very complicated, to explain the effect the National Party will be seeking.

When the Bill was last dealt with by the Committee I tested the concept of the permit to purchase with amendment No. 14 and also canvassed amendments Nos 15 and 16 circulated in my name. They are consequential on the substantive amendment No. 52 standing in my name. Because amendment No. 14 was negatived, I shall not be proceeding with amendments Nos 15 and 16.

I shall comment on the thrust of the other amendments I shall propose to clause 8. Amendment No. 17—and amendment No. 18, which is consequential thereon—will seek to affect the clause in three ways. Firstly, it will defeat the government's intention to delete the option of the six-year licence. The complication with that——

The CHAIRMAN (the Hon. G. A. Sgro)—Order! Will Mr Hallam explain to the Committee why he cannot comment on his amendments when he moves them?

The Hon. R. M. HALLAM—Mr Chairman, I thought it may have been of assistance to the Committee to be aware of the sequence in which the amendments fall. Some of the

amendments are conditional on the outcome of others that would normally be moved in a different order.

It may help the Committee if I outline the thrust of the amendments that the National Party seeks to make. I hope it will short-circuit the process. Amendments Nos 17 and 18 tie in with the government's attempt to delete the six-year licence, which is covered by Mr Chamberlain's amendment No. 6 which the National Party supports. The amendments will also have the effect of omitting proposed new section 22AA (6), which places conditions on the renewal of licences and refers to the categorical conditions: primary production, membership of a shooting club or occupational need. This is also covered by Mr Chamberlain's amendment No. 7.

The final thrust of the National Party's circulated amendments was to introduce the concept of a one-time licence, based on the New Zealand system, but the National Party will not proceed with that provision because it believes it to be unachievable in the current climate. I will introduce a compromise amendment, which has been circulated and which seeks to introduce the concept of renewal fees being less than the original fee.

I shall explain that provision in more detail. The concept of a once only licence fee is taken directly from the New Zealand experience. It has been promoted and supported for some time, even by the government's own experts. It is relevant to take into account the fact that the New Zealand system was devised after a long period of gestation, involving approximately four years of close investigative research that was free of party politics.

In 1980 the New Zealand government sponsored the drawing together of experts from across the world. That was when Australians first heard of Superintendent Colin Greenwood, who has since been recognised as the author of much of the work that has occurred in New Zealand. That conference was also attended by Ted Clarke, representing the Antique and Historical Arms Collectors Guild. The same Ted Clarke was on the review team established by the government with Mr Robert Emslie, Acting Deputy Secretary, Ministry for Police and Emergency Services, and Chief Inspector Brian Fennessy. The result was the introduction of a one-time licence, so it is not a new concept and has a great deal to recommend it. It overcomes many of the administrative problems that have beset the government in its administration of the Act and in the problems associated with the provisions in the Bill.

Of course, the only problem the amendment has is that it impacts upon revenue. If the increase in fees is to cover administrative charges, then a once-only fee would overcome that administrative problem and the need for the increased fee. If, however, the increased fee is another barrier to prevent additional private ownership of guns, it is the worst possible solution. Licence fees under the government have increased considerably, and that is intriguing. When the Cain government came to power, the cost of a shooter's licence was $2 a year. It was then increased to $10, then to $15 last year, and is now sought to be increased to $25, which makes a joke of the government's claim of restraint and of increases in fees being kept in line with increases in the consumer price index.

When I asked the Treasurer for an explanation of the massive increase in fees, he talked about the registration costs, which is something quite different. Registration attracts a one-time fee. If registration is expensive, the cost of registration should be examined. It is a shallow argument to say that registration is costly and therefore the government should increase the licence fees. It does not stand up.

If the rationale for the proposed increase in fees is to cover the cost of licence testing, it is inappropriate to apply the increase to licence renewals because no test is involved. It makes nonsense of the government's argument. If the fee is to be increased to provide additional shooters' facilities, that also is nonsense because those facilities are funded from game fees and not from shooters' licence fees. All of those reasons support the National Party's argument in favour of a one-time licence fee.

The problem is that it is difficult to insert those provisions into the amendments to clause 8 for discussion by the Committee. I wanted to outline those matters so that the

amendments can be coordinated. Now that I have foreshadowed those proposals, the Committee's task should be much simpler.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

6. Clause 8, page 4, lines 42 to 44 and page 5, lines 1 and 2, omit sub-clause (4).

In view of the subsequent amendments that will be moved by the Opposition this provision becomes unnecessary. I shall not go into the detail of it because the government has agreed not to oppose the amendment.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

4. Clause 8, page 5, line 5, omit "may" and insert "must".

The amendment provides for mandatory renewal of a shooter's licence if the holder still has a good reason to possess a firearm.

The Hon. R. M. HALLAM (Western Province)—The amendment takes out the classification that the government sought to introduce by way of condition, and on those grounds the National Party is delighted to support the Minister's amendment.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

5. Clause 8, page 5, line 5, after "years" insert "or six years at the election of the applicant".

This restores the option to renew a shooter's licence for six years.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition supports the amendment because it makes the clause consistent with the provisions of the 1985 Act.

The Hon. R. M. HALLAM (Western Province)—The National Party supports the amendment.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

6. Clause 8, page 5, lines 10 and 11, omit paragraph (*b*).

The amendment deletes a requirement that sporting shooters must be members of a gun club to have their shooters' licences renewed. I have already canvassed the reason for the amendment and I will not repeat those reasons.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

7. Clause 8, page 5, line 12, omit "(*c*)" and insert "(*b*)".

This amendment is consequential.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

8. Clause 8, page 5, line 17, after "business" insert—

"; or

(*c*) a person who has any other good reason to possess a firearm.".

The amendment inserts a further precondition to licence renewal. The combined effects of this and the amendment that the Opposition will move will be to provide for automatic renewal of a shooter's licence without the need to demonstrate a continuing good reason to possess a firearm.

The combined effect of the amendments is to require an applicant for renewal to demonstrate that he is a farmer, or has an occupational need for a firearm, or another good reason to possess a firearm. The amendments will have the effect of removing membership of gun clubs as a prerequisite for licence renewal.

The Hon. B. A. CHAMBERLAIN (Western Province)—The amendment proposed by the Minister runs counter to the amendment of the Liberal Party to clause 8 (6). The position of the Liberal Party in respect of renewal of licences is that there should be automatic renewal for three to six years at the request of the applicant.

To understand that, one must go back a number of steps. Section 22AA of the Firearms Act contains provisions relating to who can obtain a shooter's licence. If one considers the combined effect of all the provisions relating to the obtaining of a shooter's licence, including the Bill debated last year, the Firearms (Amendment) Bill, one sees that a person who may obtain a shooter's licence must be: firstly, not under the age of eighteen years; secondly, have had good reason to possess a firearm; thirdly, have successfully completed a course on firearms safety; fourthly, be of good character; fifthly, ensure that the firearms are securely stored when not in use; sixthly, not have made a false statement; and seventhly, not be otherwise unsuitable to possess a firearm.

If the applicant for a shooter's licence does not fit into any one of those categories, he or she faces the prospect of being outside the law and losing his or her firearm. The proposed legislation includes provisions for cancellation of licences for many breaches and there is a series of penalties for other breaches. Honourable members will be aware that those provisions will be supplemented by way of other amendments which the Liberal Party will propose today. There is also a very broad power vested in the Registrar of Firearms to cancel licences; for instance, if there have been misstatements in relation to the character of the applicant.

The proposed amendment is unnecessary. The Liberal Party seeks to revert to the position approved by Parliament last November, which provides for renewal of the shooter's licence at the election of the applicant. This provision is contained in section 8 (*d*) of the Firearms (Amendment) Act 1987. That is the objective the Liberal Party seeks to achieve.

The Hon. R. M. HALLAM (Western Province)—I also speak against the amendment proposed by the government. The original objective sought to be achieved by the National Party is captured by amendment No. 16 standing in Mr Chamberlain's name. It would simply restate the current position, which is that the licence renewal becomes automatic upon the application of the applicant. I make it clear that the National Party will be supporting amendment No. 16 standing in Mr Chamberlain's name, which amendment will have precisely the desired effect.

The Hon. B. A. CHAMBERLAIN (Western Province)—As I understand it, the government's proposed amendment will conflict with what I have just said is the objective of the Liberal Party. The position is that amendment No. 6 took the provisions in respect of licence renewals back to those passed by the Parliament last November. If the government's amendment is agreed to, another element will be introduced.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—What Mr Chamberlain has said is quite correct. The government believes firmly that the process of licence renewal and the precondition that the government is suggesting should be added to the existing preconditions; it is an important part of continuing to monitor responsible gun ownership. It is a position the government hoped the Opposition would share, but Mr Chamberlain's following amendment is in direct conflict with what the government has outlined. Consequently, the government will obviously not be supporting amendment No. 16 standing in Mr Chamberlain's name.

The amendment was negatived.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

8. Clause 8, page 5, lines 18 to 27, omit sub-clause (6) and insert—

"(6) In section 22AA of the Principal Act, for sub-section (7A) substitute—

"(7A) No fee is payable under sub-section (7) by any person engaged in primary production within the meaning of Part IIIA or by members of that person's family or by that person's employees.'.

The proposed amendment seeks to make it quite clear that the current situation should continue, so that no fee is payable by a person who is a primary producer, a member of that person's family, or an employee of that person. Honourable members have already heard that the words "without fee" will be inserted in the provisions relating to shooters' licences for farmers. The proposed amendment carries the provision further, as I have said.

The provisions under consideration are crucial. It was my intention to move amendment No. 7 standing in my name. I was wondering why amendment No. 8 was called. Perhaps the Committee might report progress to the House.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—As Mr Chamberlain was very generous yesterday in ensuring that the call was correct, I shall be generous in reporting progress.

The Hon. N. B. REID (Bendigo Province)—Before progress is reported, I wonder whether, when the debate on the Bill resumes in Committee, Mr Chamberlain and Mr Hallam may be permitted to sit at the table so that they can together go through the technical detail of what is a very complex piece of proposed legislation. That suggested procedure may expedite the consideration of the Bill in the Committee stage.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I do not have any problems with that suggestion of Mr Reid. May I suggest, Mr Chairman, that there be a suspension of the Bill and that progress be reported to the House?

The Hon. B. A. CHAMBERLAIN (Western Province)—The alternative is to postpone consideraton of clause 8 and go on to clause 9.

The clause was postponed.

Clause 9

The Hon. B. A. CHAMBERLAIN (Western Province)—I invite honourable members to vote against this clause. At present section 22AB deals with permits to purchase and states that the registrar must issue the permit applied for if he is satisfied that the applicant comes under a number of occupational categories, namely, that he has been engaged in primary production within the meaning of Part IIIA, has been a member for not less than twelve months of an approved sporting or recreational shooting organisation or has another good reason to possess that firearm, and that he has a good knowledge of firearm laws and of the safety practices relating to the type of firearm which is proposed to be purchased.

The amendment to clause 9 is in two parts. As I understand it, the government intends to withdraw paragraph (*a*), so that any argument really involves paragraph (*b*). There is no difference between new paragraph (*b*) and the existing provisions because the government is proposing that instead of listing those occupational groups it will remove the words "has another good reason to possess that firearm" and substitute the words "has a genuine need to purchase that firearm".

The argument is about the difference between the words "has a genuine need to purchase that firearm" and the words currently in the Act, namely, "has another good reason to possess that firearm". There is little difference in the meaning.

The Liberal Party opposes the clause because it adds nothing, given that the government was not intending to proceed with paragraph (*a*), because paragraph (*b*) contains nothing

that is not already in the existing Act. The argument relates to the permit to purchase system, under section 22AB of the Firearms (Amendment) 1987.

The Hon. R. M. HALLAM (Western Province)—I also was under the impression that the government intended to move some amendments to clause 9. At present, clause 9 removes the automatic entitlement of primary producers or club members to a permit to purchase. The National Party did not agree with the permit to purchase in the first place, and has said so many times. It is a complete waste of valuable resources. That provision simply clogs up the registration system which has been totally discredited in Victoria.

The National Party on many occasions has stated that the registration system upon which the permit to purchase is based will do nothing to reduce the criminal misuse of firearms. Again on many occasions it has stated that if an applicant is refused a permit to purchase it is a wonder that he was given the licence to own a firearm in the first place. It seems to be a case of putting the cart before the horse.

When the automatic entitlement to a permit to purchase was introduced by the Liberal Party amendment last November, giving that automatic entitlement to primary producers and members of approved clubs, the National Party said that that provision was better than nothing. It supported it at that stage.

The National Party will be supporting the amendment which deletes clause 9, pending the total abandonment of registration and permits to purchase at a future date.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government absolutely and unequivocally rejects the invitation by the Liberal Party to vote against the clause. There are a number of major points on the Bill upon which we stand because of the government's principles that the fewer guns existing in society, the less likelihood there is of violence occurring. The government has to stand firm to remain true to that principle.

If the automatic entitlement to obtain a permit to purchase a firearm currently enjoyed by farmers and gun club members is retained it is estimated that more than 100 000 licensed shooters will have unrestricted access to any number of firearms. One can realise that such a provision will do very little to reduce the massive proliferation of firearms in the community. The government believes the Liberal Party's proposal must be deplored.

There is no reason why those groups that are given the privilege of being treated differently, because of their various legitimate uses should be treated any differently from other firearm owners in the sense of obtaining permits. All gun owners should be required to demonstrate that they have a genuine need for additional firearms. Clause 9 seeks to achieve that equitable position.

Even though it may not have the support of the Committee, clause 9 certainly has the support of the general community.

The Hon. B. A. CHAMBERLAIN (Western Province)—I understand the point made by the Minister, but that does not stand up to examination. The provisions of section 22AA of the Firearms (Amendment) Act include a number of preconditions for having a licence. A person must not be under the age of eighteen years; he must have a good reason to possess a firearm; he must have completed a course; he must be of good character and know firearm laws, he must ensure that the firearms are securely stored; he must not have made any false statements, and he must be not otherwise unsuitable to possess a firearm.

The registrar has the power to withdraw the licences of those outside the law and those who have made misstatements. The Liberal Party will be bolstering that power by means of later proposals.

Recognition is afforded in that provision to occupational groups. If the Minister desires, I can quote from the Premier's press statement wherein he ultimately and reluctantly agreed that farmers, guards, police and sporting shooters had a right to own firearms. If there is general agreement—and I know that the government's position changes on it from

one day to the next, depending on where the Premier is and to whom he is speaking—the argument centres around the difference between the words that I previously quoted, referring to someone who has "a genuine need to purchase that firearm" and the words in section 22AB (2) (*a*) of the Act, namely, someone who "has another good reason to possess that firearm".

Although the government is rattling the chains a little on this issue, there is no genuine concern in relation to it.

The Hon. R. M. HALLAM (Western Province)—I find the Minister's comments extraordinary. The Minister is now putting to the Committee that it is inappropriate for the membership of an approved club to be a qualification to possess a firearm. In fact, the government is stating that the same qualification will apply to a shooter's licence or to the renewal of a shooter's licence. That is very much a double standard.

The concept of people being forced to join clubs to obtain permits to purchase is not an enjoyable one, but for a different reason. People should not be forced to join clubs to obtain a shooter's licence or to guarantee the renewal of that licence. The government cannot have its cake and eat it, too.

The government cannot say, on the one hand, "We will force you into clubs to get a licence" while on the other hand saying, "We reject the notion that you should be forced into clubs to get a permit to purchase". That is exactly what the Minister is putting to the Committee.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Although I am trying to remain reasonably calm as one must in this complicated debate, I find it amazing that Mr Chamberlain should say the government's position is all over the place when, on 15 December last year, the Leader of the Liberal Party, Jeff Kennett, issued a press release saying that he welcomed the decision of the government to ban, by regulation, the purchase, sale and use of semiautomatic weapons in Victoria, and welcomed the regulation that had been approved by the Governor in Council. That was the substance of his press release, which I could not have read wrongly in the newspapers.

On the point raised by Mr Hallam, I repeat that, although the government's view is that persons such as farmers ought to be able to obtain firearms, that does not mean there should be a proliferation of firearms. The government's principle has been consistent and clear in trying to limit the number of guns in society, but unfortunately it will not be able to be passed in its entirety through this House.

I am absolutely clear about the National Party's position as it has been consistent in its view over the past few months, but it is disappointing that the government is not being supported by the Liberal Opposition, when it did have that support four months ago.

The Hon. R. M. HALLAM (Western Province)—I put to the Minister for Conservation, Forests and Lands that her comments were quite erroneous in charging the National Party with working against the proliferation of firearms.

The Hon. J. E. Kirner—I said you were working for the proliferation of firearms, not against it.

The Hon. R. M. HALLAM—The National Party is trying to ensure that firearms are held by those who are legally entitled to do so, and who have proven their responsibility.

The Hon. J. E. Kirner—In unlimited numbers!

The Hon. R. M. HALLAM—That is quite a different concept from a blanket restriction on numbers. We have gone over that argument many times in this debate. The central issue to the National Party is that the test of responsibility should occur at the point of licensing, not at the point of purchase. That is the fundamental difference between the National Party's position and the government's position, and National Party members stand by it.

The Committee divided on the clause (the Hon. G. A. Sgro in the chair).

Ayes	14
Noes	16
Majority against the clause	2

AYES	NOES
Mr Crawford	Mr Baxter
Mrs Dixon	Mr Chamberlain
Mr Henshaw	Mr de Fegely
Mr Kennan	Mr Dunn
Mr Kennedy	Mr Guest
Mrs Kirner	Mr Hallam
Mrs Lyster	Mr Hunt
Mr McArthur	Mr Knowles
Mrs McLean	Mr Long
Mr Pullen	Mr Macey
Mr Van Buren	Mr Storey
Mr White	Mrs Tehan
	Mrs Varty
Tellers:	Mr Wright
Mr Arnold	
Mr Landeryou	*Tellers:*
	Mr Miles
	Mr Reid
PAIRS	
Mrs Coxsedge	Mr Birrell
Mrs Hogg	Mr Evans
Mr Mier	Mr Ward
Mr Murphy	Mr Lawson
Mr Sandon	Mr Connard
Mr Walker	Mr Granter

Clause 10

The Hon. R. M. HALLAM (Western Province)—I invite the Committee to vote against clause 10. The clause would remove the automatic recognition of the interstate licences of short-term visitors and empower the Registrar of Firearms to issue short-term permits. This clause, more than any other provision, has shown up the double standards of the government. The Premier is indicating that it is one thing to talk about uniform gun laws across the nation, so long as they fit in with this State's laws, but that Victoria will not recognise someone else's laws. Even worse, the provision would mean that Victoria would not recognise shooters who come from a State with different gun laws.

That situation would not be the fault of the shooters but of the governments concerned. It is totally unfair to take that out on shooters from other States. Clause 10 should be deleted from the Bill. It may fall within the powers of section 117 of the Australian Constitution, which requires the recognition by any State of the rights of a visitor from another State. I believe the clause is flying close to the wind.

It would have reduced the number of shooters coming to Victoria from every part of the nation. Shooters do not have control over the laws of their States; those laws are determined by governments. If the government is genuine about seeking a national structure on firearm legislation, this is the worst possible way to go about it. We should talk about recognition and decide whether we should recognise automatically or whether we will pick and choose.

Will the government accept the South Australian, the New South Wales, the Northern Territory and the Western Australian legislation? If so, will the government accept the Tasmanian and Queensland legislation? The Minister shakes her head. The shooters of Tasmania and Queensland are entitled to the same recognition as those who come from other States.

The Hon. J. E. Kirner—Providing they have proper testing. Surely, as a responsible shooter, that would be your view?

The Hon. R. M. HALLAM—The government cannot use its influence across two state borders. It is not intent on setting legislation for Victoria, it wants to set legislation for Queensland and Tasmania. That is fundamentally unfair to the shooters of those States. They are entitled to come to Victoria and to be recognised under the laws of this State. Clause 10 is a draconian clause and its implementation will have an enormous effect.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Liberal Party cannot support the arguments put by the National Party on this matter. As an example, recently I was telephoned by a constituent who had just moved from Queensland into my electorate. He had been a shooter in Queensland and wanted to go duck shooting during our duck season. In Queensland there is no system of firearm testing to obtain a shooter's permit. How do we know that that person has any knowledge of firearm handling, particularly in Victoria, any knowledge of firearm safety or that he is not a raving lunatic?

I presume that what Mr Hallam is asking what the position will be if somebody comes from Queensland and says, "I am a regular shooter, I want to shoot here." The National Party should articulate on what basis it will give a shooter that right. There are provisions for special cases in the Bill. If, for instance, an Olympic shooter came to Victoria from Queensland there would be provision for him to approach the registrar and to be given permission to use a firearm.

The Hon. R. M. Hallam—He must be given permission.

The Hon. B. A. CHAMBERLAIN—It is an open-ended provision, and I seek from the Minister an undertaking—and this matter has been discussed with the Minister in another place—that shooters who have licences from New South Wales, South Australia, Western Australia and the other jurisdictions that have a licensing system will, in fact, automatically have the right to have those qualifications recognised in Victoria.

I want that on record, and I should like to know how, concerning the jurisdictions that do not have such testing, such as Queensland and Tasmania—except in the extraordinary case of an Olympic shooter who can go to the registrar for an exemption—Mr Hallam would protect the Victorian community from someone who is irresponsible, or is a nut, or whatever.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—In response to Mr Hallam, I point out that the government is genuine about obtaining national agreement on gun laws and will work towards that end. If the government accepted Mr Hallam's premise, it would be in a situation where it would have to give automatic recognition to shooters licensed in other States.

In response to the points raised by Mr Chamberlain: the government intends immediately to approve the existing States that issue shooters' licences—New South Wales, South Australia, Western Australia, the Northern Territory and the Australian Capital Territory—but the government does not intend to give automatic recognition of Queensland or Tasmanian licences which may not have been accompanied by acceptable issuing criteria, such as licence testing for safe handling practices.

That is an eminently reasonable position. There are opportunities for exemptions. Even in communities such as Tasmania and Queensland, where the former Premier is regularly shooting himself in the foot, governments will move because of community standards towards——

Honourable members interjecting.

The Hon. J. E. KIRNER—They are probably exchanging shots in the foot among various members of the National Party!

Changing community standards will put the position that I believe Mr Hallam supports to both the Tasmanian and the Queensland political arms and the community, so that eventually they will come into line with all other States and have those requirements for safe handling and proper practice in gun use. That is all the government is saying.

I suppose it does go back to the National Party's constant position of unfettered rights. The government's position is clear; where there are rights and recognition of those rights, such as the right of farmers to own firearms, there are responsibilities that go with those rights. One of the responsibilities of the government is to ensure that there are proper issuing criteria, and when Tasmania and Queensland have those criteria the government will move to approve all States that issue shooters' licences.

The Hon. R. M. HALLAM (Western Province)—Will the Minister explain how this recognition is to be recorded, other than by what the Minister has done now, and whether we can have something on the record as to the time involved?

The Hon. B. A. Chamberlain—The Minister said immediately in relation to the others.

The Hon. J. E. Kirner—Immediately for the States I listed, yes.

The Hon. R. M. HALLAM—That is a step in the right direction. I just make the point, though, that I would have hoped that we could all be considered as Australians, and I repeat that this government seems intent not just on controlling shooters in Victoria but on controlling shooters in other States as well.

The Hon. J. E. Kirner—Not at all.

The Hon. R. M. HALLAM—What the Minister is saying is that shooters from Tasmania and Queensland will have different conditions imposed on them.

The Hon. J. E. Kirner—When they come to Victoria they will have Victoria's conditions imposed on them.

The Hon. R. M. HALLAM—I am talking about short-term visitors. The government's position is untenable because it is not the fault of the shooters that the laws are different. To suggest that becasue they come from Queensland, as Mr Chamberlain implied, they are a lesser or greater risk, is begging the question. Many shooters shoot interstate regularly, and I happen to be one. I know how important the question of reciprocity is. We are now suggesting that every time a shooter comes across the border from Tasmania he or she will have to obtain special authority form the registrar. That is pure humbug!

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—We have heard some impassioned comment from Mr Hallam, but it is really quite illogical. If we followed through his line of everything being agreed across States, there would be no reason for having State governments or State laws—not a position, I suspect, shared by the National Party. I can give a number of examples where his argument can be reduced to absolute absurdity.

Is Mr Hallam suggesting that, if I were operating in my own field of responsibility for wildlife, I should automatically allow the same kind of wildlife regulations in this State that they have in the Northern Territory, where they have just agreed to allow the capture of endangered native species and to allow them to be kept in cages!

I imagine all honourable members have that overall view of native species. But because the government has a better position on safety for the benefit of Victorians, the National Party is asking the Government to abrogate that right because some other State does not have it. Does Mr Hallam have the same views on road laws? As Mr Hallam is well versed on this issue, he should admit that it would be proper for the National Party to put first the safety of Victorians, not the interests or the rights of Tasmanian and Queensland shooters. Mr Hallam should urge his National Party colleagues in Queensland and the government will urge the Liberal Party government in Tasmania to upgrade their laws, and there will then be no problem. The stance taken by the National Party is absurd.

The Hon. R. M. HALLAM (Western Province)—I shall respond to the Minister because I would be happy to urge my National Party colleagues in Queensland to introduce a system which would be similar to that applying in Victoria. I take this issue seriously. But what the Minister is suggesting by her example on laws relating to her department is irrelevant. I am not suggesting that when Queensland shooters come to Victoria they should abide by Queensland laws. Clearly, when they come to Victoria, they will be expected to abide by Victorian laws.

The Hon. J. E. Kirner—That's what I am saying.

The Hon. R. M. HALLAM—It is not what the Minister is saying. The Minister is attempting to penalise people for the wrong reason. If Queensland shooters come to Victoria, they will still be subject to Victorian law, and no-one would want that position to be any different. But the example used by the Minister is quite different from the thrust of clause 10.

The Committee divided on the clause (the Hon. G. A. Sgro in the chair).

Ayes	23
Noes	4
Majority for the clause	19

AYES	NOES
Mr Arnold	Mr Baxter
Mr Chamberlain	Mr Dunn
Mr Crawford	
Mr de Fegely	*Tellers:*
Mrs Dixon	Mr Hallam
Mr Henshaw	Mr Wright
Mr Hunt	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Landeryou	
Mrs Lyster	
Mr McArthur	
Mr Macey	
Mr Pullen	
Mr Reid	
Mr Storey	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr White	
Tellers:	
Mr Sandon	
Mrs McLean	
PAIR	
Mr Walker	Mr Evans

The sitting was suspended at 1.8 *p.m. until* 2.12 *p.m.*

Clause 11

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

10. Clause 11, after line 12 insert—

'(3) After section 23 (3A) of the Principal Act insert—

"(3B) Despite anything to the contrary in the *Penalties and Sentences Act* 1985 or in any other law, a court imposing a penalty under sub-section (3A)—

(*a*) must direct that the sentence not be served concurrently with any other sentence; and

(*b*) must not make an order suspending the whole or any part of the sentence.".'.

The amendment reinforces the penalty provisions proposed by the Opposition last year when the Parliament debated the Firearms (Amendment) Bill. The proposal the Opposition inserted in section 12 of the Act states:

A person who is found guilty of an indictable offence involving violence and who carried a firearm or imitation pistol while committing the offence is guilty of a further offence and liable to a penalty of imprisonment for not more than two years.

That proposal was put forward because the Opposition believed there was a need to reinforce in the mind of the courts that offences involving firearms were special and that a super penalty should apply over and above the prescribed penalty. The government and the National Party supported that proposal.

The government has now decided to build on that and to increase the super penalty to five years' imprisonment. The Liberal Party believes it is necessary to reinforce in the mind of the court the fact that Parliament regards firearm offences as extremely serious.

The Opposition's proposal takes away some of the sentencing discretion of the court. For example, if someone qualifies for a super penalty, the court will not be able to direct that that sentence be served concurrently with any other sentences. It is important to realise how concurrent serving of sentences works.

Approximately two years ago a renegade policeman from South Australia, Colin Creed, was serving a 25-year sentence in South Australia for armed robbery, rape and a number of other offences. While he was serving that sentence, he was tried in Victoria on three charges of armed robbery. The court sentenced him to twelve years' imprisonment but ordered that it could be served concurrently with the sentence he was serving in South Australia. In other words, he was not penalised for the robberies he had committed in Victoria. The Opposition wants to make it clear that the court has no power to make the super penalty concurrent with the penalties for other offences, whatever they may be.

The second part of the amendment ensures that the super penalty cannot be suspended. The Penalties and Sentences Act empowers a court to sentence a person it finds guilty to a period in prison and then suspend the sentence. If the offender behaves himself for a specified period, the sentence is wiped out. The message the Opposition wants to send to the courts is that Parliament regards firearm offences, particularly indictable offences, extremely seriously. The message in the amendment is to reinforce to the court the seriousness with which Parliament regards these issues.

The Hon. B. A. MURPHY (Gippsland Province)—I will not support the amendment; however, I shall comment on it. Parliament should have tough legislation so that people who commit crimes with firearms are given severe sentences. I agree with the government's policy to increase the penalty to five years. However, the idea of prison should be to rehabilitate people as well as to punish them. The Opposition's amendment takes away an offender's chance of rehabilitation. I cannot support the amendment.

The Hon. R. M. HALLAM (Western Province)—The National Party is happy to support the amendment. It is close to the thrust of amendment No. 3 in my name. The National Party chose not to proceed with that amendment because it believes the amendment moved by the Liberal Party broadens the thrust of the concept the National Party was trying to capture. The National Party is delighted to support the amendment.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 12

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

10. Clause 12, lines 14 to 31, omit sub-clause (1).

The amendment restores the current provisions of the Act relating to the unlawful sale of firearms.

The Hon. R. M. HALLAM (Western Province)—The National Party supports the amendment. It is identical to amendment No. 24 in my name. Clause 12 introduces the requirement that all sales of firearms be via an agent. The National Party is opposed to the concept of forcing firearm sales through a gun dealer. Many penalties apply to the sale of firearms to an unlicensed person, and an agent is fully aware of those penalties. However, the National Party believes the Liberal Party's proposed amendment to introduce an additional channel—a sale witnessed in front of a policeman—is a workable alternative or a compromise if the National Party decided to soften its stance on subclause (1), which relates to the mechanical aspect of the control mechanism.

The amendment was agreed to, and the clause, as amended, was adopted.

Clause 13

The Hon. R. M. HALLAM (Western Province)—Clause 13 relates to the exemption from the licensing provisions currently enjoyed by members of rifle clubs established under Federal legislation. The Commonwealth government has relinquished its responsibility for those rifle clubs and therefore the State government argues that a need exists to amend State legislation to pick up that responsibility. The National Party has no argument with that but doubts whether that responsibility will be effectively withdrawn by the Federal government.

The advice the National Party has received is that the Commonwealth government's move will be challenged in the Senate. It would be impracticable for those rifle clubs to be left in a hiatus. Given that circumstance, the National Party is concerned that shooters who are protected by their current membership of rifle clubs established under Federal legislation are not disadvantaged when the State legislation is effected in this regard.

The National Party seeks from the government an assurance that shooters who are members of clubs registered under Commonwealth law will not be disadvantaged when it is time to impose the restrictions contained in the Bill. Clause 24 contains a transition arrangement that goes part of the way in dealing with this problem. I seek from the government an undertaking that the shooters will be granted licences without tests—it would be a nonsense if they were not—and an undertaking that there will be no delay.

In other words, the shooters should not have to experience some sort of qualification period. The government put verbally to the National Party that some sort of amnesty period would be given. I seek an undertaking along those lines from the Minister.

The Hon. B. A. MURPHY (Gippsland Province)—I have had considerable experience with rifle clubs, especially those established under Commonwealth legislation. I support the comments made by Mr Hallam because the clubs did make that request.

Rifle clubs have been in existence since 1901 and they have been fostered by the Federal government since that time. Now the Commonwealth government has decided that they want the rifle clubs to disappear. The State government should accept that responsibility and, in doing so, remember that the rifle clubs are completely self-regulatory. They impose stringent and tough laws on their members. To my knowledge, throughout their history they have experienced no problems. They should be supported during the transitional period.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am happy to give the assurances sought by Mr Hallam for rifle club members who are currently covered by the Commonwealth Defence Act, and the Australian Rifle Clubs Association will be covered during the transition stage.

The Hon. R. M. HALLAM (Western Province)—I thank the Minister for that undertaking, in which case I shall not proceed with my amendments Nos 26, 27, 28, and 29 to clause 13. Members of the rifle clubs will not be required to register their firearms. In the past they have not had to do that but the requirement is not unrealistic. Club

members are genuinely concerned about the future of their sport. I am sure that they will understand precisely why that provision has been included.

The clause was agreed to, as was clause 14.

Clause 15

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

11. Clause 15, line 27, after "auctioneer" insert "or is witnessed by the Registrar or a member of the police force authorised by the Registrar".

The amendment will ensure that the sale of firearms will be properly recorded and that the necessary registration will be complied with.

The provision in the Bill goes too far in that it covers the transfer of a firearm from father to son and a gift made between friends. The Opposition proposes an alternative, which is that the transaction be witnessed by a member of the Police Force authorised by the registrar. The alternative is recognised as workable. It does not defeat the government's proposal. This constructive and reasonable amendment should be accepted by the Committee.

The Hon. R. M. HALLAM (Western Province)—Although I have said that, in principle, the National Party is opposed to the concept of forcing all sales through gun dealers, the alternative outlined by Mr Chamberlain to offer the agency of a police officer is constructive. I have a couple of concerns about that.

I ask the Minister to give the Committee an undertaking that police officers will be authorised for that purpose. The National Party understands, by the thrust of what was said by the Minister, that the alternative of having firearm sales verified in front of a police officer will apply if a gun dealer were not in proximity. That means that the government will be required to ensure that police officers or police stations have the authority to carry out the functions suggested by Mr Chamberlain.

If the National Party is given that undertaking, it will support the amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am happy to give that assurance.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

12. Clause 15, line 32, after "auctioneer" insert "or is witnessed by the Registrar or a member of the police force authorised by the Registrar".

The amendment is in line with the previous amendment that was accepted by the Committee.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

13. Clause 15, line 33, after "Penalty" insert "applying to sub-sections (1) and (2)".

Because of the addition of subsection (3), which will be covered by my amendment No. 14, it is necessary to reorder the subsections where the reference to "Penalty" appears.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—I move:

30. Clause 15, line 33, omit "20 penalty units or imprisonment for six months" and insert "5 penalty units".

The amendment seeks to reduce the penalty for the offence contained in proposed section 28D.

Since 1983 it has been an offence to sell a firearm other than to a licensed shooter. Severe penalties are imposed for that offence. The National Party does not agree with the penalty invoked under this proposed section. I shall run through the penalties that are currently applicable under the Act and sought by the Bill.

If a vendor sells a gun to an intoxicated person the penalty is $2000 or six months' gaol. If he sells a gun to a prohibited person the penalty is $5000 or twelve months' gaol; if a gun is sold to an unlicensed person the penalty is $1000 or three months' gaol. If a person purchases a firearm when not licensed, the penalty is $2000 or six months' gaol. If a person fails to forward a notice of acquisition or disposal there is a further penalty of $100.

Clause 15 encompasses the situation of an authorised person selling a firearm to a licensed person but not through the channels outlined. The clause suggests that in those circumstances another penalty will be imposed of $2000 or six months' gaol. That is absurd!

The Bill proposes locking someone up because that person does not follow the stipulated channel. If a sale is illegal under the Act there is a range of horrific penalities that may be imposed. The penalty of $2000 or six months' gaol, for what the National Party describes as an administrative misdemeanour, is absurd.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I find the description of the illegal disposing or purchasing of a firearm, as an administrative misdemeanour, mind boggling. Mr Hallam is most consistent and careful about what he says on most matters, but on these two issues, the one the Committee dealt with before lunch, on interstate shooters, and on this one about the levels of penalties being too high, he has gone over the top putting shooters first and the community second.

The community does not want that situation. Many in the community are happy to have shooting groups but within a commonly accepted framework. If a person commits the offence of wrongful use or ownership of a firearm that person should receive an increased penalty.

This is the first of a string of amendments that the National Party will be moving. I hope the Opposition will not support the amendment which would substantially reduce the penalties for various offences and those lower penalties would be little or no deterrent to offenders; they will seriously weaken the Act.

The offence relates to the buying or selling of a firearm other than through a licensed gun dealer. The government rejects the amendment and the following amendments that the National Party will move.

The Hon. B. A. CHAMBERLAIN (Western Province)—On this occasion the Opposition does not support the National Party because it is necessary to have a substantial penalty in this matter. Mr Hallam will be moving an amendment at a later stage, which the Opposition will support, relating to the consequences of not displaying or producing a licence. Gun dealers are either registered or not and that can be proved by whether the dealer has the appropriate piece of paper. On this occasion however, the Opposition supports the Bill.

The Hon. R. M. HALLAM (Western Province)—I do not intend to pursue the point much further but I make it clear that the National Party believes this penalty is a duplication. Because it is a duplication it makes the penalty exhorbitant. The National Party does not argue that there should be a reduction in the penalty if the vendor is unlicensed, the purchaser is intoxicated or if the sale is illegal. Indeed, those persons described will be caught by those laws, but all that will happen in that case is that the person will be penalised because that person did not follow the proper channels.

I do not believe the Minister's argument is logical. A penalty is being superimposed which is irrelevant to the penalties involved if a sale is made between a legitimate vendor

and a qualified person. I see no sense in invoking a penalty of $2000 or six months' gaol as that defeats the effect of the provision.

The National Party is endeavouring to ensure that those who purchase firearms are qualified. The law says if they are not qualified a large penalty is involved. This does not go to the qualification of it.

The Hon. J. E. Kirner—It goes to responsible gun ownership.

The Hon. R. M. HALLAM—It does not go to the bona fides of the vendor or purchaser but provides if one does not follow the course laid down there is a penalty. The National Party believes the penalty is horrific.

The Hon. W. R. BAXTER (North Eastern Province)—I support my colleague, Mr Hallam. The amendment proposed involves a substantial penalty and not the minor penalty that the Minister has suggested in her response because five penalty units means $500, which I should have thought was substantial in anyone's language. It is an attempt by the National Party to retain relativity between penalties and the gravity of the offence.

The Committee divided on the question that the words and expression proposed by Mr Hallam to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	30
Noes	5
Majority against the amendment	25

AYES	NOES
Mr Arnold	Mr Dunn
Mr Birrell	Mr Evans
Mr Chamberlain	Mr Hallam
Mr Connard	
Mr Crawford	*Tellers:*
Mrs Dixon	Mr Baxter
Mr Guest	Mr Wright
Mr Henshaw	
Mrs Hogg	
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Landeryou	
Mr McArthur	
Mrs McLean	
Mr Macey	
Mr Mier	
Mr Miles	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mr Knowles	
Mrs Lyster	

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

14. Clause 15, after line 33 insert—

"(3) The Registrar and every authorised member of the police force must keep a register in the prescribed form of transactions witnessed by them and must enter or cause to be entered in the register the prescribed particulars of each transaction.".

This is a corollary to the provision that has just been passed. It ensures that members of the Police Force and the registrar keep registers of those transactions.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

15. Clause 15, page 9, line 14, omit "club" and insert "or firearm owners club and the advertisement does not specify the place at which a firearm is stored".

Proposed section 28E (1) contains a prohibition on advertising. I shall read that previous because it is important:

A person must not publish or cause to be published an advertisement indicating that a firearm or an imitation pistol is offered for sale by a person who is not an auctioneer or the holder of a gun dealer's licence.

One need only read the Melbourne newspapers to know about the large trade in firearms without any control. The rationale behind the amendment is to have some control over who is dealing with firearms because, at the moment, sales can be made by unlicensed persons to unlicensed persons where neither party has any intention of complying with the Firearms Act.

The amendment is designed to provide another method by which there can be some advertising. Proposed section 28E (3) provides that sub-section (1) does not apply to the publication of an advertisement in a magazine published by an approved sporting shooting club. The amendment broadens that to include a firearms club or firearm owners' club and stipulates that the advertisement does not specify the place at which a firearm is stored. One does not want the situation of a general broadcasting to the public that at a certain address a firearm just happens to be for sale because that would attract attention. The amendment tightens the clause and fits in well with the government's proposal.

The Hon. R. M. HALLAM (Western Province)—The National Party has grave misgivings about the thrust of the amendment. In effect, it is saying that advertising is okay if it is in an approved form. I cannot understand why we should differentiate between forms of advertising. The thrust of the clause and, indeed, the amendment is that it is okay if it is published through a trade journal or a club journal. If that sort of judgment is to be make, I cannot understand why it is any more or less sinister if it is advertised in a daily newspaper. The same article is still being advertised and it will still be available to the same cross-section of the community. This does not provide the protection claimed by the Liberal Party.

Victoria has approximately 300 000 shooters who are currently not members of any form of shooting club. They do not have access to shooting journals but they do have access to daily newspapers. Many firearms are legitimately sold through daily newspapers. Firearms are advertised in every issue of every provincial newspaper thorughout the State and, indeed, daily sales result from those advertisements. They are legitimate sales between qualified vendors and authorised purchasers. I cannot see the benefit of restricting that activity. The effect of this proposal will be that potential sellers will be required to go to authorised agents. They will receive less for the articles they are selling.

The Hon. J. E. Kirner—What a claim!

The Hon. R. M. HALLAM—They will receive the wholesale price rather than the retail price.

The Hon. J. E. Kirner—I don't believe you.

The Hon. R. M. HALLAM—Minister—perhaps I shall not go on.

The Hon. J. E. Kirner—Don't run that line because I am always out in your country areas.

The Hon. R. M. HALLAM—I remind the Committee that we are debating the sale of legal products. No-one is suggesting that they are illegal or that there is any problem with

their transfer. The thrust of the Bill is that where those firearms are held by people who are less than authorised, those people should be encouraged to move those firearms to people who are responsible. One of the most effective ways of doing that is by legitimate transfer. The clause provides that one cannot publicise the fact that one wishes to sell a firearm other than through a trader. That makes it difficult for a large proportion of potential vendors in the community.

What really intrigues me is that this clause provides that anybody who breaches this provision is subject to a penalty of $2000 and six months' gaol. That is extraordinary. That very fact will publicise the issue. What vendor in his or her right mind would go to the trouble of going through the advertising process to prove that he or she had broken the law? The penalty is absurd. It is publicising the fact that it is illegal to advertise and, therefore, every person in the community will know about it.

I submit that there is no need for a penalty of that dimension because the "crime"—I use the word advisedly—will be apparent to every member of the community. To tack on a penalty of a $2000 fine and six months' gaol for someone who seeks to advertise a legitimate article for sale is way beyond the realms of anything envisaged in the Bill. It is most unfair and the National Party opposes the penalty provision.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—I move:

31. Clause 15, lines 34 to 39 and page 9, lines 1 to 14, omit all words and expressions on these lines.

The effect of this is exactly as I have just outlined.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—As I understand it, Mr Hallam's amendment would remove the proposed prohibition on advertising of firearms for private sale.

The Hon. R. M. Hallam—Yes.

The Hon. J. E. KIRNER—As it is listening to this debate by proxy, I suppose the community is ticking off those areas of the Bill raised by the National Party that it regards as irresponsible, and the community would certainly have to tick off this one. For the National Party to actually want to remove the proposed prohibition on the advertising of firearms for private sale—to simply remove a ban intended to complement the requirement to sell firearms only through licensed gun dealers in order to better control illegal transactions—seems to me to be an amazing position.

The Hon. R. M. Hallam—They will still have to go through a licensed gun dealer. The amendment does not affect that.

The Hon. J. E. KIRNER—Of course they will still have to go through a licensed gun dealer. I have sat in this House and I have listened to the doyens of family protection and family morality.

The Hon. B. P. Dunn interjected.

The Hon. J. E. KIRNER—Yes, I have. One must be very careful about what one advertises and how one advertises. Suddenly, for shooters, the National Party believes it ought to be free for all. That is an utterly illogical position in terms of advertising.

The Hon. W. R. Baxter interjected.

The Hon. J. E. KIRNER—This is not a position that applies to everyone else; it is a position where one has the privilege of actually owning a gun and, with that, some responsibilities. In this case, the National Party is encouragiong irresponsibility in the community and, even if this Committee does not do so—and I suspect that it may—the community will reject this amendment.

The Committee divided on the question that the words and expressions proposed by Mr Hallam to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	31
Noes	5
Majority against the amendment	26

AYES	NOES
Mr Birrell	Mr Baxter
Mr Chamberlain	Mr Dunn
Mr Connard	Mr Hallam
Mr Crawford	
Mr Guest	*Tellers:*
Mr Henshaw	Mr Evans
Mrs Hogg	Mr Wright
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Landeryou	
Mr Lawson	
Mr Long	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Macey	
Mr Mier	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mrs Tehan	
Mr Van Buren	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mrs Dixon	
Mrs Varty	

The clause, as amended, was adopted.

Clause 16

The Hon. B. A. CHAMBERLAIN (Western Province)—The dealing by the Committee with this clause will be fairly long, and I propose just to give the Committee an overview as to where it would all end up if, in fact, the amendments before the Committee were passed. That may assist honourable members in their deliberations further down the track.

Currently, section 32 of the Act provides for a system of declaring certain weapons to be prohibited weapons. It states that, except with the authority or in pursuance of a direction of authority, no person shall bring into Victoria, cause to be brought or sent into Victoria or manufacture, sell or purchase or possess, carry or use any prohibited weapon. A penalty is also attached and a prohibited weapon is described as one that is prohibited by the regulations.

If a weapon is prohibited by the regulations, the person who holds it at the time of the prohibition can continue to do so, but there is a requirement for him to advise the Registrar of Firearms that he has a prohibited weapon in his custody. Subsection (5) states

that a person can keep such a weapon until his death, at which stage it is forfeited to the Crown.

The Opposition has said that except under extraordinarily strict circumstances, certain types of weapons, which it generally classifies as military style centre-fire rifles—semiautomatics—should not be available and that steps should be taken to have them removed from the community.

The Opposition initiated a motion in this House on 10 March and moved to remove the blanket ban on semiautomatic weapons. It suggested an alternative that, generally speaking, there should be a ban on military-style semiautomatic rifles. The House passed that resolution as a recommendation to the Governor in Council. That motion is still very much the view of the Opposition—that those types of firearms should be available only under the strictest circumstances.

The government's proposal provides that the registrar may give authority under section 32 (1), under certain conditions, in relation to certain types of weapons or ammunition, and it can put whatever conditions it likes on that. The government has also proposed that there be compensation for firearms that are surrendered, that will require an appropriation from the Consolidated Fund.

The Liberal Party proposes a number of amendments to those propositions. One amendment—and these are not necessarily in order—proposes that the Governor in Council not be able to outlaw any particular type of firearm under the regulations unless he has a prior recommendation from the Firearms Consultative Committee.

The second proposal is that the definition of prohibited weapons include military-style firearms. Rather than leave it to chance by regulation, that fact should be stated in the definition so that prohibited weapons will be particularised as military weapons and the others will be prescribed by regulation.

The Liberal Party proposes that a person who owns a military-style weapon once it is outlawed will have three opportunities facing him: one is to surrender the firearm and obtain compensation—and later on I will be making some suggestions about the way compensation might be assessed—the second is to apply to the Registrar of Firearms for a permit to use the weapon or to keep it as a collector's item; and the third is to face a substantial penalty, if the weapon is not surrendered or an approach is not made to the registrar. In this case, there should be a phase-in period, and the period the Opposition has selected is six months. Mr Hallam will have some comments to make on those proposals. The Opposition has adopted a tough approach in relation to military-style weapons right from the start of the debate.

I have with me a media release issued by the Minister for Police and Emergency Services on 13 April. Reference has been made in some newspaper articles today that the Liberal Party has welshed on some sort of a deal. That is an important point. The basis of the discussions with the Minister, both in his office and in my office, was always that the Liberal and National parties would have to go back to their members to discuss the issues and confirm them. Despite this fact, the Minister claims that there was agreement on the following points: the first one was that there would be confiscation and full market value compensation for all high-calibre, high-velocity, semiautomatic rifles whose possession is currently legal but whose use or disposal is prohibited.

This point is contrary to statements by the Premier that there would not be confiscation. On 10 February the Premier is reported in the *Sun* as having said:

> I've never said we could knock on everyone's door and seize those weapons. There's not going to be a jackboot on the door or a knock on the door, that's not my understanding of it.

So the Premier is saying there will not be confiscation in that form. The Opposition is proposing a slight variation of the government's first point in that media release—that is, a substantial penalty for those with military-style arms who do not take advantage of the other two avenues open to them, one of which is payment of full compensation. The

Liberal Party is not at odds with the Minister in that matter but it desires a slight variation in the approach.

The second point in the press release was that all parties had agreed to a ban on the private sale of weapons, except through licensed gun dealers. The Opposition has not interfered with that point. The third point that the Minister says was in the agreement concerned a ban on public advertising of guns; the Opposition has not interfered with that aim.

The next point was to require evidence from licence holders regarding their suitability to own a firearm. Parliament has recently dealt with that issue satisfactorily. The next point was that there be a satisfactory completion of a training course on firearms safety prior to the granting of a licence; that will happen.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! Mr Chamberlain is now canvassing the whole Bill. These points were raised in the second-reading speech and he should be relating his remarks to the specific clause.

The Hon. B. A. CHAMBERLAIN—I appreciate what you have said, Mr Chairman; I have almost finished. The other point deals with the ability of the police to confiscate firearms in domestic violence disputes. That point will be dealt with by the Committee on the next day of meeting.

The provision requiring a permit to purchase a firearm will remain, as will the registration of firearms. The final point in the list of reforms was the implementation of five additional years in gaol for any criminal act involving the use of a firearm; the Opposition has just augmented that point.

Therefore, it is obvious that there has been no welshing on any deal, given that the discussions had to be ratified by our parties. The idea is absolute nonsense. The package of proposals was there and I suggest to the House that rather than pursuing the amendments on clause 16, progress should be reported either before or after other honourable members have spoken.

The Hon. R. M. HALLAM (Western Province)—Clause 16 certainly goes to the heart of the entire debate because it relates, in a roundabout way, to control by regulation. I should like to explain briefly how that comes about. Section 32 (4) and (5) of the Firearms Act states that where a firearm is prohibited, any person who owns such a firearm at the date of prohibition shall not be subject to penalties.

In fact, it provides that that person may hold a firearm for his or her life time; he or she must simply notify the registrar that that firearm is held but, upon the death of the owner, the firearm must be surrendered to the Minister. That is the best way of doing it. I concede that point and shooters in this State have lived with that provision for some time and accepted it.

I am suggesting that section 32 (4) and (5) has been an enormous protection to the shooters of this State over recent weeks and it was those sub sections that prevented the government from confiscating thousands of firearms. The mere fact that the shooters were given that protection thwarted the government in what it obviously sought to do.

That section has never introduced the concept of compensation. The shooters of Victoria knew that, if they could hold their firearms, that was fine; if they surrendered them, there was no such thing as compensation, and the National Party believes compensation should be held to one side because it does not agree with the concept of confiscation in the first place.

The Minister for Police and Emergency Services has put forward the proposition that it is crazy to allow prohibited weapons to remain in the community. That is a fair comment, it is crazy to have prohibited weapons left in the community but it is no more crazy than introducing a ban on semiautomatic ·22 calibre rifles, a regulation which the government imposed not once, but twice, when the House said it should not apply. Therefore, I suggest

that subsections (4) and (5) of section 32 have been important and the National Party does not agree with the concept of retrospectivity.

On the other hand, that means the National Party is concerned about a law that today says that something bought yesterday or 60 years ago is now to be declared prohibited. We argued about the retention of section 32 (4) and (5) on those grounds, but principally because the government has the power to confiscate by regulation and it has shown in the past few weeks that it will use that power.

The Hon. B. A. Chamberlain—To prohibit.

The Hon. R. M. HALLAM—Yes, to prohibit. among other provisions it makes, clause 16 seeks to override the authority of the registrar in relation to exemptions from the declaration of a prohibited weapon. The National Party's initial reaction was to throw out clause 16 and to attack the regulation which said, inter alia, that the small Browning ·22 calibre automatic that has been in the community for 60 years is suddenly a dangerous weapon.

However, during the course of extensive discussions between the parties we have agreed to support a compromise package. A number of amendments will be required to reach that compromise, and I wish to go through the thrust of them. The effect of the amendments that we have suggested in that section 32 (4) and (5) will be removed; in other words, there will be no continuing protection for those who hold a prohibited weapon. However, in return for that we want to see introduced amendments that will give the Firearms Consultative Committee the authority to declare a firearm prohibited, different from the present provision in the Bill, under which authority would vest in the Governor in Council.

The National Party will later introduce amendments to be put before the Committee which seek to protect the construction of the Firearms Consultative Committee, partly because it is to have an expanded authority. The National Party regards the protection of that committee, given its role and authority, as very important. We then want to see that compensation shall be paid—not "may" be paid—for those who hold prohibited weapons and seek to surrender them. That will be a most valuable adjunct to removing the firearms from the community. It will mean that any person who holds a prohibited weapons at the date of prohibition has three distinct choices.

In the first place, he can apply to the registrar for exemption from the prohibition. The Minister talked about generic exemptions. In effect, she said, "The government will apply an exemption to genuine deer hunters, and it will apply an extension to other groups", and I think primary producers were mentioned. There is another generic group, namely left-handed shooters, many of whom buy self-loading firearms because the traditional style bolt-action weapon is most inconvenient for them to use. That suggestion is made in all seriousness. The Minister also said that consideration will be given to individual applications for exemption from the prohibition. The National Party would want to be given undertakings.

The second course available to the shooter holding a prohibited weapon is to surrender it. The National Party wants to see an undertaking that compensation will be paid.

The third course available to the shooter caught in that position is for him to take the risk and run the gauntlet of incurring the penalties imposed under the Bill. The penalties are severe; indeed, the provisions of the Bill increase the penalties to $5000 and twelve months' gaol. The National Party regards that as appropriate, provided the controls over the declaration of firearms as prohibited are genuine, responsible and effective. That is a most significant point in our argument.

The National Party may introduce a further amendment in relation to penalties. I hope it does not have to move that. The amendment would stipulate that there will be no penalties in relation to semiautomatic self-loading rifles with a capacity of eight rounds or less, or ·22 calibre automatic rifles. That is a most clumsy way of ensuring that the

government changes the current regulation. I hope the National Party does not have to go down that track.

That is the thrust of what the National Party seeks to have encompassed in clause 16. I think it is clear, and I hope it is achievable, but we will certainly be requiring that some of those amendments go through as a condition of our support for clause 16.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I want to make some concluding remarks before I ask that progress be reported. I do not want to address the whole range of points raised by Mr Chamberlain or Mr Hallam. I do want to say that as I listened it seemed to me that this is the crux of the debate in terms of where each group stands. We need time to work through the various positions outlined.

I want to make the government's position absolutely clear. It will not be moving from a position which maximises the ability of the community to remove prohibited weapons from ownership and, indeed, from use. I must express my concern, and that of the government, that the National Party's amendments certainly do not meet with our requirements, and I believe the Liberal Party's amendments—though framed in a more careful way—actually move away from that basic position.

I believe the Committee ought now report progress and debate the matter further next Tuesday week.

Progress was reported.

HEALTH SERVICES BILL

This Bill was received from the Assembly and, on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs), for the Hon. D. R. WHITE (Minister for Health), was read a first time.

MENTAL HEALTH (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs), for the Hon. D. R. WHITE (Minister for Health), was read a first time.

RETAIL TENANCIES (AMENDMENT) BILL

The debate (adjourned from April 20) on the motion of the Hon. J. H. Kennan (Minister for Transport), for the second reading of this Bill was resumed.

The Hon. H. R. WARD (South Eastern Province)—The Retail Tenancies Act 1986 commenced operation on 21 September 1987, and during the short period since there has been close scrutiny of the legislation. The Bill deals with an error in the Retail Tenancies Act and seeks to correct an oversight by clarifying the period during which notice must be given to a landlord by a tenant. Section 8 (2) will be amended by substituting the figure 42 for the figure 28.

Certain other matters have been raised. The Building Owners and Managers Association of Australia Ltd has sought appropriate legislation to apply to office accommodation, and the Opposition asks the government to examine that possibility.

Other groups believe there should be wholesale control of all manner of retail tenancies and believe the legislation could be extended. Approaches have been made by the users of motel accommodation, who believe something should be done to cover their problems. That matter is not addressed in the Bill and we would like to know why it is not. When will the matter be considered? The principal Act was the subject of research and investigation by Mr Arnold, and he should consider further examination of the operation of the legislation.

The honourable member for Berwick in another place has suggested that Mr Arnold had a way of dealing with these matters. First, he would convene a meeting then send everybody away to discuss the matters and to try to achieve consensus. They would return and Mr Arnold would pull the threads together and obtain consensus. The Opposition generally agrees with that approach. It is a fine tactic to use. I ask Mr Arnold to mount the white charger again and flick the finger to get the matter rolling. The matter could be resolved in a short time.

The Opposition does not disagree with the Bill, it merely corrects an error in that a specified period was not extended from 28 days to 42 days. I ask the government to consider the matter I have raised.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

MENTAL HEALTH (AMENDMENT) BILL

For the **Hon. D. R. WHITE** (Minister for Health), the Hon. C. J. Hogg (Minister for Education)—I move:

That this Bill be now read a second time.

The Mental Health Act 1986 represents one of the more important achievements of this government in the area of health. The Act is designed to establish the legislative framework. The provision of services to the mentally ill well into the 21st century. It became fully operational on 1 October last year. However, as a result of the experience which has been gained since the commencement of the new Act by both the office of Psychiatric Services and the Mental Health Review Board it has become obvious that there are some gaps in the legislation which need to be filled and a number of provisions which need to be fine tuned.

The purpose of this Bill is to make the more pressing amendments required to the Act to improve its effectiveness. These amendments are generally unrelated, and each is explained in detail in the notes attached to the Bill. The proposed amendments are in keeping with the spirit of the principal legislation and are consistent with its aim of ensuring that psychiatric patients receive high quality services and respect for their civil rights.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. M. A. BIRRELL (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

LOCAL GOVERNMENT BILL, LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS) BILL AND CONSTITUTION (LOCAL GOVERNMENT) BILL

The debates (adjourned from April 12) on the motions of the Hon. C. J. Hogg (Minister for Education) for the second reading of these Bills were resumed.

The Hon. REG MACEY (Monash Province)—This is one of the most important package of Bills it will be my privilege to debate in this Chamber. I have had some eleven years' experience in local government in a municipality where many issues now being addressed in the Bills were controversial.

Local government was created to serve the ratepayers and residents of the local communities to which the councils are accountable. Ultimately, the State government must be accountable for its own creation—local government. It is important that local

government performs the functions given to it by Parliament. Parliament must have the right, indeed, the responsibility, to assess the performance of local government, which it has created through legislation.

The Opposition has major differences with the government about accountability of local government to the Parliament that created it and accountability of local government to the ratepayers and residents to whom it is responsible. That statement outlines where the two parties diverge. The Opposition will seek to persuade the government that the Opposition's position is more suitable than that taken by the government. I understand that the ideological commitment of the government has been a major generator for the thrust of the Bills, but the Opposition hopes to persuade the government that the citizens of Victoria will be better served if the ideology is put aside and the interests of the community are put first.

This is a cognate debate dealing with the Local Government Bill, the Local Government (Consequential Provisions) Bill, and the Constitution (Local Government) Bill. My remarks will address all three Bills. The Bills stand together; without their conjoint enactment, the reforms the government hopes to institute will not occur.

Notwithstanding the criticism that I and other honourable members will direct towards the government, I congratulate the government for the attempt it has made, which has required a large measure of intensive work and consultation by the government and officers of the Local Government Department.

The government has attempted to reform local government as much as it considers is necessary. Of course, all honourable members who have been involved in any representative capacity must acknowledge that consultation can continue forever. One never gets to an ideal position because, ultimately, people do not realise the effect of a decision until it happens. Maximum consultation takes place only when one gets reaction. That is the story of representative democracy at all levels of government. People cannot be expected to devote time and energy to considering issues unless they believe they will impinge on their rights. People have enough matters about which to be concerned in today's society without becoming involved in matters such as this.

Consultation has taken place with local government. Given the extent of the alterations to the Local Government Act and the ramifications of the Bills, despite the attempts of the government to inform, many people involved in local government do not as yet fully comprehend the impact of the provisions in the Bills should they be passed without amendment.

The Opposition will attempt to improve the Bills They cover many areas, and I shall address a number of them. The detail will be most appropriately dealt with when the Bills are in Committee. Most of the amendments proposed in the other place will be proposed in this place with some further additions.

The government has attempted to gain too great an overriding power over local government. The Opposition does not accept that the government's statements about the "purposes" of a council are innocent. They provide the opportunity for a government seeking greater control over local government than presently exists to use the Bills to bring about amalgamations of municipalities that would otherwise not wish to amalgamate. The Opposition will propose amendments to remove clauses and parts of clauses that present that opportunity to the government.

As a result of previous experience of the government's ambitions, intentions and desires to reshape local government in its political, ideological image, the Opposition is aware that the government is prepared to go to almost any lengths to achieve that. When the Local Government (General Amendment) Bill was debated in 1986, the Opposition placed an additional clause in the Bill which required the Minister to be bound by the result of a poll in a relevant area that may be proposed by the government, or anyone else, for

amalgamation. That provision was not proclaimed when the other provisions of the Bill were proclaimed. In fact, it was not proclaimed until only a few weeks ago.

The Opposition does not believe it can take at face value what the government says about its intentions. The Opposition must consider the Bills and assess them with the best of goodwill and good faith. In the past, the government has shown a lack of good faith and proper intention. The Opposition has been ultra cautious in its attempts to defend and protect local government from the predatory Cain government and its attempts to coerce local government.

The government will not be surprised that the Opposition will, in the Committee stage, move to amend the Bill to provide that only Australian citizens will be able to be elected to local government, as this should be consistent with the other tiers of government. There is no reason why the circumstances should be different with local government.

The Liberal Party accepts and, indeed, when it was in government it enacted the entitlement of a non-naturalised citizen to vote in local government elections because, as those people have a property or franchise, they would be paying rates.

The oath of allegiance must be taken by those representatives in Federal and State governments and the Liberal Party believes there is no reason for a variation at the third tier of government, being that level of government closest to the people. The community has not asked that that situation be changed and so the government has not a mandate to change the situation. The Opposition will oppose any attempt to omit that requirement for local government representatives to take an oath of allegiance.

The Opposition has learnt the hard way that what the government says it is attempting to achieve should not be taken at face value. The proposed legislation should be examined because too often a hidden agenda suddenly appears when matters such as this have been dealt with.

The Opposition will move an amendment during the Committee stage relating to the removal of councillors from office, to ensure that a situation similar to the Nunawading re-election does not recur relating to the situation of any unlawful activity that is no longer able to be examined by the courts because the prescribed time frame has expired. That situation occurred with the Nunawading re-election issue.

The Opposition will move an amendment during the Committee stage to ensure that adequate and reasonable time is available for applications to be made relating to actions, which may be contrary to the Act, to ensure that these moves are made during the term that the person is elected and not the period provided in the Bill of four months. The Opposition will also move an amendment relating to the appointment of council staff. That matter will be discussed further at the committee stage.

As I mentioned in my preamble, the Opposition differs from the government on two issues. Firstly, regarding the accountability of the council to the Parliament of the day and, secondly, the accountability of councils to their ratepayers and residents, because it is those people who bear the burden of any miscalculations made by their councils.

The accountability of councils to their ratepayers and residents applies to the provision of polls. Also, if a council wishes to change its rating system and it is believed by ratepayers and residents that the existing situation should continue to apply there should be a referendum relating to any change in the method of applying rates.

The Opposition believes in open government whether it is State or local government. If a council undertakes an entrepreneurial activity that involves a council in loan raising the same referendum provision should be applied.

Local government is fortunate to have the services of many hardworking, diligent and conscientious councillors but those councillors do not have a monopoly on financial skills and experience, just as honourable members do not have a monopoly on financial wisdom

in this State. The need, opportunity and responsibility to seek the best financial advice and assistance is the responsibility of every government.

In the case of local government, the ratepayers bear the burden—they are the bottom line in the municipality—and they should be given the opportunity—if they so desire—to express a view on their council's entrepreneurial activity.

A council cannot be equated with a public company. Councillors are not the equivalent of directors on a board because in a public company, if the board of the company is acting in a way that is not in the best interests of the shareholders, those shareholders can sell their shares and buy elsewhere or perhaps as some people have done since the October crash they can decide to invest in a completely different medium. That is not the case with councils as ratepayers are locked in for at least a medium term if not a long term when their council has made an ill-considered financial decision.

I shall not dwell on the unfortunate situation in Sale. I have no doubt that the councillors who supported that sad investment did so with the best intentions, good faith and sincere belief and their decision would enhance the financial position of their council. All honourable members know that that, sadly, is not the case. Ratepayers should be taken into the confidence of councillors, should a local council seek to involve itself in such an activity.

The Liberal Party has faith in the ability of those councillors who serve their wards or ridings well—or municipalities, if the municipality is undivided—to convince their ratepayers and residents that such a matter is worthwhile. The Liberal Party believes the ratepayers or residents of that municipality will, if given all the facts, make an appropriate decision in their interest, because they are the people who should make such a decision. Councillors will come and go. Almost all the councillors involved in the decision taken by the City of Sale are no longer on that council; but the ratepayers are left with the financial burden.

On the issue of differential rating, the Liberal Party has on principle supported differential rating for many years. A significant speech made on the subject by Mr Hunt, a former Minister for Local Government, was quoted in the other place. His remarks on differential rating were also referred to at a conference in Adelaide. The Liberal Party has not changed its support for the introduction of some measure of differential rating. Indeed, one may argue that the farm rate is a differential rate; so some form of differential rating is already in existence.

The Liberal Party is concerned at the manner in which the government has introduced the provisions for differential rating. The method of giving such powers to local government is totally uncontrolled. Local councils can make decisions to impose differential rates on whatever criteria they choose. I shall give the House some examples of what will probably occur. The first example relates to wards. A local council could decide to strike a differential rate for a ward. The range of such rates within the Bill is a factor of four to one. In South Australia, where such a provision previously existed, a Bill is before the Parliament to remove the ability of a council to strike a different rate as between wards. It is not surprising that the South Australian government should be moving in that direction. Differential rates are not applied in New South Wales, although I believe they still apply in the Northern Territory. I am not sure of the situation in other States.

The introduction of the differential rating system proposed in the Bill will have a detrimental effect on those wards in which high value properties are situated, especially where those properties are of a higher value than properties in other wards. As particular councillors become more aware of the flexible way in which the differential rating system may be applied, it will not be very long before the ratepayers of one or two wards in a municipality would be made to suffer for the benefit of the rest of the municipality because of the political imperatives of councillors in the other wards.

In order to retain their seats at an election, those councillors would argue that, for the benefit of the ratepayers in their wards, they should vote for a policy that ensures that their

wards attract the minimum differential rate. It would have the effect of ensuring that a rate four times higher would apply elsewhere. The four times factor——

The Hon. D. E. Henshaw—It's higher than that now.

The Hon. REG MACEY—It is true that higher rates apply in some municipalities with urban rates, farm rates, and urban-farm rates. There is one municipality in which the highest rate is eight times that of the lowest rate. That municipality uses site value rating.

In most rural municipalities, a far greater feeling of community exists than in urban municipalities. Farmers often see themselves as moving into the town of the shire in which they live after they have retired. In dealing with tradesmen, for example, farmers realise there is an interdependence between the township and the outlying rural areas. There are exceptions, where farmers in certain municipalities feel that they are treated inequitably; and when one talks to people in such municipalities, one discovers, often to one's surprise, an absence of the strong feeling of community interdependence which exists in other rural areas.

There are some municipalities in country Victoria where farmers feel they are disadvantaged because of the existence of large urban centres within their municipalities, especially where councillors from the urban area who are in the majority on the council control the rating system and do not have a feeling for the interdependence to which I have referred. That problem should be redressed. The differential rating system proposed by the government will not achieve that end, because the voting system provides for majority rule.

Under the differential rating system proposed in the Bill it is possible for a council to strike a differential rate which maximises the rate to be paid in a selected area. A particular area, possibly a street, or even a building, may be singled out by the council because of its high property value. Another example is where the building may be a factory that, according to the prevailing ideological view of a council, is engaged in an antisocial activity. That may be because it is involved in woodchipping, an activity that to some may seem antisocial. It would be legal for a council to strike a rate at the upper end of a differential rating scale in order to discourage that activity—or to drive it out of the area.

The Liberal Party does not believe that the four times factor level of flexibility is justified. It is clear now why the factor of four was selected, and the Opposition acknowledges that it was not designed for any sinister objective, but initially the Opposition was not informed how that figure was reached.

Consultation has taken place with officers from the Local Government Department and further information has been supplied. The figure was derived from the effect of converting from net annual value to capital improved value as a basis of rating for municipalities. The Opposition accepts that this conversion is an option. I acknowledge that the proposal for a differential rate applies only if the capital improved value rating system is adopted.

The Local Government Department discovered after consultation with councils that one municipality, the City of Altona, differed from other municipalities in its need for equalisation under the net annual value scale, vis-a-vis the capital improved value rating system for contributions by the commercial or industrial section of a municipality compared with those by the residential sector. The City of Altona has the Altona Petrochemical Co. Ltd complex within its shire boundaries and that company contributes a substantial proportion of the rate revenue of the municipality. It is a profitable development and under the present system its net annual value rate is approximately 20 per cent of its capital improved value.

Honourable members would be aware that, under the net annual value system, residences are rated at 5 per cent of their capital improved value, in other words, a factor of 4 to 1 would cover the Altona situation. The Opposition acknowledges the reasons behind the provision. A large gap exists between the City of Altona and other municipalities. In fact, the nearest council required a rate of approximately 2·8 to 1 to provide it with the same

flexibility between those paying a higher contribution towards the needs of a municipality and the residential contribution. A rate of 2·8 to 1 is 14 per cent compared with a rate of 5 per cent for residents. The Liberal Party does not accept that the factor of 4 to 1 is necessary for the whole State. The government was unwise to accept such a wide parameter just to accommodate one municipality.

The Opposition has two major areas of disagreement with the present proposals. I was handed the government's proposed amendments just as I entered the Chamber and I have not had sufficient time to examine them throughouly, so I hope I have not done the government an injustice. If some of my comments are no longer relevant, I shall correct them during the Committee stage.

The Opposition does not accept the differential rate as proposed. A publication by the Municipal of Victoria, *Municipal Rating Review,* was given to me recently and it examines differential rating. That study indicates an appropriate way of dealing with the problem and sets out seven classifications. The Liberal Party does not necessarily accept those classifications as they stand, but is prepared to examine the matter. No perfect rating system exists, but the Opposition is constantly striving to introduce a better system of rating. A system that improves the position for those who bear an unfair burden of rates should be explored and implemented if possible.

The information provided to the Opposition is not completely satisfactorily and, consequently, the Opposition does not accept the government's proposal. However, the Opposition is prepared to continue consultations on all matters, but excepting proportional representation. The Liberal Party continues to be opposed to proportional representation in local government elections, for reasons that have been discussed previously.

The government never fails to exploit any opportunity to implement its political agenda. The events that led to the dismissal of the Richmond City Council has provided the government with the opportunity, in reinstating that council, to introduce proportional representation. The government has no mandate to do that, and the Opposition continues to be opposed to that philosophy as, indeed, are the citizens of Victoria, who have indicated time and again that they will not support the proposition that endorsed candidates of a political party should run their municipality.

The Port Melbourne City Council, a council within my own electorate, has for many years been controlled by the Labor Party. That council, in many ways, has been a good council over the years, but its residents and ratepayers have moved away from the proposition that their elected representatives should have an overriding allegiance to a political party rather than a responsibility to the citizens who elected them. I believe their rejection of that proposition will soon be reflected in a new composition of that council.

Eventually the government will have to accept the proposition that the people of Victoria will no longer accept that their council representatives should be endorsed by political parties and be required to sign a document which binds them to decisions of that political party within a municipality. That has not happened yet.

Honourable members know that the Victorian Branch of the Australian Labor Party is moving towards possibly lesser involvement in local government elections, but they also understand that that decision is totally pragmatic and transparent in its basis. If the ALP can ensure or be fairly certain that its representatives will be elected, a party ticket will continue to be applied. As fewer and fewer municipalities are accepting party political influence, that is disappearing.

Rather than take up the time of the House now, I shall make further comment on that later. I have canvassed the major areas of concern about the deficiencies of the Bill. I shall discuss them in greater detail when the Bill is in the Committee stage.

On the motion of the Hon. K. I. M. Wright (North Western Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

HEALTH SERVICES BILL

For the **Hon. D. R. WHITE** (Minister for Health), the Hon. C. J. Hogg (Minister for Education)—I move:

That this Bill be now read a second time.

The Health Services Bill represents a further stage in the reform of our health legislation. Its aim is to modernise the law as it applies to the regulation of health care agencies in Victoria. Among other things, the Bill replaces the Hospitals and Charities Act 1958 and a significant part of the Health Act 1958. It also repeals or amends various other Acts, such as the Cancer Act 1958, and brings together in the one statute a great deal of the law relating to the provision of health services in this State.

Much of our health legislation developed in response to needs identified over 70 years ago. It no longer provides an adequate, and in some cases, even comprehensible, legislative framework for the provision of health care in a modern society. The Bill sets out to provide Victorians with a solid foundation of health legislation upon which further reforms can be based.

The Bill primarily reflects the recommendations contained in discussion paper No. 8 published by the Health Legislation Review Unit entitled "Regulation of Health Care Agencies and Charities".

The Bill incorporates proposals in a number of other reports whose recommendations impact upon health care and whose adoption has been delayed pending the development of the new legislation. These include the reports of the Ministerial Review on Community Health, the Ministerial Review of Special Accommodation Houses, the Task Force on Quality Assurance and the Day Procedure Centre Task Force.

The Bill also takes account of the recommendations of several Parliamentary committees, including those expressed in the report of the Parliamentary Social Development Committee into certificate of need and the report of the Parliamentary Economic and Budget Review Committee into the audit of public hospitals. The Bill therefore serves as a vehicle for the implementation of some of the most significant policy initiatives of the government.

The underlying theme of the legislation is accountability to government. In turn, the responsibility of government will be to ensure quality, equity and efficiency in the delivery of health services.

The proposed legislation reflects the government's consistent view that the quality, equity and efficiency of health services is best promoted through a mixture of public and private services provided by agencies independent of government but accountable to it.

Greater accountability does not necessarily mean greater day-to-day control. Indeed, it may mean less day-to-day control and different, more considered approach to the goals the government is seeking to achieve. This describes the intended effect of the proposed legislation in relation to health care agencies which, like public hospitals, receive significant State financial support.

By requiring registered funded agencies to enter into health service agreements, the government is indicating its commitment to ensuring accountability through specifying, in consultation with the agencies, clear goals and throughput targets.

Nevertheless, where health services are provided to the more vulnerable members of our community—the frail aged and people with disabilities—greater accountability necessarily means that the government must ensure that it has adequate powers to enforce compliance with standards, to curb abuse and thereby to enhance the lives of these people. The government has not shirked this responsibility.

It is appropriate to provide specific details on how different types of health care agencies will be affected by the legislation.

PUBLICLY FUNDED HOSPITALS

The Bill will remove overly restrictive and much criticised capital expenditure and other financial controls to which publicly funded hospitals are now subject. In lieu, it will enable flexible controls to be introduced according to the budget and the past record of the hospital.

At the same time, the Bill will establish greater financial accountability to government and the Parliament, by providing for the audit of the accounts of publicly funded hospitals by the Auditor-General. The government thereby wholly endorses the principal recommendation of the Economic and Budget Review Committee in its recent report on the audit of public hospitals.

The Bill will also facilitiate the process of rationalisation of hospital services by linking the exercise of closure and amalgamation powers to proven benefit to the health system and by enabling hospitals to amalgamate with unincorporated bodies and bodies incorporated under other Acts. I note in passing that the government has been highly successful in using its rationalisation powers to redirect hospital services to those previously underserviced—for instance, people in the south-eastern suburbs of Melbourne.

PRIVATE HOSPITALS AND DAY PROCEDURE CENTRES

A key feature of the Bill is the potential savings to developers and proprietors by enabling them to obtain a formal approval in principle before undertaking the building or purchase of a private hospital or day procedure centre.

The Bill will reduce bureaucratic requirements. For example, proprietors will be required to register biennially rather than at annual intervals. Moreover, Health Department Victoria will be required to process applications in relation to such facilities within 60 days unless further information is required.

The Bill also enables the government's health planning guidelines to be given formal status. This will resolve the problems caused in the past when Health Department Victoria has used informal guidelines of uncertain legal status to guide its health planning decisions.

In summary, the Bill seeks to strike a fair balance between the right of proprietors and developers to conduct their business dealing freely and the right of the community to ensure that necessary clinical services which are of high quality are available throughout the State and are provided in an atmosphere of maximum safety.

COMMUNITY HEALTH CENTRE

Under the Bill, the archaic contributor system for the election of committees will be replaced by a Senate-type system of election by people living in the area served by each community health clinic. This will fulfil the commitment of the government to a new, more community-orientated electoral system for community health centres. It also reinforces the government's commitment to the concept of intergrated community health and its recognition of the importance of providing a local base for many Health Department Victoria funded services such as drugs and alcohol programs, district nursing, school nurses, dialysis services, mental health services and dental services.

NURSING HOMES, HOSTELS AND SUPPORTED RESIDENTIAL SERVICES (SPECIAL ACCOMMODATION HOUSES)

A principal focus in the Bill is the strengthening of the capacity of the government to curb abuses of older and disabled people living in nursing homes, hostels and supported residential services, or special accommodation houses, as they have been called to date.

Among the proposed new powers will be the ability to appoint a temporary administrator to operate a facility which cannot guarantee the quality of its service. This power would

have been particularly valuable in resolving the recent crisis involving the threatened closure of seven Victorian nursing homes.

The Bill also introduces a system of on-the-spot fines for breaches of the regulations, and vests in the Minister power to suspend admissions in appropriate circumstances. The Bill goes on to extend the community visitor scheme, established under the Mental Health Act and the Intellectually Disabled Persons' Services Act, to include nursing homes hostels and supported residential services.

In addition to the matters I have already mentioned, two other features of the Bill should be brought to the attention of the House. Under the proposed legislation, Health Department Victoria will be able to prevent the establishment or expansion of a nursing home, hostel or supported residential service in an area if it would result in an oversupply of services in that area.

This is an important power if the government is to ensure the equitable distribution of, and access to, services to older and disabled people. The second is its recognition of the importance of quality assurance programs—that is, programs, like peer review, designed to ensure the ongoing quality of health services.

With this in mind, the proposed legislation sets out to encourage the establishment of quality assurance bodies by health care agencies and provides for the protection of information given to approved bodies. This capacity is essential if comprehensive quality arrangements are to be established to ensure that the quality of health services provided to the community is of the highest possible standard.

At this stage, it is appropriate that I acknowledge the contribution of the Health Legislation Review Unit, under the guidance of its director, Mr Alan Rassaby, and the unit's external advisory committee under the chairmanship of Professor Terry Carney, in the development of this legislation.

Nearly 5000 copies of the discussion paper I mentioned earlier were circulated by the unit, and a number of seminars were held. In addition, extensive consultations have taken place with major interest groups including the Victorian Hospitals Association and the Private Hospitals Association.

Copies of the draft legislation were released earlier this year. In all, the government received more than 170 submissions. The present Bill has been considerably refined in the context of views subsequently expressed by the public.

This Bill is the culmination of a great deal of work by the unit as well as a substantial input from within the community. The Bill will not only replace the present outmoded law with a document that takes account of today's needs, but will also provide an effective policy framework for the balanced regulation of health care agencies as we move toward the 21st century.

On this note, on behalf of the Minister for Health, I commend the Bill to the House.

On the motion of the Hon. R. I. Knowles, for the Hon. M. A. BIRRELL (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

PUBLIC SERVICE (AMENDMENT) BILL (No. 2)

This Bill was received from the Assembly and, on the motion of the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), was read a first time.

For the **Hon. E. H. WALKER** (Minister for Agriculture and Rural Affairs), the Hon. D. R. White (Minister for Health)—I move:

That this Bill be now read a second time.

The Bill seeks to amend the Public Service Act 1974 to enable industrial agreements reached between government and approved staff associations to be recognised and given effect. The need for this provision arises from agreements between government and the Victorian Public Service Association of offsets required to meet the second-tier wage principles.

The agreements cover three major proposals—the introduction of an effective code to manage redundancies by way of the Public Service Board approving agreements between the government and Public Service staff associations; changes to the date when salary on promotion is to be paid; and mechanisms for the employment of temporary staff.

A prerequisite of this government for wage increases under the second-tier principles involves offsets to ensure cost neutrality. The agreements to be given effect under the provisions of the Bill provide substantial offsets to allow the requirements for cost neutrality to be met. Agreement on these issues indicates a realistic and cooperative attitude by the Victorian Public Service Association on the need for efficiency in the Public Service; the parties are to be commended for this positive approach to the negotiations on second-tier issues.

The provision for approving agreements between an employer and an approved staff association is a common provision in legislation applying to industrial tribunals. This Bill introduces a similar facility within the Public Service Act and enables agreement on managing redundancies with the Victorian Public Service Association to be given effect without necessarily applying to other staff associations for which second-tier offsets are still being negotiated. The terms of an approved agreement will apply to all public servants who hold offices that are normally represented by the approved association that is party to the agreement.

As honourable members will be aware, the Victorian Public Service has undergone considerable structural change in recent years. This has led to the need for effective and responsive mechanisms for the management of the Public Service work force in order that the best possible use may be made of its staff resources. An effective redeployment/redundancy policy is seen as essential to gain maximum efficiency from those human resources which so well serve the public of this State. The proposed amendments facilitate this end.

The Bill also seeks to introduce cost savings by specifying that, when an officer is promoted, the increased salary is to be paid when the officer commences duty in the new office or four weeks after notice of the officer's provisional promotion, whichever first occurs. Currently the increased salary is paid from the date of publication of the provisional promotion, notwithstanding that a promoted officer invariably does not assume duty in the new position for some time afterwards.

Revised arrangements for the management of temporary employees will also produce efficiency savings. Because of the desire for consistent provisions for Victorian Public Service personnel, these arrangements and those relating to salary on promotion embrace all staff whether covered by the Victorian Public Service Association, or other associations recognised in the Victorian Public Service—namely, the Hospital Employees Federation of Australia (No. 2 Branch) and the Printing and Kindred Industries Union.

The arrangements for temporary employees include:

authorisation of temporary employment of suitably qualified persons for an initial fixed term of not more than three years, subject to extension for a further two years, and beyond this only where the Public Service Board specifies that special circumstances exist;

temporary employees being subject to the Public Service Act and regulations in the same manner as currently applies to officers of the service;

except where circumstances justify summary dismissal, a minimum period of four weeks' notice on either side to terminate the employment unless a lesser period of notice is mutually agreed;

enabling temporary employees with two years' continuous service to apply for any advertised vacancy and to have the same rights of appeal as apply to officers of the service. This provision applies to all employees employed under the Public Service Act, other than those to whom any award terms and conditions made by a Commonwealth or State industrial tribunal, are applied.

The Bill, although directed at providing the legislative mechanism to give effect to agreements negotiated with the Victorian Public Service Association on second-tier offsets, also enables these provisions to apply to other approved associations in the Victorian Public Service. The objective of improving efficiency within the Public Service in return for a wage increase is required under the wage principles now in place and is supported by the government.

I commend the Bill to the House.

On the motion of the Hon. HADDON STOREY (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

ADJOURNMENT

The Hon. D. R. WHITE (Minister for Health)—I move:

That the Council, at its rising, adjourn until Tuesday, May 3.