Tuesday, 3 May 1988

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

CRIMES (CUSTODY AND INVESTIGATION) 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.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I inform honourable members that a top-level delegation of the Jiangsu Provincial People's Congress is visiting Parliament today, and I am sure I speak on behalf of all honourable members in welcoming them.

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

That a chair be provided on the floor of the House for Mr Bai Yun, the Secretary-General, Standing Committee, of the Jiangsu Provincial People's Congress, People's Republic of China.

The motion was agreed to.

QUESTIONS WITHOUT NOTICE

MINISTRY OF TRANSPORT

The Hon. B. A. CHAMBERLAIN (Western Province)—I refer to the witch-hunt being conducted by the Minister for Transport against his own senior staff who are participating in the community debate over the state of the public transport system. Will he explain why he has also called for names of and information about individual tenants who have made requests under the Freedom of Information Act relating to the Ministry's sale of surplus real estate? Why has he sought information about a Mr Vulling, the husband of the Liberal candidate for Monbulk?

The Hon. J. H. KENNAN (Minister for Transport)—It is the Liberal Party that is conducting a witch-hunt and a scurrilous McCarthyist campaign with respect to transport authorities, and I shall return to that later. It is the Liberal Party that is alleging that there is a cover-up in the Road Construction Authority. It is the Liberal Party that has been making allegations about the misuse of cars in the Ministry of Transport, and this is just another indication of how bereft of policy the Liberal Party is.

The Opposition is a group of knockers and whingers. This is the first question Mr Chamberlain has been able to ask for three weeks without having to go out and get instructions from Mrs Tighe. Mr Hunt, who the Leader of the Opposition, Mr Kennett, said is not to be trusted in any walk of life at all, is in this Chamber as Mr Kennett's surrogate, swearing complete allegiance. They have lasted only 30 seconds!

The Hon. HADDON STOREY (East Yarra Province)—On a point of order, Mr President——

The Hon. D. R. White—This will be my chance!

The Hon. HADDON STOREY—I recognise that the Minister for Health could answer the question better than the Minister for Transport, but I point out that the Minister for Transport is defying the ruling the President has given in successive question times in recent weeks: that after having made his introductory remarks he should answer the

question. Today the Minister has not referred to the question at all. He is simply casting aspersions on people, on matters which are totally unrelated to the question.

The PRESIDENT—Order! There is no point of order as such in my deciding how much preamble the Minister should give. I am certain that the Minister has now almost finished his preamble and that he is about to answer the question.

The Hon. J. H. KENNAN (Minister for Transport)—The Opposition knows very well that it has nothing constructive to say about transport, as with a whole range of other portfolios. The suggestion that there is any witch-hunt or any improper calling for names and information in my portfolio is wrong. It is the Opposition that must respond to this matter. It is the Opposition that is making unfounded allegations about cover-ups in the Road Construction Authority and so on.

CATTLE PURCHASE PLAN

The Hon. B. P. DUNN (North Western Province)—I refer to the cattle buy-back scheme that has been offered to producers whose properties have been quarantined because of chemical residue. In view of the fact that the first round of the scheme concluded last Saturday, will the Minister for Agriculture and Rural Affairs advise of the steps being taken to extend that scheme? As further properties are continuing to be quarantined, will the scheme be extended and, if so, for how long and on what basis?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—It is true that the initial scheme for the bulk of properties quarantined concluded last Saturday. Producers were given six weeks in which to indicate to the Rural Finance Commission that they wished to take part in the cattle purchase plan.

I have made it clear on a number of occasions in press releases in rural newspapers that, in relation to later quarantine declarations, producers would receive a full six weeks within which to decide whether to take up that plan. The original date was 15 March and the owners of any properties quarantined since then have a full six weeks to determine whether they wish to take part.

A remarkable response has been received to the cattle purchase plan. By last Saturday, more than 4000 cattle had been offered for sale to the Rural Finance Commission and the latest figure for purchases was approximately 1200. However, the bulk of those 4000 cattle offered for purchase will be purchased. I give credit to the Rural Finance Commission, and especialy to Mr Ian Morton, for managing without any fuss a major purchase scheme which has been accepted totally and has been welcomed by the farming community of Victoria.

The government has also announced that it is paying for all testing on cattle and soils on quarantined properties to the point where farmers will be given a plan for the future of those properties during the time they are contaminated. That is a package of a purchase plan plus testing. It is generous and properly styled to ensure that people with this problem receive all the assistance that the government can offer.

MISUSE OF GOVERNMENT CARS

The Hon. JOAN COXSEDGE (Melbourne West Province)—I take this opportunity of warmly welcoming our comrades from China. I direct this important question to the attention of the Minister for Transport. The Opposition has alleged widespread misuse of government cars by senior staff in the Metropolitan Transit Authority and has threatened to name the people involved. Will the Minister advise the House of the facts of the situation?

The Hon. J. H. KENNAN (Minister for Transport)—The Opposition has got it wrong again and has got itself into a situation where its spokesman, in referring to the circulation by the Met of the Premier's directive as part of a routine circulation which referred to

widespread misuse but did not refer to then existing widespread misuse in the Met, has now come in in a McCarthyist fashion with this allegation: "I have in my hand a list of 22 or 23 names of people who are misusing cars."

The Opposition claims to be in possession of a memo that states that 22 or 23 of these people are misusing cars, but it does not have the courage, despite my public call last night and again this morning for the Opposition's spokesperson, whoever it might be, to come outside Parliament or give me the list of names, to do that. The Opposition will not do that because it has no courage.

The 23 staff members referred to by the Opposition are the 23 most senior staff in the Met. None of them is misusing his car. Each of them has a car for which he is paying in accordance with the guidelines. That is why the Opposition will not come outside Parliament with this allegation.

The Opposition ran the allegation again in the last day or two. Opposition members have egg all over their faces. They will not come outside Parliament and spell out the names of the staff members because they know they are wrong. Opposition members are misleading the public and misleading newspaper reporters. They are so bereft of talent and policies that they cannot even read documents properly. At the top of one of the documents concerned is a file number, S1000. They have interpreted that as meaning $1000 a week. The person with the notorious mouth in the Opposition should instruct his shadow spokesperson to be careful about giving him documents.

He has the greatest problem reading and interpreting. Keep him safely from the Opposition leadership of things that come wholly from the mouth because he has been dropping these things from his mouth and they are hitting his feet. The Opposition cannot even recognise the names of the people in senior management, and the shadow spokesman has caught foot in mouth disease since he became the Deputy Leader from the state of the seige—the Andrew Peacock seige for Jeff Kennett. This is the third occasion in less than two weeks, that the Opposition has misused information which its members have claimed is confidential—all of which has been publicly available or semi-publicly available for some time—and they have shot themselves in the foot on this car issue, as they did when they claimed in this House a fortnight ago that the government had entered into leasing arrangements in Austria for a lot of trains.

Opposition members said last week that Liberal Party research showed that Comeng (Victoria), a private company—Liberal Party members are strong supporters of private companies—was having trouble meeting delivery schedules. When the government was contacted by the press, we pointed out that that story had been run in the *Age* last October. Yet at the end of April this was claimed to be recent Liberal Party research. That is the rubbish government members hear from the foot-in-the-mouth people, the illiterates who cannot read documents properly and who do not have a single policy. The government has been waiting for months for the Opposition's policy on transport. It was announced in a *Business Review Weekly* article by the Leader of the Opposition, Mr Kennett, who talked about privatisation. My advice to the Opposition is: be careful in letting your shadow spokesmen have documents. They have the greatest trouble reading and interpreting documents. They are unduly careless and now they are bleeding again.

The Hon. ROBERT LAWSON (Higinbotham Province)—On a point of order, Mr President, in his wide-ranging response, the Minister is answering more questions than he was asked.

The PRESIDENT—Order! There is no point of order.

The Hon. J. H. KENNAN (Minister for Transport)—I have the utmost confidence in senior staff of the Metropolitan Transit Authority. They have been using their cars in accordance with the policy. The suggestion by the Opposition that they be branded and smeared is in terms of which Senator Joe McCarthy would be proud. The Opposition members have refused to go outside and name those 23 officers because, as F. E. Smith

once wrote on a back sheet after a night at the Savoy Hotel and a case of champagne, "Sue; the damages will be enormous"; they know what the results would be. They cast aspersions around about thoroughly decent people. In winding up, I say that it is a reflection of how bereft the Opposition is of policy and what a grubby little lot they are who cannot even read properly.

ROAD CONSTRUCTION AUTHORITY CHAIRMAN

The Hon. M. A. BIRRELL (East Yarra Province)—I refer to the statement to the House by the Minister for Transport that it was "rubbish" to suggest that the Chairman of the Road Construction Authority, Mr Stoney, was to be removed from that position. If the Minister's statement is true, why was Mr Stoney told he was to be replaced as chairman, and why were Mr Stoney's staff also told that?

The Hon. J. H. KENNAN (Minister for Transport)—Mr Birrell has not asked the question in the same terms as he previously used. He has been careful to move away from the earlier question he asked of whether the head of the Road Construction Authority was to be axed or dismissed. The head of the authority is the chairman and the managing director, and that is set out in the statement. I suppose Mr Birrell is so busy lobbying for common causes for Dr McGoldrick that he may have difficulty in finding time to read the Transport Act. However, if he did so, he would find that the chief executive is the managing director. We have had discussions in transport over the past two years or so, or more, as to who chairs authorities from time to time and whether or not the director-general should chair an authority from time to time. There is no suggestion of Mr Stoney's dismissal from the Road Construction Authority, or that he would be axed.

It is the Opposition that has been running stories that the Road Construction Authority has been engaged in a cover-up. The question of who chairs authorities is a matter that the government reviews from time to time in transport but the suggestion that Mr Stoney will be dismissed as the head of the authority or that he will be axed is being fuelled only by the Opposition in its constant allegations about a cover-up.

The Hon. M. A. Birrell—The cocky one has cocked up!

The PRESIDENT—Order! Mr Birrell will come to order.

LICENSING OF PROFESSIONAL FOREST OPERATORS

The Hon. D. M. EVANS (North Eastern Province)—I refer the Minister for Conservation, Forests and Lands to her department's advertised intention to license all professional forest operators, including people such as chainsaw operators, from 1 July. Under which Act is authority for this action given? Does the department have adequate resources to carry out the proposed licensing procedures without disruption to the industry? Will a grandfather clause apply to experienced operators, or will we have the ridiculous situation of inexperienced officers of the Department of Conservation, Forests and Lands telling experienced chainsaw operators how to work in the forests?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am delighted by Mr Evans's question because I believe the action the department is taking to introduce this system of licensing for all forest operators is extremely important in ensuring that the forests are properly managed and protected. As I have always believed Mr Evans shared my view on that subject, I cannot understand what he is worried about—unless he has a few friends in the bush who do not respect that view and he thinks they may have to pass a few tests.

They will have to pass a few tests! That is absolutely right and I make no apology for that. Every person employed or engaged in harvesting sawlogs or other timber produced on a commercial basis in State forests in Victoria will be required to hold a forest operator's licence. The licence will not apply to people operating on a non-commercial basis, that is, a farmer cutting timber. I firmly believe if this system is to apply in a number of operational

categories, the government has a responsibility to ensure that its people and forest operators are properly trained. There will be no question of our people making demands that they cannot understand or implement.

There will be a series of workshops using the Timber Industry Training Committee to ensure that both our operators and the people who will be supervising fully understand what will be needed with the various categories of occupational licences. In particular, I am concerned to ensure that the two areas of environmental care and occupational health and safety are observed. The timber industry has one of the worst records of any industry in occupational health and safety. That reflects no credit on either the employers or the operators.

The Hon. B. W. Mier interjected.

The Hon. J. E. KIRNER—Everyone knows the joke about how timber workers order their beers at the bar but it is no joke if in fact one gets the wrong number of beers or one loses some fingers!

It is important that the workers have a real say in how the occupational health and safety workshops are run. I emphasise that it is not a revenue-raising exercise; it is an exercise to ensure that not only do we care for the forests properly but also that workers in forests know what they are doing and are protected in a fairly dangerous occupation.

TAKING OF PHOTOGRAPHS IN CHAMBER

The PRESIDENT—Order! Before calling the next question, several honourable members have expressed concern that a photographer is taking photographs. I should have informed the House earlier that the photographer was granted permission to photograph the Minister for Conservation, Forests and Lands in relation to an article about her.

CHEMICAL RESIDUES IN BEEF

The Hon. L. A. McARTHUR (Nunawading Province)—Like Mr Dunn, I am concerned about chemical residues in farm products. The response of the Minister for Agriculture and Rural Affairs and the government to this problem has been excellent. I ask the Minister to comment on the proposal to increase the maximum level of chemical residue permissible in Australia's export beef and, if that were done, on the effect that increase in residue level will have on our domestic and export markets.

The Hon. A. J. HUNT (South Eastern Province)—On a point of order, the question expressly calls for an opinion.

The PRESIDENT—Order! Will Mr McArthur rephrase the question?

The Hon. L. A. McARTHUR (Nunawading Province)—Will the Minister for Agriculture and Rural Affairs inform the House of the effect an increase in chemical residues would have on domestic and export beef sales?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Honourable members will be aware—in fact, the previous question today from Mr Dunn related to the same matter—that Australia's billion dollar beef export industry was threatened last year by the discovery of unacceptable levels of the chemicals DDT and dieldrin in Australian beef exported to the United States of America and Japan.

As a result, States around the nation have embarked on a tough campaign to ensure the quality of products not only for our exports but also for our domestic markets with regard to the use of these chemicals in producing beef and their effect on the food chain—and rightly so.

In light of this situation, I was fascinated to read of a call by the Opposition—I have newspaper cuttings from the *Sunraysia Daily* and the *Ballarat Courier*—to triple the acceptable level of residues of chemicals used in beef production. The honourable member for Ripon, Mr Austin, who is the Liberal Party spokesman on these matters, has suggested that the level that has been set by the National Health and Medical Research Council should be raised by a factor of three, which I find extraordinary. The present national figure relates to an acceptable level for beef exports to the United States of America. I cannot understand why the honourable member for Ripon believes an increase would be acceptable.

In effect, the honourable member is saying that if the level of acceptable residues in beef were raised Australian farmers would be let off the hook. Farmers do not want that; they want their beef to be able to be marketed around the world. They want their beef to be above reproach. Every State knows that and every government has taken some action in the matter; Victoria has taken by far the best action to assist farmers.

For the Liberal spokesman on agricultural matters to say that the acceptable level is too low and that one must eat a huge amount of beef before the level becomes dangerous and that, therefore, if the level is tripled the problem will go away, is extraordinary; I cannot read any other meaning into the comments made by the honourable member.

It is widely known that an enormous amount of food contaminated by DDT or dieldrin would have to be eaten before it became dangerous but, given the persistence of these chemicals—both of them—there is a build-up effect. The honourable member for Ripon would have trouble convincing Australian consumers about his proposal.

My department has undertaken a pilot food testing program on a market basket sampling in each region every week over the past five months to reassure Victorian consumers that the food they eat is good clean food. Victoria produces some of the best food in the world!

Those tests have been undertaken not only for DDT and dieldrin—which are the only chemicals that are showing up in that testing—but also for organophosphates, heavy metals, antibiotics, arsenics and so on. We have had good results. When that pilot program is over we will probably institute an annual testing so that we are able to tell the public that the food is good. For the honourable member for Ripon who represents the party opposite to say, "Let's get rid of the problem by trebling the level", is outrageous!

LIGHT RAIL TRANSPORT

The Hon. ROBERT LAWSON (Higinbotham Province)—Can the Minister for Transport confirm that he will be staging an international conference on the future of light rail and its export potential on 26 October, and will the Minister reconsider the staging of the conference in view of the impending losses on the light rail system venture in Hong Kong?

The Hon. J. H. KENNAN (Minister for Transport)—I am not sure if "staging" is the right word. Light rail has been the predominant form of fixed rail transport expansion in both North America and Europe for some time.

Honourable members would be aware that light rail has great cost advantages on certain routes, particularly those routes that have fewer passengers than the normal heavy rail routes. Mr Lawson would be aware that approximately 24 North American cities have expanded their light rail services enormously over the past five or six years. Mr Lawson would also be aware that a number of European cities—Hanover, for example—have also been successfully introducing light rail services.

Mr Lawson would also be aware that the Met won the tender against other countries in respect of the Hong Kong light rail service. Mr Lawson would be aware that Comeng (Victoria), a private company which the Opposition would probably see as a potential purchaser of the whole rail system, so far as its policies are concerned, has had difficulties in meeting its deliveries.

That does not mean that the government does not discuss the future possibilities of light rail, because there are future possibilities for light rail systems in this city. As I have already publicly canvassed, there are possibilities, over the next five to fifteen years, of introducing further light rail routes, just as there is the possibility of expanding the public transport system, including heavy rail and buses.

I find it extraordinary that the Opposition policy—now seen in this question—is no more light rail. It is true that the shadow Minister for Transport wrote to the Minister for Transport approximately twelve months ago and urged him to abandon light rail and introduce the Adelaide Obahn system. That is extraordinary. The government now has confirmation of the Opposition policy from the question asked by a member of the Opposition's backbench—that the government should not even talk about light rail.

PETROL PRICES

The Hon. K. I. M. WRIGHT (North Western Province)—I am not sure whether I should direct my question dealing with the imbalance of petrol prices in Victoria to the Leader of the House or to the Minister representing the Minister for Industry, Technology and Resources in this Chamber.

Late last week the price of super grade petrol was 45·9 cents a litre in Brunswick, 48 cents a litre in Bendigo and 61 cents a litre in Mildura. Motorists in many parts of country Victoria are being ripped off. Will the Minister institute a judicial inquiry or a Royal Commission to investigate implementing a system of competition by service rather than by price, so that there is uniformity of price throughout Victoria?

The Hon. D. R. WHITE (Minister for Health)—I look forward to taking up that matter with the Minister for Industry, Technology and Resources. I hope the National Party makes it clear whether it wants the market to determine the price of petrol or whether it should be determined by government intervention.

PORT CAMPBELL NATIONAL PARK AND AGROFORESTRY AT HEYTESBURY

The Hon. M. J. SANDON (Chelsea Province)—I direct my question to the Minister for Conservation, Forests and Lands. Mr Ian Smith, the honourable member for Polwarth in another place, in explaining his opposition to the government's Flora and Fauna Guarantee Bill, recently stated that the Department of Conservation, Forests and Lands was unable to look after the Port Campbell National Park. In the same week the honourable member criticised the government's action in developing agroforestry at Heytesbury. Can the Minister indicate to the House the department's position on these two matters?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mr Sandon for his question and his interest in matters relating to national parks throughout Victoria, most of which he has now visited.

By interjection, Mr Birrell asked, "Ian who?" I believe the real reason that Mr Smith, the honourable member for Polwarth in another place, made those comments about my department, which he sneers at and criticises in his local newspapers, is that he is totally frustrated in his own party. He rushed into print a couple of weeks ago and was reported as saying that the Flora and Fauna Guarantee Bill that I introduced should not be supported because the government does not have the resources to implement it. I am delighted to say that no account of that point of view was taken by his party. In fact, the government has the resources to manage both the flora and fauna guarantee and the Port Campbell National Park properly.

The honourable member's first criticism was of the sewerage scheme, and he said that the national park caravan park was the major polluter of the bay in that area. That is not true. In fact, the most significant contributor to the pollution of that bay is the town

drainage system. My department has the resources to contribute its share of the cost of the new town drainage system when the shire decides what system it wants.

However, not happy with that bit of sneering at and criticism of the department, Mr Smith then rushed into criticism of the government's plan to develop agroforestry and to buy half of the Heytesbury land. I was amazed at that, because I thought he would be supportive of the finalisation of the softwood resource for the Otways area and of the immense potential of agroforestry in terms of farm productivity.

However, I must say that, upon reading through his comments again, it seems to me that he is suffering from total frustration because he is having absolutely no effect on his party, the Liberal Party, of which he is meant to be a most influential member. He and the Colac branch of the party asked eighteen months ago for a timber industry policy, and he is still waiting for it; that is the case, even with the influential Mr George Bennett asking for that sort of policy and criticising the Opposition for making a decision on east Gippsland national parks without having a timber industry policy. Mr Bennett knows that leads to dealing with lobby groups from a non-policy position without a view to the future.

I understand the honourable member for Polwarth is now very worried because different things are being said by his party to different people and that, in the instance of the east Gippsland national parks proposal—and I am delighted that the Liberal Party Opposition supports the government's leadership position on that scheme—he is hearing from the timber industry that what the Opposition is really saying is, "Look, we have to try to steal a march on the government's leadership on conservation; leave the east Gippsland Bill to us because in the future, if we really get into power, what Mrs Tehan is reported to have said in the four-wheel drive magazine will apply, that is, there will be no more national parks for a long time because we will not have the resources".

One must feel some sympathy for Mr Smith in his impotence and frustration. If he wants to lash out at anyone, I suggest that he lash out at the lack of a timber industry policy and a conservation policy from his party, and not at my department.

OVERTIME IN RAILWAYS

The Hon. HADDON STOREY (East Yarra Province)—I refer the Minister for Transport to his decision to override Arbitration Commission advice and to proceed with a secret overtime deal with two unions. I ask the Minister: is he also making a similar deal in relation to guards on suburban trains and, if so, can he inform the House of the details of that deal?

The Hon. J. H. KENNAN (Minister for Transport)—Once again, Opposition members are peddling distortions and downright lies. This is the fourth issue on which they have shot themselves in the foot.

Mr Storey raises a matter which he says was a deal struck in breach of the overtime recommendations of the Arbitration Commission. The fact is that the government has been examining ways of improving productivity in a number of areas.

The matter to which Mr Storey referred concerns equipment examiners. There has been a problem in relieving equipment examiners and as to whether there is an overtime supervisor. The award, contrary to what the Opposition alleges, specifies reasonable overtime; it does not specify the number of hours. The next position is—and this remains the position at present—that we do not see a need for a variation of the award. That was the government's position before the commission, and that is its position now.

Following the hearings in the commission, we have entered into a six-month trial period as from the end of March. That, again, shows how timely the Opposition is; it raises the matter weeks and weeks later.

The Hon. Haddon Storey interjected.

The Hon. J. H. KENNAN—I shall deal with the second point. Mr Storey should not start whingeing in his normal way. It is surprising he has not taken a point of order on his own question. I shall deal with the issue on which Mr Storey is obviously clearly discomfited. Honourable members opposite do not want to hear the facts because they have gone out and once again misused information, misled the public and tried to do so in substitution for any policy position they might have.

The government has entered into a six-month trial—this is the first matter to which Mr Storey referred—to assess whether there would be productivity increases which would justify reconsideration of the next position in the commission. That is where that matter stands.

In relation to the driver-only situation, I note the inconsistent position of the Opposition when last year the shadow Minister for Transport said that he would not sack a single person in the railways one month, and the next month he said—and acknowledged formally in the House, in relation to an industrial dispute that affected only a minimal number of lines—that the Opposition would close down the whole system for a month. He ran from a position where he said that not one single officer in the whole system would be sacked to a position where—a month later—the Opposition would close down the whole system for a minimum of a month. The Opposition has now reached the position where it says that it will privatise the system. That is an example, I suppose, of the gross incompetence of the Opposition. The shadow Minister for Transport wrote to us and urged us to abandon light rail and substitute Obahn; we have not heard anything more about Obahn from the Opposition since. It will be interesting to see what it will do with respect to its policy. Will it shut down the system and substitute Obahn or abandon the whole system and sell it off? They are the only three policy positions we have heard.

In respect of driver-only and crewing matters for trams and trains, we have made efforts to ensure that the system is run as efficiently as possible and that the deficit is cut down. To that end the government embarked on a review of the crewing of trains in terms of driver-only. I should report to the House that we have been enormously successful and, under this government, the deficit has fallen by more than 11 per cent in real terms. The subsidy per head, in terms of public transport, has fallen by about 22 per cent.

In respect of the most effective use of guards on trains, negotiations are still going on. I have always indicated publicly that guards will be retrained on certain lines where the technological changes cannot be made to have driver-only operation. We acknowledge that and have always said in what circumstances there should be a second crew member on trains. For instance, I have said publicly that commuters and travellers generally at night-time would want a second crew member on trains. However, we have always said that, in operational terms, we believe that, subject to certain qualifications relative to some lines especially, much of the operational work now being done by guards could be done by drivers. It is not efficient use of the second crew member to have the guard operating in the current fashion.

Happily, considerable progress has been made in that regard because the Australian Railways Union has publicly stated that it no longer supports the retention of the guards in their current positions. It wants what are described as high profile roving guards to be redeployed in the area.

Discussions are also taking place about the savings of positions, and we are still keen to get budgetary savings in that area, just as we are examining budgetary savings in a range of areas. The precise role of the second crew member on trains—on which trains, at what times, and what duties they carry out—is still subject to negotiation. Those negotiations are not being conducted in public, but, should Mr Storey or any other honourable member wish to ask questions about them from time to time, I am happy to report on them.

J WARD, ARARAT HOSPITAL

The Hon. M. A. LYSTER (Chelsea Province)—History will show that the past six years have seen a quiet revolution in the provision of care and treatment for people with psychiatric disabilities. However, one institution which has, to date, not been addressed is J ward at Ararat. Will the Minister for Health inform the House what action the government intends to take to improve services in J ward at Ararat?

The Hon. D. R. WHITE (Minister for Health)—I am pleased to inform the House that, in addition to the announcement we made last week to increase to 35 the number of psychiatric beds at the Frankston Hospital largely as a result of her endeavours, the government intends to replace J ward at Ararat.

That ward was established in 1882 and was designed in a similar way to the existing Pentridge facilities. The accommodation that is provided for psychiatric patients at J ward has long been commented upon as being totally inadequate, the most recent comment being made by Stuart Rintoul in the *Australian.*

On the occasion when I visited Ararat, I was most concerned to notice that patients there were being kept in solitary confinement for up to 12 hours in conditions that contravened the recently passed Mental Health Act. Patients' solitary confinement had inadequate lighting, toilet, and heating facilities. There was no glass in the cells and consequently there was no warmth for the patients in that psychiatric condition.

I was informed by Mr Rees, the Chairman of the Mental Health Review Board, that the accommodation was not only appalling but also in contravention of the Mental Health Act, and that steps needed to be taken to provide proper toilet facilities; more importantly, that patients should not be kept in those conditions for more than 8 hours at a time, and that glass should be provided for cells. Those steps have been taken.

Having taken those temporary measures, we realised it was not an appropriate form of accommodation. In recognition of that, I am pleased to announce that the government has taken steps to spend a total of $4·39 million to replace J ward with a refurbished unit at the Aradale Hospital for approximately twenty patients. The new twenty-bed unit will be located on the south-eastern side of the Aradale Hospital. That move complements the steps the government is taking to close Willsmere Hospital, expand psychiatric facilities at the Frankston Hospital and take the long overdue step of replacing J ward.

PETITIONS

Companion animals

The Hon. M. A. LYSTER (Chelsea Province) presented a petition from certain citizens of Victoria praying that the government take steps to encourage the neutering of pet animals and that the suggestions of the Lost Dogs Home regarding neglect, cruelty and unregulated breeding be included in any proposed legislation regarding the care and safeguarding of companion animals. She stated that the petition was respectfully worded, in order, and bore 90 signatures.

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

Public hospitals

The Hon. M. A. BIRRELL (East Yarra Province) presented a petition from certain citizens of Victoria opposing government plans to close and sell public hospitals and calling on the government to improve the health system. He stated that the petition was respectfully worded, in order, and bore 142 signatures.

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

LEGAL AND CONSTITUTIONAL COMMITTEE

Subordinate legislation

The Hon. HADDON STOREY (East Yarra Province) presented the twelfth report from the Legal and Constitutional Committee upon subordinate legislation (Statutory Rule No. 231/1987), together with appendices.

It was ordered that they be laid on the table and be printed.

MORTUARY INDUSTRY AND CEMETERIES ADMINISTRATION COMMITTEE

Monumental masons

The Hon. J. G. MILES (Templestowe Province) presented a report from the Mortuary Industry and Cemeteries Administration Committee upon the registration and licensing of monumental masons and industry standards, together with appendices and minutes of evidence.

The Hon. J. G. MILES (Templestowe Province)—I move:

That they be laid on the table, and that the report and appendices be printed.

In so doing, I shall comment briefly. I express appreciation of the work done by the members of the committee in the other House, Messrs Kirkwood, Reynolds, Culpin and Cunningham. I also express appreciation of the work done by Mr Roberts, the secretary of the committee; Ms Kingsbury, the research officer; and Mrs Keith, the stenographer.

The problem of the consideration of registration of monumental masons and industry standards is considerable and was addressed by many submissions to the committee. The problem revolves around costs and uniform standards.

After some deliberation, the committee made recommendations favouring the licensing of monumental masons. It also recommended, under recommendation 9:

Prior to the commencement of any work, plans for the construction of monuments in cemeteries must be obtained from the appropriate local government building surveyor who shall also certify that at the completion of construction, the monument conforms to the appropriate building regulations.

The committee has recommended that individual cemetery trusts as well as Health Department Victoria should be able to license monumental masons.

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:

Chiropodists Registration Board—Report and financial statement for the year 1987 (two papers).

National Parks—Report of the Director for the year 1986–87.

Optometrists Registration Board—Report and financial statement for the year 1986–87.

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

Bass Planning Scheme—Amendment L1.
Daylesford and Glenlyon Planning Scheme—Amendment L1.
Grenville Planning Scheme—Amendment L1.
Huntly Planning Scheme—Amendment L1.
Knox Planning Scheme—Amendment L2.
Lillydale Planning Scheme—Amendments L5, L6 and L8.
Maffra Planning Scheme—Amendments L5, L6 and L7.
Metcalfe Planning Scheme—Amendment L2.
Metropolitan Region Planning Schemes—Amendments RL9 and RL24.

Mildura (City) Planning Scheme—Amendment L3.
Mirboo Planning Scheme—Amendment L3.
Sebastopol Planning Scheme—Amendment L2.
Shepparton (City) Planning Scheme—Amendment L3.
South Gippsland Planning Scheme—Amendment L1.
Stawell (Shire) Planning Scheme—Amendment L1.
Traralgon (City) Planning Scheme—Amendments L1, L7, L8 and L9.
Traralgon (Shire) Planning Scheme—Amendment L17.
Wangaratta (City) Planning Scheme—Amendments L1 and L2.
Warragul Planning Scheme—Amendment L1.
Whittlesea Planning Scheme—Amendment L1.
Wimmera Planning Scheme—Amendment L1.

Police Complaints Authority—Report for the period October 1987 to 5 May 1988.

Prevention of Cruelty to Animals Act 1986—Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures.

. . . . .

Proclamations of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:

Abattoir and Meat Inspection (Arrangements) Act 1987—Section 4—3 April 1988 (*Gazette* No. G 12, 30 March 1988).

Agricultural Acts (Amendment) Act 1987—Part 2—30 March 1988 (*Gazette* No. G 12, 30 March 1988).

Fair Trading Act 1985—Section 46—3 April 1988 (*Gazette* No. G 12, 30 March 1988).

Fisheries (Abalone) Act 1987—31 March 1988 (*Gazette* No. S 24, 31 March 1988).

Health Services (Conciliation and Review) Act 1987—24 March 1988 (*Gazette* No. S 20, 24 March 1988).

House Contracts Guarantee Act 1987—Whole Act, except sections 18 (2) (*b*) and 22 (1) (*e*)—1 May 1988; Section 18 (2) (*b*)—1 November 1988 (*Gazette* No. G 12, 30 March 1988).

Liquor Control Act 1987—Sections 8, 10 to 14 and 35 to 38—26 April 1988 (*Gazette* No. G 12, 30 March 1988); Remaining provisions, except sections 176 (3) and 177—3 May 1988 (*Gazette* No. G 15, 27 April 1988).

Local Government (General Amendment) Act 1986—Sections 9 and 10—30 March 1988 (*Gazette* No. G 12, 30 March 1988).

Travel Agents Act 1986—Sections 37 and 38—30 March 1988 (*Gazette* No. G 12, 30 March 1988).

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the reports and code of practice tabled by the Clerk be taken into consideration on the next day of meeting.

CRIMES (CUSTODY AND INVESTIGATION) BILL

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

That this Bill be now read a second time.

This Bill will significantly reform the law governing the custody and interrogation of suspects. The reforms introduced by the Bill include:

liberalisation of the time limits on consensual questioning of, and other investigative procedures involving, persons in custody on suspicion of having committed an offence;

providing suspects with statutory rights:

—to communicate with friends or relatives, legal advisers and, where relevant, interpreters and consular officials;

—in the case of children, to have a parent or independent person present; and

—to be notified of their rights, including the right to silence; and

requiring police to tape-record interviews for indictable offences.

The Bill implements the recommendations of the Consultative Committee on Police Powers of Investigation in its report entitled "Custody and Investigation".

BACKGROUND

Traditionally, the law required that a person arrested or taken into custody be either released or, if charged, granted bail or brought before a justice as soon as practicable. There was no power for the police to detain a person for questioning or to delay taking a person before a justice for this purpose. Following a series of court decisions in 1983, in which alleged confessions by suspects who had been detained illegally were excluded from evidence, the government established the consultative committee, under the chairmanship of the then Director of Public Prosecutions, Mr John Phillips QC—now Mr Justice Phillips—to examine the associated issues.

In 1984, the committee recommended that the common-law rule be relaxed to allow police to delay taking a suspect before a justice for up to 6 hours to allow consensual questioning. The consensual questioning could be continued for a further period of up to 6 hours if the suspect consented and a magistrate or clerk of courts so ordered. The government accepted this recommendation and accordingly amended the relevant provision, section 460 of the Crimes Act 1958.

In 1985, the government asked the present Director of Public Prosecutions, Mr John Coldrey QC, to reconvene the consultative committee to examine the effectiveness of the amendments which followed its original report. The Coldrey committee included six members of the Phillips committee and four new members. Like its predecessor, the Coldrey committee included senior police officers, a Crown Prosecutor and representatives of the Victorian bar, the Law Institute of Victoria, the Legal Aid Commission, the Attorney-General's Department and the Office of Corrections. The committee operated on a voluntary basis. I wish to express the government's gratitude to Mr Coldrey and the members of his committee for their important and valuable work.

THE COLDREY COMMITTEE REPORT

The Coldrey committee delivered its report in 1986. In the light of experience in the operation of section 460, it found the fixed 6-hour limit on consensual questioning to be too inflexible. Instead it recommended a package of changes to the law which were designed to strike a balance between the need to protect individuals from unlawful and unfair treatment on the one hand, and the need for effective law enforcement on the other. The proposed package envisaged:

replacing the fixed time limit on consensual questioning and investigation with a more flexible limit based on "reasonable time";

giving statutory basis to the rights of suspects to communicate with friends, relatives and legal advisers, and, where appropriate, to have the assistance of an interpreter and a consular official; and

mandatory tape-recording of interviews for indictable offences.

After extensive public consultation on the recommendations, the government has decided to implement them through this Bill. The Bill combines a liberalisation of the rules governing interrogation, with several crucial safeguards. The Bill contains a clear statutory statement of rights of suspects which were previously recognised only through decisions of the courts and through police Standing Orders. To reinforce these rights, the Bill also requires that suspects be notified of their rights and, in indictable cases, that this notification be tape-recorded wherever practicable. These matters are too important to be left without a statutory footing. Finally, and most importantly, the Bill requires questioning of suspects for indictable offences to be tape-recorded.

TAPE-RECORDING

I wish to highlight particularly the provisions of the Bill dealing with tape-recording. Tape-recording of interviews with suspects was first proposed in Victoria in a 1965 report by the then Solicitor-General, now His Honour Mr Justice Murray. Since then it has been called for by a series of reports in Australia, including those of the South Australian Criminal Law and Penal Methods Reform Committee (1974), the Australian Law Reform Commission (1975 and 1987), the Beach inquiry (1976), the Lucas inquiry in Queensland (1977) and the Shorter Trials Committee (1985). Similar proposals have been made in other common-law countries such as Britain, Canada, New Zealand and the United States of America. Victoria will be the first Australian jurisdiction to implement these many calls for reform in this area.

It was the firm view of the Shorter Trials Committee and the Coldrey committee that universal tape-recording of interviews with suspects by law enforcement officials would have substantial benefits, financial and otherwise, for the administration of justice. It should be borne in mind that in many criminal trials a great deal of time is taken in determining the admissibility of an alleged admission by the accused; often it is the only real issue in the trial. Tape-recording will eliminate many of these disputes. As a result, trials will be shortened and more guilty defendants can be expected to plead guilty, leading to a great saving of public money. In this regard, honourable members may recall the estimates of the Shorter Trials Committee in 1985 that a trial in the Supreme Court costs the taxpayer an average of $7200 per day and a County Court trial, $5500 per day.

In addition, there is strong evidence that tape-recorded interviews take far less time to conduct than those recorded by the traditional method of two-finger typing. The widespread use of tape-recording will therefore free up many hours of police time, both through shortening interviews and by avoiding long hours in courts. The Bill will therefore further advance the government's program of making better use of resources in the criminal justice system.

However, the benefits of tape-recording interviews are not merely financial. Both the Coldrey committee and the Shorter Trials Committee stressed the likely improvements in the quality of justice. An accurate, undeniable record of what transpired between law enforcement officials and the accused person protects all concerned against false allegations, indicates better the circumstances of the questioning and gives magistrates, judges and juries a sounder basis for decision making.

After receiving the Coldrey committee report on section 460, the government established a pilot study of the tape-recording of police interviews for indictable offences. The study, which is currently under way at several metropolitan and country police stations, has provided a good guide in determining the appropriate quantity and type of equipment to be used, precise training and personnel requirements and detailed technical and procedural needs when universal tape-recording is introduced Statewide.

CONCLUSION

The Bill is a major landmark in the reform of the law relating to the interrogation of suspects and the investigation of offences. It strikes a careful balance in a difficult and complex area and shows the combination of justice and efficiency which is the hallmark of a Labor government.

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 later this day.

STATE BANK BILL

For the **Hon. D. R. WHITE** (Minister for Health), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

Throughout the 1980s many significant changes have occurred within the financial system. These changes are global in nature and affect most areas of society. They present many problems and opportunities: never before has such a diverse range of financial services and products been available. It is within this context that the need was recognised for sophisticated and responsive legislation relating to Victoria's premier financial institution—the State Bank.

As the largest State bank and the fifth largest bank in Australia, the State Bank has long held a most prominent position in the community and the economic affairs of Victoria. Under the government's economic strategy it has adopted an aggressive and forward-looking posture, seizing many of the opportunities that have emerged with deregulation of the financial system and projecting itself beyond Victoria into national and international markets.

The government and the bank have initiated various changes within the limits of the existing legislation, but it has become clear that future progress requires a new Act which combines flexibility in the development of products and services with a strong capital base and financial structure. It is intended that the new Act will provide the legislative framework for the continued development of the bank into the next century.

Under the new Act the objective of the bank will be to provide State banking, financial and related services in a profitable, efficient and competitive manner for the economic development and welfare of the people of Victoria. The reference to State banking is included for constitutional purposes and indicates that the bank is carrying out the activities of banking as an agent of the Crown in Victoria. The objective focuses on the provision of state-of-the-art banking services for the benefit of the overall community.

The present board of commissioners will be replaced by a board of directors appointed by the Governor in Council will and include a person appointed to represent the interests of the Treasurer. The board will have considerable autonomy and, where a difference of opinion emerges between the board and the Treasurer, a mechanism is provided to encourage resolution through consultation, but, where necessary, the difference may be determined by the Treasurer.

The functions and powers of the bank are both general and specific. The Act will provide that it shall carry on the activities consistent with its objective and have all the powers necessary for that purpose. It may operate inside and outside Victoria, including internationally. Specific powers conferred on the bank enable it to provide the fullest possible range of banking and related financial services. These include accepting deposits; providing and obtaining financial accommodation; issuing, purchasing and dealing in financial instruments; dealing in foreign currencies and precious metals; providing guarantees and indemnities; dealing in securities and other interests; underwriting loans, share issues, unit trusts and other instruments; establishing and managing trusts; providing financial advisory, investment management, administrative and other services; maintaining registers of securities; and acting as or appointing trustees. The bank may also provide annuities and some insurance services consistent with those provided by State banks in other States, as well as receive fees for professional services rendered, and appoint or act as an agent, broker or attorney.

A central feature of the new Act will be the provisions relating to the capital of the bank. The original legislation contained no provision for the bank's capital. It is, therefore, hardly surprising that the capital falls short of the requirements established by the Reserve Bank and recently modified by it. The development of a strong capital basis is presently constrained by the absence of a share structure and by the need to preserve the status of

the bank as a State bank; such status would be prejudiced if parties other than the Crown came to hold proprietary rights in the bank. The new Act preserves this status by allowing a share structure to be put into place while providing that shares may be held by or transferred only between Crown instrumentalities—for example, the Accident Compensation Commission and the State Insurance Office. Such shares may be of various classes or types and have attached to them various dividends and benefits; they do not, however, confer any voting rights or other rights of control.

The profits of the bank are to be distributed in a specified order of priority. Firstly, the bank pays to the Consolidated Fund an amount equivalent to what would have been its income tax liability if it had been a public company; secondly and thirdly, the bank services capital instruments and shares held other than by the State of Victoria; the Consolidated Fund is then paid dividends on shares held by the State; and the remaining profits are then applied, respectively, to the reserves and the capital of the bank.

The Act provides that the bank may make use of the statutory guarantee provided by the government in a number of ways. Liabilities will generally be guaranteed, although the bank or the Treasurer may declare that certain liabilities are excluded. In addition, the Treasurer may, at the board's request, determine that specific obligations or liabilities are guaranteed. Similarly, the government may assume any obligation or liability of the bank or related corporation. In all areas where the guarantee is applied, the Act provides that the bank may be charged a fee, thus ensuring its efficient use.

The accounts and audit provisions of the Act are consistent with the requirements of a major financial institution and ensure that the bank provides accurate and timely information on its performance. Given the complexity of the audit task, the Act will provide for the appointment of a registered company auditor by the board. The Auditor-General will, however, be required to approve the appointment of the registered company auditor.

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.

MEDICAL TREATMENT BILL (No. 2)

The debate (adjourned from April 19) on the motion of the Hon. J. H. Kennan (Minister for Transport) for the second reading of this Bill was resumed.

The Hon. D. R. WHITE (Minister for Health)—When the debate was adjourned, I advised the House that the government wished to give further consideration to the matters raised by the Opposition in opposing the Bill.

I take the opportunity to commence by quoting Mr Chamberlain in debate where he said, as recorded at page 21 of daily *Hansard* for 19 April 1988:

> The fourth option covered by the Parliamentary Liberal Party 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.

In Mrs Tehan's contribution to the debate, as recorded at page 45 of daily *Hansard* of 20 April 1988, she said:

> 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.

The position put forward by the Opposition was that it should oppose the Bill at the second-reading stage and it would do so on the ground that the common law was adequate and that the only reason that the common law had not worked satisfactorily was that the

government had not provided a proper educative program to the community to enable the common law to work more effectively.

The Hon. B. A. Chamberlain—It was not a criticism of the government; it was a statement generally.

The Hon. D. R. WHITE—The government adjourned the debate on the ground that it wanted to consider the merits of that proposition, because it is a substantial proposition, and the government also wanted the opportunity of hearing further from the public. It is fair to say that considerable public debate has occurred over the past two weeks. During that time the government has sought further opinion in respect of this issue both from the Chairperson of the Social Development Committee and from an eminent Queen's Counsel, Mr Ron Castan, about which I shall have more to say.

Over the past two weeks the government has not inflamed the debate because it wanted to give maximum opportunity not only for the government to consider its views but also for the Liberal Party and the National Party to further consider their views because, at the end of the day, what I should most like to hear this week during the Committee stage is a debate on the merits of the Bill, which up to now this Chamber has been denied.

What is being put to the government is that the Bill should be thrown out at this stage, which would mean that we cannot debate the merits of the Bill. Many people have put forward views relating to specific cases seeking either amendments, omissions or additions, and on behalf of the government and the Attorney-General, and on behalf of Mrs Dixon, who has been involved extensively in this debate, I reaffirm the offer the government made earlier: we proceed to the Committee stage, and the government will, in the Committee stage, examine the merits of proposed amendments, just as it did during the spring sessional period with the Tobacco Bill and the Infertility (Medical Procedures) (Amendment) Bill No. 2. Obviously, it is in the hands of honourable members during the Committee stage to determine what will flow from this Chamber.

At the moment we are being denied the opportunity to consider the merits of the Bill. One has to carefully consider proposed amendments when dealing with a piece of legislation covering new matters, more than in any other circumstance, because one knows that one can never guarantee that the legislation that is being proposed is perfect or necessarily consistent. I do not wish to reflect on the Bill that is before us, but I do wish to say that the government has an open mind to any suggestions that are made, and that has been reaffirmed consistently over the past two weeks. I repeat that in resuming debate on this Bill the government is seeking to proceed into the Committee stage today.

I now turn to the substantive issue that is before the House in respect of the second-reading debate. The Opposition and the National Party are claiming that there is no reason and no need for the Bill on the ground that the common law is available and can work and should be able to work. That is the substantive part of the fourth option.

The government requested Mr Castan to examine this issue, and I shall quote extensively from his opinion from time to time. Mr Castan said:

> I have been asked to advise as to the operation of the common law in respect of a patient's right to refuse medical treatment.

Further he says:

> . . . the common law relating to the refusal of medical treatment is superficially easy to state, and infinitely difficult to apply.

I shall take the opportunity of showing why he reaches that view. It is important that we understand what the common law is and whether and under what circumstances it can operate. I should say—and I do not need to repeat it on every occasion—that these matters are matters that were dealt with by the Social Development Committee and I shall have regard to both the committee's further views and Mr Castan's views.

The Hon. M. J. Arnold—Mr Storey and I spoke to the Social Development Committee.

The Hon. B. A. Chamberlain interjected.

The Hon. D. R. WHITE—In response to Mr Chamberlain's interjection I refer him to the appendices to the report of the Social Development Committee. Mr Castan further states:

> The general principle that operates in this field is that a medical practitioner may only carry out treatment upon a patient with the consent of the patient. Any medical procedure carried out without a patient's consent is a trespass to the person, and the medical practitioner is liable in damages, for the tort of battery.
>
> Conversely, where a medical practitioner or medical staff are under a duty to treat and care for a patient, and fail to do so, either deliberately or negligently, they may be liable for the crime of murder, or of manslaughter, if the patient dies.
>
> Finally, as a matter of general principle it may be stated that the above principles apply only to competent patients. If a patient is no longer mentally competent, then the decision as to the granting or withholding of medical treatment passes to the person responsible as guardian of such patient. The courts act as ultimate guardian of all those lacking mental capacity.

I repeat that one of the reasons why the Social Development Committee recommended the proposed legislation is that the common law does not deal with the circumstances where a person who, when in a competent state indicates that he or she wishes to refuse further medical treatment, then slips into an incompetent status. There is no provision under common law for that right to be recognised. Mr Castan further states:

> The above general statements are deceptively simple. Hidden within them are a host of complex issues of law, many of which have not yet been resolved. There are very few relevant cases which have confronted these issues. There is also a complex factual background which by its nature inhibits the development of coherent principles in this area.

Mr Castan spent some time, during the course of developing his opinion on the issue of consent and on the circumstances and the manner in which the issue of consent should be treated.

I am happy to make available copies of the opinion to honourable members for their consideration. It is clear from Mr Castan's opinion that he reaches the conclusion that there is no authoritative decision of the courts in Australia as to how the common law will operate on the issue of consent upon which people can rely. In practical terms, he concludes that:

> The report of the Social Development Committee of the Victorian Parliament inquiry into options for dying with dignity sets out in detail the complicated factual situations which can arise, and the difficulties posed for doctors and medical staff, in determining whether or not a patient has sought to terminate certain kinds of treatment.

That report also indicates a considerable confusion which has arisen because of conflicting advice which has been received by medical practitioners and hospitals from advising lawyers concerning the relevant duty of medical staff in cases where patients have sought to put an end to particular kinds of treatment.

He concludes by saying that the reality is that the state of law on this issue in Australia is totally uncertain. The practical problems of developing an answer to this question are immense. The patients themselves are in a position where the likelihood of action being brought is slim. In the very nature of the problem which is being discussed, the patients are unlikely to have the capacity to initiate legal proceedings or to survive long enough to enable the appellate courts to develop answers to the sophisticated and difficult questions raised by the conflict of opinion referred to.

I should like to point out that it is reasonably easy to establish the point—and Mr Castan does at some length—that a person who moves from a state of competence to a state of incompetence cannot rely on the common law to protect the decisions he or she has made when in a competent state.

Moreover, in a hypothetical case where a person has been resuscitated three times and he or she has decided to request not to be resuscitated again, the person is in a dilemma

because, if the medical practitioner refuses to acknowledge the person's rights and resuscitates the person a fourth time, the individual patient has to take the issue to the Supreme Court to exercise his or her common-law rights.

The Hon. B. A. Chamberlain—And under the Bill they would have to do exactly the same thing!

The Hon. D. R. WHITE—That is a difficult circumstance for the person, given his or her current condition and health; but, just as importantly if not more importantly, if the doctor consents to the patient's wishes and refuses the medical treatment and refuses to resuscitate the person a fourth time, the doctor is in a dilemma because if that person dies a relative can sue the doctor under common law for negligence and there is no evidence that the patient has consented. As one Opposition member said in confidence, "the common law operates very well retrospectively" and that is the only time when it operates; but it is of little value.

Mr Castan's opinion continues:

The Law Reform Commission of Victoria in its Symposia on Medicine, Science and the Law entitled, "Informed Consent" obtained the views of a large range of experts in a variety of fields associated with medicine, psychology, communication and the law. The report of those symposia illustrates that there remains a substantial area of uncertainty as to what information is required to be conveyed in order to enable consent to be "informed" and a substantial degree of uncertainty as to which direction will be taken on this question by the Australian courts.

The practical implications of this area of uncertainty, in relation to the issues raised by the Social Development Committee's report, are also of great significance. If actions for battery are brought by patients who have been treated by doctors, who regard themselves as obliged to continue life saving treatment, it is entirely uncertain what degree of information must be shown to have been conveyed to the patient, in order to enable the patient, as the plaintiff, to prove that procedures were not consented to. Alternatively, how far must the medical practitioner go to establish that the patient was sufficiently well informed to give a proper consent? The prospect of this sort of issue being debated in the law courts, around a patient who is terminally ill and who seeks to avoid treatment by bringing legal proceedings, illustrates the unreality of any expectation that the common law will develop with clarity in this field.

The second general area of the common law which must be addressed relates to the operation of the criminal law, as it affects those engaged in medical treatment. The general principle is that those under a duty to provide medical treatment will be liable for the crime of murder or manslaughter, if they deliberately or recklessly or negligently fail to provide treatment which could preserve life.

However, this general principle is of little assistance in dealing with those who are suffering from terminal illness, and who are being kept alive by the application of recently developed technological mechanisms, without which the patient would die. In theory, at least, an omission may be as much the cause of death as the commission of a positive act.

Mr Castan is clearly making the point about the difficulty of applying common law in an effective and practical sense to provide a humane resolution of the issue on a case-by-case basis. At page 12 he continues by saying that, as an outcome of the practice of common law and its application both here, in England and in the United States:

Inevitably they advise doctors and hospitals that the most restrictive view should be taken of the doctor's ability to follow a patient's instructions, in cases of terminal illness. In practice, the reality is that the risks of a civil action being brought for continuing medical treatment are almost nil . . .

So the medical profession has little to fear on that side of the equation. He continues:

. . . in view of the condition of the patient. The risks of a possible criminal charge being brought as a result of the accelerated death of a patient by virtue of the withholding of medical treatment which is otherwise available must be regarded as more realistic, particularly in cases where members of the family of the deceased are distressed by the withholding of treatment.

Irrespective of what the wishes of the individual might have been, that is. The opinion continues:

There is much discussion in the report of the Social Development Committee, concerning the so-called "living will", a document which is executed when a person is competent, and which gives instructions as to what course of action is to be taken if the person becomes no longer competent to make decisions concerning themselves.

These instructions appear to have no legal foundation or enforceability. When the patient concerned becomes incompetent, the ordinary principles applicable to those who are not mentally capable come into operation. It has been well accepted for many years that a legislative regime is required to provide for the situation of persons who are no longer competent to give instructions concerning their own affairs. An absence of provisions enabling the person who is still competent to authorise an attorney to make such decisions on his or her behalf after incompetence supervenes does not leave the matter to the common law. On the contrary, since there is no relevant common law principle, it leaves the matter entirely unprovided for.

The Hon. J. L. Dixon—You should repeat that part for Mr Chamberlain. He is not listening.

The Hon. D. R. WHITE—In response to the interjection by Mrs Dixon, I shall repeat that part again, and I make it clear to the Leader of the Opposition in this place that, if he spent as much time listening to this debate as I did to his contribution and if he spent as much time listening to everyone in the community as he has spent assiduously listening to Margaret Tighe, the whole community would be better off. All we ask is that he give due consideration to all points, which he has not done.

The Hon. H. R. Ward interjected.

The Hon. D. R. WHITE—Moreover, in response to the interjection made by Mr Ward, he did not listen in the party room, either. I shall repeat what Mr Castan says:

On the contrary, since there is no relevant common law principle, it leaves the matter completely unprovided for. In this area, if it is considered that the appropriate policy to be adopted is that persons should not be permitted to give directions in advance as to whether or not medical treatment should be withheld, then this should be squarely faced and disposed of on this ground. On the other hand, if the policy decision taken by the Parliament is that persons should be entitled to give such directions——

Mr Chamberlain has not yet reached that view; I am not sure why that is so——

. . . in advance, authorising an attorney to make such decisions, then it is necessary for legislative action to be taken, since no provision of the common law currently enables such a direction to take effect.

The Hon. B. A. Chamberlain—What about the Guardianship and Administration Board? Mr Castan ignored that board.

The Hon. D. R. WHITE—The government will be happy to debate the operations of the Guardianship and Administration Board under the chairmanship of Mr Tony Lawson. Clearly, the board cannot address to any extent the matters that are raised here.

The Hon. B. A. Chamberlain—He does not mention the board!

The Hon. D. R. WHITE—Under the guardianship Act, and under the operations of the Guardianship and Administration Board, Mr Lawson and the members of that board do not have the legal capacity to deal with the circumstances where a person, in a state of competency, reaches a view about refusing medical treatment and then passes into a state of incompetency. Under such circumstances, there is no protection under the guardianship Act——

Honourable members interjecting.

The PRESIDENT—Order! Honourable members on both sides of the House will come to order and allow the Minister for Health to put his case to the House without interruption.

The Hon. D. R. WHITE—I shall repeat what Mr Castan says at page 14 of his opinion:

It is totally unrealistic to consider that terminally ill patients are likely to be able to bring proceedings for battery.

The costs involved, and the time involved are clearly prohibitive of any effective proceedings. In principle, it should also be possible to bring an application for an injunction to the Supreme Court to prevent the commission of the tort of battery. In practice, this must be regarded as a most unwieldly and inappropriate mechanism for the disposal of difficult questions concerning the patient, and his or her relationship to those engaged in medical treatment.

In my view, any legislative structure which enables decisions concerning these matters to be resolved without recourse to the courts is clearly preferable to attempts to obtain urgent injunctions to prevent the continuation of particular treatment, or the initiation of new treatments not desired by the patient.

The Hon. R. J. Long—What about the wording of those provisions?

The Hon. D. R. WHITE—It is important to deal with the interjection made by Mr Long; it is a point I wish to labour. In the debate on the Bill today, honourable members will not be given the opportunity of looking at the clauses of the Bill. The Opposition is saying that the common law works satisfactorily in this area.

The Hon. B. A. Chamberlain—In the vast majority of cases it does.

The Hon. D. R. WHITE—The Opposition says that there is therefore absolutely no need for the Bill, and that the Bill should be thrown out at the end of the second-reading debate.

If that remains the view of both the Liberal and National parties, what will occur at the end of the second-reading debate is that a division will be called for; and if the normal balance of numbers in the House prevails, the Bill will be thrown out and no attempt will be made to consider the merits of what has been suggested by interjection—that is, to examine the clauses of the Bill.

This is supposed to be a House of review. There are powers to enable the adjournment of debate on clauses of the Bill in the Committee stage at any time, and to then report progress on the Bill. The Liberal Party is saying there should be no opportunity of examining the merits of the Bill.

Honourable members interjecting.

The Hon. D. R. WHITE—All the government asks is that the Bill be considered in Committee; the reply of the Opposition is that that is not possible. This House is a House of review, and honourable members should have the opportunity of examining the clauses of the Bill, as well as any proposed amendments, together with the opinions of such people as Professor Penington.

The Hon. B. A. Chamberlain interjected.

The Hon. D. R. WHITE—Mr Castan reflects on matters that are now being discussed. On page 15 of his opinion he says:

It is apparent from the terms of the Bill and from the nature of the problems being confronted by it, that there is no monopoly of wisdom as to the appropriate terminology to be adopted, in dealing with the problem under consideration by the Parliament. In drafting legislation in an entirely new field, there are many options which may be exercised. Whichever formulation of words is used there will be some commentators, medical or legal, who will be able to illustrate circumstances in which those words may operate in an inappropriate way.

He continues:

I have therefore not attempted to undertake a detailed analysis of the precise language used in the Bill, or in the proposed amending provisions.

He says that because the government did not seek such an opinion. Instead, the government asked him a specific question: can the government proceed in this area without legislation? Can the government proceed satisfactorily under common law? Mr Castan clearly says that no such mechanism exists, that the common law is inadequate to deal with such matters, and, in respect to the interjections made by Mr Chamberlain, that there is no adequate provision to deal with such matters under the guardianship Act. I shall quote from page 16 of the opinion:

As I observe the provisions of the Bill, it does not seek to alter the common law. Rather it seeks to create a mechanism to ensure that the broad general principles of the common law are given effect to, where they confront the issues which require attention.

In my view, a procedure which sets a standard formula for the withdrawal of consent to further medical treatment overcomes many of the problems and difficulties associated with determining whether or not consent

has been withdrawn. This is a practical measure, which ensures that medical practitioners and treating staff will know where they stand. This does not mean that practical problems may not from time to time arise in the application of the statutory mechanisms created. However, both patients and medical staff will have available to them a procedure which ensures that a patient is able to express his or her wishes, if he or she so desires, and to know that those wishes will be respected. On the other hand, the medical staff will know that if the statutory procedures are properly followed, they are protected from adverse consequences or allegations concerning the withholding of treatment.

It is clear that Mr Castan is making a significant case for having the merits of this Bill examined, and that the common-law argument is not sufficient to prevent that. This afternoon, by interjection, Mr Chamberlain clearly indicated that he will use every option open to him to deny this government, even considering the unanimous view of the Social Development Committee and widespread community support, the opportunity of considering clauses of the Bill in the Committee stage. Mr Chamberlain is denying that right, despite the fact that he has the right in the Committee stage to carefully examine the provisions of the Bill. Mr Chamberlain will use his position to deny the Committee that right.

The Hon. R. J. Long—Do you want me to vote for something that is absolutely wrong in law?

The Hon. D. R. WHITE—The government is happy to hear argument from Mr Long on whether common law can work satisfactorily in this area and, furthermore, whether legislation is required. If Mr Long wants to address specific clauses in this Bill, the government is happy to consider the merits of his proposed amendments and to adjourn the debate in the Committee stage. I point out to the House that this debate has been with us for a long time. I have no knowledge of Mr Long seeking evidence, either before the Social Development Committee or at any stage publicly, to substantiate the argument that he is now putting.

The Hon. R. J. Long—I am quite capable of making up my own mind, without running to the Social Development Committee.

The Hon. D. R. WHITE—But Mr Long is quite happy to deny this government the opportunity of having its proposed legislation examined in the Committee stage. Mr Long has made a couple of statements but he has lent no argument as to why that debate should not occur, apart from ruling it out in toto. I again quote Mr Castan:

> So far as concerns the question of those who become incompetent, the Bill addresses the major problem, that is, the absence in the common law of any recognition of the right of a person to appoint a guardian in advance, to make the decision to withhold medical treatment.
>
> I consider that each of these matters either re-states the common law, and enables effect to be given to it in a practical way, or fills a gap which currently exists in the common law. No doubt the precise language used in the Bill will continue to be the subject of further debate, both within and outside the Parliament.

Little does he know that here today that right will be denied. He also states that he has had the opportunity of examining some of the comments made by Mr Chamberlain in this House on 19 April about a letter of 5 April from Dr J. N. Santamaria and Dr K. Breen.

He states:

> It is apparent from their letter that Drs Santamaria and Breen are concerned that the Bill would 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 . . .
> >
> > 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 optimum 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."

Mr Castan's response was:

These comments reflect a rejection of the underlying premises and aims of the report of the Social Development Committee of the Parliament, and of the Bill itself. They also indicate a rejection of the fundamental principles of the common law, that is, that a patient is entitled to refuse medical treatment. The doctors' views imply that patients are better off when kept ignorant of their legal and medical rights. However uncertain the position of the common law, as discussed above, the views expressed by the two doctors cited would clearly not be shared by judges called upon to decide the difficult issues now before the Parliament.

The inference is that, in resorting to the use of this opinion, Mr Chamberlain is also supporting the notion that he does not want common law to work either. Mr Castan continues:

The fact that such views are expressed by some medical practitioners further illustrates the reality of the need for clarification of the role of the medical and caring professions, in dealing with the terminally ill.

The government is prepared to exercise patience in this matter; it is a matter of great importance to the government. Mr President, as you will be aware, the issue has been pursued over a long time. You initiated it in debate in this House in 1980 or 1981. The government is happy for the debate to be further adjourned today in the second-reading stage, if the Opposition or the National Party so wish. Further, it is happy for the Bill to proceed to the Committee stage and for an adjournment to be taken there, if the opposition parties wish to pursue specific clauses. But in being patient, the government is also indicating that, if the Bill is thrown out at the second-reading stage, it will be further pursued by the government, either in this form in another place or at the earliest opportunity again in this House. The issue will not go away. The government will pursue it vigorously.

The issue was referred to the Social Development Committee. On behalf of the government and, I should think, all members of the House, I compliment members of the Social Development Committee for the manner in which they dealt with the issue and for the quality of the work they undertook. I also indicate that the government is by no means locked into the current draft Bill. It is the government's preferred position but it is happy to receive further argument. What is being denied to the government in this House of review is the opportunity of debating the issue in the Committee stage and considering the merits of the clauses. Both the Social Development Committee and the government have shown that there are two fundamental areas where common law does not work. Firstly, it does not work in providing for or allowing a person to move from a state of competence to incompetence.

The Hon. B. A. Chamberlain—There is another Act for that.

The Hon. D. R. WHITE—The Guardianship and Administration Board Act does not provide for such circumstances when a person moves from a state of competence and asks to have treatment withheld. That person has no rights arising from declaring a point of view unless consent is given by a guardian—that person does not have any rights. The only right that can be exercised is by a guardian, if he or she wants to exercise some right on behalf of that person, which again involves difficulties under common law.

The as-of-right provision that a competent person has to refuse further treatment is not given to people in an incompetent state. It is not given to them under the Guardianship and Administration Board Act or under common law.

Secondly, if a person in a hypothetical circumstance—and I repeat that it is hypothetical—has been resuscitated three times and decides not to seek further treatment, or not to be resuscitated a fourth time, under common law the issue is by no means clear. If a medical practitioner decides, in good faith, that he or she wishes to continue resuscitating that patient, the patient must go to court to get the court to uphold the patient's right to refuse medical treatment. This is a difficult process because there is no effective procedure. Moreover, the outcome of the action before the court is by no means certain.

The second point, which is just as important if not more important, is that under common law the medical practitioner is not protected. If a medical practitioner gives

consent and refuses to resuscitate a patient a fourth time, he or she has no protection under common law because any spouse or relative can take action and sue the medical practitioner for negligence.

The Hon. B. A. Chamberlain—Under this Bill, they cannot.

The PRESIDENT—Order! The Leader of the Opposition is constantly interjecting. I remind him that he will have ample opportunity of putting forward his views during the debate.

The Hon. D. R. WHITE—Under common law, it is not possible for individual patients to exercise their rights. If a patient seeks and obtains the consent of the medical practitioner, that practitioner is placed in a precarious situation. He or she has no security about what action might be taken at some stage in the future and no certainty as to the outcome of that action. Moreover, there is no evidence that a patient has consented. Therefore, common law is not an adequate mechanism.

The Social Development Committee is not comprised of a few members at the whim of the government but is a Parliamentary committee made up also of members of the Liberal and National parties. After due consideration of the issue and after having considered representations from many parties to the effect that common law was not a sufficient mechanism, the Social Development Committee made a recommendation. The government will continue to pursue the point that common law is not an adequate mechanism. That view has been confirmed by the merits of the opinion before us.

The government is happy to receive further opinion on this issue, if the National Party or the Opposition wish to pursue further argument to show that the common law is adequate. The government is happy to consider further argument and to have the debate adjourned. However, should the opposition parties be satisfied that some legislative step needs to be taken, the government is happy for the Bill to proceed into Committee and for debate to be adjourned to consider the merits of amendments put forward. However, at the end of the day, the issue will come back to this House. The government will encourage further public debate but will not be dissuaded——

The Hon. H. R. Ward—In other words, we are going to waste our time in Committee.

The Hon. D. R. WHITE—There will be no waste of time in Committee, Mr Ward.

The Hon. H. R. Ward—That is what you said.

The Hon. D. R. WHITE—There will be no waste of time in Committee. The government will consider argument. However, it is not assisted by public comment that says that if the Bill is passed old people will have forms refusing treatment shoved under their noses to sign so that they will prematurely die and their relatives will get their money.

The Hon. J. L. Dixon—That has been said.

The Hon. B. A. Chamberlain—Who said it?

The Hon. D. R. WHITE—Your script writer, Margaret Tighe, and this is your next speech.

It has also been said that mentally disabled adults could be denied ordinary treatment such as an operation for an appendix removal so that they would die and not be a bother to their relatives. These comments are being made by people who are advising Mr Chamberlain. These are the people who have made the five telephone calls to Mrs Tehan. These are Margaret Tighe's views. Clearly the refusal of an appendix operation would involve negligence under common law, as would refusing to provide treatment in an accident or an urgent situation.

Margaret Tighe's world is populated by demonic doctors, manipulating lawyers and conspiring relatives. No government could legislate to deal with her world of paranoia that so influences the majority in the Liberal Party room and in the National Party room

when reaching their prevailing views. What we have before us is a small, select interest group with no apparent or conspicuous political stand in this community overriding the Opposition and the National Party. That is a disgrace when viewed in the light of the excellent work carried out by the Social Development Committee, which work will be further pursued by this government.

The Hon. ROBERT LAWSON (Higinbotham Province)—The impassioned debate that has taken place in this Parliament during discussion of this Bill has been mirrored by the discussion within the community. One needs only to pick up the newspapers to see the correspondence columns virtually full of letters that are pro and con the subject of the Medical Treatment Bill.

The Hon. J. L. Dixon—Mainly pro.

The Hon. ROBERT LAWSON—I have received a lot of criticism from various people I have met because of the Bill and I have had to explain to them that they should actually read the Bill. After reading the provisions of the proposed legislation they have had a complete reversal of attitude because they understand what the Liberal Party is on about, why it has decided to oppose the Bill and the necessity for opposing it.

I was impressed by the speech made by the Minister for Health. He spoke with feeling and with conviction. His speech was ruined towards its end because he decided to attack the Right to Life movement. I do not hold any brief for the Right to Life movement but the Minister for Health has accused the Opposition of being influenced by that movement. The Opposition has made it clear that at all times it makes its own decision in the party room. The Opposition is capable of making its own decision and it has arrived at its decision on this Bill in the light of its own reasoning. It holds to that position.

The Bill exposes the weaknesses of the medical profession. Over the past century, or century and a half, the medical profession has made enormous advances in public health. Every few years surveys are taken and we discover that people in our kind of society are living longer and ever longer. That has been brought about by the advances made by the medical profession and the health measures that are applied in our society today.

Many of the old diseases have been banished forever. Pneumonia, which used to be referred to as the old people's friend, has been banished. It is curable today. It used to be known as the old people's friend because it saved them from all the difficulties associated with a long and sad old age. Pneumonia and other diseases have been banished by the medical profession.

The only thing the medical profession cannot do for us is allow us to evade the final moment when we must face up to our mortality. It cannot postpone forever the last years, months, days or hours of our lives. Nowadays, far more people are contracting cancer and incurable conditions because formerly those conditions were masked by other ailments that have now been cured. That is the basis of the debate: the incurable and terminal diseases with which we are faced. The question is what Parliament as a legislative body can do about it.

The medical profession has an enormous barrage of chemicals, pills and machines to prolong life. It has chemotherapy, ventilation machines, resuscitation machines, ray therapy, wonder drugs of all kinds, and heart, lung and liver transplants, all of which lengthen our lives but, in the final analysis, cannot help us.

One must consider incurable diseases. The Bill is defective inasmuch as it does not refer to terminal diseases but to people who can refuse medical treatment for a current condition. It is difficult to know precisely what that means, except that, if a young person over the age of eighteen years should be injured or suffers from disease of some kind, and if the doctors were to believe that person could be cured, according to this Bill that patient could refuse medical treatment generally or could refuse medical treatment of a particular kind for a current condition.

That patient could sign a refusal of medical treatment certificate on the basis of the proposed legislation. If the Bill becomes law it will provide, as revealed, in clause 6, that "a medical practitioner must not, knowing that a refusal of treatment certificate applies to a person, undertake or continue to undertake any medical treatment which the person has refused". It is possible that a patient could have a perfectly curable condition; that person could, in effect, commit suicide by refusing treatment of any kind.

If the doctor attempted that treatment against the patient's will, a penalty of five units would apply, that is, a fine of $500; so the doctor himself could face a penalty of $500 if, according to his best knowledge and the highest ethics of his profession, he decided to treat that patient despite the patient's protests.

The Opposition believes it is possible in those circumstances for a person to bring about his own death. The Guardianship and Administration Board Act has been mentioned. As I understand it, the Minister for Health has stated several times that, under the Act, a guardian cannot refuse medical treatment on behalf of the patient. I have read the Act and it seems quite clear that the guardian can refuse medical treatment on behalf of the patient if the guardian so desires and if the patient is moribund and in a terminal condition and unable to speak for himself or herself. Therefore, there is already power for a guardian to refuse medical treatment on behalf of the patient.

It was implied that anyone could be appointed as a medical guardian, but it is the Guardianship and Administration Board that appoints guardians. A guardian can be any person aged over eighteen years and, presumably, someone who has an interest in the welfare of the patient. The guardian can be a mother, father, child, wife, husband or any person over the age of eighteen years who has a concern for the patient. The Guardianship and Administration Board must assess the quality of the person intended to be appointed as guardian; it will not appoint just anyone. It has to be satisfied that the guardian has the best interests of the patient at heart.

The objection of the Minister for Health to the idea of the guardian on the basis that the guardian could be someone liable to harm the welfare of the patient, or to recommend the wrong treatment in order to kill the patient, perhaps to inherit the patient's money, was quite wrong. The Guardianship and Administration Board was established by a Bill introduced by the government and, the Opposition did not oppose it. The board is responsible for selecting the right person to look after a patient's interests.

A number of safeguards are already provided at common law. In addition, patients also have safeguards under the Guardianship and Administration Board Act; it is difficult to deny that that is so. As I said, the Bill applies to patients who may not be terminally ill. Guardians would be appointed, as the Opposition has been advocating for some time.

The Hon. J. L. Dixon—You said "appointed"; that is the point.

The Hon. ROBERT LAWSON—The Opposition has been advocating appropriate education for some time to let people know what their rights are at common law. I take up the point raised by Mrs Dixon, the Chairperson of the Social Development Committee, about guardians being appointed rather than being chosen.

The Hon. J. L. Dixon—By the person.

The Hon. ROBERT LAWSON—Presumably, it is done by the Guardianship and Administration Board.

The Hon. J. L. Dixon—Wouldn't it be better if the person himself were to choose?

The Hon. ROBERT LAWSON—The patient can say to the board, if still competent—

The Hon. J. L. Dixon—The person would not be subject to the board if he or she were not incompetent.

The Hon. ROBERT LAWSON—If the patient is competent he can indicate that if he becomes incompetent and can no longer speak for himself he can name a particular person

as guardian. If the patient is incompetent and not able to speak for himself, it is incumbent on the board to appoint a guardian. I do not understand the problem government members have in this matter. The legislation was introduced by the government. The Guardianship and Administration Board can appoint guardians for incompetent patients.

The Hon. J. L. Dixon—For incompetent patients!

The Hon. ROBERT LAWSON—Who else will do it? A family member can ask the board to appoint him as the guardian.

The Hon. J. L. Dixon—Another person can, too.

The Hon. ROBERT LAWSON—Someone has to make the decision.

The Hon. J. L. Dixon—Why not the patient?

The Hon. ROBERT LAWSON—This is government legislation; the government brought down the legislation that established the Guardianship and Administration Board. The Opposition did not oppose that legislation. The Opposition is satisfied with the board. The board has to make a decision at some time about the guardian.

The Hon. J. L. Dixon—If we passed this Bill it would not; the patient could do it.

The Hon. ROBERT LAWSON—I was in trouble earlier because I said the patient could nominate his or her own guardian. What I am saying is that the patient who is terminally ill and expects to become incompetent can nominate his or her own guardian, and that would confirmed by the board. What is wrong with that? Someone has to make a decision at some time.

There has been significant debate on this subject and this past week has seen the debate become more informed, to some extent, because people are obtaining the Bill and reading it. I noticed that 63 medical practitioners have inserted an advertisement in today's *Age.*

Honourable members interjecting.

The Hon. ROBERT LAWSON—That comment has been greeted by a good deal of mirth on the government benches. Government members have some objection to 63 doctors paying their own money to place an advertisement in the *Age* supporting the Opposition's point of view. It is valid for those factors to do so. They are competent people who can put any point of view they like. The notice stated:

> We the undersigned medical practitioners express our OPPOSITION to the MEDICAL TREATMENT BILL 1988 for the following reasons:—
>
> 1. The legislation is UNNECESSARY as the rights of patients and doctors are adequately protected by existing common law.
>
> 2. It is based on the FALSE PREMISE that there is widespread demand for such legislation.
>
> 3. The legislation is UNCLEAR and therefore UNSAFE, as already witnessed by the wide variety of interpretations placed on it.
>
> 4. It is INTRUSIVE in the doctor-patient relationship, introducing third parties and the courts into decision making.
>
> 5. It is RESTRICTIVE and INFLEXIBLE and would inhibit clinical decision making and be detrimental to patient care.
>
> We urge the government to withdraw the legislation, and failing this, we recommend that it be rejected.

I do not know whether those doctors are members of Right to Life; it is of no interest to me. They are medical practitioners expressing a point of view, and they represent a definite trend of opinion in this community.

The Hon. C. F. Van Buren—What about the point of view of Archbishop Penman?

The Hon. ROBERT LAWSON—I hope Archbishop Penman has also read the Bill. Honourable members have heard the opinion of Mr Ron Castan, QC. I have a summary

of his opinion and some comments on it, which I shall make available to the House. Mr Castan admits that:

> . . . any medical procedure carried out without a patient's consent is a trespass to the person, and the medical practitioner is liable in damages.

Mr Castan then discussed what he calls "a host of complex issues of law". The first complex issue is whether consent should be treated as a defence in the action for battery or whether it is an essential ingredient in the offence. Mr Castan then says that the state of law on this issue is totally uncertain and that:

> In fact, in the vast majority of cases, where a patient refuses medical treatment, it will be very clear that consent is not forthcoming. Indeed, for the protection of the patient, it must be made clear (because a mattter of life or death is involved), and subtle questions about burden of proof are unlikely to arise.

The John McEwan case has been discussed at length in this place, and in his case it was made clear that he did not consent to some of the medical treatment and, therefore, under existing law, he should not have been subject to that treatment.

The second complex issue to which Mr Castan referred is whether the American doctrine of informed consent operates in Australia. If, in fact, that doctrine were applicable in Australia, it would make it even more difficult for a doctor to treat a patient against the patient's will . We have yet another red herring.

Another issue that Mr Castan raised was that patients are unlikely to be able to initiate legal proceedings to defend a right to refuse medical treatment. I shall quote page 274 of the report of the Social Development Committee:

> A patient need not wait and be subjected to battery by the medical practitioner before the patient can seek a legal remedy. Instead, the patient can, pursuant to section 37 of the Supreme Court Act 1986, seek an injunction restraining the medical practitioner from carrying out the surgery or other medical treatment on the patient without the patient's consent.

The Hon. M. J. Arnold—You would have to be a pretty fit patient at the time to pursue that course.

The Hon. ROBERT LAWSON—In that case, one would have to ask the guardian. Mr Castan ignored the fact that the same problem can arise under the Bill; if a doctor is not willing to sign or witness a refusal of treatment certificate, the patient may need to resort to the Supreme Court for an injunction. Similarly, if a doctor did not respect a refusal certificate, for whatever reason, a patient will still need to resort to the Supreme Court.

At no stage does Mr Castan refer to the Guardianship and Administration Board which commenced work last July and which has the task of making medical decisions for incompetent patients. Despite what has been said, a guardian or the Guardianship and Administration Board does have the right to make decisions. Why else would one have a guardian? The difficulty seems to be whether a guardian is appointed, elected or whatever. One can work only under the proposed legislation drafted by the government. The difficulty is that the board can appoint a guardian. It is a good thing if the guardian happens to be a member of the family, such as the mother or the father.

During his speech, the Minister for Health said that a patient may be revived three or four times because a family member has asked the doctor to do so. That brings us into a difficult field because a family member, I believe, has the right to ask the doctor to revive his or her mother, father or another member of the family who has fallen unconscious for any reason. Whether that patient is terminally ill or not is not applicable unless the patient has made a prior decision requesting that he or she not be revived. Under those circumstances, it is possible the patient would be revived. I doubt whether any proposed legislation that this House may pass would cover a medical situation in which one is dealing with a delicate question of family relationships.

Mr Castan's opinion was prepared in six days—from 20 April when the Minister for Health announced publicly that he had called for an opinion. The opinion was submitted on 26 April, only six days after the request was made. Therefore, Mr Castan can perhaps

be excused for not examining the proposed legislation, in the form of the Medical Treatment Bill, in detail. This is just another example of the rushed consultation process that this government is thrusting upon the people of Victoria.

The Hon. M. J. Arnold—Rushed consultation! It has been going for two and a half years.

The Hon. ROBERT LAWSON—The request made to Mr Castan was very late. It would have been more to the point if the government had consulted Mr Castan one year or six months ago instead of six days ago. It was made very difficult for Mr Castan.

I have covered most points. The Opposition has grave doubts of conscience about the Bill. It did not decide to oppose the proposed legislation to curry favour with anyone. As is obvious from the tone of the debate taking place outside this place, the Opposition is in a minority position. When the Bill is properly read and more people come to its defence, such as the doctors, and when the issues are more generally known, the public will experience a change of heart on this subject and the Opposition's stand on the Bill will be totally justified.

The Hon. M. J. ARNOLD (Templestowe Province)—All honourable members appreciate the Bill before the House today as one of the most important social measures that Parliament is likely to face in its present term or in many other terms to come. I should have thought that the most recent edition of the *Time* magazine of 2 May 1988 was worth reading. The article, headed "Australia—The Fatal Balance—Democracy fumbles hard social reforms" states:

> Australians do not have a high regard for politicians. In surveys of occupational standings, doctors, the police, and nurses are invariably near the top; politicians towards the tail along with accountants and newspaper editors. But sometimes such public cynicism seems undeserved. Last April, for example, an all-party committee of the Victorian parliament produced an extensive report on its inquiry into dying with dignity (*Time* Australia, May 18, 1987). The report was applauded by politicians, press and church leaders as a sensitive attempt to clarify the rights of dying patients. Labor MP Judith Dixon, who chaired the committee, was exhausted by its work and harrowed by many of the cases with which it had dealt. But she was proud of the result a team-effort had achieved; the report would make a fine Bill. It was politics at its best.

That sums up the position the House should be facing today.

In working in their own communities, all politicians would have been asked time and again, "Why can't you politicians get together to try to solve the real problems we face in a way that does not involve continual argument? Do something that operates for the betterment of the State and its people". All politicians are asked those sorts of questions which represent simple expressions of our constituents.

We think we are clever enough because we believe, as members of political parties, we have our ideologies and we believe within those confines we will be able to achieve results that will make for a better society, a society that we support, but the fact is that many people in the community believe a range of problems exist that should not be solved on a political basis. These problems are moral, social and ethical. People believe there should be a commonality of views held on them and they expect politicians who represent them to come to an agreement on those problems.

Members of Parliament—and I came to this conclusion as a result of discussions I sometimes have with my colleagues—tend to live in a somewhat rarified atmosphere in this place. We believe what we are doing and saying is scanned closely by the community. That is not true. We have been charged with a responsibility to make decisions on a range of matters about which people in the community have different expectations from those we often perceive. That responsibility should be held closely because most people believe that, irrespective of whether the party of their choice, Labor or Liberal, is elected to government, they will be looked after in a range of matters that concern them; such as matters of education, transport, community welfare services and health.

Under our democratic system, even if one's party is in opposition, one should be responsible and should protect the needs of one's constituents. Time and again it has been

said in this House by members of the Opposition, "We are elected to represent all the voters, not only those voters of our political persuasion."

The Labor Party has often found it difficult, because of its tighter base, to take into account the range of views that are outside Labor Party policy when introducing change and promoting its manifesto, policies and matters of reform. Because of the diverse base of the Labor Party it has been described as an umbrella party.

It has been said by Liberal Party members that they also, within their ideology, can embrace a wider group of people and not just those who support their particular point of view. In debates in this House those views have been expressed time and again, but in doing that no political party should be subject to the control and direction of any minority party.

Minority groups are entitled and must of right be entitled to be heard, but they should not control the situation. No political party should allow itself to be dominated by a splinter group. Problems are created when that occurs, as there is an imbalance in the democratic process and the vast majority of Victorians are cheated because a political party is willing to exercise its numbers in support of a small group for fear of electoral retribution.

Unfortunately, that situation exists with the proposed legislation. It is unfortunate that it should have occurred because that means that the opposition parties have betrayed the voters of Victoria and even a majority of their traditional supporters by succumbing to the threats of a small extremist right wing irresponsible group.

Honourable members know, whether their party is in government or in opposition, that there are a number of difficult social, economic, legal, environmental and administrative issues which often are not determined policy of any of the parties and that, because of the complexity of those issues, often there are views that cross party-political lines. A consensus is required if there is to be reform in these difficult areas.

These problems cannot be addressed in the normal thrust of Parliamentary debate because of the pressure of business. In theory that would have been the way to go about this issue, and all honourable members would have been able to debate it in an endeavour to achieve consensus and a solution to the problems. Because of the pressure of business, that arrangement is impossible in this day and age and, for that reason the Victoria Parliament—with the cooperation of all parties—established a Parliamentary committee system which is the envy of governments at both the Federal and State levels throughout the country.

I reiterate that Victoria's Parliamentary committee system was established as a result of cooperation between all parties of Parliament. They are distinguished by the fact that they are all-party Parliamentary committees and they are not designed to give the government any advantage in their composition or in their chairmanship.

To illustrate the point, I shall, in more detail, deal with some of the all-party Parliamentary committees established under the Parliamentary Committees Act 1968. They include the Economic and Budget Review Committee, the Natural Resources and Environment Committee, the Legal and Constitutional Committee, the Social Development Committee, and the Public Bodies Review Committee, which have established a high reputation for themselves and for the governments under which they were established because they have been objective and they have produced practical and achievable recommendations.

The recommendations have not always beeen comfortable for the governments under which they have operated. There have been reports from the Public Bodies Review Committee, in the days of the former Liberal administration, that were difficult for that administration. The report of the Legal and Constitutional Committee on freedom of information matters caused the Premier to make some uncomplimentary comments about the findings of that committee.

The report of the Natural Resources and Environment Committee on the Brunswick to Richmond powerline produced recommendations which the government found difficult to implement, but it did endeavour to carry out those recommendations.

It is for those reasons that those committees have engendered respect both in Parliament and outside. Those who have served on the Parliamentary committees—I have served on two, the Public Bodies Review Committee and the Legal and Constitutional Committee—know how difficult it is to achieve a consensus on a number of issues, but committee members work hard listening to arguments and debates, meeting with public groups, reading submissions, discussing the matters arising out of those submissions, attending public hearings, and going through that arduous time-consuming process to produce a result.

The Social Development Committee has worked hard during the past three years. The committee has endeavoured to achieve consensus between its members who represent all the political parties. No other committee has a higher reputation currently than that of the Social Development Committee.

I have endeavoured to snapshot the work, responsibilities and credibility of the Parliamentary committees in Victoria before addressing the Medical Treatment Bill. I have done this to establish the importance of the committee system and to highlight the role that Parliamentary committees play in Parliament.

The Social Development Committee, in its preparation of its report on options for dying with dignity, has as its membership Mrs Judy Dixon, MLC, Labor Party; Mr Robert Knowles, MLC, Liberal Party; Mr Roger Hallam, MLC, National Party; Mr M. Williams, MLA, Liberal Party; Ms Prue Sibree, MLA, Liberal Party; Mr John Richardson, MLA, Liberal Party; Mr Tom Wallace, MLA, National Party; Mr E. Micallef, MLA, Labor Party; Mrs C. Hirsh, MLA, Labor Party; Mrs M. Ray, MLA, Labor Party; Dr G. Vaughan, MLA, Labor Party; and Mr G. Ernst, MLA, Labor Party—six government members and six opposition party members.

The Social Development Committee has produced a number of reports during the past few years, generally with universal approval. The committee has reported on the Medical Practitioners (Private Hospitals) Bill, freeway speed limits, road safety in Victoria, health services complaint procedures, radiation apparatus, compensation for the dispossession and dispersal of the Aboriginal people, certificate of need legislation, alternative medicine, the Psychologists Bill and a sensitive report on the future of the Willsmere Hospital. Those reports show the diversity of the matters and the capacity of the committee to reach sound consensus on wide-ranging issues.

The Medical Treatment Bill was introduced to Parliament as a result of the recommendations of the Social Development Committee and its report on options for dying with dignity. As I have said, the committee went through a long and arduous process of public hearings, receiving hundreds of submissions and meeting with those people interested in dealing with this very sensitive issue. The committee's inquiry took two and a half to three years to complete.

The issue is far more sensitive than many people at first thought. The interest in the proposed legislation is shown by the number of letters from the public, editorials and feature articles in newspapers. Many people are reliant on Parliament to do what I said at the outset: to come together on an issue to which those people have no solution and one over which they have no control.

Honourable members make speeches about the rights at common law or under section 37 of the Supreme Court Act. The average person who is ill and dying in hospital is barely able to fill out the hospital benefits form. That is what the average person is concerned with. The patient is not in a position to know his common-law rights or to compete with the bureaucracy within hospitals and deal with doctors who are generally very busy, but concerned, because of the whole range of people with whom they have to deal.

People who are sick and dying in hospital look to Parliament for a lead so that their rights can be clarified and made easier to understand. They should not be kept in the dark, as has happened for far too long. Parliament, lawyers and the medical profession have had this mystique built around them for many years and people—especially those who have people dying or in dreadful circumstances—are entitled to certain rights.

People in dreadful circumstances should not have to listen to the sorts of nonsense that have been expressed in this Chamber: why do they not know their rights? It has been said that a mother or a daughter of somebody who is dying but is being kept alive by a machine can go down the street and obtain a legal opinion. That is the last thing people want to think about or consider.

The government does not say that the Bill will solve all the problems, but at least it will move down that track. Mrs Tehan said that technology and science in the medical field are running away from people and that somehow they should stop so that people can think about the consequences. It is too late for that. It is no good for Parliament to refuse to consider the proposed legislation so that the advances in medical science can leap further ahead.

It is inappropriate for Parliament to wait some years and then make a decision, probably a generation further on, when there are wider gaps. The legislation is already well behind the advances in medical science, and the introduction of the Bill is an attempt to close that gap, not to solve the problem; and it must be done now.

An honourable member said that it was too early to introduce a Bill such as this and that there should be a process of education. Honourable members should read the papers; they would see letter after letter on this subject. The majority of letters—apart from those from the apparatchiki of the minority group to whom I referred earlier, spilling out the same nonsense—cry out for the assistance of Parliament. Those people are not asking for an education program before the introduction of legislation; they want a solution now.

Mr Lawson made a snide remark about the fact that Mr Castan, QC, had given a legal opinion in six days, as if he had been living in a cocoon and did not understand the issues and did not have a general appreciation of what the debate was about. The debate has been conducted publicly under the auspices of the Social Development Committee for nearly three years. Any lawyer or silk worth his salt has the capacity to provide advice within the confines sought by the government. The government specifically confined itself to the issue raised by Mr Chamberlain last week and received advice on that point. It did not ask Mr Castan, QC to investigate the mechanics of the Bill, nor did it ask him to deal with the Guardianship and Administration Board Act, which was raised as a furphy by Mr Lawson and Mr Chamberlain.

My understanding of the Guardianship and Administration Board Act is that it appoints a guardian for those who are incompetent. The Medical Treatment Bill enables a patient, while competent, to nominate an agent to make choices after the patient becomes incompetent. The Bill provides an additional mechanism; one that gives the patient the right to choose an agent. It is an advance on the guardianship legislation. It is better to have an agent already designated than to go to the Guardianship and Administration Board, which is only a partial solution.

Mr Chamberlain said that the Guardianship and Administration Board could make a decision in 2 hours. That is not the point. Surely it is far more suitable for people to appoint a guardian whom they can trust or feel confident with while they are competent. The guardianship legislation is the second-best solution for people in this position.

The president of the Guardianship and Administration Board and the Public Advocate, Mr Ben Bodna, have both consistently advocated that people use an enduring power of attorney to nominate their agents. They both strongly support the enduring power of attorney, the medical treatment power of attorney, and it is a misrepresentation to suggest

that the board sees itself as the only body to deal with those cases—the suggestion Mr Lawson made.

I know it is hard work and that the Opposition does not like hard work, but this is an important and sensitive issue. It is not a difficult task to pick up the telephone and speak to the President of the Guardianship and Administration Board, or to call upon the Public Advocate, Mr Ben Bodna, and speak with people who deal with the board and obtain their opinions. Opposition members should not just come into this House and make statements that have no support in law for a start, and certainly no support from people who are responsible for administering and dealing with the difficulties and problems of those who are incompetent and unable to care for themselves.

In its report the Social Development Committee concluded that it was neither desirable nor practical for any legislative action to be taken establishing a right to die. It did propose that there be legislation relating to refusal of medical treatment that contained the following features: 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 conferring 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 Medical Treatment Bill (No. 2) gives effect to those recommendations. In addition, the Bill responds to the committee's recommendations regarding the value of promoting the enduring power of attorney mechanism. The committee emphasised the value of the enduring power of attorney as a way of enabling people to give indications as to who is to be responsible for medical decisions on their behalf should they become incompetent in the future. In the second-reading speech the Minister set out in some detail the protections that are contained in the Bill for both the patients and the doctors, and the safeguards in relation to agents acting on behalf of patients once they become incompetent.

In the course of the debate when the Bill was last before the House, Mr Chamberlain raised an issue and, by way of interjection, today Mr Long said to the Minister for Health, "Why do you not address the question raised by Mr Chamberlain in relation to insulin?"

As reported in *Hansard* of 19 April, Mr Chamberlain said:

> 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.

Mr Chamberlain went on to suggest that the Bill was nonsense in relation to common law. When the government developed the Bill, in consultation with the Opposition as represented by its members on the committee, there was a realisation that there were some difficulties and also some criticism of the process, yet Mr Chamberlain slightingly referred to six or seven pieces of proposed legislation. I point out that only the Medical Treatment Bill (No.2) is now before the House.

However, in a sensitive matter affecting peoples lives, morals and ethics, what is wrong with having a process that comes back and forth in an attempt to achieve the best form of words? Mr Castan, QC, said that, in his opinion—I am sure Mr Hunt has read it—nobody has a monopoly on wisdom when it comes to working out the right frame of words.

The Hon. A. J. Hunt—I said that.

The Hon. M. J. ARNOLD—Therefore, there is no shame or disgrace in a process being undertaken in this House where there are six or seven tries to achieve the right frame of words. The matter is important, and I direct to the attention of Opposition members who sneered at the suggestion that the House should go into Committee that, if it did so, an amendment would be proposed by the government to address the problem that Mr Chamberlain raised and about which Mr Long interjected. However, Opposition members do not want to go into Committee.

The Hon. H. R. Ward—Do you have another Bill—perhaps No. 8?

The Hon. M. J. ARNOLD—Again, I hear the same comments from Mr Ward. I remind him that the House has before it the Medical Treatment Bill (No. 2). The government foreshadowed that it would amend clause 9 so that it would provide that an agent or guardian may refuse medical treatment on behalf of a person only if the medical treatment would cause unreasonable distress to the patient or where there are reasonable grounds to believe that the person, if competent, would consider the medical treatment was unwarranted. That amendment is the result of a recommendation from the St Vincent's Bioethics Centre.

The Hon. J. L. Dixon—I might point out that Mr Chamberlain saw that proposed amendment before the Bill was introduced.

The Hon. M. J. ARNOLD—Mrs Dixon reminds me that Mr Chamberlain saw that amendment prior to the introduction of the Bill. Perhaps he did not show it to Mr Long, so I will not make any accusations about him. It was suggested by the St Vincent's Bioethics Centre that there was concern that the powers of a guardian or agent to refuse medical treatment should be carefully circumscribed, and that there has been some anxiety that a guardian or agent might misuse the power.

Accordingly the amendment in 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 patient. A medical practitioner and an independent witness must each be satisfied on a range of matters.

I reiterate that if the House is allowed to go into Committee on the Bill, honourable members will be able to explore a number of matters that are of obvious concern to members of the Opposition. Mr President, along with all the members of the House, you would have followed the debates that have taken place in the press and in public forums. You would have read the letters and the editorials in the press. I should like briefly to refer to an editorial of the *Herald* of Tuesday, 26 April, 1988, which is headed "Politics without dignity" and which states:

> Where does politics end and conscience start? Should the law attempt to dictate moral behavior? Are ethics and emotions matters too personal to be entrusted to party-room rubric?

After discussing the operations of the committee, the editorial continues:

> Quite understandably, the committee came under pressure from special interest groups. Some, like the Right to Life organisation, seemed to view it as the tool of a government bent on introducing euthanasia. The medical profession was uneasy. Finally, after two years, the committee handed down its report. In substance it found that fully informed patients should have the option of refusing medical treatment even if it meant shortening their lives. But it rejected demands for the introduction of euthanasia.

That is made clear. The rejection of euthanasia has been made clear in debates, in reports of the committee, in the second-reading speech and in the Bill, yet a group in the community is using its influence to try to muddy the issues. It is trying to distort the facts. It has been said in committee reports and it has been supported by the Liberal Party, the National Party, lawyers, a range of medical practitioners and by the community; but there are still

people who, for their own reasons and misguided ways of life, are trying to distort the facts and, in their own ways, play God to members of the community.

That group would make an interesting psychological study because it is pathological in its intent to control the lives of those in our society who are least able to look after themselves—those who are dying in circumstances that lack dignity. How would we like to find ourselves—if we had suffered a stroke— kept alive in a hospital with all sorts of tubes and machines?

We have those decisions determining our future made by the types of people who we would not walk across the street to talk to. They are ignorant people who lie, cheat, and misuse the facts. They are the people who openly boasted on television that they have control of the party room of the Liberal Party. They have said that the face of the Liberal Party has changed since 1985 and that they control the Liberal party room and dictate policy. These people who lie and cheat masquerade as a group representing a point of opinion in the community that should be given credence.

I shall be political and refer back to what occurred in 1982 when Tony Sheehan was standing for the Lower House seat of Ivanhoe and I was standing for the province of Templestowe. At that time Bruce Skeggs was standing as the Liberal Party candidate for the seat of Ivanhoe. The group to which I refer threatened to support Bruce Skeggs and oppose Tony Sheehan and me if we did not take a certain point of view. I would have rung them and said that it was the best chance we had. I am hopeful that the same group will campaign in the next election in Templestowe Province and oppose me when I stand against Bruce Skeggs, the Liberal Party candidate. The Liberal Party did me a favour by preselecting Bruce Skeggs to stand against me and, as a second favour, if the group concerned opposes me, I might hold a seat that has become more difficult for the Labor Party to hold.

The community knows that group for what it is. The community is tired of the sickening literature it places in their letterboxes. The community is sickened by the biased, sectarian attitudes it engenders throughout society. The mainstream of the community realises this fact and that is why I cannot understand why the Liberal Party should be influenced by any group, regardless of whether it is a neo-Nazi group, a fascist organisation or Right to Life.

From its arguments it poses as some part of the Catholic hierarchy, or so it seems. Is the association trying to create a schism in the Catholic Church? The way it is going about it, it probably will. I refer to the influence of Right to Life in elections—besides the example it provided in the election of Tony Sheehan and me back in 1982, when, to a large extent, we won because of its opposition to us. It is worthwhile referring to the election campaign that took place in the electorate of Monbulk in 1982. The association said that that was the election that would prove its strength and show what it could do to influence Victorian elections. What happened? Candidates were nominated by the Australian Labor Party, the Liberal Party, and the Australian Democrats and, from memory, a number of other candidates stood for election. Right to Life was placing its main emphasis on the seat of Monbulk. Lo and behold, Dr Wainer, who had something of a reputation for performing medical operations that were strongly opposed by Right to Life, also presented as a candidate.

The facts of the matter are on the record. Right to Life committed $50 000 to the election of its candidate; Dr Wainer's campaign involved about $2000. The result was that Dr Wainer outpolled the Right to Life candidate by four to one. Right to Life was unable to control more than 64 per cent of its preferences. The swing to the Australian Labor Party in the electorate of Monbulk was the same as the general swing across the State, and the campaign was unaffected by the activities of Right to Life.

It might be worthwhile for members of the Liberal Party to remember that when prostituting their ideals and sacrificing their integrity on a matter such as this. If their real concern is political survival and political support, they should remember back to the 1982

election and the campaign for the Lower House seat of Ivanhoe where the association not only opposed Tony Sheehan but also supported Bruce Skeggs; and Tony Sheehan was elected. Further examples exist across the State.

I suppose another factor that concerns me is that, by its actions, the association is creating uncertainty and problems for those members of the Catholic community who really do have strong principles and concerns. It has been made clear publicly by the Archbishop of Melbourne, His Grace Sir Frank Little, that he is in support of the proposed legislation. The proposed legislation has also been supported by the bishop in Ballarat.

The Hon. H. R. Ward—Which vicar?

The Hon. M. J. ARNOLD—Since Mr Ward wants to know the source of my information, I refer him to the transcript of a news report on the Ballarat radio station 3BA on 20 April 1988, which states:

The Catholic Bishop of Ballarat, Ronald Mulkearns, has given his support to the views expressed by the Archbishop of Melbourne, Sir Frank Little, on the government's Medical Treatment Bill. Sir Frank says he supports the government Bill, and sees no dangers in it. In fact, in a letter written in March, he said he trusts that the Bill will become and remain the legislative norm.

Secretary to the Bishop of Ballarat, Fr McDermott, said Bishop Mulkearns had had discussions with Archbishop Little on the matter, and that Bishop Mulkearns believes that Archbishop Little's letter accurately reflects the present position of the church.

Yet, the Right to Life Association represents itself as a representative of the Catholic Church and those tied up with it by bandying about a telegram from Monsignor Carlo Cassara. The telegram, dated 12 April 1988, is addressed to Father Eugene Ahern, St Francis Assisi parish, 78 Roycroft Avenue, Mill Park.

It seems they went right to the top! One would have thought that if it were getting the Catholic Church to organise announcements from Rome it might have found someone more prominent than Father Eugene Ahern at Mill Park. I do not think anybody believes the Catholic Church operates in such a way that correspondence between Monsignor Carlo Cassara and Father Ahern has determined Catholic policy on an issue such as this.

The telegram ended up, I understand, in the National Party room and the Liberal Party room as a determinant of those parties' decisions. Perhaps the members of the two parties should investigate how the processes of the major religions are organised in this State. To give the Monsignor his due—and I cast no reflection on him—I should read the telegram:

I have studied the Bill under discussion on euthanasia. It is not in harmony with the doctrine of the Church.

It is diseducative from the social perspective. It is contrary to the dignity of the person.

I am not reading directly from the Italian; this is the translated version.

The delivery and obtaining of the telegram are illustrative of the irregularity and dodginess with which Right to Life goes about its endeavour to influence the Liberal Party and the National Party in this State. Father Eugene Ahern is counted among its members, to his everlasting shame, and he can reflect on that in the later life.

From the investigations I have made, the words of the following statement by the Sacred Congregation for the Doctrine of Faith reflect the thought of the body of the Catholic Church:

... one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome. Such a refusal is not the equivalent of suicide; on the contrary, it should be considered as an acceptance of the human condition, or a wish to avoid the application of a medical procedure disproportionate to the results that can be expected, or a desire not to impose excessive expense on the family or the community.

The Catholic Church has consistently taught that everyone has a duty to care for his or her own health or to seek such care from others; however, that duty is not an absolute duty. That is surely the sort of statement that must be representative of any church that is

a caring body, conscious of the social and welfare needs of those who are ill in our community.

The Medical Treatment Bill (No. 2)—admittedly with the amendments that have been foreshadowed and which could have been debated—establishes safeguards for patients who are represented by appointed agents, clarifies the definition of "palliative care" and reflects the principle expressed by the Catholic Church.

Honourable members may still be able to debate the amendments if there are members on the other side of the House willing to go into that process. There is nothing for them to lose. They can defeat the amendments; they have control of this House. For some reason, honourable members opposite are frightened to move into that stage.

The Bill does not use the word "burdensome" because this is a subjective term which cannot be used in legislation. However, one of the proposed amendments uses the words "unreasonably distressing" and "reasonable grounds for believing that the patient if competent would consider the treatment unwarranted".

In addition, the foreshadowed amendments make it explicit that certificates cannot be used to refuse the reasonable provision of food and water. The proposed legislation is consistent with the moral teachings of the Catholic Church, the Anglican Church, the Unitarian Church and the whole range of Christian churches.

That view is supported by the comments of Sir Frank Little, the Catholic Archbishop of Melbourne. The recent machinations of a local organisation—Right to Life, which has presented to members of Parliament a so-called telegram from the Vatican—are an affront to Catholics, to their archbishop, and to the careful manner in which the church operates.

There is even a rumour about the town—and I only put it this high—that Right to Life sent a legal opinion to the archbishop on the issue and left out one of the pages; it did not go to all of the issue. That is the way that organisation operates. It believes in the doctrines of the Dark Ages or the Middle Ages: try and maintain the ignorance of people, so that the organisation can go about in its distressing way.

In the light of the Bill's consistency with Catholic teaching, one must ask whether the telegram is authentic and, if it is, whether the monsignor considered the current Bill or one of the earlier drafts. Obviously the monsignor did not have the benefit of the reports translated into Italian or even in English. He would not have addressed the proposed legislation as the "euthanasia" Bill if he had. Clear statements have been made in all the Bills that have been before this House that the Bill is not a euthanasia Bill. In fact, a positive finding is that it is not.

Secondly, honourable members could ask whether the monsignor considered the Bill in the context of Victoria's laws. In particular, one would have thought that a learned opinion on the Bill would have needed to take into account matters which have been raised, including the Guardianship and Administration Board Act, the Instruments Act, the Mental Health Act, the Health Act, the Crimes Act, as well as the operation of the common law in this State and recent Australian trends and case precedents in respect of the principle of informed consent.

This absurd telegram from the monsignor which members of Parliament have received does not deal with the wording of the Bill and bears no relationship to it. By no means could the Bill in its interpretation be called a euthanasia Bill. The Bill clarifies an existing right in common law, provides a mechanism for exercising that right, and establishes much stricter criteria for exercising that right than the common law allows.

Further, the Bill imposes much greater safeguards on the refusal of medical treatment by a patient's appointed agent than currently exists under either statute law or the common law. In that respect, while protecting the autonomy of the individual, the Bill is more protective of the lives of incompetent patients than the status quo. In that context, it is

difficult to understand why any organisation which is in favour of respect for human life—presumably—should be opposed to the Bill.

As I said, I thought it necessary to deal at length with those matters to put on record the insidious performance of certain groups—the neo-Nazis, Right to Life, the extreme fascists, all those who are a threat to the life, limb and fabric of our society. It is necessary to put that on record and contrast it with the official position of the Catholic Church, which position must be highlighted.

The opportunity still exists to go beyond this second-reading debate. Much has been said about the common law by the Minister for Health in respect of its application in Victoria. No doubt there is uncertainty about the common law.

The Social Development Committee invited Mr Haddon Storey, Mr Lou Hill and me to speak on legal matters as part of its process. Some two years ago, the members of the committee asked us to discuss with them the question of common law so that they would have some appreciation of whether there was some firm view on the common law relating to the right to refuse medical treatment. The members of the committee found in discussion with us that there was no common position. As lawyers, we pointed out that there was uncertainty in the community. As it was early days, we did not go so far as to point out the need for legislation. We made it clear that, based on our experience, there was uncertainty in the community and there was a need for the committee to make substantial recommendations in areas which needed clarification for the law's sake and for those people—as I said before—who have to live under the harshness and uncertainty of the existing law.

It appears to arise in other areas. People of a conservative persuasion cling to the notion of common law as if it is a solution or a saviour for all sorts of problems. On that basis it is a wonder anyone got around to changing the Magna Carta! Common law develops and is changed over a period of time. Legislation is passed in this House time after time to change common law over issues about which people are not concerned. When an issue arises over which there is some innate conservatism it falls back to common law as though that has some special power to solve all problems and to provide a panacea for all ills. It cannot!

Common law is dependent upon the attitudes of judges, Parliaments and the community. That is how it has developed. Judges can slowly but surely alter common law through their judicial procedures. Parliament can change common law as a result of discussions or by a process such as the one now before the House. Society is no worse off; society is not changed for the worse. It means that the law has been altered to adapt to changing circumstances. That is the concept of common law as a benefit. It has a dynamic that adjusts and alters according to changing circumstances.

It is clear from the opinion given by Mr Castan QC, and referred to by the Minister for Health, that Mr Castan sees very specific difficulties. I suppose it reverts to the criticism made of lawyers, in that two lawyers will give two different opinions, perhaps three lawyers will have three different opinions. When one relies on the broad principles of common law in relation to issues such as this there is not one simple answer.

The Hon. K. I. M. Wright—The same thing would apply to the opinion of the Queen's Counsel.

The Hon. M. J. ARNOLD—I am not arguing with that. The government sought an opinion that looked at the issues. That was done in response to matters raised in this House. No other opinions have been brought forward. It is an opinion by a Queen's Counsel that goes to the issues. He points out the difficulties and states:

> As with so many areas of the law which are developed by the courts in response to particular problems or situations, the common law relating to the refusal of medical treatment is superficially easy to state, and infinitely difficult to apply.

The general principle that operates in this field is that a medical practitioner may only carry out treatment upon a patient with the consent of the patient. Any medical procedure carried out without a patient's consent is a trespass to the person, and the medical practitioner is liable in damages, for the tort of battery.

Conversely, where a medical practitioner or medical staff are under a duty to treat and care for a patient, and fail to do so, either deliberately or negligently, they may be liable for the crime of murder, or of manslaughter, if the patient dies.

Finally, as a matter of general principle it may be stated that the above principles apply only to competent patients. If a patient is no longer mentally competent, then the decision as to the granting or withholding of medical treatment passes to the person responsible as guardian of such patient. The courts act as ultimate guardian of all those lacking mental capacity.

People say that the government should go through an educative process in relation to common law. How would one be pinning that statement on the wall of a hospital and saying, "There is a simple explanation; read that and you will know where you stand"?

The Hon. W. A. Landeryou—It is a nonsense!

The Hon. M. J. ARNOLD—That is right. The patients and the relatives of patients would read it in one way, the doctors would read it another way, and no-one would understand it. What would happen? We would then have the suggestion made by Mr Lawson—whip down to the Supreme Court and get an injunction. One would be lucky to find a Supreme Court judge available on a Sunday at 9.30 p.m. It would be difficult to get into court even on a working day.

The Hon. Robert Lawson—You don't get a terminal condition on a Sunday night!

The Hon. M. J. ARNOLD—That shows your appreciation of the problem!

The Hon. Robert Lawson—That develops over a period.

The Hon. M. J. ARNOLD—It is a nonsense to suggest that people in these situations, or relatives of patients, can go to the Supreme Court and mount an action, and expect to have a judge make a decision. What Mr Lawson is trying to say is that the Opposition is not game enough to write into any legislation a mechanism about the way in which decisions can be made. A judge has to make the decision. The Opposition does not have the courage to do it. He is the one who has to face the handball.

I think that summarises the situation. As stated by Mr Chamberlain and, I think, Mr Guest, it is a hard issue. If Opposition members do not have the capacity or courage or integrity to deal with hard issues, they should get out of the way and clear the field. The government will deal with them. I say to them: slink from this place and take your mates slinking behind you; take with you those from the minority organisation; have them like toads around you; have them whispering in your ears, telling you what your policies should be. You can slink around the place and leave the government to introduce measures to allow it to get on with the business of governing.

It is a measure of short-term political gain. The Opposition is happy enough to produce amendments to gun laws when it comes to facilitating the killing of people—it is simple then!

The Hon. H. R. Ward—You are in this killing business up to your ears!

The Hon. M. J. ARNOLD—When it comes to passing legislation designed to protect the way of life of people and ensure that they die in circumstances where protection is provided rather than in the situation that exists at the present time, Mr Ward should read the report and read about the circumstances which have given birth to this Bill.

If Mr Ward says there is something wrong with the world, is he saying that there is something fundamentally wrong with any proposed legislation or is he simply speaking to this Bill? If he thinks there is something fundamentally wrong with any Bill, he should say so, but if he believes it is wrong only with regard to this Bill, let him get up and debate it. Let him move some amendments and get into the game, or slink out of this House with

his other mischievous, cheating mates. No decent person would cross the road to talk to them.

If it is too hard, the Opposition should clear the place and leave it to the government. It will deal with the problem and the responsibilities; it will take the criticisms and anything the Opposition can throw at it. Certainly there will be support from those who have filled the pages of the *Age* with caring and concerned letters, and who are waiting for Parliament to introduce measures that would be for their benefit and provide them and their families with some respite.

I refer to one short letter from L. May of Nunawading, which states, under the heading "Wait in sadness":

> We loved our Gran, she was resuscitated and lived for another twelve months.
>
> All we could do was watch.

That is a simple and short way to summarise an issue that must tear people apart. Many of us have had similar experiences or have seen people in similar circumstances. I cannot understand it. By far the majority of the churches, doctors, scientists, ethicists and moralists in our community support the Bill. They perceive that it is not the perfect Bill, but one that will carry out its intent.

The Liberal Party cannot support it, they cannot agree to debate it and they will have themselves pulled around by the nose by a sleazy group of people and that reflects badly on this process and on the Parliament.

As has been said by the Minister for Health, the issue will not go away. The Liberal Party can have its victory today if its members perceive it as a victory. None of them is willing to exercise that much-vaunted conscience vote that they are supposed to have, that much-vaunted difference, as they have said, between the people on the government side of the House and the honourable members on the Liberal side of the House—we are supposed to be locked into a whole range of things because of the way our party operates, whereas the Liberal Party has conscience votes.

The Hon. H. R. Ward—Never heard of them. Academics and fools!

The Hon. M. J. ARNOLD—It has been said that the Liberal Party has a conscience vote and individual members have conscience votes. Not one of you believes within your conscience that you should move in relation to this matter to allow further debate! If in your consciences, you cannot feel any care for those people who are crying out for help, so be it.

Mr Long can exercise his conscience vote in relation to trees in Gippsland because that matter might impact on him with some votes being transferred between him and the National Party. That is a matter of conscience for Mr Long, but with this Bill, surely there are honourable members in the Liberal Party who must have consciences and think about it. The problem will not go away, the Bill will return to achieve satisfaction, if not this session then next session, and if it is next session community pressure will be greater and the problem will have to be addressed again.

I hope it is not a situation where the opposition parties have got themselves stuck and do not feel that they can be seen to back down. They do not want to be seen to back down in the political process that they are locked into. The Minister has made it clear that the government is willing to discuss some of the proposed amendments in the Committee stage. Professor Penington instituted a meeting of distinguished doctors and academics in support of the Bill to try to bring the parties together in areas in which we might obtain some movement to improve the Bill. That could be the vehicle. You can, if you like, retire from your position with some dignity, and it certainly would be to the betterment of the quality of life for a whole range of people in Victoria—our dying, our terminally ill. It would also remove some of the shame the Liberal Party faces for having its policies

directed by a minority group that has proven to have no credibility and political support in this community.

The Hon. ROSEMARY VARTY (Nunawading Province)—What we have just heard from Mr Arnold is a typical lawyer's adversarial approach to an important moral and ethical issue. He has concentrated purely on the legalistic and legislative side of the issue. Somewhere along the line he has forgotten about people. He goes on about legal positions and legal argument and I am appalled at some of the comments he made when referring to the Bill. He says that the Bill will not be completed in one hit. That is a crude statement. He also says that maybe we need six or seven tries to get it right. We are talking about people's lives; we are not just talking about road law or firearms, we are talking about people's lives.

The Hon. M. J. Arnold—That is what I am trying to get across to you.

The Hon. ROSEMARY VARTY—Mr Arnold lost sight of some important issues. It is a difficult subject.

The Hon. M. J. Arnold—How about you addressing the issues?

The Hon. ROSEMARY VARTY—We have addressed the issues, but you choose not to listen to what is being said. I commend the Social Development Committee for the work it has done, but of necessity the committee was confronted largely with the exceptions. From that report flows the assumption that governments can rectify all problems. That is the premise on which it is based, that governments can rectify all problems. I reject that proposition. Governments should provide the framework for a safe, ordered and caring society. Again, Mr Arnold conveniently ignores that.

We are all given life on this earth to utilise the talents that have been given to us for the betterment and the advancement of the society in which we live. It is not the place or the role of governments to take on the role of arbiters of that life. The government is attempting to take on the role of arbiter of that life with the proposed legislation. Of course we must live in an ordered society where we respect one another and respect the rights of life of everybody. Of course we do not want to see anyone suffer inordinate levels of pain or to be incapacitated to the extent where they are not able to live with dignity.

There is some confusion by the government in this Bill about what it means by "medical treatment" and "palliative care". The definition of palliative care is to mitigate or alleviate. Surely, that applies also to medical treatment. It also means to appear less grave or heinous, to extenuate or to excuse. Again, that applies to medical treatment itself.

Some time ago on ABC radio—and the program was broadcast twice—a program called *Buying a Platform Ticket* related to the care of people with terminal illnesses. It was one of the most wonderful radio programs I have ever heard, because it talked about how the lives of those people with terminal illnesses, even under the most adverse conditions, could be made to have a degree of dignity and beauty in their living and in their dying. That is what is most important. That dignity in living and dying extended not only to the patients but also to all the people who were involved, whether they be family, carers, or the volunteers who came to the palliative care centres.

The sitting was suspended at 6.29 *p.m. until* 8.3 *p.m.*

The Hon. ROSEMARY VARTY—Prior to the suspension of the sitting for dinner I was examining the issue of palliative care and how palliative care can enhance the living and the dying of terminally ill patients. I was commenting on a program broadcast on ABC radio entitled, *Buying a Platform Ticket,* which related to the care of the terminally ill and which gave the opinion of the carers, the patients and the families of those patients.

After listening to the program, it became quite clear that we need to go a lot further along the track of being able to care for those people in a way that enhances them, especially their dying. I have not heard the government say much on the Bill about those sorts of matters and I should like to examine, in particular, clause 5 of the Bill relative to

the refusal of treatment certificate and some of the definitions or lack of definitions in the clause.

Clause 5 (1) (*a*) deals with the current condition of the patient. What do we mean by current condition when we are talking about things medical? Current condition can change from hour to hour. The current condition is a snapshot in time. It is not a condition that maintains a certain state for a length of time. It is not static, so one has to be careful when one uses current condition as a fixed time.

If one is talking about people with a current condition at a given point in time it may well be that a decision could be made either because of the stress that the person is under, the pain the person is suffering, or the person's feeling of, at that time, wanting to end his or her life. However, within half an hour the person could make a totally different decision. This would be the case particularly with a burns victim or a road accident victim or someone experiencing continuing pain.

The Hon. D. R. WHITE (Minister for Health)—On a point of order, Mr President, I have listened to Mrs Varty for some time now and she is clearly speaking to clause 5 (1) (*a*) of the Bill on the issue of current condition. The matter is an appropriate one to be discussed in the Committee stage of the Bill and I remind her that, at present, we are debating whether a Bill should exist and whether common law is an appropriate way to deal with dying with dignity. That is the substantive issue before the House. By focusing on clause 5 (1) (*a*) and debating the clause, honourable members are not listening to a second-reading debate, they are listening to a Committee debate.

The Hon. B. A. CHAMBERLAIN (Western Province)—On the same point of order, Mr President, in dealing with the specific provisions of clause 5 in relation to current condition, Mrs Varty is dealing with issues that I canvassed during the second-reading debate and I was quite entitled to do so under the precedents of the House. No objection was taken at that time by the Minister; it is a relevant part of the debate on the issue.

It is interesting that, in the Minister's response on the Bill, he did not address himself to any of the substantive issues relating to the Bill itself. Of course, a detailed analysis on that point would normally be done in Committee, but that applies only to a detailed analysis. It has always been common for members of the House to deal in broad terms with those issues and to mention specific items.

The Hon. A. J. HUNT (South Eastern Province)—On the same point of order, Mr President, Mrs Varty is illustrating her reasons for believing common law practice to be better than the provisions in the Bill. To develop that argument she must show ways in which she believes the Bill worsens the common law position and that is what she is doing at the moment.

The Hon. D. R. White—You're doing it better than she's doing it!

The Hon. A. J. HUNT—It is certainly not contested that a detailed examination of the clause and its detailed implications is better performed in the Committee stage, but a general reference to the clause in support of the argument is obviously within the rules.

The Hon. M. J. ARNOLD (Templestowe Province)—On the same point of order, Mr President, from what Mr Hunt has said, he has virtually conceded that Mrs Varty is particularising issues that are appropriate to be discussed in the Committee debate on the Bill, not in the second-reading debate. She is not referring to the clause in general terms but is particularising issues that are more appropriately dealt with in the Committee stage of the Bill. Opposition members cannot have it both ways. They know the rules in relation to second-reading debates and they know the rules of the Committee stage of Bills. Mrs Varty must debate in the broad and not particularise if she wants to deal with the Bill at this stage.

The Hon. H. R. WARD (South Eastern Province)—On the point of order, Mr President, it is interesting to note that so far the debate has been allowed to range widely. For

instance, Mr Arnold referred to the Right to Life organisation during his speech, and he also referred to clauses——

Honourable members interjecting.

The Hon. H. R. WARD—Clauses in the Bill have been referred to. Particular parties have been referred to as being sleazy. Many other such comments have been made by government speakers, who did not discuss the Bill at all.

The Hon. J. L. DIXON (Boronia Province)—On the point of order, Mr President, Mr Chamberlain and other members of the Opposition would understand clearly that points raised about particular clauses of the Bill should be dealt with in Committee. I said in the speech I made during the second-reading debate that particular aspects of the Bill would be debated in the Committee stage. Government members would welcome such a debate on the Bill. It is outrageous to confine the debate to a half-hearted, one-sided one on the clauses of the Bill if the Opposition is not prepared to allow the Bill to proceed to the Committee stage.

The PRESIDENT—Order! There is some substance in the point of order raised by the Minister, in as much as it has been a tradition of the House that speeches made during the second-reading debate may range fairly widely and that a degree of latitude is allowed. It is also a tradition of the House that various clauses of a Bill may be mentioned in a general way. The Committee system is designed to ensure that individual members can raise particular points on particular clauses.

Mrs Varty has referred to clause 5. I remind her that if she wants to go through the Bill clause by clause she should to so in the Committee stage. If Mrs Varty is talking generally about the clause, I shall allow her to continue. But I remind her that if she wishes to speak specifically about the wording or the context of the clause she should do so during the Committee stage and not during the second-reading debate.

The Hon. ROSEMARY VARTY (Nunawading Province)—I was illustrating the government's lack of understanding of the complexity of some of the terminology that has been used in the Bill. The government does not have a clear understanding of the medical implications of the provisions contained in the Bill.

My colleagues have spoken in detail about the deficiencies of the Bill, especially the attempt to enshrine common law within a legislative framework; so I shall not deal with the issues that they have raised.

For those people who are close to me, any suggestion that governments should be involved in a decision about their or my departure from this life is totally abhorrent. In that light, I shall mention some of the comments that have been made to me in the weeks since the Bill was introduced. I shall confine my remarks to those people who live within my electorate, to personalise those comments. I received a letter from a constituent who lives in Croydon. She says:

> I am currently employed by a large State institution for the intellectually disabled and I have found the ramifications of the Medical Treatment Bill for a number of our residents quite distressing.

She then talks about particular people who are in her care and about her concern that if the Bill is passed it could allow a guardian to make decisions about incompetent patients. Honourable members should remember that this woman works in an institution for the intellectually disabled. One matter that is of particular concern to her is:

> Anne—in her thirties, she also has risk of chest infection but her main problem is the difficulty one has in feeding her, she is only a little person and she is all twisted up, she hates being fed and one often has to force-feed her, giving her a drink is especially hard. When you are not trying to feed Anne she is a delight to talk to although she can't communicate and has a beautiful laugh, but she is also very difficult to care for physically. It frightens me that the treatment that these people receive could be withdrawn just because they may be difficult to care for.

Honourable members interjecting.

The Hon. ROSEMARY VARTY—The writer continues:

Am I, as a caregiver to these people, expected to stand back and watch them die because of the appointed guardian or guardianship board's decision to refuse them proper treatment?

That is a poignant statement of concern. It is all very well for government members to suggest that such provisions are not contained in the Bill. The writer of the letter highlights the community's perceptions of what is contained in the Bill. The Bill has been introduced by the government. The Minister is trying to ask the Opposition to do the government's work.

Honourable members interjecting.

The PRESIDENT—Order! The House will come back to order!

The Hon. ROSEMARY VARTY—I shall make one other point. Mr Arnold quoted extensively from a page of letters to the editor in the *Age*.

The Hon. M. J. Arnold—One letter! I quoted from one letter.

The Hon. ROSEMARY VARTY—If Mr Arnold is attempting to suggest that I should not quote from the letters, he should not have quoted from them! I refer to a letter from a family in Euroa who had to make a decision about their small son:

We are only too human, as our feelings of grief and loss constantly remind us, but we are absolutely certain that our decision was right. We gave our son the last, and only, gift we could give.

That related to a decision to allow their son to die, and that was possible under common law. There are many other examples that show clearly that common law allows those people who understand their rights an ability to take such an action.

A recent decision of the St Vincent's Bioethics Centre has been referred to by a number of speakers in the debate. That decision raises matters that honourable members should examine, matters not dealt with in the Bill: an ethics committee should be established in every public hospital.

The Hon. J. L. Dixon—Read the report.

The Hon. ROSEMARY VARTY—Mrs Dixon says, "Read the report"! That is not what is in the Bill. Mrs Dixon continues to make out that Opposition members have not read the report.

Honourable members interjecting.

The Hon. ROSEMARY VARTY—I suggest that it is very easy for Mrs Dixon to see her report as being the panacea for everything. The reality is that the report did not recommend the provisions in the Bill now before the House.

The Hon. J. L. Dixon—Didn't it?

The Hon. ROSEMARY VARTY—No, it did not. The report did not make the recommendations that were made at St Vincent's Hospital—a Catholic hospital, I remind the House.

The Hon. M. J. Arnold—They support the proposed legislation.

The Hon. D. R. White—All we want you to do is read the papers and keep up to date. It is an absolutely pitiful performance.

The Hon. ROSEMARY VARTY—Is it not interesting what occurs when one puts this government under pressure?

Honourable members interjecting.

The Hon. ROSEMARY VARTY—It is clear from the cases that have been cited to the Opposition and the contact it has had with a large number of people——

The Hon. D. R. White—You are in the minority and that is where you are going to stay. This is the worst speech that I have heard on the Bill. It is absolutely hopeless.

The Hon. ROSEMARY VARTY—Have you finished?

The PRESIDENT—Order! The Minister for Health will cease interjecting and will allow Mrs Varty to make her contribution.

The Hon. ROSEMARY VARTY—It is clear from the large number of people who have contacted members of the opposition parties about this Bill——

Honourable members interjecting.

The Hon. ROSEMARY VARTY—In the past week or ten days a significant number of people have contacted other members of the Opposition and me supporting the stand that the Opposition has taken on this Bill. It is clear that they have the same concerns that the Opposition has about this measure. The Bill does not address the issues that the government claims it addresses. The Opposition will not have a bar of passing the Bill.

The Hon. A. J. HUNT (South Eastern Province)—The common law acknowledges and respects the right of a patient to refuse unwanted medical treatment. That right is not in contention. It is supported by the vast majority of people in this community. As a Liberal, I support it. As a Liberal, I believe in the right of self-determination. Any person of sound mind over the age of eighteen years certainly possesses that right.

It is not only Liberals who support it. Humanitarians generally support it. Humanists support it. The vast majority of the Christian community support it, as do Christian churches, sometimes with a rider. They support that right because it is a fundamental human right. I have not heard any member of this House seek to deny that right, and repeal of the common law is not in contention and has not been suggested.

So the right that the Bill seeks to reaffirm is generally acknowledged. The question is whether the Bill is needed. The Liberal Party, after long deliberation, came to the view that the Bill is not needed. It came to that view on the ground that it believed the common law dealt with the issue satisfactorily, and that Parliament ought not intervene on ethical issues when the common law adequately dealt with them.

It is at this point that I must, for the first time in 27 years, part with my colleagues on an issue of conscience, for I do not believe the common law does satisfactorily deal with the issue. There are gaps in the law, to which attention has been drawn today, but more particularly there are gaps in actual practice. In practice there are some doctors with strong views, who are occasionally unwilling to accept the right of the patient to refuse treatment. The Social Development Committee drew attention to that fact.

There are others who are concerned about their liability if they withdraw life support systems. It may well be that with absolute integrity, and with complete honesty of purpose, a doctor does not carry out the wishes of the patient. If the law purports to protect the wishes of the patient in this regard, but the doctor does not do so in practice, I believe it is idle to talk about a right of a terminally ill patient to appeal to the Supreme Court.

What needs to happen in those cases is to reinforce the common law, to make it really effective. In doing that, the Bill needs to protect those doctors who expressed concern about their legal position if they withdrew life support systems at the request of the patient. What the Bill does, as I see it, is to reaffirm and reinforce the common-law right of a patient of sound mind to refuse medical treatment, and at the same time to protect the medical practitioner who properly acts upon that patient's desire.

Because I hold this right, long hallowed by the common law as a fundamental one, I cannot conscientiously vote against the Bill. That does not mean that I must vote for it. I

have decided not to take the step of crossing the floor, but I cannot vote against it. Therefore, I propose to abstain. In doing so, that does not mean that I support the Bill in toto. It means that the deficiencies in the Bill can be addressed and redressed in the Committee stage.

Just as I hold that it is the right of a person of sound mind and full age to refuse treatment, and that right ought to be clarified and reinforced, so I find it impossible to accept that an agent, who may be a member of a family, or may even be a person standing to benefit, can act for a person to make that choice once the person is no longer able to speak for himself or herself. I find that ethically offensive. That is a matter that must be considered further in Committee. It will need consultation between the parties. It is a matter which, with goodwill, can be resolved.

There are other defects in the Bill. The main operative clause, clause 5, refers to a patient who has attained the age of eighteen years but it does not refer to a patient who is of sound mind. If that is the intention, it needs to be addressed. Other issues have been raised by Professor David Penington in a recent letter to the Premier, the Leader of the Opposition and the Leader of the third party. Those issues can and should be addressed in Committee and in negotiations before the Committee stage takes place.

The Hon. D. R. White—Yes, I agree.

The Hon. A. J. HUNT—I am making no commitment at this stage on the stand I shall take on the third reading of the Bill. What I am doing is based on my conscience with a view to enabling clarification of an important area of the law which everybody agrees exists at present. As the law exists at present, it is, it seems to me, deficient. I would be recreant in my duty if I opposed it. It has been a difficult decision to make, one that I have faced before on other issues and resolved in a different way. I make that decision in what I believe to be the interests of the community and in accordance with the dictates of my conscience.

Honourable Members—Hear, hear!

The Hon. H. R. WARD (South Eastern Province)—I come from a family which agrees with the principle of dying with dignity but I cannot accept this rotten, sloppy, slovenly Bill that is before the House tonight. There is absolutely nothing wrong with the report produced by the Social Development Committee, chaired by Mrs Dixon. That committee has worked extremely hard to produce a report on this subject.

What concerned me tonight were the proposals and comments made by Mr Arnold. Most of his speech criticised groups of people. I imagine he would like to ask those groups their opinion of me and I am sure they would be delighted to express that opinion. Mr Arnold referred to one particular group as sleazy. He used many other objectionable terms, the likes of which one expects from the government when it is under pressure.

The Hon. M. J. Arnold—I do not resile from what I said.

The Hon. H. R. WARD—Mr Arnold mentioned the government getting together with the opposition parties to correct this sloppy, slovenly Bill. He said that he believed the Bill had been scanned by the community. That is an unlikely situation. The government has produced a Bill, knowing that it has not been properly scanned by the community. It is actually conning the community with this piece of proposed legislation. The government is taking advantage of people by not properly explaining the Bill to them. The Bill is a total deliberate misinformation.

Mr Arnold suggested tonight that the proposals in the Bill should be clarified. They should have been clarified before the Bill was brought into the House so that honourable members knew what the Bill was actually about. That has not been done. If the government can put it over the public, it will. That is what it did with IVF legislation and with WorkCare, which the government slammed through Parliament at a cost of $2 billion to

the people of this State. God knows what the government will do with this Bill because it has not got it right.

I support the principle of the Bill—if any good comes from supporting principles because I do not think that gets anybody anywhere. The government has had at least six or seven attempts at drafting the Bill in some form or another. Tonight government members are begging, pleading and weeping about what the Opposition should do. The Minister for Health harangued us, declaring some emotional stupidity at the end of his speech. I do not know what the government expects us to do.

The Vice-Chancellor of Melbourne University, an honourable person in the medical profession by all standards in the world, studied the Bill and suggested some changes. It is unfortunate that he had not fully studied the Bill. I have made some comments in the past about Archbishop Penman and the Reverend Alan Nichols. I wonder whether they have actually read and analysed the Bill and know what it really means. I have my doubts about that. They have probably accepted the Bill because it was put up by the government.

I admit that there have been difficulties about the framing of the Bill. My understanding of the common law is that it is revolutionary in the determination of the laws of the world.

The Hon. J. H. Kennan—You mean evolutionary.

The Hon. H. R. WARD—I do not know whether it is evolutionary but it is certainly revolutionary, although not radical. It has changed according to the contemporary nature of society.

I agree with the brief comments made by Mr Hunt. Nobody could disagree with his comments about the fundamental rights of people. I shall vote against the Bill. I do not believe the government has the right to introduce such a Bill. In fact I have been advised by a number of lawyers and doctors that the government does not have this right. In that sense, it is a boon to unethical practitioners and a boon to members of the legal profession who want to take it up. We do not want the Australian legal fraternity to take the same attitude on this issue as does the legal fraternity in the United States of America.

Finally, I believe Parliament is a few years away from framing legislation that is right for the whole of the community. I shall certainly vote against the Bill before the House.

The Hon. B. A. MURPHY (Gippsland Province)—I wish to go on record as praising the actions of Mr Hunt because he has kept alive an important principle that goes to the fundamental matter of human life. If Mr Hunt had not taken the stand he did, the Bill would have been defeated, and the years of hard work by an all-party Parliamentary committee would have been wasted. Not only this Bill but also the committee's report would have been of no use to the future of Victoria.

No doubt honourable members have been lobbied, as I have, about this issue. I respect honourable members from all parties who used strong points in the debate but one cannot get away from the fact that an all-party committee of this Parliament has studied the issue for years and made certain recommendations. The result of those recommendations is the Bill before the House.

I grant that the Bill is not perfect but it could be amended to suit all parties during the Committee stage, and that is why I support the second reading. Mr Hunt should be praised for the action he proposes to take tonight.

The House divided on the motion (the Hon. R. A. Mackenzie) in the chair).

Ayes	21
Noes	21

AYES	NOES
Mrs Coxsedge	Mr Baxter
Mr Crawford	Mr Birrell

AYES	NOES
Mrs Dixon	Mr Chamberlain
Mr Henshaw	Mr Connard
Mrs Hogg	Mr de Fegely
Mr Kennan	Mr Dunn
Mr Kennedy	Mr Evans
Mrs Kirner	Mr Granter
Mr Landeryou	Mr Guest
Mrs Lyster	Mr Hallam
Mr McArthur	Mr Knowles
Mrs McLean	Mr Lawson
Mr Mier	Mr Long
Mr Murphy	Mr Reid
Mr Pullen	Mr Storey
Mr Sandon	Mrs Tehan
Mr Sgro	Mrs Varty
Mr Walker	Mr Ward
Mr White	Mr Wright
Tellers:	*Tellers:*
Mr Arnold	Mr Macey
Mr Van Buren	Mr Miles

The PRESIDENT—Order! The result of the division is Ayes 21, Noes 21. The numbers being equal, it devolves on me to give a casting vote. In order to enable the Bill to be further considered in the hope that differences will be resolved by further discussion, and in accordance with well-established precedent, I cast my vote with the Ayes.

The motion was therefore 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)—During the second-reading debate I indicated to the House that, if the Bill reached the Committee stage, I would seek to report progress until the next day of meeting.

In doing so, I shall take the opportunity of receiving amendments from the Opposition, the National Party or any section of the community that wishes to propose amendments. The government will give them due consideration.

During his contribution, Mr Hunt indicated that certain discussions ought to occur prior to the resumption of the debate. I am happy to accommodate that suggestion. Mr Kevin O'Connor from the Law Department and Mrs Dixon will be available for discussions with members of the Opposition and the National Party on any amendments prior to the resumption of the Committee stage, on which progress will be reported until the next day of meeting.

I thank honourable members for their contributions and assistance during the second-reading debate that has enabled us to reach this stage.

Progress was reported.

MINISTERIAL STATEMENT

Victorian Horticultural Export Council

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I desire to make a Ministerial statement on the Victorian Horticultural Export Council.

In April 1986 the Victorian government announced its horticultural export development strategy. The strategy recognised the strong potential for export growth in horticulture.

The key elements of the strategy were:

1. formation of the Victorian Horticultural Export Council—VHEC—to review the adequacy of post harvest handling storage and distribution facilities;

2. preparation and implementation of export development strategies for selected horticultural products with high export potential; and

3. a new emphasis on post-harvest research and extension by the Department of Agriculture and Rural Affairs.

I wish to make available the report of the Victorian Horticultural Export Council for honourable members' information.

The terms of reference for the council were:

(I) to review and, if necessary, make recommendations on:

A. the adequacy of transport to sea and air terminal despatch points;

B. the adequacy of storage and handling facilities at these dispatch points; and

C. the movement of fresh produce through these dispatch points;

(II) to advise on the optimum timing and location of export inspection services—consistent with regulatory provisions; and

(III) to consider and advise on any other matters which either impede or could enhance export growth of horticultural products.

The report provides details on the council's activities during 1987. Highlights for the year included:

the investigations of the sea and air transport facilities in Melbourne and the requirements for change;

a constructive role the council was able to play in the resolution of industrial disputes;

a survey of exporters on the problems being experienced in air freight services which played a significant role in changing perceptions in Commonwealth government agencies on the need for greater deregulation of air freight charter services; and

providing the Victorian link in the Australian Horticultural Export Council, including the provision of a chairman and executive officer for this body.

The council does not believe there are any major deficiencies in the existing transport infrastructure that require immediate government action.

The government established the VHEC for a one-year period to investigate its specific terms of reference. The government believes the VHEC has demonstrated that a constructive role can be played by such a body in facilitating industry and government liaison, and that the VHEC can promote a greater degree of industry cohesion in export matters.

Some highlights of the past twelve months include:

a continuation of the strong growth trend in horticultural exports. Table grape exports from Victoria expanded 49 per cent in 1986–87, and are estimated to increase 30–40 per cent again in 1987–88. The table grape industry has now developed into a major Victorian horticulture industry. Strong growth is also occurring in asparagus, apples, carrots, cauliflower, melons, onions and stone fruit;

the development of greatly improved air freight storage facilities at Tullamarine Airport—a development in which the VHEC played a significant role in facilitating;

the VHEC was able to cultivate better links between horticulture industry and the union movement and effect some improvement in the resolution of industrial disputes; and

a code of practice for sea shipment covering packing shed to on-board ship has been developed, resulting in a significant improvement in the outturn of horticultural produce.

I should like to acknowledge the constructive role played by the chairman, Linton Lethlean, the private sector members, John Abell, Ken Blashki, Allan Collins, John Holman, Shaun Keenan and Peter Rocke. The union representative, Mr Bob Poole, from the Federated Storeman and Packers Union of Australia made a most constructive contribution. The government members, Mr David Minnis from Austrade, Mr Neville Barwick from the Ministry of Transport, Mr Bruce Mapperson from the Department of Industry, Technology and Resources, and Mr Mike Kinsella and Mr John Naughtin from the Department of Agriculture and Rural Affairs also played a significant role. The executive officer, Mr Peter Sayer, ably supported the VHEC.

THE FUTURE

I believe it is important that a VHEC continue at the present time, at least until the time when an Australian horticulture corporation is fully operational.

The VHEC has efficiently completed the task originally set for it by the government. At present, it is particularly important that the Victorian horticulture industry is able to fully contribute to the decision-making processes affecting the industry. The Victorian Horticulture Export Council could lead the industry in these matters. A body with close links to both industry and government is well placed to perform the role effectively.

Accordingly, the government will reform the Victorian Horticulture Export Council to address the following terms of reference:

the development and presentation of an industry perspective on matters of freight, quarantine and trade carriers, government policy, pricing and regulation of industry; and

the development and promotion of a cohesive and organised horticultural export industry, which comprises growing, packing, freight consolidation and forwarding, marketing and promotion.

Most of the council's efforts will be directed at the first term of reference which is where the government sees the major priority at this time. The government does not see the VHEC becoming involved in the operational aspects of the horticulture export industry.

The VHEC will continue to report to both me, as Minister for Agriculture and Rural Affairs, and to the Minister for Industry, Technology and Resources. The funding for the VHEC will be met from the budgets of these departments in a similar fashion to the past.

Accordingly my colleague, the Minister for Industry, Technology and Resources, the honourable Robert Fordham and I will now proceed to re-establish the Victorian Horticultural Export Council for a further term of two years to address the two terms of reference above.

I look forward to the Victorian Horticultural Export Council continuing to play a constructive role in the development of the export horticultural industry in Victoria.

Th Hon. H. R. WARD (South Eastern Province)—I move:

That the Ministerial statement be taken into consideration on the next day of meeting.

The motion was agreed to.

LOCAL GOVERNMENT BILL, LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS) BILL, CONSTITUTION (LOCAL GOVERNMENT) BILL

The debates (adjourned from April 22) on the motions of the Hon. C. J. Hogg (Minister for Education) for the second reading of these Bills were resumed.

The Hon. K. I. M. WRIGHT (North Western Province)—Before I begin my contribution to this debate I pay a tribute to my colleague, the honourable member for Swan Hill in another place, who has done considerable research on these Bills, in liaison with the local government spokesman for the Opposition, the Municipal Association of Victoria, councils and other organisations.

These Bills are three related local government Bills and their provisions give the Minister for Local Government draconian powers over local government, reduce the power of local government and impose further responsibilities on local councils. The Local Government Bill does not compensate councils for those extra responsibilities and its effect will be to politicise local government.

A number of issues concern the National Party, including triennial elections, proportional representation, differential rating and other issues to which I shall refer later.

The Hon. F. J. Granter—Mr President, I direct your attention to the state of the House.

A quorum was formed.

The Hon. K. I. M. WRIGHT—The Bill proposes that amalgamations of local councils will take place by the back door in two ways: by funding and by legislation. Grants to local government and road funding are being allocated by the Minister on the basis of a council's attitude towards amalgamation. Some councils increased their own expenditure by 75 per cent on the maintenance of roads and received a 25 per cent deduction in funding. The government is trying to achieve its ends by legislative stealth.

The National Party has been at the forefront of many huge meetings that have been held throughout Victoria on the amalgamation of local councils. It is acknowledged, of course, that there is a need for a new local government Act and as spokesman for the National Party on local government several years ago I raised this matter on a number of occasions. Previous Ministers for Local Government, Mr Hamer and Mr Hunt, have also referred to the need to upgrade the Local Government Act. Sections of the Act are anachronistic and some of those provisions have been highlighted over the years. Mr Dan Drew, a shire secretary at a number of municipalities, including Newnham and Woodend, has highlighted provisions with respect to ferries, dance halls and other matters over which local government has no jurisdiction.

I deplore the interference in local government that has occurred under the Cain government. The government has the quaint idea that wards and ridings should have an equal number of voters, and the Commonwealth government and other State Labor governments have conned ratepayers into believing that this should be so. The philosophy of one vote, one value does not exist anywhere else in the world. That philosophy exists only in Australia. I have told the House previously that in the United Kingdom, the home of democracy, the number of voters ranges from 22 000 in the western highlands to 78 000 in one of the Birmingham municipalities.

Regrettably, local councils have buckled under the pressure that has been exerted by the government. If they had shown more resistance and gumption, they would have prevented forced amalgamations from occurring. The National Party believes area, distance and community of interest should be taken into account, and rightly so, because in the vast electorates the constituents or ratepayers do not have the same opportunity as their cousins in the city of seeing and meeting with their local councillor or Parliamentarian.

The Minister for Local Government, with the support of the government, has forced his philosophy on local government. I do not know if the government cares whether it succeeds or fails, because the Premier did not want the Minister for Local Government in his Ministry, but the Premier is saddled with him and has allocated the local government portfolio to this Minister. Unsubdivided municipalities have been forced to subdivide and approximately 28 municipalities come into this category, including, Kerang, Maryborough and some others.

I was a councillor of the City of Mildura for twelve years. It was a most rewarding experience. That municipality was unsubdivided and the councillors represented all areas within its boundaries. It was an excellent state of affairs because the council represented the whole municipality and honourable members can see the fairness of that. Each year three councillors were elected to represent the entire municipality, and through this process the council had an annual test of the various projects and policies that were put forward. Of course, it also meant that the ratepayers had the opportunity of exercising a vote with respect to the various works programs.

While I was a councillor for the City of Mildura, tremendous development occurred. The present rate of growth is 6·3 per cent per annum; the growth rate while I was a councillor was not as high as that, but it was still quite significant. At that time the municipality's roads were terrible. The council commenced its roadmaking program at the middle of the municipality and worked outwards. Today all the roads and footpaths are completely constructed. The library has been renovated on several occasions and it is one of the few Carnegie libraries in Victoria. The city provides health services, infant welfare, kindergarten and many other facilities.

Mildura had a number of major projects which enabled councillors to work together and support each other. Mildura has a magnificent arts centre in which the sculpture exhibition is held triennially, as well as many other exhibitions of interest to the community. Councillor Reg Etherington and Councillor Noyce were proponents of the arts centre, and Councillor Roy Burr, who has been a councillor for 27 years, was a proponent of the basketball stadium project.

The Hon. Robert Lawson interjected.

The Hon. K. I. M. WRIGHT—I am talking about triennial elections and proportional representation. My project was the magnificent tennis development there. I am pointing out that if councillors work together on these sorts of projects, they can be completed. We had many critics and we faced up to council elections every year; we gave the ratepayers a chance to speak out on those projects, unlike this government, which wants to give the ratepayers such a chance only once every three years.

The National Party believes annual elections should be retained. It will not have a bar of triennial elections or proportional representation. I should like to praise the councillors in the 27 councils in my electorate for their dedication and their spirit of community and council work.

I turn now to a provision of the Local Government Bill that allows for the payment of councillors. I am sure honourable members would rue the day that they paid councillors. They should be volunteers and receive an allowance as they do at present. It should be left at that.

There are a number of arguments against proportional representation, the first of which is that it means freak results can be achieved. There can be people who win 1·5 per cent of the primary vote, such as occurred in the Senate election in New South Wales; they may get 10 per cent of the primary vote and yet have 90 per cent of voters against them. However, under the preferential voting system that operates at present, a candidate must have the support of at least 51 per cent of the voters. That is a good thing.

It is also argued that the proportional representation system will lead to larger constituencies than those that exist under other systems; that there will be a reduction in

personal contact between the members and their ratepayers or constituents; and that voters are inclined to feel distanced from their representatives who have been elected. Also, most of the proportional representation systems are fairly complicated and voters may have trouble understanding how they work and, as a result, they will take less interest in their system of government.

The proportional representation system would also encourage the splitting of big parties into many small ones each representing sectional interests. This has two negative effects: it becomes difficult to form a government because of the small representation and it creates divisions between the different groups and classes in society. Under that system, the distinction between government and Opposition is blurred, and there is not a government with unhampered power to carry out its programs. It is inclined to create a weak or unstable government or municipality, as the case may be. The counting of votes under the proportional representation system is often long and exhaustive and problems occur if there is a death or resignation.

My comments about proportional representation apply equally to the Victorian Parliament. I noted the Premier's recent announcement that more proposed legislation will be introduced with respect to proportional representation for Legislative Council elections. If it were to succeed, it would be disastrous to country Victorians; honourable members representing country areas, in many instances, would be replaced by people from the metropolitan area representing splinter groups. If such measures are introduced, the National Party will certainly reject them.

The Bills contain so many clauses and deal with so many issues that I can only hope to pick out several of them for comment at this stage. However, I anticipate a fairly long debate in Committee.

Australian citizenship is a matter about which the National Party feels very strongly. At present, non-naturalised ratepayers have the right to vote at local government elections. However, they cannot stand for election as councillors. The Local Government Bill unaccountably gives non-naturalised ratepayers the right to stand for election as councillors. The National Party will oppose the relevant clause vigorously because that provision is not wanted by local government. It is unwarranted and inequitable. Such a system exists nowhere else in the world. If it is good enough for new Australians to live and work in Australia, surely it is good enough for them to become naturalised citizens.

I refer now to the oath or affirmation to the Crown. Councillors are to be given a choice in this matter. The clause dealing with the oath or affirmation should be deleted. Parliamentarians are required to make an oath or affirmation, and councillors should be required to do so, too. It would be a disgrace if they did not.

The Bill also contains equal opportunity provisions. I admit that few of the chief executive officers of the 210 councils are women. However, equal opportunity is being forced on councils with more than 46 staff members. Certainly the majority of chief executive officers are men.

When speaking about forcing equal opportunity on municipalities, I refer also to difficulties that have been created within councils and private businesses by generous maternity leave provisions. They are not assisting many young employees. I am finding out in my electorate that women who are in their 30s and 40s who are coming back into the work force now have a tremendous advantage over young people. Surely it is the younger people whom we ought to be assisting to enter the work force.

The rating provisions are controversial. There are three main systems: site value, capital improved value, and net annual value. The government is leaning towards the capital improved value method of valuation in this case.

The Bill provides that councils can retain the site value rating if they already operate under that system. However, if the provision is carried, they will not be able to change back to the site value system once they change over to the capital improved value system.

I remember that 25 to 30 years ago the Mildura City Council conducted a referendum on this matter, and there was a ratepayers' association that was very active. Mr Rex Carter was the secretary of that group, which was able to win sufficient votes at the referendum to effect a change in rating by the municipality. That resulted in a shift of rate payments from various sections of the community to others.

When discussing rating, one must consider the people who are already heavily committed—those in the home ownership and mortgage areas, particularly in the outer suburbs of Melbourne. There could be a backlash if the measures are passed. The National Party believes the Labor Party will lose more Upper House seats. It is fairly obvious to me that after the next election, there will be 19 Liberal Party members, 19 Labor Party members and 6 National Party members in the Legislative Council. Once again, the National Party will have the balance of power in this House, and the measures now before the House will have an impact on that result.

Differential rating has been sought by the Cain Labor government. That is unreasonable, because it will give additional responsibility to councils and, because of that additional responsibility, the councils will require more funds.

The way that the government is going to allow councils to raise more funds is by giving them the ability to impose differential rating. Councils will be able to hit hard at some of the groups they consider are more able to pay. In the metropolitan areas premises used as brothels will be one of the avenues used to raise this funding.

I am rather interested to know whether the government is expecting municipalities to raise their differential rates according to the professions carried on in the buildings concerned. For instance, will medical practitioners, dentists or the like, have to pay higher rates than perhaps some other business which the council considers not to be as lucrative? That is the weakness with differential rating.

The National Party is opposed to differential rating as such. Another reason why the National Party opposes differential rating is that councillors will be subjected annually to the pressures of special interest groups. One can imagine that, at the time of the year when the rates are being struck, every group imaginable will come to the councillors and say, "We have had a terrible time and we would like a low differential rate".

How many groups will go to the council and say, "We have had a great year and have never made so much profit; we would like to be put into the group that pays higher rates"? I suggest that not very many would do so. Various groups will harass the life out of councillors so that they pay the lower differential rate. This will make the estimates time a nightmare.

When I was a councillor the estimates nights were the difficult nights of the year, and it often took three nights to go through the next year's estimates. It is probably much more difficult today. One night would be devoted to going through the estimates; one night would be allocated for the final result; and a further night would be devoted to actually working out what the estimates and rates were going to be.

Differential rating is strongly opposed by the valuation profession. I praise the representatives of the Australian Institute of Valuers (Inc.) who made contact with members of the National Party and other parties on a number of occasions. I specifically mention the President, Mr Mike Sully, the Vice President, Mr Alan Kearns, and Mr Peter Meaking, one of the executives and a former president.

There are a number of arguments for and against differential rating. I shall mention some of the reasons given in favour of differential rating. They were drawn up in conjunction with the Australian Institute of Valuers. First, differential rating gives greater flexibility for councils to distribute the rate burden between classes of property. Secondly, it can be used as a transitory measure for councils to adopt capital improved value. Thirdly, it can encourage certain industries into the municipality. Fourthly, differential rating can provide benefits to promote certain industries. Fifthly, differential rating can be

used to discourage certain industries. In that context, I have mentioned brothels, and this could be extended to certain other industries.

There are many reasons against the introduction of differential rating: first, it undermines valuations as the basis for rating and diminishes the purpose of revaluations; secondly, categorisation cannot be accurate; thirdly, categorisation is discriminatory; fourthly, councils' determination of rates will be discriminatory; and fifthly, rate differences between similar properties in adjoining municipalities could be quite large.

I am reminded of the situation with the Department of Conservation, Forests and Lands. I note that the Minister is in the Chamber. Where a creek or a road divides areas of land, on one side of the road or creek the rental is one figure; on the other side of the creek, the rental can be as much as double that figure. This is the type of difference one can experience with differential rating.

A sixth argument against differential rating is that it can be used to increase the rate burden rather than for redistribution; seventhly, administrative costs will increase; eighthly, legal problems can arise; and, ninthly, it can prolong the council's rate determination process.

A tenth argument against differential rating is that some people will pay more, for others to pay less. It is generally agreed that owners of commercial properties will pay more under differential rating. The eleventh reason is that differential rating moves away from a user-pays principle in that the residential sector is likely to pay less; twelfth, property use will require close scrutiny; thirteenth, councils will need to determine equity objectives; fourteenth, it will be impossible to predict potential revenue losses or gains from changes in use; fifteenth, it could be misused without legal means of contesting rate or classification; and, sixteenth, the current system has many differential provisions and aspects which generally provide reasonable equity.

Earlier Mr Henshaw sought to interject about that point. At this time we have farm rates, urban farm rates and certain other categories that give municipalities room to move and to introduce a type of differential rating.

A seventeenth argument against differential rating is that no attempt has been made to identify or resolve current problems that differential rating is purported to cure. An eighteenth reason is that differential rating could destroy the current system; nineteenth, achieving equity or an acceptable balance in rural areas would appear very difficult; and, twentieth, the Little report, which favoured differential rating, also stated that the inequity perceived by the residential sector was in fact just that—"perceived". I emphasise the word "perceived". I have already mentioned the twenty-first argument against differential rating, which is that lobby groups will pressure councils and then seek support from government representatives. There are a number of other arguments against differential rating which I shall not go into at present.

We will deal with the clause in detail during the Committee stage. Clause 154 deals with rateable land. The National Party considers that it is high time we had rating of vacant government land capable of development and that certain Australian instrumentalities, such as Telecom and Australia Post, should be rated. State instrumentalities that compete in some cases with private industry, such as the State Electricity Commission and the Gas and Fuel Corporation, should be rateable.

Where privately owned property is leased to a charitable organisation and the exemption from rates benefits the owner, that property should be rated; and properties should be rated where the liability to pay rates is in dispute and courts have given varying decisions.

I hope the Minister for Conservation, Forests and Lands is listening to what I am saying; especially my comments about the rateability of government properties. Much of the criticism that has been levelled at the inaction of the government in this area would be overcome if a working party, comprising representatives from the Municipal Association

of Victoria, the Australian Institute of Valuers (Inc.), government departments and the Ministry were to examine whether the government is proceeding along the right track.

Clause 156 concerns liability for the payment of rates and charges. The clause is of concern to the Australian Institute of Valuers and property owners. It is inconsistent with clauses 154, 161 and 162, which rely on property use as the basis for rate exemptions and differential rating.

The fact is that at present the rating is struck with respect to the occupier. One can have a complex with 50 different tenants and it is a matter of equity and convenience that they should be rated rather than the owner of the land.

If it is done the other way, and the owner of the land is rated, artificial decisions will be made with respect to how the rates are to be divided. That decision will probably, in the main, be made by the owner of the property. The decisions he may make may not be in keeping with the revenue and profitability of the property.

Capital improved value rating will be the subject of much discussion during the Committee stage. The National Party would like to see municipalities have a choice from the three systems of rating—site value, capital improved value and net annual value—so that they can choose the system they wish, and that will, in turn, provide greater flexibility.

It is held by the Australian Institute of Valuers that:

> . . . site value as a rating base generally lacks an "ability to pay" principle. That is, it assumes that all ratepayers should be treated equally in regard to services provided and their ability to pay.
>
> Site value is believed to be the only rate or tax which is raised on only a portion of a person's wealth or income.
>
> Net annual value as a rating base appears to have a distinct element of differential rating in it. Investment properties generally have a net annual value of greater than 5 per centum of the capital improved value whilst most residential and rural are fixed at 5 per cent.
>
> It has been noted that any council wishing to change its rating base under the current Act must go through a long, difficult and costly exercise.

Site value as a rate base applies to only a portion of the person's wealth or income because only the land value is taken into consideration. It ignores the value reflected in a two-storey mansion or a twenty-storey skyscraper.

I have already discussed some pros and cons of differential rating. The Municipal Association of Victoria is keen on and supportive of the differential rating system of valuation. The arguments against would apply to the arguments I have presented and the supporting arguments of the MAV.

On 2 May the Municipal Association of Victoria wrote to all members of Parliament under the heading of Local Government Bill (No. 2). My quote begins with a resolution passed by the MAV policy executive:

> "That the MAV urge the opposition parties to pursue positively the passage of the Local Government Bill in a form which allows municipal councils a greater degree of autonomy and which includes differential rating provisions".
>
> It can be drawn from the resolution that the MAV regards differential rating as the key element in the new Bill.

The MAV also says that in respect of differential rates:

> There is no precedent for any appeal provisions against any tax rate in the world. It could have the effect of making the State land tax rate appealable.

That is a claim that is not possible for me or any other honourable member or the Minister to confirm as correct. The MAV says it militates against the use of differential rates because it militates against the use of any rates.

My colleague, Mr Hallam, has expressed interest in the Supreme Court case of *Falkenberg* v. *City of Hamilton*, and stated:

The Supreme Court case *Falkenberg* v. *City of Hamilton* demonstrated a need to limit the basis for challenging rates and this was ultimately acknowledged by Parliament when it passed the Local Government (Rating Appeals) Act 1985.

As I understand it, the facts are opposite to that. The Supreme Court found that Falkenberg was entitled to relief and quashed the decision. It is not an argument that should be raised at this stage.

I put it to the Minister that the way to overcome the differential rating problem is to consider the rate payout rather than give municipalities a wide-ranging ambit of differential groupings of rates which could be 10, 15 or 20 per cent. While considering the position of municipalities, honourable members should consider the position of the ratepayers as well.

Perhaps there could be groupings of, say, commercial, industrial, residential, rural—that is, farmland which is already defined—and urban, which is already the division of urban farmland. There are five groupings at present; perhaps there could be agreement on having five, six, or seven groupings. The alternative is to vote out the section of the Bill that relates to differential rating. I should be pleased to hear the comment of the Minister prior to the House reaching that stage.

I turn to a subject which is of interest to the municipalities in the southern part of my electorate and that is the exemption of mining operations from municipal rates. This exemption has applied, apparently, from time immemorial. Neither the Parliamentary Library staff nor anybody else seems to be able to provide any information or details on when the exemption was applied or why it was applied. I should value any contribution by the Minister on why the exemption should continue.

The Borough of Eaglehawk, which is located in the middle of mining operations, wrote to me on 22 January of this year. Practically all of the City of Bendigo and the Borough of Eaglehawk is pegged out. In the letter, the town clerk said in respect of the Local Government Bill:

Council has considered the Local Government Bill (No. 2) which it supports as much needed new modern legislation under which local government will be able to operate in the future.

I am to advise you, however, that its main concern is that mining operations are still exempt from municipal rates.

At the present time there is a resurgence in mining activities in the borough, in particular the Western Mining Corporation Ltd has expended $12 million over the past few years on exploration and is now planning to spend up to $50 million on further mining activities.

The expenditure of that amount of money sounds quite good so far as the municipality is concerned. Unfortunately, the expenditure is not on a labour-intensive industry; it is mainly related to machinery and other expenditure. If it were an extremely labour-intensive industry, one would say that that is a good reason for the mining company to be provided with exemption from rating, although that would not help the municipality. The rates that are not paid by the mining operation must be paid by residents, who may be residents of a poor area.

The town clerk continues:

. . . it would be more equitable for all ratepayers if mining operations were rateable for the following reasons.

Mention is made of the contribution to services provided by the municipality, which include roads, improvements such as assessments and enforcement, and other services. The letter reminds me that:

Mining precludes land being used and rated for other purposes, e.g. farming land or residential development. This represents a real decrease in municipal income.

Mining companies should be considered as any other industry.

The planning system does not provide an adequate mechanism for the mining industry to contribute financially to the local community.

There is much merit in what is said in the letter from the Borough of Eaglehawk.

I wrote to every one of the 27 municipalities in my electorate of North Western Province asking for their views on the clause. In addition to the letter from the Borough of Eaglehawk—to which I have just referred—the Shire of Korong informed me that it was keen for the land in my electorate to be brought into the area of paying rates. I was informed that, in the municipality:

Mining has been in the past carried out on a large percentage of Crown land.

Of the 80 per cent area that is rateable an ever-increasing proportion is being taken over by mining tenements...

Loss of rate revenue would be significant.

Mining tenements place demand on council services particularly road maintenance for which no rate is presently payable, either on Crown land or private land.

Council should be given the option of requesting an ex gratia payment equivalent to amount of rate loss.

Further option may be the imposition of a form of royalty on amount of minerals extracted to offset rate revenue loss.

I recall the situation which applied at Lake Tyrrell. A mining company was extracting water for processing salt and a great deal of money was accruing to the government by way of royalties. All that the council could get by way of contribution to the great amount of money it was expending on the construction and maintenance of roads and so forth was a small ex gratia payment for road maintenance.

Mr Zandbergs, the Acting Shire Secretary of the Shire of Maldon, forwarded to me a response dated 15 February 1988 which he had received from Mr Graham Holmes, the Director-General of the Local Government Department, who said:

As you correctly point out, the Local Government Bill presently before State Parliament does not propose to alter the present law.

However, a committee is to be established to examine the issue. The committee will include representatives of the MAV, relevant State government departments and the mining industry. Further, the issue is scheduled to be discussed shortly at a meeting between the Minister for Local Government and representatives of the MAV.

This is the first we have heard of that committee. When the Minister responds during the Committee stage of the debate, perhaps she might advise whether the committee has met and, if so, whether it has arrived at a decision, and what recommendations have been made with reference to the provisions of the Bill in which the National Party and municipalities are most interested.

A number of matters have been discussed by my colleague in another place, the honourable member for Swan Hill, and me. I would like to ask the Minister six questions.

Firstly, why is the government imposing an impossibly high duty on councils and councillors? The Bill subjects "every function, power, authority, discretion and duty" on every council not only under local government legislation but under "any other Act". That provision is contained in the Bill and is a worry.

Secondly, why is the government giving the Minister greater powers over local government? The Minister is empowered by the Bills to recommend to the Governor in Council that all of the councillors of a council be suspended if the Minister considers that a council has failed to provide for the good government of its municipal district in relation to its functions or to comply with any law. The Minister has been given almost dictatorial powers like those that existed in the days of Hitler and Mussolini.

Thirdly, why is the government abolishing the Local Government Department? The government is abolishing the Local Government Department which local government fought so hard to establish. Nothing in the Bills gives local government its own department in place of the abolished Local Government Department.

Fourthly, why is the government creating regional corporations? Clause 196 (1) of the Local Government Bill provides for the creation of regional corporations to perform a function under the principal Act or any other Act. If a council does not agree to the formation of a regional corporation, all the councillors could be suspended. That is amalgamation by stealth.

Fifthly, why is the government subjecting local government to control by statutory authorities? The government has provided that these Bills must be interpreted so as to give effect to the objectives specified. The objective with respect to local government services and facilities—everything that local government provides for its ratepayers—is to coordinate with other public bodies to ensure that services and facilities are provided, and resources are used effectively and efficiently.

Sixthly, why is the government subjecting local government to control by a government officer? The Health (General Amendment) Bill (No. 2) provides for the chief general manager to delegate public health responsibilities to councils. Therefore, that officer can determine that local government has to bear the cost of public health functions covered by the government in the past. Under the Bill the Minister can sack the councils if they do not do the work that is stipulated as being required to be done under the recently passed Health (General Amendment) Bill (No. 2).

Finally, there is the Pope report on these matters which I understand has been finalised but has not been released to municipalities. I am not sure whether government members have copies of the report, but Opposition members do not have that. I ask the Minister to use her good offices to obtain copies of the report for municipalities and members, particularly for me, to assist me in debating the Bills in the Committee stage. That report has not been made available despite repeated requests by interested parties.

The Municipal Association of Victoria is keen to have the Bill passed. I do not know why that is so, because every day councils write to me and to the honourable member for Swan Hill in another place—and, no doubt, to many other members—saying that the Bills are dynamite. They are only now realising what is contained in the Bills. They say, "We call upon you to throw out the Bills so that we can consider them further". I understand that 70 of the Goulburn group of councils are making similar requests.

The National Party is dealing with the government in good faith. We do not propose to vote against the second reading of the Bills because we hope that with the cooperation of the Minister and the Minister for Local Government in another place those matters I have raised will be resolved.

The Opposition will support the Bills on that proviso, but will propose a number of amendments during the Committee stage. Further, because of the large number of Bills passing through Parliament at the moment it is becoming increasingly difficult to obtain the services of Parliamentary Counsel to assist honourable members with this work. I am unsure whether I will be able to obtain that assistance tomorrow or Thursday, so that the Bills can be dealt with, as required.

On the motion of the Hon. D. E. HENSHAW (Geelong Province), the debates were adjourned.

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

FIREARMS (AMENDMENT) BILL (No. 2)

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of clause 16.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—When this Bill was previously before the Committee, progress was reported, and the Committee was to discuss clause 16 particularly. Mr Chamberlain sought assurances from the Minister for

Police and Emergency Services in another place on issues relating to the clause. I read a letter from the Minister to Mr Chamberlain stating the government's position on the clause.

The letter states:

Arising from our discussions on the Firearms (Amendment) Bill (No. 2), I am happy to give a number of undertakings on behalf of the government on matters which are not contained in the Bill itself. These undertakings are conditional upon the passage of clause 16 of the Bill in its original form subject to the deletion of the reference to the Governor in Council and the inclusion of a provision for the Firearms Consultative Committee to recommend the prohibition of weapons.

The government will move to have the firearms regulations amended to remove the prohibition of 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. I will request the Firearms Consultative Committee to advise me on the appropriate criteria for the issue of such authorities.

An amnesty period of six months will apply from the date of proclamation of the Act, during which time owners of centre-fire semiautomatic rifles will be required to either apply to the registrar for an authority to possess and use a rifle or surrender the rifle to the registrar in return for compensation.

I have given the original letter to Mr Chamberlain and a copy of it to Mr Hallam. I shall give some examples of what would apply in the case of a request to the Firearms Consultative Committee to advise the Minister on the appropriate criteria for the issue of such authorities. It is envisaged by the Minister that examples at issue would be categories such as deer hunters, pig hunters, competition target shooters and physically impaired persons. There may well be other categories, but the Minister will seek advice from the Firearms Consultative Committee on this issue.

The Hon. B. A. CHAMBERLAIN (Western Province)—To clarify a point, section 32 of the Act refers to the authority to do a number of things in relation to a prohibited firearm, including the authority to sell that firearm. I presume it is implicit, because we are now changing that provision, that another alternative is offered to a person who has a firearm and who would wish to sell it to a person who is entitled to buy it by law.

The Hon. J. E. Kirner—That is correct.

The Hon. B. A. CHAMBERLAIN—There is one other amendment which the Opposition proposes by way of suggested amendment to this clause, and so there is no misunderstanding about that we shall be moving that later in the proceedings; it deals with the issue of compensation. Subject to those matters the Opposition is happy with the assurances given by the Minister.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am happy to accept what Mr Chamberlain has said on both those matters.

The Hon. R. M. HALLAM (Western Province)—When I spoke last on this clause I outlined the stance of the National Party and I mentioned that it was prepared to concede section 32 subsections (4) and (5); in other words, that they should go. Those provisions have protected the many thousands of shooters who happen to own semiautomatic rifles.

Over the past two weeks the National Party has restated that it wanted the authority in relation to the prohibition of weapons to go to the Firearms Consultative Committee and not to the Governor in Council as was originally sought by the government. We want amendments to that effect, and we intend to seek further amendments to protect the membership of the committee. We also want to ensure that any shooter who proposes to surrender a prohibited firearm will receive compensation. We shall be moving an amendment along those lines.

We sought an undertaking from the government in relation to applications for exemptions from prohibitions. We have been given that assurance by the Minister for Labour, and it goes to the heart of the matter that in the future the Firearms Consultative Committee will be determining the basis upon which those exemptions are granted.

All those undertakings have been given and, presuming that the smaller amendment we have sought will ultimately be passed, the National Party will be supporting clause 16.

The Hon. B. A. CHAMBERLAIN (Western Province)—Amendment No. 16 circulated in my name basically creates a special category for military-style firearms and because of the way in which the matter has now been approached by the joint action of the Liberal Party and the National Party, which was agreed to by the government, it is not now necessary to move this amendment.

The Hon. R. M. Hallam interjected.

The Hon. B. A. CHAMBERLAIN—For the reasons outlined, I do not propose to move amendment No. 16, but I remind Mr Hallam about the matter as I believe he has the wrong amendment. Amendment No. 16 would have omitted subsections (4) and (5) and it would have added an additional provision in relation to subsection (3). It has now been agreed that that is not necessary and, for that reason, I shall not move that amendment. I move:

17. Clause 16, line 18, omit "(4)" and insert "(5A)".

18. Clause 16, line 28, omit "(4A)" and insert "(5A)".

19. Clause 16, line 29, omit "or by the Governor in Council".

20. Clause 16, line 30, omit "(4B)" and insert "(5C)".

Amendments Nos 17 and 18 change the numbering of paragraphs. Amendment No. 19 is a substantial amendment. The Bill states:

(4A) An authority given by the Registrar. . .

That is, an authority for a person to sell or possess a prohibited firearm may be varied or revoked by the registrar or by the Governor in Council. The Opposition believes the registrar is the appropriate person, and amendment No. 19 removes the reference, "or by the Governor in Council".

The Hon. R. M. HALLAM (Western Province)—I support the amendments. In fact, amendment No. 19 circulated in Mr Chamberlain's name is the cornerstone to the agreement to which I referred earlier and the deletion of the words "or by the Governor in Council" relates to the declaration of prohibited weapons which is an important component of the agreement.

The amendments were agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

That it be a suggestion to the Assembly that they make the following amendments in the Bill:

1. Clause 16, line 30, omit "may" and insert "shall".

2. Clause 16, line 30, after "payment" insert "of an amount that is not less than the market value of the prohibited weapon immediately before it was prohibited".

3. Clause 16, line 32, after "weapon" insert "that he or she lawfully owned immediately before it became a prohibited weapon".

The suggested amendments deal with the question of compensation. The effect of the suggested amendments is that proposed new subsection (4B), if amended in this way—and it can only be suggested to the other House because of consitutional limitation—will state:

The Minister shall approve the making of a payment of an amount that is not less than the market value of the prohibited weapon immediately before it was prohibited by way of compensation to a person who surrenders to the Registrar, a prohibited weapon that he or she lawfully owned immediately before it became a prohibited weapon.

Subsection (4B) with the suggested amendments, if approved by the other place, will be a force. The Minister shall approve the making of a payment of an amount not less than the

market value of the prohibited weapon immediately before it was prohibited to a person who surrenders to the registrar the prohibited weapon.

So, it is mandatory to pay compensation. Secondly, there must be a surrender. Thirdly, compensation must be at market value of the weapon prior to it being prohibited because, clearly, once the weapon is prohibited the market value will drop dramatically. Finally, compensation should be payable only to a person who lawfully owns the firearm. So, a person with illegal possession of such a firearm is not eligible for compensation.

The Hon. R. M. HALLAM (Western Province)—The National Party supports the suggested amendments moved by Mr Chamberlain. Quite clearly the change from "may" to "shall" in relation to compensation is absolutely critical to the basis of our understanding. If, in fact, compensation shall be paid, the basis upon which that compensation is computed is just as important.

The payment of compensation seems to be a practical way around the problem for those persons who seek to surrender a prohibited weapon, and it is eminently supportable.

The suggested amendments were agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I have circulated a substitute amendment No. 23. I move:

21. Clause 16, line 33, omit "(4C)" and insert "(5D)".

22. Clause 16, line 33, omit "(4B)" and insert "(5C)".

23. Clause 16, after line 35 insert—

"(4D) A firearm must not be prescribed to be a prohibited weapon unless the Firearms Consultative Committee has recommended that it be prescribed as a prohibited weapon.".

Currently the House will be aware that the Governor in Council can make a prohibition without any recommendation from anyone and, as honourable members know, the blanket ban on semiautomatic rifles was made without any recommendation from anyone. On examination, it was shown to be unenforceable, unworkable, unfair and a lot of nonsense.

Therefore, with Mr Hallam's amendments, this amendment will guarantee that the Firearms Consultative Committee will ensure that the only action that can be taken to outlaw any sort of firearm will be on the recommendation of that specialist committee in which the Liberal and National parties have confidence.

It is an extensive safeguard to ensure that the community is not subjected to knee-jerk blanket bans on ranges of firearms and yet if a firearm is introduced, for example, a burstfire semiautomtic ·22 rifle, that sort of weapon can still be outlawed on the recommendation of the Firearms Consultative Committee. This is a necessary safeguard, and I commend it to the Committee.

The Hon. R. M. HALLAM (Western Province)—The National Party supports the amendment outlined by Mr Chamberlain, primarily because it is part of the compromise to which it has agreed and also because it takes away from the government the authority to determine the prohibition of firearms on a blanket scale.

When the government sought the authority to prohibit firearms by way of regulation, the National Party was given a whole range of assurances that that authority would not be used on a grand scale. At the time it was told that the provision was there as a weapon of last resort to overcome the incidental problems to which Mr Chamberlain has just alluded; but what happened was that the government went out and banned thousands of weapons, many of which had been in the community for years and had been used safely over that period..

The new amendment is an important protection mechanism as it transfers the authority in relation to the prohibition of weapons to the Firearms Consultative Committee which is most responsible and pragmatic in its outlook. This is a further cornerstone of the

agreement upon which the parties have tied their undertaking to allow section 32 (4) and (5) of the original Act to be deleted.

The Hon. B. A. MURPHY (Gippsland Province)—The amendment comes to the crux of the whole firearms issue. The Firearms Consultative Committee members should be the people who suggest changes to firearms use and governments should be guided by these experts. The people who will be appointed to the committee will be responsible and will direct the government properly.

I support the amendment, and I am sure that most other honourable members, including the Minister for Police and Emergency Services, support the measure, and I am glad that the Minister has agreed to it.

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

Clause 17

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to vote against this clause.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Minister's invitation to vote against the clause is the same invitation I have included in my amendment No. 24. It is important because we have just inserted a provision that allows the Registrar of Firearms to give authority for people to possess, use and sell prohibited firearms.

Under clause 17 it was proposed that there be no appeal from the decision of the registrar. By deleting the clause the appeal mechanism available under section 43 of the Act is maintained, and that is important. Right from the beginning when the Bill was outlined the Opposition said it opposed any move to cut out appeals either to the Firearms Consultative Committee or to the Magistrates' Court and, subsequently, I am pleased that all parties are at one on the issue.

The Hon. R. M. HALLAM (Western Province)—As has already been outlined, clause 17 sought to remove the grounds for appeal against the refusal of the registrar to grant an authority to own, possess or sell prohibited weapons. This is an important component of the proposed legislation. The clause was quite simply a denial of natural justice and the National Party is delighted that it will be deleted from the Bill.

The clause was negatived.

Clause 18

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to vote against this clause. The amendment is the next step in relation to the right of appeal. It restores the right of appeal to a Magistrates Court against a decision of the Firearms Consultative Committee.

The Hon. R. M. HALLAM (Western Province)—On the grounds just outlined by the Minister, the National Party is delighted to accept the invitation.

The clause was negatived.

Clause 19

The Hon. R. M. HALLAM (Western Province)—I do not intend to proceed with amendment No. 36 circulated in my name, which seeks to omit this clause. The clause relates to the exemption from firearms registration which is currently enjoyed by members of rifle clubs and members of cadet corps that are administered under Federal legislation. The National Party has been given some assurances in relation to the transfer rights of those members. On those grounds the National Party is satisfied, and I shall not proceed with my amendment.

The clause was agreed to, as was clause 20.

Clause 21

The Hon. R. M. HALLAM (Western Province)—I shall not proceed with amendment No. 37 standing in my name, because the National Party has received the assurances it sought in relation to the clause.

The clause was agreed to.

Clause 22

The Hon. R. M. HALLAM (Western Province)—Clause 22 seeks to remove the function of the Firearms Consultative Committee to approve shooting organisations. The government sought to transfer that responsibility to the Governor in Council. The National Party believes that would establish a dangerous precedent. Because the government has agreed to delete the clause, I shall not proceed with amendment No. 38 standing in my name, as well as the subsequent amendments Nos 55 and 56.

Because the government had announced its intention to assume a right of approval of shooting organisations, the National Party saw the need for an additional protective mechanism. What I was seeking to do through those amendments was to establish a schedule of those organisations that have already been approved by the Firearms Consultative Committee. The National Party intended to give the Firearms Consultative Committee the authority to add to that list and simultaneously to ensure that deletions from that list could be achieved only by action taken by the Parliament.

The amendments sought to deprive the government of the opportunity of blackmailing individual shooters' clubs. Unfortunately this protection was necessary because the government had told the shooters' organisations that if they did not toe the line their "approval" would be taken away from them. The National Party was concerned at that prospect, especially as shooters who had qualified for shooters' licences through their membership of such clubs would lose that right. Those shooters would not be able to join another club because of the six months' membership qualification provision in the Bill and would therefore be required to surrender their firearms. The National Party regarded the provisions in the clause as dangerous, and it is delighted that the government has given notice of its intention to delete the clause.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to vote against the clause on the ground that it is the intention of the government to restore the function of the Firearms Consultative Committee to approve sporting and recreational shooters' organisations and clubs.

The clause was negatived.

Clause 23

The Hon. R. M. HALLAM (Western Province)—I move:

39. Clause 23, lines 33 and 34, omit '"20 penalty units or imprisonment for not more than six months"' and insert '"1 penalty unit"'.

Amendment No. 39 standing in my name relates to the penalty attached to failure to produce a gun dealer's licence; I am not talking about the offence committed if a gun dealer trades without a licence, I am talking about the offence committed if a gun dealer simply cannot produce his licence. The penalty involved is an extraordinary one. The Bill provides for a penalty of $2000 and/or six months' imprisonment for an unlicensed gun dealer. The clause provides for exactly the same penalty to apply if a gun dealer cannot produce his licence, even though he may be licensed.

To understand that reasoning I referred to the recommendations made by the review team appointed by the government. The members of that team were Bob Emslie, the Acting Deputy Secretary of the Ministry for Police and Emergency Services, Superintendent Brian Fennessy, the former Registrar of Firearms, and Ted Clarke, a licensed firearms holder and a representative on the Firearms Consultative Committee. The review team

recommended that the offence be deleted from the Bill, yet the penalty provided for in the Bill is one of $2000 and/or six months' gaol. That is bizarre!

If a trader is trading without a licence, the prescribed penalty is a fair one. To suggest that the same penalty should apply because a licensed trader cannot produce his licence on demand is absurd. The National Party proposes that those penalty provisions ought to be replaced by "one penalty unit". That is exactly the same penalty that will apply if a firearms trader is unable to produce the register required to be kept under the provisions contained in the Bill. The penalty proposed for a licensed trader who is unable to produce his licence is absurd. I seek the support of the Liberal Party to have the draconian penalty proposed by the clause reduced to a minimum.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Liberal Party will support Mr Hallam's amendment.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—I move:

40. Clause 23, page 11, line 11, omit "20" and insert "5".

41. Clause 23, page 11, lines 11 and 12, omit "six months" and insert "one month".

Both amendments relate to the offence of being an unlicensed shooter. Prior to October 1987, the penalty for the offence of being an unlicensed shooter was $200 and or two months in gaol. In 1987, the government sought to increase that penalty to $2000 and/or six months' gaol. The National Party was strenuously opposed to that. The National Party begrudgingly agreed to compromise so that the penalty for such an offence became $1000 and/or three months' gaol. I recall Mr Reid saying that the Liberal Party was persuaded by my arguments at that time.

The Hon. N. B. Reid—Almost!

The Hon. R. M. HALLAM—Mr Reid was almost persuaded! The government went back on its word and is now seeking to increase the penalty to $2000 and/or six months' gaol. Such an action proves to me that the National Party should not have compromised with the government. All that has occurred is that the government has sought a further compromise on the penalty to be included. Little by little the government is hoping to achieve its original objective.

The National Party does not believe the offence of being an unlicensed shooter warrants a penalty of $2000 and/or six months' gaol. When the firearms legislation was debated last year I said that in such a circumstance no victim is involved and, in that sense, no crime is committed. If a shooter commits a criminal offence, severe penalties will be applied. Such offences include the use of a firearm in the conduct of an indictable offence, for which the penalty is five years' gaol. That penalty has been increased from two years' gaol. I presume the government will support the amendment, which ensures that the penalty of five years' gaol cannot be served concurrently with any other penalty incurred for the same offences.

So what we have is a mandatory and very severe penalty. It is five years' imprisonment if a criminal offence is committed. Under a proposed Liberal Party amendment, which the National Party will support, if a shooter conceals a firearm for the purpose of committing an indictable offence, the penalty shall also be $5000 or five years' imprisonment. No-one can argue that that is not a severe penalty. If a shooter wilfully damages property, it is proposed to impose a penalty of $5000 or five years' imprisonment. Again, no-one can argue that that is not a severe penalty. Again I indicate that the National Party will support that proposed amendment.

If a shooter enters a property without permission, he is subject to a penalty of $500 or one month's imprisonment. Again, under a proposed Liberal Party amendment, which the National Party will support, a second offence will incur a penalty of $1000 or six months' imprisonment. Again, they are severe penalties. If the offender is carrying a

loaded firearm, or discharges it on the road or in town, there is a penalty of $500. I remind the Committee that all these penalties include the confiscation of the firearm.

The Committee is now considering a penalty of $2000 or six months' imprisonment simply because the shooter is not licensed. That is incredible. The ironical part is that if the shooter lends his licence or impersonates a licensed shooter, which I believe is a far greater offence, the penalty is exactly the same.

On the grounds of fairness and equity, the penalty imposed by that provision is absolutely absurd. It will be a $2000 fine or six months' imprisonment for an unlicensed shooter. The penalties sought are draconian. The National Party went back to the recommendations of the Firearms Consultative Committee review team to which I referred earlier. That review team was given the brief by the government to review all aspects of firearms legislation, and particularly to review penalties. Page 8 of that report refers to four levels of penalties, and recommends that the penalty for this offence should be a class C. In this case, the penalty should be $500 or one month's imprisonment. That is dramatically different from the $2000 and six months' imprisonment sought under this measure.

If the Committee is to be consistent—and the National Party has been consistent all along—it should adopt the recommendations of the review team. That is the point the National Party put to this Chamber in November last year. The National Party still believes the penalty of $500 or one months' imprisonment is severe, given that it also involves the confiscation of a firearm. I appeal to members of the Committee to reduce the penalties for this offence and to provide something that is more in keeping with the crime.

Again I remind the Committee that if the offender lends his licence or impersonates the licence-holder under this Bill, an identical penalty is incurred. The provision will have an extreme impact and I ask the Committee to support my amendments in light of the arguments I have put forward.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government rejects the amendment. It believes that unlicensed possession of a firearm other than a pistol requires increased penalties because this is a vital point in the government's position. If we are to have guns in this community, they must be handled responsibly. The government believes the increase in penalty to 20 units or six months' imprisonment is an appropriate deterrent to unlicensed possession of a firearm. I note that this view has been strongly supported in public by the Liberal Party, which has stated that, where appropriate, the penalties ought to be increased.

The Hon. B. A. CHAMBERLAIN (Western Province)—On this issue I am inclined to use the Solomon principle and stick somewhere in the middle, which is the position honourable members were in last November. The penalty was increased substantially at that time, but a couple of elements must also be considered. Firstly, we are talking about maximum penalties, so, given the sorts of sentences handed out by the courts, the figures are academic anyway—they are the maximum. The court may or may not impose a sentence close to the maximum. It will depend on whether there are prior offences. As honourable members debated this issue only as recently as last November, the Liberal Party proposes both to vote against the amendment and to vote against this clause. It will seek to have stand the penalty which honourable members inserted last November.

The Hon. R. M. HALLAM (Western Province)—I find it extraordinary that the government of the day would go to the trouble of establishing a Firearms Consultative Committee to review all aspects of firearms legislation, and particularly to review penalties, and then, within a matter of months, to ignore its recommendations.

I remind the Committee that the review team was established in recent times. This is not something that I dragged out from the archives—this is current advice. It is the recommendation of experts appointed by the government, which state that the penalty should be $500 or one month's gaol. I appeal to my Liberal Party colleagues to take on

board the fact that what it is now seeking to do is to impose a penalty which is as severe in this instance as it would be if the shooter impersonated a licence-holder or used the licence of another shooter.

The Hon. J. E. Kirner—It is already in the Act. You are actually trying to change the Act.

The Hon. N. B. Reid—You agreed to it in November.

The Hon. R. M. HALLAM—Perhaps the National Party did agree to it, but it was dragged kicking and screaming. I remind the Committee again that what the National Party is now proposing is precisely what it proposed in November, irrespective of the compromise that was reached. Again I refer to the government's own review team which recommended a penalty of $500 or one month's imprisonment, which I believe is appropriate.

The Hon. B. A. CHAMBERLAIN (Western Province)—Mr Chairman, there is a mechanical problem in doing what I suggested to the Committee, in the sense that this provision is only part of a larger clause. I invite the Minister to withdraw that provision, and that will keep the penalty that was imposed only last November, which involved a substantial increase.

The Hon. J. E. Kirner—And, if I don't agree to that, you will support the National Party?

The Hon. B. A. CHAMBERLAIN—No. I believe the penalty proposed by the National Party is too low. I am having some difficulty with this, but I suggest that the Committee postpone this clause and return to it later.

The Hon. B. P. Dunn—The clause or the subclause?

The Hon. B. A. CHAMBERLAIN—Can the Committee skip over these amendments and debate another amendment to the clause? What I am proposing to the Committee would be much easier if this were a separate provision.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government's position is clear on this matter. For an offence such as unlicensed possession of a firearm other than a pistol, penalties should be increased. I understand what Mr Chamberlain is doing. He is not exactly exercising the wisdom of Solomon but he is trying to have it both ways. I am not prepared to support that position. The Opposition's position has been clear throughout the debate and that position has been made public. That is, that where it is warranted, strong penalties should apply. That is simply what the government is saying.

On the point raised twice by Mr Hallam, that the Firearms Act Review Team was established to report to the Firearms Consultative Committee, that is true; it was. It reported late last year but it has not yet finalised its position and it has not finalised its recommendations to the government.

The Hon. R. M. Hallam—This is the review team you are speaking of?

The Hon. J. E. KIRNER—Indeed, the Firearms Consultative Committee's review of the review team's position. The government's position is clear. It is not appropriate to do what the National Party suggests by amendments Nos 42 and 43, to decrease penalties.

On the point made by Mr Chamberlain that the penalties should stay as they are and not be increased, the government does not agree with that proposition either. I suggest that Mr Chamberlain might vote with the government on this clause and, when the Firearms Consultative Committee has reported to the government on the general recommendations concerning the Act, this might be further taken into account in what, I am sure, will be continuing debate on this issue.

The Hon. N. B. REID (Bendigo Province)—On that point, the Minister is moving along a line that would seem to indicate that she will accept the Firearms Consultative Committee's findings on the review of the Firearms Act Review and we will come back to the House and accept whatever the Firearms Consultative Committee has decided.

I thought the Minister gave that indication. If that were the case, as Mr Hallam has said, the Firearms Review Committee indicated that a penalty of $500 would be required. The Minister is now asking the Firearms Consultative Committee to examine that review and come back with a recommendation. Are you now say that you will not accept that either?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I was saying that the next process after this is for the Firearms Consultative Committee to complete its recommendations to the government on this and other issues and that the government will take those recommendations into account; and that will form the basis, no doubt, for further discussions on the firearms legislation. I am not prepared to commit the government and, in particular, the Minister to accepting what we do not know is yet in the Firearms Consultative Committee's report. That would be absolute nonsense.

I reiterate that the government does not agree with the position of the National Party on this clause. Penalties should be increased. I suggest that Mr Chamberlain sticks with the Opposition's position as stated publicly, that it believes in most instances there should be increased penalties for abuses and that, when the Firearms Consultative Committee reports, the matter can be further considered.

The Hon. B. A. MURPHY (Gippsland Province)—Although I agree with the Minister, some consideration should be given to the circumstances of certain cases. For instance, if a person were on holidays in a country area and went out with a licensed firearm owner who was shooting rabbits in a paddock 100 miles from nowhere, and if the licensed firearm owner gave the rifle to his friend to hold while he was doing up his shoelace, and if a policeman arrived on the scene and apprehended him with the rifle, he would be liable to six months' gaol or a $500 fine. That is wrong. Circumstances exist where a mandatory sentence should not apply.

The Hon. B. A. CHAMBERLAIN (Western Province)—Although this is a little unusual, I seek, by leave, to postpone consideration of the amendment until I receive instructions from the shadow Minister in another place. He has ultimate responsibility in this matter. Unfortunately, he is on his feet in the other House at the moment.

The Hon. R. M. HALLAM (Western Province)—I am relaxed about that but I suggest it should also apply to amendments Nos 42 and 43 standing in my name because they, too, relate to the penalties applying to an unlicensed shooter. In fact, I am not sure why that offence is duplicated. I suggest that while Mr Chamberlain is seeking instructions on the Liberal Party's stance, the Minister may take the opportunity to seek advice on why that offence has been duplicated in the Bill.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am not prepared to take up Mr Hallam's suggestion but I am prepared on this clause—and this clause only—to be obliging enough to Mr Chamberlain to allow him to seek instructions to clarify the Opposition's intentions.

The clause was postponed.

Clause 24

The Hon. R. M. HALLAM (Western Province)—Amendments Nos 49 and 50 sought to protect members of rifle clubs or cadet corps which were formerly covered by the administration of the Commonwealth and as such required no registration of their firearms and indeed were not required to hold shooters' licences.

Because the administration of those clubs would go across to the State and that protection to members would not apply, the National Party sought to gain protection for those transferring members. Transitional arrangements under clause 24 are okay so far as they

go but an assurance was needed that club members would not be subject to the cooling-off period for applications for licences and, indeed, would not be subject to the test upon licence application.

The Minister gave that assurance when the Bill was last debated and, for that reason, I do not intend to proceed with amendments Nos 49 and 50.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

15. Clause 24, lines 33 to 36, omit sub-clause (4).

This has the effect of omitting subclause (4). It removes a transitional provision and is consequential upon the restoration of a further right of appeal to a Magistrates Court.

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

Postponed clause 8

The Hon. B. A. CHAMBERLAIN (Western Province)—When clause 8 was previously before the Committee, there was some confusion about which amendment was being moved at one particular time. Amendment No. 8 standing in my name has already been agreed to, and I seek the leave of the Committee to withdraw that amendment and to move amendment No. 7. Amendment No. 7 will reverse the position relating to section 22A (6) of the 1987 Act. That section deals with renewal of licences.

It provides that shooters' licences may be renewed for a period of three years, or six years on application. The Opposition is seeking to reinstate that provision. What the government is proposing is quite different from that and the reasons have been spelt out earlier. The Opposition believes the criteria for being licensed should be reconsidered. A person who is not under eighteen years of age, who has good reason to possess a firearm, who has successfully completed a course on firearm safety approved by the Firearms Consultative Committee, who has good knowledge of firearms, who is of good character, who can ensure that the firearms will be securely stored, who has not made a false statement and who is not otherwise unsuitable to possess a firearm, given that the registrar has a fairly broad power to cancel licences, the view of the Opposition, which I expressed on the last occasion the debate was held, was that, having established the criteria and kept his nose clean, there is no necessity for that person to go through the process of renewal again.

I remind the Committee that the licence to drive a motor car is for three or six years, and when that licence is due for renewal one does not have to undergo a new test but simply fills in an application form and pays the fee. If, prior to that event, one has broken the road rules, been found guilty of drink driving or whatever, the licence will be taken away. I regard that process as being in no way in a different category from the renewal of shooters' licences. The Opposition is seeking to restore the position adopted in legislation passed to amend the Firearms (Amendment) Act in 1987.

The Hon. R. M. HALLAM (Western Province)—When the Committee last met honourable members discussed amendments to clause 8 (5) relating to the renewal of licences in section 22AA (6). I also remind the Committee that the current law is that a shooter's licence may be renewed for a period of six years or three years on application by the holder, unless cancelled under section 22AA (5). I remind the Committee that, under section 22AA (9), the registrar may cancel the shooter's licence of any person if, in the registrar's opinion, the licensee:

(*a*) has proved to be irresponsible in the knowledge, care and use of the firearm or has failed to keep it in secure storage when not in use;

(*b*) has shown not to be of good character;

(*c*) has wilfully made any statement in his application for a shooter's licence, which he knows to be false or misleading in a material particular or in accordance with the 1987 amendment; or

(*d*) has proved to be otherwise unsuitable to possess a firearm.

I further remind the Committee that, in order to obtain the licence in its original form, the applicant had to prove that he was not under eighteen years of age, had good reason to possess the firearm, had successfully completed the course on firearm safety approved by the Firearms Consultative Committee, had good knowledge of firearms laws, was of good character, would ensure the firearms were securely stored when not in use, had not made false statements in the application and was otherwise not unsuitable to possess a firearm.

The National Party puts to the Committee that that is a reasonable screening process. Therefore, it is not prepared to support amendments that were sought in the Bill. The Bill sought to impose even further requirements on the renewal of licences. It refers to the qualifications of people being either primary producers or persons who, for the preceding six months, had been members of approved shooting clubs, or having an occupational need. The government sought to add an additional qualification, namely that a person had to have a good reason to possess a firearm.

The National Party supported the government's amendments Nos 4 to 8 because they somewhat softened the original unrealistic requirements in relation to licence renewal, particularly insofar as they deleted membership of an approved shooting club as a condition of renewal, but it intended to support the Liberal Party's amendment No. 7 standing in Mr Chamberlain's name which would have simply reinstated the previous arrangements regarding licence renewal. The National Party became alarmed when that amendment was not put. That is why it sought "time out" while the debate was in progress. If that Liberal Party amendment had not proceeded, I assure the Committee that the National Party would have moved an amendment to that effect. On those grounds, the National Party will now support amendment No. 7 standing in Mr Chamberlain's name, which seeks to remove clause 8 (5).

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government wishes to oppose this amendment. I restate the position that I clearly stated at the time when the Opposition was almost voting the right way. In the government's view, just as there is a need for an applicant for a new shooter's licence to demonstrate that he or she has good reason to posess a firearm, there is also a need for that person to demonstrate three years down the track, that good reason continues to exist. This reflects back to the government's principled position that to have a gun in one's possession is a matter of responsibility, not a right. The government's intention is to ensure that it is essential that the renewal of a shooter's licence be conditional upon the holder demonstrating good reason to continue to possess a firearm.

The amendment provides for renewal of a licence if the holder is still engaged in primary production, still has genuine need for a firearm in his occupation or can demonstrate some other good reason—which is fairly wide—to continue to possess a firearm. I believe it is the general community's view that there should be a regular check on the bona fides of licensed shooters, and this will create tighter control over the number of firearms, so the government will oppose the amendment.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! Mr Chamberlain has sought leave of the Committee to withdraw his amendment No. 8.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—No.

The Hon. B. A. CHAMBERLAIN (Western Province)—The fact is that amendment No. 8 is an uncontentious amendment that the Committee has agreed to. I understand that it is necessary—I do not necessarily agree with it—to withdraw the amendment so that the Committee can return to amendment No. 7, which is the one honourable members have been debating. I am advised that the Committee has not agreed to amendment No. 8.

By leave, amendment No. 8 was withdrawn.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

7. Clause 8, page 5, lines 3 to 17, omit sub-clause (5).

The Committee divided on the question that the subclause proposed by Mr Chamberlain to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	20
Noes	22
Majority for the omission	2

AYES	NOES
Mr Arnold	Mr Baxter
Mrs Coxsedge	Mr Birrell
Mr Crawford	Mr Chamberlain
Mrs Dixon	Mr Connard
Mrs Hogg	Mr de Fegely
Mr Kennan	Mr Dunn
Mr Kennedy	Mr Granter
Mrs Kirner	Mr Guest
Mr Landeryou	Mr Hallam
Mrs Lyster	Mr Hunt
Mrs McLean	Mr Knowles
Mr Mier	Mr Lawson
Mr Murphy	Mr Long
Mr Pullen	Mr Macey
Mr Sandon	Mr Miles
Mr Van Buren	Mr Storey
Mr Walker	Mrs Tehan
Mr White	Mrs Varty
	Mr Ward
	Mr Wright
Tellers:	*Tellers:*
Mr Henshaw	Mr Evans
Mr McArthur	Mr Reid

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 amendment makes it clear that in respect of a farmer's licence, which is now applicable both for his family and his employees, no fee is payable.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—My amendments Nos 19 and 20, which sought to decrease the fees, have been superseded by Mr Chamberlain's amendment No. 8, which was agreed to by the Committee. I give notice of a further amendment that I have circulated on a separate sheet.

I seek to move a further proposed amendment that effectively will implement the concept that a reduced fee be introduced in relation to licence renewal. This is becoming complicated because the Liberal Party amendment was agreed to by the Committee. I wish to move that the Committee suggest an amendment to section 22AA (7) of the principal Act to include the words——

The CHAIRMAN (the Hon. G. A. Sgro)—Order! The Committee has only a further amendment to clause 8 but does not have the suggested amendment to which Mr Hallam is now referring.

The Hon. W. R. BAXTER (North Eastern Province)—The complication, Mr Chairman, is that the amendment that has been circulated in Mr Hallam's name and which is before

the Committee is couched in terms of the Bill as it was drafted before the Committee agreed to Mr Chamberlain's most recent amendment. Therefore, I believe Mr Hallam was endeavouring to suggest an amendment that has been reworded to take account of the amendment the Committee has just agreed to.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! The Committee does not have that detail before it.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—As the Committee does not have Mr Hallam's proposed further amendment in front of it, it is impossible for the Committee to deal with the amendment. Therefore, I suggest the Committee moves on to other items and, if necessary, comes back to Mr Hallam's amendment, although I do not believe it is necessary to do so.

The Hon. B. A. CHAMBERLAIN (Western Province)—As I understand it, the purpose of the amendment is to provide half fees for renewal of licences.

The Hon. R. M. Hallam—Yes.

The Hon. B. A. CHAMBERLAIN—The Opposition does not agree with that proposal because considerable additional expenditure will be incurred as a result of the new training scheme. It is obvious that the fees generated by licences will be insufficient to meet those and the other expenses of running the system.

The Hon. R. M. HALLAM (Western Province)—On a point of order, Mr Chairman, I have not had a chance to put the argument for my foreshadowed amendment.

The CHAIRMAN—Mr Hallam's proposed amendment has not been circulated, but it has just been given to me and I call him on the proposed amendment.

The Hon. R. M. HALLAM—I thank the Committee for its indulgence. The proposed amendment includes words that have now been deleted by the carriage of Mr Chamberlain's amendment. The effect of what I want to move is to include in section 22AA (7) of the Act the words "and (V)—renewal of licence $10". The National Party believes that the reduced fee should apply, irrespective of the category or duration of the licence.

The National Party, on many occasions, has supported the New Zealand model of firearms legislation which takes the concept of a one-time licence and a one-time fee one step further by deleting the renewal cost of the licence. It is the same model which the government's expert advisers have publicly supported. I intended to move for a one-time licence, but that was not achievable in the current climate, so I have sought the compromise of a reduced fee for renewal of a licence.

In canvassing the proposed amendment, I make the point that the Committee has not heard one word from the government as justification for the increase in shooters' licence fees, either now or last November when the fees were increased substantially. When the government came to power the licence fees were $2 a year; in December 1983 they were increased to $15 a year. The Bill sought to increase the fees to $25 a year, but that clause has since been amended in Committee and the fee remains at $15 a year.

On what grounds is the increase justified? It cannot be for any improvement in shooters' facilities, such as the purchase of wetlands or things of that nature, because those funds come from the game fee. It cannot be related to registration, even though that is what the Treasurer implied, because registration has its own one-time fee. Could it be that it is simply another hurdle in the way of private gun ownership? The government would not increase the fees as a revenue-raising exercise, as Mr Murphy now cynically suggests. Surely it is not an attempt to establish a fund from which shooters who lose their firearms will be compensated. No one would be cynical enough to suggest that the government would go down that track. That leads me to the conclusion that the increase in fees must be because of the additional new licence testing system to which Mr Chamberlain referred a few minutes ago. The government has no other justification for the increase in fees.

I refer honourable members to the comments of the Premier—throw-away lines—where he alluded to the fact that the new testing system would be very expensive. If that is the case, the government has no argument because the testing system does not apply to the renewal of licences, only to the original licence and, therefore, it cannot be argued that the same fee can apply on renewal as applies on the original gaining of the licence.

The National Party has estimated what it will cost the government to renew licences. It will involve a new photograph and the issue of a plastic laminated licence. The National Party takes the view that that should cost no more than $10, and it is on those grounds that it suggests that figure as the renewal fee.

If the government argues that the licence testing system is so expensive, as Mr Chamberlain now implies, I make it clear that the National Party does not support an increase in fees, because there is no testing applicable at the time of renewal of the licence and the government therefore has no valid argument for an increase in the fees.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes Mr Hallam's position and the proposed amendment. In establishing the costs of both the initial licence and the renewal of the licence, the government must ensure that shooters contribute sufficient funds to enable the system to run properly, in the interests of the community and the shooters.

Part of the upgrading of that service to shooters and the protection of the community is the appointment of 23 district firearm officers, which will decentralise the administration of the system and enable people to work through what is now complex proposed legislation, with the assistance of those coordinating officers.

As Mr Chamberlain indicated, the training program that is now required as part of the licensing system will be quite expensive but very valuable. Mr Hallam has tried to isolate the renewal part of the charge to stand by itself and says that the renewal system does not cost that much and, therefore, the government should reduce the cost of the licence renewal. That is not the government's position. It has tried to cost carefully what is required for a system that is in the interests of the shooters and the community, and it believes it has adopted an appropriate level of charge.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition cannot support the proposed amendment.

The CHAIRMAN—The proposed amendment is not in a proper form. The issue has been canvassed and the Committee will now proceed to the next clause.

The Hon. W. R. BAXTER (North Eastern Province)—It is appropriate to place on the record, as I have done on other occasions, that the procedure of the Committee leads to honourable members getting into certain difficulties, particularly when the Committee deals with complicated matters; and this Bill is exceedingly complicated because amendments have been circulated by the government, the Opposition and the National Party. It takes the wisdom of Solomon for honourable members to work out where the Committee is up to.

The Hon. B. W. Mier—Sit down, you mug!

The Hon. W. R. BAXTER—Mr Mier, you make very little contribution to the proceedings of the House and, on occasions when matters are complicated and of the utmost importance, all you do is add to the difficulty.

It may be appropriate for the Standing Orders Committee of the House or another committee to examine the procedures of debate so that these situations do not arise.

The reason that Mr Hallam has been unable to get the amendment into the form that the Committee would want it to be in and is entitled to have it in is the complicated nature of the debate and the fact that he was unable to presuppose that the Committee would take certain actions. The amendment Mr Hallam had proposed to move was entirely in

order with the amendments that had been previously circulated and with the form of the Bill.

I can understand the difficulty. I have some difficulty in trying to formulate the amendment to take account of the amendment that has just been made by the Committee. The National Party will not press the matter any further other than to say it has canvassed the issues. It is thoroughly disappointed that the government and the Opposition have indicated they are not prepared to accept the idea and the thrust of the amendment.

There is no doubt in my mind that the Committee understands what Mr Hallam is endeavouring to achieve. The only difficulty is getting the proper wording. Therefore, there can be no excuse that there is difficulty in understanding what he is trying to do. I am disappointed that the government and the Opposition do not see the wisdom of his argument.

The Hon. J. E. KIRNER (Minister for Conservation, Forest and Lands)—That is a little unfair. It is true that this has been a very complicated debate, and I believe all parties have been quite generous in the way they have worked through it. There has been lengthy consultation on every one of these amendments. It is apparent that Mr Hallam has found one that is not exactly the way he wanted it but, with the support of the Opposition, I allowed the debate to go ahead without an amendment being before the Committee, which is a fairly generous thing to do. We have canvassed the issue very clearly, and the issue that Mr Hallam raises would be defeated if he had an amendment before the Committee.

Just for the glory of having the actual wording in the amendment, for Mr Baxter then to say that we are being unreasonable in the time we have devoted to discussing a non-amendment before the Committee——

The Hon. W. R. Baxter interjected.

The Hon. J. E. KIRNER—Mr Baxter said he was very disappointed. As I said, we have been very generous. I acknowledge Mr Hallam's work on the whole debate, but in this case there is no amendment before the Committee. The intentions of the Committee are clear, and I believe it should proceed to the next clause.

The Hon. D. M. EVANS (North Eastern Province)—Honourable members are engaging in debate on a rather difficult and complicated area. Mr Hallam may well desire to have his vote recorded in the formal fashion that the procedures of this place allow, by form of division, on an issue he wants put before the Committee. He has been prevented from doing so because he was totally unable to predict what course the Committee may take in order to have presented at exactly the right time his amendment in a form that was correct so that the Committee could deal with it and vote on it.

It is being said that because of these complications Mr Hallam should not have the right that I believe every member of this place should have, to be able to put his or her amendment to any piece of proposed legislation and to call for——

The Hon. J. E. Kirner—It is not in front of the Committee.

The Hon. D. M. EVANS—The reason that the amendemnt is not before the Committee is that a number of other changes have been made which Mr Hallam could not predict.

The Hon. J. E. Kirner—Sit down before you ruin the whole debate!

The CHAIRMAN (the Hon. G. A. Sgro)—Order!

The Hon. D. M. EVANS—If an honourable member wishes to record his or her vote in the form of a division, he or she should have the opportunity of doing so. Adequate time should be made available for Mr Hallam to draw up the necessary amendment, so that we do not have the sort of argument we have had here.

The CHAIRMAN—Order! As I said before, the Committee does not have before it an amendment moved by Mr Hallam. Therefore, I intend to proceed with the Bill, and I call on the Minister to move her amendment No. 9 to clause 8.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

9. Clause 8, page 5, lines 28 to 42 and page 6, lines 1 to 4, omit sub-clause (7).

The impact of this amendment is consequential on the removal of the requirement for sporting shooters to join gun clubs. It restores as a reason for the cancellation of a shooter's licence the fact that the holder is unsuitable to possess a firearm.

The amendment was agreed to, and the postponed clause, as amended, was adopted.

Postponed clause 23

The Hon. B. A. CHAMBERLAIN (Western Province)—The amendment moved by Mr Hallam to this clause relates to the penalty for the unlicensed shooter. The current Act provides for a penalty of up to $1000. The National Party proposes a penalty of up to $500. The Bill proposes a penalty of up to $2000.

I have received instructions to support the provisions in the Bill and to indicate a couple of reasons for doing so. The whole structure of the Bill is designed to make sure that people are not shooting without the appropriate authority. Honourable members have argued about that and everyone agrees that that is the basis on which the system should operate. The consequence of that is that there must be a reasonable penalty. Honourable members can argue as to what that figure should be.

I make the point that I have made before: these are not maximum penalties. In other words, we give the courts a wide discretion to take into account all the circumstances of a particular case and to decide what the penalty should be. Therefore, in one case the penalty may be $100 and, in another case, where it is perhaps a second or third offence, it could amount to more than $1000. Therefore, we give the courts those discretions, and the Opposition will support that provision in this clause.

The Committee divided on the question that the expression 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 Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Chamberlain	Mr Hallam
Mr Connard	
Mrs Coxsedge	*Tellers:*
Mr de Fegely	Mr Evans
Mrs Dixon	Mr Wright
Mr Henshaw	
Mrs Hogg	
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Landeryou	
Mr Lawson	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Mier	
Mr Murphy	
Mr Pullen	

AYES	NOES
Mr Reid	
Mr Sandon	
Mr Storey	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr Walker	
Mr Ward	
Tellers:	
Mr Crawford	
Mr Granter	

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

25. Clause 23, page 11, after line 14 insert—

'( ) In section 22AG after sub-section (2) insert—

"(3) If a person is convicted of an offence under this section—

(*a*) any shooter's licence, permit or other authority under this Part held by that person is cancelled; and

(*b*) the person is not entitled to apply for or be granted a shooter's licence, permit or other authority under this Part during the period of three years after the conviction." '.

The Bill contains a series of penalties and the Opposition proposes to increase the penalties which generally come under the category of licence offences in the sense of licence lending or persons having forged licences, and so on. Any offences dealing with pistols—because of their nature, they can be concealed—should have increased penalties. There should be a new penalty for persons having concealed weapons. The first penalty, which is dealt with in amendment No. 25, deals with licence lending.

The Opposition proposes that a person who is involved in licence lending be precluded from applying for a licence for another three years, in addition to the penalty proposed by the government.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

26. Clause 23, page 11, line 16, omit "20" and insert "40".

27. Clause 23, page 11, line 17, omit "six" and insert "twelve".

The amendments deal with the unlicensed purchase or possession of pistols. Amendment No. 26 proposes to double the penalty from 20 to 40 units. Amendment No. 27 seeks to increase the present sentence from six to twelve months.

The amendments were agreed to.

The Hon. R. M. HALLAM (Western Province)—I do not intend to move amendments Nos 42 to 43. They relate to the offence of being an unlicensed shooter. The amendments that have already been tested by the Committee and were defeated. In passing, I ask the Minister to explain why the offence of being an unlicensed shooter appears in two places in the offence provisions.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I cannot do so, but I shall seek advice on it.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

28. Clause 23, page 11, line 26, omit "20" and insert "40".

29. Clause 23, page 11, line 27, omit "six" and insert "twelve".

The amendments relate to the unlicensed carriage or use of pistols. The proposal is to increase the penalty to 40 penalty units or 12 months' imprisonment.

The amendments were agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

30. Clause 23, page 11, after line 27 insert—

'( ) After section 23 (5) insert—

"(6) A person who, for the purpose of committing an indictable offence, carries a firearm which is concealed from view is guilty of an offence.

Penalty: 50 penalty units or imprisonment for 5 years.

(7) A person who wilfully injures or dmages property by the use of a firearm is guilty of an offence.

Penalty: 50 penalty units or imprisonment for 5 years.";'.

The amendment provides for two new offences. The first offence is the carrying of a concealed firearm. In a number of jurisdictions this is a specific offence. In places like the United States of America the emphasis is on the concealment of a firearm. In Florida a recent law requires that anybody carrying a pistol should wear it where it can be seen.

The next subsection provides for a new offence of wilfully injuring or damaging property by the use of a firearm. The statute at present provides for an offence of wilful injury to property, but this is a new offence of wilful injury to property by the use of a firearm, and the purpose is to give a clear signal from Parliament that firearm abuse will not be tolerated. A substantial penalty of 50 penalty units or imprisonment for up to five years will apply.

In the province I represent I have seen substantial numbers of livestock shot and, consequently, I believe a substantial penalty should apply.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

31. Clause 23, page 11, line 29, omit "20" and insert "40".

32. Clause 23, page 11, line 29, omit "six" and insert "twelve".

The amendments deal with the unauthorised purchase or sale of pistols. The proposal is to increase the penalty to 40 penalty units or twelve months' imprisonment.

The amendments were agreed to.

The Hon. R. M. HALLAM (Western Province)—I do not intend to move amendments Nos 44 and 45 standing in my name but I shall speak to them. Amendments Nos 44 and 45 relate to the failure to produce a shooter's licence. The penalty was increased to $1000 and three months' gaol last November, and the National Party argued against that increase, even though it was substantially less than the government's intended penalty of $2000 or six months' gaol.

The National Party said that the penalty should be $100 and went to some lengths to explain why the penalty should be dramatically less than what was sought by the government. It instanced a situation where a shooter in the middle of a duck swamp who is unable to produce his licence on demand is under threat of the extraordinary penalty of six months' gaol: this was ultimately reduced to three months. The National Party argued it was a draconian measure and that it was extraordinary, if a shooter did not have a licence—and that was subsequently proved—that the penalty was no greater. A substantial penalty was to have been imposed on someone who had a licence but could not produce it on demand.

Last November I tried to convince the members of the Liberal Party and almost had Mr Reid convinced that the penalty should be lower. I find it extraordinary that it is not the Liberal Party but the government which has now moved to a penalty of $100. I place on record my delight at the government conceding that that is the appropriate penalty.

In argument with the Minister for Labour, I pointed out why the proposed penalty was most inappropriate. I repeat that I am delighted that the government now seeks to reduce the penalty to one penalty unit.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

14. Clause 23, page 11, lines 32 and 33, omit "20 penalty units or imprisonment for not more than six months" and insert "1 penalty unit".

Amendment No. 14 has the effect Mr Hallam has described. It prescribes a penalty of $100 for failing to produce a licence on demand.

The Hon. B. A. CHAMBERLAIN (Western Province)—Initially the Liberal Party proposed the alternative of giving a shooter up to seven days to produce a licence, but in discussions with the Minister for Police and Emergency Services and the National Party the compromise contained in the amendment was hammered out. It is a reasonable compromise and I am pleased Mr Hallam finally got his way.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

33. Clause 23, page 12, after line 6 insert—

'( ) After section 28 (1) insert—

"(2) A person who is convicted of an offence under sub-section (1) is not entitled to apply for or be granted a shooter's licence during the period of five years after the conviction.";'.

Amendment No. 33 deals with the production of a licence or the impersonation of a licence-holder. This is proposed to be an additional penalty, to provide that a person who is convicted of an offence under section 28 (1) is not entitled to apply for a shooter's licence for a period of five years after the conviction, in addition to the monetary penalty.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

34. Clause 23, page 12, line 13, after "month" insert 'and for a second or subsequent offence to a penalty of not more than 10 penalty units or imprisonment for not more than six months.

( ) In section 29A for "$50" substitute "20 penalty units".'.

Amendment No. 34 deals with the offence of carrying a firearm on farmland without permission. This is a common problem in my electorate; there are many complaints about it. The complaints are mainly about shooters from Melbourne, I must say, rather than locals.

The purpose of the proposal amendment is to provide for the situation of a second offence. The Bill deals only with first offenders and the Liberal Party believes there should be a higher penalty for a second offence because some people make no attempt to obtain permission and offend time and again, perhaps not on the same property but on different properties. Amendment No. 34 provides for a second offence penalty of 10 penalty units.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

35. Clause 23, page 12, after line 13 insert—

'( ) In section 42—

(i) after "42" insert "(1)";

(ii) for "imprisonment for a term of not more than five years" substitute "a penalty of not more than 50 penalty units or imprisonment for not more than five years."; and

(iii) at the end of the section insert—

"(2) A person who is convicted of an offence under sub-section (1) is not entitled to apply for or to be granted a shooter's licence during a period five years after the conviction." '.

Amendment No. 35 deals with the forgery of shooters' licences. Again, the purpose of the amendment is to reinforce the penalties by precluding the person convicted of an offence from applying for a shooter's licence for more than five years, which is the second part of the amendment.

The first element of the amendment deals with the increase in the penalty. Currently, there is provision for a penalty of five years' gaol. The amendment seeks to substitute that with a penalty of not more than 50 penalty units—which is $5000—or five years' gaol.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—I do not intend to proceed with amendments Nos 46 and 47 standing in my name. They are simply the result of a drafting error.

I do not intend to proceed with amendment No. 48 standing in my name, but I seek to explain to the Committee why that decision has been taken. This amendment was a fall-back position for the National Party. It provided that in so far as the penalty in relation to the ownership of a prohibited weapon was concerned, it would not apply to a ·22 semiautomatic or a centre-fire semiautomatic rifle with a magazine capacity of less than eight. We have no argument in the National Party with the penalty in relation to a prohibited weapon, which is a very substantial monetary penalty of $5000 or twelve months' gaol.

As I have said, the National Party has no argument with that, but we were extremely concerned when the government declared prohibited many thousands of firearms owned by law-abiding members of the community. I shall not canvass that issue again as I have already said plenty on it.

The National Party sought to restrict the penalty to those firearms which all parties agreed should have been captured by the government in the prohibition. Given that the government has undertaken that it will immediately revoke the ban on semiautomatic ·22 weapons, I do not intend to proceed with amendment No. 48 standing in my name.

I move:

Clause 23, page 13, lines 5 and 6, omit ' "20 penalty units or imprisonment for six months" ' and insert ' "1 penalty unit" '.

It is the amendment circulated in my name on a separate sheet, and I hope it meets the Committee's requirements on this occasion.

The further proposed amendment relates to the penalty concerning an unregistered firearm. The National Party takes the view that the ownership of an unregistered firearm is not a crime—indeed, there is no victim.

The National Party contends that there should be no registration of firearms and therefore no penalty; we have put that on the record time and again. The National Party believes a penalty of $500 and the risk of the forfeiture of the firearm is a very stiff penalty.

Honourable members should know why there are so many unregistered firearms in the community. The main reason is that the owners of those firearms are concerned about what the government will do in respect of those unregistered firearms. If the firearms are registered, they might be confiscated. That is an understandable concern.

The review team, which I have quoted on several occasions during the debate on the Bill, recommended that in relation to an unregistered firearm the penalty should be $100.

The Firearms Consultative Committee has argued against any increase in the penalty. I refer to a letter from the committee chairman, Mr G. P. Butcher, dated 20 August 1987,

addressed to the Minister for Police and Emergency Services. In that letter Mr Butcher states:

> We consider that the existing penalty ($100) for an unregistered firearm is an adequate monetary penalty. We do not recommend increasing the penalty to $500. We note that the Firearms Act contains provision for the forfeiture of an unregistered firearm and we consider that such forfeiture is the major deterrent.

The National Party would prefer there to be no penalty because it is opposed to registration. It is supported in that stand by no less than the previous Registrar of Firearms, Chief Inspector Newgreen. In his report to the government last February he recommended that firearm registrations should be immediately abolished. The National Party is delighted that its stand, which has been consistent since 1983, has been supported across the community. Registration is a nonsense and has no effect on the criminal misuse of firearms.

The National Party has consistently said that it is a dreadful waste of valuable resources. It hopes to obtain more support in the future in its move to abolish registration. With reference to that, I cite the move by the conservative government in New South Wales, which has undertaken to totally abolish registration. In those circumstances, a $100 penalty with the prospect of the firearm being forfeited is a substantial one, and I argue against the penalty increase to $500.

The Committee divided on Mr Hallam's amendment (the Hon. G. A. Sgro in the chair).

Ayes	5
Noes	31
Majority against the amendment	26

AYES	NOES
Mr Dunn	Mr Arnold
Mr Evans	Mr Birrell
Mr Hallam	Mr Chamberlain
	Mr Connard
Tellers:	Mrs Coxsedge
Mr Baxter	Mr Crawford
Mr Wright	Mr de Fegely
	Mrs Dixon
	Mr Granter
	Mr Henshaw
	Mrs Hogg
	Mr Hunt
	Mr Kennan
	Mr Kennedy
	Mrs Kirner
	Mr Landeryou
	Mr Lawson
	Mrs Lyster
	Mr McArthur
	Mr Mier
	Mr Murphy
	Mr Pullen
	Mr Reid
	Mr Sandon
	Mr Storey
	Mrs Tehan
	Mrs Varty
	Mr Walker
	Mr Ward
	Tellers:
	Mrs McLean
	Mr Van Buren

The clause, as amended, was agreed to.

New clauses

The Hon. R. M. HALLAM (Western Province)—I move:

51. Insert the following new clause to follow clause 8:

Registration of firearms.

'D. The Principal Act is amended as follows:

(*a*) In section 22AA—

(i) sub-sections (2B) to (2H) are repealed; and

(ii) sub-sections (13) to 14B) are repealed;

(*b*) In section 46, sub-sections (3) to (5) are repealed;

(*c*) In section 49 (1), paragraph (*c*) is repealed;

(*d*) In section 50—

(i) in sub-section (1), omit "of firearms"; and

(ii) in sub-section (2), for "and for keeping a record of the firearms coming into the possession of persons holding licences and permits and other authorities under this Act and the issue of certificates of registration and other certificates" substitute "and for keeping a record of certificates issued";

(*e*) Section 51 is repealed;

(*f*) In section 52 (*a*)—

(i) omit "or that any firearm was or was not registered under this Act, or that any firearm was or was not registered under this Act in respect of a particular person"; and

(ii) for "permit, authority or registration" substitute "permit or authority"; and

(iii) omit "or that any such firearm was or was not registered in the name of a particular person".'.

The thrust of the new clause is to delete all reference in the Bill to the word "registration". This will abolish the registration of firearms in this State.

It is no secret that the National Party has been totally opposed to the registration of firearms since its inception in 1983. It said then that registration would not work and that it would create an administrative nightmare. The National Party said that registration would locate and identify firearms in the community, which could lead to future confiscation. In 1983 the National Party was laughed at and was described as alarmist, but the truth is that the National Party's stance at that time and since then has been totally vindicated. It is now recognised that the registration of firearms is a total waste of resources.

I refer to a letter addressed to the Minister for Police and Emergency Services by a former Registrar of Firearms, Chief Inspector Newgreen. In his letter of 26 February 1987, which refers to a number of matters regarding registration, Inspector Newgreen says in part:

It seems that the original aims and objectives were sidestepped, and I find it difficult to reconcile as to what was sought to be achieved by the current concept of "registration". It seems just to be an elaborate system of arithmetic with no tangible aim. Probably, and with the best of intentions, it may have been thought that if it were known what firearms each individual in Victoria owned some form of control may be exercised, and those who were guilty of criminal misuse could be readily identified. This is a fallacy, and has been proven not to be the case . . .

It is charitable to say that from the outset the expedient recording of data and issue of certificates was a disaster. This to a very large extent has now been overcome, but many difficulties still beset us.

Inspector Newgreen then refers to the processes used, and to the fact that they are outmoded and unsatisfactory.

The matter I wish to highlight in the report regarding registration is encompassed by point No. 20, which in part states:

(*a*) There is no way of ensuring that firearms purchased interstate are being registered;

Obviously, there is a large hole in the system:

(*b*) there is no way to ensure that firearms disposed of interstate are deleted from records, if indeed they were registered in the first place;

(*c*) it cannot be established if a licence holder has registered all firearms in his possession;

(*d*) firearms can be registered under a number of licences. The program does not facilitate that type of check. Therefore, duplication can, and does occur,

The former Registrar of Firearms then goes on with a litany of criticism of registration:

Previously experience in New Zealand and South Australia, and now indeed in the State of Victoria, indicates that firearms registration in the way in which it is implemented is costly, ineffective, and achieves little. In my view, it does not repress or control the criminal misuse of, or irresponsible use of firearms.

He then recommends that registration be abolished forthwith. He continues:

In conjunction with education, the penalties for those who breach the law should be heavily increased.

The National Party has no argument with those recommendations. Inspector Newgreen goes on to say:

If my proposal is considered a proper and viable alternative, I believe it could be implemented in a reasonable time span, would be less costly, and achieve far more in every way, than the concept of registration.

I remind the House that those comments were made by the former Registrar of Firearms during the currency of his work in that position.

In the former registrar's estimate there are still more than 250 000 firearms that are unregistered in Victoria. They will never be registered! Therefore, registration has failed as a deterrent to the criminal misuse of firearms.

The National Party says again, as it has said on many previous occasions, that the test should be on the shooter and not on the firearm. It should be at the point of licensing and not at the point of the purchase of the firearm. Registration was introduced as a blanket barrier and as a further hurdle to private firearm ownership and was not a screening of the applicant. The government should listen to its own advisers. I remind the house that these comments were not made by a casual shooter but by a former Registrar of Firearms.

Registration should be scrapped in favour of the New Zealand system, which will dramatically improve the licensing of shooters to such a degree as to provide protection to the community from the criminal and irresponsible use of firearms. The New Zealand model that the National Party advocates said, "No" to registration but has said, "Yes" to stringent testing of applicants for shooters' licences.

Only a stupid criminal would be caught by a registration system that cannot enforce the registration of 250 000 firearms in this State. I ask that the government consider the New Zealand model, which was supported by the government's own experts. I ask the Committee to follow the lead of the New South Wales government, which has given a commitment in relation to the abolition of firearms registration.

Now, in the face of all the evidence, the government should recognise that firearms registration is a total and abject waste of resources and is totally impracticable. On those grounds and in view of the extraordinary cost that is involved in registering these firearms, I believe the Committee should support my amendment, which would delete registration of firearms from the statutes of this State.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. Firearms registration is accepted by the community as an important part of the control of firearms. It is considered necessary to have a complete register of all firearms to enable police issuing permits to purchase to verify the number of firearms already owned by the applicant.

It is true that there have been administrative problems in organising the system but those practices of firearms registry are currently being reviewed. We are moving toward

the installation of an on-line computer system. I do not believe there is a general view in the community, as Mr Hallam suggests, that there should not be a registry. The community considers this to be an important part of the total system.

The Committee divided on the new clause (the Hon. M. J. Arnold in the chair).

Ayes	5
Noes	31
Majority against the new clause	26

AYES	NOES
Mr Dunn	Mr Chamberlain
Mr Evans	Mr Connard
Mr Hallam	Mrs Coxsedge
	Mr Crawford
Tellers:	Mr de Fegely
Mr Baxter	Mrs Dixon
Mr Wright	Mr Granter
	Mr Henshaw
	Mrs Hogg
	Mr Hunt
	Mr Kennedy
	Mrs Kirner
	Mr Landeryou
	Mr Lawson
	Mrs Lyster
	Mr McArthur
	Mrs McLean
	Mr Mier
	Mr Miles
	Mr Murphy
	Mr Pullen
	Mr Reid
	Mr Sandon
	Mr Storey
	Mrs Tehan
	Mr Van Buren
	Mr Walker
	Mr Ward
	Mr White
	Tellers:
	Mr Birrell
	Mr Murphy

The Hon. R. M. HALLAM (Western Province)—I do not intend to proceed with my amendment No. 52 in that it relates to the permit to purchase as a concept. I have already canvassed that argument in relation to amendments earlier in the debate.

I have lost that argument and, therefore, the issue having been tested, there is no point proceeding with amendment No. 52.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

Insert the following new clause to follow clause 17:

Appeal by Registrar.

'AA. In section 43A (2) of the Principal Act, after "magistrates' court" insert "or where the appellant is the Registrar, to the original appellant to the Committee and to the clerk of the magistrates' court.'.

The amendment inserts a new clause and its effect is to grant the Registrar of Firearms a right of appeal to a Magistrates' Court against the orders of the Firearms Consultative Committee.

The new clause was agreed to.

The Hon. R. M. HALLAM (Western Province)—I move:

'F. In section 49 of the Principal Act, after sub-section (2) insert—

"(3) If, under sub-section (1A), either House of the Parliament disallows a regulation, no regulation, being the same in substance as the regulation so disallowed shall be made within 6 months after the date of the disallowance unless the resolution to disallow the regulation has been rescinded by the House of the Parliament by which it was passed.

(4) Any regulation made in contravention of sub-section (3) is void.".'.

This amendment introduces an important principle, which goes to the very heart of the Legislative Council as an institution. When the Cain government introduced the ban on semiautomatic rifles, that ban was revoked by this House and was subsequently reinstated by the government. We can argue about whether the Chamber should have challenged the regulation, but it did, and I defend both its right to do so and the decision taken at that time.

It was nothing less than a fit of pique which saw the Premier move to have the regulation reinstated. It was a deliberate defiance of the direction of this House. I have criticised that fact on many occasions.

One of our criticisms was that by moving the way it did and introducing a regulation that had a massive effect on the prohibition of firearms, the government forestalled the debate in this Chamber. It did not give honourable members the chance of talking about that prohibition. The first we knew of it was that it was law.

The National Party was incensed that it had not been given the opportunity of putting forward the views of those whom it represents in this place, many of whom were converted from law-abiding citizens into potential criminals overnight if they owned firearms that had been declared prohibited.

When Parliament made a determination in relation to the prohibition, the government simply said, "We do not agree with what the Parliament has dictated and we will make the rules". In other words, the executive was supreme. An extremely important principle is thus at stake.

The Premier's action in reinstating the regulation to effectively ban semiautomatic rifles as a class of firearms was in contempt of Parliament. The amendment is designed to confirm that the ultimate authority for such measures devolves on Parliament and not upon executive government.

The concept contained in my proposed amendment is not a new one. The terminology is taken almost verbatim from Federal legislation. I shall quote from the Acts Interpretation Act 1901, section 49 (1) under the heading, "Disallowed regulations not to be re-made unless resolution rescinded or House approves":

Where, in pursuance of section 48, either House of the Parliament disallows any regulation, or any regulation is deemed to have been disallowed, no regulation, being the same in substance as the regulation so disallowed, or deemed to have been disallowed, shall be made within 6 months after the date of the disallowance, unless—

(*a*) in the case of a regulation disallowed by resolution—the resolution has been rescinded by the House of the Parliament by which it was passed; or

(*b*) in the case of a regulation deemed to have been disallowed—the House of the Parliament in which notice of the motion to disallow the regulation was given by resolution approves the making of a regulation the same in substance as the regulation deemed to have been disallowed.

That section further states:

(2) Any regulation made in contravention of this section shall be void and of no effect.

It is interesting to reflect on the debate that took place in the Senate when that principle of law was enshrined in the legislative code. I shall quote the words of Senator McLachlan who spoke in the debate in the Senate on 4 May 1932:

It is now proposed to prohibit the re-making of regulations which have been disallowed by either House of the Parliament. The provision which is included in the Bill prevents the making of a regulation the same in substance

as a regulation disallowed by Parliament, within six months of the disallowance, unless first the disallowing resolution has been rescinded by the House by which it was passed. Honourable senators will recall the fiery debates in this chamber regarding the disallowance of certain regulations and the re-enactment of others which were substantially the same. Whatever the difficulties mentioned in this chamber yesterday, maybe it is clear that Parliament should have the right to disallow regulations. Having regard to the fact that that power is vested in Parliament, no government should have the right to bring into operation a regulation that has been disallowed by either House of Parliament unless a resolution for its disallowance has been rescinded. I think that this measure meets the wishes of honourable senators who have previously expressed their opinions on this matter.

I am seeking to include a fundamental principle of law in the Bill; and I commend the new clause to the Committee for the reasons I have outlined.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Liberal Party will support the proposed new clause. It is a pity that the Committee has been forced to entertain the amendment; yet experience has shown that such a measure is necessary.

On 9 March 1 moved in the House to disallow the regulation of 15 December, which put a blanket ban on semiautomatic rifles. That was done pursuant to the powers given to the House by both Houses of Parliament last November. It is not as if the Legislative Council imposed such a power on the government, because the government always had the opportunity of not allowing the Bill to be passed through the Legislative Assembly, or of rejecting that particular provision of the Bill. The government passed the provision in the Bill that gave either House of Parliament the power to disallow the regulation.

The Legislative Council exercised the power that was given to it only last December. The government then proceeded to re-establish the regulation, which was one of the greatest misuses of the office of the Governor that honourable members have seen for a long time. The Governor should have been advised that this House was doing as it was entitled to do under a recently passed Act of Parliament that had been approved by the government in the Legislative Assembly. It is a pity that the Opposition has had to take this measure.

The Hon. A. J. Hunt—It makes a mockery of the power of disallowance.

The Hon B. A. CHAMBERLAIN—It certainly does. What is proposed in the new clause is similar to the powers of disallowance under the Federal system which have been in operation since 1932 and which are in operation in both New South Wales and Western Australia. It has the effect of putting subordinate legislation in the same category as statutes. In other words, if subordinate legislation is to be enforced, it must have the approval of both Houses of Parliament.

Mention has been made of the Federal system; as Mr Hallam has said, and as the new clause proposes, not having the power to recreate or resurrect a regulation that has been allowed is a longstanding provision in the Commonwealth Acts Interpretation Act. For those reasons the Liberal Party has no compunction about supporting the proposal put forward by Mr Hallam.

The new clause was agreed to.

The Hon. R. M. HALLAM (Western Province)—I move:

54. Insert the following new clause to precede clause 22:

Firearms Consultative Committee.

'G. (1) In section 53 (2) of the Principal Act—

(*a*) in paragraph (*a*), after "Victoria" insert "appointed from a panel of five persons submitted to the Minister by the Law Institute of Victoria in consultation with the Victorian Bar Council"; and

(*b*) for paragraph (*c*) substitute—

"(*c*) three shall be appointed from a panel of five persons submitted to the Minister by the Shooting Sports Council of Victoria;

(*d*) one shall be appointed from a panel of three persons submitted to the Minister by the Victorian Farmers Federation;

(*e*) one shall be appointed from a panel of three persons submitted to the Minister by the Firearm Traders Association.".

(2) This section comes into operation on the day that is six months after the day on which this Act receives the Royal Assent.

(3) The Firearms Consultative Committee as constituted after the commencement of this section is the same body as the Firearms Consultative Committee as constituted immediately before commencement.'.

Proposed new clause G relates to the composition of the Firearms Consultative Committee. That is a very important committee that was established by the government when it came to office to advise the Minister on all matters relating to firearms. That brief was taken directly from its charter as contained in the relevant legislation.

The National Party believes the Firearms Consultative Committee is working extremely well, but there is a separate question to be posed, which is whether the government has been heeding the advice given to it by the committee. The National Party seeks to ensure that the current composition of the committee is retained. It has received a verbal assurance from the Minister for Police and Emergency Services that that will be the case.

The National Party believes that assurance should be enshrined in the Bill; and it has proposed an amendment to that effect. Members of the National Party discussed the proposal with the Chairman of the Firearms Consultative Committee, as well as with the Law Institute of Victoria, which is one of the responsible supporting bodies involved with the amendment.

It is important to reflect on what the government sought to do to the Firearms Consultative Committee not so many months ago when honourable members were debating another amendment to the Firearms Act. At that time the government proposed to remove the two legal representatives as well as the two senior police officers, and to replace them with a chairperson appointed by the Minister; two persons appointed by the Registrar of Firearms; a representative of the Victorian Trades Hall Council; three persons who, in the opinion of the Minister, were able to represent any one or more of the following: primary producers, the community, and the security industry; and five persons who, in the Minister's opinion, were able to represent holders of licences.

The Hon. W. R. Baxter—They did not have to hold licences.

The Hon. R. M. HALLAM—That is correct, they did not have to hold licences; those people were there to represent licence holders. In other words, the government sought to have total control over how the Firearms Consultative Committee was to be constituted.

It was clear to the National Party why that objective was on the government's agenda. What has happened since is that, in the current debate, the Committee has agreed to the Firearms Consultative Committee having a wider brief than it had previously. It now has the responsibility of determining which firearms should be prohibited, and that is an important power over and above the brief that was originally given to the committee. On those grounds the National Party believes it is imperative that the construction of the Firearms Consultative Committee be protected.

The effect of my amendment is that three of the members of the committee shall come from a panel of five persons put forward by the Law Institute of Victoria and the Victorian Bar Council; three shall be direct nominations of the Chief Commissioner of Police; three shall be appointed from a panel of five persons put forward by the Sporting Shooters Association of Australia (Vic.); one from a panel of three persons put forward by the Victorian Farmers Federation; and one from a panel of three persons put forward by the Firearms Traders Association.

It is important that I place on record that this provision is specifically designed to capture the current construction of the Firearms Consultative Committee. It is also important to put on the record that the direct representatives of shooters of this State shall remain in the minority.

The Hon. J. E. Kirner—Some shooters; not all shooters!

The Hon. R. M. HALLAM—A minority of members of the Firearms Consultative Committee will be there as direct representatives of shooters. No-one could suggest that that committee is being stacked or is being diverted by any means, or anything of that nature. The National Party is simply attempting to protect the Firearms Consultative Committee for ever and a day in its current construction so that no government—not the Labor government or any future government—can seek to torpedo the work of the committee by manipulating its membership. It is important that the committee should be protected. Given that the government has provided an undertaking that the committee shall remain in its current form and with its current membership construction, it is impossible that it will oppose my amendment.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition supports Mr Hallam's amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I seek clarification from Mr Hallam as to what organisation he is seeking to represent sporting shooters. His amendment refers to the Shooting Sports Council of Victoria but in debate he referred to the Sporting Shooters Association of Australia (Vic).

The Hon. R. M. HALLAM (Western Province)—I am sorry, I may have misled the Committee. It should be the Shooting Sports Council of Victoria. Paragraph (*b*) of the new clause states:

(*b*) for paragraph (*c*) substitute—

"(*c*) three shall be appointed from a panel of five persons submitted to the Minister by the Shooting Sports Council of Victoria;".

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. Although it is correct that the Minister for Police and Emergency Services gave an assurance to opposition parties that the groups currently represented on the Firearms Consultative Committee will continue to be represented, thus ensuring the appropriate rights of representation,, the government believes it is important not only for members of the Shooting Sports Council but also for those people who, for reasons of their own, do not choose to be represented by that council.

I must say that, although I am not surprised that the National Party has moved this amendment, I am surprised that the Opposition, which normally takes the view that people should have a choice and not be part of compulsory unionism, expects that the only way one can be represented on this committee is if one is a member of the Shooting Sports Council of Victoria. That appears to be hypocritical.

The Hon. W. R. Baxter—Not necessarily; one can be represented without being a member of this organisation!

The Hon. J. E. KIRNER—That may be so, but it is highly unlikely. The government opposes the amendment.

The new clause was agreed to.

The Hon. R. M. HALLAM (Western Province)—Mr Acting Chairman, I do not propose to proceed with amendments Nos 55 and 56 standing in my name which relate to proposed sections H and I. The position which these amendments sought to overcome has been overcome by an amendment introduced by the government. I am delighted that I do not have to proceed.

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

36. Insert the following new clauses to follow clause 24:

'Amendment of *Crimes Act* 1958.

A. In section 29 (1) of the *Crimes Act* 1958 after "Penalty:" insert "100 penalty units or".

Amendment of *Vagrancy Act* 1966.

B. In section 8 of the *Vagrancy Act* 1966 for "Imprisonment for three years" substitute "50 penalty units or imprisonment for 5 years." '.

Amendment of *Crimes (Family Violence) Act* 1987.

C. In part 4 of the *Crimes (Family Violence) Act* 1987, before section 19 insert—

Seizure of firearms.

"18A (1) If a member of the police force is satisfied on the balance of probabilities that there are grounds for the issue of an intervention order in respect of a person under section 4, the member may seize any firearm in the possession of that person and, for that purpose, may, without warrant, enter and search any premises where the person resides or has resided.

(2) If an intervention order is made in respect of that person, any firearm seized must be returned to the person, forfeited to the Crown or disposed of in accordance with directions in the order or, if there are no such directions or an order is not made, must be returned to the person, forfeited to the Crown or disposed of, as the Minister directs".

New clause A is an amendment to the Crimes Act where an offence is committed for using a firearm or an imitation firearm to resist arrest. Currently that offence carries a penalty of up to fourteen years in prison. The Opposition believes that is a serious offence and there should also be a monetary penalty of 100 penalty units.

New clause B is an amendment to the Vagrancy Act. It makes sense for all offences relating to firearms to be in the one Act rather than in a number of Acts, as they are at present. Section 8 of that Act provides for imprisonment for three years if one is armed with a firearm when escaping from lawful custody. The Opposition suggests that that term of three years should be increased to 50 penalty units or five years' imprisonment.

New clause C is potentially one of the most important provisions in the Bill, and it will insert a specific provision in the Crimes (Family Violence) Act. In some of his expositions explaining the reasons for the introduction of this Bill, the Premier referred to the use of firearms in domestic situations. However, there is little in the Bill that addresses that issue.

The Crimes (Family Violence) Act, which the Opposition supported in April 1987, is an important measure and will be seen to be increasingly important as more and more people learn about its operation. I suggested to honourable members at that stage that it may not go far enough, and I proposed an amendment at that time, which is recorded at page 1095 of *Hansard,* in which I suggested that there should be clearer power for police officers to intervene in cases before an intervention order was made.

The problem with the Act is that one must have an intervention order before a court can make some order for the seizure and forfeiture of firearms. In effect, the Opposition foreshadowed that position twelve months ago. Proposed section 18A (1) will provide:

If a member of the police force is satisfied on the balance of probabilities that there are grounds for the issue of an intervention order in respect of a person under section 4, the member may seize any firearm in the possession of that person and, for that purpose, may, without warrant, enter and search any premises where the person resides or has resided.

If a complaint is made to a police officer by a wife who has been battered by her husband, or a husband who has been battered by his wife, one of the first questions the police officer will ask is, "Are there any firearms on the premises?" If there is an affirmative answer, the police officer will have the immediate right to seize those firearms. I commend that amendment to the Committee. It will prove to be potentially one of the most important provisions in this Bill.

The Hon. R. M. HALLAM (Western Province)—The National Party will support the amendment. I convey to the committee the assurance that the amendment will have the support of every genuine sporting shooter in the State. This says a great deal. I commend Mr Chamberlain for bringing forward this amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government supports the amendment. As Mr Chamberlain has said, the Crimes (Family Violence) Act and the intervention orders available under that Act have been an enormous success. Hundreds of intervention orders have been made. That has improved, although not solved, the issue of security for women, especially those under attack. Those women will be pleased that this amendment has been introduced and that the entire Chamber has agreed upon it.

The new clauses were agreed to.

Title

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

37. Long title, after "1958" insert ", to increase certain penalties under the *Crimes Act* 1958 and the *Vagrancy Act* 1966, to amend the *Crimes (Family Violence) Act* 1987,".

The amendment was agreed to, and the title, as amended, was adopted.

Progress was reported, and the suggested amendments and the amendments, including an amended title, 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.

NATIONAL PARKS (AMENDMENT) BILL (No. 2)

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.

TELECOMMUNICATIONS (INTERCEPTION) (STATE PROVISIONS) 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.

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

That this Bill be now read a second time.

INTRODUCTION

This Bill will for the first time allow State police access to telephone-tapping powers in the investigation of serious offences. It is, therefore, a major step in equipping police to deal with white-collar crime, organised crime and drug trafficking.

BACKGROUND

Telecommunications is an area of Commonwealth responsibility under the Constitution and is regulated entirely by Commonwealth legislation. For a number of years, it has been an offence to intercept a telephone conversation. In the 1960s limited exceptions were provided to allow the Australian Security Intelligence Organisation to tap telephones for national security purposes and to allow the Commonwealth Police, later the Australian Federal Police, to tap telephones in the investigation of Federal drug offences. Last year, following the reports of the Stewart Royal Commission into Alleged Telephone Interceptions in April 1986 and of an all-party joint Select Committee of the Federal Parliament in November 1986, the Commonwealth government amended the Telecommunications (Interception) Act 1979 to allow telephone interception, with a judicial warrant, in the investigation of certain State offences. The offences concerned are described in the Act as class 1 offences including murder, kidnapping and related ancillary offences such as conspiracy to murder, and class 2 offences, which are certain other serious offences punishable by at least seven years' imprisonment.

A warrant to intercept a telephone for criminal investigation purposes may be granted only by a Federal judge. In practice, applications will usually be made to judges of the Federal Court. In deciding whether to grant a warrant, the judge will need to be satisfied, by information on oath, that information necessary in the investigation of a serious offence cannot be obtained by other, less intrusive means. If the investigation relates to a class 2 offence the judge will also need to weigh up the extent of interference with personal privacy; the gravity of the conduct under investigation; and the extent to which information likely to be obtained would assist in the investigation.

All warrants would be executed by the newly established Telecommunications Interception Division of the Australian Federal Police, including warrants for the investigation of State offences. The Telecommunications (Interception) Act 1979 also strictly prohibits the admission of evidence of intercepted telephone conversations in criminal trials unless all the requirements of the Act have been complied with. The use or communication of information obtained under a warrant for a purpose other than the investigation of serious crime is also prohibited.

The Commonwealth Act lays down strict and precise conditions before State police can exercise the powers it confers in relation to State offences. The conditions are set out in section 35 of the Act. Participation by a State police force in the Commonwealth scheme requires a declaration by the Commonwealth Minister responsible for the Telecommunications (Interception) Act 1979. A declaration may be made only if:

(*a*) the Premier of the relevant State so requests;

(*b*) the State has in place specified legislative safeguards; and

(*c*) the State enters into an agreement to pay:

(i) all expenses connected with the issue of a warrant;

(ii) all expenses incurred in connection with the execution of a warrant; and

(iii) "an appropriate proportion" of the expenses incurred in establishing the Telecommunications Interception Division of the Australian Federal Police.

The legislative safeguards that a State must have in place reflect those which apply to Federal law enforcement authorities. They include:

obligations on the Chief Commissioner of Police to keep detailed records of each application for a warrant and the outcome of its execution;

regular inspection of these records by an independent authority, such as the Ombudsman, and the furnishing of reports on those inspections;

the provision to the responsible Minister of copies of all warrants and reports on the use made of information obtained, as well as detailed annual reports; and

a requirement that the State Minister forward all this information to the Federal Minister.

As the ultimate sanction, if a State fails to comply satisfactorily with these requirements, the Commonwealth can revoke its declaration, thereby depriving the police of access to telephone tapping powers.

THE BILL

The Bill implements the requirements of the Federal Act, to enable the Victoria Police to participate in the Commonwealth scheme. It contains all the requirements of record keeping, auditing, inspections and reporting set out in the Telecommunications (Interception) Act 1979. These requirements will enable the government to ensure that the Telecommunications (Interception) Act 1979 is being complied with and that telephone tapping powers are used sparingly, with due regard for personal privacy and only in the most serious cases. The Commonwealth will also have the opportunity to monitor the extent of State compliance with the spirit and letter of the Act.

Consistently with State listening devices laws, the Victoria Police will not be able to apply for a warrant to last for more than 30 days or to apply by telephone. These requirements will ensure full and frequent judicial scrutiny of the need for a warrant and of the need for continuing surveillance. The police may, of course, apply for a fresh warrant upon the expiry of a warrant, and there is no limit on the number of warrants which may be obtained in relation to a telephone service.

PRIVACY CONSIDERATIONS

It is worth reflecting on the policy underlining the Commonwealth scheme as it will apply in Victoria. One of the great freedoms we enjoy in Australia is the ability to speak to each other without intrusion and with confidence in the privacy of what we say. It is not a freedom we should take for granted. In many countries, people are not free to communicate without the fear that an agent of the State may be listening. In the world today, respect for the privacy of communications is the exception rather than the norm. Sadly, in many formerly free societies that respect has been lost. We should not think it cannot happen here. Strict rules are essential to protect the privacy of communications and to provide effective remedies when that privacy is breached. Nevertheless, privacy considerations must sometimes give way to other social objectives. One such objective is the need to deal with major crime.

The government is satisfied that there are circumstances in the investigation of serious offences against State law in which the interception of telephone conversations is the only effective way to gain key evidence. Experience overseas and at Federal level has shown the value of telephone tapping in the investigation and prosecution of serious crime, particularly organised crime. In the past five years, the Victoria Police have been involved in five joint task force operations with the Australian Federal Police in which judicially authorised telephone tapping has been used. This operational exposure has strengthened the view of the force that telephone tapping is a vital measure in the investigation of major drug trafficking and other organised crime. The government accepts this view. At the same time the safeguards provided by this Bill and by the Commonwealth Act constitute an appropriate and necessary regime to govern the use of the power. The proposed legislation strikes a satisfactory balance between the preservation of free communication and the effective enforcement of the criminal law. With this balance in place the government has decided to participate in the Commonwealth scheme.

CONCLUSION

This Bill represents an historic step in the law governing criminal investigation. Like the Crimes (Confiscation of Profits) Act 1986, the mutual assistance in criminal matters scheme, the interstate exhibits and search warrants scheme, the Crimes (Computers) Bill and many other recent government initiatives, the Bill is a further illustration of the government's commitment to deal effectively with organised and other serious crime.

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 the next day of meeting.

ADJOURNMENT

Cavendish Primary School—Egg prices—Tullaroop Leisure Centre agreement—Sale of Croydon railway land—Crown land lease rentals—"Herald" card—Electricity supply to Robinvale—Proposed Whiteman Street-Port Melbourne boulevard link—Shortage of science and mathematics teachers—School administrative committees

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 raise for the attention of the Minister for Education an important matter concerning Cavendish Primary School. I understand that Mr Hallam is a product of that school. The school draws its population from a large area and it is currently necessary for the one school bus to make two runs. Some children are dropped off at the school at 8.6 a.m., and another run drops the balance of students at the school at 9.10 a.m.

The early start means that the principal must arrive at the school early to look after the first bus load of students. He is not complaining about that, but two vehicles are effectively needed to cater for the growth in student numbers that is evident in that district.

The other concern relates to the distance some pupils must travel to reach the school. Some parents must travel 520 kilometres a week to take their children to school. They are Mr and Mrs Chris Hynes and Mr and Mrs Robert Barber. They receive a reimbursement of a couple of dollars a week. One of those families is a low-income family eligible for a family supplement. Honourable members will appreciate that travelling 520 kilometres a week for 42 weeks of the year represents a substantial expenditure for that family, and the reimbursement for providing that transport themselves is only a couple of dollars a week.

The issue is of concern to the school because its needs cannot be met by the one bus, particularly with pupils having to be taken to the school so early. The second issue is that pupils who attend the school cannot do so without the extraordinary effort of their parents. A number of other children of the same families will be in a similar situation in years to come. I ask the Minister to have the matter investigated because the application that was directed to the transport unit of the Ministry of Education was rejected.

The Hon. B. P DUNN (North Western Province)—I raise a matter for the attention of the Minister for Agriculture and Rural Affairs. Last week I attended a meeting of more than 200 egg producers in Melbourne who were protesting about recommendations by the Prices Commissioner, Professor Alan Fels, on the price of eggs. Professor Fels's report fell down in a number of major areas. The egg producers consider it to be an inaccurate, academic assessment of the position of egg producers. Professor Fels, in his controlled environmental model and his conventional model, which he uses to establish the profitability of the egg industry, suggests producer returns in both of those poultry and egg producing systems at $1.14 a dozen, whereas the producers with whom I have discussed this issue claim that it is on that basis that the whole production cost model falls apart.

I have figures produced by particular producers in the Bendigo area, which indicate that the actual return to producers is not $1.14 a dozen, but considerably less. There are 137 producers in Victoria who still grade their own eggs and sell direct to the public—they represent 34 per cent of Victorian producers—and they receive approximately $1.14 a dozen for their eggs, but the remaining 66 per cent of producers are not able to sell direct to the public and do not receive the returns suggested by Professor Fels in his production cost models.

I have returns from a number of producers in the Bendigo area, which I shall be happy to give to the Minister tomorrow. They are returns from the Victorian Egg Marketing Board indicating the average price of a dozen eggs. Compared with Professor Fels's $1.14 a dozen, H. Wilson of Eaglehawk received 97 cents a dozen; Ron Robins of Harcourt received 93 cents a dozen; A. P. and G. Kean of Huntly, near Bendigo, received 94 cents a dozen; C. and M. Ginis of Elphinstone received 88 cents a dozen; I. J. Dixon of Bendigo received 93 cents a dozen; and K. and M. A. Fitzgibbon of Strathfieldsaye, who have all black birds, received $1.06 a dozen. At Murrayville, for Heintze, there is a price return of 84 cents a dozen.

They are returns from six or seven producers in the Bendigo area. There are some producers with in excess of 10 000 birds. Those figures clearly demonstrate that their returns are well under the $1.14 that is proposed by Professor Fels as being the average return in Victoria.

I ask the Minister to disregard the inaccurate recommendations of Professor Fels, who says that the price of a dozen eggs should be reduced a further 12 cents, and suggests that there should be an immediate cut of 5 cents. The industry actually needs an increase in egg prices of about 20 cents a dozen for it to remain profitable.

I ask the Minister to disregard the report of Professor Fels. He should have no part to play in the setting of egg prices. That is a matter for the Egg Marketing Board, and the Minister should take heed. There should be an increase, not a decrease in egg prices.

The Hon. N. B. REID (Bendigo Province)—I raise a matter for the attention of the Minister for Education regarding a management agreement between the Ministry of Education and the Shire of Tullaroop for the Tullaroop Leisure Centre. I am pleased that the Minister for Agriculture and Rural Affairs is present because I would like to go through the saga of the management agreement.

On 24 February 1981 the shire wrote to the Ministry of Education regarding that management agreement. My former colleague, the Honourable John Radford, raised the matter in Parliament in November 1982, because no action had been taken. On 17 November of that year he also raised the matter with the Minister for Water Resources in another place, at the opening of the centre.

Honourable members interjecting.

The Hon. N. B. REID—On 27 May 1983 a redraft of the proposed agreement was issued to the Shire of Tullaroop, but no action had been taken by 1 September 1983. The shire was advised that there would be no consideration of the agreement until March 1984.

The matter was again raised by the shire on 6 January 1984 in a letter to Ian Wykes, personal assistant to the Minister for Education. On 29 April 1986 I took over the mantle from John Radford on this issue and raised it in this House with the Minister for Agriculture and Rural Affairs. However, no action has been taken. I thought an undertaking from the Leader of the Government in this House would lead to some action to put this agreement with the Shire of Tullaroop into place.

I was shocked and horrified when the Shire of Tullaroop recently wrote to me indicating that the issue had been continuing since 1981, including the entire period that the Cain government has been in power, but that no agreement between the Shire of Tullaroop and the Ministry of Education has been put into force.

I ask the Minister to take prompt action on behalf of the government in this matter.

The Hon. ROSEMARY VARTY (Nunawading Province)—My question is directed to the attention of the Minister for Transport, who may be aware of the saga of the sale of railway land at Croydon.

The Hon. J. H. Kennan—Fixed up by Lou Hill—you will get the Hill answer if you persist!

The Hon. D. R. White—It is not in your area.

The Hon. ROSEMARY VARTY—Of course it is.

The Minister would be aware that Jack Lees was not a successful bidder for one of the lots sold, although the other tenant was successful in his bid. In view of the government's change of heart towards enabling railway lessees to have first option to purchase, what provision will the Minister make to provide recompense to Mr Lees? He is in the same position as the other current lessees, in that if they have in the past been able to make an offer, the government said it will honour that by providing a first option.

Mr Lees was in that position. He has been severely disadvantaged financially and I ask the Minister for Transport what negotiations have been undertaken to provide some compensation to him.

The Hon. D. M. EVANS (North Eastern Province)—I refer to the Minister for Conservation, Forests and Lands the issue of Crown land lease rentals on unused lands and water frontages. I am aware that there have been considerable discussions over an extended period between the Minister and officers of her department, and the Victorian Farmers Federation. During those discussions it appears that a sensible formula was agreed to by both sides.

Nevertheless, at least in my area, Crown land rentals have risen substantially. I shall quote three cases: firstly, last year a rental of $162 has become $525; secondly, a rental of $106 last year is now $500; and thirdly, a rental of $180 has increased to more than $1800. I should also mention that in some cases the increases appear to have been kept within reason.

I ask the Minister whether a ceiling has been set on the actual rises that may be levied against land-owners. I particularly ask the Minister whether the reason for the level of rents may be her department finding that it was bound by an agreement with the Victorian Farmers Federation as to the charge to be made by each particular stock in unit. I presume it was the dry sheep equivalent causing the large increases to which I have referred, and for which other examples have been obtained, simply by increasing the stock capacity of the land. In other words, instead of having perhaps two or three dry sheep equivalent per acre it has gone to six or eight and in that fashion, the agreement with the Victorian Farmers Federation has been circumvented.

The Hon. J. E. Kirner—Are you saying that the VFF is stupid?

The Hon. D. M. EVANS—I am not saying they are stupid. It is not easy when you do not understand the problem.

The Hon. J. E. Kirner—I have only worked on it for three years!

The Hon. D. M. EVANS—If you are going to charge so much for the dry sheep equivalent—and I am sure the Minister knows what that is—and if you are going to assess an area of land at X dry sheep equivalent, it is easy to work out the rental that will be charged.

If, suddenly, your officers find that substantially higher dry sheep equivalents can be run on that land, you can increase the rental. That is what appears to have happened in a number of areas in north-eastern Victoria.

The Hon. J. E. Kirner—What absolute rubbish! Does that upset you?

The Hon. D. M. EVANS—Not in the least. I understand that the Minister does not know what I am talking about.

The Hon. J. E. Kirner—You have picked the wrong night to ask the question!

The Hon. D. M. EVANS—Will the Minister investigate these matters and give a clear indication as to whether the formula has been correctly applied, and to explain to the landowners their rights of appeal against such large increases?

The Hon. J. E. Kirner—It is in a letter that went to the Victorian Farmers Federation.

The Hon. D. M. EVANS—I ask the Minister to investigate the matter, and to give a satisfactory answer as to why increases in excess of 1000 per cent have been charged for certain landowners between last year and this year.

The Hon. ROBERT LAWSON (Higinbotham Province)—I refer the Minister for Transport to the travel concession card issued by the Herald and Weekly Times Ltd. One of the advantages of the concession card was that a person with the card was entitled to travel free on the Metropolitan Transit Authority vehicles on the weekend. Can the Minister confirm that the Herald and Weekly Times Ltd is not paying anything to the MTA for the service? What is the equivalent loss to the authority for the fares that are not being collected from people using the concession cards?

The Hon. K. I. M. WRIGHT (North Western Province)—The matter I raise with the Minister for Health as the representative in this place of the Minister for Industry, Technology and Resources relates to the electricity supply to the Robinvale area. A number of constituents in the area have informed me that between 31 December and 28 February last there were four power failures ranging in duration from two and a half to three and a quarter hours. A firm of chartered accountants informed me that the power failures have badly affected computer equipment and, in the event of power failure, the equipment can completely lose expensive electronic memories. Other businesses have informed me of various problems that have arisen because of the power failures.

They have asked whether the proposed second powerline from Mildura will be constructed and also whether the proposal to downgrade the office in Robinvale should be put aside at this time.

The Hon. J. V. C. GUEST (Monash Province)—The matter I raise for the attention of the Minister for Transport is out of special consideration to him because I know he enjoys answering questions.

The Hon. J. H. Kennan—I do, if I could only be allowed to.

The Hon. J. V. C. GUEST—The Minister will be allowed to do so. The Minister for Transport has been indiscreet enough to write at length to the South Melbourne City Council. I refer him to a letter he wrote which began:

> I refer to your letter . . .

That is the council's letter—

> . . . dated 27 January 1988 and previous correspondence from yourself . . .

I shall read the last two paragraphs of the letter to identify and come to the precise point that I wish to raise with the Minister:

> For these reasons, the Metropolitan Transit Authority has been directed to demolish the bridge.

The Minister was referring to the Clarendon Street bridge—

> The authority will be writing to your council shortly to advise on the procedures for the demolition.
>
> However, it should be noted, that if a decision were to be made in the future for a light rail link to Flinders Street, the removal of the Clarendon Street bridge would not prevent its implementation as the link would have to be integrated with the proposed Whiteman Street/Port Boulevard Road link which will be constructed at grade.

There has been overwhelming opposition to the construction of the so-called Port Melbourne boulevard, link, the connection between Whiteman Street and the Station Pier development at Port Melbourne; the local opposition has been such that the Minister for Conservation, Forests and Lands and the Minister for Agriculture and Rural Affairs have both denied any plan to build a boulevard. That is a clear commitment from the Minister for Transport.

The Hon. J. H. Kennan—Proposed. Read it again!

The Hon. J. V. C. GUEST—The letter states:

> . . . the proposed Whiteman Street/Port Boulevard Road link which will be constructed at grade.

The Hon. J. H. Kennan—Right, proposed.

The Hon. J. V. C. GUEST—It is proposed but it will be constructed. The Minister cannot have it both ways; either the link road will be constructed or the Minister has been deceiving the South Melbourne City Council into believing that an alternative link to Flinders Street will be constructed. As I said, the Minister cannot have it both ways; either there will not be a guaranteed way of constructing the link to Flinders Street along the tram routes or there will definitely be a Port Melbourne boulevard link.

Has the government determined to construct the Port Melbourne boulevard? When will it commence, if it has been decided, or will the government recognise that that road link is essential only to the full-scale bayside project? I am glad that the Minister is taking the matter seriously; I shall give him a moment to confer with the Minister responsible for major projects.

The boulevard road link is only necessary if the full-scale bayside project goes ahead. Understandably and properly the Port Melbourne City Council and the residents of Port Melbourne have objected to it. What is the situation with the boulevard road link and the bayside project?

The Hon. G. P. CONNARD (Higinbotham Province)—I refer the Minister for Education to a statement made by the Science Teachers Association of Victoria earlier this year that there has been a steady fall through the 1980s in the time allocated to science in high schools. An article in the *Age* reported:

> The Science Teachers Association of Victoria said that throughout the 1980s there had been a steady fall in the time allocated to science in high schools.
>
> A survey by the association of 120 high schools showed that over the past eight years in each of the first four years of secondary education the average time students spent studying science had fallen by up to 11 per cent.

The study amplified an additional review by the International Association for the Evaluation of Educational Achievement that covered seventeen countries. That review showed that, at the lowest secondary level, the performance of Australian students had declined considerably since 1970. It said that among the ten-year-olds surveyed throughout the world, Australian students ranked ninth out of the seventeen countries. Among the States, Victoria's ten-year-olds ranked second and the only State in front of Victoria was Tasmania.

These findings have been supported by Dr Malcolm Rosier of the Australian Council for Educational Research who said that these were most disappointing results for Australia and Victoria. If she is interested in excellence in education, I ask the Minister what action she is taking to remedy that situation urgently. What action is the Minister taking to remedy the shortage of science and mathematics teachers in Victorian high schools?

The Hon. HADDON STOREY (East Yarra Province)—The matter I raise for the attention of the Minister for Education concerns the conditions and staffing agreement between the Ministry of Education and the Teachers Federation of Victoria. The Minister will be aware that the agreement provides for the establishment of local administrative committees.

Earlier versions of the agreement provided for the structure of those committees and a whole range of decisions being reached between the principal and the staff. That then became decisions being reached between the principal, the local union branch and the staff; the last version, this year, was agreement being reached between the principal and the union branch. Therefore, the rest of the teachers at the school and those who were not members of the union branch were excluded from participation in the establishment of an administrative committee and a whole range of decisions that then had to be made.

It has now been put to me that, as a result of this, teachers who are not members of the local union branches in schools are being discriminated against. One of the functions performed by the local administrative committee is to nominate persons who are entitled to special duties allowances. It has been put that only union members are being nominated and non-union members who have held these positions for years are now being denied them. It has been put that teachers are being denied the right to nominate or participate in many of the activities within the school covered by the local administative committee.

It has been put that non-union members are being nominated as teachers in excess whereas the members of the Teachers Federation are not.

As a result of the change in the agreement which provides that the local union branch member can be the only person to represent the staff on these committees it discriminates against the rest of the staff. Teachers are being disadvantaged.

I ask the Minister to examine the agreement with a view to assessing whether it accords with the spirit of the Equal Opportunity Act and whether discrimination is being perpetrated against non-union members in schools; if that is the case, to also determine whether she will take some action.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Dunn directed a matter to my attention dealing with eggs and egg pricing. His initial comments regarding the Prices Commissioner, Professor Fels, were injudicious and somewhat insulting.

Mr Dunn was misinformed as the Prices Commissioner does not fix the prices but advises the government. He plays this role in regard to other commodities as well. The advice of the Prices Commissioner is made available to the Victorian Egg Marketing Board—I, as the Minister, make his advice available to the board—and it is the board that sets egg prices.

Mr Dunn referred to comments made by egg producers from the Bendigo area who had spoken to him. I intend tomorrow evening to make a major statement in the House in response to the November report tabled in the House by the Public Bodies Review Committee. It would be wise to hold over discussion on the more detailed part of Mr Dunn's comments until that statement has been made because the statement will bear some relevance to the points Mr Dunn has brought forward.

I do not reject examination of the figures, as Mr Dunn suggests—I am happy to do that—but I believe discussion regarding those figures would be more useful after the statement is made tomorrow evening.

The Hon. D. R. WHITE (Minister for Health)—Mr Wright raised a matter which he directed to the Minister for Industry, Technology and Resources regarding power failure in Robinvale and the proposed downgrading of the State Electricity Commission office there. I shall take up that matter with the Minister.

The Hon. J. H. KENNAN (Minister for Transport)—Mr Lawson raised the matter of the *Herald* card. It is probably correct that the Metropolitan Transit Authority did receive payment from the *Herald* organisation for that promotion. As I understand it, in promotional activities of that kind that sort of advertising for the product is the consideration. The promotion of the services of the Metropolitan Transit Authority is part of the *Herald* organisation's responsibilities. That sort of advertising and promotion of MetRail's services, on the basis of attracting overall patronage, is something to be encouraged.

I shall later be producing figures that will show the poor performance of the railways in the years immediately prior to 1982 when the previous administration threatened to close down the system unless there was greatly improved patronage. This is another attack by the Opposition on the senior management of the Metropolitan Transit Authority. Obviously the Opposition has decided to embark on the denigration of personnel in the transport authorities. This should be seen in the light of the Opposition's policy to either close down the system, which on one occasion it threatened to do, or to sell the system off and abandon any attempt to manage the situation.

This attitude is to be regretted. Mr Guest raised a matter and in the typical way of the Opposition he was not prepared to read a full extract from the document to which he referred or even to make it available.

The Hon. J. V. C. GUEST (Monash Province)—On a point of order, I find offensive the insinuation of the Minister that I was trying to mislead the House and be deceptive. If the Minister wishes to read the whole of the document I have it available. I read all the

relevant parts and I find it offensive for the Minister to insinuate that I was misleading the House and I ask him to withdraw.

The PRESIDENT—Order! Mr Guest finds the remarks offensive and asks the Minister to withdraw.

The Hon. J. H. KENNAN (Minister for Transport)—I am not obliged to withdraw. The fact of the matter is that Mr Guest referred only to part of the document and despite the interjection that he should table the document he failed to do so. If he now wants to table the document that is another matter. In fact, he did not refer to the whole of the document and he did not make the document available to me. I stand by my assertion that I am not obliged to withdraw. It is an absurd situation when a Minister is not allowed to state a fact.

The Hon. J. V. C. Guest—It was an irrelevant fact.

The Hon. J. H. KENNAN—Mr Guest is now saying that it is irrelevant. With the greatest respect, it is not the proper use of Standing Orders for an honourable member to say that he finds a matter offensive and wishes that it be withdrawn. On that basis if I referred to Wednesday an honourable member could stand up and say that he found Wednesdays offensive and, as a result, it would be necessary for me to withdraw. I did not say that Mr Guest was misleading Parliament but I said that as a matter of fact he failed to produce and to hand over the document to which he referred.

The Hon. J. V. C. GUEST (Monash Province)—On the same point of order, the way in which the Minister expressed himself when he said, "in the typical way of the Opposition he failed to read the full extract of the document", suggests that he asked for the document and I do not recall him asking for any such thing. If he did so it would only be by way of interjection which I did not hear.

The insinuation made by the Minister that it was "the typical way of the Opposition" I find offensive. It appears that I was misleading the House by only referring to parts of the document.

The PRESIDENT—Order! There is no point of order. The insinuation was entirely the interpretation of Mr Guest; it was not mine. I do not believe that the words used by the Minister require withdrawal in these circumstances.

The Hon. J. H. KENNAN (Minister for Transport)—If Mr Guest wishes a full answer to the matter he raised I ask him to provide all the correspondence to me and I shall give that matter due consideration.

Apparently, from the extract he read there was a reference to a proposal; the government has made no decision on the implementation of that proposal or on its timing. The government has made it clear, and it is well supported by people of common sense, that the Clarendon Street bridge is a traffic hazard. There is an argument that it has some historical value. The government believes it is in the public interest that the bridge be demolished. In respect of the light rail, the government has said that it does not foresee an option of running the light rail across Spencer Street and up Flinders Street at some future time.

The matter is extraordinary because Mr Guest's party, through the honourable member for Gippsland West in another place, wrote to my department and asked that the government abandon the light rail and consider an Obahn system. Now a member of the same party, Mr Guest, wants an extension of the light rail and wants the refurbishing of the Clarendon Street bridge. The official Opposition spokesman on transport matters—until the Leader of the Opposition, Mr Kennett, became the spokesman on privatisation—wrote to the government on this matter. I am happy to make the letter from the honourable

member for Gippsland West available to Mr Guest in which he suggests that the government should abandon the light rail and follow the South Australian system.

Mr Guest is saying, "Not only am I happy, by implication, with light rail, but I want an extension of it".

In relation to the Croydon land, the honourable member for Warrandyte in another place, Mr Lou Hill, has done an outstanding job for the Croydon tenants. He made numerous representations to me and I believe the matter has been satisfactorily dealt with. Mr Hill also made representations on behalf of Mr Lees and I have indicated to Mr Hill that the Lees matter has passed—the egg cannot be unscrambled there—but the fact of the matter is that Mr Lees and the Croydon tenants have been adequately and copiously represented to me by Mr Hill, in his usual diligent way, as the honourable member for Warrandyte.

The Hon. C. J. HOGG (Minister for Education)—In answer, first of all, to Mr Chamberlain and the matter he raised about the Cavendish Primary School and the school bus, I acknowledge from the information he has given me that there are problems of several families travelling large distances at much inconvenience.

I am sympathetic to the problems they are experiencing and the problems, therefore, being caused to the principal and to the school. As Mr Chamberlain will well know, many problems are associated with transporting the school community in country areas. I spent some time talking to the head teacher and some of the school council members of Granya near Wodonga last Thursday and I listened to the problems they were experiencing with their bus. Because of the declining numbers of students at the school, they were in danger of losing the service and the mileage involved in transporting students at the Cavendish Primary School is comparable.

Quite obviously there are significant costs in doubling bus services or running second buses. I shall do what I can about the problem and get back to Mr Chamberlain on that matter.

In answer to Mr Reid, I understand from my colleagues that he is absolutely right that this situation is a saga and, as it appears to involve merely an agreement by management, I cannot understand how it managed to drag on for seven years. There do not seem to be costs accruing in this matter; it is merely a case of agreement and implementation.

I shall try to move on the point. I expect everyone has said over the past seven years that they will take prompt action, and I reiterate that point and sincerely hope I shall be able to deliver appropriate action very soon.

The Hon. J. E. Kirner—If she doesn't, you can always ask the question again!

The Hon. N. B. Reid—I might not be here for the next one!

The Hon. C. J. HOGG—Mr Connard raises a number of issues associated with the teaching of science and also the teaching of mathematics in Victoria. Obviously, some of the material mentioned by the Science Teachers Association of Victoria, including an international survey, is of concern although, as Professor Malcolm Skilbeck said in the *Education Age* about a fortnight ago, it is difficult for more substantial inclusions from the international survey and it is important to note that if we wish to talk about inclusions, Hungary, for example, has placed enormous emphasis on mathematics, science and technology and its standard in these areas is first rate, whereas the United States of America and Great Britain have not placed as much emphasis on these areas.

The Ministry of Education is especially interested in the issues raised by Mr Connard about initiatives taken in the mathematics and science areas, and my answer is really only the tip of the iceberg, but I should like to spell out a number of schemes being developed to increase the supply of mathematics and science teachers which involve, for example, the retraining of 116 existing teachers in those areas.

Also, 32 primary school teachers are being retrained to become secondary mathematics teachers and, in some cases, secondary science teachers. As well as this number, 69 studentships are being given to encourage mathematics and science final year undergraduates to become teachers. In other words, these people are being encouraged to stay in secondary education rather than moving into primary education.

As well as these initiatives, a number of projects have been instigated to upgrade the skills of existing mathematics and science teachers and I can provide Mr Connard with details of those programs. They involve a number of individual school-based projects designed to stimulate students' interests in mathematics and science and technology because participation rates—particularly those of girls—are of concern to me and, I imagine, of concern to every honourable member in this House.

An interesting part of the program involves the Swinburne Institute of Technology and some of the neighbouring schools. I have mentioned only a few of the areas in which initiative has been taken. It has been an emphasis of the Ministry of Education, certainly during the time of the previous Minister for Education, to encourage these programs.

The Hon. G. P. Connard—They seem to be failing, though.

The Hon. C. J. HOGG—I believe some of the plans have really only begun this year. I certainly addressed a couple of in-service conferences for mathematics and science consultants earlier this year, so some time has been taken to develop a number of those strands, and I have great hopes that there will be increased participation in the programs, that they will benefit girls, and that more mathematics and science teachers will result to fill those now diminishing positions in isolated areas. That situation is improving but the Ministry is taking the problem seriously and I shall be glad to provide Mr Connard with more details in the future.

In answer to Mr Storey, the secondary and primary principals' groups alerted me to concerns they had with the industrial agreement back in December. Certainly in the first week of February when we met, Kevin Collins—the Chief Manager of Schools—and I tried to talk through some of those concerns, and I hope we allayed some of them.

The Ministry was at pains to tell principals that nothing in the agreement precluded them from talking to non-union members and involving non-union members. The administrative committee structure in schools, with the increased emphasis on participation and the joint finding of solutions, is an extremely good one. I am a strong supporter of schools organising their administrative committees and I should have imagined that in the majority of schools the situation is handled sensibly both by union members, principals, and people who do not belong to a union.

I shall be speaking to the Victorian High School Principals Association again next Monday and I shall ask members to demonstrate examples of the results that have obviously been brought to the attention of Mr Storey, and the Ministry will look at what these people have to say.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—In response to the question from Mr Evans, the first point to be made is that he wonders why I get a bit testy from time to time with his questions, and one of the answers to that point is that I really do not appreciate reflections, however unintentional, being cast on my officers' integrity, and that is exactly what he did when he suggested that, for reasons of gathering extra revenue, my officers might describe an area as having a higher dry sheep equivalent than is appropriate.

If he had read the agreement between the Victorian Farmers Federation and the government, which was reviewed again this year, and happily agreed to, he would have noted that on the pricing panel there is a representative of the Department of Conservation, Forests and Lands, a representative of the Victorian Farmers Federation and another representative, so the whole issue is being carefully monitored not only by the Department

of Conservation, Forests and Lands but also by a representative of the Victorian Farmers Federation. That would seem to be the way to ensure that there is proper accountability.

There would be some cases where a considerable increase in lease charges has occurred, because some people have not paid for two or three years, and it would be a shock to them. However, in the case of people who have paid and who have had their lease rentals increased considerably, if they feel the charge is not appropriate according to the formula or that they have been unfairly treated, those people have grounds for appeal to the regional manager, as Mr Evans would know if he read the document properly. In the past twelve months nearly all cases where appeals were lodged were worked out at the regional manager level.

It is difficult to get this issue absolutely perfect, but it is much better than it was two years ago. The formula is supported by the Victorian Farmers Federation. It has allowed those people who are prepared to use their land in a revegetation sense to have it declared unproductive and to have a minimal rental applied to it. It also incorporates improved provisions for people who take proper responsibility for their water frontages.

The point I make is that I do not believe it is possible for my officers, to whom Mr Evans owes an apology, to be involved in misusing the equivalent charges to farmers, through the intention of either the government or the department, because the overall increase in revenue for the whole of this quite complicated review of Crown land leases and licences is almost nil.

The motion was agreed to.

The House adjourned at 1.32 *a.m. (Wednesday).*

QUESTIONS ON NOTICE

CAMERAS AT INTERSECTIONS

(Question No. 133)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Minister for Transport:

(*a*) How many cameras are now installed at signalised intersections in the metropolitan area?

(*b*) What has been the cost of installing those cameras?

(*c*) What is the cost of inspecting film and maintaining the cameras?

(*d*) What revenue has been gained from them in each of the years 1984, 1985, 1986 and 1987, after taking into account operating costs?

The Hon. J. H. KENNAN (Minister for Transport)—The answer is:

(*a*) One hundred and twenty-five signalised intersections have been equipped with red light violation cameras.

(*b*) The cost of installing the 125 units was $72 000.

(*c*) and (*d*) These questions should be referred to the Minister for Police and Emergency Services, as operating and maintaining the red light cameras is a function of the Victoria Police.

Wednesday, 4 May 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 2.3 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

USE OF METROPOLITAN TRANSIT AUTHORITY VEHICLES

The Hon. B. A. CHAMBERLAIN (Western Province)—I refer to the untrue claim of the Minister for Transport that the State Opposition accused the entire executive of the Metropolitan Transit Authority of using government cars outside the Premier's guidelines for private use. I ask the Minister whether he has now acquainted himself with the MTA inter-office memorandum dated 28 January 1988, which clearly states:

> It has been brought to notice that the Premier's direction regarding the private use of government motor vehicles by staff below SES level 3 is not being complied with by this authority.

The Hon. J. H. KENNAN (Minister for Transport)—Members of the Opposition have yet to respond to my request concerning this matter, which I made public the evening before last and which was broadcast on radio yesterday morning. My request was made in response to their suggestion that they have in their hands a list of 22 or 23 people who are, to quote the words of the Opposition, "stealing from the community of Victoria".

I suggested that, if members of the Opposition had the courage of their convictions, they should name those people outside Parliament, not inside Parliament. One can understand why someone like Mr Birrell or the honourable member for Glen Waverley in the other place are concerned about the defamation actions that may take place if outside the Parliament they made such vicious personal attacks on people.

Once again the Opposition is attacking management in the transport portfolio and bagging them in a most unpleasant and insensitive way. If the Opposition has the evidence of theft that is says it has, it should come forward and see me, or set out the details in a letter. If the Opposition wants to name public servants, let it name them outside the House so that the matter can be properly examined.

I recognise that Mr Chamberlain is a little upset today because Margaret stormed out of the Chamber last night; he is a bit directionless today and might start hyperventilating soon. Anyway, the real Leader of the Opposition is in the Chamber now—Mr Hunt was not present at the start of today's proceedings. Unfortunately, Mr Chamberlain is adopting the same Opposition approach. He will not name these public servants outside Parliament. He will not write to me and say, "These are the names, have a look at them". He wants to circulate a list of 22 or 23 names and not face up to the consequences. It is typical of the attitude of the Opposition in this State. The Opposition is not concerned about policy.

The Hon. B. A. CHAMBERLAIN (Western Province)—On a point of order, Mr President, the question was specific and referred to a Metropolitan Transit Authority office memorandum of 28 January 1988 which admitted that the Premier's direction for the use of private motor vehicles by staff below SES level 3 was not being complied with. The question I asked was: how does the Minister reconcile that with the untrue claims he made in this House yesterday?

The PRESIDENT—Order! There is no point of order. I invite the Minister to complete his answer.

The Hon. J. H. KENNAN (Minister for Transport)—There is absolutely no substance to what Mr Chamberlain has said. If he had listened to my comments and had read the

memorandum, he would know that the phrase "widespread misuse", which was the phrase to which I referred yesterday, appeared in the Premier's direction, not as a new item in the body of the memorandum itself; that is what he does not appear to understand. The government is sick to death with the Opposition's approach. So, too, are public servants out there: they are sick to death of being bagged, particularly in the cowardly, anonymous and slimy way that has been used by the Opposition. The public know what this lot are on about. Victorians have observed the Opposition's performance on the right-to-life issue and they know how Margaret tells the Opposition what to think and what to do. The public is fed up with Mr Chamberlain.

The PRESIDENT—Order! I believe the Minister has completed his answer.

HEALTH SERVICES IN ALBURY-WODONGA

The Hon. W. R. BAXTER (North Eastern Province)—The Minister for Health will recall that some years ago a joint working party representing Heath Department Victoria and the New South Wales Department of Health was established to consider the rationalisation of health services in Albury-Wodonga. The working party produced a very useful report, which was predicated on the retention and upgrading of the existing Albury Base Hospital.

In light of the commitment of the New South Wales Liberal government to build a new base hospital in Albury, will the Minister take action to reconvene that working party to consider its recommendations with a view to ensuring that the people of Wodonga are properly served by that new hospital with respect to its location and the services it will provide?

The Hon. D. R. WHITE (Minister for Health)—As honourable members will recall, the late Bernard Leonard was the regional director responsible for initiating discussions with the New South Wales government so that the Albury Base Hospital and New South Wales health services would be used effectively and efficiently for the benefit of people in Albury and Wodonga; and Ian Hyndman, Mr Leonard's successor, has been responsible for putting into effect the efficient utilisation of the total health resources in that area.

If the view of the new New South Wales government is to take an initiative outside that agreed upon scenario, it would be the Victorian government's view, which is shared by Mr Baxter from the comments he has made, to resume discussions with New South Wales so that the steps we are taking to enhance the delivery of health services by the Wodonga District Hospital are not in any way compromised by any new initiative taken in New South Wales.

The government looks forward to entering into those discussions with the relevant regional director from New South Wales at Albury. We would like to think that the spirit of those discussions that do occur will come to fruition. However, if a decision to change the direction of health policy in Albury is made, we would want to enter into new discussions so that the services being provided at Wodonga are not in any way threatened or undermined and, just as importantly, that the people of Wodonga retain the right of adequate access to health services in both Albury and Wodonga.

INTIMIDATION OF MEMBERS OF PARLIAMENT

The Hon. J. L. DIXON (Boronia Province)—My question is addressed to you, Mr President, as a member of the Electorate Office Support Committee. Last night in Parliament the serious matter of the Medical Treatment Bill received intense and serious debate. At some stage during the night or in the early hours of this morning, a person or a group of people went out to my electorate office and spray-painted graffiti all over the office and the pavement, including such slogans as "Death Bill Dixon", "Dixon kills", "Euthanasia, No" and so on. I am really outraged and offended by that sort of behaviour.

That is an attempt to intimidate members of this House and to stifle debate that should be conducted fearlessly and freely in this House. That has been a feature of the debate on the Medical Treatment Bill. I ask that in your role as a member of the Electorate Office Support Committee you investigate the matter and ascertain if there is some way of stopping this attempted intimidation of members of Parliament.

Honourable Members—Hear, hear!

The PRESIDENT—Order! I say at the outset that I am appalled at what has occurred. It goes far beyond Mrs Dixon, it goes across the whole of the Parliamentary system. Members of Parliament enjoy the privilege of speaking freely on any subject in this House and should not fear any intimidation. The latest incident follows on from the breaking of the window at Mrs Coxsedge's electorate office at Christmas time and I have also received a letter from Mr Wright informing me that his electorate office has been harassed by someone in his area.

I assure Mrs Dixon that I take the matter very seriously, as I am sure every member of this Parliament does. I hope not only the Electorate Office Support Committee but also the Parliament itself would want to look to the protection of members. I am sure that every fairminded person in Victorian society would be as appalled as we are. I assure Mrs Dixon that through the Electorate Office Support Committee a thorough investigation of what has occurred will be made and everything within the power of that committee will be done to find out who carried out this action and to ensure that those persons, or that person, are brought to justice.

This situation cannot be allowed to continue. Parliament must consider this action and the earlier incidents that have affected other honourable members and must investigate the matters to ensure the protection of members' rights and privileges.

CLOSURE OF RAILWAY LINES

The Hon. R. S. de FEGELY (Ballarat Province)—Will the Minister for Transport confirm that the Metropolitan Transit Authority is planning to discontinue the running of trains to Melton, Sunbury and Stony Point and replace them with buses? I also ask whether these closures will be announced before the general election.

The Hon. J. H. KENNAN (Minister for Transport)—The question of railway lines and their economy as against buses is periodically reviewed in respect of a number of lines. The government has indicated that, unlike the former Liberal government, it is not on about general line closure. The government is producing a Metplan document that will canvass a range of options in general terms for the possible extension over the next five to fifteen years of the fixed rail system rather than the closure of the lines.

As Mr Wright and other honourable members from the Mildura area would be aware, the economy of any one specific line is a matter that receives attention from time to time. No decision has been made to close any of the lines mentioned. The future viability of lines generally, both in terms of passenger and freight service, will be taken in the context of the forthcoming Metplan and STAplan documents.

Specifically, no decision has been taken or is likely to be taken in the near future towards closure of Melton and Sunbury. The future of lines generally, possible expansions and so forth will be discussed in the STAplan and Metplan.

SPECIAL IMPACT FUNDING FOR ROADS

The Hon. R. M. HALLAM (Western Province)—My question to the Minister for Transport relates to special impact funding in relation to road debt. One of my constituent municipalities, which is keen to apply for special impact funding, has been given what could best be described as the run-around by the Ministry of Transport and has not been able, at this stage, to have access even to guidelines under which special impact funding

applications can be made. Is there a formal set of guidelines under which an application for special impact funding can be made; and, if so, will the Minister release that profile? If not, why not, given that the need for special impact funding is at least, in part, a direct consequence of change in government policy?

The Hon. J. H. KENNAN (Minister for Transport)—If Mr Hallam gives me the details concerning the municipality for which he has made representations, I shall be happy to take up the matter with him directly.

SYDNEY ROAD CORRIDOR STUDY

The Hon. G. A. SGRO (Melbourne North Province)—Will the Minister for Transport——

The Hon. Robert Lawson interjected.

The Hon. G. A. SGRO—I advise Mr Lawson that this is a serious matter. Will the Minister for Transport advise the House of the progress of the Sydney Road corridor study. If Mr Lawson does not know where Sydney Road is, I advise him it is in Coburg.

The Hon. J. H. KENNAN (Minister for Transport)—I take it that Mr Sgro's reference to Mr Lawson was purely a reference to him, not to me. As I indicated to the House earlier this year, the Ministry of Transport is carrying out a study of transport needs in the Sydney Road corridor, including the future of the Upfield railway line, which runs to Upfield near Barry Road.

The study is being carried out by the Metropolitan Transit Authority. It is concerned to identify a means of providing improved levels of service for the travelling public in that corridor, with improvements in efficiency and service delivery particularly in mind. The tasks have included detailed surveys of passengers on the Upfield railway line and the Sydney Road tram service. These were taken to establish current passenger loadings and patterns of trip making.

Telephone interviews of 400 people have been completed in the area to determine public perceptions of the adequacy of public transport in that area. The surveys have been conducted in four ethnic languages, namely, Vietnamese, Turkish, Greek and Italian. Some of the information coming in suggested the need for further community consultation with health services and other community groups before any final decision is taken. I hope that, in the second half of the year, the Ministry will have consulted those community groups, unions and transport users so that we can draw together plans for better transport services for the Sydney Road corridor.

ROAD CONSTRUCTION AUTHORITY PREMISES

The Hon. N. B. REID (Bendigo Province)—In view of the Premier's directive that all State government creditors should be paid within 30 days, can the Minister for Transport explain why the lessors of premises in Princess Street, Kew, which rent the premises to the Road Construction Authority, found it necessary this week to lock out the authority's staff over non-payment of rent?

The Hon. J. H. KENNAN (Minister for Transport)—There is a dispute in relation to those premises. If Mr Reid wants a more detailed answer I can provide it to him outside the House.

SILVER STAR POULTRY

The Hon. B. P. DUNN (North Western Province)—I direct a question to the Minister for Agriculture and Rural Affairs. Is it a fact that Silver Star Poultry, which operates a major chicken meat growing and processing operation in Victoria, has been placed in the hands of receivers?

Is the Minister aware that many farmers throughout Victoria actually have extensive capital tied up in the industry and supply chickens under contract to this company? Has

the Minister assessed the position of the producers or will he assess the producers' position, many of whom may be placed in considerable financial difficulty because of this situation?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The answer to the first question is, regrettably, to my knowledge, "Yes". Silver Star Poultry, which I think is the trading name of the Musgrove family, has been placed under receivership in the hope of being able to trade out of a difficult financial position.

With regard to the rest of Mr Dunn's question as to whether I will look into the issue regarding the suppliers of that firm—I suppose the question comes from Mr Dunn because he is concerned as a number of the producers are in his electorate—my answer is, "Yes, I have met with them". Approximately ten days ago I was in Horsham and I had a meeting with a number of suppliers of this firm at Longerenong Agricultural College. I indicated that I would do all that I could to ensure that their situation was improved.

Since that meeting I have learned about the problem to which Mr Dunn referred a moment ago. I shall do everything I can to sustain them in their businesses and to ascertain whether it is at all possible for that firm to continue to trade as a third force in the broiler chicken industry in Victoria. I say "third force in the broiler chicken industry" because the industry is controlled by two major cartels.

The Musgroves took on the large cartels to ascertain whether they could not make a business work in the broiler chicken industry, not only in terms of processing broiler chickens but also in the hatching business. I give them credit for having attempted to do so. I know they are now in significant difficulty. Another Minister in the government, the Minister for Industry, Technology and Resources in another place, is also working hard to ensure that they are sustained in business.

I shall keep Mr Dunn informed. I understand the problem well. I have followed it up closely and it is hoped a reasonable solution can be achieved.

PROPOSED DANDENONG RANGES MANAGEMENT PLAN

The Hon. JEAN McLEAN (Boronia Province)—I direct a question to the Minister for Conservation, Forests and Lands. The proposed management plan for the Dandenong Ranges National Park recommended that an information centre for the park be built at Ferny Creek. Will the Minister inform the House whether a decision has been made on the matter and what government support will be given to information and educational facilities in that area?

The Hon. J. E. KIRNER (Minister for Conservation, Forest and Lands)—Last year the government decided to make the Dandenong Ranges area a national park. That decision had the support of all sides of Parliament. The park consolidates the major conservation areas of Doongalla, Ferntree Gully and Sherbrooke Forest. It is a major Victorian national park because it is so close to the city area, but also it is an extremely difficult park to manage in terms of urban encroachment and high visitation rates. Therefore, the appropriate process for managing the park was to develop a proposed management plan.

The department did that with an advisory committee and then circulated the plan for public comment. The proposed plan set out what my department and the community may do to protect and enhance the natural assets of the park and to provide for balanced use. Public participation was significant and it generated considerable debate, but only two of the 380 recommendations of the management plan proved to be contentious. One was clearly whether we should place a park information centre on the Nicholas Paddock area in Ferny Creek and the second was what might be done with the kiosk at Grant's Picnic Ground.

The process of submissions to the management plan has now been completed and I have decided that we will not proceed further with the recommendation in the draft

management plan that a park information centre should be established on Nicholas Paddock.

This is based on my firm view and the view of the honourable member of Monbulk in another place, Mr Neil Pope, that we need strong community support to manage a park which is such a challenge in terms of balancing issues.

Strong local opposition was voiced to the use of that Ferny Creek site because it was the community's view that its use would present problems in proper management and also problems with the aesthetics of the area. The Department of Conservation, Forests and Lands is now investigating alternative areas to determine the most appropriate site for park information and education facilities.

A proposal was also put forward to install new administrative facilities with the information centre and I do not believe that is absolutely essential but I have asked the department to undertake further public consultation for, perhaps, a scaled-down version of an information centre and perhaps the use of split sites at either end of what is a long park. These would be placed, therefore, at the Ferntree Gully end and at the Grant's Kiosk end of the park.

Approximately 2 million Melburnians, Victorians, and interstate and international tourists visit the Dandenong Ranges each year and most of them visit Sherbrooke Forest, so it is important to have the best possible management of the park based on community support.

OFFICE FACILITIES OF MINISTER FOR TRANSPORT

The Hon. ROSEMARY VARTY (Nunawading Province)—I ask the Minister for Transport: is it a fact that soon after being appointed Minister for Transport he directed that an office be redesigned and upgraded to his liking at level 14, 60 Market Street, even though a perfectly adequate office was already available for his use? Is it also a fact that he has never used that new office and what was the cost of this unjustifiable extravagance?

The Hon. J. H. KENNAN (Minister for Transport)—Again, misleading information is being peddled by the Opposition. An office space was available for me and I used it on a number of occasions. It was not upgraded; the furniture in it was standard. It is being used now on a full-time basis and it has been used for some months in the ordinary way. There were no special accoutrement or arrangements made for my occupation of that office.

FINANCES OF RURAL COUNSELLING SERVICES

The Hon. D. E. HENSHAW (Geelong Province)—Will the Minister for Agriculture and Rural Affairs advise the House of steps he has taken to assist Victoria's rural counselling services with their shortfalls in funding for the 1987–88 financial year?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Five rural counselling services have been established in rural Victoria in the past few years with the assistance of both the Federal and State governments. Three of them are experiencing funding problems in paying their counsellors. Fifty per cent of the cost of the services is paid by the Federal government, a significant proportion by the State government and approximately 20 per cent is expected to be a contribution of local government, but some communities are having difficulty.

The shortfall this year for some of those groups is approximately $20 000 and I am pleased to inform Mr Henshaw that I have been able to make arrangements to cover the shortfall of these three services, which are in difficulty.

The three groups affected are, firstly, the Wimmera Fightback Committee—an important group in the Wimmera dealing with grain farmers. It will receive $3960 to make up its shortfall. The second group is the Murray Valley Rural Industry Assistance Group, which

will receive the largest amount—$10 194. The third group is the Mallee Crisis Committee, which is well known to this Hosue because it was the pioneer in much of the work in rural counselling and local initiatives on behalf of the local council. The Mallee Crisis Committee will receive $5787.

The five groups have provided a valuable focus for communities faced with major economic difficulties. The other two groups are in Leongatha and in the Sunraysia area. The rural councils have played a vital role in putting communities back on their feet. The five groups across Victoria are employed by various community groups to provide a free and confidential service to farm families facing low incomes and other pressures.

A counsellor can assist the family to analyse its position and options and provide advice and referral to other services as well as helping in negotiations with other parties, such as a bank or finance company. The government recognises and strongly endorses the valuable role played by those counsellors.

Although the overall agricultural outlook has, I am thankful, improved in recent times, the need for rural counselling is still apparent and is certainly not declining. In fact, it may well increase during 1988 because experience has shown that most adjustment occurs as conditions improve in the farm sector because more options open up for families wishing to leave farming.

The three groups have experienced funding shortfalls despite their efforts to raise money. I hope, in the future, funding will be forthcoming from groups that have the interests of the rural community as heart, such as local government, the Victorian Farmers Federation, local Apex or Rotary clubs or whatever community group can be fostered to assist. I hope they will come to the party in the future and provide help for the excellent work of the groups. I am pleased that the three services have continued by the money necessary to keep them in business for another year being found.

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 15 signatures.

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

Brothel, Moorabbin

The Hon. G. P. CONNARD (Higinbotham Province) presented a petition from certain citizens of Victoria opposing the establishment of a brothel at 6 Bignell Road, Moorabbin. He stated that the petition was respectfully worded, in order, and bore 19 signatures.

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

Public hospitals closure

The Hon. J. V. C. GUEST (Monash Province) presented a petition from certain citizens of Victoria opposing government plans to close and sell public hospitals and calling on the government to improve the health system. He stated that the petition was respectfully worded, in order, and bore 1153 signatures.

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

SOCIAL DEVELOPMENT COMMITTEE

Community violence

The Hon. J. L. DIXON (Boronia Province) presented the first report from the Social Development Committee upon the inquiry into strategies to deal with the issue of community violence, together with appendices.

It was ordered that they be laid on the table and be printed.

PAPERS

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

Members of Parliament (Register of Interests) Act 1978—Summary of variations notified to 30 April 1988.

Parliamentary Committees Act 1968—Minister's response to recommendations in Legal and Constitutional Committee's report upon Support Services for Victims of Crime.

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the report tabled by the Clerk be taken into consideration on the next day of meeting.

NATIONAL PARKS (AMENDMENT) BILL (No. 2)

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

That this Bill be now read a second time.

The Bill provides for changes to the National Parks Act 1975 to expand the national park system in east Gippsland, in particular:

the declaration of two new national parks—Errinundra and Coopracambra, the latter through the expansion of the existing Coopracambra State Park;

major extensions to Snowy River National Park; and

other important extensions to Cobberas–Tingaringy, Croajingolong, Alfred and Lind national parks.

This is one of the most important national parks Bills ever presented to the Victorian Parliament, ranking alongside the landmark 1956 legislation of the Liberal government that established Australia's first National Parks Act; the 1978 legislation of the Hamer administration that created, among other significant park areas, many of the existing east Gippsland national parks such as Croajingolong and Snowy River; and the 1984 legislation of this government that established the Grampians National Park.

The world-class parks that this proposed legislation will establish in east Gippsland will be of major importance in helping to achieve several important objectives of the State's conservation strategy, including:

to ensure that all Victorian native species of flora and fauna, native ecosystems and communities can survive, flourish and retain their potential for evolutionary development;

to protect representative and ecologically viable samples of all Victoria's natural ecological systems, including land systems, native vegetation types and native animal communities;

to preserve genetic variability within Victorian plant and animal species;

to preserve remaining areas of high wilderness quality; and

to protect areas of special value for natural heritage, flora and fauna habitat, or for maintenance of ecological processes or life support systems.

East Gippsland is a very special corner of Victoria—a corner which, covering only 4 per cent of the State, contains:

about 40 per cent of Victoria's native plant species, 60 per cent of its native mammal species, 60 per cent of its birds, 20 per cent of its reptiles, 60 per cent of its amphibians, and 50 per cent of its fish species;

highly diverse mature forests including tall wet eucalypt forests of exceptional conservation significance, and highly significant areas of rainforest, including Victoria's largest stand;

Victoria's largest forest wilderness;

catchments and streams that have been virtually undisturbed by the activities of modern society;

some of the least spoilt coastline in south-eastern Australia;

a vast array of exceptionally beautiful natural landscapes, including mountains, plateaux, escarpments, rivers, deep gorges, coastline and inlets; and

excellent opportunities for a wide range of recreational activities including vehicle-based touring, camping, picnicking, nature study, bushwalking, canoeing, boating and fishing.

Not only will the legislation establish parks that include many of the most significant and beautiful areas in east Gippsland, but it will also rectify major deficiencies in the State's system of parks and reserves, enabling some of Australia's most precious and special forested areas to be included in that system for the enjoyment, education and inspiration of this and future generations.

This will be an outstanding contribution towards Victoria achieving a truly representative system of parks and reserves—a system that has been built up over the years by the past efforts and vision of various Liberal and Labor governments, and on the sound basis of the studies and recommendations of the Land Conservation Council. At this stage, Victoria could be the first in the world to achieve a representative system.

In past land use decisions, there has been a tendency towards choosing areas for national parks which do not have high timber values or to allow once-only logging to remove the mature timber from the parks.

This approach is not appropriate in east Gippsland if the values associated with the world-class forests of this important region are to be properly protected, and Victoria's park system is to be as good as, or better than, any in the world.

However, the decision to create the parks needs to be viewed, not only in the context of protecting some of Victoria's most outstanding natural areas, but also in the context of the future of the east Gippsland economy, an economy which the government is endeavouring to place on a sounder and broader base, to ensure a sustainable and secure economic and social future for the region.

Victoria is the first State to address seriously, and resolve, the extremely difficult conflict between protection of exceptional natural heritage areas and the needs of the timber industry and the small towns that are largely dependent on timber for their survival. Through the timber industry strategy, the government has been able to achieve a balance that allows for both economic development and environmental protection.

The timber industry strategy provides the impetus to restructure east Gippsland's economy, addressing the problems that were being created by cutting timber at a rate exceeding sustainable yield, and the effects of including areas previously available for

timber harvesting in national parks. Through the strategy, the timber industry is being restructured to ensure its long-term viability, through important measures such as:

the staged reduction to sustainable yield management of sawlogs, which will ensure long-term resources for the sawmilling industry—past governments did not have a sustainable yield policy;

the issue of longer-term fifteen-year sawlog licences to give security to the industry and hence provide the environment for capital investment—current licences are issued for a maximum of three years;

the encouragement of value-added processing of all log material withdrawn from the forest, which will be achieved by the introduction—subject to a successful environment effects statement and trial—of the value-adding utilisation system;

encouragement of the use of D grade sawlogs;

the development through public participation of a forest management plan for east Gippsland;

the establishment of native hardwood plantations;

the possible thinning of regrowth eucalypt forests, following a joint research project by the Commonwealth Scientific and Industrial Research Organisation and the Department of Conservation, Forests and Lands;

upgraded environmental protection through the development and implementation of the code of forest practices and the flora and fauna guarantee.

The government has also established the East Gippsland Regional Employment and Economic Development Committee to examine opportunities to generate additional employment in all sectors of the east Gippsland economy.

One increasingly important sector is tourism, for which the government is currently developing an east Gippsland tourism strategy. It is through increased and carefully managed tourism that the parks will be able to make a major contribution to the east Gippsland economy.

It is important to recognise that unspoilt natural areas are becoming increasingly rare and valued in today's world. In this context, the undisturbed forests, mountains, rivers and coast of these great east Gippsland national parks are of international significance, and visitors from overseas—as well as from Victoria and other parts of Australia—will increasingly seek them out as a contrast to those intensively developed and modified areas elsewhere.

The region's tourism potential will be greatly enhanced by the world heritage status that this government is seeking for east Gippsland's national parks—which is occurring, it should be noted, in a spirit of cooperation with the Commonwealth.

With vision, conviction and commitment, and with a sound tourism strategy and detailed park management plans to guide promotion and sensitive development, east Gippsland—particularly its parks—will be able to share the same national and international tourism stage as Kakadu, Uluru, Daintree and the other world-class natural areas of Australia.

Specifically, the National Parks (Amendment) Bill provides for the addition of 126 349 hectares to the area of national park in east Gippsland. The parks include those areas recommended by the Land Conservation Council in its recent review of public land use in east Gippsland, as well as several additional areas agreed to by the government. A small area in the Gippsland Lakes hinterland area recommended by the LCC in 1983 is also included. Details of the new park areas are included in notes which I have circulated for the information of members.

The government generally accepts the LCC recommendations as the basis for future land use in the region, and it recognises the LCC's very difficult task in finding a balance between competing land use demands in an area with such high conservation and timber values.

Nevertheless, the government believes it is essential for the long-term integrity of these world-class national parks to add several highly significant areas to those parks recommended by the LCC. These additions are:

To Errinundra National Park—

the south coast range, with its very beautiful mature wet eucalypt forests and cool temperate rainforest and exceptionally rich forest-dependent wildlife, including by far the highest population density of greater gliders recorded in Victoria;

additional parts of the undisturbed upper Brodribb River, which, with the LCC recommended Brodribb River south branch, form a large basin which is the largest essentially pristine area in the Errinundra region, with very high catchment, wilderness and landscape values; the area contains a wide range of vegetation types and has faunal values;

the mature forest between the Errinundra Road and the attractive upper section of the Bonang River south branch, which will ensure the inclusion in the park of scenic values and an undisturbed mature forest corridor along part of one of the main access roads to the Errinundra plateau;

and, as a critical addition to the Snowy River National Park—

the Warbisco and Home Creek catchments, which are an integral component of the Mount Bowen–Monkey Top area of the Snowy River National Park extensions, having very high landscape, catchment and botanical values, and being vital to protecting and maintaining the very high wilderness qualities of Victoria's largest forest wilderness.

It is important to realise that at various times the LCC has recognised the high significance of the majority of these areas, either by recommending the delay of timber harvesting for as long as possible, in the case of south coast range and the Brodribb River north branch, or, in the case of Warbisco and Home creeks, by recommending in its proposed recommendations their inclusion in the Snowy River National Park.

The national parks contain a substantial proportion—about 70 per cent—of the areas that are on the interim list of the National Estate. However, not all areas on the interim list are included in the parks. The Victorian government does not consider National Estate to be equivalent to national park; there are important distinctions between the two, and it is not correct to argue that they are one and the same. Areas are listed in the register of the National Estate by the Australian Heritage Commission as a means of focusing the attention of governments, planners, managers and the public on National Estate values. Their listing does not involve economic or social considerations, and does not preclude productive uses.

On the other hand, in Victoria, national parks are reserved after an extensive land use decision-making process involving a detailed consideration of a whole range of environmental, economic and social issues. The Victorian government does not permit uses such as continuing timber harvesting or mining in national parks.

National Estate values in areas not included in the parks will be protected by management prescriptions, the code of forest practices and the flora and fauna guarantee. Where pre-logging flora and fauna surveys have not already been carried out to identify particular sites and values that need protection, surveys to assess flora and fauna, soil and water, and Aboriginal cultural values will be completed.

In conclusion, and in summarising the significance of the parks proposed in this critical legislation, the words of Professor David Bellamy are very appropriate:

I would not have believed that such a diversity of untouched forests still existed in such a small areas anywhere on the face of the earth.

Some of the forests in these major new park areas contain trees that were already old when Captain Cook first sighted the east Gippsland coast over two centuries ago.

Parliament in indeed very fortunate, during this bicentennial year, to have the opportunity of being able to decide the future of these great forests and world-class natural areas; fortunate, because the forests are still there to have decisions made about them, and also because the opportunity allows us, as current custodians, to hand on intact to future generations the legacy of their magnificent natural splendour.

Just as Victorians look back with appreciation to the early planners of Melbourne who bequeathed to the city its magnificent parks and spacious design, and to those who nearly a century ago argued for the establishment of those now-treasured national parks, Wilsons Promontory and Mount Buffalo, the proposed legislation will enable furure generations to look back with a sense of gratitude to this Parliament for its vision and sense of responsibility in giving these magnificent natural areas in east Gippsland the status and long-term protection that they deserve.

I commend the Bill to the House.

I seek leave, Mr President, to have the document entitled "Description of the New Park Areas" incorporated in *Hansard.*

Leave was granted, and the document was as follows:

DESCRIPTION OF THE NEW PARK AREAS

ERRINUNDRA NATIONAL PARK

This new national park covers 25 100 hectares and is centred on the Errinundra plateau. Extending from Mount Ellery in the south to the Coast Range in the north, it is a park of outstanding conservation and scientific significance. It contains magnificent mature wet forests—particularly of shining gum and cut-tail; the very old and unusual 'mixed' forests with giant emergent eucalypts towering over a rainforest understorey; and Victoria's largest stand of cool temperate rainforest, of a type that is unique to the Errinundra area. Faunal values are very high, especially for those animals that require the hollows found in mature trees. The stream environments and undisturbed cathments are also highly significant. The scenic qualities of the area are very high, from the intimate and very beautiful landscapes within the forests and rainforests and along the streams, to the waterfalls and the ruggedness of the steep escarpments clothed in dense forest, to the sweeping panoramas seen from several excellent vantage points.

COOPRACAMBRA NATIONAL PARK

This park of 35 100 hectares incorporates the existing Coopracambra State Park of 14 500 hectares. It is a park of exceptional biogeographic significance, containing many rare and significant species and interesting co-occurrences of species from different parts of Australia. Its notable fauna includes several rare species of amphibians and a very high diversity of bats. The park's landscapes are dramatic, from the granite Cliffs of Mount Kaye to the sandstone gorge of the Genoa River, linked by country and catchments that are little disturbed and with very high wilderness quality. It is the Genoa River gorge where what are believed to be the oldest fossil records of a land-dwelling vertebrate were found.

SNOWY RIVER NATIONAL PARK EXTENSIONS

The existing 41 300 hectare park, with its spectacular Snowy River and Little River gorges, will be expanded to become an exceptional national park of 95 400 hectares by the addition of three areas;

the Rodger-Bowen area;

the Mooresford area, containing the tributaries to Raymond Creek with woodlands of silver stringbark; and

an area west of the Snowy River which was previously recommended for addition to the park when the Land Conservation Council examined the Gippsland Lakes hinterland area, and which contains high scenic values and important recreation venues.

The Rodger-Bowen area is of the very highest significance, incorporating Victoria's largest forest wilderness; a remarkable diversity of vegetation types including the ancient and very beautiful multi-aged mountain ash forests of the Rodger River; the impressive alpine ash forests of the Gelantipy plateau, the snow gum woodlands of the Bowen Range and the grassland at Waratah Flat; essentially undisturbed catchments; and a rich and varied fauna including substantial populations of arboreal mammals, large owls, and several significant species such as the rare long-footed potoroo. The landscapes of the park are exceptional and provide a magnificent backdrop for a range of recreation activities.

COBBERAS–TINGARINGY NATIONAL PARK EXTENTIONS

The 9600-hectare addition will enlarge this significant park to 116 600 hectares, and includes significant vegetation communities, rare plants, habitat of the rare tiger quoll and expanded recreation opportunities.

CROAJINGOLONG NATIONAL PARK EXTENSIONS

Two small areas totalling 1500 hectares and containing stands of warm temperature rainforest and rare species will enlarge this magnificent coastal national park to 87 500 hectares.

ALFRED NATIONAL PARK AND LIND NATIONAL PARK EXTENSIONS

The 750 hectare additions to the existing 230-hectare Alfred National Park include important stands of warm temperate rainforest containing a high diversity of lianes and will align the park's boundaries with identifiable topographic features. Similarly, the small 199-hectare additions to Lind National Park will align the park boundary with more identifiable features and bring its total area to 1365 hectares.

On the motion of the Hon. M. T. TEHAN (Central Highlands Province), the debate was adjourned.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

That the debate be adjourned until later this day.

The Hon. D. M. EVANS (North Eastern Province)—Mr President, I move, as an amendment:

That "later this day" be omitted with the view of inserting in place thereof "for 28 days".

The Hon. J. E. Kirner—Haven't you had long enough to consider it?

The Hon. D. M. EVANS—I am interested in the Minister's interjection because the House first became aware of the Bill at 1 a.m. today when the Bill was received from the other House.

The Hon. J. E. Kirner—I don't believe it!

The Hon. D. M. EVANS—Stop cackling, Minister; you are not a cockatoo!

On that occasion the Minister did not have the second-reading notes to read to the House so that honourable members could not then find out what is contained in the Bill. Until the Bill is presented to the House, all members are unaware of its contents.

The Bill is an important piece of proposed legislation. The second-reading speech to which I have listened carefully underlines the importance of the Bill for its conservation values. Also it is of considerable interest and importance to many people in a remote area of Victoria, and it is reasonable that those people should have the opportunity of studying the Bill in the form in which it is presented to Parliament to enable them to understand the way it will affect their interests, their livelihoods and their future. It is unnecessary to proceed immediately with the Bill, because the government can control development or activity in all the areas concerned without passing legislation. It is proper that the government have that power, and should excercise it properly.

The amendment that I have proposed to allow an additional 28 days is modest. I realise that unless Parliament were recalled, in real terms the debate would be adjourned until next August, when Parliament will reassemble for the spring sessional period.

It is vital that full consideration be given to the Bill. It has been before the House for less than 24 hours. An explanation of the Bill has been given only 5 minutes ago, and the

people of east Gippsland would not yet be aware—or, perhap, barely aware—of its full ramifications and provisions.

It may well be that there has been some indication in press releases and other documents issued by the government of the contents of the Bill. Some persons may argue that that is adequate notification to those who have a clear interest in these matters and to those who have a vital interest in the effects of the Bill. A number of precedents exist to show why people most affected may wish to wait until the Bill is presented before indicating their views. Indeed, a number of people in the Parliamentary sphere, including the Leader of the Opposition in another place, have clearly expressed, even in recent days, the view that until proposed legislation is actually tabled in Parliament, the parties involved in the business of government cannot make a proper judgment as to its terms and conditions.

The Leader of the Opposition in another place made that statement on the *7.30 Report* last week when discussing the gun laws and other issues with the interviewer, John Jost; he indicated that the Liberal party had taken a particular attitude on the gun laws on 18 December 1987. Mr Jost suggested that the Liberal Party had changed its views, but the Leader of the Opposition indicated that it had not, and stated that the Liberal Party had indicated certain concerns and had then resolved to determine its attitude once the Bill was tabled in Parliament. I believe I have correctly paraphrased statements made on that occasion.

Certainly the National Party has always held the view that a final judgment on any Bill cannot be made until the actual form is tabled in Parliament because very frequently substantial changes are made to Bills between the time of original notification and presentation.

To its credit, the government has frequently circulated draft Bills for public consideration and, following that consultation process, has on many occasions moved amendments that have led to changes in Bills.

The government has taken a similar route to arrive at the Bill before the House. Given the fact that it has been the practice over many years, supported by all parties in the House—including a succession of governments—that important Bills should lie over unless there were urgent and overriding reasons for them to be dealt with immediately, this Bill should remain on the Notice Paper for a considerable time to allow proper consideration of its contents.

I suggest that the National Parks (Amendment) Bill (No. 2) comes into that category. There does not appear to be an overriding need for it to be passed within the next few days, and a deferment of 28 days is modest and reasonable given its importance. It is well within the customs of the House to allow people whose lives are likely to be materially affected by the operations of the Bill to consider its various provisions and also to allow persons who may have interests in the Bill other than that of livelihood—perhaps involving aesthetics or particular positions, whether of a conservation nature or otherwise—to consider the Bill.

I know that the House is extraordinarily busy, and that should not be a reason to defer debate on a Bill, particularly if it happens to be urgent. I urge the House to accept the amendment I have moved and to allow proper consultation to take place on this important Bill during the intervening period. I have moved that the debate on the Bill be adjourned for 28 days.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition would seriously consider the amendment if it were bona fide. Without doubt the amendment is not bona fide; it is a stunt.

The Hon. B. P. Dunn—Rubbish!

The Hon. A. J. HUNT—I say that without qualification. Honourable members know that the National Party has made its decision on the Bill. In another place the National Party told the House what that decision was—to oppose the Bill.

If the National Party has decided to oppose the Bill it can oppose it today just as well as it can oppose it in 28 days. What is the point of bringing the House back to deal with the matter in 28 days? The National Party does not need more time to make a decision; its decision has already been made!

In anticipation of this stunt I obtained a copy of a statement made by Mr Evans that was reported in the *La Trobe Valley Express* on 26 April 1988. In that press statement Mr Evans made it clear that the National Party would oppose the Bill. It is not that he is not ready today to debate the Bill; he was ready a fortnight ago, probably before the decision had even been made by his party—or, perhaps, it made it then.

Mr Evans is reported as saying that the National Party was the only effective opposition to this proposal. He then engaged in a bitter attack on Mrs Tehan. Fancy doing that to a lovely lady like Mrs Tehan!

The Hon. J. E. Kirner—Shame!

The Hon. D. M. EVANS (North Eastern Province)—On a point of order, Mr Hunt has said that I made a bitter attack on Mrs Tehan. In fact, in all the press releases on this issue I have mentioned Mrs Tehan's name on only one occasion and that was simply to identify a press release. I did not engage in a bitter attack on Mrs Tehan.

The PRESIDENT—Order! There is no point of order.

The Hon. A. J. HUNT (South Eastern Province)—In view of the personal explanation I shall quote the newspaper article:

> Mr Evans said the Liberals had made a mistake in giving the important conservation portfolio to a new member "who simply did not know what she was doing".

Is that not a personal attack?

The Hon. D. M. Evans—Will Mr Hunt please read out the initials of the Mr Evans whom he is quoting?

The Hon. A. J. HUNT—The newspaper article begins:

> National Party conservation spokesman David Evans MLC said that the shadow Minister for conservation, Mrs Tehan, not only supported the proposals but had recommended that even more land be included.

I note that the honourable member for Gippsland East in another place is then quoted, and so I withdraw. At least it is clear that both the Mr Evanses—

The Hon. R. I. Knowles—Who make up almost half the party!

The Hon. A. J. HUNT—They knew what their party was going to do a fortnight ago. For them to make these phoney claims now is nothing but a stunt! If the Mr Evanses want to have their stunts, let them do it on their own. If they want a division on this issue let it be clear to the people of Victoria that the action is not bona fide and it deserves the treatment that it will get.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The eloquence of Mr Hunt has convinced the Labor Party that this is not a legitimate attempt on Mr Evans's part and that it is a stunt to get a little more time to eke out his views on this issue, which has been well canvassed. There would not be another conservation issue that has been better canvassed over recent years.

The corner party has determined its position on this matter and the matter should now proceed in the normal way that similar Bills do at this time of the year. The motion of the Minister to have the debate on the Bill adjourned to later this day is the normal form. That adjournment will allow the normal negotiations usually exercised in this regard to be

undertaken so that the Bill can be debated before the end of the sessional period. The government does not accept Mr Evans's amendment.

The Hon. W. R. BAXTER (North Eastern Province)—Both the Leader of the government and Mr Hunt have completely missed the point of Mr Evans's amendment, which does not go to the matter of the National Party's decision on the Bill because the National Party has given consideration to the Bill, as has been indicated by Mr Hunt by his misreading of the newspaper article and the wrong identification and incorrect aspersion on my colleague in this place, Mr Evans.

The Hon. A. J. Hunt—I apologised for that. The attack was made by another member of your party.

The Hon. W. R. BAXTER—That has been taken on board. The purpose of the amendment is to enable the people of Victoria, particularly in this instance the people of east Gippsland, to become better acquainted with the contents of the Bill and its impact upon their livelihoods.

The people of rural Victoria, particularly those engaged directly and indirectly in the timber industry, are given to believe they are under siege. Some extraordinary remarks were made, I am told, in the debate in another place last evening, particularly by the honourable member for Doncaster, which have sent shivers through some people. I do not intend to quote or refer to the debate in another place but I understand that shivers have been experienced by people in the industry caused by remarks that were made in another place.

The Hon. B. A. Chamberlain—The honourable member is retiring at the next State election; you know that!

The Hon. W. R. BAXTER—He may be retiring at the next election but, presumably, he has influence in his party at this stage.

The Hon. B. A. Chamberlain—He has none.

The Hon. W. R. BAXTER—The remarks made by Mrs Tehan in her press release have also caused concern in the timber industry and associated industries. It is for that purpose that the National Party seeks an extension of time; it is not to enable the National Party to consider further the Bill—although it welcomes that opportunity. The extension of time will allow people who are vitally affected, and who at this stage are reaching the belief that their interests count for nought in this Parliament, to have the opportunity of making further representations to gain a better understanding of what was meant by the various comments that have been made about what may occur in the future.

Some of these people are proposing to invest thousands of dollars, perhaps millions of dollars, in value-added technology—in line with government policy—and they now believe their resource bases might be pulled from under them because of the remarks that have been made.

The extension will provide an opportunity for those people whose livelihoods appear to be at risk to have an input into the matter. That is a simple request to make. The proposed legislation was not long in the other place.

The National Party did not seek an extension of time in the other place because it expected that the Bill would lie over to the next sessional period, as other national parks Bills have done. When it became clear that the government proposed to proceed with the Bill in another place, my party took the view that it should attempt to gain an extension of time in this place.

The Hon. M. A. BIRRELL (East Yarra Province)—Mr Evans and Mr Baxter have their tongues so firmly planted in their cheeks that their faces are almost distorted. It is beyond reason that Parliament cannot deal with the Bill in the normal way that it deals with all other Bills. The position taken by the National Party would have been understandable if

Mrs Tehan had suggested that the House debate the Bill immediately—I understand that it is likely to come on tomorrow and that is regarded as being the normal process for this place—but to suggest that there has been only 24 hours to consider the Bill is to deny the logic of the fact that the Bill came from the Assembly where it was debated and it also denies the fact that we have had the proposals in this form since 11 November 1987. The issues, which are now embodied in the Bill have been canvassed exhaustively.

The bottom line is that the National Party, being opposed to the Bill and having been opposed to the Bill before it was introduced into the Lower House, now wants to draw out the debate even longer for its own political purposes.

I reject that view completely. The implication is that the debate be adjourned for at least four months and there can be no logical argument to support that. If the National Party amendment is passed it would also add to the uncertainty in the east Gippsland area.

The Bill has been circulating for a considerable period but, more importantly, the proposals and the specific detail have been known for many months. The National Party amendment will only add to uncertainty by delaying any proper debate on the proposal.

I ask that the normal procedures of debate go ahead and that the House reject this attempt to distort these proceedings.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I endorse the remarks just made by Mr Birrell, that the National Party cannot be genuine in its motion for the adjournment of the debate.

The National Party knows full well that there has been a five-year process since you, Mr President, as the then Minister, put the moratorium on logging in the Rodger River and Errinundra areas. Since then there has been a Land Conservation Council process; that is a full discussion process of all the social, cultural, and ecological issues.

The government's decision, which was announced on 11 November 1987, as Mr Birrell correctly said, was negotiated fully through all the interest groups—although not necessarily agreed—with many meetings with the timber industry, which Mr Evans often represents; 4 with the timber unions; with the conservation groups, and with local government.

When I announced the government's decision in company with the Premier, I also did the east Gippsland community the courtesy of travelling to east Gippsland to explain the government's position to that community. At the same time, I established an east Gippsland economic development committee that has worked on the economic strategies on the basis of the recommendation that is now part of the Bill.

It is outrageous to suggest that the east Gippsland community does not know the full impact of the Bill. The community and local industry know the full impact, and they are working on two basic strategies: first, to make the most of the potential; and, second, to develop alternative economic strategies.

If Mr Evans were serious about the provisions of the Bill, the last thing he would do would be to further increase the insecurity of the east Gippsland community, because that is the last thing they want. Those people want a decision on the resource base so that they can get on with planning; so that I can get on with releasing the long-term licences for investment in the industry. It is outrageous to suggest there has not been proper communication and to use the east Gippsland community for the National Party's own political purposes.

The Hon. F. J. GRANTER (Central Highlands Province)—I cannot sit idly by and listen to these remarks, because I have received representations this week on the Bill. The people do not know the full context of the Bill and, until it is tabled in the House, it is not a document and cannot be fully considered.

This morning I received a lettergram from an organisation that was concerned about this matter. Yesterday, five timber millers representing areas of east Gippsland and the central highlands came to see me. They have invested more than $100 million in new equipment, and they are concerned about their future.

The Minister for Conservation, Forests and Lands stated that the community will know their future once the Bill is enacted. That may be so, but they have not been given full consideration although they have invested vast sums of money in the district. I know some of them very well because I helped them establish their mills many years ago. It is not fair to wipe them out without proper consideration. The timber industry has many employees throughout Victoria, especially in east Gippsland. I have spoken with a number of timber workers and their organisers, Mr Pat Hubbard and latterly Mr Weekley, and they have said to me in past years that they are concerned that the resource will not be available for timber-getting in Victoria.

The Hon. E. H. Walker—How are you voting?

The Hon. F. J. GRANTER—I will not vote against my party, I assure you of that; but Mr Evans and Mr Baxter have put up a case that should be considered, because the timber industry is a valuable industry for Victoria. It is a decentralised industry and it employs approximaely 10 000 people who all have families and lives to lead in the country, especially in the Heyfield and east Gippsland areas. I have much sympathy for the industry.

The House divided on the question that the words proposed by Mr Evans to be omitted stand part of the motion (the Hon. R. A. Mackenzie in the chair).

Ayes	35
Noes	5
Majority against the amendment	30

AYES	NOES
Mr Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Chamberlain	Mr Evans
Mr Connard	
Mr Crawford	*Tellers:*
Mr De Fegely	Mr Hallam
Mrs Dixon	Mr Wright
Mr Granter	
Mr Guest	
Mr Henshaw	
Mrs Hogg	
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Landeryou	
Mr Lawson	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Mier	
Mr Murphy	
Mr Pullen	
Mr Sandon	
Mr Sgro	
Mr Storey	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	

AYES	NOES
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mrs Coxsedge	
Mr Reid	

The motion was agreed to, and the debate was adjourned until later this day.

ENVIRONMENT PROTECTION (AMENDMENT) BILL (No. 3)

The debate (adjourned from April 21) 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. ROBERT LAWSON (Higinbotham Province)—The most precious thing we possess is the biosphere of this planet. So far as is known, there is no other planet that would sustain human life, so it is incumbent on us all to protect the biosphere. I congratulate both the government and honourable members for firing the first shot in the war to protect the biosphere.

The Bill deals with pollution of the biosphere, particularly pollution of soil and air. Very little action was taken about the problem of industrial pollution until ten or fifteen years ago. Since then, measures have been taken to protect the environment. In particular, I hope the Bill will become a model for dealing with industrial pollution. Amendments to the Bill will be made by the government.

The Hon. A. J. Hunt—They were our amendments.

The Hon. ROBERT LAWSON—Those amendments were proposed by the Liberal Party, and they have been adopted by the government. The Bill is a splendid example of the cooperation that can be achieved when such measures are dealt with in a non-partisan manner.

There is an old saying from the north of England that where there is muck there is brass. The saying means that if there is a lot of muck lying around someone is making a good deal of profit. The provisions contained in the Bill will lead to a reversal of that trend by educating people to understand that where there is muck there is not necessarily brass. If muck is lying around, the people who deposit that muck will be prosecuted, no matter what profits they have made. The Bill will reinforce existing legislation to destroy the principle inherent in that old saying.

The Opposition supports the principle that there should be a change of heart by polluters. The Bill ensures that those who pollute the environment will pay for the removal of that pollution. If someone were to purchase a site that had been polluted, and discovered that fact too late because the pollution had been concealed, that person would be caught under the principle of "buyer beware". The Bill provides that if a buyer purchases polluted land—land that had been a petroleum dump, or something of that nature, where chemicals had leached into the soil—the buyer would not be totally responsible for the costs involved in cleaning up the pollution, and those costs could be recovered from the vendor. The Opposition approves of that principle.

The penalty for aggravated pollution, which is described in the Bill as being caused by someone who recklessly and criminally pollutes the ground or allows some substance to escape into the biosphere that would have long-lasting and irreversible effects, is a serious one. If the matter were dealt with in a lower court, a penalty of $40 000 or two years' imprisonment, or both, could be imposed. If the matter were dealt with in a higher court, the penalty could be as high as $500 000 or a maximum term of five years' imprisonment. Those are harsh penalties, and rightly so.

I draw to the attention of the Minister a matter which is close to home and which should be examined by the government. Members of the Opposition have received information that the State Electricity Commission has been guilty of polluting the environment. I have a piece of paper that I shall give to the Minister, if he wishes me to do so. It details the matter to which I am referring. During the weekend of 22 April, the SEC delivered two transformers containing toxic wastes—that is, polychlorinated biphenyl or PCB—to a scrap merchant known as Waste Traders Pty Ltd for disposal.

The waste trader was innocent. He took the transformers to Simsmetal Ltd, but that company knew from experience that the transformers contained this extremely toxic substance which would create serious problems if the transformers were broken up for scrap. Simsmetal Ltd refused to accept the transformers and turned away the scrap metal merchant. On realizing the danger of these transformers, he returned them to the State Electricity Commission in the Latrobe Valley. During transportation it was discovered that one of the transformers was leaking onto the dealer's truck and also onto the highway. A special gang was despatched to clear up the mess.

I will provide this paper to the Minister for Agriculture and Rural Affairs if he wishes to make further inquiries. The Minister does not need to look very far to discover a polluter because these polychlorinate biphenyls—PCBs—are perhaps the most serious pollutant that can escape to the biosphere.

I have been requested to ask the Minister for Agriculture and Rural Affairs for a number of assurances on behalf of firms that deal with trade wastes. I understand that the same assurances were requested in the Lower House and were provided by the Minister for Planning and Environment. However, it is worth asking for them in this House so that it is on the record and the Liberal Party can show that it has kept faith with the firms involved in disposing of trade wastes.

The first is to ask the Environment Protection Authority to consult with the Victorian Waste Management Association as to guidelines proposed for the implementation of the bonding scheme. As honourable members are aware, the Bill will provide a new system whereby members of the association will be called upon to enter into bonds to ensure that if there is any spillage of polluted material, the Environment Protection Authority will be reimbursed for the necessary procedures. Money must be available from the bond scheme, insurance company or bank guarantee to pay the authority for the cleansing of any pollution.

The Victorian Waste Management Association asks in particular that there be full consultation with them on the monetary range of bonds; the types of cases in which the lower and higher ends of the scale should be applied; and the general basis on which discretions will be exercised.

While the industry recognises its obligation to assist in cleaning up any pollution of this nature, it points out that it should not be responsible for pollution episodes that may have occurred in the past. The association wants these guarantees to apply from the proclamation of this Bill and not to be retrospective in any sense. That is a reasonable request for the association to make because its members are concerned, as are all Victorians, about pollution of the environment. These firms have no desire to pollute and are operated by responsible people. The scallywags have been weeded out of the industry and the association will not allow irresponsible firms or people to enter their association. Therefore, the association believes the extent of this bond system should be spelt out clearly before the law is enacted. In the case of liquid waste, the problem passes on to the waste trader.

The honourable member for Ivanhoe in the other place, Mr Heffernan, Mr Hunt, and I met members of the Victorian Waste Management Association. They pointed out that their trucks visit a number of sites and pick up waste; the bins are lifted over the cabins and tipped into the backs of the trucks, everything is then compacted, and drivers are not aware of what is in the bins—they just take it away for disposal.

An unscrupulous customer could put deleterious materials into bins and the operators of the trucks would not know. Members of the association want the government to provide a guarantee to free them from any blame, liability or culpability in that circumstance. After delivering the waste to a tip, the harmful material might not be discovered for many years. Perhaps the tip has been sited incorrectly and there is access from the tip to groundwater. After some years that material may show up in the groundwater. The traders want to be free of any culpability in return for their guarantee that they will do their best to keep the environment as pollutant-free as possible.

I understand that the Minister has taken notes of what I have said. I repeat: these requests were made in the Lower House and were favourably received by the Minister for Planning and Environment. The Opposition received guarantees on that occasion, but it is worth asking for them again in this House.

In referring to the disposal of waste, I cannot let the opportunity pass without referring to honourable members the Melbourne and Metropolitan Board of Works Act and an amending Bill that we passed some years ago giving the board the responsibility for the disposal of industrial waste in Victoria. After that Bill was passed, the Board of Works produced a number of handsome booklets on industrial waste. The first one is entitled *Industrial Wastes Disposal: Let's do it right!*. Inside this glossy brochure are pictures of various types of waste disposal facilities and diagrams of how industrial waste is to be disposed of by the board. It is a handsome publication and one should imagine that the board would do the right thing.

The next publication issued in July 1986 by the board is entitled *Industrial Waste Project*. It refers to the board's proposed waste treatment and disposal system. This is another elaborate publication, fairly costly I should imagine, which provides more information about what waste disposal system the board intended to install. Another publication issued in September 1986 entitled *Industrial Waste Project* referred to community consultation on siting criteria and was volume 1—summary and final siting criteria. The board also put out at that time a list of the various dates at which consultation would be held with local communities.

A Board of Works committee would visit various communities and local residents would have the opportunity of making their views known about whether they wanted a waste disposal facility in their area. People were able to tell this committee how such a facility should be established in the most economic and rational manner; it was an excellent consultative process. The final production by the board was an even glossier publication entitled *Industrial Waste Treatment and Disposal: The Victorian Solution.*

The booklet shows a pretty picture of the plan of a waste disposal unit. It shows the ponds, the incinerators and everything one could conceivably think of for the disposal of waste. It was based on overseas models from Denmark, Germany and other places where waste is a far more serious problem than here.

The whole thing went into recess for a while and the next we heard was that a waste disposal unit was to be placed at Melton next to Diggers Rest. This caused astonishment and chagrin among the locals because they knew nothing about it. A press release issued by the then Minister for Water Resources said that the locals were consulted about the matter, whereas in fact they were outraged and astonished because no-one had consulted them about anything. Here was a $6 million waste disposal unit about to be placed in the green belt area of Melton where recently the government had refused a dwelling on a 20-acre block of land because it was unsuitable for the area. After this so-called consultancy process the government decided it would place the unit in Melton. As they say in the classics, "All hell broke loose".

The Hon. J. H. Kennan—I have never seen that in any of the classics I have read.

The Hon. ROBERT LAWSON—The Minister has read the wrong classics. It is a picturesque phrase, but all hell broke loose in Melton when the locals discovered that the

waste disposal unit was to be built there. No-one knew anything about it until it was announced.

The famous NIMBY syndrome came into operation. The phrase was so eloquently coined in this House by the Minister for Agriculture and Rural Affairs. It stands for "not in my backyard". That was the principle that was suddenly adopted in Melton when the residents discovered they were getting an unwanted, unplanned waste disposal unit in their area.

Another press release dated 20 April, headed "Big drop in industrial waste in Victoria" stated that a dramatic decline in the volume of industrial waste treated in Victoria had removed the need for a treatment plant near Diggers Rest. That press release was issued by the Minister for Planning and Environment. It continued:

> The Minister for Planning and Environment, Mr Tom Roper, said tonight he had used his power under section 23 of the Planning Act not to proceed with the plant.

The reason given was a dramatic decline in the volume of industrial waste. The true fact is that there had been a dramatic increase in the volume of political protest in the area and there was no doubt that had the government proceeded with its plan to build the plant in that position it would have lost the Parliamentary seat that is based on Melton and Diggers Rest. The government had no choice but to remove the plan. Its ostensible reason was that there had been a dramatic decline in the volume of industrial waste treated in Victoria. The fact is that industrial waste has declined to some extent but the slack has been taken up by commercial operators.

After this House has passed a Bill enabling the Melbourne and Metropolitan Board of Works to build such a waste disposal plant and after the consultation process and after stirring up a hornet's nest in Melton, the government discovered it was not really needed after all. I suppose the only winners in this whole mess were the industrial waste disposal people. As a member of a private enterprise party, I can only applaud the fact that the Board of Works will not go into the waste disposal business because it might have been an extremely expensive exercise.

The original plan encompassed by the Bill was that the Board of Works waste disposal facility would include a high-temperature incinerator. The booklet I have shows a high-temperature incinerator with waste heat recovery boilers that accepts liquid sludges and solids. That has all gone by the board because, apart from any other consideration, the conservation groups believe a high-temperature incinerator would cause more problems than it would solve. The ship *Vulcanus II,* which dealt with at least one load of fluid industrial waste here, is no longer welcome in Australian waters and it has been claimed by Greenpeace Australia that the *Vulcanus II* crew had been dumping dangerous waste into the sea.

That gives an idea of the problems that must be considered in the disposal of industrial waste. However, Victoria now has a breathing space because of the work being done by the commercial disposers.

The Bill also deals with other matters. It covers the disposal of solid and liquid waste. It also has something to say about the abatement of noise from entertainment venues. Honourable members will be pleased to learn that as from the passage of the Bill the police will be empowered to issue on-the-spot penalties for the offence of failing to comply with their directions on abatement of noise from entertainment venues. I hope that includes private homes where noisy parties might be held. The police will not have to go through the long process of issuing summonses and so on; they can issue on-the-spot notices and fine people for making extraordinary amounts of noise.

The Bill also increases the penalties under the Litter Act. Substantive penalties will be increased one way or another by the Bill. The Liberal Party has no difficulty with the Bill. The Minister intends to move an amendment and I shall have more to say during the Committee stage.

The Hon. D. M. EVANS (North Eastern Province)—The Bill is another important measure in a series of legislative steps that have been taken since I came into Parliament, to deal with the issue of pollution of the environment. I guess many issues are coming to the surface constantly which indicate that control is needed in the disposal of the increasingly complex substances that are the waste products of industry and the discard products of our highly technological and sophisticated society and the noise and other pollution that can make life, especially in the city area, less pleasant than it should be.

In 1983 the National Party was concerned with the efforts being made in this State for proper disposal of dangerous, toxic and intractable waste products. At that time the National Party moved a motion in the Legislative Council which suggested a certain course of action that needed to be taken. Considerable debate ensued on the subject. It was a most constructive debate and it gave members from all sides of the House an opportunity of expressing their viewpoints and of focusing on and directing attention to the problem.

The Bill before the House begins to address some of the problems referred to at that time, which, incidentally, were encapsulated in a report from a Federal government committee that was quoted widely in the 1983 debate. I guess matters of environmental protection are always topical. Mr Lawson has just referred to the government's selection of the Melbourne and Metropolitan Board of Works to be the waste disposal authority for intractable and dangerous waste for the City of Melbourne and, indeed, for the whole of Victoria. A disposal unit was to be built just the other side of Sunshine, outside the western suburbs of Melbourne. It was illuminating to find that when the heat was really applied, the volume of waste suddenly was not there.

I am sceptical of that because in 1983 the Federal government committee to which I have just referred indicated that even then substantial amounts of waste were held in storages around Melbourne, many of which were in a dangerous condition in drums and other containers. Some of those drums were deteriorating rapidly and considerable concern was expressed that major pollution could be caused through spillage from such drums.

One can always refer to the fact, as the second-reading speech does, that people with a criminal record may use an opportunity to deal with a difficult problem by less than lawful means. It is not reasonable to blame those who have a storage problem with difficult wastes for storing that waste on their properties when there is no efficient and effective means of destruction, removal or neutralisation of that product.

I understand that the incinerator ship, *Vulcanus II,* has visited Australia and some of the more dangerous polychlorinate biphenyls—PCBs—and other substances were destroyed by high-temperature incineration. I understand that proposals to set up a high-temperature incinerator somewhere in Australia are being investigated. Although residents alongside the site will be most irate about the proposal, the State in which the site is located will attract substantial business from other States that will be only too happy to use that facility. The other issue that has been of concern recently is the use of chlorofluorocarbons—CFCs—gases that are used as propellants in aerosol sprays. The concern that has been expressed over a considerable time is legitimate and should be addressed. Honourable members will recall that more than twelve months ago I asked the former Minister for Planning and Environment, the current Minister for Transport, what plans the government had for dealing with the chlorofluorocarbon problem in Australia. I am aware that considerable literature has been sent out by a number of organisations pointing to industry efforts to overcome the problem in the Australian environment.

I listened to a broadcast on radio station 3LO about two weeks ago in which a spokesman for a major industrial organisation indicated that industry was aware of the problem and that CFCs were rapidly being phased out from normal household propellant use. He suggested they would be phased out within a short time for more specialised propellant use, such as for medical preparations for asthma and so forth, and that it was likely that a substitute for the foam products used by fast food outlets, such as McDonald's—for instance, the small foam trays on which meat is often presented in supermarkets—would

shortly be found. He indicated that concern about chlorofluorocarbon pollution would be removed.

It seems that the final chapter of chlorofluorocarbon pollution in Australia will be written, and that a substitute product will be found for use in refrigeration and cooling industries. Those important environmental issues must be dealt with.

The proposed legislation specifically provides for a number of penalties to be applied to those who transgress the provisions. That is right and proper. It also attempts to define more clearly the manner in which proof can be given of contravention of regulations. It provides more adequate penalties for offences of aggravated pollution where, once the pollution has been determined, it has continued perhaps because, as the second-reading speech suggested, to continue causing the pollution and paying the fines is cheaper than providing a more efficient disposal system.

The issues of clandestine disposal of dangerous or damaging products must be closely addressed. I am aware, as the Minister for Agriculture and Rural Affairs is also aware, of problems experienced in recent days at the Melbourne and Metropolitan Board of Works farm at Werribee where a high level of dieldrin and other chemicals was detected in cattle on the property. It is reasonable to suggest two possible sources of that contamination: firstly, infiltration from spray use of dieldrin for white ant contamination control in the city; secondly, because a number of people dispose of those chemicals by tipping them down gully traps at their homes and businesses. Totally irresponsible behaviour of that sort cannot be condoned and deserves a severe and substantial penalty. People who act so irresponsibly deserve no sympathy.

Noise pollution from noisy motor cars, lawn-mowers and other equipment is a form of pollution most people find irksome. Noise pollution from extremely loud music or, as I prefer to call it these days, noise entertainment, is an issue many of us would like to be effectively dealt with.

Those of us who have travelled behind a particularly smelly diesel semitrailer and had sucked into our cars and air-conditioning systems those fumes, subsequently finding it difficult to remove the smell, will be happy for pollution from motor cars to be dealt with. Legislation that enforces a better standard of equipment maintenance will be widely welcomed.

The issue of clean-up costs has caused concern. A development site in Melbourne was in the news several months ago when it was suggested that the site was severely contaminated with large quantities of chemicals.

The Hon. A. J. Hunt—That involved an inexplicable decision by the previous Minister, contrary to the advice of his department and the local council. That decision has never been explained.

The Hon. D. M. EVANS—That is exactly right, and the matter caused considerable concern to residents immediately adjacent to the site. The problem indicated the issues that need to be addressed. One hopes the proposed legislation will move in that general direction. I understand that amendments will be moved in the Committee stage.

On advice from my colleague, the honourable member for Benalla in another place, Mr McNamara, who is the National Party spokesman on this issue, I understand it is necessary that, when a property is sold, the vendor must indicate in the vendor's statement any clean-up order or anything else that may detrimentally affect the property. It is necessary to ensure that any amendments to the Bill retain the provision requiring the vendor of a property to declare his responsibility to clean up the property, and that this requirement be properly defined and delineated in the proposed legislation in order that any change in value of the property ensuing from pollution or a waste disposal problem will be apparent so that costs are properly apportioned at the time of the clean-up.

I am also aware of issues outside Melbourne. The Shire of Myrtleford in my province has experienced a problem in past years with the disposal of effluent from its sewerage system because of major industry in the area. That example epitomises the problem of waste disposal in country areas of Victoria. One must be cautious in ensuring that waste disposal, particularly waste water disposal, utilises the best available technology of the time and that that technology does not limit the degree of responsibility that should be carried by the person, persons or organisation that may be involved.

It is hoped the problem in the Shire of Myrtleford has now been overcome following a lengthy court battle, the final decision of which was an out-of-court settlement. There are considerable and continuing problems with waste disposal for many country industries. Problems are experienced in Albury-Wodonga, Wangaratta and Tatura. The authorities in each of those towns and cities have tried responsibly to deal with the problem of disposal of industrial waste. Any proposed legislation introduced in Parliament should take account of the difficulties that towns and cities may face.

A highly technological society produces waste products that are difficult to dispose of. It would be unfortunate if a reasonable balance were not struck between the need to keep the environment as clean as possible and the unrealistic desire to keep it totally pristine. Perfection cannot really be obtained; we need to get as close as possible to that objective as technology will allow us.

The National Party agrees generally with the proposed legislation. It is important to understand that each of us has a responsibility, both personally and corporately, to deal properly with and to live in the environment responsibly and without causing long-term damage. We need to be aware of the problems that arise and that civilisation will create more problems for our environment.

Perhaps we are lucky in the Southern Hemisphere that we can follow the experiences of the Northern Hemisphere where population densities are so much greater and general experiences are more advanced. We must always be aware of them and ever ready to apply new techniques in our country. The National Party does not object to the passage of 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. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I appreciate the support given to the Bill by the Liberal Party spokesman, Mr Lawson, and the National Party spokesman, Mr Evans. Both spokesmen spoke knowledgeably and well.

Mr Lawson sought assurances from me that were given to his party in another place. As I understand it, three items were involved. Firstly, the Liberal Party sought an assurance that the Environment Protection Authority would consult the Victorian Waste Management Association over the matter of bonding. Mr Lawson rightly sought that assurance; I give that assurance as the Minister in another place did. The system is new but it is a good one that will improve the general situation. However, consultation between the operators and the Victorian Waste Management Association and the Environment Protection Authority is required so that operators know how the system works. That is a good idea.

The second assurance sought was that bonds will apply only from the date of the proclamation of the Bill. That is a sensible suggestion also. The notion of making a bonding system retrospective is hard to imagine working. I do not believe that is the intention; the system can only really work once it has been announced.

The Hon. A. J. Hunt—It can only be funded once it comes into operation.

The Hon. E. H. WALKER—I appreciate that. The third assurance related to the notion of certificates on solid toxics, if I may call them that. There is a system now that relates to certificates by the producer on liquid toxics or intractables. Mr Lawson's point about solid toxics or intractables was good and I again give him the assurances that his party was given in another place.

I thank the opposition parties for their support.

The clause was agreed to, as were clauses 3 to 21.

Clause 22

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—By way of explanation, Mr Acting Chairman, amendments have been circulated under my name, No. 1 of which is not now necessary. It has been listed by mistake because it was incorporated in the Bill in another place. If honourable members examine the text of the proposed legislation carefully, they will see it has been inserted. Therefore, I invite the Committee to vote against this clause.

The clause was negatived.

The remaining clauses were agreed to.

New clause

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

3. *Insert the following new clause to follow clause 21:*

Extension of time for prosecutions.

'AA. For section 63A of the Principal Act substitute:

Time within which proceedings for certain offences may be brought.

"63A. (1) Notwithstanding anything to the contrary in any Act proceedings for an offence against—

(*a*) section 19A; or

(*b*) section 27A; or

(*c*) section 39 relating to the pollution of groundwater; or

(*d*) section 45; or

(*e*) section 59E—

may be commenced within the period of 3 years after the commission of the alleged offence or (except in the case of an offence against section 19A) a further period being within 1 year after the day on which the Authority or a delegated agency first obtained evidence of the commission of the alleged offence considered sufficient by the Authority or the delegated agency to warrant commencing proceedings.

(2) For the purposes of sub-section (1), a certificate given by the Chairman of the Authority or the delegated agency as to the date on which the Authority or the delegated agency first obtained evidence considered sufficient to warrant commencing proceedings is to be taken to be evidence of that fact." '.

To give some background to the new clause, the time limit for instituting most summary prosecutions is one year. For certain offences that are of a type that may not be detected for a long period, the time limit has been extended.

Proposed new section 63A (1) extends the period to three years for certain offences under the Act, and proposed new section 63A (2) allows the Minister to further extend that time limit for some of the offences if he is satisfied that they were not detected for three years.

All the offences under section 27A, which is to improve the handling of industrial waste that causes an environmental hazard, and the proposed offence of aggravated pollution are the types of offences that may often be undetected for a number of years.

Nevertheless, they may have a continuous deleterious effect on the environment from the time of their commission. Therefore, the time limit for commencing prosecutions

under section 27A and for aggravated pollution is extended to three years. Secondly, the Minister at the time may further extend the time limit for those offences if they are not detected within three years of their commission. The amendment limits the Minister to extending the time for commencement of a prosecution after the three-year period to twelve months from the detection of evidence of the offence.

The new clause is the result of an approach suggested by the Opposition and, in the first instance, by the Honourable Alan Hunt. My colleague in another place, the Minister for Planning and Environment, saw merit in the approach. The amendment was not moved in another place but it has been agreed by the government that it should be moved in this place, and I give credit to Mr Hunt for suggesting it.

The Hon. ROBERT LAWSON (Higinbotham Province)—As well as commenting on new clause AA, with the indulgence of the Committee, I shall comment on the clause that was not moved in this place but was moved in another place.

Both of the amendments arise from the initiatives of the Liberal Party and we congratulate the government for taking the amendments on board. The government has agreed that they are acceptable suggestions and enhance the quality of the Bill.

The first provision that was moved in another place dealt with clause 20 of the Bill and it enables the occupier of any premises that has been polluted to either clean up the premises or to have it done. The cost will have to be borne, if decided by a court, by the previous occupier of the land or by the person who caused the pollution. The amendment was moved in another place and it was accepted by the government at the time but, somehow, it appeared on the amendment sheet in this place.

Referring to new clause AA, I remember the genesis of it well. It arose from a discussion between Alan Hunt and the honourable member for Benambra in another place, Mr Lou Lieberman. The discussion took place in the party room. As honourable members may or may not be aware, Mr Lieberman was a Minister for Planning and he took a great deal of interest in the Bill. Mr Hunt was also responsible for that portfolio at one stage, so, between them, a superb amendment was formed.

Then, another Minister for Planning and Environment, the present one, took up the issue, so it has been filtered through three Ministers for Planning and Environment, both present and past, and they are all in agreement. As the Minister for Agriculture and Rural Affairs said, if an offence of pollution is not detected at the time the pollution takes place it can be picked up at a later time and the Environment Protection Authority can launch a prosecution up to one year after the detection of the offence. So the prosecution is to be taken out of the hands of the Minister.

There is an example of this situation in the western suburbs where I believe the groundwater has been polluted and will be polluted for many years to come. No-one knows the source of the pollution but if the polluter were discovered, under the ambit of the Bill, the person could be made to rectify the problem or pay for it or be prosecuted for a number of years after the commission of the offence.

The Hon. D. M. EVANS (North Eastern Province)—The National Party has had the opportunity of discussing the Bill prior to its introduction and finds the Bill to be most interesting. In many parts of Victoria considerable concern has developed over the effects of new proposals by the Ministry for Planning and Environment, particularly in the goldmining field.

Many people feel that if there is to be goldmining or even exploration adjacent to their properties, considerable pollution and damage could result which may remain for a number of years. It would appear that the Mining Division of the Department of Industry, Technology and Resources needs to be well aware of this possibility and of the provisions contained in the new clause.

In the area I represent near Myrtleford and between Bright and Harrietville and in the Buckland Valley—all of which are old goldmining areas and were worked over many years by both sluice and dredge mining—there is concern about substantial mercury pollution and pollution from other substances in the ground as a result of those past mining operations, and concern has been expressed that if the mines are reopened or dredge mining again takes place, a disturbance of the soil and of the underground streams could lead to that pollution again being apparent.

The amendment could have some influence on decisions in that area and on the number of prosecutions for pollution, and I am certain that the residents of that area would be happy if an additional protection were provided to them and to the environment in which they live.

The new clause was agreed to.

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

MARINE BILL

The debate (adjourned from April 19) on the motion of the Hon. J. H. Kennan (Minister for Transport) for the second reading of this Bill was resumed.

The Hon. ROBERT LAWSON (Higinbotham Province)—The Bill is designed for the purposes of consolidating several Acts into one and of clarifying the position with regard to yachting, motor boating and the various pastimes on the waters of Victoria.

It deals in some measure with offences committed by boat owners and boat masters and it also deals with the question of persons drinking and driving while in charge of motor boats. The Bill covers the following areas: 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.

The Bill repeals the Motor Boating Act 1961, the Navigable Waters (Oil Pollution) Act 1960 and the Harbour Boards Act 1958 and amends the Port of Melbourne Authority Act 1958, the Port of Geelong Authority Act 1958, the Port of Portland Authority Act 1958 and other Acts. Therefore, it is a wide-ranging Bill and is of interest to various people who go down to the sea in ships and do business on the great waters, as it is referred to in the Bible.

At the appropriate time I shall propose an amendment dealing with yachts and pleasure boats, because the Bill changes the wording of the Motor Boating Act so that yachts and other small craft will be caught under the provisions for the registration of boats. I shall make more comments about that during the Committee stage, but the Opposition does not believe yachts should be subject to registration. They have not been in the past and I fail to understand why they should be now.

Various provisions deal with the use of boats on Victorian waters and the Bill limits the size of boats that should be handled by pilots. If one owns a boat more than 30 metres long and wants to navigate the waters of Victoria, one must use a pilot unless one has a master's certificate with the appropriate endorsement for Victorian waters.

The Bill also deals with oil pollution. As I mentioned previously, the Navigable Waters (Oil Pollution) Act is repealed by the Bill, and large sections of the measure deal with that matter.

The Bill will affect the pilots who ply their trade on the waters of Victoria. Clause 65 (*h*) states that one function of the Marine Board of Victoria is:

> to enter into agreements (on a competitive basis where possible) with any people or bodies for the provision of pilot services for any periods, on any terms, and for any ports, that the Board determines.

That has caused a flutter among the pilots of Port Phillip Bay and the piloted ports around Victoria because it could undermine an agreement that has held for the past 150 years. It was approximately 150 years ago that the first pilots were licensed for Port Phillip Bay.

The Hon. J. H. Kennan—Are you amending this bit?

The Hon. ROBERT LAWSON—No, I am pointing that out because it is interesting. I am directing it to the attention of the Minister for Transport so that he will know what he is doing. A representative of the Port Phillip Sea Pilots has spoken to me on this subject and has made a number of points that are worth repeating. I informed the gentleman that it was too late to alter the Bill and that the Opposition had no intention of doing so because it is not trying to govern Victoria from the Upper House.

The gentleman claims that, many years ago, the pilot services at the various ports were fragmented. Some 10 years ago in San Francisco, 20 years ago in New York and 30 years ago in London and the major ports of the United Kingdom that trend was reversed and the pilot services of the various ports were amalgamated. The gentleman also claims that if the pilot services are put to tender, as is foreshadowed in the Bill, it is possible that the standards of piloting within Victorian waters will deteriorate. He believes the pilot service in Victoria is the best in Australia and that it necessarily follows that it is the best in the world. He says the present piloting costs are competitive and that Victoria's service is the most financially operative and efficient in Australia and, therefore, the world.

The gentleman produced a paper marked "Confidential. For members only". The paper is confidential to the Marine Board of Victoria. It sets out a number of proposed regulations dealing with the pilot service and asks whether it would be more suitable to establish a code of practice for pilots than to introduce regulations. The Minister should give serious consideration to those points before he finally decides to put pilot services in Victorian waters out to tender.

Victoria has a large and growing pleasure craft industry, the value of which as a tourist attraction to the bayside areas is far greater than any amount that may be collected through registration fees for small craft. That is why the Opposition believes it is appropriate to propose amendments to the Bill. The Opposition's proposed amendments deal also with boats that are principally used for rescues at sea.

I have a letter from the Shire of Woorayl, which indicates that recently a boat was loaned to the State Emergency Service for the purpose of rescuing people at sea. The service managed to rescue up to nineteen people from the seas around Victoria's coast. However, the service no longer has that boat. If a further nineteen people are lost at sea, it will be too bad because the State Emergency Service will not be able to do anything about.

The letter from the Shire of Woorayl states:

> My council is one of several that are involved in State Emergency Service units which are actively engaged in sea rescue work. In the twelve months ending 31 December 1986 the Inverloch unit carried out 44 operations, 34 of which were marine operations and which resulted in 19 persons being rescued.

The difficulty is that the boat has been taken away from the State Emergency Service and the funding of SES units falls principally upon local government. The State government provides a maintenance grant of $500 to municipalities with SES units, but that is not adequate. The boat is no longer available and to replace it with a suitable boat with motors and a trailer will cost approximately $50 000. The letter further states:

> Operating costs for marine rescues are particularly high and the cost of operating the Inverloch unit is $5000 per annum in a normal year. This can increase dramatically if there are a large number of rescues required.

This is the best bargain the State government has ever had. Volunteers are prepared to risk their lives to go out on stormy seas to pick up people from the water, but so far as I can ascertain, the State government provides no funding.

Therefore, the services are getting only $500 in maintenance grants through the municipalities. I understand members must fund the rest out of their own pockets. It

seems to me to be an extraordinary circumstance that these people can rescue nineteen victims from the water and receive only $500 in return. If one calculates how much it costs per head to save those people, one realises it is one of the most extraordinary bargains of all time.

The Westernport Safety Council has something to say about the matter, too. It discussed the Bill and supported the basic thrust of the amalgamation involved. However, it has a number of reservations. The council wants to ensure that no representation on the board is given to persons who represent recreational boat owners. Another aspect of the Bill about which the council is concerned relates to the size of the motor to be used by young people. In that regard, the council states:

> We feel that metrication has been misinterpreted, resulting in the old imperial system equivalent of an under powered motor not available in the market place, would be required to fulfil the spirit of the legislation. Speaking in the imperial, the general concern is that an 8HP engine needs to be the upper limit and the Bill amended in the metric equivalent.

The Liberal Party can address that matter on behalf of the council.

Another matter dealt with in the Bill is pollution. The Bill on which I spoke immediately prior to this measure was concerned with pollution also, but it dealt with land pollution; the Bill now before the House deals with pollution in our rivers and waterways.

I direct attention to a report from the Marine Board of Victoria, which is described as a casualty report, and the heading is " 'Ace Chemi'/'M. V. Tolema'—Collision River Yarra 18 April 1987", so the collision was quite recent. When the two vessels collided, the *Ace Chemi* carried on board 2200 tonnes of aviation turbine fuel, 1200 tonnes of styrene monomer and 2000 tonnes of methanol.

These three chemicals present a high fire and explosive risk with extremely harmful vapours being released into the atmosphere. The three chemicals mentioned in the report make a lethal cocktail, and if the ship had sunk in the Yarra River where the accident took place there would have been a horrendous problem for the authorities to clear up.

The report stated:

> The cause of the accident was the complete failure of the Master of the "Tolema" to appreciate that a close quarters situation was developing between his vessel and "Ace Chemi".
>
> The Master of "Tolema" was at fault in that he made a gross error in his conduct of "Tolema".

Therefore, there are difficulties to be faced all the time by the port authorities. It is important that the whole question be regularised.

The Liberal Party can only applaud the government for attempting to do something about it. It is not known how the Bill will work; honourable members have had the experience before of this government tidying up transport legislation and generally the result has been disastrous. Therefore, one can only hope that the same outcome will not follow the passage of this Bill.

The Opposition wishes the Bill well. It is hoped it will work out correctly. I propose to move some amendments during the Committee stage.

The Hon. D. M. EVANS (North Eastern Province)—The Bill is an extraordinarily bulky measure with more than 130 pages of clauses and a series of schedules at the end. It is very complex and deals with a substantial number of issues. It has much importance for the marine industry in Victoria.

I note also that the government does not intend to proclaim all sections of the Bill at the same time because clause 2 contains the usual commencement provision stating that the measure will come into operation on a day or days to be proclaimed. I should be interested to see whether my colleagues in the Liberal Party will follow their usual procedure and suggest that the clause be amended to ensure that the whole Bill comes into operation on the one day or not at all.

A vast number of different issues are dealt with in the Bill, from controls over very large ships and pollution off shore through to the provisions of clause 17 for controls that will be exercised against under-age operators of boats in inland waters in Victoria. However, I find it rather interesting that a person who is less than 12 years of age must not operate a vessel that has an engine in it; but a person who is at least 12 years of age but less than 16 can operate such a vessel at a speed of no more than 10 knots, or if there is no person aged 16 years or more in the boat, after sunset, of not more than 20 knots in any other case; and if the vessel is towing a person who is water-skiing or aquaplaning, a person under 16 years of age cannot operate a boat in those circumstances.

There have certainly been a number of occasions when water-skiing accidents have occurred in inland waters in Victoria. A very good friend of mine was killed only a year or two ago in such an accident at Myrtleford. Water-skiing accidents, unfortunately, do occur from time to time.

High-speed boats are dangerous. They need to be controlled, and the National Party welcomes the provisions in the Bill that deal with issues such as people using alcohol and then driving boats. That problem has not been able to be dealt with previously, and my party certainly welcomes the fact that the law is now beginning to deal with it.

It seems to me to be a nonsense to provide severe penalties for those who drink and then drive motor cars—they are very poor penalties and have had a major effect in reducing the level of road deaths and road trauma in Victoria and other parts of Australia—and, at the same time, allow persons to drive potentially lethal and not easily controllable weapons at high speeds on Victoria's waterways. Penalties are set for those offences.

I note that clause 26 provides that if a person in charge of a vessel believes that people from any other vessel or aircraft are in distress, unless he or she is unable to do so—and there are some other conditions—that person must proceed to the assistance of those people. I understand penalties apply if a person does not do that.

I am not sure whether that is not an historical reaction to the loss of the *Titanic* in 1912. In that case a vessel, the *Carpathia*, was in full view of the *Titanic* for the whole period it was in distress, and until the *Titanic* eventually disappeared below the surface, the other vessel watched the signals go up from it but did not proceed to effect any rescue. Perhaps the most poignant note in nautical history is the entry in the log book of the *California* stating, "The vessel now seems to have disappeared". It had certainly disappeared, and 1500 lives were lost.

I am not sure whether clause 26 harks back to those days and that particular incident, but I do know that a person who is in charge of a vessel must believe that people from another vessel are in distress, which gives that person a very good way out; he or she could say, "I did not believe they were in distress", and one could then be left with the task of proving that the people were in distress—not whether the person knew something was afoot, but whether he or she believed the vessel was in distress. The issue of prohibited discharge into State waters does—and very properly, I believe—attract a penalty that is very severe indeed.

I notice that "prescribed discharge" means a discharge into State waters of oil, an oily mixture, a liquid substance, a mixture containing a liquid substance or an undesirable substance. With respect to the word "undesirable" I suppose somewhere along the line a court will determine what is desirable and what is not. This will lead to a value judgment. The definition in the Bill is fairly loose. The discharge of undesirable substances in State waters, according to clause 36, will attract a penalty of not more than 500 penalty units. That is a substantial penalty. Yet, it could be a discharge of a substance that is not really clearly defined in the proposed legislation itself.

I note also that the maximum liability applicable to a tanker in relation to an incident that results in the escape of oil from a tanker without the fault or privity of the owner is an amount calculated by multiplying the amount of $120 by the tonnage factor applicable

to the tanker, and $12·6 million, whichever amount is the less. I am fascinated why that figure should have been chosen.

The Hon. Robert Lawson—It is as good as any other!

The Hon. D. M. EVANS—Mr Lawson is right. Why not? It would seem that there are tankers of substantial size operating around the coast of Australia.

The Hon. J. H. Kennan—It is an international convention.

The Hon. D. M. EVANS—Thank you; I am interested to know that. Those people who may be interested in reading *Hansard* would be keen to know the reason. When the *Torry Canyon* was wrecked off the coast of England approximately fifteen years ago it would have cost a substantial proportion of that $12 million to clean up the damage. It was a major disaster. Similar disasters have occurred since that time.

The Bill does not provide for the disallowance of regulations by either House of Parliament in the regulation-making powers referred to in clause 105. I shall be interested to see whether my colleagues in the Liberal Party move an amendment to insert such a provision.

As I said, the proposed legislation is complex. It was dealt with in another place by two of my colleagues—the honourable member for Gippsland East, Mr Bruce Evans, and the honourable member for Lowan, Mr Bill McGrath. They dealt with the Bill competently and I commend the research that was carried out, especially by Mr Bruce Evans who has an enormous knowledge of the coastal waters of the State around Lakes Entrance and east Gippsland, as well as the major inland waters within his electorate. He has a keen interest in what happens to those waters and the way in which they are treated.

A number of issues still need to be addressed. There is a way to go in further ensuring proper behaviour and safety with respect to recreational boating on inland waters in Victoria. I guess we will never make the sea completely safe, as has been done more or less with travel by air. I think it could be said that travel by sea is inherently safe, but it is unforgiving of any mistakes. That means that those who travel by water—either on inland waters, where one regularly hears about lives being lost, or out on the open sea—must be aware of public safety; and the safety of individuals needs to be constantly addressed and reviewed.

The National Party supports the proposed legislation. I am aware that amendments are to be proposed, and I shall put forward the views of the National Party on those amendments during the Committee stage.

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. ROBERT LAWSON (Higinbotham Province)—I move:

1. Clause 7, line 12, before "This" insert "(1)".

I shall also speak to the second amendment standing in my name, which reads:

2. Clause 7, lines 12 and 13, omit "vessels that are operated or intended for operation on State waters" and insert 'a vessel that—

(*a*) is operated or intended for operation on State waters; and

(*b*) has an engine; and

(*c*) is not a yacht.

(2) In sub-section (1), "yacht" means a sailing vessel which—

(*a*) does not have an engine of which the power units, expressed as a number, are equal to, or more than, half the number of square metres of sail for which the vessel is fitted; and

(*b*) is not a trailer-sailer.

(3) For the purposes of the definition of "yacht"—

"Power units" means—

(*a*) in relation to an internal combustion engine—

$$\frac{D^2 \times C}{1613}$$

where D is the internal diameter, in millimetres, of one of the cylinders of the engine; and

C is the number of cylinders of the engine; and

(*b*) in relation to any other engine, the power units indicated by the manufacturer or, if they are not indicated by the manufacturer, the power units declared in a statutory declaration by the owner to be the power units of the engine.

"Trailer-sailer" means a sailing vessel which—

(*a*) has an engine; and

(*b*) has a cabin; and

(*c*) may be transported by road on a trailer without a registration permit being required under the *Road Safety Act* 1986 or the regulations made under it; and

(*d*) is launched and retrieved, or intended to be launched and retrieved, from a launching ramp that is open to and used by the public, using only its trailer and ancillary equipment.'.

Amendment No. 1 has the effect of removing the existing clause 7, which provides:

This Part applies only to vessels that are operated or intended for operation on State waters.

The Opposition has received representations from the boating council indicating that this provision will cover everything that floats in Port Phillip Bay, the Yarra River and elsewhere and could include sailboards, yachts, trailer-sailers and everything else classed as pleasure craft.

Foreshadowed amendment No. 2 is technical and deals with vessels that are intended for operation on State waters. It details that the vessel has an engine and is not a yacht; and sub-section (1) defines a "yacht".

The amendment also contains a formula describing the type of internal combustion engine in a yacht. Honourable members will recall that during the second-reading debate I referred to a letter from the Westernport Safety Council in which it requested that a description of the size of the motor be placed in the Bill. The amendment seeks to include that description. The formula used was extracted from the Motor Boating Act which is to be repealed by the Bill. The Motor Boating Act describes the definition of "power units" as:

(*a*) in relation to an internal combustion engine, the number determined by squaring the measurements in millimetres of the internal diameter of one of the cylinders of the engine, multiplying the number so found by the number of cylinders and dividing the product by the constant 1613; and

(*b*) in relation to an engine other than an internal combustion engine, the power units indicated by the manufacturer or, where they are not so indicated, the power units declared by a statutory declaration of the owner to be the power units of the engine.

The Parliamentary draftsman has taken the definition and refined it a little, changing the formula so that it now becomes $\frac{D^2 \times C}{1613}$. A yacht can have a small engine in it without being subject to registration.

The Opposition is seeking to ensure that yachts and trailer-sailers and small pleasure craft such as sailboards are not caught in the net of registration provisions.

The Hon. J. H. Kennan—Would that include 70 or 80-foot yachts?

The Hon. ROBERT LAWSON—Yes.

The Hon. J. H. Kennan—Slip the knife into your party's back! Distance yourself from it; show some loyalty.

The Hon. ROBERT LAWSON—A large yacht needs a large engine and therefore would not be included under my amendment.

I trust the purport of my amendment will be agreed to by the Committee.

The Hon. J. H. KENNAN (Minister for Transport)—Mr Lawson is a perfectly pleasant person and I congratulate him on the dry wit that he displays on occasions, but his response during the interjections I made was interesting. Mr Lawson's rationale for excluding yachts was that sailboards should have been excluded. The trouble with the proposed definition is that it would exclude yachts 100 feet long and worth a quarter of a million dollars. I can understand the rationale behind Mr Lawson saying that small vessels should not be included, but the amendment does not do that.

The government does not see any magic in yachts. Historically they have not been covered and the Opposition argues that the status quo should remain. I understand that a vessel which is not a yacht and might be a quarter of the size and a quarter of the value will be covered by the proposed amendment; Mr Lawson's amendment would provide that a magnificent yacht would not fall within the definition and would not have to be registered, with the owner not having to pay the fees. It really is a nonsense.

I understand the Opposition is following instructions from another place. The other place, to my knowledge, has fouled up on every other transport matter and it has again.

I understand that the National Party will support the Opposition. The government cannot accept that there is any equity, fairness or commonsense in the proposition that a 120 foot yacht worth $1 million should be exempt while a much smaller powerboat is not. I need not multiply the examples; that is the basis of Mr Lawson's amendment. The reference to sailboards is a red herring. If the Opposition wants to exclude sailboards it should do so.

The amendment excludes yachts and "yacht" means a sailing vessel which has a certain capacity of sail in proportion to engine, or vice versa. The definition of "yacht" does not limit the overall size of the vessel. In a lay person's language, it means that the vessel is primarily a yacht rather than a motor boat. As honourable members will have seen in marinas around the State, there are luxury and marvellous yachts and why they should be excluded from the provisions of the Bill is a matter of mystery to the government. The government does not maintain that the status quo should be retained for its own sake and therefore the government opposes the amendment.

The Hon. D. M. EVANS (North Eastern Province)—I have instructions from our spokesman on these matters to support the Liberal Party amendment. What the Minister for Transport has not been able to come to terms with is that a yacht, regardless of its size, is not a fast-moving vessel. It is this matter of speed that interests the National Party; we would certainly agree that vessels moving at considerable speed should be registered and brought within the ambit of the Act if the speed at which they travel may create danger to other members of the community.

If the amendment had extended to the definition of a category of speed of vessels, the National Party would have had less difficulty in accepting the amendment; the National Party is concerned with speed rather than size.

The Hon. ROBERT LAWSON (Higinbotham Province)—As I understand it, the formula in my amendment relates to quite a small engine. The correspondence the Liberal Party has received refers to an 8 horsepower engine, which I understand is a small engine. Anybody who puts an 8 horsepower engine into a $1 million yacht as asking for trouble.

The Hon. N. B. Reid—Or a very slow pace.

The Hon. ROBERT LAWSON—Yes, or is prepared to travel very slowly indeed. I refer to a situation in which the yacht would not be able to save itself if it had an engine that was too small for its size.

The purpose of the amendment is to eliminate the necessity to pay registration fees for small yachts.

The Hon. J. H. KENNAN (Minister for Transport)—I am even more bemused and amused by the responses of the Opposition. Mr Evans has said that it is all a matter of speed. He does not seem to understand that the Bill contains provisions which apply to slow motor boats. A dinghy that has a 1·5 horsepower outboard will need to be registered. On the other hand, under the amendment, a huge yacht with a very big engine and big sails—it might go very much faster, travelling at many times the speed of a small motor boat—will not be caught.

Having heard what the Opposition has had to say, the government is even more convinced that the amendment should not be accepted. The Opposition started by saying that it sought to exclude the small fry, like sailboards, then there was reference to the matter of speed and then to danger. The amendment clearly does not go to any of those matters, as a big and powerful yacht will not need to be registered under the amendment. A yacht of that size is capable of doing a lot more damage than a dinghy with a 1·5 horsepower outboard motor.

Whatever the reason, one might say that the refusal by the Opposition to deal with the Medical Treatment Bill now seems utterly consistent. I suppose that motor boat owners could say that they are being discriminated against by the behaviour of the Opposition. When the arguments put forward by the Opposition are examined, they will be seen for the quirky and capricious approach that they represent.

I understand that Mr Lawson is under instructions and he must follow them. No doubt he cannot have a conscience on the size of a yacht. Mr Long referred to a tree; perhaps it is more the sound of the chainsaws that he does not like rather than the trees. He does not have a conscience in respect of human beings.

The government is disappointed that once again irrationality seems to be triumphing in the ranks of the Opposition. It is a sad reflection on the state of politics in Victoria that—as someone has said—there is an Upper House that imposes its capricious and irrational will on the State. Happily, the people of Victoria are rapidly understanding that. This is another example of that behaviour.

The Hon. D. M. Evans—Settle down!

The Hon. J. H. KENNAN—Mr Evans is having some difficulty with the heat in the kitchen. I shall reiterate his position.

It has to do with the speed of boats. The amendment that Mr Lawson is supporting—and it will be said many times from now on—has nothing to do with including faster boats and excluding slower boats. It is an irrational exemption of yachts of all sizes. If Mr Lawson wants to exclude small boats he should move an amendment to that effect, but he has not done so. He is excluding yachts, both large and small.

The Hon. ROBERT LAWSON (Higinbotham Province)—The Minister for Transport has spoken about capriciousness but he is trying to be capricious because he wants to be the Minister for Transport without doing any work. I handed those amendments to him last week and they were available for him to copy as many times as necessary and have them handed around in his department. Apparently he has not done so and is now trying to change them on the run.

If one carefully examines the amendment, one will note that it provides that the size of the engine limits the size of the yacht. A very large yacht would not have a motor of that size. A yacht means a sailing vessel which does not have an engine as a unit, expressed as

a number more than half the number of square metres of sail; it is not a trailer-sailer. The term "power units" refers to an internal combustion unit.

The Hon. J. H. KENNAN (Minister for Transport)—It is Mr Lawson who has not done any homework on his own amendment. What he has said is not reflected in the amendment, which talks about the engine being of a certain proportion and stating that it does not have an engine of which the power unit is expressed as a number equal to or more than half the number of square metres of sail. If a yacht has a large sail, it can have a large engine; with a small sail, it has to have a small engine. The government is bemused about the Opposition's attitude; it is not supportive of the blanket exemption of yachts.

The Hon. Robert Lawson—If the Minister has any difficulty, the Committee can report progress.

The Hon. J. H. KENNAN—The government has had discussions with the shadow Minister for Transport in another place, who has not shown any shift in his position. If there is some purpose in seeking to restrict the amendment to small yachts, the government will be happy to adjourn the debate now and talk about it. For those reasons, I suggest that progress be reported.

Progress was reported.

STAMPS (SECONDARY MORTGAGE MARKET) 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.

MELBOURNE CORPORATION (ELECTION OF COUNCIL) (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. C. J. HOGG (Minister for Education), was read a first time.

LOCAL AUTHORITIES SUPERANNUATION BILL

This Bill was received from the Assembly and, on the motion of the Hon. C. J. HOGG (Minister for Education), was read a first time.

WORKCARE COMMITTEE

The PRESIDENT announced the receipt from the Assembly of the following resolution with which they desired the concurrence of the Council:

That the resolution of the House of 14 November 1987 appointing the WorkCare Committee be amended as follows:

(*a*) the provision requiring the committee to present its final report to the Parliament no later than 31 May 1988 be amended so far as to require the final report to be presented to the Parliament no later than 31 July 1988; and

(*b*) the provision setting the expiration of the resolution as up to and until 31 May 1988 be amended so far as to set the expiration as up to and until 31 July 1988.

It was ordered that the message be taken into consideration later this day.

PIPELINES (AMENDMENT) BILL

The debate (adjourned from April 21) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. ROSEMARY VARTY (Nunawading Province)—The Opposition does not oppose the Bill. The Pipelines Act 1967 was passed in that year and pipeline licences

issued from that date begin to expire in June, some 21 years after the issue of the first licences. It is extraordinary that in May 1988—21 years less several months—the Bill must be passed before the end of the month. If the Bill does not pass no Act will govern the operation of pipelines. My colleague in another place, the honourable member for Berwick, who is the shadow Minister for Industry, Technology and Resources, was most critical of the delay in bringing the Bill before Parliament. The main provisions of the Bill deal with the need for the renewal of pipeline licences. The Bill links two previous amendments—made in 1983 and 1984—which were not proclaimed; those amendments provide a clearer base for making regulations. The cancellation, variation and renewal of pipeline permits and licences are dealt with in the Bill, together with the clarification to set out the necessary procedures and powers to do those things. Clause 13 deals with the removal of pipelines and it amends the circumstances in which the Minister may have a pipeline removed. Currently, there are 146 licensed pipelines in Victoria and fifteen operators of those pipelines. The combined length of pipelines is approximately 3300 kilometres.

The Hon. B. A. Murphy interjected.

The Hon. ROSEMARY VARTY—Why, as Mr Murphy has asked, would one want to remove a pipeline? The cost would be enormous. If provision for the removal of a pipeline had to be included in every construction contract the cost would be passed on to the consumer. Pipelines carry mainly oil and gas. Whether the pipeline was used for gas or any other product, these products are normally a component of any manufacturing process. That would be an additional cost which would have to be added to the final price of the product.

If the Minister authorised the removal of a hazardous pipeline, the cost to the community, not only in monetary terms but also environmentally, would be substantially the same as the cost of its installation. The environment would suffer an upheaval because a buried pipeline would have to be dug up and the area restored.

Honourable members will agree that if a pipeline is hazardous some action should be taken; perhaps some toxic products may have been carried by the pipeline and have remained in it. If pipelines are disused surely it is in the community's interest that there should be a statutory requirement to remove disused pipelines only if they are hazardous.

The Minister, in his response, referred to the removal of pipelines when they represented a potential hazard or where a landowner regarded the pipeline as a hazard. It appears there is a conflict between those two statements. I reiterate that the removal of pipelines should be a last resort, even when pipelines are abandoned. My colleague in another place, the honourable member for Berwick, sought clarification regarding an appeal mechanism in the event of a disagreement about whether there was an environmental hazard with a pipeline under review.

It appears that the powers of the Minister are totally discretionary. The Opposition will need to be convinced by the Minister that proper appeal procedures will be available to operators who install pipelines. The Minister undertook to seek legal advice about the matter but, as yet, the Opposition has not received a response from the Minister. Has that advice been obtained by the Minister; and, if so, what is that advice?

In regard to the renewal of licences the department regularly inspects and monitors the use of all pipelines in Victoria. The major users of pipelines in Victoria, such as Esso Australia Ltd, Shell Co of Australia Ltd and the Gas and Fuel Corporation, maintain and service their pipelines regularly. It is in their commercial interest to do that; they have a proud safety record in this area. Those companies are able to respond quickly to any minor problem that may occur.

There has never been a major pipeline disaster in Victoria. However, one cannot help but be sceptical about the renewal provisions contained in the Bill. An amount of 6 per

cent is to be added to the licence fee on the renewal of the licences. No explanation has been given about why it is necessary after 21 years to add 6 per cent to the licence fee.

This appears to be another revenue-gathering exercise undertaken by the Department of Management and Budget. My colleague, Mr Maclellan in the other House, estimated that approximately $80 000 will be collected on the renewal of licences. This is an added tax on pipeline operators. If the 146 pipelines and fifteen operators are to be subjected to a new regime of regulatory fees on the reissue of licences for the continued use of these pipelines, Parliament is entitled to know about that.

The Opposition is supportive of licence renewal; it would be nonsensical to be otherwise. However, the Opposition is concerned about the standard of examination required on the first day of the twenty-second year. Will there be variations on what is required to renew pipeline licences?

The Opposition is concerned that the government has not yet made up its mind about whether it will renew those licences. Only a short time is left before renewals are due. The Minister may be taking the opportunity of the need to renew pipeline licences to place conditions on the licences, to vary conditions or to cancel them, to order companies to stop using them or to order those pipelines to be removed. That is a wide power indeed!

Will the Minister direct that Esso Australia Ltd or the Gas and Fuel Corporation cease using their pipelines, or direct them to pull them up? The Opposition hopes that that will not be the case.

The Opposition would like confirmation that the provision relates to the presently prescribed fee plus 6 per cent. The Opposition has a real concern that the government may examining a larger increase than that required to cover the cost of the pipeline operation.

The Opposition wants an assurance that there will not be a change in the policy upon renewal of pipeline licences that has ordinarily applied in the past, and in the monthly and weekly regime of checking pipelines for safety. I said earlier that Victoria has a proud safety record, and the Opposition needs to be assured that a regime that has been successfully applied for a long period will not be changed without sufficient notice. I foreshadow that, in Committee, I shall move an amendment to provide for the disallowance of regulations by resolution of either House of Parliament. The Opposition does not oppose 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. D. R. WHITE (Minister for Health)—Mrs Varty raised a number of matters regarding planning associated with pipelines and, notwithstanding her remarks, I shall take up those matters with the Minister in another place and ask him to have further discussions with her and, if necessary, to provide answers in writing to some of the matters she raised.

The clause was agreed to, as were clauses 3 to 13.

Clause 14

The Hon. ROSEMARY VARTY (Nunawading Province)—I move:

Clause 14, after line 25 insert—

"(3) Regulations made under sub-section (1) 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) is deemed to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.

(5) If, under sub-section (3), either House of the Parliament disallows a regulation, no regulation, being the same in substance as the regulation so disallowed, shall be made within 6 months after the date of the disallowance unless the resolution to disallow the regulation has been rescinded by the House of Parliament by which it was passed.

(6) Any regulation made in contravention of sub-section (5) is void.".

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.

STATE ELECTRICITY COMMISSION (AMENDMENT) BILL

The debate (adjourned from April 22) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. ROSEMARY VARTY (Nunawading Province)—The Opposition does not oppose the Bill. The Bill clarifies the power of the Minister to deal with the supply of electricity in emergency situations; rewrites some of the heads of power in the principal Act to make regulations for exemptions, variations of standards, definitions and testing of electrical equipment.

I shall deal first with the regulation-making powers and the exemption provisons. It is, of course, common and sensible practice that regulations should make provision for exemption from those regulations. However, a difficulty may arise where, if the time for examination of those regulations has expired; there is no recourse other than by complaint or by substantive motion.

The Opposition is concerned that officers, for good reason, may be granted exemption, but those exemptions are not examined and the Minister may be unaware of the exemptions, unless a particular problem is brought to his attention. The power to grant exemptions by regulation is, of course, a law-making power granted to an officer of the State Electricity Commission. There needs to be accountability for those exemptions, either by information being available under the freedom of information legislation or by reporting to the Minister.

My colleague, the honourable member for Berwick in another place, sought an undertaking from the Minister that all documents relating to exemptions would be declared public documents and would, therefore, be available upon request under the Freedom of Information Act. The Minister agreed that a person involved in an exemption should be given access to the documents involved, and he undertook to discuss the matter with the honourable member for Berwick, together with the matter of more general access under freedom of information legislation. That has not yet occurred.

The PRESIDENT—Order! I remind the Minister for Health about the regulations regarding the Bar of the House.

The Hon. ROSEMARY VARTY—The Opposition wants the Minister to clarify the matter of more general access to information under the Freedom of Information Act.

The regulatory powers contained in clause 6 relate to the testing of electrical equipment and the licensing of contractors. The clause provides for a clearer and more flexible system than exists at present to control electrical trades and electrical work in Victoria.

A typical example of how the exemptions may apply relates to the restoration of an old home. Often the electrical wiring in old homes does not meet present standards; as a rule, one would be required to have that wiring replaced to bring it up to standard. But the Bill provides for an exemption from that requirement to be granted, consistent with the state of restoration of the home.

The Bill gives the Minister wide-ranging powers to deal with the supply of electricity in emergency situations. The Opposition accepts that such wide-ranging powers are necessary if an emergency occurs. A difficulty arises when one attempts to define the circumstances that constitute an emergency. Amendments have been made to the Bill in another place to ensure that private generators of power will not be prevented from doing so in an emergency situation. Originally, the Bill gave the Minister the power to stop such a generation of power in an emergency situation. It would have been nonsensical if private generators of electricity had been precluded from continuing the generation of power in such circumstances. The provisions contained in the Bill are consistent with the powers contained in the Gas and Fuel Corporation Act, as well as the fuel emergency legislation.

The Opposition is concerned about the penalties to be incurred if certain provisions in the Bill are not complied with. Proposed section 45C (8) states:

> If a firm or partnership is convicted of an offence under this section, each member with a beneficial interest in the profits or capital assets of the firm or partnership is also guilty of the offence.

One would assume that if a person were to be guilty of an offence, he or she would have to have had some knowledge of that offence. If all the people involved in a partnership, for example, are to be liable for an offence simply by virtue of their being members of that partnership, the powers contained in the proposed section are draconian. The words contained in the proposed section imply that if a firm offends in one of those situations, all persons who are associated with that firm will be necessarily guilty of committing an offence. The Bill does not provide that they may be guilty of an offence; it provides that they will be guilty of an offence. The Opposition believes the measure goes too far. The Bill contains no provisions to enable the court to discover the real offender. An assumption is made that if one member of a partnership is found guilty, all members will be guilty of the same offence.

The same comments apply to the proposed section dealing with unincorporated associations or bodies other than firms or partnerships. Even a member of a committee of management of such an association or body will be deemed to be guilty of an offence in the circumstances to which I have referred.

The Bill does provide for the Minister to have effective control in an emergency situation. The amendments that were made to the Bill in another place will ensure that compensation is paid for goods or equipment that is requisitioned by the State Electricity Commission in the case of an emergency. If there is to be a dispute about the level of compensation to be paid for the use of such equipment, the normal arbitration provisions will apply.

The Opposition will move in the Committee stage of the Bill for a standard disallowance of regulation provision to be incorporated in the Bill. In the State Electricity Commission Act there are five sections that provide for regulation-making powers. The Liberal Party will seek to incorporate those powers in the Bill through the amendment that it will move.

There are three matters in relation to the Bill about which the Liberal Party has not received clarification from the Minister. They concern the reporting to Parliament of exemptions, the possibility of access to the details of those exemptions under the Freedom of Information Act, and concern about proposed section 45C (8), which relates to the guilt of people involved in an offence and the extension of that guilt to others.

The Liberal Party does not oppose 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. D. R. WHITE (Minister for Health)—During the course of the second-reading debate, Mrs Varty sought access to certain documents in respect of the matters that she

raised. I look forward to taking up those matters on her behalf with the Minister in another place. Mrs Varty sought assurances in relation to certain other matters to which she referred. I also look forward to taking up those matters with the Minister in another place.

The clause was agreed to, as were clauses 3 to 5.

Clause 6

The Hon. ROSEMARY VARTY (Nunawading Province)—I move:

Clause 6, page 7, after line 4 insert—

"( ) After section 111 (3) of the Principal Act insert—

"(4) Regulations made under this Act 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.

(5) Disallowance of a regulation under sub-section (4) is deemed to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.

(6) If, under sub-section (4), either House of the Parliament disallows a regulation, no regulation, being the same in substance as the regulation so disallowed shall be made within 6 months after the date of the disallowance unless the resolution to disallow the regulation has been rescinded by the House of the Parliament by which it was passed.

(7) Any regulation made in contravention of sub-section (6) is void.".'.

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.

MELBOURNE CORPORATION (ELECTION OF COUNCIL) (AMENDMENT) BILL

The Hon. C. J. HOGG (Minister for Education)—I move:

That this Bill be now read a second time.

The Bill has one purpose. It is to extend the Melbourne Corporation (Election of Council) Act until 1991.

The Melbourne Corporation (Election of Council) Act 1932 contained a sunset clause to the effect that the Act expired at 6 a.m. on the day of the 1985 elections for the council.

In 1984 the sunset clause was extended to 1988. This Bill further extends the sunset clause to 1991 to enable elections scheduled for this year to proceed.

I commend the Bill to the House.

The Hon. REG MACEY (Monash Province)—The Opposition supports the extension of the Melbourne Corporation (Election of Council) Act until 6 a.m. on the day of the 1991 council elections.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

FLORA AND FAUNA GUARANTEE BILL

The debate (adjourned from April 21) on the motion of the Hon. J. E. Kirner (Minister for Conservation, Forests and Lands) for the second reading of this Bill was resumed.

The Hon. M. T. TEHAN (Central Highlands Province)—The Flora and Fauna Guarantee Bill has the potential to be a landmark in the preservation of our unique indigenous flora and fauna. I say "potential" because the whole format of this Bill depends

on its implementation and the resources and sensitivity that are brought to that implementation.

The need for protection of our flora and fauna is well recognised. I refer the House to a statement by the Victorian National Parks Association Inc., an organisation that has the support and considered regard of all parties in this Parliament. The association states:

> The whole issue of the extinction of flora and fauna is not a problem; it is a crisis. In this State we have some 500 threatened and endangered plants and 200 threatened and endangered vertebrate animals. Nationally about 10 per cent or 2000 of our native flora is threatened. Similarly about 103, or 40 per cent, of our 256 species of mammals are considered threatened, or extinct—86 and 17 respectively.
>
> We are part of a worldwide crisis, with the increasing rate of extinction of species over all the continents of the globe.

In *The Nature of Australia* by Michael Morcombe, that argument is taken even further, and indicates that in the event of species being threatened, endangered or lost in Victoria, the ramifications are faced throughout the world. Chapter 1, entitled "The Flora", states:

> The age-long isolation of this continent has given sufficient time for evolution to proceed along many paths, with each plant becoming more and more changed compared with others which once were similar but which came to inhabit different environments. As a result, very few species have remained identical to plants of any other continent. An exeptional proportion of our plants are endemic, that is, they are found only in Australia.
>
> For this reason conservation of the flora is crucial; once a species becomes extinct in Australia it is simultaneously lost to the entire world.

The statistics have been clearly set out in the Minister's second-reading speech and do not require repetition. It is obvious that in the time we have inhabited this continent more than twenty species of mammals, two species of birds and 35 species of vascular plants have vanished from Victoria. These species have been completely removed from the flora and fauna preserve of this country and of the world.

The objectives of the Bill are laudable. They cannot be criticised and must be considered as the essence of the Bill. Clause 4 states:

> (1) The flora and fauna conservation and management objectives are—
>
> (*a*) to guarantee that all taxa of Victoria's flora and fauna other than the taxa listed in Schedule 1 can survive, flourish and retain their potential for evolutionary development in the wild; and
>
> (*b*) to conserve Victoria's communities of flora and fauna; and
>
> (*c*) to manage potentially threatening processes; and
>
> (*d*) to ensure that any use of flora or fauna by humans is sustainable; and
>
> (*e*) to ensure that the genetic diversity of flora and fauna is maintained; . . .

I shall refer to some of the nomenclature used in the Bill, which in some circumstances are new; particularly I shall refer to taxa, the value of the genetic diversity of flora and fauna, the need to conserve Victoria's communities of flora and fauna, and the sustainable use of flora and fauna by humans. So that honourable members may better understand the terms used in this debate, I refer to what I believe is accepted as a definitive study, entitled *Nature Conservation in Victoria Study Report. Volume 1* by Doug Frood and Malcolm Calder of the School of Botany, University of Melbourne.

They refer to the definitions of taxa and environmental values in biota conservation and human involvement. They say that one of the factors that determine the environment is the ecosystem, which is the result of complex interactions between the physical environment and organisms that produce, consume or decompose organic matter.

They refer to the interpretation of the communities and habitat type. They give a description of habitat: it is essentially a space used by a series of plant or animal which includes those features which are of relevance to the species concerned, that is, dietary requirements and physical requirements for reproduction and shelter. They go on to say that the scale of habitat varies from the micro-habitats of bacteria, to the small spaces which may support invertebrates, to the large areas needed to sustain some larger vertebrates.

The essence of that is that, although building on other Acts of Parliament—and I shall refer to those in terms of Acts of the 1970s which set about to protect our wildlife and plant species—the Bill for the first time addresses the protection of habitat. It is important to keep in mind the definition of critical habitat and the description of habitat in the *Nature Conservation in Victoria* book.

The need for a Bill of this kind has been demonstrated. I repeat that it is imperative that the measure is able to be implemented. It has the possibility of being nothing more than verbiage unless we can bring about both cooperation and implementation to make worthwhile the effort that has been put into the measure on many fronts.

In considering the input to the Bill, I refer to its preparation by officers of the Department of Conservation, Forests and Lands. I am sure honourable members will realise the input of Mr Phillip Sutton of that department. It has also received input from the conservation movement, and I refer especially to the Conservation Council of Victoria, whose staff have worked hard for a long time to produce a measure that would protect threatened flora and fauna as well as all flora and fauna.

Having paid tribute to those who have perhaps set up the ideas and the officers of the Department of Conservation, Forests and Lands who have drafted the guarantee, it is imperative to consider the consultative process that provided the information to the department, the Minister and eventually to this House. It can be said that the Bill has not only the support of each party in this House but also the support of all sectors of the community in Victoria, including those who perhaps purport to have been somewhat apprehensive.

The consultative process commenced some time ago when the Minister first suggested a symposium that was eventually held on 6 September 1987 at the Clunies Ross Convention Centre. That symposium brought a number of people together to consider a draft of the Bill. However, being held in the metropolitan area and being predominantly supported by members of the conservation movement, little input was received from people representing the rural areas.

It was suggested by the honourable member for Evelyn in another place that similar seminars should be held in provincial cities so that members of the farming community could attend and have their fears and apprehensions addressed. The Minister agreed to consider that proposal if such a seminar were called for. A period of negotiation between the Victorian Farmers Federation, the Minister and the honourable member for Evelyn followed, the upshot of which was a series of six seminars held throughout Victoria in February this year.

In the course of those seminars many of the fears held by the farming community were allayed and many of the problems the farming community foresaw with the Bill were considered by the Minister. The Bill before the House is acceptable to the farming community. I shall refer to one of the members of the Victorian Farmers Federation who is a member on the land use panel. He made a telling comment on farmers today and on one aspect of the Bill. That person is Mr John Mewton, who spoke at the seminar in Geelong on 24 February 1988. His comments are pertinent. He said:

> Today's farmers are keen practising conservationists and have learnt from their mistakes of the past. Early settlers endeavoured to apply European farming practices to a hostile environment with different soil types, climate and flora and fauna. Until relatively recently, advice provided to farmers by government departments and consultants was often to remove native vegetation and to destroy native animals. In fact . . .

It is unfortunate that the next statement is in parenthesis—

> . . . governments and financial institutions provided incentives to assist in this process. This trend was arrested in the early 1970s when many of the current problems were recognised.

Mr Mewton goes on to say that he was pleased to read in the *Ballarat Courier* of 6 February 1988 that Mr John Mildren, Federal member for Ballarat, was reported as saying:

> The farming community today is far more concerned about conservation than it was a few years ago.

That probably sums up the regard of the farming community for the preservation and protection of our endangered species. It also indicates that the farming community is prepared to cooperate with the proper implementation of the Bill provided farmers' intrinsic rights in the land, but more especially rights involved in farming practices attached to the land, are taken into account. I suggest that farmers' rights have been addressed, certainly with the addition of the amendments that were moved in another place and will be discussed in this place.

I opened my remarks by saying that it is imperative that the Bill be implemented otherwise it will be an empty vessel. It has that potential because it is strong on rhetoric. I shall refer to a number of clauses starting with clause 19, which refers to action statements. The director-general must prepare action statements for any listed taxon or community of flora and fauna or potentially threatening process. I should have thought that an action statement would relate to doing something, to preparing to take an action.

Clause 19 (2) sets out the priorities of the action statement. The action statement must set out what has been done to conserve and manage that taxon or community or process. That is interesting but I would hardly regard it as an action statement if it is referring to something that has already been done.

The Hon. J. E. Kirner—It is a basis for action.

The Hon. M. T. TEHAN—Clause 19 (2) continues:

. . . and what is intended to be done . . .

It goes on:

. . . and may include information on what needs to be done.

I have some problems with that language. I should have thought the first priority would be to indicate what needed to be done to protect flora and fauna, followed by what was intended to be done, and then followed at a lower level by what has been done. However, the clause provides that it must set out what has been done and what is to be done but only "may" include information on what needs to be done. That gives me some cause for concern that this is just an empty vessel. Similarly, under the determination of critical habitats, clause 20 (1) provides:

The Director-General may determine that the whole or any part of parts of the habitat of any taxon or community of flora or fauna is critical to the survival of that taxon or community.

It provides that the director-general may take various actions that he may only determine; there is no need for him to say when or how. It is only a matter of "may".

Clause 25 provides for public authority management agreements, and this clause is also couched in the same sort of language by providing that the director-general "may" enter into an agreement with one or more public authorities. It also provides that he must give notice of the agreement, must set out its purposes and that the "agreement may be changed or terminated by mutual agreement between the parties or according to the terms of the agreement".

The director-general may enter into an agreement with one or more public authorities. It will depend, as all the provisons of this Bill will, on the cooperation of public authorities, the public and landholders. That cooperation is needed for the proposed legislation to have substance. Clause 25 provides for public authority management agreements that will not be enforceable, and it is not even mandatory that those agreements reside within the discretion of the director-general. Under the amendments that will be moved and accepted, clause 25 will refer to cooperative management agreements as set out in the Conservation, Forests and Lands Act. That epitomises the need for cooperation between the various people who are involved, including the wide definition of landholders in the definition clause. That is no doubt the way to go, and the way I recommend that this Bill be taken. I am sure that is what the Minister and the department have in mind. It is predominantly a Bill that will be effective only with cooperation.

Clause 26 concerns interim conservation orders. The Minister will have strong powers for a short time, whenever the Minister has time to take the action. It is for the limited period of two years, plus the period in which a nomination might be confirmed. I have no problems in accepting that provison. However, clause 44 is the pinnacle of the Bill and again enforces the need for cooperation because there is little substance in terms of what can be done, having gone through a whole process of strategies for flora and fauna, such as the flora and fauna guarantee strategy, flora and fauna, management plans, public authority management agreements, interim conservation orders, suspensions of licences and so forth.

Clause 44 provides:

> Before an interim conservation order expires the Minister and the Director-General must take all reasonable steps for the purpose of ensuring the long-term conservation of the taxon, community or critical habitat in respect of which the order was made.

The operative words are, "must take all reasonable steps". It seems to me that, having had the powers that the community is prepared to give the department to protect flora and fauna, even to the extent of interim conservation orders, we reach the top of the cliff and are then inclined to fall off because the most that can be derived from the Bill on a permanent basis is that the Minister and the director-general must take all reasonable steps. Without the cooperation of the public and landholders, the measure will fall off the cliff.

I shall address two or three issues which have not been sufficiently addressed in this Bill and which are of vital importance. The first is built upon what I hoped to have demonstrated was the need for cooperation and understanding as the basis on which this Bill will work. I suggest that the only way to obtain that cooperation and understanding is through an appreciative, sensitive public that recognises the need for the preservation of the flora and fauna. There is a strong need for conservation education. Without it, people will not appreciate the indigenous flora and fauna, just as our early settlers did not understand what was of intrinsic worth in Australia, even though it was quite different and in many ways quite opposite to the European farming communities from which they came. That issue is not directly addressed in the Bill, although clause 4 (1) (*f*) provides for programs of community education in the conservation of flora and fauna. Conservation education is vital; without it, the cooperation needed for the proper implementation of the Bill will not be obtained.

I was interested to read the 130th annual report of the Zoological Board of Victoria for 1986–87 in which the chairman, Mr A. Dunbavin Butcher, commented on the need for conservation education. He stated:

> An all-important element in conservation is an understanding of the concept, by the community, as the necessary precursor to acceptance.

I could not have put it better. It is imperative that the community understands the concept, because once it understands it can appreciate, and once it can appreciate cooperation will be obtained. With cooperation, the community, the government and landholders will be able to work together to understand, recognise, conserve and preserve something worth preserving. He also stated:

> There is need for an appreciation of the significance of environmental problems in conserving living things and a recognition of the human species as a component of that group and of its peculiar role—its unique ability to influence what takes place.

That objective, which is enshrined in clause 4 (1) (*f*), is probably the most significant component in this Bill. Without that objective being achieved, the cooperation needed for the operation of clause 44 will not be developed. In that case, there is not much the director-general and the Minister can do to take reasonable steps. Cooperation is necessary. This is the case not only with flora and fauna but also with national parks. I made that point in my contribution to the debate on the Point Nepean National Park. Without

sensitivity and appreciation there will not be proper recognition and proper use of natural resources, be they parks, rivers, natural systems or indigenous flora and fauna.

I have carefully considered the threatening processes: it is obvious that many things can be said to be threatening processes. It is one of the problem areas that many honourable members have had because the processes can be so broad. Amendment were happily passed in another place and now the Bill reads, "in the absence of appropriate management".

Pest plants and pest animals are one of the threatening processes that has been brought to my attention. This threat needs to be recognised by the community and the Department of Conservation, Forests and Lands. More than anything else these pests are eroding the native flora and flauna, the value of our parks, the value of our stream-side reserves and the value of our whole State. It is imperative that these threatening processes be addressed forthwith because they could be the undoing of all the values that we are seeking to protect through the Bill.

Again I refer to the notes of John Mewton who said:

I refer to the eradication of vermin and noxious weeds or as they are currently referred to—pest plants and pest animals.

The biggest threat to the long-term survival of our native flora and fauna, particularly the endangered ones, in not posed by human intervention as the legislation suggests. The very real threat comes from non-indigenous species of animals and plants principally—foxes, feral cats, wild dogs, rabbits, blackberries and furze, to name a few principal offenders.

Mr Mewton also said that he and most farmers would love to have the various forms of birdlife seen at the Serendip Wildlife Research Station but, without biological control, the native species are under constant threat because of the non-indigenous species referred to.

The problem is widespread and is prevalent on private land, as well as on public land. The department and farmers must address, the problem. In terms of conservation of natural reserves of flora and fauna—parks, rivers and stream-side reserves—pest plants and pest animals pose a threat that must be addressed.

If the Bill is implemented— and I hope it will be—and translated into action rather than rhetoric; if the funds are available; if the public education process to make people aware and sensitive is implemented and that leads to the cooperation that is the basis of the Bill, one can hope that in the next 150 years rather more flora and fauna can be preserved. This destruction has resulted not through any maliciousness, not through any real determination but just through ignorance and lack of understanding. If all that we hope the Bill can achieve occurs, perhaps we may be able to meet the challenge referred to by the Victorian National Parks Association. The association suggested that the situation has reached crisis point.

In conclusion I shall quote the association:

... if Australians with their large area, small population and developed industrialised economy cannot stop the degradation of their environment and the extinction of its native species, then no country can.

The association said that the challenge is ours. The challenge is being taken up in this Bill.

Much hard work has been put into the proposed legislation and credit should be paid to those whose idea it was; to those who were concerned enough to bring the idea to the authorities, expecially the Department of Conservation, Forests and Lands; to the considerable number of people who had an input from the metropolitan area, the conservation movement and the farming movement; and to all who have had an input into this measure in an effort to meet the challenge to which I referred.

The challenge is to eradicate threatening processes, especially pest plants and animals; finding resources; and gaining cooperation, which is the backbone of the proposed legislation. If all this is achieved, hopefully we can proceed to preserve what is so special in the State, and therefore so special in the world. I commend the Bill to the House.

The Hon. D. M. EVANS (North Eastern Province)—The National Party supports the general intention of the proposed legislation. Mrs Tehan's comment that farmers are becoming increasingly conservation-minded is true. That is translated into the stance adopted by the National Party, which believes Australia's native flora and fauna need to be preserved. It is also interested in allowing the Bill to proceed to see how it will achieve that objective.

However, the Bill appears to be extremely optimistic. An example is clause 17 which states that the strategy that is to be developed by the director-general and the Minister for Conservation, Forests and Lands, must include proposals for:

> . . . guaranteeing the survival, abundance and evolutionary development in the wild of all taxa and communities of flora and fauna;

That is a wonderful objective but if one really intends to achieve that, one is being extraordinarily optimistic.

If Australian flora and fauna is to be preserved, cooperation from the public, especially those who own rural land, is absolutely essential. The key issues are education, assistance and cooperation. That applies especially to private land because, without the cooperation of farmers, the tasks would be made more difficult.

It must be recognised that the majority of our native flora and fauna flourishes on public land, which represents 37 per cent of the total land area. The Bill imposes and allows for the imposition of stringent disciplines on those who hold a licence or have permission to use designated public land. The present legislation, which the Bill intends to replace, took a different tack in that it provides for the protection of individual plants, animals or birds. Under the legislation one could not take, destroy, sell, or do anything deleterious to the survival of any species or the individual. The proposed legislation recognises that, if a species is to survive, the habitat and threatening processes, in the jargon of the Bill, need to be addressed and controlled. That is an interesting development. The attitude is correct because one cannot preserve an animal, bird or plant unless one protects its habitat.

Anyone who has a knowledge of the countryside would understand that the flora and fauna in any area varies considerably over a short distance due to a number of natural factors such as soil type, vegetation, aspect, height above sea level, water and sunlight.

The Bill is wordy and imprecise. The National Party is concerned that the measure gives considerable power to the Minister, the department and the Director-General of Conservation, Forests and Lands. The power can be delegated under section 11 of the Conservation, Forests and Lands Act 1987 provided that the Bill, if it passes through the House, is included in the schedule to the Act, beceause it then refers to this Bill as a "relevant law".

One must not judge the Bill on its own; one must also be ready to recognise and understand that there is an interaction between the Bill and a considerable body of other legislation already on the statute book. We are not dealing just with one single Bill but with several interacting legislative measures.

The real key to the Bill is the interim conservation order or, or ICO. In her second-reading speech, the Minister recognised and drew attention to the fact that the Bill can provide a substantial discipline to the way people carry out their operations, in the case of a farmer, or in the way people use their licences or their right to carry out certain operations on public land, whether it be as a lessee of the public land, or as mountain cattlemen. It will also affect farmers in the Mallee and, indeed, it will affect water frontages and unused roads and property in other parts of Victoria.

It can impose a discipline on people who operate timber licences or other forms of extractive activity on Crown land. The interim conservation order is a key part of the Bill and it also provides heavy penalties—100 penalty units for disobeying an ICO and a continuing penalty for allowing that contravention of the interim order to continue.

When the Bill was brought to public attention approximately two years ago, the National Party recognised its significance. It carefully read the various relevant documents and consultative process material that came forward. The National Party recognised the possible implications, particularly with an interim conservation order, on the farming community and on many other people. We have been constantly involved in public debate through the press.

The National Party has debated the issue and discussed it with the Victorian Farmers Federation, the Mountain Cattlemen's Association, the Victorian Sawmillers Association, officers of the Minister's department, conservation groups, and individuals who have contacted me as spokesman for the National Party.

In order to inform my own party members I have developed and distributed a number of working papers progressively over several months and those working papers have been readily available to those persons who may have sought the National Party's views; and feedback following the distribution of these papers has been most valuable in helping the National Party to develop its approach.

Landowners in Victoria are stated to be somewhat relaxed about the Bill. The reason they appear to be satisfied at this time is that they are confident that the National Party, the Victorian Farmers Federation and the Liberal Party are acting in Parliament to protect their interests. The Bill is complex; its interaction is complex, it is wordy and——

The Hon. J. E. Kirner—You left the government out. I have a letter from the Victorian Farmers Federation saying they are confident also!

The Hon. D. M. EVANS—I am pleased that they are doing their public relations work well. Because the Bill is so complex many people do not understand it and they are relying on the opposition parties and the Victorian Farmers Federation to ensure that the Bill is not against their interests.

I have criticised—I hope, in a constructive way—various aspects of the Bill both through the electronic media and the print media, and the government has been sensitive to those criticisms, which is shown in a number of amendments that have been made between the first and second drafting of the Bill.

Explanations of the Bill have been given in the second-reading notes and also by one of the honourable members representing Melbourne Province, Mr Pullen, and explanations have also been given by departmental officers at five seminars held in conjunction with the Victorian Farmers Federation. If all explanations and the methodology behind the processes are followed, I see no great harm in the Bill but, because of the way the Bill is worded and because powers in the Bill can be extended by the use of regulations and by correlation with other Acts of Parliament, our concern is that an enthusiastic Minister or an officer of the department under the delegated powers to which I have just referred, could severely and unnecessarily intrude, in some provisions of the Bill, into the operation of some of our farming land. They could affect lessees or holders of other licences operating on Crown land.

Therefore, it is important to ensure that the intention of the Bill as explained is the way the legislation will operate. For this reason the National Party has carefully prepared a series of amendments. They have been widely discussed and circulated and I know they have been effective because in the past week or two a number of petitions have been presented to the House, each of which has been carefully worded by one particular clause that the National Party intends to place in its amendments. I note also that the numbers of signatures on those petitions have been relatively small.

Our intention in the preparation of the amendments is to hold the powers of the Bill to the Minister's stated intention—in other words, to make sure that what the Minister has been saying around the State is put into practice—no more than that.

The sitting was suspended at 6.28 *p.m. until* 8.3 *p.m.*

The Hon. D. M. EVANS—Prior to the suspension of the sitting, I indicated that it was the intention of the National Party to hold the powers of the Bill to the Minister's stated intention expressed at meetings throughout Victoria and in her second-reading speech. The National Party believes it is necessary to constructively address conservation, and that can most effectively be done by focusing on cooperation. It also believes the purposes of the Bill can be well assisted if we set in the Bill the priorities that need to be set. Protection must be given to landowners and others who may be affected by the proposed legislation.

If we are serious about protecting flora and fauna, we must firstly decide from where the threat is coming and we can then determine and take reasonable action. Obviously, since settlement, white man has been a major threat and instrument of change to the native flora and fauna. However, the clock cannot be turned back, nor can we subordinate our needs to the needs of flora and fauna, even if some people may wish to. That wish is particularly strong when we are telling someone else what to do, and clearly that must be guarded against.

A major threat to Victoria's flora and fauna comes from introduced species—vermin and noxious weeds. Weeds, such as blackberries and St John's wort smother public land and reduce the ability of many native plants to grow and thrive. They also form a harbour for many of the vermin species that cause considerable damage to the environment. Because they are more naturally attuned to the normal habitat of the introduced species, the noxious weeds enable those species to thrive to the detriment of our native species.

More important than noxious weeds are vermin or, in the modern terminology used by the government, pest animals. One species posing a threat is the cat, both domestic and feral. The cat is perhaps the world's most efficient killer; it is deadly to small animals and birds, particularly ground-dwelling birds.

On 20 April this year I asked the Minister for Conservation, Forests and Lands what plans she had to deal with the feral cat risk to native fauna and birds. The Minister's answer was that the issue was being referred to the Social Development Committee. I understand that committee is inquiring into companion animals. The Minister said that she hoped the committee would examine the whole issue of animal, especially dog and cat, welfare. She hoped also that when the committee's report is tabled in Parliament it will deal with feral cats.

The Minister did not treat the threat to our native animals by this most dangerous predator in a serious manner. The National Party, however, does. If the Minister and the government were serious about the Bill, they would as soon as possible engage in research on the destruction of feral cats in our native habitats.

Dogs also pose a threat to our native flora and fauna. They are not as efficient killers as cats, but they are deadly to large animals, such as wallabies and kangaroos, and many small animals. They are particularly dangerous when they are crossed with the native dingo. They do not attack only sheep or small calves; they kill many of our native animals as well.

Foxes are another threat. They are an introduced pest and do not eat only rabbits and chooks; they eat eggs, birds, lizards and small animals. They are a major depredator of our native fauna and bird life. I have referred to the carnivorous imports and shall now refer to rabbits, which are perhaps the most dangerous pest introduced into Australia. They are certainly the most dangerous to fauna of the feral introductions into Australia. Rabbits cause more land and soil degradation than any other animal introduced to this country.

The Hon. W. A. Landeryou—When did they come here?

The Hon. D. M. EVANS—In about 1854.

The Hon. W. A. Landeryou—You are wrong; they came out with the First Fleet.

The Hon. D. M. EVANS—I shall read from an article in the *Warrnambool Standard* of 24 June 1986 which outlines the destruction rabbits can cause. The article states that at the eighth Australian Vertabrate Pest Control Conference at Coolangatta, a biologist, Mr Neil Hermes, who works with the Department of Primary Industry and whose task is to work with the wildlife service to eradicate rabbits, delivered a paper on the work of the Australian National Parks and Wildlife Service in eradicating rabbits from Phillip Island. Eventually, at substantial cost, rabbits were eliminated from the island. Mr Hermes pointed out that since the eradication of rabbits the vegetation response has been remarkable.

The crux of the matter is the following:

> The endemic Phillip Island Hibiscus, which had been recognised as one of the 10 most endangered plants in the world, is now flowering well in the wild and is likely to produce seedlings for the first time in decades.

A species of plant presumed extinct since 1912 is now growing in dozens on the island. Just by removing the rabbits, one of the ten most endangered plants has appeared again, and a plant that had not been seen since 1912 has appeared again. Clearly, rabbits are the single greatest possible danger to our native flora.

There is a need to provide some physical protection for our native animals. The Minister for Conservation, Forests and Lands was inclined to laugh when I raised with her on 23 March in this place the issue of the death of koalas on the Hume Highway and suggested that some steps needed to be taken to deal with that problem. I do not really believe the Minister treated the subject very seriously. I hope she did and that I am wrong. However, I point out to the Minister that on the last occasion that I travelled along the Hume Highway, last week, sure enough, I saw a dead koala and, not far away from that, a dead porcupine.

The Hon. J. E. Kirner—Why don't you drive more carefully next time?

The Hon. D. M. EVANS—Perhaps the Minister needs to understand that physical protection can be provided.

The Bill itself is bureaucratic. It contains a very loose definition of powers and responsibility, which worries the National Party. Although National Party members recognise the need to protect our flora and fauna, it is also our clear responsibility to our constituents to protect those who earn a living from public and private land. We must make certain that the legislation that passes through this House cannot be used by an enthusiastic Minister or an equally enthusiastic officer——

The Hon. J. E. Kirner—Am I an enthusiastic Minister?

The Hon. D. M. EVANS—The Minister was not terribly enthusiastic last night. However, we must ensure that such legislation cannot be used by an enthusiastic Minister in a manner that shows a clear overreaction to the contingencies of any circumstance. There are some people in the community—and they are entitled to their views—who would preserve every native animal as the first and only priority.

It is fairly easy to say that a struggling farmer's land should be tied up by an interim conservation order—and this Bill provides for just that eventuality; it is pretty easy to say his animals should be shut out of his pasture and, for a period of 80 days or more, his crops should not be planted; it is easy to say all of that when one has a comfortable job and makes a good living for oneself and one's wife and family, independent of access to that land.

Maybe a struggling farmer will receive compensation eventually, but he has to apply for it under the present terms and conditions of the Bill. The National Party proposes to move amendments at the appropriate stage to make the relevant provision a little better. Let us hope, if a farmer has an interim conservation order over his land and if he is subject to those restrictions, that his bank manager will wait. However, the National Party says that if the community believes, for the benefit of Australia's flora and fauna, the farmer's

land should be locked up, his crops should not be planted and his animals should be kept out of part of his property, the community must pay up front; and the National Party will propose amendments to ensure that that occurs.

The National Party understands that, at the same time, there are taxonomic groups that are genuinely endangered. However, they are endangered to varying degrees. For example, the koala has been considered or has been reported as being an endangered animal. In 40 years' time it could be under real threat, so the danger is not immediate. I understand there are some species to which the threat is immediate. The Phillip Island hibiscus, for one, was immediately endangered. I understand the Eltham copper butterfly was endangered. It was "rediscovered" in Eltham not long ago—except that the Victorian etymological society had known about its existence at Kiata since 1930, and the community was kept in suspense, believing the colony in Eltham to be the only known colony. Therefore, there is a varying degree of endangerment for our native flora and fauna and, reasonably enough, according to the degree of endangerment, so must the required action be taken with varied degrees of urgency.

One could apply this simple test: if the loss of one single individual of that taxonomic group could be said to be a disaster, that species really is in danger; if the loss were no more than a misfortune, I suggest it is not endangered to such a degree. Therefore, it is very clear to the National Party that, depending on the degree of endangerment faced by a particular species, the response of the community that is required to protect it and the response that this Bill should allow for should be made accordingly.

As I said, there is a need to protect the community, particularly those in the direct firing line of an overenthusiastic Minister—not this one, who is never overenthusiastic—or an overenthusiastic officer of the Department of Conservation, Forests and Lands.

In discussions with officers of the department some months ago, National Party members asked whether a particular species, specimen or individual had ever been lost in Victoria because of lack of emergency powers and, if so, what was the species and where was it. We were told by those officers that, quite honestly, they did not know of any such species; that they had had a couple of close calls, but they had never lost one. Therefore, there has not yet been a need for an interim conservation order and officers of the department could not tell me where such an order was necessary for the survival of a species as a whole or as a single individual.

The interim conservation orders are the key to this Bill. Even the second-reading speech recognised very clearly that that was so. The National Party accepts that, in a real and genuine emergency, on occasions where the loss of an individual or a small group is a disaster, there is a requirement for and it is reasonable to have emergency action available. However, it is concerned that such emergency action may be used unreasonably, either on private or public land.

If emergency power of that nature is misused or used overenthusiastically, there will be a backlash at least from the farming community, which will be counterproductive. I put it very clearly in colourful terms: if a farmer believes his operations will be detrimentally affected by an interim conservation order and he has an endangered species on his property, there is a fair chance that the species will be buried; it will not survive, and the bottom line will be that threatening powers of this nature will do less good for our endangered species than if the government cooperated with the people of the farming community, sought their assistance and considered their interests.

The National Party says, therefore, that there is no need for emergency powers except in extreme cases, and those need to be defined more clearly. The Bill spells out very clearly that the interim conservation orders can be used for an individual nomination of a potentially endangered species, provided that the Minister or the Minister's delegated officer is prepared to use it. I suggest that power could be used to tie up areas of land for a community of species which is rare in one part of the State and plentiful in another.

The Minister may say that there is a clear delineation between private and public land in clause 26 of the Bill. I have examined that provision very carefully and I believe that can be got around by using the issue of critical habitat and determining that a critical habitat exists on a property.

I believe, therefore, that could be used on a community in any part of the State even if the animal, bird or taxon were plentiful in another part of the State.

Clause 27 (*c*) of the Bill also appears to refer to that particular matter. It states that an interim conservation order can be extended to a process outside an actual critical habitat. So, for example, if an area in public land were decided as critical for a community or for a species which was rare in the north-east of Victoria and common in Gippsland, the interim conservation order procedure could be used to affect adjacent private land.

According to clause 27, an interim conservation order may provide for all or any of the following and includes the prohibition, regulation or management of any activity or process which takes place outside the critical habitat which is the subject of the order but which is likely to adversely affect the critical habitat. Clearly the interim conservation order can be used on private land where a species is rare in one part of the State and common in another. It can certainly be used—and this is clearly spelt out in clause 26—where the taxon is rare.

The National Party considered that this power needs to be controlled. Two key factors are involved.

Schedule 2 of the Bill covers taxa or communities of flora or fauna which are threatened and Schedule 3 covers potentially threatening processes. It is the view of the National Party that if Parliament is to give power to have those species or processes listed, Parliament should also have the power to control the listings on those two schedules. Nothing is listed at present. However, the list can be made by executive action initiated by the Minister without reference to Parliament.

The National Party believes it is absolutely essential that Parliament regain control over processes by ensuring in the Bill that listings in schedules 2 and 3 are made by regulation, which can be disallowed by either House of Parliament.

Some might say, "But that would mean that Parliament would be setting itself up in opposition to a scientific committee designed to advise the Minister on these listings and, as ordinary lay people, Parliamentarians would be challenging the opinion of the scientific committee." My answer to that is that it is not correct. Even if it were, I see no reason why Parliament should not have the ability to go through that process if it is so desired.

The fact is that although there must be an inquiry by a scientific committee prior to listing, the committee simply advises the Minister. The Minister does not have to be bound by the advice; the Minister can disregard it and use the executive powers under the Bill as it stands, without recourse to Parliament and without control by Parliament, to put species on the list of endangered species.

That means that a wide range of species can be included on the list—far wider than Parliament would be prepared to agree to, given proper consideration, if that list were put forward in the Bill. It is not in the Bill and will not be unless we amend the clause giving the Minister carte blanche to put whatever flora or fauna species the Minister desires on that schedule and, having got them on the schedule, giving the Minister every power under an interim conservation order to impose very substantial disciplines on private landowners' use of their land and the use of public land for those who have a proper lease or agreement to use it; and the Minister can apply substantial penalties for non-compliance.

The other key factor that the National Party regards as vital in the Bill is the concern as to when an interim conservation order can be used. The National Party, as a responsible political party, recognised that proper care needed to be taken of our endangered flora and fauna. The National Party also recognised that it was important not to allow overuse of

the power that might be given. Therefore, the solution which the party was able to develop was simple and neat—accepting that sometimes emergency action will be required by way of an interim conservation order and accepting also that for some species that could be endangered or seen to be endangered in the future, it is not so necessary.

The solution was simple and neat: let us put a separate list on the schedule—a new critically endangered list. That is what the National Party will propose by way of amendment during the Committee stage. Cases where the loss of a particular individual or a community is a disaster could be included. At that time there needs to be emergency action, and the National Party accepts that the power should be there. We have to ensure, however, that the landowner is also protected. In the case of the endangered species list, it is the view of the National Party that the most effective way is by cooperative management agreements with the landowners concerned. The National Party will be proposing amendments to ensure that that occurs.

The National Party was most careful with the amendments it drew up. The carriage of the amendments is the key to its eventual support of the proposed legislation. It is vital to the National Party support of the Bill that Schedule 2 contain groupings of endangered and critically endangered species. It is also vital to the National Party's support of the Bill that Parliament is able to control, by the use of legislation, those species that are placed on Schedule 2—the list at the back of the Bill.

The National Party consulted widely on this particular approach and it has been, I believe, very well accepted by persons who understand the proposed legislation as sensible, reasonable, and fully protective of the interests of people who may be placed under some additional discipline by the proposed legislation and, at the same time, it meets the real needs of the flora and fauna in this State.

The National Party acknowledges that endangered species need to be recognised before positive action can be taken. Furthermore, education and assistance is also necessary. In the case of the endangered species category, the National Party says that if we firstly recognise what they are and take positive action, then secondly have education and assistance, and move on to cooperative management agreements, we would have the best possible basis for looking after the needs of our flora and fauna.

Cooperation is fundamental to success. A threat is counterproductive and the National Party therefore says that, for endangered species, no interim conservation order is necessary—in fact the bottom line will be worse. In the case of critically endangered species, the National Party says, again, that one can use the interim conservation order. At the same time, the National Party will move amendments to ensure that up-front assistance is made available. By that I mean that if a farmer has to fence off an area of land and has to take his sheep and cattle out because of an interim conservation order, I would expect at some time that a truckload of wire and fence posts would be delivered to his property so that he is not involved in additional cost in advance of compensation.

Further, in the view of the National Party, the critically endangered species must be a top priority for the scientific committee and for the development of management plans under the Bill. That appears to be no more than commonsense.

A fundamental principle of the National Party is that the community must not expect a private individual to bear the cost of complying with the Bill.

The Hon. C. F. Van Buren—Farmers get subsidisation all the time; what are you talking about?

The Hon. D. M. EVANS—The Bill has attempted to cover this issue by ensuring that compensation is available. When one reads the Bill, however, one sees that the farmer must apply for that compensation.

The Hon. J. E. Kirner—That seems reasonable.

The Hon. D. M. EVANS—The National Party argues that compensation should be up front because it is concerned that if there is an endangered species for which an interim conservation order can be applied, that the first priority will be to deal with the needs of the endangered species and the second priority will be to worry about the farmer.

I heard an officer of the Department of Conservation, Forests and Lands in Wangaratta say that interim conservation orders will not be used too regularly because the department does not have the money to pay compensation. I became alarmed on hearing this because I am certain that, faced with what is regarded as an emergency by an enthusiastic operator, the fact that there is no money in the till will not be of great concern and the farmer will be left holding the baby, so to speak, until the government has the money to meet the costs involved. That is not good enough.

The Bill must ensure that appeals tribunals are comprised of people who have experience relevant to the cases being brought before them. It is not right to have people without the relevant experiences hearing appeals on land use issues which are of vital concern to farmers. The National Party will move amendments to the clauses which refer appeals to either the Administrative Appeals Tribunal or the Land Valuation Boards of Review. I have discussed that possibility with the Registrar of the Land Valuation Boards of Review and will refer to it again during the Committee stage. The National Party can see no problems with the amendments which have been arived at and I trust that the government and Parliament will agree with those amendments.

The National Party will propose a further amendment which will make consultation with the Land Protection Council mandatory. The Bill provides that the Minister "may" consult with the Land Protection Council and the Conservation Advisory Committee, and those councils have the right to consult with the Minister. The National Party is saying, "Let us make that a little more definite; let us make certain that consultation with the Land Protection Council in fact takes place".

Because the National Party has questioned the issues raised in the Bill in its various provisions, some people have questioned most unfairly its commitment to looking after Australia's native flora and fauna. That is an unfair question; it is certainly not in the minds of the members of the National Party. I have attempted to address the real issues and principles of the proposed legislation to ensure that the people represented by National Party members are also protected, thus achieving a proper balance.

I have a great interest in Australia's flora and fauna and shall give honourable members a personal glimpse of this for just a few minutes. My mother was a keen painter and, for many years, she painted Australian wild flowers very well. For the 30 years before she died, she instilled into us and other members of her family a very real love of Australian wild flowers. One does not lose that quickly.

However, I also must recognise that I have a direct responsibility to my constituents. Therefore, without the amendments that I will propose in the Committee stage, the National Party will not support the measure beyond that stage. It will not be responsible should the Bill be passed without those amendments and prove to be arduous for our constituents.

The National Party will do no more in the proposed amendments than try to ensure that what the government has said it will do is what it exactly does; that the provisions of the Bill are not extended; and, finally, we will focus clearly and more sharply on the priorities, the endangered species and the need for cooperation to achieve the best possible deal for Victoria's flora and fauna.

The National Party will not object to the Bill going into the Committee stage and will propose a series of important amendments.

The Hon. L. A. McARTHUR (Nunawading Province)—I shall keep my contribution brief but I seek to speak in support of the Bill. I congratulate the very enthusiastic Minister

for Conservation, Forests and Lands. She has achieved wonders with the proposed legislation.

I first became involved in what became the Bill about two years when it was on a couple of sheets of paper. Since then, the ideas discussed have been incorporated into a document which was launched publicly at Healesville; eventually the Bill was introduced into the House and is certain to be passed.

How did the Bill come about? Two years ago I do not think it could have been achieved, but the project which is reflected by the Bill has captured the need to care for the flora and fauna of our State. The Bill has embodied what most Victorians want. I shall elaborate on this a little later. Most Victorians want the word "flourish", as appears in clause 4 (1) (*a*) to be included in the Bill; they want the remaining flora and fauna in our State to flourish and to continue to survive.

This enthusiastic Minister—if I may use Mr Evans's words—has had to tread carefully. It was certainly a minefield to begin with—a minefield of justified fears of landholders. Quite often, people far away can appear—sometimes unjustly—to deprive others of perceived rights. That has not been the case with the Bill for two reasons. Firstly, the Bill was negotiated well and, secondly, as I said before, the Bill embodies the will of the people of Victoria. The Minister has harnessed the belief that enough has become extinct in the area of our flora and fauna and that Victorians want to save what is left, with the cost to be shared. That has been done.

The heritage of our State is something I hear about when I discuss conservation issues, a large one being the problem of salinity. The people to whom I speak maintain that progress should be towards keeping what we have in Victoria and, as the Bill also states, allowing for "evolutionary development" as much as is possible under our land regime. As other speakers have said, we have altered the evolutionary process. There are processes at work which will probably result in the loss of some species, as has happened throughout the history of the planet. There are many processes at work—the climate, natural enemies, and man and his work.

The real commitment of Victorians is embodied in the Bill. The concern in rural areas is more widespread than in urban areas where some very vocal conservationists are often heard. There is a significant responsibility for land and water, and other assets, in rural areas. The government—especially the Minister for Conservation, Forests and Lands—has been able to negotiate to overcome those fears and has been able to capture, harness and to propose a marvellous Bill that I am sure the House will pass.

People often think that consultations, and a desire to listen and a willingness to change when legitimate fears exist, are a waste of time. The Minister and Mr Pullen, and others, have assisted in the drafting of the Bill, and have obtained a measure of support from the Opposition that is certainly worth pursuing although support from the corner benches is limited.

I had not intended to refer to the provisions in the Bill. Fears about livelihoods did exist. Mr Evans referred to a need for compensation. All of those fears are real. At times people perceive a government interfering with their freedom but the Bill is at a community cost and a community need, and is supported.

The Minister for Conservation, Forests and Lands, as well as officers of her department, and the government have worked with many people, including the Victorian Farmers Federation, to present the Bill. Reference was made earlier to seminars, publicity through rural organisations and publications; the Bill has been talked through. More than eighteen months of consultation have resulted in appropriate ways of doing things. A good feature of the Bill is that it harnesses the dynamics of the community which wants to do the job and it will be successful, with the assistance of the government's enthusiastic Minister. That is why the Bill should be passed.

Landholders recognise the need to pass Victoria's land, water resources and environment on to the next generation. The miners, as landholders of Victoria, have well gone. The present generation of Victorians needs to now protect, to look after, to nurture and to pass on Victoria's heritage.

Very few species will be lost. Genetic materials suddenly are interesting and important in all their forms. Recent indications are that old and ancient apple trees may hold genetic material of enormous proportions, with the engineering of that fruit. Lord knows what genetic material is embodied in endangered species in Victoria! Everyone can be confident, because of the actions of the government and the reactions to the Bill, that the Victorian community will not lose many more plants or small organisms.

I congratulate the Minister for Conservation, Forests and Lands. At times I feared that it was an impossible mission but the Minister has overcome fear, rumour, scaremongering and, at times, plain stupidity. On this occasion posterity will win because of the commitment of the Victorian community. I commend the Bill to the House.

The Hon. C. F. VAN BUREN (Eumemmerring Province)—I support this important Bill. It should be supported by all honourable members, but it is a pity that the opposition parties, especially members on the corner benches, intend to introduce amendments in an attempt to water down the Bill. The general aims of the government may not be achieved by this action. Mr Evans supported the Bill in one sense but in his next sentence, he wanted to make changes.

Like my colleague, Mr McArthur, I congratulate the Minister for Conservation, Forests and Lands for her foresight and understanding on conservation issues. Also, I think you, Mr President, had a role to play in this because you were the former Minister for Conservation, Forests and Lands and looked after our environment.

The Minister has made the people of Victoria aware of conservation issues. Obviously people are concerned at the declining numbers of flora and fauna and realise the need for something to be done. Last year Victoria celebrated its 150th birthday, and this year Australia celebrates the 200th birthday of European settlement. Since that settlement various species of flora and fauna have disappeared. I do not criticise the pioneers because they did a magnificent job in developing Australia. With farming and technological developments, they were a little rough and ready in developing the country; there was no foresight on what had to be done.

It has been admitted that by improved farming mechanisms the decline of certain species had to be stopped, that both farming and animal life must be protected. If there is no proper care, all could be lost. I am pleased to observe that the current generation of farmers is well aware of its reponsibilities, and has discarded antiquated practices. They are now sensitive to the needs of the environment. Farmers have to protect their environment because they depend on it for their living. They are aware of the need to protect wildlife and plantlife.

The National Party talks about understanding country people but it does not fully understand them. Members of the Liberal Party have demonstrated some understanding, but the National Party members have not reached that stage. They have only one policy: block whatever decent Bills that have a concern for the environment might be introduced.

The Hon. B. P. Dunn—That is rubbish!

The Hon. C. F. VAN BUREN—That has always been the National Party's policy. The provisions of the Bill will arrest the current decline in species and flora and fauna and ensure that something will be left for future generations. It is important to preserve our heritage and I am sure that future generations will be thankful to the government and to Parliament for their foresight in doing something about it.

The Hon. B. P. Dunn—They won't be thankful about the State debt!

The Hon. C. F. VAN BUREN—I am not referring to the State debt but to flora and fauna. It is the government's responsibility to ensure that rare flora and fauna are protected and are not totally destroyed. The Bill aims to ensure that the habitats of fauna are not destroyed.

Mr Dunn referred to the State debt; the government has managed the financial situation although when it came to office the financial situation was in a mess. The National Party knows what the Labor Party has done; I am sure that it understands.

The Hon. Robert Lawson—If you say that often enough you will believe it!

The Hon. C. F. VAN BUREN—Yes, I believe it and the community believes it. Unfortunately the conservatives will not accept the situation. When the conservatives were in government they did not protect the flora and fauna and they had no conservation policies.

Mr Evans spoke about consultation. The Minister is to be congratulated because during the timber inquiry she was prepared to consult with the community. The government has always had a policy of consultation so that it will know what the community wants. The Minister went to great lengths to ensure that there was consultation and she is to be congratulated on her efforts.

Honourable members interjecting.

The PRESIDENT—Order! There is too much audible conversation across the Chamber. I cannot hear what Mr Van Buren is saying.

The Hon. C. F. VAN BUREN—Approximately two years ago 6000 copies of a discussion paper were circulated for public comment. The government received a good return of those discussion papers, which covered all aspects of the proposals. That discussion paper provided an opportunity for consultation out of which draft legislation was drawn up in July 1987, almost twelve months ago.

Another 2000 copies of the draft legislation were circulated within the community and views were sought on it. Mr Evans does not understand that process of consultation.

Officers of the Minister's department spoke at a number of meetings across the State. The views of landholding groups, conservation groups, local municipalities and all other interested groups were sought including that of the Victorian Farmers Federation, which the National Party claims to represent.

The president of the federation, Mrs Heather Mitchell, was consulted and had input into the Bill. The Minister attended a number of public meetings to put her view and she listened to what people had to say. The consultation process was excellent.

The Bill endeavours to strike a balance between the rights of landholders and the right to the guarantee that flora and fauna, as well as the natural environment, will be protected for future generations.

It is a pity that division has been caused between farmers and the conservationists, mainly by the National Party. There should not be division between the farming community and conservation groups on this issue because farmers and country people are aware of the need to protect the environment. They are interested in ensuring that the National Estate is protected.

The Bill protects that right. It ensures that areas cannot be taken over. The farming community is dependent on the natural environment and on nature itself for its living. The farming community wants the land from which it gains its living to be protected. The Bill ensures that the land is protected but it does not take away landholders' rights.

The Bill provides for compensation as it allows the Director-General of Conservation, Forests and Lands to make early payments so that people are not disadvantaged. Before

the final compensation is determined there is an appeals mechanism to ensure that there are safeguards for those people concerned. A cooling-off period is also provided.

Concern has been expressed that the public may have access to areas on private properties. The rights of people are protected and nothing can be taken away from them. Honourable members on examining the Bill will be aware that departmental officers can have access to private property only in order to prevent breaches of the law. They cannot walk in and take over. The Bill safeguards the rights of landowners. I shall not go into those matters but I have a list of them which Mr Dunn and Mr Evans may wish to read.

Mrs Tehan referred to the lack of an education process. The government has done more to educate people so that they are aware of their rights and will continue to ensure that the message travels right thoroughout the community.

I ask honourable members to support the Bill because it is an important measure if we wish to leave a heritage for future generations. It is important that the opposition parties do not move amendments in the Committee stage which will weaken the thrust of the Bill. The community has the right to expect that future generations will have this flora and fauna heritage. The farmers' rights are protected under the Bill and I ask the opposition parties' members to support it.

The Hon. R. S. de FEGELY (Ballarat Province)—I have been involved with the Flora and Fauna Guarantee Bill from its intitial preparation and it has had a reasonably long gestation period. No-one would disagree with the aim of the proposed legislation, which is to protect and preserve Victoria's native species of flora and fauna for future generations.

The Liberal Party will not oppose the Bill. The Bill is largely a public relations exercise and if it alerts the community to the need to preserve the State's flora and fauna it will have achieved its aim, but there is already excellent legislation in place in the form of the Wild Flowers and Native Plants Protection Act and the Wildlife Act, introduced by a Liberal government some years ago, which provides excellent protection for the flora and fauna of Victoria.

The Bill is largely unnecessary, because its principal aim could have been achieved by amendment of those two Acts. That would have cost the State less money and the government less time, with the same aim being achieved.

Victoria has some unique flora and fauna. They are worthy of protection, and it is up to each and every one of us to ensure that the species survive for the future. People in the city often have different views from people who reside in rural Victoria. Legislation often reflects the views of the metropolitan community as against the views of rural Victoria.

This government's legislation, much of which has been beneficial to the Victorian community, is generally drafted with a metropolitan viewpoint in mind. The predominance of that city viewpoint in various pieces of legislation can cause confrontation between city and country communities; and those problems could be overcome if more thought were given to the drafting of legislation.

I commend the Minister for Conservation, Forests and Lands for taking up the challenge issued to her by the honourable member for Evelyn in another place, the then shadow Minister for Conservation, Forests and Lands, who asked the Minister to acquaint the people of Victoria with the aims and objects of the proposed legislation. The Minister took up the challenge and held six meetings around Victoria at Wangaratta, Bendigo, Nhill, Hamilton, Geelong and Sale. Members of the public, the farming community and the municipal associations—already mentioned by Mr Van Buren—were invited to these meetings and were better informed as a result of attending.

I attended three of those meetings in Bendigo, Hamilton and Geelong. The meeting at Bendigo was not well attended, mainly due to the change in date of the meeting and the fact that another meeting was being held at the same time. The meetings at Hamilton and Geelong were well attended. All participants learnt much from them, and the Minister

and her staff said they gained a great deal from those meetings. The Bill is better drafted as a result of those meetings. That is the benefit of having community consultation. It would not have been nearly as satisfactory if the meetings had been held in Melbourne, because country people do not appreciate travelling to Melbourne to attend meetings. They often have things to do in their own communities, but they do take the opportunity of attending meetings that are held locally. I thank the Minister for taking up that challenge.

Mr Evans referred to the title of the Bill and I, too, am interested in that. The word "guarantee" is of interest to me because I am unsure how the government can give a guarantee of any sort that it can keep over a period. I refer honourable members to the Collins dictionary and to two applicable definitions of guarantee set out in the dictionary. The first definition is that a guarantee is a formal assurance that a product, service and so on will meet certain standards or specifications. The second is that a guarantee is something that makes a specified condition or outcome certain. I am unsure how any government, with the lack of security of tenure associated with democratic governments, can give a guarantee for the future.

The word "guarantee" in the title of the Bill is part of the government's public relations exercise. I am not critical of the Minister for that, because it is a clever way of getting the message across. Nevertheless, that is the title of the Bill and the Opposition does not object to it.

The community has a general expectation that, because of the publicity associated with the Bill, the government can guarantee, for the future, the survival of endangered species of flora and fauna; and the Opposition hopes that the Bill does achieve that purpose and looks forward to that occurring in the future.

A variety of concerns were expressed at the country meetings. The main concern was the right of authorised officers to enter private property. A second point of concern related to the interim conservation orders and the effect they may have on private property; and a third area of concern related to Crown land, particularly in forest areas, where logging operations occur and to the fact that some over-zealous people may use the listing process in a way that was not in the spirit of the Bill.

I fear that the more radical conservationists—those people who are the least responsible and least balanced members of the community—may endeavour to stop logging through the provisions contained in the Bill. I hope the department will ensure that that will not happen and that those people who draw up the nominations for the listing of endangered species carry out their work responsibly. There are provisions in the Bill which deal with people who do not do the right thing and make vexatious claims.

The "threatening process" will cause concern to some landowners, especialy as they are uncertain of what the phrase means. Many people can see dangers in the threatening process; I am not sure whether their fears are soundly based.

The Bill is acceptable to me, especially if certain amendments are made to it in the Committee stage. The Minister has referred to the socioeconomic factors mentioned in the Bill. I am pleased that the Minister has heeded the suggestions that were made to her by the Liberal Party and that they have been written into the Bill.

I am sure the Minister would be disappointed if I did not mention the dangers to flora and fauna caused by wild cats, dogs and foxes. The wild goats and wild pigs that roam through Victorian parklands and forests also pose a danger to many plant species. Honourable members should all be aware of the damage that those animals can cause. I doubt whether sufficient heed is taken of the problems those animals cause to the environment. Mr Evans mentioned the damage caused by rabbits; and honourable members would be aware of the numbers of rabbits and wild pigs that roam certain areas of Victoria. They pose a danger to the survival of flora and fauna in this State; they are certainly more of a danger than humans.

In my electorate, many domestic cats have grown wild because they have been dumped from cars by people who no longer want them and who are not prepared to put them down. That problem is being studied by the Social Development Committee, of which I am a member. It is a matter of great concern that there are many people in Victorian towns and cities who behave irresponsibly so far as their pets are concerned. The cats that are dumped are a threat to many of our small native mammals and birds.

The proliferation of weeds is a problem that is not dealt with in the Bill. I hope that problem will be dealt with in another Bill that will soon be introduced. Many people who travel to national parks, State forests and, indeed, onto Crown land discover that the proliferation of blackberries and furze takes a huge toll on the environment. The proliferation of weeds, together with feral animals, has caused and is continuing to cause a great deal of destruction to flora and fauna in this State.

Although the Liberal Party is not opposed to the Bill it will be moving amendments in the Committee stage. I again stress that the word "guarantee" in the Bill is nonsensical. The Bill is loosely framed and, to some degree, its provisions are largely impractical. If sufficient funds are provided, the Bill may be effective; and the government must ensure that a reasonable amount of funding is provided.

I am not sure why there is a need for a Bill to preserve flora and fauna on Crown land. The government has the opportunity of acting in its own right to take the necessary protective measures on such land. Further, the way in which the Bill has been drafted may prove to be counterproductive with regard to endangered species on privately held land. Farmers have a great fear of bureaucratic interference. They fear their livelihoods may be threatened by government officials coming onto their properties. Such intrusions are not readily accepted; and, because of that, I fear that farmers may not always report the existence of endangered species on their properties.

Once the scientific committee has sorted out the listing of both endangered and threatened species, those lists should be circulated to farmers and an education campaign conducted through the auspices of either the Department of Agriculture and Rural Affairs or the Department of Conservation, Forests and Lands. Such an education program should seek the cooperation of the farming community and other interested groups in the protection of endangered and threatened species.

By encouragement, certain areas of farmland containing endangered species could be fenced off. If, for example, farmers have difficulty with either financing the erecting of fences or protecting those endangered species in some way, either department should assist them financially.

Honourable members have raised the question of compensation. An education program could be conducted to explain that compensation is available for those farmers who have endangered species on their land but who, in attempting to enclose those endangered species, may find their livelihoods are affected because of the reduction in acreage that such measures may cause.

If I were the Minister, I would have endorsed such a program, knowing the farming community as I do. As that is not the case, the Liberal Party must go along with the provisions in the Bill. I hope the Minister will take note of the point I am making about the need for an education program to inform the farming community about endangered species. In that way the government may gain the cooperation of farmers who are concerned about the intrusion of bureaucrats onto their farms.

There is no doubt that the flora and fauna in this State must be protected, particularly those species that are endangered. Indeed, every species of flora and fauna must be protected throughout Australia.

If the Bill achieves that objective, it has my full support. I assure the House that I am prepared to play my part in ensuring that the measure will be successful, but I hope the

Department of Conservation, Forests and Lands will accept some of my suggestions rather than adopt a confrontationist approach.

The Hon. B. T. PULLEN (Melbourne Province)—I support the Flora and Fauna Guarantee Bill. It is heartening that all honourable members, with different degrees of enthusiasm and with some qualification, also support the Bill.

I shall refer to the fundamental philosophy behind the Bill because many assumptions have been made that we all take things for granted. It is important that the community understands what is distinctive about this Bill and why it is different from other land protection measures. In supporting the Bill, some honourable members suggested that they believed all species should be protected and preserved. That, of course, involves an assumption or belief that somehow it is better for there to be an abundance and diversity of species on this planet. However, no speaker indicated economic or explicit evidence to explain why diversity is important, nor is there any immediately obvious justification for such an assertion.

Yet as time goes on, humans are discovering that the connections between various species, even small and seemingly unimportant creatures, are critical in maintaining our whole environment. Existence cannot be just taken for granted, because if different species are lost from the earth, a chain of events can occur which can be damaging and perhaps disastrous for humans. Often these processes take some time to take effect. Two examples of this occurring in history are instructive. In the past man has paid the penalty for making drastic changes to his environment.

The people who originally populated Iceland over a relatively short period of 50 to 100 years progressively cut down most of the trees. Today Iceland is virtually a denuded country. Besides the forests that it has lost, it has also lost countless species which formerly existed in those forest environments. Thus an extremely complex community which is less evident than the loss of the forests has gone forever.

The North American Eskimos were regarded as extraordinarily good deer hunters. After being provided with rifles, their skills were applied with such force that they virtually wiped out the deer population on which they depended. Their primary source of food was decimated and that action produced a deadly tragedy for the Eskimo people. Unwittingly, by their own hands, they destroyed a crucial link in their food chain and that made it difficult for them to stay alive.

Sometimes our attitude to certain species is confused because we regard them as pests. If we examine the circumstances surrounding those species, we would discover that the species had been transplanted from its original environment to another land or habitat resulting in an increase in its numbers out of kilter with other species and its presence has created problems. In other cases the removal of other species from an environment can cause other species to dramatically increase in numbers and become pests. Where there is a problem, economically or numerically, it is easy to jump to the conclusion that some animal or plant is not necessary, but every species has its place.

I have a fundamental belief that this proposed legislation is necessary. There is growing evidence that it is better for the environment for as many plants and animals as possible to be preserved. In the past legislation has been initiated to cover specific conservation aspects. Acts of Parliament have protected wild flowers and prevented the shooting and trapping of certain species. The difference with this Bill and the reason why it is ambitious is that it attempts to capture all of those aims in one concept.

It would be surprising if the initial attempt does not have some flaws. I do not suggest the Bill is perfect. However, it grapples realistically with the total preservation of species where history has shown other methods not to be successful. In that sense, the Victorian government is making a brave attempt to take a stand to protect the environment. The key point about the Bill is not that it is acting to protect individual species but that it is attempting to preserve the environment and ecology on which a given species and a

collection of species depend. Hence, the measure must address the protection of soils, vegetation, retention of waterways and whole catchments. That requires not just government policing but also the coopertion of the whole community—the people who live on and work the land, and all those who have responsibility as land managers. That is really the challenge.

The test will not be only whether this measure is administered carefully or efficiently by the current Minister for Conservation, Forests and Lands, successive Ministers or whatever administration unit is charged with that responsibility. The test is whether the population as a whole is convinced that it should play a part in preserving all various species in this State.

As part of that educative process the development of legislation is the first crucial step. The Minister commenced the process by introducing a draft Bill and by allowing the community to examine it, and to suggest changes or amendments. The people were given the opportunity of adopting the proposed legislation and of contributing their ideas. It was not to be something that was seen as elitist, a government handing down something to which people should adhere.

That stage was followed up by conducting seminars at Melbourne, Nhill, Hamilton, Wangaratta, Bendigo, Sale and Geelong, so that people would have the opportunity of involving themselves directly in discussing and suggesting improvements to the Bill. If that process had been omitted, the Bill would still have been before the House tonight, but it would not have been as good. Many Victorians now have some links, understanding and part ownership of the proposed legislation. The concept behind the Bill is impeccable but its success will depend on support at the grassroots level of the community.

I now turn to two points raised by honourable members. Mr Evans suggested that the Bill should contain degrees of listings of endangered species and that it is not necessary to list threatened species in toto. Mr Evans's suggestion is fraught with danger. If action is delayed based on some hierarchical list of threatened species rather than taking scientific advice on all threatened species and threatening processes at the earliest possible times, they are placed at risk. Even with all the best intentions in the world, there will be little one can do past a certain point.

One example serves to point that out clearly. The American condor is a bird that appears on American emblems. Its numbers are now reduced to approximately 100. The reasons for this are complex but basically relate to the loss of environment in the Californian area which is the predominent area where the bird dwells and feeds. A raging debate in the scientific community in the United States of America continues about how best to save the species. Some people have argued that it is completely impossible to support that bird in its native environment and the only way of saving it is to take the remaining birds into captivity, breed them up, and attempt to educate the chicks to the extent that they can be released into the wild and will be able to survive.

That is an extraordinarily difficult, convoluted process which has so far cost approximately $US25 million. Such expenditure may not be necessarily justifiable by any economic analysis. I am sure people could justify many other ways of spending $25 million. The controversial debate surrounding this species and the effort being mounted to save it is an expression of despair and concern about what has been allowed to happen.

It is necessary to take early action to protect the environment rather than waiting until individual species are at the point of disappearing. Trying to split straws and draw up different lists, as Mr Evans suggested, is an attempt to appease different views to which he feels he must respond. Rather he should transcend that issue and support the concept thoroughly. What is being asked for in the Bill is simply a scientific listing of the problem in an objective way and then a consideration of ways in which to deal with specific issues that threaten species. That is an essential aspect of the philosophy of the Bill.

Mr de Fegely questioned the use of the word "guarantee". I have some problems with the title of the Bill, too, in terms of its complexity but I think the term guarantee is

important because it is an expression of a goal, a desire and a will to succeed that can be embraced by the whole community. It is a brave concept, as I said at the outset. It has not been achieved anywhere. Almost everywhere in the world species are becoming extinct year by year. Often they are small insects and small plants that are unnoticed but eventually their loss accumulates until suddenly a large mammal or a large bird that people notice disappears. Then it is too late. People have not observed the steps that have taken place before that; the less dramatic steps that have led to that situation which is almost impossible to reverse.

I commend the Bill to the House but, more than the Bill, I commend the philosophy and the braveness of the philosophy which has been brought forward and the challenge which the whole community needs to take up. It will need to go far beyond the effort of this Parliament if it is to finally succeed.

The motion was agreed to.

The Bill was read a second time, and it was ordered that it be committed later this day.

MINISTERIAL STATEMENT

Egg marketing

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I desire to make a Ministerial statement on egg marketing. In this statement I shall outline the government's response to the reports by the Public Bodies Review Committee on egg marketing arrangements, and indicate the legislative changes which are proposed.

THE PUBLIC BODIES REVIEW COMMITTEE INQUIRY INTO EGG MARKETING

The Public Bodies Review Committee, after an extensive inquiry, reported to the Parliament in November 1987 on the Poultry Farmer Licensing Committee, the Poultry Farmer Licensing Review Committee and on the Victorian Egg Marketing Board. These are three of the sixteen agricultural marketing boards and authorities being reviewed by the Public Bodies Review Committee. The committee has concluded that there are serious problems with the current egg marketing arrangements. This conclusion is consistent with the findings of a number of earlier inquiries into the Victorian egg industry.

The Public Bodies Review Committee made extensive and detailed recommendations for reform of egg marketing in Victoria. Before responding in detail to these recommendations, I would like to make some general comments on the key considerations that shaped the government's response.

The egg industry is an important rural industry. There are currently around 400 licensed egg farmers in Victoria, and the industry has a gross annual product of about $80 million. If we count only egg farms with a quota larger than 1000 hens, there are around 200 of these farms in Victoria with an average size of around 13 500 hens.

The government's policy is to encourage the development of the egg industry within Victoria. However, there is evidence that constraints under the existing legislation are restricting the ability of producers to adjust and to adopt new innovations. For example, controlled environment shedding, which is the most efficient production system, is common in other countries but has been only slowly adopted in Victoria.

Another major consideration from the point of the producers is the potential threat from interstate trade in eggs. The government wants the Victorian egg industry to be able to withstand competition from eggs produced interstate. In particular, the Victorian industry needs to be fully competitive with that in New South Wales. We do not want to find ourselves in the same position as New South Wales with milk. In the milk industry the slowness of the New South Wales industry to adjust and maintain its efficiency has made it vulnerable to more efficiently produced and lower cost milk from Victoria.

The government also has a responsibility to ensure that the needs of consumers are adequately considered. This is particularly the case in an industry where producers have effective control over both the price of eggs and the quantity produced, and where the major beneficiary of the legislation is a small number of egg producers. There is evidence from the Public Bodies Review Committee and from recent reports of the Prices Commissioner that eggs are overpriced. If steps are taken to improve the overall efficiency of the egg industry there is scope for both producers and consumers to benefit.

For some time now I have been of the view that the egg industry is suffering from excessive regulation. The government does not propose to deregulate the industry to the extent proposed by the Public Bodies Review Committee. However, steps are proposed which will free up the industry. A regulatory framework will be retained but producers will have greater scope to secure profitable marketing opportunities for their eggs.

A major and continuing role is envisaged for the Victorian Egg Marketing Board. The board has the marketing experience, the expertise and the scale to remain the dominant marketing agency. It is expected that most producers will continue to market their eggs through the board. In order to make these changes, all legislation relating to the egg industry will be reviewed and consolidated in a new Act. Draft legislation will be prepared and released for comment by industry and the public in the winter recess. This will allow legislation to be introduced in the spring sittings of 1988.

IMPACT AT THE FARM LEVEL

The maximum farm quota will be increased to 80 000 hens. Safeguards will be included to ensure that the farm size limit cannot be evaded by multiple ownership or artificial business structures. For example, where a poultry farmer is a corporation, the maximum limit will apply not only to that corporation but also to any corporation related to it within the meaning of the Companies (Victoria) Code.

The licensing committee will also be given a general power to refuse to issue a licence or to cancel a licence where it reasonably believes that the applicant or licensee is party to an arrangement designed to circumvent the limit. New South Wales legislation includes a similar provision. These measures will prevent undesirable concentration of ownership emerging in the industry.

At present producers keeping fewer than twenty hens are exempt from licensing and quota requirements. The Public Bodies Review Committee recommended that producers with fewer than 500 laying hens should be exempt from licensing and quota requirements. After consideration of industry representations it has been decided to set the exemption level at 50 laying hens.

The operation of the hen quota tender pool will be improved to make it more flexible and efficient. There will no longer be a limit on the amount of quota which can be bought at one time. This will lead to increased efficiency at the farm level and for the industry as a whole. Industry adjustment will be facilitated by easier entry and exit by producers. Producers with excess capacity will be able more easily to fill their sheds. These arrangements will allow quota values to be determined on a more realistic basis. Leasing of quota will also be permitted provided that the maximum farm size restriction is observed.

QUOTAS

The Public Bodies Review Committee recommended that quotas be phased out over a period of seven years. It also recommended that there be consultation at a national level through the Australian Agricultural Council prior to phasing out quotas. This process of consultation is already under way, and the results will be available for consideration before legislation is finalised.

For the present, quotas will remain, with a maximum quota size of 80 000 hens. However any consideration of the long-term future of quotas must take into account whether quotas sustain an industry which is vulnerable to a breakdown in national quota arrangements.

In discussing the Victorian licensing and supply control system, the Public Bodies Review Committee said:

> If unaltered it will place the Victorian egg industry at a competitive disadvantage to New South Wales . . . The current trend towards deregulation of marketing in Australia renders the existing institutional framework potentially dangerous to the State's egg producers.

The committee also reported that quotas have tended to discourage investment in new technology.

I am concerned that the Victorian industry develops in a way that keeps it competitive nationally, and it appears that quotas may not be in the long-term interest of the industry. For these reasons I propose that there will be a mandatory review of quotas in 1994.

EGG MARKETING

Changes to the Role of the Victorian Egg Marketing Board

The Public bodies Review Committee recommended that eggs no longer be vested in the egg board. It recommended that ownership of eggs should remain with the producers, who would be free to sell to whomever they chose. The reason for this recommendation was that the committee wished to remove the monopoly marketing position of the board and to introduce competition in egg marketing.

Careful consideration has been given to this recommendation and to the views of the industry. It appears that many of the objectives of the committee could be achieved by exposing egg marketing to greater competition while retaining vesting.

Eggs will continue to be vested in the board. However the board will be exposed to greater competition than in the past, and producers will be given greater freedom in the handling of their eggs.

Board members and the chairman will be appointed by the Governor in Council and will, as in the past, serve for a period of up to three years. The board membership will however be enlarged by one to seven, to include a representative of employees in the industry.

The board's objectives, functions and powers will be clarified in the new legislation. The board's reporting requirements will be strengthened as recommended by the Public Bodies Review Committee. This should assist the board to operate successfully in the new commercial environment.

The main objectives recommended by the committee are:

to provide for orderly marketing in the Victorian egg industry;

to market eggs in a competitive manner without limiting the ability of others to market eggs efficiently;

to provide advice to the licensing committee about the anticipated demand for eggs in order to aid the licensing committee in determining the quantity of issued quota to match the supply and demand for eggs.

The functions of the board will be largely unchanged. The board will continue to market all eggs consigned to it by producers. The board will remain the key spokesperson for the industry and will facilitate the dissemination of industry wide information. The board will be able to advertise and to undertake commercial initiatives as at present.

Other functions will be:

to determine standard egg grades in consultation with the industry;

to enforce minimum quality control standards for the industry;

to determine egg prices, in consultation with an independent tribunal chaired by the Prices Commissioner.

The board will finance its operations from charges for services provided to producers whose eggs it handles. This means that the operations of the board will not be cross-subsidised by general industry levies on producers who do not use its services.

Separate provision will be made, however, using the vesting powers of the board to finance industry wide services such as quality control, research and development, generic advertising, and quota and licensing administration. Measures will be taken to ensure a high level of accountability and consultation with the industry in the use of these funds.

More Competition for the Victorian Egg Marketing Board

Producer agents and other authorised agents already play an important role in the industry. Producer agents can grade, pack and market through approved outlets the eggs which they produce. The producer agent system will be expanded to provide greater access to the marketplace. The board is currently negotiating with producer agents to provide for greater access to supermarket stores.

A producer agent licence will be issued by the board and will be available to any applicant who can meet terms and conditions similar to the licence conditions which operate successfully in the dairy industry. The main grounds for refusing a licence will be that the applicant does not meet the requirements of the new legislation or of any other legislation dealing with health and hygiene matters, or that the applicant is not a fit and proper person to hold a licence. If a licence is refused, reasons will have to be given in writing. Provision will be made for appeals to the Administrative Appeals Tribunal. Eggs delivered to producer agents for sale will be deemed to have been delivered to the egg board for the purposes of the vesting rule.

Within the terms of their licence producer agents will be free to grade, pack and market their own and other producers' eggs. They will be free to undertake commercial initiatives and to develop their own brands, packaging, marketing strategies and advertising methods. They will be able to sell their eggs to whomever they choose, including supermarkets and manufacturers of egg products. They will also be able to manufacture on their own behalf.

Producer agents must operate within any pricing guidelines set for the industry. Producers will be able to market their own eggs if they hold a producer agent licence. Producers who do not wish to do so can always consign their eggs to the board as at present.

It is anticipated that most eggs will continue to be marketed through the board. The board has many years of experience and has established a reputation as a reliable supplier of high-quality eggs. The board has modern equipment and the advantages of scale, and it is highly efficient in many areas. It is expected that producer agents will be active in areas where the board has no comparative advantage and does not wish to compete. The existence of potential competition will, however, encourage the board to maintain and improve its marketing efficiency.

Quality Control

Legislation will give the Minister authority to prescribe quality control standards by regulation. Before doing so there will be consultation with the egg board and the industry. These standards will be enforced by the board. It is proposed, however, that only minimum standards will be prescribed and that prosecution be through the court system. The same minimum quality standards will apply both to the board and to producer agents.

The Victorian Egg Marketing Board may wish to set additional quality standards beyond those prescribed by regulation for the eggs which it handles and markets. Producer agents will not be able to sell under the board's brands, except by agreement with the board. In

this case they would have to meet any requirements set by the board, including compliance with the board's own quality standards.

THE LICENSING COMMITTEE

The Poultry Farmer Licensing Committee will be renamed the Egg Industry Licensing Committee. It will play an expanded role in the industry and will be more independent of the Victorian Egg Marketing Board. The licensing committee will continue to administer quota and license producers.

The Public Bodies Review Committee reported in detail on the licensing committee and criticised the existing arrangements. Under the new legislation the licensing committee will comprise four persons appointed by the Minister. The chairperson will be appointed by the Minister. The licensing committee will normally have some overlap with the membership of the egg board. However there will be at most one egg producer on the licensing committee, and it will be chaired by someone other than the chairperson of the egg board.

The main objectives of the licensing committee recommended by the Public Bodies Review Committee are:

to allocate equitably the Victorian portion of the national hen quota in line with market requirements;

to allocate efficiently the Victorian portion of the national hen quota in line with market requirements; and

to adjust issued quota in line with market circumstances.

The functions of the licensing committee will include:

the licensing of egg producers;

the determination of the quantity of issued quota;

the administration, allocation and adjustment of issued quota; and

the operation of the hen quota pool.

The Poultry Farmer Licensing Review Committee will be disbanded, as recommended by the Public Bodies Review Committee, and the responsibilities transfered to the Administrative Appeals Tribunal.

EGG PRICING

Egg prices have been a source of continual controversy and concern in the industry. It is true that egg prices have not risen as fast as the price of other food items in recent years. Costs of egg production have trended downward in real terms as a result of advances in the way that hens are housed and fed and because of breeding improvements. In recent years lower grain prices have further contributed to lower costs of producing eggs, though these effects may be temporary. However, these cost savings have not been passed on to the consumer to the extent that they should have been.

Egg prices will no longer be set solely by the board as in the past. The price review process which has worked successfully in the milk industry will be adapted so that prices are set fairly for both producers and consumers.

This will work as follows:

the egg board will be required to determine the price of eggs at regular six-monthly intervals;

this determination will be referred to an independent tribunal chaired by the Prices Commissioner;

within two weeks the tribunal will either ratify the price determination or refer the determination back to the egg board;

the tribunal will take into account the cost of production, production surpluses or shortfalls, quota values, interstate egg prices, the views of the licensing committee, and any other factors which it considers relevant;

the price determination will only become effective when ratified by the tribunal.

In making its price determination, the Victorian Egg Marketing Board will observe the following principles:

the egg board will set a maximum and minimum wholesale price at each point in time;

the egg board will have a reserve power to set a maximum retail price;

these prices will apply only to the standard major grades of eggs;

there will be provision to vary prices automatically in line with movements in feed prices.

The wholesale price band will be wide enough to allow minor realignments of grade prices and seasonal price variation to match supply and demand.

EFFECTS ON THE INDUSTRY

I see a positive outcome for the industry from these changes. Victorian producers are eager to invest and modernise, but have been hindered by farm size limitations, by restrictions on quota transfer, and by uncertainty about the future of the industry. Over the years there have been repeated inquiries and public controversy which have made any business planning or large-scale investment very difficult.

The industry should now have the opportunity to undertake the modernisation which it desires. The result should be an efficient, low cost industry which can compete favourably with those of other States. Any tendency towards undue concentration will be prevented by the maximum farm size of 80 000 hens and the restrictions on cross ownership.

It is likely that there will be greater diversity in the products offered as well as in the packaging and marketing. Specialty products such as free-range eggs may provide a profitable niche for some smaller scale farmers.

The board will continue to play a dominant role in egg marketing. It is unlikely to be challenged in the areas where it is most efficient. Competition is to be expected at the margin and in areas where the board does not wish to compete. However the threat of potential competition should assist the board to maintain and increase its efficiency and to reduce costs.

CONSULTATION WITH INDUSTRY

The Public Bodies Review Committee undertook extensive consultation with industry. It called for background information and solicited submissions, it held public and private hearings, and it undertook a series of inspections and visits.

After the committee reported, industry was again invited to comment. Extensive written submissions were received and I have met on a number of occasions with industry representatives to discuss the committee's recommendations.

As recommended by the Public Bodies Review Committee, consultation on quotas has been initiated at a national level through the Australian Agricultural Council. Victoria is chairing a working party which will examine this issue and report in July.

The views of industry have received careful consideration in formulating the government's response to the Public Bodies Review Committee reports. Industry now has

a further opportunity to comment, and I look forward to receiving submissions on the government's legislative proposals.

The reforms which I propose should alleviate the problems which have been identified in the Victorian egg industry over many years in numerous inquiries. They should allow the industry to modernise and adopt the latest cost reducing technology, and ensure that it can compete effectively with the egg industries of neighbouring States. There will be greater competition in egg marketing, but the egg board will continue to play a dominant role. The pricing of eggs should be fairer, both to producers and consumers.

I look forward to the active cooperation of the industry in implementing these reforms.

The Hon. F. J. GRANTER (Central Highlands Province)—I move:

That the Ministerial statement be taken into consideration on the next day of meeting.

In doing so, I shall make a few remarks. One can be extremely simplistic in advocating reforms in the egg industry. It is not easy as the Minister for Agriculture and Rural Affairs now realises. Many honourable members should realise the same.

In considering the history of the Victorian Egg Marketing Board and its formation, and before its inception in approximately 1931, the egg industry went through tremendous problems in the initial years. It is still experiencing problems today. The board has been the saviour of the industry, no matter what many people may say. Many condemn the board.

The PRESIDENT—Order! Mr Granter is tending to launch into a full-scale debate.

The Hon. F. J. GRANTER—Mr President, I was just making a little statement in moving the adjournment of consideration of the Ministerial statement because the egg industry is dear to my heart and one I grew up with over a number of years. I thought the Minister would like to hear my initial remarks. If he should like to hear them at a later date, I shall be happy to accommodate him.

The motion was agreed to.

HEALTH SERVICES BILL

The debate (adjourned from April 22) 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)—This significant proposed legislation involves a major rewrite or restatement of Victoria's health legislation. The Bill proposes to replace in its entirety the Hospitals and Charities Act 1958 and to amend significantly the Health Act 1958.

During the debate I shall outline a number of the Opposition's serious reservations about the direction of the Bill and indicate the parts for which the Opposition and the government have a common cause.

At the outset, I record in the strongest terms the Opposition's concern that the Bill seeks to centralise too much power in the hands of the Chief General Manager of Health Department Victoria which, in a sense, acts against the desirable aim of decentralising the health system and localising power in the hands of the health deliverers and consumers.

The Bill draws on the recommendations of the Health Legislation Review Unit's discussion paper No. 8 entitled, "Regulation of Health Care Agencies and Charities". That review unit is led by Mr Alan Rassaby. The Bill also incorporates a number of recommendations made in the Ministerial Review on Community Health, the Task Force on Quality Assurance, the Ministerial Review of Special Accommodation Houses and the Day Procedure Centre Task Force. Finally, the Bill has been framed with the recommendations of the report of the Social Development Committee into certificate of

need and also with the consideration of the report of the Economic and Budget Review Committee into the audit of public hospitals.

The consultation of the Opposition on the Bill has been wide-ranging and that will be obvious from comments I shall make during this debate and in the detailed discussion during the Committee stage.

The Liberal Party will soon release its health policy, which will indicate the direction health services will take in the later 1980s and 1990s. This is not the occasion to announce details of that policy but it is certainly an important occasion to protect the fabric of Victoria's health system and comment on the concerns the Opposition has about the government's administration. The amendments the Opposition will be moving are what it regards as the minimum changes necessary in the Bill to ensure that the fabric of the health system and especially of Victoria's public hospitals is kept intact.

In its foundations, the Bill has laudable ideas; it is based on phrases like "modernisation of law" and "streamlining of powers", which no political party can disagree with, but when the outcome of that is a centralisation of power in the hands of one individual, the Chief General Manager of Health Department Victoria from time to time, that is cause for serious concern. It is true that the chief general manager can delegate his powers to a number of different bodies but the assumption that those powers are based on is that they should be in one person's hands and then delegated rather than being delegated through the proposed legislation so that they rest in the hands of local authorities. That is the difference between the approach of the Opposition and the approach of the current administration.

The Bill promotes excessive interference and does not promote sufficient localisation of power.

The consultation undertaken by the Opposition has included long discussions with public hospitals and their representative, the Victorian Hospitals Association; with private hospitals and their representative, the Private Hospitals Association of Victoria; and a large number of health consumers, who, these days, I am pleased to find, have an active interest in ways of improving it.

As I indicated, the Liberal Party, in the Committee stage, will move a number of amendments and, perhaps by discussing some of those foreshadowed amendments in broad terms, I can indicate concerns that must be addressed.

In the first place, at the heart of our public hospital system is the uninterrupted history of volunteer boards of management which run public hospitals.

Victoria has a proud record of volunteer boards of hospitals which act in two capacities. In the first place they act as an advocate for the public hospital. In the second place they act as something of an internal auditor of the hospital. Their role is both as a promoter of the facility and as something of a benevolent "policeman" of the facility.

The system has worked extremely well and, through all the changes interstate and all the discussions of area boards or consolidated managements, our system has come through in its present state. The Liberal Party does not want to see the voluntary public hospital board of management system diluted or compromised in any way and, therefore, we reject the notion that there should be forced appointments to hospital boards from among employees of a hospital.

It is interesting that there is no union support for the government proposal to have a single elected employee representative on any public hospital board. To be fair to the unions involved, particularly the Australian Nursing Federation and the Hospital Employees Federation No. 1 branch, if they support the proposal at all, they support having three representatives. By contrast, the Victorian Hospitals' Association Ltd, which represents the interests of public hospitals, does not support the change and the view of

the Liberal Party is that a change would be highly undesirable, and it would be counter-productive to put on a hospital board one individual representing a vested interest.

Hospital boards should represent only the public interest and no board member should feel that it is his or her responsibiilty to report back to a specific group and represent that group's interests above all others. The presence of what would be a union representative would make it impossible for board meetings to be held in a confidential environment and it would be impossible for board meetings not to result in unnecessary conflict and, perhaps, hostilities.

I do support and will support in future the appointment of health employees to the boards of public hospitals in their own right. Nurses and other health providers should be put on the boards of public hospitals, particularly our larger hospitals, but the Liberal Party rejects the concept of having class representatives of any type on public hospital boards—that is, representatives of any class, including, for example, a person representing pharmacists. I would be just as against that representative being on the board as I am against any union representative.

Board members should be there only to represent the public interest, not a vested interest. In the Committee stage, the Liberal Party will move an amendment to delete the power to have employee representatives on public hospital boards.

Another area of grave concern which is rooted in recent fights that have occurrred in the health system concerns the closure or forced amalgamations of public hospitals in this State. The Bill does not provide sufficient safeguards to ensure that the Minister cannot forcibly shut a hospital or force an amalgamation against the interests of the community.

This is not an academic debate. In recent times the Minister for Health has announced plans to shut down and sell St George's Hospital in Kew and the Burwood and District Community Hospital. In the country he has announced the closure or downgrading of many hospitals and one that comes quickly to mind is the Bright District Hospital.

In the cases of St George's Hospital and the Burwood and Bright hospitals, the public backlash was so significant that the Minister abandoned his plans to close those hospitals. There must be adequate and reasonable safeguards in the Bill to protect the interests of hospitals and, therefore, to give voice to the communities that those hospitals serve.

The proposal in the Bill is that if the Minister wants to shut a public hospital permanently he need give only 60 days' notice of his intention. That provision is inadequate and the Liberal Party will be moving amendments in the Committee stage to increase that period to three months and to make it quite clear that the decision is so important that a debate in the community of less than three months would be an inadequate prelude to any decision to shut a public hospital.

The Opposition also proposes to insert a requirement that any amalgamation of two or more public hospitals should be done only if it is economically and socially beneficial. Current clauses in the Bill are dramatically short of conditions which would restrict the actions of the Chief General Manager of Health Department Victoria and the Minister in closing a public hospital. Clear guidelines are needed before a Minister or the chief general manager can amalgamate a hospital. I understand the government will accept the amendment to be proposed on that matter.

We are also concerned about the impact of the Bill on private hospitals and on other private health care facilities. We want to cut the red tape that currently surrounds the creation, expansion or upgrading of private hospitals, in particular. Philosophically, it would be fair to say that Liberals believe private hospitals should primarily be regulated solely on the grounds of the standard of their health care. It is therefore hard to argue that the government has a role in regulating and interfering in the vast range of areas in which it currently interferes in relation to private hospitals.

For example, if the Bill were passed or under the current law, and a minor change was sought to be made to the structure of an existing private hospital, the permission of the Minister is first required. A substantial process has to be gone through for that minor change in the hospital to be agreed to. That situation is not accepted by the Liberal Party and, certainly in the case of minor alterations to private hospitals, there should be a fast track mechanism to having developments accepted, and the Liberal Party will move a symbolic amendment to that effect in clause 77 of the Bill.

A need exists to encourage private hospital development and expansion and to encourage the development of private practice in this State. The public and private systems should work together as a team and should not be actively discouraging private development, provided it meets necessary standards.

The Bill is wider than just its controls and guidelines over private hospitals. It deals with important areas like aged care, in particular. After the misdemeanours of a pitiful minority of nursing home proprietors last year, it would appear there is a case for a modest expansion in the government's control over certain aged care facilities. It is fair to say that no-one could have expected that the depths that were reached last year when one nursing home proprietor used his patients as pawns in a fight with the Commonwealth government would have been reached. However, they were and it is highly regrettable that powerless elderly people were used in that way. Modest expansions in the government's power in that area seem to be required. However, the Opposition has reservations about the powers and terms of appointment of community visitors as proposed in the Bill.

The Opposition believes the appointment of community visitors should be by the Minister for Health and not by the Public Advocate, as suggested in the Bill. It is more of a philosophical argument than a practical one. However, on philosophical terms, regulatory and inspectorial bodies under Health Department Victoria should be answerable to the Minister for Health; they should not be answerable to an individual who is himself answerable to a separate Minister, because that confuses the lines of authority. The Opposition will propose amendments providing that community visitors be appointed by the Minister for Health and not by the Public Advocate.

The Opposition will also ensure that the powers of inspection of a community visitor are as has been outlined to the Opposition by the spokesman for Health Department Victoria, that is, the reasonable powers which have been asked for but which the Bill goes well beyond. A community visitor does not need to look at medical records if a patient disagrees, nor does he or she need to inspect the internal financial records of the health facility he or she is visiting. Following discussions with the department, I am pleased that that area can be refined to what was intended and what is essentially reasonable.

I shall indicate the strength of the Opposition's feeling about the massive powers given to Health Department Victoria under this Bill, many of which exist in present legislation. The Opposition will insert a power for either House of Parliament to disallow any regulation made under any provision of the Bill. In this case, it is a most essential amendment to the measure.

The regulation powers in the Bill are sweeping and they are based on a sweeping set of laws. As I mentioned, the existing Act can hardly be regarded as modest when it comes to intrusions. We live with the fact that, over time, the Hospitals and Charities Act and the Health Act gave to governments great powers, which must be used with a sense of moderation. In the majority of cases, they have been used in that way, and I look forward to that continuing in the future. However, to be sure, the Opposition will insert a disallowance power so that it has the capacity when extremes are reached to knock it out in the Upper House.

I conclude by saying that the consultation the Opposition has had with a number of organisations leads it to the view that it should not oppose the bulk of the Bill, that it should amend it to include essential safeguards for the future and that the vital question

will be how the laws are administered. I look forward soon to displaying just how it should be done.

The Hon. K. I. M. WRIGHT (North Western Province)—The Bill aims to reform the laws that apply to health care agencies. It repeals the Hospitals and Charities Act, which governs benevolent societies, health institutions, public hospitals, community health centres and some nursing homes. It repeals provisions in the Health Act dealing with hospitals, particularly private hospitals and nursing homes. Those provisions are replaced by a new legislative framework.

Some people complain that draconian powers are being given to the Chief General Manager of Health Department Victoria while others complain that the powers already exist and the Bill simply continues the current situation. Draft proposals were circulated last year resulting in many submissions being received. A draft Bill was released on 13 January 1988. The National Party thanks the Minister for Health and his advisers for the many changes that have been made to the Bill following discussions with the National and Liberal parties and many other groups. I thank Mr Alan Rassaby of the Minister's staff for the assistance he has given not only to me but also to other honourable members. I also thank Parliamentary Counsel for the way they have struggled to carry out their work under the strain of the Bill being dealt with in a short time.

Due to time constraints, I do not propose to follow my usual practice of examing a number of clauses during the second-reading debate. Like the Health (Amendment) Bill and the Local Government Bill, the basic principles of this measure are concealed in a morass of detail. Health services are now substantially funded by government, that is, the taxpayer. Regulation has been replaced by government control, which is a case of the piper calling the tune.

The National Party, I hope with the assistance of the Opposition, will endeavour to give back more power to local communities. As Mr Birrell indicated, the Opposition will propose a number of amendments during the Committee stage, as will the National Party and possibly the government. I understand that a degree of consensus has been reached.

Health Department Victoria can dictate the provision of health services throughout the State. Under the Bill, the government can intervene when private hospitals are in difficulties. The government may be making a rod for its own back because health services are costly and they have a large effect on the health budgets of the State and Commonwealth governments.

The National Party has consulted widely with administrators of the Victorian Hospitals Association, the Australian Medical Association, the Health Benefits Association, bush nursing hospitals and other organisations. The response the National Party has received to its requests for comments on the Bill has been as good as it has received in any issue.

The general consensus is that the powers granted to the chief general manager are extensive. The National Party intended to break down those powers; however, it has decided not to take that course. It will closely examine the Bill to determine what effect it will have. When the National Party is part of the government, which will be later this year, it will be its responsibility to ensure that the proposed legislation is working.

The Bill refers to community health centres. There are not many such centres in North Western Province, but the community health centres at Merbein and Castlemaine are outstanding. Members of the National Party inspected the CHIRP health centre in Castlemaine and it is doing an excellent job.

I refer now to public hospital boards. I suppose most members in this House would agree that, ideally, members of hospital boards should be elected by the community. In the not-too-distant past they were elected by contributors, but the number of contributors generally became so small that, for all practical purposes, they were not true elections. Over recent years there have been nominations by the hospitals of people who the hospitals believe will be able to make a contribution to the work of the hospitals and governing the

hospitals. Professional people such as accountants, doctors, lawyers, and most others are represented, and the boards do a very good job. The matter of elections to the board is dealt with by the Bill. National Party members will talk about that during the Committee stage.

As Mr Birrell has already said, the Opposition will oppose the appointment to hospital boards of employees of the hospitals. Members of the National Party feel very strongly on that matter, as do our constituents. In fact, the National Party has prepared an amendment to achieve the same result as that proposed to be moved by Mr Birrell. However, in all practicality, Mr Birrell's amendment will be considered first and we will support it.

The National Party has considered also whether the chief executive officer should be a member of a hospital board. It is true that the chief executive officer sits in on hospital board meetings and makes recommendations to the board. Some people believe, having done that, he should not be allowed also to debate with other members of the board the recommendations he has made. As Mr McArthur points out by interjection, executive directors in private industry make recommendations to a board and also have a vote. As he points out, in local government, shire engineers make recommendations and, although they have the opportunity of debating them—many of them debate very strongly indeed—they do not have a vote.

The National Party is most concerned about the nominees from a political party. A vast number of such political appointments to hospital boards have occurred under the Labor government. Some of them have been very poor appointments indeed and others, I must admit, have been of persons who have made a good contribution to the hospitals they serve.

I mentioned that in regard to Mr Leighton Smith who was a nominee to the board of the Mildura Base Hospital. I must acknowledge also that the Minister for Health has not gone to the extremes in this regard that his predecessor did.

I should like to mention the nominations of members of hospital boards by hospitals. I point out that the boards make these nominations in full knowledge of their requirements and the abilities of those nominees to make valuable contributions. I recommend that such nominations be interfered with by the Minister as little as possible.

I refer to the case this year at Mildura to illustrate my point. There were four nominees, the second of whom was that of the vice-president, Dr Skorapanovic. He had been there for six years, so one could not say he had been there for too long and had not been making a good contribution. In fact the hospital advised me on a Friday that it had only just heard that Dr Skorapanovic had been deleted from the list of nominees and that a woman would replace him—the woman may have had some ability, who knows!

In any case, Dr Skorapanovic was being elected president of the hospital board on the following night, so I immediately contacted the Minister who, to his credit, reversed the decision, and Dr Skorapanovic stayed on the board. I understand that is the only case in which that was done when a name was submitted. The end result was that Dr Skorapanovic was elected president of the hospital board and is doing an excellent job.

The point I make is that it does not pay to interfere with these nominations. I appreciate that, when this matter was directed to the Minister's attention when he visited Mildura, he said that in future he would be prepared to confer with hospital boards when they were displeased about their nominees not being accepted. I recommend to the Minister that the idea should prevail.

The high cost of health care in our community must be of concern to all honourable members. Many members of our population are overeating, are alcoholics, take insufficient exercise and so on. However, to what extent should the community pay for these excesses by members of our community? We are rapidly approaching the stage where we cannot afford it. The same comment applies to every kind of medical care. Some people require quite exotic treatment, and a clause in the Bill virtually provides that they can demand

whatever treatment they want. I do not know whether such treatment is delivered in practice, but I do not believe the clause should be included in the measure.

As reported in the *Sun* of 23 April, Professor Penington made some relevant comments on this subject. He urged rationing of health care and said:

> . . . very few people were aware of the enormous costs of drugs, high technology diagnostic tests and complex surgery such as transplants . . .
>
> Doctors would have to show it was warranted on the basis of improving survival span and quality of life. . .
>
> We cannot accept the cargo cult mentality that whatever people ask for is provided through the government system.

I should like to quote further from his comments, but time is not on my side. However, it is clear that Professor Penington fully supports the contention that I am making this evening. Agencies such as the Baptist Union of Victoria and Strath-Haven Home for the Aged in Bendigo have expressed concern regarding the drafting of clause 175, which applies to agencies funded by the department. However, thankfully, the problem has been overcome by clause 179, which deems those provisions to continue for three years.

The Victorian Ambulance Service Association has been in contact with me and asked why ambulance services have been excluded from the Bill. I believe the answer is that there is separate legislation that covers ambulance services and that is believed to be sufficient.

The Victorian Bush Nursing Association, through the secretary, Mr Neville Foyster, who is a very capable officer, informs me that the Bill makes it possible to have public funding of bush nursing hospitals.

Mr Birrell has referred to amalgamation of hospitals. This is a very sore point. I know my colleague, Mr Baxter, was involved in the proposal for the amalgamation of hospitals at Rochester and Echuca and, fortunately, that prospect was nipped in the bud at an early stage. I was involved in the amalgamation of the Red Cliffs and Mildura hospitals. The distance between those two hospitals is only 10 miles, which appeared to give some advantage to the merger; but, of course, the hospitals were developed as a result of tremendous efforts from the local community and much expenditure, and it would be very sad for either hospital—in this case, the Red Cliffs District Hospital—not to exist as a separate entity. The Red Cliffs hospital laid down fourteen points and conditions for a merger and the Mildura Base Hospital laid down four conditions.

During the height of the difficulty, I introduced the Minister—he was there anyway—to both hospital boards. In response to a question from me, the Minister said that he would be prepared to meet a deputation from both hospitals if they were not happy with the final outcome.

The final analysis was rather interesting. The Mildura Base Hospital spends approximately $30 million and the Red Cliffs hospital spends approximately $1·5 million. Overall, the cost savings after all the expenditure has been made are only $50 000. I think it was going to cost $20 000 to set up the show in the first place.

At the end of the day, the Red Cliffs hospital board requested four members on the joint committee. Out of the twelve members, the hospital ended up with two members on the board. I had informed the hospital at the outset that, after taking into account the income, expenditure and population serviced by it, that would be about what it could expect to receive.

I have three points of concern. The proposed legislation will at all times be dependent on successful industrial relations. I endeavoured to find out the industrial relations record in the area by asking a question in the House and also by asking the Parliamentary Library to advise the number of working days lost by Victorian hospital employees for the year ended 30 June 1987 and for the six months ended 31 December 1987. The library officer informed me that, after weeks of attempting to obtain the information from the industrial

relations section of Health Department Victoria, the information was unavailable. I was advised that apparently the information was collected until about twelve months ago but that this no longer happens.

The library officer apologised for the lengthy delay in responding to the request and said that, despite constant and frequent attempts to contact the person who would give her the statistics, she had no success. Only after some weeks was the definitive answer received—that is, no answer! One would have thought that this highly proclaimed section of Health Department Victoria would have been able to supply a most useful piece of information such as that which I sought.

The Hon. W. R. Baxter—It could be that the statistics have been embarrassing in recent times.

The Hon. K. I. M. WRIGHT—It may have been, but Lord help us if one should require vital information!

My second concern involves public hospital fees and health insurance. The Hospital Benefits Association Ltd is concerned that there may be misunderstandings about fee increases for private patients in public hospitals. The association provided all honourable memebers with information on the matter. Some 55 per cent of Victorians have private health insurance. Their health insurance schemes are directly affected by changes in fees and the fee structure charged by the public hospitals. The association provided the surprising information that fees for private patients in public hospitals have increased by more than 40 per cent in thirteen months. To a large extent, these increased fees have been forced on the funds by the fact that the government has increased the classification of patients and the amount of money they pay. The only subsidy received by the funds from the State government is $250 000 a year.

On 26 April 1988 the Private Hospitals Association of Victoria Inc. informed me that privately-insured patients gain an advantage over uninsured patients at public hospitals. In a memorandum dated 23 February 1988 circulated by a Melbourne public hospital to key staff, including visiting medical officers, the following was stated:

> The financial position of the hospital has deteriorated throughout the month of January and the over-run is now in the order of $385 000. This amount has to be recovered before the end of the financial year. In particular VMO payments are presently $92 000 over budget with pathology and radiology payments also over budget. These over-runs reflect a public/private mix of 66·2 per cent public patients year to date, an over-run of 6·2 per cent. It is therefore necessary to adjust the number of public patients admitted for the balance of the financial year to the level budgeted for.
>
> In consequence all future elective bookings of public patients will be on the basis that any number in excess of one public patient per elective list will require approval from the medical director. This restriction will not be introduced for patients for whom request for admission have been received as of today the 23 February 1988, but will be active for all requests for admission received after today. The restriction will remain in place until future notice.

In essence, the directive meant that one uninsured public patient could be admitted, but that admission must be supported by the admission of two insured patients—that means one-third public and two-thirds insured.

It is a pity that this state of affairs has been reached. There are many matters I should like to discuss which relate generally to the hospital field, but I shall reserve my comments until the National Party moves its amendments during the Committee stage.

The Hon. M. J. SANDON (Chelsea Province)—The Bill does not generate widespread excitement from members of either side of the House, the media or the general public. I suggest that, in many ways, few people will understand its implications and ramifications because few people will know what is meant by supported residential accommodation.

It is, of course, the name which is given to establishments formerly known as special accommodation houses. Few honourable members will have been in one and, if they had been, it is unlikely that they would have been in one at the lower end of the scale. By that

I mean at the pension-only end. Special accommodation residents are one of the most marginal groups in the community. For them the Bill is most significant. The poor, the disabled, the frail and the aged are often not the focus of attention of the community. For the next hour or so I shall point out the implications the Bill has to them to ensure that their rights and dignity will be protected.

The Bill is an extremely important measure. Its principal focus is to ensure that the governement has greater powers to counteract abuse. The shadow Minister for Health referred to the Bill as excessive interference. I strongly disagree with that allegation and I shall demonstrate that the government has to have the powers enshrined in the Bill to ensure that the rights of the frail and the aged are protected.

All honourable members want to feel that any loved ones who are placed in supported residential accommodation will be treated humanely and will enjoy the quality of service for which the unit was established. Sadly, that has not been the case in the past, and I shall take the House through a number of examples.

The new powers incorporated in the Bill will include the power to appoint administators to operate a facility which cannot guarantee quality service. I should have thought that every honourable member would have applauded and solidly supported such a provision.

The proposed legislation provides for on-the-spot fines for breaches of regulations. Again, I should have thought that, given the nature of the population the Bill caters for—the frail aged—honourable members would support such a provision.

The Bill confers the power to suspend new admissions and extends the community visitor scheme to nursing homes, hostels, and supported residential services, all worthy of support.

A second major focus implicit in the proposed legislation is the increases in government planning powers. Health Department Victoria will be able to prevent the establishment or expansion of units if that leads to an oversupply. Again, I should have thought that that was a central issue for all honourable members. Where there is an oversupply in a particular area, the supported accommodation units should be relocated to other areas. Supported accommodation has for too long been concentrated south of the Yarra River in the areas of Malvern, Prahran and St Kilda. For too long there has been an emphasis on an urban mix. I should have thought that members of the National Party would have picked this up and understood that people from country areas have to come to Melbourne to find supportive accommodation.

The Hon. W. R. Baxter—Not always; we tend to look after our own in the country.

The Hon. M. J. SANDON—Mr Baxter says that they tend to look after their own. However, the proof of the pudding is in the lack of facilities that exist in country areas by way of supportive accommodation and the numbers of people from the country who have to leave areas such as Albury/Wodonga, Bairnsdale and Omeo and come to live in St Kilda or Prahran, where they feel extremely isolated both physically and emotionally. If honourable members understood that mix and the direction in which the policy of building supportive accommodation units was heading, then National Party members would seek greater equity for country residents and would support the restrictions on the areas where the units are established.

The Hon. K. I. M. Wright—That is because the expensive sophisticated medical equipment is in the city!

The Hon. M. J. SANDON—By his interjection Mr Wright has indicated his ignorance. The Bill caters for people seeking accommodation where they will receive support with dressing and medication. The necessary facilities are not available in the rural areas of Victoria. There is, as I have said, a severe imbalance.

If Mr Wright and the members of the National Party had taken the time to read the report of the Ministerial inquiry they might acknowledge that there is an imbalance in Victoria.

The Hon. K. I. M. Wright—There is no lack in my electorate.

The Hon. M. J. SANDON—The Bill implements a number of important recommendations of several committees dating back to 1982. The reports include those of the interdepartmental working party on administrative charities; the Parliamentary Social Development Committee inquiry into certificates of need; the Ministerial committee to review cancer services in Victoria; the Ministerial review of community health; the research group review of funding of non-government agencies; the task force relating to quality assurance; the Ministerial review of special accommodation houses; the day procedures central task force; the Budget and Economic Review Committee inquiry into bush nursing homes in Victoria; and the Budget and Economic Review Committee inquiry into accountability requirements for public hospitals in Victoria.

The Bill is far-reaching in its provisions. The reports of the committees and review bodies which I have listed have made a contribution to the background of the Bill. I concentrate on the Ministerial review of special accommodation houses. The approach adopted in the report, which had far-reaching implications for existing regulatory powers, has been taken up and adopted by the government.

In reviewing the recommendations of the Ministerial review of accommodation houses, the government recognised that the approach taken could and should be adopted not only for special accommodation houses but also for nursing homes and hostels. I commend the Minister for Health for his support and for his capacity to realise the demonstrable need that existed in respect of the poor quality of service being offered in several of those establishments. He was not prepared to let that continue. He was prepared to institute a review to investigate the situation and make recommendations on it.

I am pleased that the government and the Minister have accepted the conceptual approach and the formulations of the Ministerial review, which, as I have said, impinge on special accommodation houses and nursing homes and hostels as well. It must be emphasised time and again that the group of people to whom I refer are frail, aged and vulnerable.

I refer to the Ministerial review of special accommodation houses. I thank the members of the review and the executive officers for their support. It was an easy committee to head as chairperson because of the goodwill and commitment of those involved. They included the owner of a special accommodation house, Fred Justice; a community nurse from the then Southern Memorial Hospital in Caulfield, Annette Madern; Mary Owens, a welfare officer with the Australian Council of Trade Unions; and Bill Burns, a businessman. The recommendations of the committee were adopted unanimously. The members of the committee came from different perspectives and backgrounds but, together, we compiled a report, as reflected in the proposed legislation, which could withstand an examination of intellectual rigour and demonstrates a capacity to show the way forward.

The committee received administrative support from an outstanding officer of Health Department Victoria, Peter Axten, a public servant who brought a vigourous approach and commitment to improving the situation for the residents. The executive officer, Gerry Norton, who came from local government as the manager of the human services areas at the Shire of Sherbrooke, brought a breath of fresh air by being imaginative and taking a constructive approach.

I express my thanks to Alan Rassaby, who took up the recommendations and saw their ramifications and incorporated them into the proposed legislation.

What is a special accommodation house? It is accommodation that provides assistance to people in the form of personal care. They are people who are frail aged and people who have a psychiatric or intellectual disability. Special accommodation houses provide

residential accommodation for personal care, for assistance with feeding and dressing, for necessary medication, and for maintaining personal hygiene.

There are some 215 accommodation houses in Victoria and the projected figures indicate that that number will double over the next ten years. The Ministerial review committee was established because there is concern about the quality of care provided in the houses. With the expected growth—which, as I have said, will double the present number of special accommodation houses—there will be greater cause for concern. The principles for reform that were adopted and are implicit throughout the Bill are mentioned at pages 6 and 7 of the report of the Ministerial review. They were the starting point of the deliberations on appropriate standards of care.

The review committee adopted the principles enunciated in the government's social justice strategy. Those principles refer to equity, access, participation, rights, quality of care, efficiency, integration, cultural relevance, creativity and leisure, and—lastly but just as important—accountability.

Residents in special accommodation houses range from twenty years of age to the mid-90s, the majority being in the 60 years plus age groups, which represents some 79 per cent of the total. Of particular concern is the fact that more than 33 per cent of residents in special accommodation houses are more than 81 years of age. That emphasises the vulnerability of those residents and shows why the community must ensure that adequate and proper powers are in place and must be extremely concerned about the quality of service being provided.

Approximately 6500 residents are housed in those facilities, and approximately 4000 receive only a pension. The full pension benefit is taken up with providing for their accommodation. Think of the situation where the majority of special accommodation residents use their full pension benefit to pay for the service provided. Who pays for any clothing they need, for dental and medical care and for recreational facilities? They are not provided. Because there are so many frail people, often with intellectual and psychological disabilities, who is to provide them with the basic elements of the quality of life? The answer is that in the main nobody provides those things.

The Hon. K. I. M. Wright—Our care centres do not take the entire pension, only 80 per cent.

The Hon. M. J. SANDON—The committee had extensive inspections, and I am not referring to a government hostel, because that takes 85 per cent. I am talking about privately owned and operated supported accommodation units. They take 100 per cent of the pension, leaving no disposable income for those people. They cannot board a tram; they cannot go down the street to have a glass of beer; they cannot go to a football match; they cannot buy toiletries to enjoy the basics that other honourable members and I expect. More than half the people in private enterprise special accommodation units are placed in that situation.

Those people cannot afford 30 cents to ring up and tell someone in the community, "Something is happening here that is not right; the quality of care is substandard". They are living in a state of poverty and are faced with a situation that we would find intolerable, yet it is happening every day in Victoria for those in pension-only areas.

Should we be concerned over standards that prevail in special accommodation houses? The short answer is yes. In the main, those who go into and run those units provide a caring and loving environment. However, because of ignorance and economic circumstances, and often because they have not dealt with the frail aged, they do not know what they are getting themselves into.

Therefore, situations arise, as was shown in evidence given before the committee, of poor standards of cleanliness—residents left in urine-soaked bedclothes overnight; inadequate hair care resulting in lice infestation; filthy, unkempt clothing; a constant smell of urine permeating the houses; overmedication used to calm people; early meals and the

early bedding of residents at night; bedridden patients developing infected heels; and residents developing severe bedsores in pressure areas due to a lack of attention and lack of heating. They were not isolated examples but were given by residents, relatives of residents and professionals about the state of some special accommodation houses.

Three examples of lack of care graphically demonstrate how bad the situation can become. They are the cases of a 64-year-old man suffering cellulitis of the legs who was admitted to a public hospital and whose lice-infected clothes had to be burned; a 61-year-old man suffering from a leg ulcer and whose leg required amputation because of lack of attention, and a 77-year-old woman who was admitted to hospital suffering from acute diarrhoea and died 48 hours later.

Very few people running special accommodation houses have medical backgrounds. That is not required because that type of accommodation is not classed as a nursing home. All that is required of the proprietor is to provide assistance and care for residents with their personal hygiene and dressing. However, because the costs of labour involved in changing bedding and clothing are not provided, since the full amount is taken up in providing for the running of the establishment, a poor quality of care prevails.

Therefore the passage of the Bill is essential so that in the future people can have faith, knowing that a proper and adequate legislative framework exists for dealing with cases which in the main concern minorities. Many regulations are about protecting those most vulnerable groups. The cases I mentioned involve the most vulnerable groups in the community.

What is wrong with the existing regulatory framework and the existing legislation? It is very descriptive and certainly concentrates on what should be provided in supported accommodation facilities. The legislation goes into great detail on what is required concerning the number of beds, the distance between beds, where fire escapes should be located, whether keyholes should be closed, or whether a dressing facility should be attached to each bed. The provisions are descriptive, but the legislation misses the essential point of what Health Department Victoria should be about in its regulatory framework, namely ensuring that the quality of care provided in those places is sufficient for people who are housed there.

The boat has been missed in the past with respect to supported accommodation units. There was no concentration on the most important element—the people. Health Department Victoria inspectors would look at the building; they would take into account whether the kitchen was clean and the windows could be opened or closed, but they forgot the most important and fundamental reason for their inspections, namely, to ask the residents, "Are you happy here? Is the sort of service being provided here what you want? "Is the quality of care that is being provided what is required?" No; the regulatory framework on the statute book, which has been established for a long time, misses the boat.

We must get back to basics and that is to ensure that the department is meeting the community's demands for the frail aged, the intellectually disabled and for those with psychiatric problems. They should be receiving quality care. The matter of whether keyholes are closed is absurd; it is ridiculous!

The present regulations are the minimum standard. The lowest common denominator should not be the determining factor. People in supported accommodation houses should be protected; they should have the standards applied to which they are entitled.

Clause 7 sets out the quality objective which is an implicit concept throughout the Ministerial review and which has been taken up and now applies to nursing homes and hostels.

The government has said that the existing framework is not good in this area and it is prepared to apply that conceptual framework across the board to all accommodation units.

They are to be congratulated because they have had the intestinal fortitude to say that what is in place is not good enough and they will now ensure that everybody in the community understands that the government and the department are not prepared to take a second-rate approach. That quality objective is encompassed in the Bill as a framework for the future.

Recently I had a conversation with the Honourable Bill Borthwick, a former Minister of Health, and he congratulated me because he said that when he was the Minister of Health that was the track down which he wanted to go but he was not able to do that.

The present Minister for Health has succeeded because he is prepared to take up the matter. Other aspects that are just as important will be taken on board. We should not have quality care only in certain areas in Victoria. That must be the case in every situation. There must be accountability, information and choice.

Clause 100 provides that residents be entitled to high quality health care. There is no argument about that situation. The community demands that that be the case. Residents should be provided with sufficient nutrition and clothing.

Nutrition is one of the first areas to be affected if funding is low. When people come to the department requesting a licence for supported accommodation units they are not required to have qualifications or to demonstrate their ability to care for the frail aged. The department asks only whether they have the financial circumstances to undertake the project.

If people can demonstrate that they have sufficient funds the department is then prepared to issue their licence. However, when they begin to run into financial difficulties the first area that is cut back on is food. Ingrained in my mind is the case of a resident who complained of beans, beans and beans. That may sound strange but honourable members should reflect on it. A nutritional diet is extremely important.

More than 50 per cent of the people who are in supported accommodation units are on pensions. Who provides their clothing? The answer is that the owners of the units will go to the Brotherhood of St Laurence and obtain a bag of clothing which the owners will then throw down on the lounge room table saying, "Help yourselves".

That situation has occurred because people who have intellectual disabilities or psychiatric problems do not have the funds to buy clothing. Honourable members will find that Victorian England is alive and well today for the 4000 residents for whom it is part of their daily experiences. I have seen examples of that situation.

The provision of services to residents should be safeguarded. In some cases owners who have not been prepared to employ night staff have asked residents to be the caretakers at night. There was a case recently in an accommodation house in Queenscliff where a person with a psychiatric disorder was put in charge of a supported accommodation unit at night. That situation developed because there are no controls over what managers and owners can do and, therefore, the environment of residents cannot be safeguarded.

Residents should be treated with respect and they should be entitled to privacy. When I visited a large number of special accommodation houses I was shown through residents' bedrooms. Was there a knock at the door? No! The owner would go straight in. There was no respect for those individuals' rights and for their privacy.

Some owners of accommodation houses have worked in factories. They have run businesses. All they wish to do is to make money. They do not understand about the rights of individuals, about the frail aged and about their privacy. Residents should be treated with respect; they are entitled to privacy.

In many cases in these accommodation houses there was nowhere one could be by oneself, except for the toilet. Yet the doors of the toilets have been removed. That may sound absurd. Honourable members probably believe I am exaggerating the situation, but I have seen it with my own eyes. Owners of a supported accommodation house may make

cuts in every way because they are dealing with a frail group and they are motivated by profit.

Who will stand up for these people? They cannot stand up for themselves. The residents cannot even afford to telephone someone at Health Department Victoria even if they could find the necessary number. Who will listen to someone with an intellectual disability or a psychiatric problem? Who will listen if such a person said: "I do not have any basic rights. The food is not good and I am being asked to do jobs around the place. My bank accounts have been taken". There have been cases where people have had their bank accounts taken away from them; their rights are being abused.

Clause 100 is significant because it provides the direction for the Bill. It provides the direction for the department. It provides the base upon which Health Department Victoria may examine supported accommodation units for quality of care, privacy and residents' rights. Those individuals will become the primary focus of the department and that is why the Bill is significant.

I have already mentioned the equity objective of the Bill. There is a plethora of special accommodation units in the southern suburbs, in particular in Prahran, St Kilda and Malvern.

The problem arose because the City of St Kilda asked the Minister to stop giving licences to people who wanted to run special accommodation houses in that area. St Kilda is an area of old, established homes. People wishing to run special accommodation houses would buy large homes with many rooms and place up to eight beds in each room.

One wonderful old home that I visited had eight people in each room, and next door to that home was an old block of two-bedroom flats that had been converted to special accommodation. Each one of those bedrooms contained two beds; the kitchen fittings had been removed and two beds were placed in what was once the kitchen, and a bed was placed in what had been the bathroom. Only one flat was allowed as a recreation area. There were 40 people living in those flats. Only sixteen chairs could be fitted into the recreation room. All those people could do was watch television, but one had to get there early to watch the television because there were not enough chairs for that number of people. The flats had three meal sittings because the dining room was so small.

That sort of accommodation is not acceptable in this day and age, but who cares? These people do not know anyone in powerful positions who can stand up and support them, to advertise their cause; so who cares? Fortunately, the Minister for Health does care and has, through the review, been able to take up the issues on behalf of these people.

As I stated earlier, when people open a special accommodation house they have a profit motive; they want to make some money, and I do not disagree with that; but if that is the primary focus, it leads to all sorts of trouble. There is a special accommodation house in Essendon that is run by an eighteen-year-old person who previously worked in a factory and took over the establishment from his father. He had no understanding of dealing with people with a psychiatric history. Health Department Victoria does not have sufficient regulatory mechanisms to regulate the people being registered as proprietors of special accommodation houses. It is essential that the department has some rights over those people who run accommodation houses, just as it is essential for the department to have the ability to close down places where it is evident that people are in need; that people are being admitted to hospitals for amputation of limbs; that people are being admitted to hospitals to die within 48 hours; that people are taken out of units suffering from malnutrition.

I am not exaggerating. Many cases were presented to the review in an objective way by professionals. It is almost unbelievable that some people are suffering from malnutrition in supported accommodation units in Melbourne in 1988. Mr Birrell says that the Bill is excessive. It is not excessive! These measures are needed, and that is why it is important to have the right to close down these places where necessary.

The visitor scheme is significant, so far as the accountability mechanisms are concerned. Many people in special accommodation houses do not have strong support networks. These houses are generally privately run, so public access is limited and people do not have access to the home and community care program or the community bus. These people are isolated; the units are closed. Because they are closed people do not see that something is wrong, and this community scheme is important because it will ensure that there is more accountability for these houses. The scheme will protect those residents, just as the residential statement will protect those residents in regard to the level of services being provided.

People may place their relatives in a special accommodation house and the next week find that charges are made for extra services; for example, some of the special accommodation houses do not allow for showers. I should have thought showers would be a basic and fundamental requisite as part of the quality of care. The proprietors of some of these places charge an additional amount for the provision of showers. It is imperative that these residential statements be provided.

Time does not permit me to continue at length, but I conclude on this note: so long as residents are living in poverty, we have much work to do; so long as residents rely on charity, we have much work to do; so long as residents have no recreation programs, we have much work to do; so long as residents have no psycho-rehabilitation programs, we have much work to do; so long as residents have no access to the home and community care program, we have much work to do; so long as buildings are not designed to encourage small group interaction and a greater sense of personal space, we have much work to do; so long as these places are not culturally relevant to people with different ethnic backgrounds, we have much work to do; so long as we fail to provide the necessary services and advise on accommodation requirements for people with intellectual disabilities and to provide programs for those people when they come out of these institutions, we have much work to do.

The proposed legislation is an important step in developing the necessary services and ensuring that these people are treated with dignity and have basic rights. The government has much more work to do in following through and ensuring that Health Department Victoria provides the right regulatory framework to support this process.

The Minister has given the commitment, and the last Budget allocated $500 000 to provide certain frameworks. The government rightly takes the approach that people should not have to stay in institutions, but there is a need to follow through with a commitment that those funds that are saved in those areas are transferred to areas that can provide support for these people in the community. This mechanism should not be a way of saving money. These people are being treated in an abominable fashion of which none of us can be proud, but the government has taken a step in the right direction and the proposed legislation is significant because it provides a genuine step forward. Much work is still required, but I commend the Bill to the House.

The Hon. G. P. CONNARD (Higinbotham Province)—I indicate a potential interest in the Bill, as I am chairman of the Committee of Management of Fairfield Hospital and an immediate past President of the Board of Management of the After Care Hospital, but the remarks I make are my own and not those of any institution.

The Bill is a substantial departure from previous legislative control of health services in Australia. Health services legislation in Australia has passed the stage of simply regulating the industry and we reached the stage during the 1960s and 1970s of substantially funding health services out of public sector revenues.

The legislation that allows public sector funding of health services has enabled the industry to be diversified and has assisted individual providers to make a strategic market decision about the industry's future. The Bill marks a dramatic departure from those philosophies which have governed the institutions over many years.

The basic thrust of the Bill is to establish the Chief General Manager of Health Department Victoria as the strategic planner and manager of the services provided by the

department, which will make a dramatic difference to the administration of health services in Victoria. Powers contained in existing legislation or exercised through financial control are combined and reinforced through the provision of substantial strategic planning powers to the chief general manager.

That change represents a fundamental difference in approach between the Liberal Party and the government. The Liberal Party believes there should be more deregulation in the area. I admit there is a need for some regulation, particularly in the matters raised by Mr Sandon. The total control of the health industry and the lack of autonomy of many institutions are matters that concern me greatly.

The Liberal Party does not believe it is entitled entirely to reconstruct the government's legislative program, but it will move several important amendments, which Mr Birrell has outlined.

The provisions to which I have referred extend the department's control over both the public and private health sectors. The extent of the control of the public health sector, although subtle, is very effective. That is particularly so with the emphasis on the health services agreement that allows the chief general manager to define the roles and functions of individual institutions, which will have the effect of diminishing their autonomy. A similar situation applies to health service agencies in the private sector. The Bill provides for the control of hostels and nursing homes; and I understand why Mr Sandon expressed his concern about such matters.

The management of those institutions is given prominence in the Bill simply because of the currency of the issue, and problems will arise because of the powers given to the chief general manager. The Bill will give the chief general manager the ability to dictate how health services are to be provided, either in the public or private sector. Such powers express a centralist view, a view at odds with action taken by the government in other areas. It is difficult to understand the government's approach. It is an approach very different from that which a Liberal government will take after the next election.

Mr Birrell made reference to clause 33 (3) (*c*), which states:

> A natural person of a prescribed class of persons employed or engaged by the hospital elected in accordance with the regulations by persons of that prescribed class.

The clause provides for the election of an employee to represent the interests of the employees of a particular institution. As Mr Birrell has said, the Liberal Party will move to delete that paragraph. The principle contained within the paragraph illustrates the philosophy the government has adopted since it was elected. As a person associated with the management of a hospital, I have been fascinated with the lack of explanation about how such a person is to be selected.

There is no need for such a person to be elected by the members of the staff. The person most likely to be elected will be either a nurse or a member of the Hospital Employees Federation (No. 2 Branch). Such a person will not have the capacity to represent all the people who work within the hospital. I have spoken to many managers of hospitals who have told me that they will have difficulty with that provision. All of a sudden, for an hour or two every month, the role of the manager will be reversed and a member of staff, whether from a junior, middle or senior level of management will become the hospital manager's boss.

The Minister has the power to appoint individuals to hospital boards of management. That power can be exercised through the Governor in Council. If the Minister feels it is necessary to have a representative of unions on a hospital board of management, he has the power to appoint such a person to the board. I support Mr Birrell's reasons for proposing to delete the provision from the Bill.

Such provisions in the Bill reduce the autonomy of hospitals and make them subject to the authority of the chief general manager. The powers of the chief general manager are emphasised in many of the clauses in the Bill. I find it strange that it is proposed that the

authority of the Minister will be exerted rarely. For example, I fear that the intervention of the Minister will be required to solve the problems that have been raised by Mr Sandon.

The Hon. M. J. Sandon—Now he has the proper legislative framework to do so.

The Hon. G. P. CONNARD—I am making the point that the Liberal Party recognises that they are acute issues. I congratulated the committee of which Mr Sandon was a member for the excellent report it produced. I suggest that because they are there, and because they are of critical importance, the authority to attend to those matters should be in the hands of the Minister. The thrust of the Bill is to put such matters in the hands of the chief general manager. Matters dealing with special accommodation, as well as other important issues that are mentioned in the Bill, should not be in the hands of the chief general manager. Such authority should be exercised by the Minister.

I shall speak briefly on the audit provisions referred to in clause 55. As honourable members will know, I was a member of the Economic and Budget Review Committee, which produced a report from which this clause of the Bill is taken.

I am concerned about that provision for several reasons. It is important that the annual reports of all the hospitals be tabled in Parliament, as recommended in the report of the Economic and Budget Review Committee on accountability requirements for public hospitals in Victoria.

Recommendation 5 states:

> The committee recommends that the financial statements and annual reports of public hospitals be audited by the Auditor-General, as required under section 12 of the Annual Reporting Act.

I philosphically agree with that because the Auditor-General, Mr R. G. Humphry, is an extremely fine and honourable officer, and the relationship that the Economic and Budget Review Committee has with him is first class. Although I have no issue with the Auditor-General, the committee debated an important matter at that time.

Recommendation 6 states:

> The committee recommends that an appropriate mechanism for the Auditor-General to undertake the audit of public hospitals would be to retain the services of private sector accounting firms or individuals as his agents and to recoup expenses from the hospitals concerned.

That was an important principle in that debate, yet it is not expressed in this Bill at all. I maintain that it is fundamental that that should occur. I request the Minister for Health to respond specifically to that issue because the independence of private auditors and their response to the boards of management of hospitals is at stake.

Recommendation 7 states:

> The committee recommends that agents engaged by the Auditor-General to audit public hospitals should normally be registered company auditors under section 18 of the Companies (Victoria) Code. A list of approved hospital auditors should be established in this context.

Again I have no difficulty with that. Recommendation 9 states:

> The committee recommends that agents engaged by the Auditor-General to conduct public hospital audits should not perform additional services for the relevant hospital which might give rise to a conflict of interest with their external audit function. It should, however, be possible for agents to undertake additional work of a minor nature or work that the Auditor-General is satisfied does not impair the agent auditor's independence.

This is an important and fundamental principle. I refer to the After Care Hospital where I have had to engage private auditors on occasions to perform additional duties involving advising the board on some contrary management procedures which became necessary at that time. Those auditors were engaged for certain tasks on payment of small fees. It is far more appropriate for a board to enter into an audit arrangement. That does not conflict in any way with what is expressed in the report concerning the intended role of the auditor for hospitals. The Auditor-General and his office will not be able to take on those duties.

Consequently, I regret that clauses 55 and 56 do not address those major problems. I maintain, with as much sincerity as I can, that the Minister should provide a commitment to the House that the Auditor-General will be the referring authority in supplying a list of auditors from which hospitals should select an auditor. In that way the government's aim of bringing together all the various expenditures of hospitals will be attained. I doubt whether the Auditor-General, his office or his small list of auditors will be able to make appropriate audits to present to Parliament at the appropriate time.

I do not object to the Auditor-General overseeing the audit, but I expect him to draw up guidelines for independent auditors. I want the accumulated figures attained by the Auditor-General to be tabled in the report of Health Department Victoria in any case. That has not been done up until now because there has been no overall direction to accumulate those figures out of all the public hospital reports in this State. That is not right, but I do not believe the mechanism, if it sits as nakedly as it does in clause 55 of this Bill, will obtain those objectives. It certainly removes another aspect of the hospitals' autonomy. It removes the ability of hospital boards to consult their auditors for appropriate management methods. There will probably be additional expense to hospital boards through the department if they have to undertake modern money management techniques. They will be paying fairly large sums for outside auditing advice and that is far from satisfactory.

I am concerned also about clause 55 (4), which provides:

> There must be paid to the Consolidated Fund from moneys administered by the Department an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General.

This is an unknown amount. Instead of doing what we have traditionally done—advertising for auditors and selecting the appropriate auditor—the Auditor-General will now come into the hospital and, perhaps for a large sum of money, will arrange for an audit, about which the board of management will have no control.

In a private conversation with me prior to making my contribution to this debate, Mrs Lyster said that an arrangement has been made through the department that these audit fees may be picked up. I hope she is correct. I am concerned about the unknown sum, not the negotiable sum of money. The board of management will not have any control over that fee. I believe there should be at least an appropriate appeal mechanism to the Minister or to the department to adjudicate if that fee becomes extreme. I have a genuine concern about this matter.

As this is the third last day of the sitting for this sessional period, I have been instructed to conclude my remarks. There are many provisions in the Bill on which I should like to comment but, because I have insufficient time to explore those issues, I shall not do so this evening. Certainly, I endorse my party's attitude to the Bill. The Liberal Party will propose amendments on at least two issues that I have raised. I look forward to further discussion on 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. D. R. WHITE (Minister for Health)—In the second-reading notes accompanying the Health Services Bill, I indicated that the Bill takes account of the recommendations of several Ministerial reviews and reports of Parliamentary committees.

The past three years have been a time of major change within the health portfolio and these reports have largely contributed to the change process. I should like to clarify the status of some of these reports lest it be mistakenly thought that the passage of the Health Services Bill generally marks the end of their consideration.

The Bill does mark the end of the government's consideration of the report of the Parliamentary Social Development Committee into certificate of need legislation in 1985. Part IV of the Bill sets out a much-improved framework for regulation of private hospital services, which takes into account several recommendations of the Social Development Committee. At this time, the government does not accept the need for more comprehensive legislation regulating the entry into the medical market of expensive diagnostic or therapeutic equipment beyond the controls that currently exist in the Health Act.

Clause 140 of the Bill reflects an important recommendation of the task force on quality assurance made in 1987. Other recommendations are receiving careful consideration and an implementation committee is currently being established to identify centres where quality assurance is being formed; advise me on the establishment of communication systems for an information and referral exchange; advise on where the information and referral exchange could be situated; and identify steps that can be taken by the government to encourage the application of quality assurance processes.

The report of the Advisory Committee on Entrepreneurial Medicine has also received careful consideration. Recommendation 12 of the first report supports the legislative requirement for medical practitioners to disclose their interests in private hospitals, while recommendation 13 suggests that the government not introduce a more comprehensive scheme for regulating the ownership of private hospitals. Both of these recommendations have been accepted and are reflected in the Health Services Bill. I intend to make a statement shortly indicating the status of other recommendations in the first and second reports.

The review of health legislation which has culminated in the Health (General Amendment) Bill and the Health Services Bill is not the end of the change process. The review of registration for health practitioners is still proceeding and I expect the final report to be released over the next few weeks. As a result of this review, the government has already indicated its commitment to a major overhaul of the Medical Practitioners Act and the Nurses Act.

In addition, work is still proceeding on the development of a draft code of practice under the Health Services (Conciliation and Review) Act 1987. The Health Services Commissioner has almost completed a draft code setting out guidelines on the exercise of the Health Services Commissioner's powers. This draft code will be widely consulted upon prior to the developent of any regulations. The government has had several major health Bills before the Parliament during this session and others can be expected as a result of the above reports in future sessions.

I should like to re-emphasise my ongoing commitment to remedying, in consultation with the wider community, any defects brought to the government's attention as a result of unintended effects of any such legislation.

The clause was agreed to, as were clauses 3 to 5.

Clause 6

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

1. Clause 6, line 20, after "funds" insert "directly or indirectly".

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

Clause 7

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

2. Clause 7, line 23, after "7." insert "(1)".

3. Clause 7, after line 30 insert—

"(2) Where a public hospital or any part of a public hospital is declared to be a designated public hospital, section 106 applies to that hospital or part as if it were a hostel, nursing home or supported residential service.".

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

Clause 8

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

4. Clause 8, line 32, after "8." insert "(1)".

5. Clause 8, after line 36 insert—

"( ) The Governor in Council must not remove the name of a hospital from Schedule 2 and add the name to Schedule 1 unless the hospital has ceased to be controlled by a religious denomination.".

The amendments were agreed to.

The Hon. K. I. M. WRIGHT (Northern Western Province)—My amendment No. 1 raised the objection that a church hospital could be removed by the Governor in Council without recourse. I felt that was a draconian power. However, an amendment in the Minister's name that has already been accepted will overcome much of my objection and I do not propose to proceed with amendment No. 1 standing in my name.

The clause, as amended, was adopted.

Clause 9

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

6. Clause 9, page 6, line 6, after "need;" insert "and".

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

2. Clause 9, page 6, line 12, omit "; and".

3. Clause 9, page 6, lines 13 and 14, omit paragraph (*g*).

It is not appropriate for that paragraph to be included in the Bill. It carries a danger of litigation because a patient can demand virtually any type of treatment he or she believes is needed. That would eventually lead to the American experience with enormous cost involved and many doctors are apprehensive about that issue.

The Hon. D. R. WHITE (Minister for Health)—The argument is founded on a belief that the objectives in the Bill are bestowing a right on a user which could be enforceable in a court of law. The government's view is that this is a misunderstanding of the status of objectives contained in the proposed legislation.

An objective does not create a right, it is merely a guide for persons or agencies operating under the auspices of the Act and also a guide to courts which may be required to interpret the legislation. It does not convey a right to the user that would be enforceable in a court of law and the government opposes the amendments of the National Party.

The amendments were negatived, and the clause, as amended, was adopted, as were clauses 10 and 11.

Clause 12

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

4. Clause 12, line 26, omit "areas" and insert "regions".

The clause refers to the division of Victoria into health areas. My amendment omits "areas" and inserts "regions". Victoria is presently divided into health regions and the National Party believes that regions should remain as currently designated.

The Hon. D. R. WHITE (Minister for Health)—The government is not persuaded by the amendment. It should be pointed out that there can be a variety of geographical arrangements for the provision of health services. These could be on a regional basis but

they could also deal, for example, with catchment areas, psychiatric services, geriatric assessment teams and so on, on a Statewide basis.

As my colleague in the Assembly, the Minister for Planning and Environment, stated:

The word is used to describe a variety of geographical areas that relate to particular service operations. There can be Statewide services and region-wide services; as well, there can be different types of services operating in particular geographical areas.

Not all of the health services are delivered on a regional basis at this stage, and it is not intended under the Bill that that be the case in the immediate future, so we have chosen the generic term.

The amendment was negatived, and the clause was agreed to, as were clauses 13 to 21.

Clause 22

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

7. Clause 22, lines 24 and 25, omit "receives any grant, subsidy or other financial assistance referred to in section 20" and insert "has applied for registration under section 20 (3) (*b*)".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 23.

Clause 24

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

8. Clause 24, page 11, after line 13 insert—

'( ) in the case of a public hospital, the procedures for appointing medical practitioners and defining their clinical responsibilities; or'.

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

5. Clause 24, page 11, after line 19 insert—

"( ) Before the Minister—

(*a*) rejects a registered funded agency's proposal to change its objects; or

(*b*) directs the agency to change its objects—

the Minister must consult with the agency.".

Clause 23 defines a registered funded agency as including a State-funded nursing home. The rules of registered funded agencies provides that a registered funded agency must not change its name, or change its objects or purposes. I consider that an agency should have some consultation with the Minister before that kind of action is taken.

The Hon. D. R. WHITE (Minister for Health)—The government rejects the amendment. The requirement to consult with individual agencies beyond the consultation involved in the preparation of the proposed legislation and beyond the normal form of consultation in which we are involved on a day-to-day basis is unnecessary.

The government proposes that a reserve power be used often to direct all agencies of a particular class to develop new systems, such as election procedures for community health centres. If every agency objected and had to be consulted individually, change of a desirable nature for administrative purposes would rarely, if ever, occur. Besides, section 62 of the Hospitals and Charities Act currently contains no such requirement, and agencies have not objected to date.

The amendment was negatived.

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

9. Clause 24, page 11, line 23, omit "This section does" and insert "Sub-sections (1) and (2) do".

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

Clause 25

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

6. Clause 25, line 25, omit "(1)".

This amendment is related to amendments Nos 7 and 8 standing in my name. The National Party is of the view that each registered funded agency should have the power to appoint its chief executive officer without the chief general manager's approval.

The Hon. D. R. WHITE (Minister for Health)—The concern expressed by St Vincent's Hospital and the Mercy Maternity Hospital is that, under the Hospitals and Charities Act, they were not subject to this control over the appointment of chief executive officers, although all other public hospitals are. Those denominational hospitals are concerned that the chief general manager will impose on them a chief executive officer who will not respect their religious beliefs. We have discussed this matter with many other people and Justice Sir James Gobbo has reassured them in the following terms:

> It is the intention of this clause to ensure that the position of chief executive officer does not remain vacant and that the applicant has suitable experience. It is certainly not envisaged that the chief general manager would seek to impose a chief executive officer on a denominational hospital nor that he would fail to approve an appointment of the suitably qualified candidate proposed by the hospital.

For that reason, the government will not support the amendment. The statement I have read out is consistent with the practice that has been developed in the management of public hospitals and the appointment of chief executives.

The Hon. M. A. Birrell—Like Bendigo.

The Hon. D. R. WHITE—Yes, like Bendigo.

The amendment was negatived.

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

10. Clause 25, line 28, omit "by a person so approved".

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

Clause 26

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

1. Clause 26, page 11, line 33, omit "must" and insert "may".

This is the measure of the difference between the Opposition's attitude and that of the government. The Opposition does not believe a health agreement can be compulsory. It is a contradiction in terms and, therefore, the Opposition believes it should be optional. If a health agreement is not entered into, other provisions in the legislation will deal with the situation.

The Hon. D. R. WHITE (Minister for Health)—The government accepts the amendment.

The Hon. K. I. M. WRIGHT (North Western Province)—This amendment is similar to amendment No. 9 standing in my name, which I will not have the opportunity of moving now. On behalf of the National Party I indicate that the clause, as it stands, is contrary to the concept of agreement between a health service and Health Department Victoria. Boards should be able to argue their case where situations are inappropriate or unacceptable.

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

10. Clause 26, page 11, line 34, omit "in respect of each financial year".

Clause 26 (1) provides that a registered funded agency may—the word "may" was inserted in place of the word "must"—enter into a health service agreement in respect of each financial year with the chief general manager. With the mountain of paperwork that is already passing between government departments and hospitals, that requirement seems to be rather onerous.

The Hon. D. R. WHITE (Minister for Health)—With the insertion of the word "may" in the place of the word "must", as I understand the clause, it provides that there may be an agreement for each financial year. There have been no objections in the field to that notion of agreements being entered into on the basis of a financial year and, in fact, the number of hospitals seeking to enter into health service agreements is increasing. On that basis, I do not see any practical need for the amendment.

The amendment was negatived, and the clause, as amended, was agreed to.

Clause 27

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

11. Clause 27, line 9, omit "next following" and insert "after the issue of the statement".

12. Clause 27, line 19, omit "services" and insert "service".

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

Clause 28

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

11. Clause 28, page 13, line 30, omit "; and".

Clause 28 provides limits or controls on expenditure or the entering into of contracts. The National Party believes it is inconsistent with delegated responsibility. Why is that provision required if a service agreement is in force?

The amendment was negatived, and the clause was agreed to, as were clauses 29 to 32.

Clause 33

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

13. Clause 33, page 15, line 30, after "consideration of" insert "a name or".

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

The Hon. K. I. M. WRIGHT (North Western Province)—On a point of order, Mr Chairman, my amendment No. 13 precedes the amendment to be moved by Mr Birrell. My amendment refers to line 35 and Mr Birrell's refers to line 36.

The Hon. M. A. BIRRELL—My amendment is the same thing. I move:

2. Clause 33, page 15, line 35, omit "; and".

The effect of this and subsequent amendments is to maintain the existing structure of public hospital boards. The Opposition does not believe the existing structure should be changed in the manner in which the Bill threatens.

The Hon. M. J. SANDON (Chelsea Province)—I oppose the amendment moved by Mr Birrell. Hospital employees have the right to participate in the deliberations that impinge on their daily working lives and experiences. Many examples have been given. One need only refer to the examples of industrial democracy, which is at the heart of this amendment.

There is a philosophical difference between the Liberal and Labor parties. It is appropriate that the interests of those people who work in these organisations be taken into account. In his second-reading speech, Mr Birrell suggested that hospital boards represent only the

public interest; I suggest that trade union members have just as much right to be represented as the public interest or any other professional group that is represented on the board. Trade union members, be they hospital employees or nurses, are just as entitled to representation on the board of management as the medical profession.

In many cases these people can bring their skills and expertise to bear on the running of the hospital. It is a travesty of the concept of public interest to suggest that unions are not part of the public interest. The logical extension of that argument is that one should not bother consulting the trade union movement or the Australian Council of Trade Unions. They have as much right to participate, in the public interest, in industrial relations matters, be it at the coal face or hospital level. In this day and age it is appropriate that those people be able to put their points of view about running these large-scale organisations.

Public hospitals are large bureaucratic organisations. I use the word "bureaucratic" in the descriptive sense to illustrate how big they are. The boards of management, in carrying out their duties, need to understand what is happening in those organisations. Therefore, workers should be able to contribute to the effective and efficient running of the hospital. They can do this, so they should be given representation on the board.

The Hon. K. I. M. WRIGHT (North Western Province)—Mr Chairman, when I raised the point of order previously I was correct in that I was basing my argument on a draft of Mr Birrell's earlier amendments. I apologise for any inconvenience I might have caused the Committee.

The amendment moved by Mr Birrell was similar to my amendment No. 14.

The Hon. D. R. White—It is the same.

The Hon. K. I. M. WRIGHT—It is not the same because I have made an addition to my amendment, but because of the way the Committee is being run, I will not be able to move the amendment.

The National Party believes a member of the staff should be appointed to the board. This is the message it has received from hospitals and other organisations throughout the State. As I said, because of the way the amendments are being moved, I will not be able to move that the chief executive officer of the hospital be a member of the board of management. As I recall when the honourable members dealt with the Ambulance Services Bill, which was similar in many ways to this Bill, the superintendent of the ambulance service was to be a member of the board. The chief executive officer should also be allowed to be a member of the board. I wished to place those remarks on the record.

The Committee divided on the question that the word proposed by Mr Birrell to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	20
Noes	22
Majority for the amendment ..	2

AYES	NOES
Mr Arnold	Mr Baxter
Mr Crawford	Mr Birrell
Mrs Dixon	Mr Chamberlain
Mr Henshaw	Mr Connard
Mrs Hogg	Mr de Fegely
Mr Kennan	Mr Dunn
Mr Kennedy	Mr Granter
Mrs Kirner	Mr Guest
Mr Landeryou	Mr Hallam
Mrs Lyster	Mr Hunt
Mr McArthur	Mr Knowles
Mrs McLean	Mr Lawson
Mr Mier	Mr Long

AYES	NOES
Mr Murphy	Mr Macey
Mr Pullen	Mr Miles
Mr Sandon	Mr Storey
Mr Walker	Mrs Tehan
Mr White	Mrs Varty
	Mr Ward
	Mr Wright
Tellers:	*Tellers:*
Mrs Coxsedge	Mr Evans
Mr Van Buren	Mr Reid

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

3. Clause 33, page 15, lines 36 to 38, omit paragraph (*c*).

The amendment was agreed to.

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

14. Clause 33, page 16, line 2, after "submits" insert "a name or".

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

15. Clause 33, page 16, line 4, omit all the words and expressions on this line.

The amendment refers to clause 33 (5) (*a*) which states:

Before the board submits names, the board must cause a notice to be published in a newspaper circulating generally in Victoria or, if the Chief General Manager so determines, in the region where the hospital is situated inviting nominations for membership of the board . . .

I understand that wherever a hospital is situated, a regional newspaper is also circulating and it would seem to be humbug and an unnecessary expense that the Bill stipulate that an advertisement be inserted in a newspaper circulating generally in Victoria.

The amendment will mean that that requirement is deleted and it will be mandatory to publish the advertisement in the newspaper in the particular region in which the hospital operates.

The Hon. M. A. BIRRELL (East Yarra Province)—Mr Wright has raised a practical point through his amendment. There is a need to publicise the matter only in the immediate vicinity. In practice, in the metropolitan regions, it is hoped that the advertisements will be placed in the *Age,* the *Sun* and the *Herald,* and, in the country regions, they will be placed in the large regional newspapers, so there is no need for that line to appear in the clause.

The amendment was agreed to.

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

15. Clause 33, page 16, line 5, omit "region" and insert "area".

16. Clause 33, page 16, line 7, omit "in submitting names" and insert "if more than one name is submitted".

The amendments were agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

4. Clause 33, page 16, line 16, omit "and (*c*)".

5. Clause 33, page 16, line 20, omit "and (*c*)".

The amendments were agreed to.

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

17. Clause 33, page 16, line 21, after "nominating" insert "a person or".

18. Clause 33, page 16, line 21, omit "Board" and insert "board".

19. Clause 33, page 16, line 23, omit "Board" and insert "board".

The amendments were agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

16. Clause 33, page 16, lines 17 to 23, omit sub-clauses (9) and (10).

This matter has been brought to my attention by the Australian Dental Association and, although I am fully aware that there is a limitation of 25 per cent on the number of medical practitioners who can be on the hospital board, I have a feeling that with respect to the Royal Dental Hospital of Melbourne and dentists a different situation again exists and the Australian Dental Association feels there is discrimination against it as, under the clause, whereas there cannot be more than a 25 per cent representation of dentists on the board, there could be 40 per cent representation of architects, for instance.

The amendment was negatived.

The Hon. N. B. REID (Bendigo Province)—In relation to clause 33, I raise an issue with the Minister and hope to obtain assurances from him regarding the boards of management of various institutions. The clause involves a dramatic change from the method of appointment of board members at present and it is pertinent to the Bendigo Home and Hospital for the Aged. The method currently used by that organisation is to elect the board by contributors. That method has been used during the entire history of the institution and many of the board members elected by that method have served the institution extremely well.

I want the Minister to give an assurance that the board members elected by the method I have described will be permitted to continue their service until the end of their terms. Some members of the board may have a balance of two and a half years of their terms to serve and some members will achieve the retirement age of 72 years during that period. I want the Minister to give an assurance that they can continue to serve out their terms because many of the board members have built up a bank of knowledge and expertise that is advantageous to the home.

The Hon. D. R. WHITE (Minister for Health)—The government wishes to bring about the change but not in a way that dislocates or undermines the base on which people have previously been appointed. The government encourages those who have been appointed under different terms and circumstances to serve out their terms on the basis suggested by Mr Reid.

The clause, as amended, was agreed to.

Clause 34

The Hon. K. I. M. WRIGHT (North Eastern Province)—I move:

17. Clause 34, lines 30 to 31, omit "remuneration and allowances as are fixed by Order of the Governor in Council" and insert "expenses incurred in holding office as a member of the board".

Clause 34 (2) states:

A member of a board is entitled to be paid such remuneration and allowances as are fixed by Order of the Governor in Council.

As I stated during the second-reading debate, the National Party believes it is inappropriate that members of hospital committees should be paid remuneration. Members of boards of management of hospitals and other health institutions are admired throughout Victoria for the tremendous contribution they make at a cost to themselves. They have an amateur status, and that situation should continue.

The Hon. M. A. BIRRELL (East Yarra Province)—The Opposition believes there should not be a salary for board members. Any payment should be on the basis of expenses. I understand that there has been a desire to reduce the administrative work

involved in such payments for the larger teaching hospitals, and the practical way of achieving that is to pay expenses in a lump sum each year. In particular terms, that can be met by this proposal and it is better than taking the full step of offering remuneration, which will become standard fare.

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

Clause 35

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

18. Clause 35, after line 36 insert—

"( ) Before making a recommendation for the removal of a member of a board from office, the Minister must consult with the board.".

Clause 35 deals with the removal and resignation of members of a board of management. Subclause (2) states:

The Governor in Council, on the recommendation of the Minister, may remove a member of a board from office.

The National Party believes an appeal mechanism should exist.

The amendment was negatived, and the clause was agreed to, as were clauses 36 to 40.

Clause 41

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

20. Clause 41, line 6, omit "withut" and insert "without".

21. Clause 41, after line 22 insert—

"( ) The board of a public hospital or denominational hospital must not dismiss or suspend any medical practitioner employed or engaged by the hospital unless the board—

(*a*) where there has been an allegation against the medical practitioner, inquires into any matter alleged; and

(*b*) gives the medical practitioner an opportunity to be heard.".

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

Clause 42

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

19. Clause 42, page 18, line 24, omit "Chief General Manager" and insert "Minister".

The clause refers to the powers of the chief general manager, and they are set out in subclauses (1) to (5). The National Party believes too much power will reside with the chief general manager and that the power should rest with the Minister.

The amendment was negatived.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

20. Clause 42, page 18, lines 31 to 33, omit paragraph (*b*).

The paragraph I propose to omit states:

The manner in which and extent to which the hospital should provide training for persons engaged or intending to engage in health care.

The amendment was negatived.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

6. Clause 42, page 18, lines 37 and 38, omit paragraph (*d*).

The Opposition has received substantial representations from the medical community on this matter. Those views are outlined in a letter I have received from Mr G. W. Harley,

Chairman of the Committee of Chairmen of Medical Staff. The letter is dated 3 May 1988 and states:

I have been kept informed of the negotiations with Mr David White about the more offensive clauses in the Health Services Bill, and understand that despite a number of modifications, one particularly repugnant provision still remains. Your help is now sought in resolving that problem in the Parliamentary proceedings on the Bill.

The problem to which I refer is that clause 42 (1) (*d*) gives the Chief General Manager of the Victorian Health Department power to—among other things—compel public hospitals to dictate medical fees to visiting medical officers, when they act as private medical attendants for private patients who enter the hospital in a private capacity.

I cannot imagine that any other group of professionals—or small businessmen in any vocational group for that matter—would tolerate this selective and overbearing threat. It certainly does not help when one attempts to lead the opinion of colleagues toward cooperation with government at a time when every attempt should be made to make limited health resources go further.

Those views were expanded on in a letter from Mr R. Hastings, Executive Director of the Australian Medical Association, in a letter dated 3 May, which states:

I am writing to confirm that the organised medical profession is most seriously concerned about clause 42 (1) (*d*) of the above Bill, because it gives the Chief General Manager of the Health Department power to effectively fix private medical fees.

We fully appreciate that the central health administration has a proper interest in some detailed aspects of public hospital management arrangements, but cannot see any case for selectively allowing that kind of control of medical fees. We seek your assistance in having the Bill amended as necessary.

This proposal has been used only once in the past and was then withdrawn amid controversy by the then Minister for Health, the present Minister for Planning and Environment. The Opposition opposes the clause.

The Hon. D. R. WHITE (Minister for Health)—The government opposes the amendment on the ground that it believes the provision provides appropriate consumer protection.

The Hon. K. I. M. WRIGHT (North Western Province)—The amendment is the same as amendment No. 21 in my name. The National Party believes the terms and conditions under which visiting medical practitioners may admit patients to a hospital are not appropriate. They could result in industrial disputation and, therefore, the National Party will support the amendment.

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

22. Clause 42, page 19, line 9, omit "Chief General Manager" and insert "Minister".

The amendment was negatived.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

23. Clause 42, page 19, after line 25 insert—

> "( ) The board of a public hospital or denominational hospital may make an application to the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act* 1984 for a review of a direction of the Minister under this section.".

The National Party believes it is appropriate that some avenue of appeal should be available.

The amendment was negatived, and the clause, as amended, was adopted, as were clauses 43 to 45.

Clause 46

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

7. Clause 46, page 20, line 29, omit "; and".

8. Clause 46, page 20, lines 30 to 32, omit paragraph (*c*).

9. Clause 46, page 20, line 35, omit "(*c*)" and insert "(*a*)".

10. Clause 46, page 20, line 38, omit "(*b*) or (*c*)" and insert "(*a*) or (*b*)".

11. Clause 46, page 20, lines 39 and 40, omit sub-paragraph (i).

12. Clause 46, page 21, line 1, omit "(ii)".

13. Clause 46, page 21, lines 6 and 7, omit "(excluding the member referred to in sub-section (1) (*c*))".

The effect of the amendments is to take a similar stance on employee representatives on community health centre boards as the Opposition took in regard to public hospital boards.

The amendments were agreed to.

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

25. Clause 46, page 21, line 2, omit "rules" and insert "by-laws".

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

Clause 47

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

26. Clause 47, line 11, omit "rules" and insert "by-laws".

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

Clause 48

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

27. Clause 48, line 20, after "appointment" insert "or election".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 49 to 53.

Clause 54

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

24. Clause 54, page 24, lines 15 to 17, omit sub-clause (9).

The amendment omits subclause (9), which states:

This section does not apply to a relevant agency or its board if, as a result of an order made under the *Annual Reporting Act* 1983, . . .

The agency is required to submit an annual report under that Act. The National Party has received many submissions from hospitals claiming that it is unnecessary for relevant agencies to report under the Annual Reporting Act. I understand this is perhaps a requirement that applies throughout similar legislation——

The Hon. D. R. White—It was also recommended by the Economic and Budget Review Committee.

The Hon. K. I. M. WRIGHT—Nevertheless, I propose my amendment.

The amendment was negatived, and the clause was agreed to.

Clause 55

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

25. Clause 55, line 20, omit "the Auditor-General" and insert "an auditor selected from a panel of names submitted to the Minister by the board of the relevant agency".

This amendment will test my amendments Nos 26 to 32. Hospitals in my electorate feel very strongly about this matter. They are concerned that the Auditor-General will have control of the audits of their books. My amendment proposes the omission of the words

"Auditor-General" and the insertion of the words "an auditor selected from a panel of names submitted to the Minister by the board of the relevant agency".

The National Party believes a sufficient number of auditors work in these areas to enable the hospital committees to select auditors who they know will do a good job. It would be extremely expensive for the Auditor-General and officers of his department to travel from the metropolitan area to, say, Mildura or Shepparton to conduct such audits; the costs would include a $240 return air fare for each trip and also overnight accommodation, which is extremely expensive. The National Party considers this amendment very seriously.

The Hon. G. P. CONNARD (Higinbotham Province)—Without indicating support or otherwise for Mr Wright's amendment, I should like to express one of my concerns about the clause, that is, the indeterminate amount of money paid to the Auditor-General with no form of control.

In regard to the general issue of audit, I note that the government has picked up most of the recommendations of the Economic and Budget Review Committee, on which I served. However, in the course of the debate by members of the committee, the point was made that the Auditor-General should be using a list of auditors for those purposes. I do not wish to alter the decision in this area, but I ask the Minister to indicate his position on the regulatory processes surrounding it.

The Hon. D. R. WHITE (Minister for Health)—I wish to give an assurance that, as a result of consultation with and representations from public hospitals and the Victorian Hospitals Association, this clause has been altered—that is, subclause (4)—so that the department will meet the costs of the audit of all agencies required to be audited by this clause.

The amendment was negatived, and the clause was agreed to.

Clause 56

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

33. Clause 56, page 24, line 38, omit "at any time" and insert "during ordinary business hours".

Clause 56 states:

(1) The Auditor-General or a person authorised by the Auditor-General may at any time examine the accounting records and documents of a registered funded agency for the purpose of establishing whether or not money given to the agency . . .

The National Party believes the inclusion of the words "at any time" imposes an onerous requirement and that the words "during ordinary business hours" should be included in their place. I commend the amendment to the Committee.

The amendment was negatived, and the clause was agreed to, as was clause 57.

Clause 58

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

28. Clause 58, line 16, omit "Minister" and insert "Chief General Manager".

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

Clause 59

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

29. Clause 59, page 26, line 13, after "(iii)" insert "a copy of".

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

Clause 60

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

30. Clause 60, line 22, omit "notice" and insert "direction".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 61.

Clause 62

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

31. Clause 62, page 27, line 29, omit "interested persons" and insert "person who request it".

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

14. Clause 62, page 28, line 2, omit "60" and insert "90".

The intent of the amendment is to ensure that, if a hospital is to be closed, which is the most drastic position under the entire Act, at least three months' grace will be given for community consultation.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 63.

Clause 64

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

32. Clause 64, line 3, after "agencies" insert "(none of which is a denominational hospital)".

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

34. Clause 64, line 6, after "effective" insert "and cost efficient".

Subclause (1) provides:

If the Chief General Manager considers that the provision of health services by two or more registered funded agencies may be more effective . . .

The amendment seeks to insert the words "and cost effective" because the National Party is concerned that there is no point in amalgamating unless there is some economic value in doing so. During the second-reading debate I quoted the case of Red Cliffs hospital in Mildura where the expenditure of $30 million involved a saving of only $50 000 a year. The National Party is opting for cost efficiency.

The Hon. M. A. BIRRELL (South Yarra Province)—I foreshadow my amendment No. 15, which seeks to tackle this issue in a more comprehensive fashion. Currently section 25 of the Hospitals and Charities Act provides that amalgamation can go ahead only if it can be "carried out as effectively and more economically by such amalgamation". Amendment No. 15 seeks to reinstate that provision in clearer detail.

The Hon. K. I. M. WRIGHT (North Western Province)—I have considered the amendment foreshadowed by Mr Birrell. Since it goes further than my amendment, I seek leave to withdraw my amendment and advise that I shall support the amendment to be moved by Mr Birrell.

By leave, the amendment was withdrawn.

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

33. Clause 64, lines 8 to 12, omit sub-clause (2) and insert—

"( ) A proposal for amalgamation under sub-section (1) may be made in respect of—

(*a*) two or more registered funded agencies of the kind mentioned in a paragraph of sub-section (3); or

(*b*) a combination of two or more agencies of any kind mentioned in sub-section (3).

( ) For the purposes of sub-section (2), the kinds of registered funded agencies are:

(*a*) An agency which is an unincorporated body;

(*b*) An agency which is incorporated under this Act;

(*c*) An agency which is an incorporated association under the *Associations Incorporation Act* 1981;

(*d*) An agency which is a company within the meaning of the *Companies (Victoria) Code.*".

The amendment was agreed to.

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

34. Clause 64, line 22, omit "(4)" and insert "(5)".

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

15. Clause 64, after line 25 insert—

"( ) The Chief General Manager must not advise the Minister to implement the proposal for amalgamation in whole or in part unless the Chief General Manager is satisfied that the amalgamation is likely to result in the more effective provision of health services having regard to—

(*a*) the possible benefits to Victoria in the form of improved health services throughout Victoria or in any part of Victoria; and

(*b*) the possible economic consequences of amalgamation.".

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

Clause 65

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

35. Clause 65, page 29, line 29, omit "64 (5)" and insert "64 (6)".

36. Clause 65, page 30, lines 21 to 26, omit sub-clause (4) and insert—

"( ) An Order under sub-section (1) must declare the new registered funded agency to be either a public hospital or an incorporated association if the Order relates to the amalgamation of two or more agencies all of which are agencies of any of the following kinds:

(*a*) A public hospital;

(*b*) an incorporated association under the *Associations Incorporation Act* 1981;

(*c*) A company with the meaning of the *Companies (Victoria) Code.*"

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 66.

Clause 67

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

35. Clause 67, page 30, line 32, omit "compulsory".

The amendment refers to the compulsory acquisition of land for the purpose of a registered fund or agency. It is possible that, after a report by the chief general manager, the Minister can authorise compulsory acquisition. The National Party considers that compulsory acquisition is not a normal process and is not reasonable. In fact the Echuca District Hospital informed my colleague in another place, the honourable member for Rodney, that these were staggering powers. The amendment calls for the omission of the word "compulsory". This will be a test of my amendments Nos 36 and 37.

The amendment was negatived, and the clause was agreed to, as were clauses 68 to 70.

Clause 71

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

37. Clause 71, page 33, line 22, omit "officer of the body corporate who" and insert "other officer of the body corporate who exercises or".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 72 to 74.

Clause 75

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

38. Clause 75, page 34, line 39, omit "a" and insert "any".

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

Clause 76

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

39. Clause 76, lines 24 and 25, omit "officer of the body corporate who" and insert "other officer of the body corporate who exercises or".

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

Clause 77

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

16. Clause 77, line 36, omit "trivial" and insert "minor".

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

Clause 78

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

40. Clause 78, line 31, omit "officer of the body corporate who" and insert "other officer of the body corporate who exercises or".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 79 to 82.

Clause 83

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

41. Clause 83, page 38, lines 5 to 9, omit paragraph (*d*) and insert—

"( ) if the applicant is a body corporate, whether each director or other officer of the body corporate who exercises or may exercise control over the body corporate is a fit and proper person to carry on or exercise control over the establishment;".

42. Clause 83, page 38, lines 33 and 34, omit "relating to the use of land or premises as a health service establishment of that kind".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 84 to 98.

Clause 99

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

43. Clause 99, page 43, line 35, omit "and" and insert "or".

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

Clause 100

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

44. Clause 100, line 22, after "(iii)" insert "a copy of".

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

Clause 101

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

45. Clause 101, page 45, line 3, omit "of that determination" and insert "fixed by the Tribunal".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 102 to 115.

Clause 116

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

17. Clause 116, line 15, omit "Public Advocate" and insert "Minister".

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

Clause 117

The Hon. M. A. BIRRELL (East Yarra Province)—I invite honourable members to vote against this clause.

The clause was negatived.

Clauses 118 to 120 were agreed to.

Clause 121

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

46. Clause 121, page 52, line 16, after "designated" insert "public".

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

19. Clause 121, page 52, lines 25 to 27, omit paragraph (*d*) and insert—

"(*d*) inspect any records required to be kept on the premises by or under this Act.".

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

Clause 122

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

47. Clause 122, line 17, omit "it" and insert "he or she".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 123 and 124.

Clause 125

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

48. Clause 125, page 54, lines 17 and 18, omit all words and expressions on these lines and insert "the Minister must ensure that both men and women are adequately represented.".

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

Clause 126

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

20. Clause 126, line 21, omit "Public Advocate" and insert "Minister".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 127 to 137.

Clause 138

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

49. Clause 138, lines 13 to 15, omit "recommendations to the Governor in Council for the payment to or on behalf of an agency of an amount out of the Fund in respect of a financial year, the Chief General Manager" and insert "determinations under section 137 (3) (*b*) or (*c*), the Minister or the Minister administering the *Community Welfare Service Act* 1970".

50. Clause 138, line 21, omit "Chief General Manager" and insert "Minister or the Minister administering the *Community Welfare Services Act* 1970".

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

Heading to Division 2

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

51. Division heading preceding clause 139, line 23, omit "Fees" and insert "Payment of Fees to certain Agencies".

The amendment was agreed to, and the heading, as amended, was adopted.

Clauses 139 and 140 were agreed to.

Clause 141

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

52. Clause 141, after line 11, insert—

"( ) On the recommendation of the Minister, the Governor in Council, by proclamation—

(*a*) may declare a service specified in the proclamation to be a proclaimed service; and

(*b*) may impose conditions or requirements on the carrying on of that proclaimed service.".

53. Clause 141, line 23, omit "order" and insert "proclamation".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 142 to 147.

Clause 148

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

38. Clause 148, page 65, line 9, omit "in the case of a document, return the" and insert "return the thing or".

The clause states that under the powers of authorised officers an authorised officer may at any time examine or seize any thing relevant to that purpose. The clause later states:

(*b*) in the case of a document, return the document to the agency or establishment within 48 hours after it is seized.

That means there is no provision to return anything.

The amendment was agreed to.

The Hon. K. I. M. WRIGHT (North Western Province)—I move:

39. Clause 148, page 65, after line 10 insert—

"( ) Sub-section (1) (*d*) does not authorise an authorised officer to inspect a person's medical records unless the person consents.".

The amendment was negatived, and the clause, as amended, was adopted, as were clauses 149 to 158.

Clause 159

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

54. Clause 159, page 68, lines 3 and 4, omit "hospitals or, denominational hospitals" and insert "hospital or denominational hospital".

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

21. Clause 159, page 69, after line 13 insert—

"( ) 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.

( ) 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.".

This will give Parliament the right to disallow regulations made under the provisions of the Act.

The Opposition will keep a close eye on the operation of the Act, both in relation to the regulations and the power of the legislation.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 160 to 171.

Clause 172

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

55. Clause 172, page 73, line 13, after "board of" insert "a".

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

Clause 173

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

56. Clause 173, line 23, after "chief executive officer" insert "(by whatever name called)".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 174 to 177.

Clause 178

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

57. Clause 178, page 74, line 35, omit "subdivision" and insert "Subdivision".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 179 to 189.

Clause 190

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

58. Clause 190, page 80, line 1, after "public" insert "hospital".

59. Clause 190, page 80, line 2, after "1988';" insert "and".

60. Clause 190, page 80, lines 7 to 12, omit all words and expressions on these lines and insert—

' "Proprietor"—

(*a*) in relation to a private hospital or prescribed health service establishment, has the same meaning as in the *Health Services Act* 1988; and

(*b*) in relation to a hospital or prescribed registered funded agency means the committee of management or governing body (by whatever name called) of the hospital or agency.'.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 191 to 193.

Clause 194

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

61. Clause 194, lines 8 and 9, omit sub-paragraph (iii) and insert—

'(iii) for sub-section (3) substitute—

"(3) After seeing a resident requesting to be seen, the community visitor may submit a report to the Director-General containing such recommendations as he or she considers appropriate." '.

The amendment was agreed to, and the clause, as amended, was adopted, as were the remaining clauses.

New clauses

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

63. *Insert the following new clauses to follow clause* 180:

Amendment of *Hospitals Remuneration Tribunal Act* 1978

No. 9163 'AA. For section 6 (*a*) (i) of the *Hospitals Remuneration Tribunal Act* 1978, substitute—

"(i) any registered funded agency within the meaning of the *Health Services Act* 1988; or" '.

Amendment of *Infertility (Medical Procedures) Act* 1984

No. 10163. 'BB. In section 3 (1) of the *Infertility (Medical Procedures) Act* 1984—

(*a*) for the definition of "Private hospital" substitute—
' "Private hospital" means a private hospital within the meaning of the *Health Services Act* 1988.'; and

(*b*) for the definition of "Scheduled hospital" substitute—
' "Scheduled hospital" means a public hospital or denominational hospital within the meaning of the *Health Services Act* 1988.' '.

64. *Insert the following new clause to follow clause* 193:

Amendment of section 49.

"CC. At the end of section 49 (1) of the Principal Act insert—

'; and

(*c*) any money held on behalf of residents in a relevant institution at the commencement of this section, being money earned before 1 July 1986 on funds held in trust for persons who were residents in a relevant institution.

(1A) In sub-section (1), "relevant institution" means—

(*a*) any training centre proclaimed under section 24 (1) (*c*) of the *Mental Health Act* 1959; and

(*b*) the following institutions operated by the Department at the commencement of this section:

(i) St. Gabriel's;

(ii) Pleasant Creek;

(iii) Sandhurst;

(iv) Colanda.' ".

65. *Insert the following new clause to follow clause* 194:

New section 77A inserted.

"DD. After section 77 of the Principal Act insert—

Protection against breach of trust.

'77A. (1) A cause of action does not lie in respect of any breach of trust or fiduciary duty by reason of any failure to pay to, or credit to the account of, a resident in a relevant institution any money earned on the investment of money held in trust by that relevant institution for that resident.

(2) In sub-section (1), "relevant institution" has the same meaning as in section 49 (1A).' ".

The new clauses were agreed to.

Schedule 1

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

62. Schedule 1, page 84, omit "Royal Talbot General Rehabilitation Hospital".

The amendment was agreed to, and the schedule, as amended, was adopted, as was Schedule 2.

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 Mr Birrell and Mr Wright for their cooperation in passing this historic piece of proposed legislation.

I thank specifically Mr Alan Rassaby and his team, Lucy Hunter and Julia Pullen, for their outstanding contribution to the work done by the committee chaired by Mr Terry Carney, upon which committee Mrs Lyster was a representative. I thank them for their extensive work and endeavours during the preparation of the Bill.

I thank Mr Sandon for his contribution during the second-reading debate and for his work as chairman of the Ministerial review of special accommodation houses.

I thank all honourable members who made a contribution during the second-reading debate.

The motion was agreed to, and the Bill was read a third time.

HOSPITALS SUPERANNUATION 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 SUPERANNUATION 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.

TRANSPORT SUPERANNUATION 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.

ADJOURNMENT

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

That the Council, at its rising, adjourn until this day, at half-past ten o'clock.

The motion was agreed to.

The House adjourned at 1.7 *a.m.* (*Thursday*).

Thursday, 5 May 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 10.33 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

EDUCATION BUDGET

The Hon. HADDON STOREY (East Yarra Province)—Has the Minister for Education been advised that the Ministry of Education has expended $40 million over its Budget allocation, including blow-outs in expenditure on emergency teachers, excess teachers and school cleaners? Can she advise the House of the six measures she has approved to respond to this overrun?

The Hon. C. J. HOGG (Minister for Education)—It is probably fair to advise the House that, apparently, it has traditionally been difficult to obtain precise figures for the education budget much before the end of May. I have been alerted to difficulties in some of the areas to which Mr Storey has alluded.

Mr Storey knows that the increase in expenditure for emergency teachers is one of the areas where the government is trying hard to make savings and where certain initiatives will be taken a bit later in the year. The issue of emergency teachers or teacher replacement is obviously a difficult one.

There is considerable potential in schools managing the whole question of extra teachers. We are keen to ensure that schools thoroughly implement the agreement that has been reached which says that an emergency teacher is not applied for until there is a clear five-period allotment in one given day for that teacher.

We are examining the detail surrounding emergency teachers and cleaning within the context of direct employment, as I have informed the House on several occasions, and other areas where there may be an overrun. The question is to examine carefully the details and to try to rein in any excess expenditure that there may be. At this stage, I am not confident of the figures asserted by Mr Storey.

WHEAT MARKETING

The Hon. B. P. DUNN (North Western Province)—The Minister for Agriculture and Rural Affairs is well aware that Mr Kerin, the Federal Minister for Primary Industries and Energy, has released a Federal government response to the Industries Assistance Commission report on future marketing of the Australian wheat crop through the Australian Wheat Board. In view of the recommendations by Mr Kerin and the IAC that we move towards a deregulated home market, further deregulation of the export market and move away from the underwriting, what recommendations will the State government make to the Federal Minister given that the State government recommended deregulation when the Victorian growers expressed a strong, almost unanimous view that the wheat board should retain its powers both on the export and local markets? What will the Minister be telling his Federal counterpart on behalf of this State's growers?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Dunn will be pleased to know that I am not favourable towards deregulation of the export wheat industry, which is the bulk of the industry. In other words, I am probably a little at variance with my Federal counterpart.

The Hon. B. P. Dunn—What about domestic?

The Hon. E. H. WALKER—With regard to the domestic scene, I have been working on this area recently, keeping in mind the considerable success that permit selling of wheat has had with fodder wheat. I do not wish to say any more than that.

I am conscious that there may be some benefits from a review of some of the ways we manage our domestic wheat in terms of the bulk of the crop. I am not favourable towards deregulation of the export market as 80 per cent of the wheat is exported. The Australian Wheat Board does a good job and the manner in which it has handled wheat has been of benefit to growers and the community alike. I should be unhappy if the board were dismantled.

MULGRAVE AND SOUTH-EASTERN FREEWAY ARTERIAL ROAD LINK

The Hon. B. W. MIER (Waverley Province)—I direct a question to the Minister for Transport. As a resident of Mount Waverley for the past 27 years, I have taken considerable interest in the public transport arrangements to the south-eastern suburbs. In the 1960s the South-Eastern Freeway was constructed, and in the early 1970s the Mulgrave Freeway was constructed.

For many years I suffered confusion and disruption due to the inability of the previous government to complete the link between the Mulgrave Freeway and South-Eastern Freeway. For many years the previous Liberal government was indecisive about this link and fortunately the former Minister for Transport, the present Minister for Labour, commenced that project.

Can the Minister inform the House of the progress of work on the arterial road link between the South-Eastern Freeway and the Mulgrave Freeway and the expected completion date of that most important project?

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Mier for his careful summary of the mismanagement and incompetence of the previous Liberal government and of his careful observation of the facts, as he recalled them, of this project, which has taken more than twenty years to reach completion. The blame for that lies with the incompetence and indecision of the previous Liberal government.

As honourable members will be aware, the south-eastern arterial road project involves the construction of the link between the South-Eastern Freeway and the Mulgrave Freeway. With that link the whole project will be completed and will provide a link between Punt Road and Mulgrave. When completed it will provide a four-lane divided arterial road from Toorak Road to Warrigal Road with signalised intersections at Tooronga and Burke roads; and completion of the link will provide at least expressway standard conditions from Punt Road, Richmond, to Dandenong and right through that area.

I am happy to inform the House that the link will be opened in two stages during the second half of this year. The first stage, between Toorak and Burke roads, is planned to be opened to traffic in August, and the balance of the link to Warrigal Road is expected to be opened to traffic in December.

As Mr Mier is aware, contruction of the link has been the subject of extensive consultation between the Road Construction Authority and the local communities. I should also acknowledge Mr Kennedy's awareness of these issues. The Road Construction Authority, as both of those honourable members would be aware, has sought, so far as possible, to accommodate the needs of local residents and to minimise the adverse environmental impact of the project, and the link will be constructed with a shared pedestrian and bicycle footpath for its full length. The footpath will connect to existing footways in the City of Hawthorn, and will eventually be linked to the Yarra bike path. Pedestrian overpasses are being constructed at York Road, Brixton Rise, Darling station, East Malvern station and at Shrewsbury Street.

Extensive and innovative noise attenuation works are taking place along the full length of the link. Those noise attenuation works are at the leading edge of world development in the area, and several technologically advanced noise barriers have been developed especially for the project.

In consultation with local government the Road Construction Authority has developed and implemented an overall landscape plan for the Gardiners Creek valley that is affected by the link. Areas for passive and active recreation and an extensive system of footpaths have been developed in the valley and the East Malvern golf course has been substantially upgraded. When completed, the link will be of enormous benefit to commuters and all people travelling from Punt Road right through Waverley to Dandenong.

RAILWAY DEFICIT

The Hon. A. J. HUNT (South Eastern Province)—I refer the Minister for Transport to the Commonwealth Grants Commission report of 31 March 1988 which states that Victoria's total railway deficit was two and a half times greater in 1985–86 than it was in 1982.

In light of his repeated claims that the Labor government has reduced the transport deficit, I now ask the Minister whether he can acknowledge, on the one hand, that the claims lack substance or whether, on the other hand, he will calmly and rationally provide the House with substantive information refuting the findings of the Grants Commission?

The Hon. J. H. KENNAN (Minister for Transport)—I am not in the least offended by the reference to calmness and reason, although I was attracted to the precedent that seemed to be established during the course of a question the other day. After the excellent answer I gave, the whole House rose! It was purely coincidental that a visitor was present who happened to walk out at the same time, but I thank the House for that mark of respect, and should Mr Hunt, exercising his recently found conscience, want to break party ranks and stand by himself as a mark of respect at the end of this answer, that would be appreciated also.

The Hon. A. J. Hunt—If you answer the question, I will!

The Hon. J. H. KENNAN—He is calling my bluff. I will certainly answer the question but, in reference to the calmness and reason point, which was really the substance of the question, I detect a certain excitability from Mr Hunt and I thought his measured and important delivery of his speech the other night was not reflected in the more excitable tone of his question this morning.

The Hon. W. R. Baxter—Have you thought up the answer yet?

The Hon. J. H. KENNAN—Yes, I have. I maintain my assertion in relation to the real decrease in the transport deficit over the government's time in office. The government certainly disputes any suggestion made by any quarter that the transport deficit has done other than fallen in real terms, and I refer also to the subsidy per head of population going to the transport sector.

I refer also to the fact that, as a percentage of the State Budget, the transport allocation has decreased from 16·5 per cent to 13·5 per cent. I stand by that, and anyone who suggests otherwise is wrong.

Members of the Opposition will be aware of the extensive cost-cutting measures the government has gone through and the substantial reduction in employment levels in both the State Transport Authority and the Metropolitan Transit Authority, which is continuing. At the end of this financial year, approximately 1500 less people will be employed by those two authorities than in the previous financial year.

The Hon. Robert Lawson—Fewer, not less.

The Hon. J. H. KENNAN—I defer to Mr Lawson on that pedantic point. I am told by the Minister for Education that "fewer" is correct. I shall certainly check that point in the *Macquarie Dictionary,* which I believe is a more relevant and recent authority than the 1925 edition of *Fowler.*

I stand by all those assertions, and the government is continuing in that context. As the Opposition may be aware, there are a range of initiatives to make the transport authorities more efficient. A commitment has been made both by management and by the unions to change to greater competitiveness and productivity. Although the percentage of the State Budget allocated to transport has shrunk, room for improvement exists in the productivity of the system. There is room for funding expansions, where appropriate, by achieving greater efficiencies. I congratulate the management of the transport authorities and the unions for their attitude to that change. I shall remain calm, although I have been sorely provoked by the question.

The Hon. A. J. Hunt—Will you produce a reasoned and detailed response to the findings of the Commonwealth Grants Commission?

The Hon. J. H. KENNAN—I will settle this across the House and the press can listen to it, although I do not recognise anyone sitting outside this Chamber. If Mr Hunt wants to ask me a question tomorrow in a slightly different form so that he avoids the rule regarding asking the same question, I shall give him an even more detailed breakdown.

The PRESIDENT—Order! The Minister for Transport has adequately answered the question.

FENCING OF PRIVATE SWIMMING POOLS

The Hon. K. I. M. WRIGHT (North Western Province)—I refer the Minister for Health to the fencing of private swimming pools. In the past, a number of moves have been made to make fencing private swimming pools compulsory, but statistics in the past have shown that more than half of the children who have drowned in private swimming pools have gone through or over fences to get to the pools. My understanding is that the statistics are changing and showing that fences are effective. Municipalities are requesting that a policy of compulsory fencing be implemented. I ask the Minister to inform the House of the government's policy on this issue.

The Hon. D. R. WHITE—(Minister for Health)—I am happy to look further at the impact of the regulations regarding the fencing of swimming pools and also to consider any further suggestions Mr Wright may have in that area.

DRIVER EDUCATION

The Hon. M. A. LYSTER (Chelsea Province)—I ask the Minister for Education to inform the House what programs are in place or are projected to expand the coverage of driver education in schools. I also ask the Minister to inform honourable members how those measures will be coordinated with other significant government initiatives in road safety.

The Hon. C. J. HOGG (Minister for Education)—I thank Mrs Lyster for her interest in this matter. I suppose twice or perhaps three times a week, if one reads the letters to the editor of the *Age* in particular, one sees letters that suggest schools should provide driver education, road safety education, health and human relations education, good citizenship education and first-aid education, to name just some of the topics that have appeared in the correspondence columns in the newspaper over the past few weeks. There is a bewildering array of suggestions to be incorporated or agreed on somehow within the school curriculum. It is important to reach agreement on what are the most important things that young people should learn while they are at school.

I was greatly cheered when I attended a conference called "Skilling Australia" conducted by the Commission for the Future and the Australian Teachers Federation. There was an emergency degree of unanimity among trade unions, community leaders and the government about the sorts of things that a school curriculum should provide or, indeed, the range of skills that young people should have at the end of their school life.

There is no doubt that traffic safety education is a very important component of students' personal development. It is Ministry of Education policy, as the *Education Gazette and Teachers' Aid* of 24 July 1986 reported, that schools implement comprehensive traffic safety education at all levels of schooling. To this end a number of teacher consultants are seconded to the Road Traffic Authority to assist schools.

There is a special Budget line for in-service education for teachers for the pre-driver education certificate. There will be a curriculum guideline or framework that will include a distinct component on traffic safety education which will be in school staffrooms in July.

Furthermore, coordination is also occurring with other government authorities. The Ministry of Education provides for regular liaison with the Road Safety Board, the State Bicycle Committee, the Road Traffic Authority Helmet Promotion Taskforce, and the Keith Edmondston Regional Traffic Safety School. As Mr Knowles knows, I paid a visit to the school at the invitation of Mr Frank Sheehan from another place several months ago. I was enormously impressed by the program offered there and afterwards I discussed it with Mr Knowles and Mr de Fegely when we enjoyed the hospitality of the Shire of Ballaarat. There is also liaison with the steering committee for the pre-driver education course conducted at the Hawthorn Institute of Eduction.

The Victorian Curriculum and Assessment Board Human Development Field of Study Committee has some responsibility for development of accredited studies for Years 11 and 12. Therefore, the Ministry of Education is picking up community concern about road safety and pre-driver education, and on a variety of levels and in a variety of ways, it is acting on that concern.

RAILWAY REVENUE

The Hon. ROBERT LAWSON (Higinbotham Province)—I refer my question to the Minister for Transport. The Minister has just defended his Ministry against an adverse report from the Commonwealth Grants Commission. I now have another opinion which is from a Federal government department, namely, the Department of Transport and Communication, and its report says that over the five years to 1985–86, in real terms, revenue in Victoria's rail system fell 13 per cent but expenditure grew by 37 per cent. Victoria's level of cost recovery fell from 52 per cent in 1980–81 to 30·4 per cent in 1985–86. Is the Minister saying that both the Grants Commission and the Federal Department of Transport and Communication are wrong?

The Hon. J. H. KENNAN (Minister for Transport)—As I comprehend Mr Lawson's question, it refers to the five years to 1985–86, and I am happy to include in my answer to the proposed question from Mr Hunt tomorrow, when I will provide details that will show that this government has substantially turned the position around and that, in terms of patronage growth, the patronage performance in the few years prior to 1982–83 was appalling under the previous Liberal government.

One can well understand that. Indeed, their performance was such, of course, that they were considering wholesale line closures.

Patronage performance in the past six years—since 1982—has been substantially turned around, and I am happy to include all of the matters Mr Lawson raised. He went back as far as 1980. We will prepare a detailed analysis of the years from 1976 to 1982 and from 1982 to 1988. The information will be provided to the House in answer to the calm and reasonable question. Then both Mr Lawson and Mr Hunt can stand together as a mark of respect for the answer and for the government's performance on this fundamental and

important matter. If other honourable members would like to join them as a matter of conscience—Bruce would have to speak to Margaret later this afternoon—I would welcome that and not hold it against those who did not do so.

PINE PLANTATIONS

The Hon. W. R. BAXTER (North Eastern Province)—I refer to the farming properties purchased by the Department of Conservation, Forests and Lands for the planting of pines. I understand, in some cases, due to budgetary constraints or excessive soil fertility, some years will pass before pines are planted. Will the Minister for Conservation, Forests and Lands indicate whether the properties are to be left vacant, leased at commercial rentals or operated by the department as agricultural enterprises?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—There is a planning process and a proper preparation process that must occur before one can be sure that when the pines are planted they will grow effectively as a plantation. In some cases it will take a couple of years before the areas are able to be planted.

The first option for using the land—with the agreement of the Minister for Agriculture and Rural Affairs—is that those areas could be used for agistment purposes for cattle which may have been affected by dieldren.

As to the second option, I have not inquired whether there are particular proposals for north-eastern Victoria. My view is that the land ought to be leased to farmers for agricultural purposes. I would be most concerned if there were any suggestion that the department should enter the business of agriculture; we have enough to run as it is—except in the sense where one might undertake an agroforestry project which, as I understand, is not planned for north-eastern Victoria.

UPGRADING OF CALDER HIGHWAY

The Hon. W. A. LANDERYOU (Doutta Galla Province)—The Minister for Transport should be aware of the community's appreciation of the government's promise of the Calder Highway duplication and the progress that has been made to date. Will the Minister advise the House of the immediate initiatives proposed by the government for the duplication and, in particular, the development of the Calder Freeway?

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Landeryou for his question; I recognise his interest in road issues in that very important growing area of Melbourne.

The government has made, and continues to make, an important commitment to the development of this highway. This commitment reflects the important role the Calder Highway plays in the Victorian and national economy as a corridor for the movement of goods from the trade-exposed manufacturing areas and the agricultural areas of the Loddon–Campaspe region to Melbourne. The commitment also recognises the need to address the high volumes of tourist and commuter traffic which use the highway and freeway on a daily basis.

In the five years to 1986–1987, a total of $55·5 million was expended by the Victorian government on the maintenance and upgrading of the Calder Freeway and Calder Highway. Approximately $25 million of this amount was contributed by the State government.

Projects undertaken and completed include the Keilor bypass, which was completed in 1985 at a cost of $29 million; and the duplication of the highway between Ravenswood and Big Hill, which was completed in 1985 at a cost of $2 million.

It also gives me great pleasure to inform the House that the duplication of the highway between Big Hill and Kangaroo Flat will be open to traffic from today. The cost of construction of this duplication was $3 million.

Works on the Gisborne bypass commenced in 1985 are expected to be completed in November of this year at a total cost of $27 million.

In the next five years, the government is committed to: the duplication of the highway from Keilor to Diggers Rest, to commence next year; the construction of the Diggers Rest bypass, planned to commence in 1990; the duplication of the highway between Diggers Rest and Gap Hill, planned to commence in 1992; the duplication of the highway between Gap Hill and Gisborne, planned to commence in 1991; and construction of the Kyneton bypass, plannned to commence in 1993. The total cost will be $70 million.

The government will also commence building of the important R5 link, which will complete the link between the Hume Highway and the Tullamarine Freeway and ultimately go across to the Western Highway. The R5 link is extremely important for the northern and western suburbs of Melbourne.

The NATROV strategy concentrates on roads of significant national–State economic importance and forms the basis of Victoria's recent submission to the Commonwealth about future Commonwealth road funding to the States. The Commonwealth has not been giving Victoria its fair share of road moneys. The State government's contribution has kept the level up and the government has performed well in that area. The government is confident of being able to maintain that but a greater contribution and a fairer share from the Commonwealth is needed.

The government welcomes the support of the Municipal Association of Victoria—and Opposition members, apparently, judging by their interjections.

Honourable members interjecting.

The Hon. N. B. Reid—Get rid of the Labor Party in Canberra!

The Hon. J. H. KENNAN—That interjection is patently lacking in reason. I direct the attention of the House to that comment, without wishing to strain your patience, Mr President.

TRAIN MAINTENANCE DEPOT EMPLOYEES

The Hon. ROSEMARY VARTY (Nunawading Province)—I ask the Minister for Transport whether it is a fact that an agreement has been reached for compensation of $40 a day to be paid to any worker in the Met train maintenance depot for each day that that worker's pay is late?

The Hon. J. H. KENNAN (Minister for Transport)—The question should be made more specific.

The Hon. B. A. Chamberlain—She will repeat it if you like.

The Hon. J. H. KENNAN—No, I heard the question. I said it should be more specific. It was a general question about an industrial matter. If Mrs Varty will particularise the specific industrial agreement to which she refers, I shall be able to provide her with the information.

AERIAL INSPECTIONS OF CATCHMENT AREAS

The Hon. L. A. McARTHUR (Nunawading Province)—I direct to the attention of the Minister for Conservation, Forests and Lands the aerial inspections of the Genoa and Snowy rivers catchment areas that were made during April of this year. Will the Minister inform the House of the significant findings of these inspections?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Honourable members will recall that a number of concerns have been expressed by members of the east Gippsland community about the conservation status of the Snowy and Genoa rivers. Mr Hunt has in fact raised this matter with me by letter.

The Hon. A. J. Hunt—And in the House.

The Hon. J. E. KIRNER—And in the House. At his request and at the request of others in the Gippsland community, I raised the matter with my Cabinet colleagues who are on the Natural Resources Committee of Cabinet. We approached the former New South Wales government Ministers, the Honourable Janet Crosio and the Honourable Jack Hallam. We needed an interstate inspection. It is a little difficult to find counterparts there now because no-one in the current New South Wales government is really interested in conservation. We agreed to have an interstate inspection and that actually took place on 12 and 13 April and covered the whole of the catchment area. The people were soil conservation experts from both States, specialists from the Forestry Commission of New South Wales, my own regional people from the Orbost region of the Department of Conservation, Forests and Lands, water resource specialists from Victoria and New South Wales, and representatives of the Snowy River and Cann River improvement trusts and members of the Land Protection Council regional advisory committee.

They considered a number of issues, the first of which was forestry. The group was impressed with the improved practice of protection of drainage lines and stream sites and, in particular, the more rapid revegetation of logging coupes.

Obviously this is an area, particularly in the Deddick valley on the Victorian side and on the New South Wales side, that will need constant care. The main problem is one of river and stream bank erosion caused by the clearing of farmlands down to the river edge. The erosion is bad in some areas above Genoa—for example, at Rockton and at Wangarabell. It is believed that the first requirement is planning between the landholders and the engineers, and the government's people in the soil conservation area to work out a series of treatments. It really is an urgent matter.

A further concern is the effect of the massive Mount Kosciusko fire which burnt approximately 63 000 hectares in that area in January 1988. That has caused an erosion hazard, and if the area receives heavy rain over the next two years—not only this year—the problem of sedimentation in both the Snowy River and the Genoa River will be aggravated. It is clear that local government will have to pay much closer attention to roading and drainage lines, as will the two bodies responsible for forestry.

In relation to the estuarine reaches of the Snowy and Genoa rivers and associated lakes, I was talking to former Councillor Brenda Murray recently about the Snowy River. She said that as she came across the bridge from her home recently the river looked sad, and she referred particularly to the bank erosion. That is caused by stream bank vegetation being lost, as well as wind erosion and use by powerboats. A considerable effort will be needed from users of that river as well as from local government bodies and river improvement trusts to implement remedial measures for the Genoa and Snowy rivers on a priority basis.

The Snowy River has the added problem of increasing salinity. The group intends to provide the relevant Ministers with a joint report that may be considered by a subcommittee of Cabinet; most importantly, the problem will be treated on an integrated total catchment management basis. The government will have proper report plans which it will present to the House.

COMMAND PAPER

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) presented, by command of His Excellency the Governor, the report of the Council of Magistrates for the year 1986–87.

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

MENTAL HEALTH REVIEW BOARD

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

That there be laid before this House a copy of a report from the Mental Health Review Board in relation to Mr George Hristoff.

The motion was agreed to.

The Hon. D. R. WHITE (Minister for Health) presented the report in compliance with the foregoing order.

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

ECONOMIC AND BUDGET REVIEW COMMITTEE

Commercial authority debt controls

The Hon. D. E. HENSHAW (Geelong Province) presented a report from the Economic and Budget Review Committee upon controls over commercial authority debt levels, together with appendices, extracts from proceedings and a minority report.

It was ordered that they be laid on the table and be printed.

PUBLIC BODIES REVIEW COMMITTEE

Dried Fruits Board

The Hon. A. J. HUNT (South Eastern Province) presented a report from the Public Bodies Review Committee upon the Dried Fruits Board, together with a bibliography and minutes of evidence.

It was ordered that they be laid on the table, and that the report and bibliography be printed.

PAPERS

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

Friendly Societies and Benefit Associations—Report of the Registrar for the year 1986–87.

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

Bairnsdale (Town) Planning Scheme—Amendments L1 and L5.
Geelong Regional Planning Scheme—Amendment R11.
Melbourne Planning Scheme—Amendment L4.
Metropolitan Region Planning Schemes—Amendments R5 and R6.

Youth Parole Board—Report for the year 1986–87.

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.

STAMPS (SECONDARY MORTGAGE MARKET) BILL

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

That this Bill be now read a second time.

The Bill will amend the Trustee Act and the Stamps Act to further facilitate the development of the secondary mortgage market in Victoria.

The government's principal objectives in legislating to facilitate the development of this market are as follows:

to provide a greater supply of funds to the housing sector which should over time have the added advantage of decreasing interest rates on home loans. The development of the secondary mortgage market should serve to encourage institutional investors such as life offices and superannuation funds to direct their funds to the housing market;

to assist the liquidity management of housing finance institutions and smooth the flow of funds to the housing sector; and

to add to the choice of financial instruments available to investors.

As honourable members will recall, in 1984 the government, in initiating legislation, took the first step of any government in Australia to facilitate the development of the secondary mortgage market. That step consisted of amending the Trustee Act and the Stamps Act to give trustee status and stamp duty exemptions to mortgage-backed securities issued by "recognised institutions". The government at that time also contributed capital, together with a number of private financial institutions, to the National Mortgage Market Corporation Ltd. The mortgage market corporation, which was incorporated in 1984, was the first institution to gain status as a recognised institution under the 1984 legislation.

The National Mortgage Market Corporation Ltd, as foreshadowed in the government's economic strategy, has worked with the government in reviewing the regulatory framework governing the secondary mortgage market in Victoria. The proposed legislation is a result of that review and wide-ranging consultation with the market.

The Bill, which is primarily designed to facilitate a broader-based development of the secondary mortgage market, operates to confer trustee status on a wider class of mortgage-backed securities and to grant wider stamp duty exemptions, than is the case under the existing legislation.

Trustee status will be awarded to mortgage-backed securities which obtain a minimum credit rating from an approved credit rating agency. The proposed legislation will facilitate a broader development of the market in that it will enable institutions to participate in the market without having to gain "recognised institution" status, which to date has been awarded on the basis of capital adequacy. Instead of focusing on the requirement of capital, the proposed legislation recognises two important developments which are part of the increasing sophistication of financial markets. Firstly, it recognises that credit enhancements can be incorporated into securitisation structures in the place of capital, and secondly, the growth of independent credit rating organisations and their proven ability to assess credit worthiness.

The stamp duty exemptions which are designed to be wide ranging and exempt all stages of the securitisation process, will no longer be dependent upon the mortgage-backed securities having trustee status. This is a major change from the existing legislation. Also, while the stamp duty exemptions are primarily being provided to encourage the secondary mortgage market, the proposed legislation is sufficiently flexible to enable assets other than mortgages—for instance, credit cards or lease receivables—to be securitised should the financial markets move in that direction.

The Bill is an important legislative measure in the context of both the government's economic strategy and its social justice strategy. The Bill will facilitate the home opportunity loans scheme sponsored by the Ministry of Housing and Construction. This scheme, which forms an important part of the government's social justice strategy and was launched by the Premier in March this year, will provide $1 billion over five years to create low-start home loans for less advantaged members of the community. The home opportunity loans scheme will be funded by Victorian housing bonds, which will gain trustee status and stamp duty exemptions under the proposed 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.

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL

The debate (adjourned from April 21) 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)—Victoria has the most effective scheme in Australia for the compensation of victims of crime. That scheme was established by the former Liberal government in 1973 and the legislation was upgraded by this government about ten years later.

The Criminal Injuries Compensation (Amendment) Bill changes provisions in the Criminal Injuries Compensation Act, mainly by increasing the levels of compensation, but it also makes some changes in principle.

In recent years the emphasis in the public perception of crime has increasingly been on the impact of the crime on the victim. When examining the criminal statistics, the community has examined the matter from that aspect. Recently, the public focus has become more personal, tending to examine the impact of the crime on a particular victim.

Honourable members will recall one lady who was shot in the face with a shotgun with horrific effect, and that graphic case brought to the public mind that she was not just a statistic but a person who was hurt very severely, in that particular case.

The Opposition is pleased that Parliament is now debating the proposed legislation, because it is totally consistent with the policies of law and order set out by the Opposition last September. However, there are other areas of practice regarding the victims of crime that the proposed legislation, the government and government departments should alter. A provision in the principal Act provides that, if an award for compensation is made and subsequently the victim obtains an order for damages against the perpetrator of the crime, the amount paid by the tribunal is reimbursed. The Opposition supports that principle, but it believes the first port of call for payment of compensation should be the perpetrator of the crime; the person who caused that injury or death should be primarily the one to pay. Unfortunately, the system works the other way, because obtaining damages can be a slow process. The way the system works is that the fund established by the Act pays the compensation and then there is the ability to recoup those damages but, almost by definition, the perpetrator of the crime is in gaol or cannot be found.

The Opposition is in favour of strengthening the provisions that apply to restitution orders. The Opposition believes, for all crimes, an order for restitution should be made, whether it be for injury or for stolen or destroyed property.

A future Liberal government would adopt guidelines for all government departments and agencies that would give victims of crime information about the charges laid against the defendant, an explanation of the court process, information about bail applications and notice of the defendant's impending release from custody. They are very important matters. Once a victim is caught up in the criminal justice system, he or she is often mystified by the process. People know little about why a particular application may be made or why a commital for trial may be adjourned for twelve months—up to eighteen months since the government has been in office. It is important to ensure that government departments and agencies explain the workings of the justice system to the victims of crime.

The victims must be made aware of their rights to compensation under the Bill. Often when a person is attacked he or she can no longer work and support the family. Often such a victim may not be in paid employment but still must care for his or her children. There

is a need for a reappraisal of the way in which the various government departments and agencies interact, to ensure that victims of crime are aware of that process.

Of particular importance is the need for the victim of a crime to be told that the person convicted of that crime is to be released from gaol, particularly if he or she is released earlier than the minimum sentence imposed by the court. I have learnt of a number of instances of women who have been raped and the attackers may have been sentenced to, for example, eight years' imprisonment, yet they may have been released from gaol after serving only five years of the sentence. In two instances, the victims were raped again by the same attackers. Those women told me that if they had known about the attackers' early release, they would have taken preventive action, such as leaving their addresses or changing their names.

This Bill should be viewed as part of a package of action that needs to be taken in this area. The Opposition supports the introduction of victim impact statements to ensure that a trial judge is informed of the full impact of the offence on the victim. If the victim is scarred for life or is suffering from a psychological trauma that is adversely affecting him or her, or, on the other hand, if the victim of the attack has recovered quickly, the trial judge should be aware of those circumstances before pronouncing sentence.

The Opposition supports the increase to a maximum of $50 000 in the amount that may be payable for expenses and/or compensation. But a significant issue arises in relation to the amendment of section 20 (2) (*d*) of the Criminal Injuries Compensation Act. That section deals with family violence or violence occurring between members of the same household—in other words, where the victim at the time the injury was sustained was living in the same household as the offender. Section 20 (2) of the Act states:

> The tribunal shall not make an award of compensation . . .
>
> (*d*) where the victim at the time the injury was sustained, was living as a member of the same household as the offender, unless—
>
> (i) the offender has been convicted of inflicting the injury;
>
> (ii) the offender, in any proceedings in which the offender has been charged with an offence of inflicting the injury, has pleaded guilty or has otherwise admitted to inflicting the injury or has been found to be insane at the time of the alleged offence;
>
> (iii) if proceedings against the offender for an offence of inflicting the injury have not been commenced, the victim had no part in preventing the commencement of proceedings; or
>
> (iv) if proceedings against the offender for an offence of inflicting the injury have been commenced but not concluded.

It is proposed to delete section 20 (2) (*d*). The Liberal Party is concerned about the collusion that may occur between the victim and the person who is alleged to have committed the offence. The Bill seeks to substitute a new paragraph which says that there will not be an award of compensation:

> (*d*) where the application is made in collusion with the offender;

Although the Liberal Party supports the Bill, it believes that paragraph is not a sufficient sanction to stop collusion occurring.

The Bill allows for a situation to occur where a woman, who alleges that she has been beaten but does not report that to the police—perhaps for good reason—may appear before the tribunal claiming that, because she has a blackened eye and part of her ear has been torn off, a criminal offence has been committed. As I said, because she decided not to report the incident to the police, for whatever reason, no charges would be laid to back up the accusation. She may be quite happy to have her eye blackened and part of her ear torn off in order to receive an amount of $5000 or $6000 in compensation.

The Bill provides that no compensation will be paid where there is collusion with the offender. The Liberal Party believes that provision could be open to abuse. Rather than propose a specific amendment to the paragraph, the Liberal Party will propose a general amendment which says that if anyone attempts to cheat the system, either by issuing a

false statement or acting in collusion with others, he or she will be guilty of a serious offence. Not only will that person not be entitled to compensation but also he or she will be committing an offence.

The Opposition supports the Bill. There are many things that need to be done to provide support for victims of crime in this State; and many of them do not need legislation to enforce. The Liberal Party is committed to taking action in this area. As I said, we will support the Bill, subject to the amendment I will propose in the Committee stage.

The Hon. W. R. BAXTER (North Eastern Province)—In view of the program ahead of the House in the next couple of days, I shall not canvass the matters that have already been referred to by Mr Chamberlain. I endorse the remarks that he has made. The National Party will support his amendment in the Committee stage.

If I had one reservation about the Bill it was that there was some prospect of collusion occurring because of the paragraph to which Mr Chamberlain referred. In principle, I do not object to the provision that domestic assaults will be subject to compensation. Yet the way the Bill has been drafted leaves the door open for collusion to occur. I agree with the solution to be proposed by Mr Chamberlain.

I agree with the remarks Mr Chamberlain made about a growing realisation in the community over the past five or six years of the impact of crime on its victims. There is a growing realisation that society has a duty to care for people who are severely disadvantaged by the activities of criminals, a duty that has not been adequately fulfilled in the past.

The previous Liberal government was responsible for the original Act. It was a bold move, which received widespread community support. It is appropriate that, in the light of experience, the Act is to receive some fine tuning. The inquiry undertaken last year by the Legal and Constitutional Committee was useful. Although all the recommendations of the committee's report are not contained in the Bill, the major recommendations have been adopted, for which the government is to be commended. The government has acted expeditiously, because the report was brought down only in November last year, yet the Bill was introduced early in this sessional period.

The Bill reflects the acceptance of widespread concern in the community that victims of crime deserve assistance. It is well-known that organisations are springing up to provide assistance and to lobby for even greater assistance for the victims. I should have thought that the monetary increases provided for in the Bill and the widening of the eligibility criteria will go a long way towards satisfying the requests that have been made to me and, I suspect, to other honourable members by such organisations in the community.

The National Party is delighted to support the Bill, with Mr Chamberlain's proposed amendment.

The Hon. N. B. REID (Bendigo Province)—Mr Baxter referred to organisations that are working in support of victims of crime. I shall refer to one organisation with which I have had contact over some years—the Victims of Crime Assistance League Inc. The gentleman who appears to do most of the legwork and is responsible for the operation of that organisation is Mr Howard Bratten. I am sure Mr Baxter has had contact with him because for some years Mr Bratten has been raising the awareness of the community about recognising the rights of victims of crime. He has successfully demonstrated the importance of assistance being provided to these people. I am certain his organisation will welcome the Bill, which has been introduced by the government in an endeavour to recognise the injustices that have been perpetrated on people who have been victims of criminal attacks and have received injuries as a result of those attacks.

I welcome particularly clause 6 which provides the power to the Crimes Compensation Tribunal to award compensation for pecuniary loss suffered during a period of up to two years after the injury was incurred, rather than the present one year term. It is difficult for anyone, even the most skilled medical practitioner, to determine exactly what the long-term effects will be for a person who has suffered injury as a result of a crime.

I am delighted that the period of assessment has been extended to two years to enable that person to be properly compensated by the tribunal and to aid rehabilitation of the victim after suffering injury as a result of a criminal offence against him or her.

I regret that the Bill does not provide for the Norman Sims case. Mr Sims was a victim of a crime which was committed in unusual circumstances. I have raised this matter with the government on a number of occasions, and perhaps it will introduce proposed legislation in the future.

I add my support and commendation to the Victims of Crime Assistance League Inc. for what it has done to assist victims of crime in Victoria.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 14 were agreed to.

New clause

The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

Insert the following new clause to follow clause 12:

Fraud or collusion an offence.

'A. After section 32 of the Principal Act insert—

Fraud or collusion.

"32A. (1) A person must not obtain or attempt to obtain fraudulently any benefit under this Act.

(2) Without limiting sub-section (1), a person must not in collusion with another person obtain or attempt to obtain fraudulently any benefit under this Act for any of those persons or any other person.

Penalty: 50 penalty units or imprisonment for twelve months."

False information.

"32B. A person must not provide any information which the person knows to be false or misleading in or in connection with any application or other information provided under this Act.

Penalty: 50 penalty units or imprisonment for twelve months." '.

The amendment is a general offence provision which provides that a person must not obtain or attempt to obtain fraudulently any benefit; a person must not in collusion with another person obtain or attempt to obtain fraudulently any benefit; and a person must not provide any information which the person knows to be false or misleading.

These provisions are based on a similar provision in the Transport Accident Act. The penalty is severe: $5000 or twelve months' imprisonment. It has general application and I commend it to the Committee.

The new clause was agreed to.

The Bill was reported to the House with an amendment, and the amendment was adopted.

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

That this Bill be now read a third time.

In so doing, I thank the three honourable members who contributed to the debate. I did not respond in the Committee stage, but I note Mr Reid's comments about the Norman Sims case, which is indeed a fascinating case. I was happy to accept Mr Chamberlain's amendment.

The motion was agreed to, and the Bill was read a third time.

TELECOMMUNICATIONS (INTERCEPTION) (STATE PROVISIONS) BILL

The debate (adjourned from May 3) 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 Opposition strongly supports the Bill. In so doing, I point out that this is consistent with what has been done by the Opposition with similar measures. The House may recall the Police (Powers of Investigation) Bill which I introduced on two occasions into the House. That Bill committed the Opposition, and had the support of the National Party, to the concept of Victoria cooperating with a national scheme for telephone tapping involving major offences. There is no doubt that the power to tap telephones is important in the investigation of serious crime. Although civil libertarian aspects are obviously involved, the common view is that greater good can be obtained from allowing that power to be used, subject to judicial warrant, and that is the view the government has taken with this Bill.

Last year I had the opportunity of visiting the Federal Bureau of Investigation in Washington, the United States of America. In recent years that bureau has had significant success in cracking Mafia operations which it was not able to breach before.

There are two key elements to telephone tapping: the first is the power to tap telephones; and the second is what is generally called the RICOH statutes and the anti corruption statutes. Those two elements have given the Federal Bureau of Investigation in the United States of America an enormous advantage that they did not have previously.

Royal Commissioner Mr Justice Stewart, in a report to the Federal government in 1986, made out a powerful case for telephone-tapping power which the Liberal Party supported at the time and still supports. Mr Justice Stewart emphasised, as had other Royal Commissioners, such as Mr Costigan, the importance of this power. The fact is that these days one cannot do without telephones. When one arrives in a city like New York there is no way one can avoid using the telephone for whatever business one is in, whether it be the business of crime or otherwise.

Although wrongdoers have adopted sophisticated codes for speaking over telephones, those codes can be and have been broken by the FBI. The power to telephone tap is important because it enables the police to build up a criminal data bank which can lead directly to the people involved, a process which might otherwise have taken months to bring about by ordinary investigative means. Obtaining access is a question of time, and time is crucial in cases such as kidnapping, extortion and terrorism where the police or other enforcement agencies should have the ability to act quickly.

The Liberal Party supports these proposals. Parliament is passing legislation which is complementary to a Federal Act of Parliament. Neither the government nor Parliament can give itself the power to tap telephones; that power is given by the Federal Telecommunications (Interception) Amendment Act 1987. Basically, the Federal Act sets out a national scheme that provides for telephone tapping power to be made available for certain purposes. Traditionally, that power has been restricted to matters of national security and major drug cases, but the Commonwealth Act of 1987 extends the power to include the crimes of murder and kidnapping and other serious offences which are punishable by at least seven years' gaol.

We must ensure that the Victorian legislation conforms to the prescription of the Federal Act because that Act has a requirement that the States must legislate for the safeguards which are spelt out. The major safeguard is that one cannot obtain a warrant to tap without the intervention of a judge. A judge must be convinced that there is just cause for telephone tap, and the Federal Act sets out the necessary requirements to be established in the mind of a judge before he should grant that order. A prima face case must be made out that a telephone tap will lead to the solution of a crime and that the benefits from the

intrusion do not outweigh the restrictions imposed on personal liberties. A judge must be convinced that the particular case meets that prescription.

The Liberal Party is pleased that the government has, after a long period, recognised the need to cooperate in such a scheme. The Liberal Party supports the proposals. There are at least three differences between the Telecommunications (Interception) (State Provisions) Bill and the Federal Act. The first of those provisions relates to the period for which a warrant is available.

Section 49 of the Federal Act deals with the form and content of a warrant. Subsection (3) states:

> A warrant shall specify, as the period for which it is to be in force, a period of up to 90 days.

The Victorian Bill proposes a period of up to 30 days, and the argument is that that will keep the Victorian legislation in line with its Listening Devices Act. That is not much of an argument because the limitations prescribed in the Listening Devices Act are very restrictive. The government should explain better why it has wound this period back from 90 days to 30 days.

The Hon. J. H. Kennan—It is renewable.

The Hon. B. A. CHAMBERLAIN—An example is that of a drug courier who occupies a particular flat. The police know he is away overseas purchasing drugs, but have no idea when he will return. The same argument applies to both listening devices and the telephone tap—they are the only means of obtaining information. If the police have only that 30 day period and the courier is away for more than 30 days, there is the problem of obtaining an extension. If the period were longer, that problem would not arise. The resources of the drug squad are restricted and the government should explain in detail why it is departing from its Federal colleagues. The Federal Labor Party is saying to Victoria that it can have up to 90 days, yet the Victorian Labor Party is saying that Victoria can have only up to 30 days.

The second requirement is the reporting provision contained in clause 7 (2) of the Bill. This provides for reporting to the Minister for Police and Emergency Services and also to the Attorney-General. There is concern that that could lead to a loss of security, given that clause 12 provides for the Attorney-General to call for reports from the Ombudsman in an oversight role. Why should there be this system of double reporting?

The third issue is that one should, in an urgent application by telephone, be able to obtain a warrant for a telephone tap. The Commonwealth legislation provides for that, but it is necessary then to go to the court within 24 hours to substantiate the case. A situation may arise where the police receive a tip-off that Jim Smith, the noted drug runner, has just come into Melbourne and is in room 403 of the Hilton Hotel. There is the ability under the Federal Act to telephone the judge and say, "Look, this is the situation: we don't know how long he will be there; he could be making contacts with drug distributors and we need this urgent application". Clause 4 (2) does not provide for the urgent application by telephone, yet the Federal Labor government is prepared to allow those telephone applications. The Honourable Lionel Bowen has a good record in this field. I ask the Minister to explain why the Bill is not in concert with the Federal Act which has had the support of all parties in Canberra.

I indicate that the Opposition is happy to support the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party is happy to support the Bill and notes that however one views statistics, even conceding that statistics can be used in different ways, there is a crime epidemic in this nation and in this State. The perpetrators of those crimes have no compunction about using every possible device, every item of new technology or technique to hide and shield their nefarious activities. It would be remiss of Parliament to deny the Police Force of this State the opportunity of making similar use of technological developments in this field.

There is no doubt that the ability to tap telephones, even under all the safeguards included in the proposed legislation, should be a vital component of the armoury of the Police Force in fighting crime, particularly crime that does not involve overt violence by the Mr Bigs and the organisers of that crime.

The drug trade is the paradigm by way of example of what I am talking about. There will be no doubt in the minds of honourable members that drug-related crimes have increased because constituents talk to members about the subject every day; there are articles in the newspapers; there is a great deal of concern in the community about the impact of crime on society. That impact can be confirmed by examining police statistics which show, for example, that between 1980–81 and 1986–87 the increase in drug-related crimes was 301 per cent.

The Bill might provide a useful countermeasure against another rapidly escalating crime—fraud. In the period I have mentioned, fraud increased by nearly 350 per cent. Similar massive increases have occurred in other types of crimes, but those two areas—drug-related crimes and fraud—will be the varieties of crime where the Telecommunications (Interception) (State Provisions) Bill will be of substantial advantage to the investigating authorities.

Anyone who is not involved in unlawful activities has nothing to fear from such legislation. All honourable members will want the integrity of telephone conversations maintained; nobody wants people eavesdropping on the conducting of private business over private telephones. The Bill appears to include sufficient safeguards so that there is little for law-abiding citizens to be concerned about in respect of anybody overhearing legitimate business being conducted over private telephones.

The intrusion by telecommunications interception must be balanced with the need to provide the Police Force with modern technology to counter the activities of those who are using the same technology to conduct illicit business activities and, in the process, enmesh many thousands of innocent people who are drawn in and suffer drastic and tragic consequences.

On behalf of the National Party, I am happy to indicate support for the proposed legislation. I express some surprise but offer commendation that the government has agreed to introduce this sort of legislation.

The Hon. B. A. Chamberlain—Ask Mr Kennan.

The Hon. W. R. BAXTER—Perhaps I should not at this late hour create a diversion by speculating on what might have been the discussion in the Labor Party caucus on this matter because I am pleased that the Bill has been the outcome of the discussion. The Bill indicates a recognition by members of the government that this sort of legislation is absolutely essential in this State.

I endorse the comments made by Mr Chamberlain on the difference between this Bill and the Commonwealth legislation. The Victorian legislation should mirror in every possible respect the Commonwealth legislation. Depending on the explanation the Minister for Agriculture and Rural Affairs might be able to give for those differences, I propose to move amendments in the Committee stage which will restore the situation so that the proposed legislation is largely identical with the Commonwealth legislation, which, in this instance, might be termed the principal legislation. The amendments I shall propose go to the matter of 90 days for the life of the warrant instead of 30 days; to the power, in urgent cases, to get authority for a warrant over the telephone from a judge, provided that it is subsequently endorsed in the usual manner; and to the advising by the Chief Commissioner of Police of the Attorney-General of the telecommunications interception being undertaken.

On the surface, that seems a reasonable requirement, but the fewer people in the bureaucracy who know about telecommunications interception being conducted the less likelihood there will be that the person being pursued will be tipped off. All honourable members know that some people have an interest, for whatever reason—and there might

be a number of reasons for doing what they do—in advising a person that he or she is under surveillance. If the information is kept within the ranks of the Police Force, there will be less likelihood of the suspect being tipped off, as I have said.

I have every confidence—provided the Chief Commissioner of Police is advised and maintains an overview of the situation—that that is sufficient safeguard. If the Chief Commissioner of Police is required to advise the Attorney-General it will open the way to weakening the concept. Perhaps that was the design of some people in the Labor Party; I do not know.

I shall be moving an amendment in the Committee stage to remove that provision.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. H. KENNAN (Minister for Transport)—I make some comments on the three matters raised by the opposition parties. The Telecommunications (Interception) (State Provisions) Bill was formulated through the Standing Committee of Attorneys-General in 1987.

The government announced in December certainly, and probably as early as September—possibly even earlier—that it was likely that there would be a national scheme in respect of telecommunications interception. A national scheme is required to make it work effectively.

The Commonwealth always made it clear that it was defining the outer parameters of the scheme and that no State could go beyond them, but if any State wanted to impose further conditions and qualifications it could include them in its legislation; it would be a matter for each State. Indeed, the same could apply to narrowing the range of offences, quite apart from the life of warrants, and so forth.

Members of the Opposition have identified three issues. There has been no suggestion by anyone that any of those issues will damage the scheme.

Firstly, in considering the period of the warrants, it should be remembered that this concerns the serious matter of tapping someone's telephone. Honourable members would not want their telephones to be idly tapped. Generally, the telephone tapping operations relate to reasonably specific periods; they are not fishing expeditions. A 90-day warrant would involve an extensive tap. If that degree of intrusion were introduced when hitherto it has generally been less and people have thought it is their basic entitlement to be able to use their telephones without being listened to, that interference should have reasonable conditions attached to it.

The Commonwealth set 90 days as the limit. In accordance with the Listening Devices Act, which was passed by this Parliament, the government has suggested 21 days. That period has not given rise to any real problems. The Australian Law Reform Commission, in its 1983 report on privacy, called for a 30-day limit. The wire tapping laws in the United States of America—I had hoped this would have some impact on the Opposition—and the New Zealand legislation also provide for 30-day limits. Those time limits allow for more frequent judicial scrutiny of this extremely intrusive procedure.

Opposition members are claiming that this scheme will be badly damaged by, and that there is something wrong with the government suggesting, a 30-day limit. As I have said, that limit applies in other jurisdictions outside Australia and has been recommended before. It is also longer than the period allowed under the Listening Devices Act.

The police will not be limited to 30 days because they will be able to renew the warrant if they can satisfy a judge of the need to do so. The government's position in this matter,

as in one or two other areas, is that it is proper that this be done under judicial scrutiny. The suggestion that the requirement to extend the warrant poses some dreadful problem for the police suggests a lack of trust in the judiciary. If the police have good grounds for extending the warrant, no doubt that extension will be granted.

The government vigorously rejects the Opposition's suggestion that there is something wrong with the 30-day period. I am aware from my reading of literature from the United States of America that the 30-day limit has been raised as a significant issue in that country where wire taps have been used for a number of criminal and overtly political purposes. Mr Hoover tapped the telephones of people such as Martin Luther King——

The Hon. B. A. Chamberlain—And Robert Kennedy!

The Hon. J. H. KENNAN—Yes, Robert Kennedy and a whole range of people, including Mr Nixon.

The Hon. B. A. Chamberlain—Are you suggesting the need for a judicial warrant to do that?

The Hon. J. H. KENNAN—I am saying that telephone tapping has been a significant issue in the United States of America for a long time, and that a 30-day limit is generally applied.

The government does not believe there is any need to provide for applications for warrants to be made by telephone in Victoria. The provision allowing telephone applications was inserted in the Commonwealth legislation for different reasons: it was inserted to account for remote areas and other places where the police would not have access to a Federal Court judge. Victoria is a confined place and these situations occur overwhelmingly, in any event, in Melbourne rather than in country Victoria. There is no Federal Court judge in Tasmania, so a different argument applies in the Federal jurisdiction because of the lack of accessibility to Federal Court judges in some areas.

That consideration does not apply in Victoria. There are several resident Federal Court judges in Victoria and the Federal police have used the judicially authorised telephone taps in the investigation of Federal drug offences in Victoria over the past nine years. They have been operating the existing system for nine years without telephone authorisation.

Telephone tapping is a serious measure. It must be justified in certain defined circumstances. We all accept that, but it is taking the right to do that a long distance further to suggest that it should be authorised on an unsworn telephone application. The government believes telephone applications would trivialise the procedure. I do not understand how the Opposition can claim that satisfactory proof of identity can be provided.

If a person purporting to be Sergeant Reid from Mildura telephones a judge, how is the judge to know who that person is? This raises the ex post facto issue, if I can use the Latin phrase, against which I campaigned. It is not satisfactory. The testing of material and judicial scrutiny is better performed on a face-to-face basis. How many members of Parliament would be prepared to commit themselves on a serious matter over the telephone?

If a serious matter were first raised by telephone one would desire a face-to-face discussion to assess the accuracy of the material. If someone telephoned claiming to have a large story and wanted it run in the newspapers the next day, and the journalist concerned never heard of the person on the other end of the telephone, he might say: "I do not know all the facts, and my credibility is on the line as this may affect many other people, so I should like to talk to you about this matter as I am interested in it, but want to assess it further".

The same argument applies with telephone applications for warrants. If someone approached Mr Chamberlain by telephone with what was claimed to be a big story about corruption somewhere, I am sure that, if he did not know about the matter and did not

know the caller on the end of the telephone, he would not want to fire ahead on the basis of that telephone conversation alone.

The Hon. B. A. Chamberlain—It is a matter of trusting the judiciary.

The Hon. J. H. KENNAN—Mr Chamberlain would be placing the judiciary in an invidious position by asking judges to be required to issue telephone tapping warrants on the basis of telephone conversations. Judges ought not be placed in that invidious position.

Judges rely heavily on ordinary court procedures and are accustomed to dealing with people in a direct, conversational manner. This involves what would be a serious extension of the power, and there is no good reason to introduce telephone authorisation, because the judges are available; a judge is now on call in Melbourne to handle such matters that arise in Victoria.

The other issue which is raised but which has never been established relates to urgency of telephone tapping. No case of urgency is made out when a judge responsible for that jurisdiction is available.

Mr Chamberlain raised a matter regarding the advising of the Attorney-General and concerns about security. It has been the practice——

The Hon. B. A. Chamberlain—Multiplicity of reporting.

The Hon. J. H. KENNAN—I understand. It has been the practice, and it may be able to be cured by amendment. The provision refers to 28 days. Clause 7 (2) provides:

> The Chief Commissioner of Police must give to the Attorney-General—
>
> (*a*) a copy of each warrant, and of each instrument, referred to in sub-section (1) (*a*), within 28 days after the issue or revocation of the warrant; and
>
> (*b*) a copy of each report referred to in sub-section (1) (*c*).

There is no point in contemporaneousness, and there would not be any objection to extending the period to 90 days or some other period. If it were put that a proliferation of those reports during the currency of the warrant was undesirable, the government would understand and would cope with that suggestion. That is one of the reasons why the period of 28 days has been provided for in the Bill. The government would be happy to cope with a period of 90 days or 120 days.

I ask the Opposition to consider that matter because it would mean that police could have a system where, during the life of the warrant, they would not have to deal with a proliferation of reports, but the Attorney-General's office would be kept informed.

The Hon. B. A. Chamberlain—Why?

The Hon. J. H. KENNAN—It is for the reason Mr Chamberlain raised in debate on the Bill that brought about the Listening Devices Act: namely, that the Attorney-General has always been the responsible Minister in these sorts of Acts, not the Minister responsible for police.

Mr Chamberlain said, in discussing the Listening Devices Act, that these reports should go to the Attorney-General as a separate and independent Minister. That has always been the pattern in Victorian and Commonwealth legislation because this process represents an intrusion on people's privacy and is subject to an independent audit that must be conducted by the chief law officer. If Mr Chamberlain prefers, it is a continuation of a traditional argument rather than a new idea.

I do not believe the Attorney-General wants to be unnecessarily in custody of documents that give rise to breaches of security. I suggest that the breach of security worry could be accommodated by another amendment.

The clause was agreed to.

Clause 3

The Hon. W. R. BAXTER (North Eastern Province)—I move:

1. Clause 3, page 2, line 28, omit "11" and insert "10".

Amendment No. 1 is a test for my major amendment No. 2, which seeks to omit clause 4.

If I may be permitted, Mr Acting Chairman, I shall foreshadow my arguments for those amendments. I thank the Minister for Transport for his explanation on why the government has decided to differentiate between Federal and State Acts, but despite what he said, I do not necessarily accept the logic of his case. The Minister said at length that the Federal Act set the outer parameters and no requirement was placed on the States to abide by those parameters; a more restrictive Act could be introduced.

The Minister also discussed the desirability of uniformity between States and the decisions made by the Standing Committee of Attorneys-General. Uniformity between the State and Federal Acts is highly desirable. There is no reason why the Federal Act should not prevail and the 90-day period should not be the time for which warrants are current. Despite what the Minister said by way of inference that does not mean that every warrant would necessarily be issued for 90 days and there would be a lack of judicial overview. That would be present if only 30-day warrants were issued.

I should have thought it was up to the judge to give approval for a warrant that extends for a period of less than 90 days if the judge was not convinced by the applicant of the desirability of a 90-day warrant. If the warrant were restricted to 30 days and the investigation continued over a long period, the judge could approve an extension of the warrant. As Mr Chamberlain said, in his second-reading speech, examples exist of surveillance that has been extended for a long period, especially investigations into the drug trade and in the absence from the country of drug couriers whose itinerary the police are unaware of. The police, in the latter case, would be rushing back to the judge regularly.

There is no argument against retaining uniformity with the Federal Acts and having a 90-day warrant. There is no compulsion on the judge to approve a warrant for 90 days if he believes it is unnecessary; the warrant could be approved for a lesser period.

I was intrigued by the Minister's argument about the issuing of warrants by telephone. The Minister seems to believe Victoria is a small State. I know it is the smallest mainland State in Australia but it is still bigger than the United Kingdom.

The Hon. J. H. Kennan—I said there were resident judges.

The Hon. W. R. BAXTER—The area of the State that I represent is a long way from resident judges. No Federal resident judge is anywhere within cooee of my province.

The Hon. J. H. Kennan—There are no nasty people in your area.

The Hon. W. R. BAXTER—The Minister says there are no nasty people in my province; how I wish that were true. I shall give the Minister an example. Several years ago while driving through my province I heard a radio broadcast that the police had made a drug bust on a certain road in the province. I mentally went down the road and thought of everyone who lived on it. Later in the day police cars were seen outside the person's house that I had identified in my mind as being the likely suspect.

That illustration is a perfect example of the time when police might have become aware at short notice about activities that were likely to take place and a telecommunications intercept at the residence might well have been useful in those investigations. Yet, if the police were unable to obtain a warrant by telephone, the opportunity of making the drug bust would have been lost. The police there are approximately 200 miles from Melbourne and a Federal resident judge. The Minister then said, "Well, maybe the judges will have trouble identifying the policeman over the telephone". The Minister was worried that the judges may not be certain whether they are talking to a policeman or Billy the blacksmith.

Judges are people of tremendous competence. They will not issue warrants on any occasion or to anyone about whose identity they have the slightest doubt. The judges will

play safe under those circumstances. I do not think the Minister has anything to fear that warrants will be issued on a falsehood because judges will not take that risk. Also, it is not beyond the wit of the Police Force and the judiciary to establish a mechanism that enables positive identification. That was a furphy.

Therefore, I intend to proceed with my amendment.

The Committee divided on Mr Baxter's amendment (the Hon. G. A. Sgro in the chair).

Ayes	21
Noes	18
Majority for the amendment ..	3

AYES	NOES
Mr Baxter	Mr Arnold
Mr Birrell	Mr Crawford
Mr Chamberlain	Mrs Dixon
Mr de Fegely	Mr Henshaw
Mr Dunn	Mrs Hogg
Mr Evans	Mr Kennan
Mr Granter	Mr Kennedy
Mr Guest	Mrs Kirner
Mr Hallam	Mr Landeryou
Mr Lawson	Mrs Lyster
Mr Long	Mr McArthur
Mr Macey	Mr Mier
Mr Miles	Mr Pullen
Mr Reid	Mr Van Buren
Mr Storey	Mr Walker
Mrs Tehan	Mr White
Mrs Varty	
Mr Ward	
Mr Wright	
Tellers:	*Tellers:*
Mr Connard	Mrs McLean
Mr Knowles	Mr Sandon
PAIR	
Mr Hunt	Mrs Coxsedge

The Hon. H. R. WARD (South Eastern Province)—I notice that in clause 3 the definition of "record" mentions a record or copy, whether in writing or otherwise, of the whole or a part of the information. Is it right to assume from those words that it also deals with a facsimile or telex in terms of interception purposes?

Clause 4

The Hon. J. H. KENNAN (Minister for Transport)—Yes, it would include facsimile.

The clause, as amended, was adopted.

The Hon. W. R. BAXTER (North Eastern Province)—I invite honourable members to vote against this clause. The arguments for the invitation were advanced a short time ago.

The Hon. B. A. CHAMBERLAIN (Western Province)—The power is contained in the Federal Act under section 51. The Minister for Transport, who was formerly the Attorney-General, said during his contribution that the Opposition lacked confidence in the judiciary. The invitation to vote against the clause is saying that the opposition parties are confident that the judiciary is able to determine when a warrant should be granted.

The situation would arise only in an extraordinary case, and one needs to re-examine section 20 (B) (2) of the Federal Act, which takes into account the issues to which the judge shall have regard when issuing any sort of warrant. The issues he takes into account are the very issues that the Attorney-General weighed up. For instance, the issue of

privacy, the gravity of the conduct constituting the offences, how much the information obtained would be likely to assist in the investigation by the Australian Federal Police, and so on.

Therefore, the safeguards are written into the Federal Act but we are giving the judge a broader discretion as to whether he will issue the warrant and, given that the Federal government has ultimate responsibility in relation to these issues and has set the charter, there is no reason why we should depart from the charter.

The clause was negatived.

Clauses 5 and 6 were agreed to.

Clause 7

The Hon. W. R. BAXTER (North Eastern Province)—I have reworded amendment No. 3 circulated in my name. I move:

2. Clause 7, page 6, line 7, omit "28" and insert "90".

In his earlier remarks the Minister for Transport advanced a compromise position which I find quite attractive in that rather than going to my original amendment to delete subclause (2), which would have done away with the need to advise the Attorney-General, the Minister suggested that there was some purpose in the Attorney-General being advised, but not necessarily being advised during the currency of the warrant.

He suggested a longer period than the 28 day period to which subclause (2) presently refers. I can see merit in his argument and I am therefore prepared not to proceed with my original amendment but to substitute in lieu thereof 90 days for 28 days. It will mean that the Chief Commissioner of Police must notify the Attorney-General within 90 days and he need not, therefore, do so before the warrant has expired. This extension will remove my reservations about too many people knowing about the interception while it is still being undertaken.

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

Clause 8

The Hon. W. R. BAXTER (North Eastern Province)—I move:

4. Clause 8, line 15, omit "7" and insert "6".

The amendment is consequential, as are all my amendments from this point onwards.

The amendment was agreed to.

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

1. Clause 8, line 15, before "(*b*)" insert "(1)".

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

Clause 9

The Hon. W. R. BAXTER (North Eastern Province)—I move:

5. Clause 9, line 31, omit "11" and insert "10".

The amendment was agreed to, and the clause, as amended, was adopted as were clauses 10 and 11.

Clause 12

The Hon. W. R. BAXTER (North Eastern Province)—I move:

6. Clause 12, line 22, omit "11" and insert "10".

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

Clause 13

The Hon. W. R. BAXTER (North Eastern Province)—I move:

7. Clause 13, line 34, omit "7 (1)" and insert "6".

The amendment was agreed to, and the clause, as amended, was adopted as was clause 14.

Clause 15

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

2. Clause 15, line 31, omit "inspection" and insert "inspecting".

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

Clause 16

The Hon. W. R. BAXTER (North Eastern Province)—I move:

8. Clause 16, line 29, omit "23" and insert "22".

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

Clause 17

The Hon. W. R. BAXTER (North Eastern Province)—I move:

9. Clause 17, line 6, omit "16" and insert "15".

10. Clause 17, line 11, omit "16" and insert "15".

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

Clause 18

The Hon. W. R. BAXTER (North Eastern Province)—I move:

11. Clause 18, line 18, omit "20" and insert "19".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 19.

Clause 20

The Hon. W. R. BAXTER (North Eastern Province)—I move:

12. Clause 20, line 35, omit "16" and insert "15".

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

Clause 21

The Hon. W. R. BAXTER (North Eastern Province)—I move:

13. Clause 21, line 16, omit "11" and insert "10".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 22.

Clause 23

The Hon. W. R. BAXTER (North Eastern Province)—I move:

14. Clause 23, line 36, omit "15" and insert "14".

The amendment was agreed to, and the clause, as amended, was adopted, as was the remaining clause.

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

WORKCARE COMMITTEE

The message from the Assembly relating to the WorkCare Committee was taken into consideration.

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

That the Council concur with the Assembly and that its resolution of 14 November 1987 to establish a Joint Select Committee on WorkCare be amended—

in paragraph 3 so as to now require the committee's final report to be presented no later than 31 July 1988; and

in paragraph 18 to extend the effect of the resolution up to and until 31 July 1988.

The Hon. HADDON STOREY (East Yarra Province)—The Opposition supports the motion. At the time the WorkCare Committee was established, it was appreciated that it would have a substantial job to perform. It has been shown that an immense amount of evidence is to be received and considered. That has demonstrated the worth of the establishment of the committee. Clearly, the committee needs further time to complete its job, and the Opposition supports the motion.

The Hon. W. R. BAXTER (North Eastern Province)—Likewise, the National Party supports the extension of time for the WorkCare Committee to report. The committee has been assiduous in its work and has sometimes met three or four times in a week. A vast volume of evidence is coming before the committee and that is indicative of the concern in the community about WorkCare and certain aspects of its mechanism. It is highly desirable that the committee be given time to bring in a considered rather than a rushed report so that this vexed question can be addressed in the best possible way.

The motion was agreed to.

It was ordered that a message be sent to the Assembly intimating the decision of the House.

SUPPLY (1988–89, No. 1) BILL AND WORKS AND SERVICES (ANCILLARY PROVISIONS, No. 1) BILL (No. 2)

The debates (adjourned from April 21) on the motions of the Hon. D. R. White (Minister for Health) for the second reading of these Bills were resumed.

The Hon. N. B. REID (Bendigo Province)—The Supply Bills give members of Parliament the opportunity of considering the government's management of the State. In this instance, the Bills cover the first four months of the 1988 financial year and includes programs and appropriations for the current works and services and expenditure. The provision of Supply for four months is consistent with the presentation of the annual Budget to Parliament in August.

During the lead-up to the 1982 State election, the Australian Labor Party promised the community of Victoria that it would provide an efficient, competent management of the Victorian economy and the public sector. It claimed that the introduction of modern business management methods and techniques would be applied to all government departments and statutory authorities and that a high level of accountability for all activities of government would be undertaken by the Labor Party if it won office.

That promise was repeated in 1985, after the Cain Labor government had been in office for three years. Since that time, there has been a waste of taxpayers' money on a wide range of schemes and organisations, questionable investments on the share market, a sorry episode of mismanagement by government departments in collecting revenue and paying accounts and in the general management of their affairs.

It is important to note that when people pay taxes for services, they expect to get full value for the money that has been expended and they expect the government, of whatever political persuasion it may be, to use the financial resources that are made available to it by the community of Victoria and expend them on worthwhile programs and the efficient operation of this State.

The Cain government has demonstrated in its period of office since 1982 that it is incapable of running the Victorian economy without increasing taxes and charges at an extremely high level. It has exhibited mismanagement to the extent of spending money unwisely on a number of different interests and activities, and in an endeavour to pay for those activities it has increased taxes and charges to astronomical levels.

I should like to highlight some of the areas in which the government has increased its taxes and charges to cover the mismanagement to which I refer. The government claimed that it would keep taxes and charges down to the level of the consumer price index, but it is quite clear that it has not done that. The stamp duty on insurance premiums, for example, has increased and now runs at $113·3 million; the stamp duty on betting transactions increased by 10·5 per cent to $17·5 million; petroleum franchise fees increased by 11·6 per cent to $239·6 million; totalisator returns increased by 11·5 per cent to $114·7 million; liquor franchise fees increased by 8·6 per cent to $93 million; the financial institutions duty increased by 13·8 per cent to $136 million; and fees and charges in the Department of Agriculture and Rural Affairs increased by 23·6 per cent to $14·6 million. That is one small sample of the increased taxes and charges that have been levied on the Victorian community to cover the Cain government's mismanagement of the Victorian economy.

The government has also embarked on a public authority dividend tax on statutory authorities, which is increasing year by year. The State Electricity Commission's public authority dividend increased by 32·6 per cent to $92·6 million; the Gas and Fuel Corporation dividend increased by 6·5 per cent to $266 million; and the Melbourne and Metropolitan Board of Works dividend increased by 21·5 per cent to $79 million. All of these increased public authority dividends are leading to an indirect tax on every user of water, electricity, gas, and services provided through the Board of Works in the metropolitan area.

In the area of firerms, the cost of shooter's licence fees, authority to hunt and new gun permits increased by 80 per cent. A couple of the issues that I have mentioned, particularly the petroleum franchise fee increase of 11·6 per cent to $239·6 million, lead me to talk about the issue that is receiving much attention at present, that is, the allocation of road funding in Victoria. I should like to quote from a few notes that I received from the Royal Automobile Club of Victoria which indicate that Australian motorists will pay $6·5 billion in Federal fuel taxes this financial year.

Although I recognise that the major responsibility for road funding in Australia lies with the Commonwealth government, it is a very important part of the Victorian Budget. I noted with interest the response from the Minister for Transport to a question during question time today in which he indicated that additional money would be spent on the Calder Highway between Melbourne and Bendigo. I am delighted to hear that. However, the issue is much wider than that. I shall return to the specific issue of the Calder Highway later.

I am now talking in the general context of the government's attitude towards road funding in Victoria. In Victoria, every time one fills up the tank of one's average-sized car, one pays almost $20 in tax, which works out to approximately $1000 a year. The RACV has directed to my attention the fact that in the areas of State responsibility, sales taxes and State charges, such as licensing, registration, stamp duty and State petrol tax—which all owners of vehicles in Victoria must pay—revenue is being collected by both the Federal and State governments.

Instead of the revenue being directed towards improving roads that would save lives and reduce the level of injuries, it is being channelled into other areas of expenditure. It would certainly ease the demand on the health system. I know the Minister handling the Supply Bill today, the Minister for Health, would be desirous of reducing the cost of health care in this State. It would reduce labour, maintenance and fuel costs for businesses and individuals and create employment, particularly in the local government area, where the maintenance and construction of roads is a very important aspect of all municipal works. It would ease the demand on the society's system by providing for jobs for people who may be semi-skilled or unskilled. It would stimulate tourism and improve the environment. Later I shall speak in more detail about a couple of the subjects I have mentioned, particularly the tourism aspect and the Calder Highway improvements.

When one examines the statistics on road crashes in Australia, one realises just how serious the problem has become and how important it is to improve the quality of roads. Road crashes claimed 2755 lives and injured 30 137 people last year. This cannot be allowed to continue. It is essential to direct the attention of both Commonwealth and State governments to the quality of roads, particularly through country areas where it appears most major fatalities occur.

Recently the *Age* newspaper published a map of Victoria indicating the areas where fatalities had occurred, and it showed that most of them had occurred on country roads. However, strangely enough, when one tried to identify who the drivers were, one found that most of them had been travelling from the metropolitan area. It was obvious they were inexperienced and unskilled in handling the country roads, which were in poor condition and which had on many occasions contributed to those road accidents.

Road crashes are now the most frequent cause of death for all Australians under 45 years of age; not heart disease or cancer. Since 1980 road crashes have claimed 24 700 lives. Bring that back to stark reality, and that figure is equal to the entire population of a large city like Shepparton. It is a frightening thought that all the inhabitants of Shepparton could have been wiped out on the roads of Australia.

If one adds to that the further 247 898 people who have been injured in road accidents and measures that not only in terms of the road trauma but also in the terms of the heartache for the families of the injured people, one realises the tremendous strain placed on families and on our already overtaxed hospital system.

The government needs to devote additional resources to this area, especially when one takes into account the revenue it collects and the increases that have taken place in petroleum franchise fees and associated motoring costs such as registration and licence fees. The government is not allocating that revenue to road improvements.

A number of municipalities have directed to my attention the reduction in real terms of road funding from both Federal and State governments. On 30 April 1988 an article in the *Bendigo Advertiser* reported that 30 northern Victorian councils had formed a lobby group to call for more government spending on roads. The move came in anticipation of possible further cutbacks in Federal government allocations for roads, spending on which has already fallen 25 per cent over the past three years.

The northern Victorian councils recognise the seriousness of the funding problem and have decided to do something positive about it. They have joined with representatives of the Royal Automobile Club of Victoria to conduct a major campaign at State and Federal levels to ensure that road funding is high on the priority list for both governments. In a submission to me the RACV said that better roads would provide jobs and cut community costs.

For every $1 million spent on roads, about 60 jobs are created. Therefore, for every extra $100 million allocated to road funds, unemployment payments would fall by nearly $38 million. For the same $100 million allocated, the State and Federal governments could expect to collect an extra $16 million in taxes.

As a member representing a large country electorate I am well aware that reduced travelling times encourage decentralised industry and provide more job opportunities in rural centres. Since coming to office in 1982, the government has neglected decentralised industry; those words have gone out of its vocabulary. The government does not recognise decentralised industry. The government should improve country roads so that the resultant reduced travelling times would provide incentives to industries to establish in rural areas. This would be beneficial to the State as a whole.

Better roads would allow the community generally to benefit from the increased safety. Better roads would also reduce the demand on the health and social security system. There would be improved traffic flow through and around cities and major towns, and lower noise and air pollution levels, particularly in residential and commercial centres affected by through traffic.

Better roads would also reduce transport costs for primary and secondary industries and improve efficiency in service industries. There would be more access to educational, occupational, health, cultural and sporting facilities in addition to more efficient and reliable bus services. I received a letter from Mr Malcolm Andrew, who runs a well-known pharmacy busines in Bendigo, concerning the need to improve the standard of the Calder Highway. In response to a question this morning, the Minister for Transport advised that money would be spent on upgrading that highway in the near future.

Mr Andrew also directed my attention to the need to upgrade the Calder Highway to four-lane status. I could not agree more wholeheartedly. I have worked with Councillor Jock Comini, the chairman of the Calder Highway improvement committee, to try to have the Calder Highway upgraded to national highway status. We have worked together since before 1982 when the honourable member for Berwick in another place was the Minister for Transport in the former Liberal Government. He came up with an excellent scheme for introducing passing lanes, and these were eventually improved to four-lane carriageways on some sections of the highway. Those improvements played a major part in removing some of the real trouble spots on the Calder Highway and improved the speed at which road traffic could travel between Melbourne and Bendigo.

Mr Andrew pointed out that the section of highway between Keilor and Diggers Rest was the most dangerous. I noted with pleasure that the Minister advised that that section will be upgraded next year. I shall be delighted to pass that information on to my constituent.

The government needs to address road funding so that all the factors I have mentioned, especially the safety aspects, are able to be implemented. Honourable members have heard me speak about road safety on numerous occasions. I also have an ongoing interest in road improvement because that, in turn, will have an impact on tourism. Two factors that deter people from touring throughout country Victoria are the poor state of the roads and the high cost of fuel. Petroleum prices vary widely around the State.

The sitting was suspended at 12.59 *p.m. until* 2.3 *p.m.*

The Hon. N. B. REID—Prior to the suspension of the sitting I spoke about the decline in road funding and its impact on tourism in Victoria. I have received a large volume of correspondence from a number of municipalities in the province I represent, including the Shire of Maldon, a well-known tourist destination, complaining about the decline in road funds and the poor roads in country Victoria. It is important to the City of Bendigo that the Calder Highway be improved not only because of its importance to the tourism industry in that part of Victoria but also because of the importance of an efficient road communication system between Melbourne and Bendigo.

The government must also fulfil its promise to the Bendigo Chinese Association and the City of Bendigo to develop the Chinese museum in Bendigo. Prior to the 1985 election the Cain government promised $3 million to the Bendigo Chinese Association and the City of Bendigo to build a museum to display what the association and I believe to be the greatest collection of Chinese artefacts in the world. Bendigo has the most famous collection

of Chinese dragons in Australia and it also has a wide variety of banners, costumes and other Chinese artefacts which, if displayed, would provide a wonderful tourist attraction. The government has had the money available to fulfil its obligation to provide $3 million to the Bendigo Chinese Museum, but it decided to allocate that money to another area.

Page 103 of the second report for 1986–87 of the Auditor-General sets out the allocation of funds by the Victorian Tourism Commission to the Chinatown Precinct in the City of Melbourne. In 1985–86 a contribution of $573 000 was made to that project; in 1986–87 a further $1·5 million contribution was made to that project, and an amount of $300 000 was paid directly to the Museum of Chinese Australian History in June 1987. The government cannot use the excuse that it did not have the money. What it chose to do was to give that money to the Chinatown precinct in the City of Melbourne rather than to the Bendigo Chinese Association, to which it had made a promise in 1985. I look forward to the day when the government honours that promise because a Chinese museum in Bendigo would be one of the most outstanding tourist attractions in Australia.

The Hon. K. I. M. Wright—It is deserving of government support.

The Hon. W. A. Landeryou—Surely you are not suggesting that the government has not supported it?

The Hon. N. B. REID—What has happened in the past few years is that the Cain government has become out of touch with the needs of the electorate. The lack of funds for the Bendigo Chinese Museum and the upgrading of the Calder Highway are just two of the instances of that.

The government is out of touch with the electorate in Victoria and it has been forced to back down on a number of issues in recent times. I am pleased that Mr Landeryou is in the Chamber because I know he keeps in close contact with the province he represents and he was partly responsible for the government backdown on the toxic waste dump.

The Hon. W. A. Landeryou—Hear, hear!

The Hon. N. B. REID—The proposed widening of Punt Road was another example of the government's insensitivity to the wishes of the community. The government had to have another think about the proposed firearms legislation because it obviously had not listened to the Victorian community. More recently, the govenment had to back off on the Richmond–Brunswick powerline project because it had not consulted with or considered the community. Those examples show that the government is out of touch with the wishes of the Victorian community.

The Hon. W. A. Landeryou—Were you on the committee when the powerline was discussed?

The Hon. N. B. REID—No, I was not. I am pleased Mr Landeryou allowed me to put that on the record. I have tried to illustrate to the House the government's mismanagement of taxpayers' money. The government has also been remiss in collecting revenue due to it and has left supplier's accounts unpaid. What it was done to compensate for its mismanagement and its incompetence has been to increase taxes and charges at all levels.

The Hon. J. G. MILES (Templestowe Province)—I shall concentrate, as my colleague Mr Reid has done, on the waste, mismanagement and incompetence of the government and on the fraud and deceit that is continually being uncovered.

I particularly refer to the housing and construction portfolio and the health portfolio dealt with in the table to the Supply (1988–89, No. 1) Bill. I shall attempt to demonstrate the failure of the government in these and other areas by referring to mismanagement, incompetence, possible fraud and the failure of the government's social justice policy.

The government repeatedly states that it follows the social justice policy of looking after the disadvantaged, the needy and the poor. By examining only the housing and health

areas it can be illustrated that the government is not looking after its disadvantaged, sick and elderly constituents, even with the best of intent.

Last year in the supply debate I referred to the shortage of public housing and to public debt. I referred to the housing waiting list totalling more than 32 000. That figure has not decreased, and there are substantial amounts of rental arrears.

The Auditor-General is best equipped to examine the situation with regard to the government's failure. At pages 89 to 94 of the Auditor-General's second report for the year 1986–87, published in April 1988, he refers to the housing and construction area, and states, at page 89:

At 30 June 1987 the severity of the arrears problem in Victoria compared with housing bodies in other states is demonstrated below . . .

In recent years, audit has commented on the unsatisfactory level of rental arrears. Although the Director of Housing has identified the reduction of arrears as a major priority, the position at 30 June 1987 has not improved.

The figures prove that the position was very poor.

At page 89, paragraph 3.10.4 further states:

Victoria which has 57 550 rental properties had rental arrears of $14·9 million after bad debts of $4·1 million had been written off;

New South Wales which has 108 961 rental properties had rental arrears of $3·6 million after bad debts of $400 000 had been written off; and

South Australia which has 58 884 rental properties had rental arrears of $1·8 million after bad debts of $1·1 million had been written off.

At page 90 of the report the Auditor-General further states:

While the level of unemployment is only one factor which may contribute to the magnitude of arrears, an analysis comparing unemployment figures between various States revealed that Victoria, despite having the lowest unemployment had the highest rental arrears.

The reasons for Victoria's poor performance compared with other States in the management of rental arrears is a matter for concern . . .

I shall not go into further detail because in general the Auditor-General is very critical of the government's performance in the housing sector.

The Auditor-General has included several headings in the report, including "Integrity of the Rental Database", "Mortgage Relief Scheme", and paragraph 3.10.17 at page 92 states:

During the course of the review audit expressed concern with management's inability to determine whether the scheme was cost effective due to the nonretention of information . . .

At paragraph 3.10.20 the Auditor-General states:

The failure to collect and charge interest on instalment arrears resulted in revenue collection not being maximised with a consequential impact on the delivery of housing programs.

The Auditor-General then refers to fraud and mismanagement, and at paragraph 3.10.21 refers to excessive claims by contractors. It is evident from the Auditor-General's report that the government's implementation of its policy on housing has failed.

I shall refer to a number of statistics contained in that report, and to newspaper commentary. I agree with most media commentators that the housing portfolio is a shambles. A large proportion of the annual State Budget, $700 million, is devoted to the housing portfolio, yet the financial information systems are poor, the rental arrears are considerable—approximately $14·9 million is owing—and there is total inefficiency. Although there is a shortage of public housing, thereby creating a long waiting list—more than 32 000 people are awaiting residences—people in public housing have accumulated rental arrears of $14·9 million.

More than 1000 Ministry of Housing and Construction residences are untenanted, yet the long waiting list continues to exist. Vacancies cannot be filled because of departmental inefficiencies. The Auditor-General has referred to $228 000 in excess claims by contractors—in other words, fraud. Approximately 80 per cent of borrowers under the mortgage relief scheme are in arrears, with at least 20 per cent having made no payments. The Ministry of Housing and Construction is not fully utilising its resources. A good example is the waste and mismanagement in the department, with a waiting list that is out of control.

I could refer to dozens of media reports published during the past three months commenting on the failure of the government. A typical article is contained in the *Herald* of 25 March 1988, written by Brendan O'Donoghue, the State political reporter. Under the heading "Crisis in Housing—new report" he states:

> Internal government documents reveal that the Ministry of Housing is in a crisis.
>
> The problems identified include:
>
> About $12·8 million in rent is uncollected.
>
> The waiting list for accommodation has more than doubled in the past five years to 32 000.
>
> In January almost 600 government properties were listed as vacant for more than six weeks.
>
> Lack of staff has increased the potential for fraud, overcharging and shoddy work in government rental properties.

Some documents were retained under the provisions of the freedom of information legislation and were tabled in another place. In fairness to the government, the Minister for Housing and Construction in the other place has admitted to problems when he said that he was disturbed at the contents of the report which referred to fraud, mismanagement, rental arrears, waiting lists and untenanted homes.

I suppose that the Minister was being honest but his statement does not alleviate the problem for those people who have housing difficulties.

The Minister for Housing and Construction admits to and agrees with the criticism made by the shadow Minister for Housing and Construction, the honourable member for Prahran, Mr Hayward, in another place. Many articles in the newspapers during the past couple of months have taken the same view. So that I am not repetitious I shall not detail those.

However, I reiterate that there are conclusive figures which illustrate that the administration of the Ministry of Housing and Construction, during the six years of Labor government, has performed poorly. This is one area where the social justice policy of the Labor government should have been carried out so that needy and disadvantaged people have roofs over their heads, but this has not occurred. I am saddened that the needy and financially disadvantaged cannot get roofs over their heads—even when housing is available—because they are not listed and the Ministry does not know where these houses are.

Mr Sandon has just entered the Chamber as I am about to refer to the caravan accommodation situation or the mobile home syndrome. This is an indication of the problems occurring with housing because although there are people who wish to live in caravans there are also people who do so because they cannot obtain homes for rental as a result of the waiting lists being too long and the Ministry being poorly administered. The government's social justice policy was implemented so that the needy would be protected. However, there are injustices in the housing area.

I turn now to the health area and to the matter of cemeteries. Millions of dollars in property are involved in this area, and it is not being administered correctly. With more than 400 cemeteries in the State one can imagine the vast real estate and the enormous funds involved with cemeteries.

The cemetery trusts also have large trust funds. One of the larger cemeteries, the Fawkner Crematorium and Memorial Park, has approximately $2·75 million in trust funds; the Necropolis at Springvale has approximately $7·9 million in trust funds; the Altona cemetery has approximately $1·3 million in trust funds; the Templestowe Public Cemetery has approximately $3 million and the Cheltenham Public Cemetery has approximately $3 million in trust funds. Most other trusts have similar or lesser amounts in their trust funds.

Funeral directors in this State are promoting the prepaid funeral industry and large amounts of money are involved. One funeral director has approximately $6 million already in his prepaid funeral trust. To give honourable members an idea of the funds involved and to illustrate the importance of this issue, a trust in New South Wales has approximately $8 million in prepaid funeral funds but those funds were squandered on Mercedes, yachts, and overseas trips. Because of that situation, a recent report of the Mortuary Industry and Cemeteries Administration Committee—the MICA committee—suggested that there should be tighter controls over the prepaid funeral industry to prevent that situation occurring here.

Mr Curley, the chief cemeteries officer at Health Department Victoria, has suggested that it will be the year 2000 before all the proposed cemetery sites are open. There is a shortage of cemetery space in metropolitan Melbourne; five years ago it was suggested that Bundoora cemetery would be open in five years' time but the opening of that cemetery is still approximately five years away. If the Bundoora cemetery is not completed soon there will be no cemetery space available, as the other cemeteries will be closed, and that will cause a problem for people who prefer cemetery burials.

William Gladstone said:

> Show me the manner in which a nation or country cares for its dead and I will measure with mathematical exactness the tender sympathies of its people, their respect for the laws of the land and their loyalty to high ideals.

William Gladstone did not laugh about the funeral industry and I do not believe that we in Victoria should do so.

The MICA committee received some publicity recently and I suggest, as this is an area involving millions of dollars, that the committee has a responsibility in its approach to the cemetery situation. Most people are not aware of the money that is involved in this area. The committee has received commendations from the Minister for Health. It also received a letter for the Shire of Eltham which stated in part:

> Council congratulates your committee for its comprehensive and perceptive report on land reserves at the Eltham cemetery.

The Ballaarat General Cemeteries Trust wrote to the committee:

> The Trustees of Ballaarat General Cemeteries have studied the "Review of Cemetery legislation"...
>
> and commend the committee on the way the review has been presented and the exacting research which has gone into it.

The Cemeteries and Crematoria Association of Victoria in a letter to the committee stated:

> The association wishes to commend the members of the Mortuary Industry and Cemeteries Administration Committee for the very thorough manner in which they have tackled the job of reviewing cemetery legislation.

The Boroondara General Cemetery Trust, the Box Hill Cemetery Trust, the City of Wangaratta, the Fawkner Crematorium and Memorial Park Trust, The Memorial Park Trust, Altona, the Necropolis Trust, the Public Records Office, the Stillbirth and Neonatal Death Support Inc. and the Victorian Ethnic Affairs Commission have also written to the committee. The Ombudsman also wrote to the committee; he said:

> I wish to congratulate the committee on what I believe is basically a very valuable document in that it has correctly identified the problem areas in the existing Act and has made well researched recommendations for amendments supported by logical argument.

The Minister occasionally has publicly thanked the committee for its work and he also wrote to the Deputy Premier in April 1986:

> Thank you for providing me with a copy of a letter you have received from Mr C. Kirwood, MP, Chairman, Mortuary Industry and Cemeteries Administration Committee seeking approval for the extension of the committee's term.
>
> I am in agreement with the arguments put forward by the committee and would have no objection to the term being extended for the duration of the present Parliament.

The Mortuary Industry and Cemeteries Administration Committee is the watchdog of the cemetery industry, and it has been shabbily treated and inaccurately criticised by cheap journalism in the *Herald.*

Some members of the Australian Labor Party have apologised to me, and no doubt to other members of the committee, because of the part played by some senior Ministers of the government, and some backbench members of the government, in contributing to that report in the *Herald.* It is deplorable when one's colleagues resort to gutter journalism to rubbish an important committee.

I direct the attention of the House to a classic example of the misuse of public money and Crown land associated with the Eltham Cemetery Trust. I can prove chapter and verse the misuse of public money and the possible fraud, deceit and deviousness that is involved.

The problems associated with the Eltham cemetery were supposedly rectified by the statement made yesterday by the Minister for Health, but the matter is far from ended and the feeling among the Eltham community is even stronger than it was before. The Minister supposedly conciliated on this issue.

In 1961 a strip of land between Montsalvat and the existing Eltham Cemetery, which was almost full, was sold by Mr Justus Jorgensen to the Eltham Cemetery Trust. According to the evidence given to the Mortuary Industry and Cemeteries Administration Commision, Mr Jorgensen was happy to sell the land to the cemetery, because in the European tradition, a place of historical antiquity was compatible with a cemetery, and Mr Jorgensen agreed to sell approximately 2·7 hectares of land to the trust.

In 1967 the Governor in Council declared that the land would be permanently reserved for cemetery purposes. Legal opinion is that the Order in Council cannot be changed except by an Act of Parliament. In 1983 an Act of Parliament granted 0·751 hectares to Montsalvat because a draftsman had made a mistake in the drafting of the boundaries some years earlier.

I seek leave to table the Revocation and Excision of Crown Reservations Act (No. 2), proclaimed by the Governor in Council in 1983, because the Act and the non-compliance with the Act by Montsalvat illustrate the fraud, mismanagement and incompetence of the government and of an individual who is supported by the government. I do not understand how the government can support a Bollinger socialist.

The provisions of the Act have not been followed, and I ask whether the government intends to change the status of the land for purposes other than cemetery purposes, as the Minister for Health glibly stated in yesterday's press release. If so, the change would have to be implemented by Act of Parliament.

In 1983 Mr Sigmund Jorgensen, the son of Mr Justus Jorgensen, attempted to acquire this land to square off his boundaries. The Eltham Cemetery Trust decided that Mr Jorgensen could have that land, provided he paid for it. It was Crown land under the control of the trust. Mr Jorgensen was informed by the Department of Conservation, Forests and Lands in 1983—Mrs Kirner was not then the Minister—that he had one month to pay for the land. Mr Jorgensen is still using that land, valued at $53 000, but he has not paid for it.

The Mortuary Industry and Cemeteries Administration Committee, in its report on the Eltham Cemetery Trust—an excellent, well-researched report—recommended that Mr Jorgensen should pay for the land that he was using. I may have used a similar analogy before, and sometimes analogies can be misleading, but if I were to take part of your property, Mr President, at an agreed price of $55 000, and if a government department said that I had to pay the money within one month but I refused to pay, even though I had been using the property for five years, something would be drastically wrong.

Mr Jorgensen used the argument that he would consider paying the money owing when the circumstances surrounding the approximately 2 hectares of land were clarified. It is equally extraordinary that in 1988 the government can glibly give away another 2 hectares of Crown land worth $1·5 million to Mr Jorgensen under the pretext that it will be administered by the Eltham Shire Council and that the land will be used for passive recreation purposes. It is to be hoped that Mr Jorgensen will not use that land for a road so that people can gain access to his proposed restaurant, because Mr Jorgensen, in an article in the *New Idea*, admitted that he had plans to build a restaurant at Eltham which would take the place of the restaurant that he owned at that time in Collingwood. He thought it was a great place for a restaurant.

Mr Jorgensen's father had sold property to the Eltham Cemetery Trust in 1963, but 25 years later his son says that he wants that land back. To its credit, the trust has said that it is the trust's land, proclaimed by Order in Council, and it will not give it back. Mr Jorgensen has taken the matter to the government so that it can intervene.

The government, in its decision announced yesterday, has decided that two-thirds of that land—of approximately 2 hectares—will be given to Montsalvat, to be administered by the Eltham Shire Council and used as passive parkland. That is an extraordinary misuse of taxpayers' money.

It is incredible that $1·5 million of public money has been misused by the government. The government's gift to such an entrepreneur would not seem to be in keeping with the objectives of the Labor Party. Elderly people in the Shire of Eltham are being grossly disadvantaged by the government's action. They have booked graves in which to bury their children and their grandchildren when they die, yet the government has now given them only a third of that land—land that was given to the people of Eltham as a result of an order made by the Governor in Council in 1967. In fact, less than one-third of that land will be available because of the need for drainage and easements. Mr Jorgensen is to be given land worth $1 million. It is an incredible action for a Labor government to take.

The government is prepared to support such an entrepreneur who refuses to pay for the excised land or to pay for the additional land that he has been given by the government.

The Hon. C. F. Van Buren interjected.

The Hon. J. G. MILES—Mr Van Buren, by interjection, referred to the policies of the former Liberal government. He has made splendid speeches in the House talking about the rights of the underprivileged and the disadvantaged. I have been impressed by the speeches he has made. Yet I doubt whether Mr Van Buren and his colleagues would be impressed by the fact that the government has given $1 million worth of land to a commercial entrepreneur. Because of that decision the residents of Eltham will no longer be able to bury their dead in land that had been reserved for them by order of the Governor in Council. Mr Jorgensen will be able to use the land that he has been given to establish a caravan park, a restaurant, or for whatever purpose he wishes to use it. One wonders whether the gift of the land is just, equitable, legal or fair.

The Minister and his staff have acted in a devious way. The Minister's department has responsibility for cemeteries. Such matters were dealt with in a non-partisan way before the government took this decision. That will no longer be the case. *Hansard* records the many questions that I have asked the Minister for Health about his intention to act on the report of the Mortuary Industry and Cemeteries Administration Committee that was

published in May 1986. The Minister's response was that he would take action on the recommendations contained in the report "soon". The Minister finally decided to take action two years after the report was published.

I shall comment on the way in which the Minister reached his decision. I have the utmost respect for the six original trustees of the Eltham Cemetery Trust. Two of the men are more than 70 years of age, and another trustee is seriously ill in hospital as a result of a heart attack. The pressures brought to bear by Mr Jorgensen and his sleazy mates in the community and by the government have contributed to that man's poor state of health. I am referring to a Mr Frank Burgoyne, whose family has lived in the area for almost 100 years. He is a descendant of Burgoyne of Saratoga, a famous American general.

Mr Burgoyne and others like him have had the cemetery land taken from them by the government—land that was set aside for the burial of the citizens of Eltham. They have been deprived of that land by a Johnny-come-lately: Mr Jorgensen's family has lived in the area for 53 years; the Burgoyne family have lived in the area for almost a century. Mr Jorgensen has been given land worth approximately $1 million virtually free of charge; yet the residents of Eltham will be deprived of two-thirds of the land that had been set aside for their use. I hope Mr Burgoyne recovers and that the government will not have him on its conscience if his condition deteriorates.

The Minister was unable to obtain the agreement of the six "old guard" trustees, as I call them, about the Jorgensen proposal. The Minister made a political manoeuvre. In the middle of last year he appointed six more trustees, people who had a financial interest in the matter because they were supporters of Mr Jorgensen and Montsalvat. The new guard and old guard trustees argued for some time about the matter and were unable to reach a decision. Eventually, either the Minister or one of his advisers approached the Eltham Shire Council. They asked the council to give them an answer within two days about whether they supported option 2 in the consultant's report, which meant that two-thirds of the land would be given to Montsalvat.

The Eltham shire president, without consulting his council colleagues, agreed to option 2. Some members of the council were annoyed about the action he took, but at a subsequent meeting before Christmas last year, from which two councillors were absent, the council ratified the decision made by the shire president by four votes to three.

I have received a letter from Councillor John Cohen, which I seek leave to have tabled. He says that he is a longtime Labor Party supporter. He is furious about the decision made by the government and he has begun to wonder whether he can continue to support the Labor Party in this area. Mr Cohen is a councillor in the riding in which the cemetery and Montsalvat are situated. He is vehemently opposed to the decision that has been taken and questions the justice, equity, legality and fairness of that decision.

The shire president and particularly the shire councillors, were not given the opportunity of examining the other options in the consultant's report. He was forced to decide within two days about whether to accept option 2. Before the council could consider the matter, an answer was given; so that when the councillors met, they merely rubber-stamped the acceptance of option 2 without having the opportunity of considering the other options. I noted the Minister's press release yesterday with some interest. He said that he had reached his decision based on the acceptance of the proposal by the trustees of the Eltham Cemetery. There was no such acceptance in reality of the Minister's decision. The six old guard members of the trust would be furious about the decision that has been taken. Mr Frank Burgoyne has been seriously ill in hospital since the meeting to which I refer.

Although the twelve trustees agreed last year to abide by the Minister's decision, those elderly gentlemen are not as politically sharp as some members of the House. They assumed the Minister would make a sensible decision in the interests of the people of Eltham and not in the interests of a smart entrepreneur and his moneyed mates, who are all comparative newcomers to Eltham. Those six trustees were forced to abide by the Minister's decision, which was announced on Wednesday, with gritted teeth.

The matter is far from resolved. The government has misused public money. The Eltham Cemetery Support Group, which has written letters to the government on the matter, recently presented a petition signed by 1200 residents of Eltham, protesting about the fact that Eltham Cemetery land could not be used for the purpose for which it was intended. The support group will become more active in attempting to have the decision re-examined. The group is led by a Ms Glennys Michaelson, who wrote an excellent letter that was published in the *Herald* in response to remarks made by the Minister.

I shall read a letter I received about the matter, and seek leave to have it tabled. A letter dated 12 December 1984 and addressed to the Premier states:

I am writing in reference to the delay in permitting Eltham Cemetery to develop land it owns adjacent to Montsalvat.

We have already corresponded on this subject. Your most recent letter of 23 July advises me that you had "asked the Minister for Planning to refrain from rezoning the land until this report (from Tourism) is available".

That report was prepared by Mr Don Dunstan, who has now returned to South Australia. One wonders at the sort of report he would have prepared!

He continues:

Further delay now is impossible as there are now no lawn graves left apart from those that have been prebooked.

That was in 1984. He continues:

The political consequences of having to close the cemetery while they have land available to develop and the indecision over the land are substantial.

The present trustees are upset at the delay and may consider resigning if a decision is not taken.

I would ask you to either immediately allow the land to be rezoned for cemetery development which will be done in cooperation with Montsalvat to preserve its ambience, or that tourism purchase the land at market price so an alternative site may be found.

The letter is signed by the then Minister of Health, the Honourable Tom Roper, now the Minister for Planning and Environment. Again, I point out that that was 12 December 1984.

The PRESIDENT—Order! At present Mr Miles should be debating the Supply Bills. It is a tradition in this House during the second-reading debate to range fairly widely on issues contained in the Supply Bills, but the manner in which Mr Miles is debating this issue and the extent to which he has concentrated on a single issue leads me to the view that it would be better if he were to raise this matter on a notice of motion where he would have ample opportunity of widely debating the history of the issue.

I suggest that although this is a far-ranging debate, it would be better if the proper forms of the House were used for this issue to be fully considered. I ask Mr Miles to consider that suggestion.

The Hon. J. G. MILES—Thank you, Mr President, I accept your ruling. I had almost finished the point I wished to make, but I emphasise that the Eltham Cemetery is a classic example of this government's mismanagement, incompetence, fraud and deceitfulness. I shall not refer to this letter in great detail, but in speaking about the cemetery, the then Minister of Health wrote to the Premier on 30 August 1984 and said that very soon all cemeteries in the metropolitan area will be full. He asked the Premier to please do something and to get on with the Bundoora cemetery.

Again, that was 1984, and it should be of interest to Victorian taxpayers to discover what funds have been wasted in the health budget. Some four years have passed and the Bundoora Cemetery, through incredible planning delays, is not much further advanced. Its completion is still five years away. The Minister concludes by stating:

This urgency in relation to Eltham should be noted. Not only would an adverse decision have repercussion, but no decision or a delay will have the same effect.

I contrast the attitude of the former Minister of Health, now the Minister for Planning and Environment, on the Eltham cemetery against the attitude of the current Minister for Health and his heartless, callous, deceitful and incompetent administration of a couple of millions of dollars of taxpayers' money. Mr President, that is why I have used some of these documents in the debate today—I have many more.

While referring to political letters, I direct to the attention of the House the attitude of my colleague representing Templestowe Province, Mr Arnold, who can be observed floating in and out of the Chamber on occasions.

The Hon. M. J. Arnold—He is being nasty.

The Hon. J. G. MILES—As all honourable members do, from time to time—that is, float in and out of the Chamber! On a lighter note, when we have been involved in playing against the Governor's team at tennis and with the Premier's team in cricket, I have enjoyed the company of Mr Arnold, who has been a significant contributor on the sporting field. However, when the Eltham Cemetery Support Group tried to have the cemetery land legitimately granted to the Eltham Cemetery Trust, Mr Arnold wrote to the group. His letter of 23 October 1986 states:

> Dear Friends,
>
> I acknowledge receipt of your letter of 25 August 1986 and note its contents. It has only recently been received at this office despite the date.
>
> As I have stated in earlier conversations with concerned people in the Eltham area, I fully support the view held by the Eltham Cemetery Support Group.

This is amazing! The Mortuary Industry and Cemeteries Administration Committee's report is the same as the view expressed by the Eltham Cemetery Support Group, although the honourable member for Greensborough in the other place and the government do not support the report. The Minister for Health and "Benny Hills" said that Mr Arnold and many of his constituents do not support that view, so perhaps there is some conflict within the government. Of course, those party members are of the same faction.

The Hon. M. J. ARNOLD (Templestowe Province)—On a point of order, Mr President, I direct to your attention the fact that Mr Miles is straying far and wide in the debate on the Supply Bills by referring to this issue. You have already allowed him latitude in continuing along those lines. The Eltham Cemetery dispute has been closely monitored and the government has expressed its concern about it. I understand that a public announcement was reported in yesterday's newspapers, and that will resolve some of those problems. I believe Mr Miles should be brought back to the debate on the Supply Bills.

The PRESIDENT—Order! I uphold the point of order. Earlier I made a ruling on this matter, and I understood that Mr Miles was to quote from only one further letter, which he has now done. I ask Mr Miles to conclude this matter.

The Hon. J. G. MILES (Templestowe Province)—Enough has been said about housing and about this cemetery issue to illustrate what I said at the outset about the housing and health budgets. The Eltham Cemetery is a classic case of waste, mismanagement, incompetence, fraud and misuse of government money. Earlier I produced figures on housing to illustrate that the same principles apply in that portfolio. In both health and housing I used general examples in the housing portfolio and specific examples in health to demonstrate that this government and its Ministers are incompetent in their administration of financial management.

The government continues to blame the former Liberal government for its misfortunes, but it has had six years to correctly administer the housing and health areas. Still major criticisms can be made. I hope I have made clear the problems with the government. Again diverting to the game of cricket, which I play occasionally, I point out that some rules of ethics are involved, and among one's own colleagues and team mates one believes all are working together and are on the same side.

Recently I have learned a few things about government Ministers, as reported in the *Herald*. The Minister for Health has misled many people and it is even suggested that he denigrated his own colleagues to a newspaper journalist. It is obvious that party lines have been drawn on the Eltham Cemetery issue. I warn the government that when legislation is initiated along the lines suggested by the Minister for Health, I will strongly recommend that the Liberal Party opposes the measure.

The Hon. ROBERT LAWSON (Higinbotham Province)—The role of the Opposition in this Chamber when considering the Budget and the Supply Bill is to play the part of Cassandra. I have drawn this analogy before with Cassandra, the daughter of King Priam of Troy. The gods had given her both a gift and a curse. The gift was that she was able to foresee the future; the curse was that no-one would believe her. Members of the Opposition are able to foresee the future disasters that will befall the State, but the curse is that no-one on the government side believes us. However, we have some part to play: we can read the entrails of the Supply Bill and we can judge the auguries of the future.

The Opposition is particularly concerned about the debt level imposed on Victoria. As a secondary point, it is also deeply concerned about the Commonwealth debt, because they are both linked. The Commonwealth debt is the most important but honourable members must deal with the State debt and closely examine the Budget and the Supply Bill which is now before the House.

The Liberal Party has noted with some concern that since the Labor government came to power the Victorian public debt has doubled. When the Liberal government left office, the State debt was approximately $11 billion. For that we had roads, harbour works, offices, buildings, power supply, power generating plants and all the infrastructure of a modern State. The debt had built up over the previous 148 years. Since the Labor government has been in office, in six years the State debt has doubled to approximately $22 billion and no-one in this Parliament or outside it can point to a doubling of the advantages or the value that has accrued to the State because of the doubling of that debt.

Are we twice as well off as we were when the Liberal government was in power? Do we have twice as many physical possessions as when the Liberal government was in power? Are our services twice as good as when the Liberal government was in power? By any fair assessment, one would have to answer, "No", because the government has not delivered the services one would expect for that additional $11 billion of debt. The government has not purchased the infrastructure that should be available for a modern Victoria. A terrible legacy has been left for our children to settle.

The Liberal Party in the main has agreed and cooperated with the Labor government in passing Bills to clean up the environment and to create national parks; the Liberal Party has endeavoured to cooperate as much as possible in matters of conservation. The Opposition did not oppose the Bill to outlaw the use of nuclear power in Victoria because it agreed with the Labor government that nuclear power leaves long-lasting implications and problems behind it. What the Opposition cannot agree on is the long-lasting effects of the debt that has accrued in Victoria over the past six years. We have a serious fall-out problem which is in a different class from nuclear power and in a different class from most other problems that beset a State such as ours. We cannot settle that debt ourselves because we are unable to pay our debts. We do not have the assets and, as a consequence, we will leave it to our children to clean up that mess. That is the most serious accusation that can be levelled against the government.

I remind the House that the Treasurer and the Premier will shortly go to Canberra to try to increase the borrowing limits for the State of Victoria. The government wants to borrow more money, and that is a disaster. We have one problem on our hands, yet the government will go to Canberra to increase our problems. The Liberal Party does not object to a reasonable debt. No State or nation can run properly unless it has a reasonable debt, but one must consider the nature of that debt, the future of that debt and the income that is available to pay for it. Our children may not be as rich as we are and prosperity may not continue. The Treasurer will learn, as Mr Warwick Fairfax has, that one cannot

contract debts in an expanding economy and hope to get away with it, because some day the economy will contract again. I put Warwick Fairfax in the same league as the Treasurer; they come from the same mob.

Any financial disaster has long-term consequences and Victoria will be left in a poor position to meet any disaster. The State Electricity Commission and the Gas and Fuel Corporation of Victoria are examples of what I am talking about. The commission is our largest public utility. The government expects the SEC to perform several roles. It expects it to be a charitable organisation looking after its consumers and anyone who cannot pay will not have his or her electricity cut off. The commission gives concessions to age pensioners, invalid pensioners and the like. By doing that, its revenue base is considerably reduced. On the other hand, the government expects the commission to be a charitable organisation yet, on the other hand, it expects it to be a business enterprise. The commission is in the business of generating electricity. We all expect it to made profits, as would any business, whether it be a corner shop or a huge corporation like the commission. All enterprises must make money for the future, they have to create wealth in order to keep the business going, to pay their debts and to provide for anything else.

The government looks upon the SEC as a milch cow through the public authority dividend. In the last Budget period the commission made a profit of $40 million, out of which it paid $80 million to the government by way of public authority dividend. It is behind at the moment. Figures are available that show the amount of money looted from the commission over the past few years.

The Liberal government first introduced the public authority dividend and it was reasonable to do so in light of the amount of money collected from the SEC at that time. The Treasurer has a different idea about collecting money from the commission, and the commission is now penurious. It is virtually bankrupt because of the public authority dividend, the brown coal levy, other imports costs and charges and its foreign exchange losses. The SEC is in a sad state and this has occurred over the six years that the Labor government has been in office.

Another service that is expected of the SEC, as well as being a never-failing source of electricity, is the construction of new power stations. The commission is not in a position to construct a power station because it is bankrupt, and every cent for a new power station would have to be borrowed. It would have to borrow $1·5 billion to build a power station. If it does not build a new power station it will have to find the capital to refurbish the old power stations, and shortly it will have to find capital to continue to stages 1, 2, 3 and 4 of Loy Yang B. That will be an expensive excercise.

As we know, there are problems in the Latrobe Valley that cannot be fixed by the occasional injection of $1·5 billion. We have reached the stage where the unions in the Latrobe Valley feel aggrieved if they do not receive their occasional injection of $1 billion.

Allied to what I have been talking about is the public sector debt. I have mentioned the total public sector debt of $22 billion. There are also public liabilities in respect of compulsory third-party insurance totalling $1·118 billion; unfunded WorkCare liabilities, totalling $1·706 billion; government workers' compensation totalling $340 million; and the debt for the Portland Smelter Unit Trust, totalling $600 million. The public sector employee-related liabilities for unfunded superannuation, long service leave and recreational leave total $6 billion.

The amount owed to creditors by the public sector is estimated at $500 million. Somewhere in the community there are creditors who have supplied goods and services to various government departments and have not been paid. The government is using its creditors as a sort of bank and has not paid the estimated $500 million, or whatever the figure is. As I have said, it is estimated, so I do not seek to be held to the figure.

Victoria is in financial trouble. Everything the Treasurer does gets Victoria into deeper trouble. The Opposition has collected a number of examples of waste and mismanagement

by the government. The government is not only taking the people's money away but also is wasting it.

I refer to some more examples of mismanagement by the government. The losses on the Chinese Museum project amounted to $1·3 million; the losses in 1986 on the Mount Buffalo Chalet totalled $250 000. Failure to enforce penalties under section 97 of the Stamps Act 1958 amounted to losses of $750 000. Failure to collect fees for boiler and pressure vessels amounted to losses of $4·75 million. Boilers and pressure vessels are no longer being inspected, so explosions can be expected to occur.

I refer to poor stock control in the Victoria Police Force. Figures released by the Auditor-General indicate that the Victoria Police Force has 238 years' worth of handcuffs and 60 years' worth of binders for Acts of Parliament.

The Hon. W. R. Baxter—I am a bit short of them; perhaps I could have one or two.

The Hon. ROBERT LAWSON—The total cost of those items is estimated at approximately $147 000.

I am sure that, if Mr Baxter were to apply on the proper buff form, the Victoria Police Force might give him a set of handcuffs, or, if he asks very nicely, some of the 60 years' worth of binders for Acts of Parliament!

The government is squandering the taxpayers' money on propaganda and opinion polls. I direct attention to the Premier's media unit costs in 1985–86. The misinformation media unit attached to the Department of the Premier and Cabinet cost $600 000 that year. The publicity costs for WorkCare totalled an extraordinary $3·1 million.

Surveys and opinion polls cost $2 million up to October 1987. That money was wasted as the people conducting the polls told the government to go hard on the gun issue. They said that if the government brought in gun legislation it would isolate the National Party and would divide members of the Liberal Party. They said that everyone in the eastern suburbs would love the government and vote for it en masse. The people conducting the opinion polls got it wrong, and the Liberal Party got it right.

The Hon. B. P. Dunn—The National Party got it right!

The Hon. ROBERT LAWSON—If Mr Dunn insists, the National Party got it right; that can be debated later.

The government discovered too late that the majority of gun owners in Victoria were Labor voters who became totally outraged upon discovering that the government planned to take their guns away from them. The party divided on the issue was the Labor Party. The $2 million spent on surveys and opinion polls was either totally wasted or brought results which were entirely the reverse of those expected.

Advertising in respect of the Brunswick–Richmond powerline by the State Electricity Commission prior to the Kew by-election cost $200 000. It was a failure because the combined vote for the Labor Party and the Australian Democrats was approximately 40 per cent, 1 per cent more than the Australian Labor Party achieved at the previous election held in Kew.

So far as the Opposition was concerned, the money was well spent on the advertising for the Brunswick–Richmond powerline prior to the Kew by-election, but for the government it was a disaster.

I have a page of strange political donations to various groups. The Australian Railways Union was provided with $7500 to produce audio-visual material on union aims. The Victorian Teachers Union was granted $108 000 to produce an affirmative action handbook. I still have not received my copy of the handbook. I have received the Victorian Teachers Union journal but not the handbook. Perhaps the Minister for Education could pass that on to the union.

The Hon. D. R. White—Do you want the cuff links as well?

The Hon. Rosemary Varty—No, I will have the cuff links.

The Hon. ROBERT LAWSON—The Australian Union of Students, which is now a defunct organisation, was granted $31 810, of which $14 402 was granted weeks before the organisation collapsed—probably to finance the winding-up of the organisation.

I shall not continue with the list as it becomes tedious to read out all of the extraordinary donations that have been made to the various organisations.

It is the belief of honourable members on this side of the House—well backed up by the facts and figures—that in spite of the glossy appearance given to Victoria and the extraordinary claims by government members in this House, Victoria is in a serious financial plight. Some $22 billion is owed by the State, and that is double the amount owed six years ago. A future government will have to address itself to that problem. Honourable members know that Australians are very proud of the fact that they have never welshed on a treaty, an agreement, or a debt, and they are not going to start now. The debt will still be there when the present Labor government is no more than a faint memory.

As I have said, the next Liberal government will have to address itself to the problem. It is not expected that the Labor government will do that.

The Hon. E. H. Walker—We talked about "succinct".

The Hon. ROBERT LAWSON—This is succinct, for me. As I said, there is a serious problem in Victoria. The Labor Party will not do anything about it and therefore the Liberal Party must address itself to the problem as it relates to the Bill.

The motions were agreed to.

The Bills were read a second time and ordered to be committed later this day.

SUPPLY (1988–89, No. 1) BILL

The House went into Committee for the consideration of this Bill.

Clause 1 was agreed to.

Clause 2

The Hon. D. R. WHITE (Minister for Health)—I thank honourable members for their comments during the second-reading debate. The matters raised will be refered to the Treasurer for his consideration. I seek leave of the Committee to report progress until later this day.

Progress was reported.

STAMPS (SECONDARY MORTGAGE MARKET) 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. J. V. C. GUEST (Monash Province)—The Opposition's position on this Bill has been made clear and, at this stage of the sessional period, I do not propose to go over what has already been said. However, I shall express in the most general terms my concern about the continuing increase in the scope of trustee investments. The origin of the protection of beneficiaries of trusts can be found in the courts, specifically the courts of equity.

In recent years, under governments of more than one complexion, it has become the custom not to benefit beneficiaries, let alone protect beneficiaries, but to try to benefit

some activity that forms part of the economy, or some institution, as was done under the last government in relation to building societies. However, with building societies there is a de facto guarantee from the government that they are to be deemed as appropriate investments.

The tendency in recent years has been to go much further. Without going over the amendments that were made a couple of years ago, it is proposed to take a further step. This Bill proposes that the assessment of approved rating organisations should form the criteria for determining whether an investment is appropriate for trustees.

The concern I express has something to do with the fact that there are beneficiaries whose investments may be endangered. Therefore, there is a continuing likelihood of dangers because investments could fail and there may be no effective guarantor behind them. To some extent, there is increasing scope for conflicts of interest as a result of opening up the field of trustee investments, in circumstances where a large number of the major trusts with investments in this State, particularly those bound by the Trustees Act, are held by large corporations that are part of diverse organisations with many possible conflicting interests.

One does not have to suppose any lack of integrity or honesty, but difficulties could be caused by business simply being pushed in the way of people who have investment decisions to be made. It might be much simpler to deal with people one knows, notwithstanding that the in-house or virtually in-house business is less than totally secure. The justification that could be given for investments that were not nearly as secure as traditional trustee investments, and certainly not as substantive, as the first mortgage, could simply be that there was a higher interest rate attainable; yet a higher interest rate, be it 0·5 per cent or 1 per cent, is no good reason for a trustee these days to take any risk in funding. With those reservations, which do not go to the main commercial purpose of the Bill, which is to encourage the secondary mortgage market, I indicate that the Opposition does not oppose the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—Mr Guest and I are at one on this Bill. The National Party is not opposed to the proposed legislation, but I echo Mr Guest's reservations about the extension of the scope of trustee investments. In the past ten years, under both Liberal and Labor governments, there has been an extraordinary widening of the scope, perhaps justified in the early days and possibly still justified, but one begins to wonder whether, in due course, there will be any difference between trustee investments and any other sort of investment. One wonders about the security aspects for beneficiaries in whose interests those funds are being kept open as trusts.

The other issue is that, the wider the scope of investment possibilities, the greater is the possibility of some conflict of interest arising. I support Mr Guest's sounding of those warnings to Parliament and his nervousness about these constant extensions. Before any future extensions of that kind are made, Parliament should have definite assurances that the extensions are not going too far.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

MARINE BILL

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of postponed clause 7, and Mr Lawson's amendment:

1. Clause 7, line 12, before "This" insert "(1)".

The Hon. ROBERT LAWSON (Higinbotham Province)—I must apologise to the Committee for unwittingly misleading it when this amendment was last before it. I refer

to the formula for the power units, which can be seen in the middle of the first page of the amendments standing in my name. It is:

$$\frac{D^2 \times C}{1613}$$

That equation dealt with the power of an internal combustion engine. In my ignorance of the matter I was under the impression that the equation in my foreshadowed amendment No. 2 referred only to small engines and to the yachts mentioned in the amendment. I later discovered that the equation can be applied to any size yacht.

The amendments attempt to preserve the status quo currently experienced by yacht and trailer-sailer owners. At present, they are not liable to pay licence fees and the Opposition wishes to maintain that situation. Because the Liberal Party is following the government's philosophy, it does not propose to introduce any new taxes and charges or increase them any more than in line with cost of living increases. The Opposition will persist with its amendment No. 1.

The Hon. D. M. EVANS (North Eastern Province)—I discussed this matter at length with the National Party spokesman, the honourable member for Gippsland East in another place. I apologise to Mr Lawson that I have been unable to get back to the honourable member for Gippsland East to discuss this matter further. Mr Lawson's amendment is far too all-inclusive and the National Party would therefore prefer to withdraw its support for it.

After discussing this issue at length yesterday, the National Party believes the argument advanced by the government is reasonable. For that reason I have been instructed by my party spokesman not to support the amendment.

The Committee divided on Mr Lawson's amendment (the Hon. G. A. Sgro in the chair).

Ayes	16
Noes	24
Majority against the amendment	8

AYES	NOES
Mr Birrell	Mr Baxter
Mr Chamberlain	Mr Crawford
Mr Connard	Mrs Dixon
Mr de Fegely	Mr Dunn
Mr Granter	Mr Evans
Mr Guest	Mr Hallam
Mr Knowles	Mr Henshaw
Mr Lawson	Mrs Hogg
Mr Long	Mr Kennan
Mr Macey	Mr Kennedy
Mr Reid	Mrs Kirner
Mr Storey	Mr Landeryou
Mrs Tehan	Mrs Lyster
Mr Ward	Mr McArthur
Tellers:	Mr Mier
Mr Miles	Mr Murphy
Mrs Varty	Mr Pullen
	Mr Sandon
	Mr Van Buren
	Mr Walker
	Mr White
	Mr Wright
	Tellers:
	Mrs Coxsedge
	Mrs McLean

PAIR

Mr Hunt | Mr Arnold

The clause was agreed to, as were clauses 8 to 33.

Clause 34

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

1. Clause 34, lines 36 to 41, omit all words and expressions on these lines.
2. Clause 34, page 22, lines 33 and 34, omit all words and expressions on these lines.

These amendments have been moved after further discussions with the Board of Works, which thought the provisions were too wide and, on reflection, the government agrees.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 35 to 64.

Clause 65

The Hon. D. M. EVANS (North Eastern Province)—The issue involved in clause 65 has been raised with me, and particularly sub-clause 65 (*h*) dealing with the engaging of pilots. The sub-clause reads:

> To enter into agreements (on a competitive basis where possible) with any people or bodies for the provision of pilot services for any periods, on any terms, and for any ports, that the Board determines;

I received a telephone call a short time ago from a senior marine pilot, Mr Peter Ballantyne, who indicated some concern about the provision. Apparently it may not have been in an earlier draft of the Bill circulated in the community, but it was certainly included prior to discussion in another place.

Mr Ballantyne has raised the point that if piloting services are to be provided on a competitive basis, there is a real possibility that the introduction could mean a fall off in the service and safety aspects of pilotage. Companies are prepared to cut costs in order to obtain business and, as we now have big and complex ships entering our ports, it is essential that the persons who accept responsibility for them be highly trained and technologically efficient.

The point was made to me that although a similar competitive service had been previously available in many other ports worldwide, the tendency now has been to stop the competitive tendering for services and work towards a ports authority or a similar arrangement under which the services are provided in another form. In other words, every other port in the world is going in the opposite direction to the one suggested in the clause.

I raise the matter because it should concern the Committee, and I look forward to a comment from the Minister on it.

The Hon. ROBERT LAWSON (Higinbotham Province)—The same Mr Ballantyne came to see me yesterday and I mentioned the matter at some length during the second-reading speech. The government should examine the clause carefully before it enters into an agreement to put the pilot services to tender. It should have discussions with the pilot services before any such changes are contemplated.

The Hon. J. H. KENNAN (Minister for Transport)—The same person came to see me and I pointed out that the clause relates to the functions of the board and it is saying that a function of the board is to enter into agreements for the provision of pilot services, and where it does that, where possible, it is to do so on a competitive basis.

I understand the concern of the pilot and he probably put the argument also to Mr Evans and Mr Lawson that the trend around the world was for there to be one operation not a multiplicity of operations. In other words, he wants a monopoly situation because that is the only way to be effective and, in his terms, efficient. I am not saying I necessarily agree with that but that is how he put the argument.

The Marine Board would have proper regard to safety but it is not unreasonable for the Bill to say that, where agreements are to be entered into for the provision of pilot services, that is to be done on a competitive basis, where possible. If there is only one group in the field, obviously it is a matter of negotiation directly with that group but, where there is an agreement for a number of people potentially interested in the provision of pilot services, it is reasonable to suggest that the board should enter into agreements on a competitive basis, but I am sure a competitive basis would include the considerations of safety to which Mr Evans referred.

The clause was agreed to, as were clauses 66 to 107.

Clause 108

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

3. Clause 108, lines 12 and 13, omit "Board may, if the Minister approves after consultation with the Treasurer" and insert "Governor in Council may, by regulation".

4. Clause 108, line 23, omit "Board" and insert "Governor in Council".

5. Clause 108, line 33, omit "Board" and insert "Governor in Council".

The amendment calls for the replacement of the word "board" with the words "Governor in Council". The clause deals with fees, rates and charges and it is inappropriate for the board to have the power to set these fees. It should be done by the Governor in Council.

No doubt, the Governor in Council would take the advice of the board and fix rates and fees that the board agreed were reasonable, but Parliament should have some responsibility for the fees set.

The Hon. D. M. EVANS (North Eastern Province)—The National Party understands the logic behind the Liberal Party's attempts in this instance. For some time, and quite correctly, it has been standard procedure for the two opposition parties to insist on similar amendments being placed in Bills, and the National Party will support these amendments.

The amendments were agreed to.

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

6. Clause 108, page 62, after line 4, insert—

"(5) 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.

(6) Disallowance of a regulation under sub-section (5) must be taken to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962.".

This is the standard amendment the Opposition and National Party propose to these Bills and it provides that any regulations made under this section may be disallowed, in whole or in part, by resolution by either House of Parliament.

The Hon. D. M. EVANS (North Western Province)—The National Party believes this should be standard procedure and will support the amendment.

The Hon. J. H. KENNAN (Minister for Transport)—To use the words of a Labour leader in another place, in another time and in another country, we will fight, fight, fight on this issue but we shall not divide.

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

Clause 109

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

7. Clause 109, lines 6 and 7, omit "Board may, if the Minister approves after consultation with the Treasurer" and insert "Governor in Council may, by regulation".

8. Clause 109, line 13, omit "Board" and insert "Governor in Council".

9. Clause 109, after line 22, insert—

"(5) 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.

(6) Disallowance of a regulation under sub-section (5) must be taken to be disallowance by Parliament for the purpose of the *Subordinate Legislation Act* 1962.".

The Hon. J. H. KENNAN (Minister for Transport)—I reiterate the government's opposition to amendment No. 9. As I have indicated, this has been tested so frequently that I shall not take up the time of the Committee by calling for a division.

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

The Bill was reported to the House with amendments, and the amendments were adopted.

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

That this Bill be now read a third time.

I congratulate the Chairman of Committees for his expeditious handling of this matter. It is a substantial Bill and was dealt with quickly. I hope that the other proposed legislation will be dealt with in such an expeditious manner.

The motion was agreed to, and the Bill was read a third time.

PUBLIC SERVICE (AMENDMENT) BILL (No. 2)

The debate (adjourned from April 22) 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. HADDON STOREY (East Yarra Province)—The Bill gives effect to an agreement reached between the government and the Victorian Public Service Association for the 4 per cent second-tier wage increase. As such, the Opposition recognises that it has been negotiated by the government and that it is supported by the VPSA; at least it is supported by the people who negotiated it on behalf of the VPSA. Only a few days ago, members of the association held a mass meeting and expressed a lack of confidence in its leaders. However, the House is confronted with the Bill and it forces honourable members to consider the relationship between the Public Service and the government of the day.

The Liberal Party has always taken the view that the Public Service should be apolitical and that it has a role to help implement the legislation of successive Parliaments over the years and to provide service to the public in accordance with the policies of the government of the day. To do that it should consist of people who are excellent managers concerned to get on with their jobs and who will not operate in a political fashion.

During the life of this government, it is regrettable that the Public Service has been increasingly politicised. Honourable members have discussed the number of Public Service employees who have been appointed because they are friends of the government. We have all heard of the positions created simply to provide scope for some member of the Labor Party to be appointed to the Public Service. That is regrettable because it will diminish the standing of the Public Service in years to come.

The Opposition wants to ensure that the Public Service is apolitical and simply goes about doing its job. Clause 4 enables exempt or temporary employees to be placed in positions within the Public Service. That means for instance, that all the Ministerial advisers who currently hold those positions could be placed in the Public Service by the government. As we near closer to an election I am sure many of them will be seeking to have positions made available for them.

Under clause 4 it will not be necessary to go to the subterfuge that is currently needed where a special position is created with specific requirements that happen, by accident, to fit only one person who is, of course, the person a Minister wants to be given a permanent position in the Public Service. The Opposition is concerned about the provision because it can be misused and abused. Those concerns were raised when the Bill was debated in the other place and the Opposition asked the Premier for certain assurances.

When the Bill was debated in another place, Opposition members asked the Premier to explain the sorts of persons to whom he considered this clause should and would apply. They also asked for an assurance that the provision would not be used to appoint people to positions in the Public Service higher than those which their actual experience or qualifications merited. If it is used in that way, not only will that person be disadvantaged but also the existing public servants who may have anticipated promotions to those positions will be disadvantaged. However, it appears they will not have any right of appeal against such appointments.

The government ought to give an assurance to this House that the provision will not be used to appoint people over and above existing public servants who should be entitled to promotion and that it will not be used simply to place Labor Party hacks into permanent positions within the Public Service.

Another provision that causes some concern is clause 6, which changes the way in which payment is made to people who are promoted to new levels. It provides, in effect, that they will be paid on the day on which they commence work at the new level or four weeks after the notice of appointment has been published. The provision has the potential for disadvantaging people who have received promotions in cases where, through bureaucratic delays, the notice of appointment is not published or steps are not taken to enable them to commence work in the new position as soon as possible. The Opposition seeks an assurance from the government that people will not be disadvantaged because of any bureaucratic inefficiencies that relate to new appointments, because they could be disadvantaged if steps are not taken promptly to publish the notice of the new appointment or to arrange for them to take up their new positions.

Another area of concern is clause 8, which seeks to give effect to agreements——

The Hon. E. H. Walker—Was it on clause 4 that you sought those assurances?

The Hon. HADDON STOREY—The last assurance I sought related to clause 6, and I asked for other assurances regarding clause 4.

Clause 8 enables, first of all, agreements on redundancy or redeployment to be given effect to. It has been worded in such a way that it seems to cover not only agreements that may be entered into with the Victorian Public Service Association but also agreements that may be entered into with other industrial organisations, because it can be any approved association.

The Opposition believes it is inappropriate in a Bill dealing with the Victorian Public Service to have what is virtually an open-ended ability to negotiate agreements with other industrial organisations and have them brought into effect through this provision. The Opposition believes the provision should be used only in relation to agreements negotiated with the association.

Another aspect of clause 8 is proposed section 43D, which is headed "Redeployment", but which goes much farther than that. In fact, it gives effect to agreements under which an officer may be at a lower level of salary than the employment in which that officer is currently engaged. If that offer of employment is refused and a second offer is also refused, the officer is deemed to have resigned for the purposes of the Act. This mechanism could be used to get rid of anybody in the Public Service that the government of the day does not like.

The Hon. M. J. Sandon—You intend to get rid of 15 per cent, so you should support it.

The Hon. HADDON STOREY—To that extent, the provision can be used for political purposes and in a way that is totally unfair to the officer concerned. The Liberal Party's policy for the Public Service makes it quite clear that nobody will be forced into redundancy or lose his or her job. Under the Liberal Party's policy, the reduction in the size of the Public Service, with the exercise of some restraint in government, would occur simply by natural attrition.

I seek an assurance from the Minister that proposed section 43D will not disadvantage persons in relation to their superannuation payments. It is not known what will happen if a member is offered two different positions and refuses them and is deemed to have resigned under the operation of this provision, and whether that person will be disadvantaged in relation to his or her superannuation payments. I should like the Minister to assure the House that people in that position will not be so disadvantaged.

The Liberal Party will not oppose the Bill. It contains aspects that are useful, but there are some concerns, which I have just expressed. They were also raised in another place, at which time the Premier undertook to examine them while the Bill was between Houses. I now ask the Minister for Agriculture and Rural Affairs to provide assurances along the lines that I have sought.

The Hon. B. P. DUNN (North Western Province)—Mr Storey has touched on the aspects of the Bill on which the National Party also seeks comment from the Minister. I do not intend to canvass all those arguments again, except to say that the National Party believes one of the real strengths of the Victorian Public Service has been its independence from political interference. It is a vital adjunct to democratic government and the Parliamentary system to have an independent Public Service. Over recent years it has been an alarming feature of this government that people who have very close political links with the Australian Labor Party have been brought into the Public Service and have been working in that area.

I well recall, when the Minister first became Minister for Agriculture and Rural Affairs, that he appointed Labor Party sympathisers, defeated candidates and Labor Party activists to Labor Party advisory positions.

The Hon. E. H. Walker—But that is not the Public Service.

The Hon. B. P. DUNN—Labor government Ministers put those Ministerial advisers between themselves and the permanent heads of their departments. That put the permanent heads in an intolerable position.

The Hon. E. H. Walker interjected.

The Hon. B. P. DUNN—The Minister may be able to respond to my remarks, but it is my understanding that the political appointments actually came between the Ministers and the permanent heads of their departments and had to be used as go-betweens.

As a member of Parliament seeking to negotiate with the Minister's department—and I am talking not only about the Department of Agriculture and Rural Affairs, but also the whole range of government departments—I objected having to use as my first point of contact a person who was obviously a political appointment.

The Hon. E. H. Walker—That is because you are political, too.

The Hon. B. P. DUNN—No, I am talking about defeated candidates. The Minister himself had Mr Phillip Staindl working with him. That gentleman was a defeated candidate, and there were many others. In order to make an approach to the Minister's department, invariably, members of Parliament had to talk to and make the initial contact with the Ministerial advisers who were political appointments.

The Hon. E. H. Walker—That is because you are a political person, too. The first contact is with the Minister's office.

The Hon. B. P. DUNN—Honourable members have been restricted in their access to various areas of State responsibility. I well recall, when I sought comment and asked to visit various diagnostic centres around the State, a telex was sent out immediately from the office of the Minister telling the people at those centres not to reply to my letter or to have anything to do with me.

The Hon. E. H. Walker—Until you made a request through the Minister's office.

The Hon. B. P. DUNN—Members of Parliament should be able to visit schools and other facilities that are owned by the people of this State without having to confront the Minister or, in particular, to confront Ministerial advisers.

The Hon. A. J. Hunt—It only happens under this government.

The Hon. B. P. DUNN—It never happened before. Members of Parliament used to be able to visit agricultural centres, schools, hospitals and a whole range of institutions without having to seek Ministerial approval. However, they must do so now. Very often one has to approach someone who is a political appointee.

Many public servants have been operating under grave difficulties in the knowledge that they are being watched by those political appointees. We know that it is constraining them in their duties. The point I make was also made by Mr Storey—and it is universal among members on this side of the House: the independence of the Public Service is vital and must be safeguarded at all costs. This government has put it at risk.

The Hon. M. J. Sandon—That is a bit harsh.

The Hon. B. P. DUNN—It is clear that that has taken place.

Clause 8, which deals with agreements, expands considerably the power of the Minister and associations to come to agreements completely outside consultations with the Public Service Board. Proposed section 43B provides:

> The Minister and an approved association may enter into an agreement with respect to remuneration, entitlements and terms and conditions of employment, including conditions of termination of employment, of officers in respect of whom the approved association may make representations to the Board and may, by like agreement, vary or revoke any such agreement."

It appears to the National Party that the clause will provide the Minister with the power to make agreements with associations and effectively bypass the Public Service Board. This is quite an extension of section 64A (3) of the principal Act, which provides that the Minister shall consult with relevant associations of employees.

Clause 8 goes further than that and allows the Minister to enter into agreements with organisations. The Public Service Board has the prime responsibility for terms and conditions of employment including remuneration, and so on. Why should the Minister be able to make agreements with associations without consultating the board?

The Hon. M. J. Sandon—It does not say that. It does not say he will not have consultations.

The Hon. B. P. DUNN—It does not say he will, either. I seek an assurance from the Minister in that regard. The National Party does not intend to oppose the proposed legislation.

The motion was agreed to.

The Bill was read a second time and committed.

Clasue 1 was agreed to.

Clause 2

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I thank Mr Dunn and Mr Storey for their comments and support. I take their comments seriously.

Mr Storey outlined four concerns, and I shall go through them. With respect to clause 4, he asked for an assurance that its provisions will not be used to appoint people to the Public Service in—if I could say—an inequitable manner. Mr Storey gave one or two examples of the way the provisions might be used by less than honest persons or persons with a wish to do things in less than the best way and slip someone into the Public Service inequitably because of some political bias or reason.

I offer the assurance that the provision will not be used in that way if the government of which I am a member is the government administering the Act. I cannot offer assurances for other governments. The provision is not intended to be used in that way. I understand my Leader in another place gave a similar assurance.

The Hon. B. P. Dunn—What is it there for?

The Hon. E. H. WALKER—It is a provision—as I think are some other provisions—which streamlines the capacity to administer the Act. There is too much inflexibility and incapacity to move in respect of appointments, and this provision makes it simpler. Mr Storey asked for an assurance that the provision will not be misused.

The Hon. HADDON STOREY (East Yarra Province)—I thank the Minister for the assurance. A further concern is that appointments to permanent positions made under this provision may be made in a way that gives appointees promotion above employees already in the Public Service. As I understand it, no right of appeal to that procedure exists. Will the government examine the provision to ascertain whether some right of appeal can be provided?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I include that in my notion of "inequitable". Mr Storey is correct—there is no capacity to protect those who are in the Public Service already and who may feel aggrieved by a procedure that puts them at a disadvantage without proper rights. I will discuss the matter with the Premier—since he is the Minister responsible—and provide further information.

With respect to clause 9, Mr Storey asked for an assurance that people would not be disadvantaged by bureaucratic bungling in the sense that, for one or another bureaucratic reasons, matters were not dealt with properly. I cannot give an assurance that we will put an end—here and now—to bureaucratic bungling. I should like to be able to give such an assurance!

If the assurance sought concerns a disadvantage that might arise because of the actions of a Minister or a member of the government which might prompt a bureaucratic problem, it may be possible to give an assurance. In other words, where it is possible to give an assurance, I will do so; but I cannot guarantee that all public servants, by my statement, will be extraordinarily efficient and non-bungling.

With respect to clause 8, Mr Storey asked that the provision be used only where grievance procedures are undertaken with the Victorian Public Service Association. I understand that my Leader in another place gave just such an assurance. I shall give the assurance and check out the matter. However, I understand some comment was made.

The last matter referred to was new section 43D. The assurance asked for was that this provision would not disadvantage persons in relation to their superannuation. I think that assurance was offered in another place but I reaffirm such an assurance.

Mr Dunn made comment about the need for an independent Public Service, and I agree. Having made some jokes a moment ago about bungling, I happen to be an admirer of the Victorian Public Service. I have had excellent experience in the portfolios of planning and agriculture for which I have had responsibility and I cannot speak highly enough of the top level service offered to the public of Victoria by a high proportion of the public servants in this State. I value that.

However, that could easily be altered by mismanagement. It is a situation that can change quickly if the Public Service is not properly managed or well treated because it

becomes unattractive to good people. It is important that we sustain, no matter which government is in power, the high levels of performance by the Public Service in the three Rs—as I see them—regulation, remuneration and responsibility. One must offer all three to ensure that a proper reward is offered to people who work hard in the Public Service.

I agree that the Public Service must be independent. That must not be confused with the notion that public servants are in some fashion neutered. They are not. They are real people; they have their own views of the world; they go along to the polling booths on voting day and vote Liberal, Labor, National or whatever. They may have strongly held views of various kinds. It would be nonsense to suggest that the government employs in the Public Service only people who somehow or other are apolitical. That is not possible. I do not think that is what Mr Dunn had in mind, although it sounded like it.

The Hon. B. P. Dunn—No, it was not.

The Hon. E. H. WALKER—I am sure that what he had in mind was that government Ministers must not abuse their role by stacking the Public Service in such a way that it becomes heavily biased. I shall explain the difference between Ministerial advisers and permanent public servants because members of the National Party seem to confuse them. Ministerial staff are appointments made by the Minister. They do not have career positions in that regard. They are appointed directly to assist and advise the Minister and they are bound to be of the same political persuasion as the Minister. It would be a rare circumstance in which a Ministerial adviser did not fit such a description.

However, the Public Service must be independent. Appointments must not be compromised by the views that a public servant may or may not hold or by views that may be forced upon him or her. It is not an acceptable procedure to force views on senior public servants. I take Mr Dunn's comments on board but they must be understood realistically.

Finally, Mr Dunn raised concerns about clause 8 relating to agreements. I think he really responded to his own question. He made it clear that he believed an agreement should occur within the style of consultation with the Public Service Board. I did not hear Mr Dunn saying that he opposed directly the provisions of the clause but he did ask for an assurance that that be done in such a manner that consultation occurred between the relevant employee body and the Public Service Board.

The Hon. B. P. Dunn—It seemed to me to be a bit too far one way.

The Hon. E. H. WALKER—This is not necessarily a totally new provision, anyway. The assurance I am giving him is the norm: that the Public Service Board will continue to carry out a role and proper consultation will occur. With those comments, I thank honourable members for their support.

The Hon. B. P. DUNN (North Western Province)—I wish to respond to points made by the Minister and I thank the Minister for responding to the concerns raised by the National Party. He has given the Chamber some sort of an assurance that the provisions in clause 4 concerning the rights of employees and others of two years' standing who transfer to become permanent employees of the Public Service, will not be used as a back-door method for allowing people such as Ministerial advisers to take up permanent positions. I accept that and I hope that is the way it will in fact be used. The government will be judged on its record in that regard.

The National Party was concerned that clause 4 might open the way for many nervous employees of the government who perceived that a change of government was imminent to seek permanent positions within the Public Service. Clause 4 would appear to be drafted to achieve that end, but the National Party will not oppose it because occasions may arise when this provision may be needed to be used legitimately. Once again the record of the Minister and the government will be closely assessed.

The National Party believes promotion in the Public Service should be on merit and should not take into account political views or political affiliations. No hint of that should ever come into the promotion of a public servant or be part of the conditions of acceptance into a Public Service position. In that way, the real independence that is needed in the Public Service can be maintained.

I do not believe I answered in part my own question about clause 8 because the clause goes a lot further than the existing legislation, which provides for consultation with relevant associations. The Bill provides the power to make agreements with associations. It appeared that the government was bypassing the board by doing that.

The Hon. E. H. Walker—That is not the intention.

The Hon. B. P. DUNN—I thank the Minister for that assurance. Again, the National Party will watch the operation of that provision with interest.

The clause was agreed to, as were the remaining clauses.

The Bill was reported to the House without amendment, and passed through its remaining stages.

DEPUTY OMBUDSMAN (POLICE COMPLAINTS) 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. J. E. KIRNER (Minister for Conservation, Forests and Lands), was read a first time.

MEDICAL TREATMENT BILL (No. 2)

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of clause 2

The CHAIRMAN (the Hon. G. A. Sgro)—Order! The President has indicated to me that he desires to address the Committee in relation to this Bill.

As he has no designated seat on the floor of the House, I propose that he be heard from the end of the table. Further, as he has not had the opportunity so far of making general comments about the proposals in the Bill, I intend to grant him some latitude over that normally available to other members in the Committee stage.

Before calling on the Minister, I therefore call on the Honourable Mr Mackenzie, on clause 2.

Honourable members—Hear, hear!

The Hon. R. A. MACKENZIE (Geelong Province)—It is with some degree of trepidation that I stand once more on the floor of the House as the member for Geelong Province, representing the people of Geelong with my colleague, Mr Henshaw. I thank the Committee for its indulgence in allowing me to make comments on clause 2.

Mr Chairman, I must say that in some ways the debate has been a disappointment to me inasmuch as I thought it would have been approached by this House of Parliament with a greater degree of bipartisanship. I say that because only three weeks ago the House debated in a very bipartisan manner the motion put with regard to the algae bloom in the Gippsland Lakes. That was an important issue and a very good discussion occurred in the House with regard to the people concerned, and on what could be done about the problem.

I had always hoped that in debating this important Bill, which has significant social consequence, a bipartisan approach would be evident. I hope it will become evident in the continuation of debate on the Bill because it raises many important moral and ethical questions.

I should like to take the Committee briefly through the history of the legislation as I know it. Perhaps some members may not be aware of the long process that has resulted in the Bill now before the Committee. The first known attempt in a House of Parliament at formulating such a measure of which I am aware occurred in the House of Lords in 1969, when a private member's Bill was placed before the House with regard not to this subject but to voluntary euthanasia and dying with dignity.

In 1977 and 1978 some American States introduced legislation similar to this Bill. So far as I am aware, the first American State to accept that legislation was California. By 1978 about eight States had similar legislation. I understand that almost half the States in the United States of America now have similar legislation. Many precedents were available for examination and there is a good deal of knowledge about how those pieces of legislation were arrived at.

As to the Australian scene, and now dealing with the Bill before the Committee, I point out that my participation began as far back as 1973. I was a member of the Australian Labor Party in Geelong when that branch passed a motion in 1973 to be forwarded as an item to go before the Labor Party State conference in the following year. It referred to the party formulating a policy in regard to the refusal of medical treatment.

That motion was put before the State conference, and it was agreed at the conference that the committee which formulates policy on civil rights and law reform matters should investigate the proposal. It remained there for some time.

Upon entering Parliament in 1979, I carried out further investigations into the proposition of putting forward a private member's Bill. The Australian Labor Party requires that private members' Bills must be approved by the Parliamentary caucus. I am proud to say that the vote for that Bill was passed unanimously by caucus. Permission was then granted to proceed with the proposed legislation in the form of a private member's Bill.

I investigated with the Parliamentary Counsel the range of Bills applicable, mainly the American models. Finally a Bill was arrived at which was initially entitled the Patients Right of Decision Medical Treatment Bill, based mainly on the Californian and Yale model Bills of that nature. At that time, a colleague in South Australia, the Honourable Frank Blevins, was working independently on a similar course of action. Indeed, he arrived a little ahead of me and produced the Natural Death Bill in South Australia. That legislation is now used in conjunction with our own.

In 1980 a private member's Bill entitled the Refusal of Medical Treatment Bill was brought before the Victorian Parliament. Although the government of the day commended the Bill, it wished to have further discussions and to form a policy on the subject. However as with many private members' Bills, whichever opposition party introduces them, governments are often a little reluctant to adopt them. Parliament was prorogued and the Bill disappeared from the Notice Paper. The Bill was reintroduced in 1981 and debate on it was adjourned. It was never further discussed.

When Labor came to government in 1982 I approached the then Minister for Health, Mr Tom Roper, and asked that the government produce a Bill to allow for the refusal of medical treatment. The former Minister for Health supported me and in fact introduced my Bill in the other place. He decided to ensure that proper consultation occurred, and placed the measure in the hands of the Health Advisory Council. After deliberations and investigations, that council examined the Bill and made certain recommendations in July 1983. After thorough investigation and calling for submissions from interested groups in the community, the Health Advisory Council recommended:

> Those who have objected do so largely on the premise that there is no need for such legislation for two reasons. Firstly the current practice of the decision making, being largely in the hands of the medical practitioner with (or without) consultation with the next of kin, has proved satisfactory. They contend that there is reason to believe

that community attitudes are accepting the status quo and that medical practitioners, particularly those working in resuscitation areas, have not perceived the need for such legislation.

Secondly, it is claimed that the purpose of such an Act would simply be a step towards the legislation of euthanasia. However, as pointed out at the beginning of this report this is clearly not the intent of the Bill and it is inappropriate to confuse the issue with euthanasia.

On the other hand the majority of submissions support the intent of the proposed legislation although many difficulties are foreseen in drafting the Bill to provide for all contingencies. This report has attempted to highlight some of the problems and, where possible, offer constructive suggestions.

Thus council is of the view that the proposed legislation is desirable and, while not underestimating the difficulties in drafting, considers that the Bill should be improved in the various aspects indicated in this report.

That report was the result of an investigation by a learned group of experts. In 1985, there was a change in the Ministry and the current Minister for Health took up his role. I approached the Minister on the matter and he decided to carry it even further to ensure that the government in breaking new ground should get it right.

The matter was referred to the Social Development Committee. Honourable members know well, especially from the second-reading debate, of the enormous amount of work that went into the preparation of the report of the Social Development Committee. All honourable members know each member of that all-party Parliamentary committee. No committee has within its membership such a wide-range of political philosophies as does that committee. It is a wonder, because of their varieties of philosophies, that any subject on which the committee must report does not result in minority reports.

It was to the credit of Mrs Dixon, who chairs the committee, that the committee was not content to take the easy way out to reach a conclusion decided by the majority of members but that it was prepared to debate the matter at length and to thrash it out until a collective consensus was reached.

It is for that reason that I believe the report of the Social Development Committee on options for dying with dignity is a most important document. It should be used by other States when contemplating similar legislation and also by other countries concerned about the matter. Because of the work that went into the report it has become an extremely valuable document; one can rely on the recommendations contained in it.

In 1516, approximately 470 years ago, the renowned Sir Thomas More, that martyr of the Church and one of the greatest minds ever in the English-speaking world, wrote a massive book entitled *Utopia* in which he described what he considered to be the ideal society. He touched on the subject that the Committee is deliberating on today. Sir Thomas More in *Utopia* wrote about an ideal society:

The sick they see to with great affection and let nothing at all pass concerning either physic or good diet, whereby they may be restored again to good health. Such as be sick of incurable diseases they comfort with sitting by them and talking with them, and, to be short, with all manner of helps that may be. But if the disease be not only incurable, but also full of continual pain and anguish, then the priests and the magistrates exhort the man that he determine with himself no longer to cherish that pestilent and painful disease: and seeing his life is to him but a torment, that he will not be unwilling to die, but rather take a good hope to him and either dispatch himself out of that painful life, as out of a prison or a rack of torment, or else suffer himself willingly to be rid of it by other. And in so doing they tell him that he shall do wisely, seeing by his death he shall lose no commodity, but end his pain. And because in that he shall follow the counsel of the priests, that is to say, of the interpreters of God's will and pleasure they show him that he shall do like a godly and virtuous man.

That extract goes a great deal farther than does the Bill. After 470 years of so-called progress the Committee is debating an issue that Sir Thomas More determined in 1516. Other authorities such as Pope Paul VI and Pope John-Paul II have all spoken about the rights of patients and how far medical treatment should be taken.

Pope Paul VI said:

The duty of a doctor consists principally in applying means at his disposal to lessen the suffering of a sick person instead of concentrating on prolonging for the longest time possible—using any methods and under any circumstances—a life which is no longer fully human and which is drawing naturally to its end.

The World Medical Association in its Declaration of Venice on Terminal Illness, which was adopted by the 35th World Medical Assembly in October 1983 stated:

1. The duty of the physician is to heal and, where possible, relieve suffering and act to protect the best interests of his patients.

2. There shall be no exception to this principle even in the case of incurable disease or malformation.

3. This principle does not preclude application of the following rules:

3.1 The physician may relieve suffering of a terminally ill patient by withholding treatment with the consent of the patient or his immediate family if unable to express his will.

Withholding of treatment does not free the physician from his obligation to assist the dying person and give him the necessary medicaments to mitigate the terminal phase of his illness.

3.2 The physician shall refrain from employing any extraordinary means which would prove of no benefit for the patient.

3.3 The physician may, when the patient cannot reverse the final process of cessation of vital functions, apply such artificial means as are necessary to keep organs active for transplantation provided he acts in accordance with the laws of the country or by virtue of a formal consent given by the responsible person and provided the certification of death or the irreversibility of vital activity had been made by physicians unconnected with the transplantation and the patient receiving treatment. These artificial means shall not be paid for by the donor or his relatives. Physicians treating the donor shall be totally independent of those treating the recipient and of the recipient himself.

There is no doubt in my mind that an enormous amount of work and consideration has gone into the preparation of the Bill. The Bill is the result not only of the work of the Social Development Committee, the Yale Medical Board, the Medical Association of Australia but also it results from the work of a great many other people. In 1980 when this matter was discussed at the Royal North Shore Medical Association at the Malcolm Gillies Oration given by His Honour Mr Justice Kirby, in his summation Mr Justice Kirby said:

Moral, ethical and legal problems will not conveniently go away because the law is silent upon them. Unless the law can keep pace with these changes, there will be inadequate guidance for the medical profession when guidance is most needed. Laws of a general kind, developed in an earlier age to address different problems, will lie in wait for their chance, unexpected operation upon new unforeseen circumstances.

I hope that our society will be courageous and open-minded enough to face up to these problems and not to sweep them under the medical and legal carpet. Truth-telling extends from our professions to society as a whole. What we need are doctors and lawyers and I should say philosophers, churchmen, patients and clients—who will be prepared to debate publicly the dilemmas forced on us by the advances of science and technology. Procedures of law reform bodies can be adapted as a medium for this interchange between expert and citizen. What is needed is effective machinery to find Australian solutions for the guidance of conscientious doctors and distracted—and often timorous—lawmakers.

There are no easy solutions to any of the problems I have mentioned. But until we start to ask the questions, and face the dilemmas, our society will continue to shuffle along in directions in which we would not choose to travel and to destinations at which we would not choose to arrive.

I should not like to think that members of this Chamber would be regarded as timorous lawmakers. Honourable members have the opportunity of passing the Bill. The issue should be approached in an entirely bipartisan way, and all parties should have the opportunity of discussing the objections to some provisions and to finetune those provisions, but, in the end, I am sure goodwill will prevail.

I have examined the issues and I have reached an important conclusion. I have no doubt—supported by public opinion polls—that a vast majority of the community support the proposed legislation. However, I am not concerned about the ideas and opinions of experts or about the opinion polls or people who support the Bill. Honourable members should be concerned about those people who need the Bill. That is what the Bill is about. There are hundreds and thousands of people in their twilight years for whom every day is an extra blessing.

I have had discussions with a number of people and have received considerable correspondence over the years and one thing always comes through: people in our age group who are fit and well do not contemplate death; but people in their twilight years, in

their 80s and 90s, give much consideration to it. I have no doubt that those people have come to terms with the fact that life is short and that they have not much longer to live. They accept that death is part of the cycle of life. However, those people worry about the manner of their death. They have an abhorrence of the thought that they may not die in quiet dignity with members of their family around them. American statistics reveal that 75 per cent of deaths occur in hospitals. I do not know the Australian statistics, but I have no reason to believe that they are any different. Old people do not want that.

I point out to those people who oppose the Bill, but who are outside this Chamber, that they have not considered an important factor: the refusal of medical treatment is voluntary; the Bill does not require everyone to participate. A person who is against the philosophy of the Bill does not have to sign a declaration or do anything that conflicts with his or her conscience. That is the important issue that may have been missed by people outside the Chamber; I hope it is not missed by honourable members.

The American experience, after similar legislation had been in existence for some time, was that there was no increase in litigation or problems associated with it. In fact, the reverse is the position: considerable benefits have flowed from the legislation, such as better understanding between doctor and patient and so on.

The members of this Chamber, like the members of the Social Development Committee, range in view from the socialist left to the ultraconservative. This Chamber contains the broadest spectrum of political philosophy of any House in Australia; it is not lacking in talent. In fact, as I look around the Chamber, I recognise a great deal of talent, not just confined to the frontbench. If the legislators in America, in Tasmania and in South Australia can pass legislation on this vital issue, why can't this House? I see no reason, after all the discussion and the consideration of expert views, why the proposed legislation cannot be passed.

I do not believe that we are not good enough legislators to create such legislation. I do not believe that we are timorous lawmakers, to which Mr Kirby referred.

I thank honourable members for the opportunity of speaking on this Bill from the floor of the House. The development of the Bill has been a long process, so far as I and members of the Social Development Committee are concerned. In conclusion, I quote from a statement by Dr Leslie Weatherhead, a renowned churchman, who wrote a number of philosophical books in the 1950s. Dr Weatherhead said:

> I sincerely believe that those who come after us will wonder why on earth we kept a human being alive against his own will, when all the dignity, beauty and meaning of life had vanished; when any gain to anyone was clearly impossible, and when we should have been punished by the State if we had kept an animal alive in similar physical conditions.

The clause was agreed to.

Clause 3

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

1. Clause 3, lines 23 to 26, omit the definition of "palliative care" and insert—

'"**Palliative care**" includes—

(*a*) the provision of reasonable medical procedures for the relief of pain, suffering and discomfort; or

(*b*) the reasonable provision of food and water'.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—Clause 3 is critical because it contains the definition around which the proposed legislation works. During the second-reading debate I explained why there were extreme problems with the clause. The Bill is about the right of individuals to refuse medical treatment, a right which we have under existing law.

The preamble to the Bill says that Parliament recognises that it is desirable to give protection to the patient's right to refuse medical treatment. The report of the Social Development Committee did not press for the creation of new law, but to protect existing rights. The committee is entitled to examine the manner in which this is done.

The definition of medical treatment, which is what one is entitled to refuse, is critical to the operation of the Bill. The Bill gives the right to refuse that treatment but, on the terms of it, it does not give the right to refuse pain-relieving care. Honourable members must examine whether the definition, even as amended, does what the Committee requires; in other words, to give a clear statement and a clear distinction. This is not semantics but whether the proposed legislation can give the people of Victoria the clarity and the certainty that was the objective of the Social Development Committee.

The purpose of the Bill is to put questions of law beyond doubt. Clause 1 (*a*) of the Bill states:

1. The purposes of this Act are—

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

The Bill will have the opposite effect: there will be more confusion about such matters than exists at present. In my speech during the second-reading debate I quoted the opinions of doctors and lawyers in regard to the problem of the definitions. If the definitions are not precise, the Bill falls in a heap. I was not citing the opinions of university academics or people who live in ivory towers; I was citing the opinions of those who work with the dying.

The Bill is not limited to terminally ill patients. The reference in the preamble to terminally ill patients is irrelevant. The Bill applies to patients in many situations. Although the Social Development Committee was charged with making recommendations in relation to the terminally ill, the recommendations the committee made went beyond its terms of reference. The Bill deals with broad issues; issues broader than those referred to in the recommendations made by the Social Development Committee.

I shall not reiterate the opinions of the experts to whom I referred in the second-reading debate. I shall read to the Committee an important letter I received today from a man who is regarded as an eminent physician, so eminent that he was appointed by the Minister for Health as the State Co-ordinator for Critical Care. His name is Mr Bernard Clarke. Mr Clarke is associated with St Vincent's Hospital. Almost all of the advice that the government has received on the Bill has come from the St Vincent's Bioethics Centre. The government did not circulate the Bill until 18 April, the day before the Chamber debated it.

Many people have not had the time to examine the Bill thoroughly. Only the Opposition sought the views of professionals in relation to the Bill. During the debate on the Bill on 19 April, I challenged Mrs Dixon to respond——

The Hon. D. R. WHITE (Minister for Health)—On a point of order, Mr Chairman, clause 3 relates to definitions. Mr Chamberlain intends to quote from a letter from Mr Bernard Clarke. Although I look forward to hearing what Mr Clarke has to say, the remarks Mr Chamberlain made in his preamble to Mr Clarke's letter gave the impression that he was engaging in a debate on the merits of the Bill. Mr Chamberlain is not in a position to do so. Such remarks belong to a second-reading debate. Mr Chamberlain is moving well away from the issue before the Committee, which is the definitions contained in clause 3.

The Hon. B. A. CHAMBERLAIN (Western Province)—On the point of order, Mr Chairman, as I explained to the Committee clause 3 is one of the critical clauses of the Bill—and the other critical clause is clause 5. If the definitions are not precise, the Bill will be ineffective. When I quoted from my second-reading speech, I did so to provide the opinions of experts in relation to the definitions contained in the Bill. If I cannot debate that issue, we may as well all go home.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr Chairman, if Mr Chamberlain were confining his remarks to the definitions contained in clause 3 and quoting expert opinion in relation to those definitions, I should not be raising the point of order. Mr Chamberlain is not speaking to clause 3. In his preamble to the remarks of Mr Clarke, Mr Chamberlain was debating the merits of the Bill in its entirety; and I believe he is out of order.

The Hon. B. A. CHAMBERLAIN (Western Province)—On the point of order, Mr Chairman, I assure the Committee that the letter from Mr Clarke deals with the definitions contained in clause 3. I shall quote from one paragraph of the letter:

The Bill is full of imprecise definitions and does not do justice to the practice of clinical medicine.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr Chairman, Mr Chamberlain did not move to quote the remarks of Mr Bernard Clarke. My point of order is based on the fact that, in his preamble to quoting from that letter, Mr Chamberlain was making wide-ranging comments in relation to the merits of the Bill and not confining himself to clause 3, which relates to definitions.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! I have allowed Mr Chamberlain to canvass the Bill, but before the Minister for Health took his point of order I was ready to redirect Mr Chamberlain's attention to clause 3. Mr Chamberlain canvassed the Bill in its entirety during the second-reading debate. I call on him to speak specifically to clause 3.

The Hon. B. A. CHAMBERLAIN (Western Province)—The last paragraph of Mr Clarke's letter says:

I am asking you to persuade your colleagues that there should be strong opposition to the Medical Treatment Bill on the basis that the medical input into the considerations of definitions, refusal of treatment, offensive medical trespass, modification or cessation of certificate—all the subsets—has been insufficient and does not allow a proper ground on which to initiate and legislate such a Bill process.

Those remarks are relevant to clause 3. The letter continues:

There is grave concern amongst some senior doctors at St Vincent's Hospital that the Medical Treatment Bill if passed in its present form will intrude significantly into the important concept of patient/doctor relationship in our community.

Mr Clarke says that the views that have been put forward as ostensibly representing the views of the St Vincent's Hospital are not so representative. I am happy to make that letter available to members of the Committee. It is a letter from a man who was appointed by the Minister to act as the State Co-ordinator for Critical Care. The letter is also signed by Mr George Hale, a senior cardiologist at the hospital. He says that Parliament should not pass the Bill.

As I said, the definitions contained in clause 3 are critical to the operations of the Bill. The Liberal Party has received many opinions from medical professionals—those who deal with the dying—concerning problems with the definitions. There is a problem when one attempts to differentiate between "palliative care" and "medical treatment". Professor Tiller, from the Department of Psychiatry, University of Melbourne, says:

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.

John Buchanan, who is recognised as an expert in the field of palliative care, gave evidence to the Social Development Committee. He is an oncologist, who treats terminally ill patients. He makes it clear that the distinction the Bill attempts to make between palliative care and medical treatment is almost impossible to make; yet the distinction is critical to the operation of the Bill.

Dr Buchanan states:

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

If we examine the definition of medical treatment, we find that it blurs into a definition of palliative care. Yet the distinction in the Bill is absolutely critical. The point I make is this: rather than clarifying the law in this State about what is the current right to refuse medical treatment, this Bill in fact will create a barristers' banquet. The need to resort to the courts on the provisions of this Bill will be markedly expanded beyond what it is under the current law. I shall refer to that provision later. The Opposition opposes the clause.

The Hon. D. R. WHITE (Minister for Health)—In both his second-reading speech and his comments in Committee on clause 3, Mr Chamberlain said that common law is preferable. But where are the definitions in common law that he has relied upon? The common law is vague and attempts no definition of medical treatment. The Bill gives structure where none exists in common law. It meets the concerns raised by the Social Development Committee—and reiterated by Mr Ron Castan, QC—that common law is inadequate and that legislation is required.

For those reasons, the government does not agree with the observations made by Mr Chamberlain in foreshadowing his opposition to clause 3.

The clause, as amended, was agreed to.

Clause 4

The Hon. B. A. CHAMBERLAIN (Western Province)—Clause 4 touches on the subject dealt with by the Minister for Health. In much of his second-reading speech, the Minister read part of the opinion of Mr Ron Castan, QC, who is well known to many honourable members. It is perhaps appropriate to refer to his opinion because this clause appears to suggest that the Bill will not affect any right of a person under any other law to refuse medical treatment. In other words, it is not designed to override the common law, and that in itself leads to other problems.

I shall examine what Mr Castan said. Firstly, he admits that:

> Any medical procedure carried out without a patient's consent is a trespass to the person, and the medical practitioner is liable in damages.

That statement is clearly understood as being part of the law in this State and, in fact, is a statement of the common law. Mr Castan referred to "a very clear proposition in law" and then went on to discuss "a host of complex issues of law". When we examine these, we discover that they are irrelevant to the sorts of issues with which we are dealing.

I must say that the brief given to Mr Castan was very limited in its scope. The first complex issue which he deals with is whether consent should be treated as a defence in the action for battery or whether it is an essential ingredient in the offence. Mr Castan said that the state of law on this issue is totally uncertain. In fact, in the vast majority of cases where a patient refuses medical treatment, it will be clear that consent is not forthcoming. That is almost by definition.

Indeed, for the protection of the patient, it must be made clear, because a matter of life or death is involved, and subtle questions about burden of proof are likely to arise. For example, it is clear in the John McEwan case that he did not consent to medical treatment. That is very clear!

The second complex issue raised by Mr Castan was whether the American doctrine of informed consent operates in Australia. If the doctrine of informed consent were applicable in Australia, it would make it even more difficult for a doctor to treat a patient against the patient's will. Again, the comments by Mr Castan are irrelevant.

Another issue raised by Mr Castan is that patients are unlikely to be able to initiate legal proceedings to defend a right to refuse medical treatment. That point was also made by Mrs Dixon and the Minister for Health, who said that these people cannot go to court and obtain injunctions and so on.

Page 274 of the Social Development Committee report states:

> A patient need not wait and be subjected to battery by the medical practitioner before the patient can seek a legal remedy. Instead, the patient can, pursuant to section 37 of the *Supreme Court Act* 1986, seek an injunction restraining the medical practitioner from carrying out the surgery or other medical treatment on the patient without the patient's consent.

The report made it clear that it is not so difficult to obtain that injunction. In fact, applications for injunctions can be dealt with by a court within 1 hour. Again, the position proposed by Mr Castan was really a diversion. What he ignored, and what Mrs Dixon and the Minister ignored, is that that same problem can arise under the Bill. If a doctor is not willing to sign or witness a refusal of treatment certificate, the patient may need to resort to the Supreme Court for an injunction. Similarly, if a doctor does not respect a refusal certificate for whatever reason, the patient must still apply to the Supreme Court.

Rather than this Bill providing what the government wants—"Look, you do not have to worry about the courts; you do not have to worry about no clarity with respect to the law,"—in fact there will be more opportunities, or at least as many opportunities, for the parties to go to courts under these provisions. I ask the Minister to address himself to that issue.

My fourth point is that Mr Castan claims that there are problems of the interaction between the criminal law and the common law with respect to the right to refuse medical treatment. However, he does not comment on whether the passing of the Medical Treatment Bill (No. 2) will eliminate this problem of interaction with the criminal law. This is an important issue because this Bill does not provide for what interaction there will be with the law of manslaughter, murder and suicide.

Mr Castan admitted that he did not examine that issue because he was not asked to do a detailed analysis of the precise language used in the Bill. Honourable members cannot take Mr Castan's opinion as being a critique of the Bill or a response to what was put up initially.

We should examine in more detail the problem of the interaction between what is proposed in this Bill and the existing criminal law. Clause 4 (1) preserves the common law right to refuse medical treatment. However, it is silent on the issue of interaction between common law rights created under the Bill and the criminal law relating to suicide, murder and manslaughter.

I shall provide the Committee with an example, and I hope the Minister will address himself to this issue when responding. Section 463B of the Crimes Act states:

> Every person is justified in using such force as may reasonably be necessary to prevent the commission of suicide or of any act which he believes on reasonable grounds would, if committed, amount to suicide.

The crime of abetting suicide still exists. The Social Development Committee, at pages 106 and 107 of its report, took the view that a person who refused artificial life support equipment could not be regarded as suicidal. Under this Bill there might be a circumstance where a person, perhaps after a suicide attempt, might be taken to hospital and will refuse a non-burdensome procedure such as an insulin injection for a diabetic, with the clear intention of suiciding.

It is unlikely that any doctor respecting a patient's wishes could be considered to be abetting suicide, and that is consistent with what the Social Development Committee said. However, if a doctor decided not to accept a certificate refusing treatment, he might be able to plead section 463B of the Crimes Act as justification. Whether or not that is intended should be made clear in the Bill, or the courts will not be given much guidance, given that the preamble states that the Bill is about preserving existing rights.

Clearly we need to resolve this issue. I seek a response from the Minister on the impact of the proposed legislation on the existing law relating to murder, manslaughter and suicide in Victoria.

The Hon. D. R. WHITE (Minister for Health)—Clause 4 states:

(1) This Act does not affect any right of a person under any other law to refuse medical treatment.

(2) This Act does not apply to palliative care and does not affect any right, power or duty which a medical practitioner or any other person has in relation to palliative care.

The point of clause 4 is that where some other Act is in place—such as legal responsibilities under blood transfusion procedures, for example—the provisions of the other Act apply.

What Mr Chamberlain has done again on clause 4, as he did on clause 3, is canvass a number of matters of a broad nature going back to the second-reading debate, which is not in any way related to the matters in clause 4. Some of the issues that he has raised are dealt with later, in clause 7, but I make it clear that the matters covered in clause 4 do not in any way affect the prevailing law relating to murder, suicide or any other subject that he has raised, and do not provide grounds for opposing the clause.

The Hon. B. A. CHAMBERLAIN (Western Province)—It is obvious from the Minister's response that he did not respond to the issues I raised. Clause 4 (2) states:

This Act does not apply to palliative care and does not affect any right, power or duty which a medical practitioner or any other person has in relation to palliative care.

Although clause 4 may make it clear that the duties of a doctor are not affected by the Bill, it does not make it clear that the duties of a doctor, such as monitoring the condition of a patient or advising the patient of new options, are not affected. This may be done by providing that the duties, rights and powers of a doctor are not affected except as expressly provided for in the Bill. I ask the Minister to consider the wording of that provision to ensure that it does not create the confusion that I have pointed out.

The Hon. D. R. White—It does not.

The clause was agreed to.

Clause 5

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

2. Clause 5, line 17, after "patient" insert "is of sound mind and".

The Hon. A. J. HUNT (South Eastern Province)—I thank the Minister for this amendment. It remedies a defect in the clause to which I drew attention in my remarks during the second-reading debate. Obviously, it ought to be a condition precedent to the giving of a certificate that the person who gives it is of sound mind. I cannot understand how that was omitted in the first place, but I am glad that it is being inserted now.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—This is the critical clause in the operation of the certificate. It is important that the House understands what the clause says and the principal elements of it and the real problems in those elements, which have been highlighted by Mr T. H. Smith, QC, and a number of medical commentators. Clause 5 states:

(1) If a medical practitioner and another person are each satisfied—

(*a*) that a patient has clearly expressed or indicated a decision—

(i) to refuse medical treatment generally; or

(ii) to refuse medical treatment of a particular kind—for a current condition; and

(*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 to refuse medical treatment generally or of a particular kind (as the case requires) for that condition and that the patient has appeared to understand that information; . . .

And we now have the other element, "is of sound mind". Mr T. H. Smith, QC, pointed out that the concepts used in clause 5 are well known in the criminal law and are extraordinarily uncertain, and it is important to recognise that fact. In his report to the Law Reform Committee of the Bar Council, Mr Smith deals with the matter in this way:

> 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.
>
> 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 decision 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 decision is made free of any pressure from any person, be it a relative or member of the treating staff, etc.

That has been quoted to the House before. Mr Smith, an eminent Queen's Counsel, expresses reservations about the central terms of clause 5. That opinion was quoted in the House on 19 April 1988, and I ask the Minister to respond to those forthright views.

The Hon. D. R. WHITE (Minister for Health)—What Mr Chamberlain has put before the House is a case opposing clause 5. He argues, as best he can, that it is in no way superior to the common law, which is what he supports. It is interesting to note his attitude to the debate on these clauses. He is saying that there are deficiencies in the common law and that there are difficulties in expressing the common law.

In clause 5 the government has attempted to deal with those difficulties, and Mr Chamberlain then argues for reversion to the common law, which he says is inadequate. In doing so, he does not make an attempt to amend any of the clauses, although the government is offering him an opportunity of doing so. Therefore, the case put by Mr Chamberlain is: that the common law is inadequate; and that the government's response to that inadequacy does not meet his wishes. But the government says—and maintains, having heard him—that this is a preferred course of action and is an improvement on what is currently available and that, therefore, he has not made out a case in opposition to clause 5.

The Hon. B. A. CHAMBERLAIN (Western Province)—There are other central provisions, but the basic response to the Minister is that legislation should be problem-solving, one should identify the problem and seek a solution. In doing so, one has to be careful that the solution——

The Hon. C. F. VAN BUREN (Eumemmerring Province)—On a point of order, Mr Chairman: Mr Chamberlain said the same thing in the second-reading debate, and I thought that if the Opposition had some problems with the Bill they would have some amendments. I cannot see any amendments and what Mr Chamberlain is saying is a repetition of the same rubbish!

The CHAIRMAN—There is no point of order.

The Hon. B. A. CHAMBERLAIN (Western Province)—We must ensure that the solution we are proposing does not of itself create problems. It is clear that the Bill creates other problems. Members of the Opposition have been asked why we have not sought to amend the Bill. We have looked at the issues with an open mind.

Honourable members interjecting.

The Hon. B. A. CHAMBERLAIN—The conclusion we came to was that it was not possible to translate the concepts into an Act of Parliament.

The point I am making is reinforced by Dr Ken Sleeman, the President of the Australian Medical Association, who referred to the provision contained in clause 5, that a patient is given information as to his or her current condition, and to provisions which refer to the condition changing. I quote Dr Sleeman's words, not mine. He is, as I have said, the President of the Australian Medical Association. His statement typifies the nature of the problem and provides a challenge to the Opposition to produce a more suitable provision.

As I said before, the distinction is sought to be made between the current condition and changed condition in respect of refusal of medical treatment. In this instance, the distinction cannot be made. Dr Sleeman said:

> 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?

I have given other examples and I am disappointed that no-one on the government side took the trouble to answer the claims which are not mine but claims of physicians, surgeons, psychiatrists and lawyers in respect of concerns regarding this issue.

Government members cannot say that it is up to the Opposition to produce an amendment. We have put the arguments and the government has ignored them. That has reinforced our view that the provision should be rejected.

The Hon. D. R. WHITE (Minister for Health)—In the course of the second-reading debate Mr Hunt proposed specific matters for consideration for inclusion in the Bill. They now form part of some amendments that have been put before the Committee.

The Hon. B. A. Chamberlain—Three words!

The Hon. D. R. WHITE—They included a proposed amendment to clause 5 and the words, "is of sound mind and", have been included in response to matters raised by Mr Hunt.

By way of contrast, Mr Chamberlain suggested that there is no place for any amendments when it was proposed that the clause be amended in response to a suggestion by Mr Hunt.

There is a basic and fundamental inconsistency in the approach of the Opposition. On the one hand there is a person making constructive suggestions which the government has taken on board and, on the other hand, Mr Chamberlain is saying—I repeat what he has said—that it is not possible under any circumstance to amend this clause, let alone the proposed legislation. Mr Chamberlain has directly contradicted the offer made by Mr Hunt, to which the government has responded and which has been acknowledged.

Moreover, Mr Chamberlain has endeavoured to persuade the Committee that the common law is superior to the provisions of the Bill. The government contends that the specific words of clause 5 are superior to the common law and, until someone offers suggestions to improve on what is before the Committee, no case has been made out for opposing the clause.

The Hon. J. V. C. GUEST (Monash Province)—There is no doubt that the Minister for Health takes this issue very seriously. He probably did not want to introduce a Bill such as the Medical Treatment Bill (No. 2) but has endeavoured to produce a Bill which will work and provide solutions to problems raised by the Opposition. The Minister has taken the Opposition's points seriously.

The Hon. C. F. Van Buren—There has been one!

The Hon. J. V. C. GUEST—I assure Mr Van Buren that the Minister has discussed with me and others points that have been raised.

The Hon. C. F. Van Buren—Mr Guest has just got up and started to speak!

The Hon. J. V. C. GUEST—It is a pity that the government members generally—one must exclude Mrs Dixon—do not give evidence of taking this extremely difficult issue seriously. I say "difficult" issue, rather than "weighty" issue because it deals with only the few hard cases about which I spoke during the second-reading debate.

It is a difficult issue. Remarks made by Mr Mier and others have been directed yet again at Mr Chamberlain to suggest that he has adopted than an extraordinarily diligent, conscientious and professional approach.

The CHAIRMAN (the Hon. G. A. Sgro)—The honourable member said that in the second-reading speech debate. I remind him that the Committee is dealing with clause 5.

The Hon. J. V. C. GUEST—In the course of Mr Chamberlain's discussion of clause 5, there were offensive interjections, despite the fact that Mr Chamberlain has made it clear that he does not agree——

The Hon. D. R. WHITE (Minister for Health)—On a point of order, Mr Chairman, the honourable member is putting forward a defence of the Leader of the Opposition; he is not speaking to clause 5. If Mr Guest wants to move an amendment to the Bill, he should have done so at the appointed time; the time has now lapsed. Mr Guest should speak to the clause.

The CHAIRMAN—I remind Mr Guest that Mr Chamberlain is capable of looking after himself if he has been offended and ask him to return clause 5.

The Hon. J. V. C. GUEST (Monash Province)—Clause 5 is like the Bill as a whole: I should have liked to have been able to support it, because some people at least on the government side have been trying to address the serious problem——

The Hon. M. J. Arnold—Have you read it; do you know what it is? Somebody show him the Bill!

The Hon. J. V. C. GUEST—When I listened to people trying to explain how the Bill would work and why it is necessary, it became increasingly clear to me that the Bill would solve many problems but it is likely that it would create as many others.

The Minister for Health takes these things seriously. I have had an increasing amount of feedback in the past week from people who have been sympathetic to the Bill, to clause 5.

The CHAIRMAN—I ask Mr Guest to return to clause 5.

The Hon. J. V. C. GUEST—I will try to be as pedantic as you, Mr Chairman, indicate I ought to be, and I shall discuss the clause.

As I said, people have been communicating to me their views which have been based on a study for the first time of what is actually involved in the provisions of the clause, which is a key clause in the Bill. People who have been studying health law, post-graduates, doctors, senior nurses and others who have made a study of the Bill——

The Hon. M. J. Arnold—Name one!

The Hon. J. V. C. GUEST—Those people have said unanimously that there are problems such as those raised by Mr Chamberlain in relation to the clause. They have reversed their original impressions that it might be helpful and they have now determined that the Bill would be a disaster. They could all imagine instances of problems that would be exacerbated by this clause rather than answered by it.

It clearly would be irresponsible for us here and now—especially in a Committee of 44 people—to try to controvert that unanimous opinion of professionally qualified people. If

the Minister for Health were really serious in suggesting that the Opposition should have an input into the amendments which would make this clause work——

The Hon. D. R. WHITE (Minister for Health)—On a point of order, Mr Chairman, the clause relates to the refusal of medical treatment certificate. Despite two rulings from the Chair, on not one occasion has Mr Guest attempted to mention one aspect of the clause or one issue associated with the clause, or to specify any area of the clause that he finds deficient. Moreover, he has not attempted to state the common law or to reflect upon its merit or its uncertainty in relation to this clause. He has not in any way mentioned the clause.

I note with interest that he is now looking at the Bill for the first time. However, despite two rulings, he has still made no attempt to address the clause. I suggest that he is totally out of order in expressing a general view about the debate. Even when he quoted individual doctors and nurses, he did so in a general sense and did not relate those remarks specifically to the clause.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! Mr Guest has had two or three chances to speak to the clause but failed to do so. Therefore, I uphold the point of order and shall put the question.

The Hon. J. V. C. Guest—Mr Chairman, you did not allow me to answer the point of order.

The CHAIRMAN—Order! I have ruled.

The clause, as amended, was agreed to.

Clause 6

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

3. Clause 6, line 28, after "refused" insert ", being treatment for the condition in relation to which the certificate was given".

The amendment was requested by Professor Penington following consultations he undertook. It makes it clear that a doctor can be prosecuted only for ignoring a refusal of treatment certificate if the doctor's actions related to the current condition, that is, the condition in respect of which the certificate was issued. By virtue of clause 7, a refusal of treatment certificate is effective only in relation to the current condition of the patient. It lapses once that current condition ceases. The government has taken note of the matters raised and, after due consideration by the Chairperson of the Social Development Committee, Mrs Judy Dixon, the amendment was proposed.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—One of the purposes of the proposed legislation is to create a statutory offence of medical trespass. The current situation is, as Mr Castan, QC, said in his document:

> Any medical procedure carried out without a patient's consent is a trespass to the person and the medical practitioner is liable in damages.

This involves a civil claim, as against the statutory offence that is being proposed in the Bill together with the possibility of a civil claim. The problem with the provision in the Bill is the impact it could have on a doctor. Mr Tom Smith, QC, expressed the view that, in his opinion, it would not be wise to create this new criminal offence.

The Hon. M. J. Sandon—So, your submission is directed to the doctors, not the patients.

The Hon. B. A. CHAMBERLAIN—Doctors treating patients in contravention of the provision would be liable to civil proceedings and disciplinary action. If the Bill is finally passed, with the many problems of interpretation that will clearly arise, the proposed

legislation will lead to a barristers' banquet, and the existence of a criminal offence will bias doctors in favour of not treating when there is any doubt about whether a certificate applies to a procedure. That is a significant point.

In the view of Mr Smith, QC, the proposed legislation will bias doctors in favour of not treating where there is any doubt about whether a certificate applies to a procedure. I ask the Minister to consider that point because that is a valid criticism, raised by an eminent commentator.

The Hon. D. R. WHITE (Minister for Health)—The provision will not change the emphasis in the way Mr Chamberlain suggests. The circumstances about which the government has been concerned in relation to common law is that there is no protection for the medical practitioner, even when consent has been provided, because the medical practitioner was always open, under common law, to being sued by the spouse or other relative. The government's concern now, which is becoming quite apparent in the Committee debate, is that this is an extension of the second-reading debate, in so far as Mr Chamberlain is speaking for and on behalf of the Opposition.

The Committee is now halfway through the consideration of the clauses of the Bill, if not beyond that stage, and so far the Opposition has opposed every clause outright. If that is not an extension of its position on the second reading, I cannot reach any other interpretation because there is no other interpretation. The Opposition is using the Committee as a vehicle for opposing every clause.

The Hon. J. V. C. GUEST (Monash Province)—On a point of order, Mr Chairman, you have previously been extremely strict, according to some principle or other. What the Minister is saying is totally irrelevant to the clause. He is, in effect, making some sort of point of order, although it is not a good point of order, in claiming there is something wrong with Mr Chamberlain's argument because it is consistent with the position adopted by the Opposition on the second reading of the Bill. The Minister is not debating the clause and, on exactly the same narrow principle you applied to me earlier, I suggest that you rule him out of order.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! I am inclined to agree with Mr Guest. I was about to call the Minister back to the clause and the amendment that he moved.

The Hon. D. R. WHITE (Minister for Health)—I am happy to be cautioned, Mr Chairman. The Social Development Committee heard numerous submissions on this issue and unanimously recommended an offence of medical trespass. Clause 6 accurately reflects the views and expressions of the committee, which was an all-party Parliamentary committee, which included in its membership Mr Knowles and Mr Hallam. The government looks forward to their support of this clause.

The Hon. J. V. C. GUEST (Monash Province)—I wish to make a point on clause 6, although it happens to apply to every other clause as well. Legal opinion has now accumulated overwhelmingly against the need or desirability for this provision. Mr Castan, QC, an eminent lawyer briefed by the government, spoke to me and discussed his opinions with me, at the Minister's suggestion. He made it clear—and, indeed, it is clear from his opinion—that he was making no recommendations about policy or whether this Bill was a good idea; nor was he saying that this Bill or any part of it, including this clause, is the right way of dealing with one or two problems he pointed to.

Mr Smith, QC, an eminent counsel and an eminent member of the Labor Party, having held at least one important office in the party—though I do not know how recently—has clearly pointed to a multitude of problems in the Bill, particularly on this clause. The weight of expert legal opinion is decidedly against this clause, and the Opposition is in agreement with that balance of expert evidence.

The clause, as amended, was agreed to.

Clause 7

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

4. Clause 7, page 5, omit "circumstances of the person have" and insert "medical condition of the person has".

The amendment affects clause 7 (3), which treats a refusal of treatment certificate as ceasing to operate once the medical condition that gave rise to the need for the certificate has itself ceased. The purpose of the amendment is simply to clarify the position by basically substituting the term "medical condition" for "circumstances".

The term "circumstances" was considered to be vague and confusing. The amendment makes it clear that the cessation of the medical condition that 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.

As explained in the second-reading speech introducing the Bill, this is in line with the policy of the report of the Social Development Committee and of the government, namely, that refusals of medical treatment can be made only within a current treatment setting and not by way of advance declarations.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I should like to comment on a couple of aspects of significance in the Minister's comments. This relates to clause 7 (1) (*a*). No provision is made in the Bill for advising patients or agents, or for verifying that a patient has not been pressured into providing a certificate. One suggestion towards overcoming that problem is to provide that the procedures in clause 5 or clause 9 must be gone through for a new certificate to be issued if the patient or the agent changes his or her mind. There is no provision for a patient to revoke a certificate made by an agent if the patient regains consciousness.

This provision is very important but perhaps I shall deal with it in more detail during discussions on clauses 9 and 10.

Another procedure is one that allows the patient to revoke the certificate by simply asking for treatment. That proposition is simple and should have been provided for in the Bill. In a submission to the Opposition, the Law Institute of Victoria suggested that a register of certificates and powers should be established so doctors can verify the current powers and so the next of kin or the family can ensure that the patient's wishes are being adhered to. I am surprised, since the same submissions went to the government, it has done nothing with them.

The Hon. D. R. WHITE (Minister for Health)—I shall make two points: the first is that Mr Chamberlain has turned to the issue of duress and the circumstances under which a certificate may be issued. Those are adequately dealt with in clause 5 and in the amendments the government proposed to clause 4.

I repeat: this is a Committee debate during which honourable members have a certain responsibility. If they have received submissions from certain sections of the community suggesting modifications to particular clauses, it is not sufficient merely to argue that the clauses be opposed outright; honourable members should take an interest in them and should feel obliged to suggest amendments that can be dealt with on their merits. No such amendment is before the Committee. Mrs Dixon may wish to comment on some of the other points made by Mr Chamberlain.

The Hon. J. L. DIXON (Boronia Province)—I have only one point I wish to make. If I heard Mr Chamberlain correctly, he obviously does not understand the appointment of an agent and has not read Schedules 2 and 3 because agents would not be necessary if the patients were competent. They would only be required if their patients were incompetent.

The clause, as amended, was agreed to.

Clause 8

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

5. Clause 8, line 10, after "cancellation" insert "or modification".

6. Clause 8, line 15, after "cancelled" insert "or modified".

Amendment No. 5 rectifies an omission. Clause 7 allows for a refusal of treatment certificate not only to be cancelled but also modified. Clause 8, dealing with evidentiary effects, covers original certificates and notices of cancellation. For completeness, it should cover notices modifying a certificate. That is the effect of the amendment. Amendment No. 6 is consequential on amendment No. 5.

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

Clause 9

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

7. Clause 9, line 20, after "9" insert—

"( ) An agent or guardian may only refuse medical treatment on behalf of a person if—

(*a*) the medical treatment would cause unreasonable distress to the person; or

(*b*) there are reasonable grounds for believing that the person, if competent, would consider that the medical treatment was unwarranted."

This is another significant amendment following a submission from the St Vincent's Bioethics Centre. It flows from concern that powers of a guardian or agent to refuse medical treatment should be carefully circumscribed.

Some anxiety has been expressed that guardians or agents might misuse the power. Clause 9 deals with the power of guardians or agents to refuse medical treatment for incompetent persons. The procedure to be followed before an agent or a guardian can issue a certificate affecting an incompetent person is the same as that applied to a competent patient. A medical practitioner and an independent witness must be each satisfied of a range of matters.

The amendment now moved responds to concerns that there needs to be extra safeguards where the decision to refuse medical treatment is being taken by an agent or a guardian. The amendment takes the form of a further subclause. It provides that an agent or a a guardian may only refuse medical treatment if: the medical treatment would cause unreasonable distress to the person; or reasonable grounds exist for believing the person, if competent, would consider that the medical treatment was unwarranted.

The amendment will overcome concerns about misuse of authority by agents or guardians. Dependent on the Committee's view about the amendment, I foreshadow that I also wish to make further substantive comments on clause 9 when it is being dealt with as a whole.

The amendment was agreed to.

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

8. Clause 9, line 32, omit "(2)" and insert "(3)".

This amendment is consequential upon amendment No. 7.

The amendment was agreed to.

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

9. Clause 9, page 5, line 1, omit "(2)" and insert"(3)".

The Bill has three major purposes which are outlined in clause 1. The third purpose is:

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

Clauses 9 and 10 give effect to that purpose.

The Bill enables any competent adult to appoint a medical treatment agent by means of the ordinary enduring power of attorney provided for under the Instruments Act or by a single purpose, special enduring power of attorney provided for under Schedule 2. The need for such a provision had been cogently argued by Mr Lawson and Mr Ben Bodna, the Public Advocate, in public submissions to the Social Development Committee.

Mr Lawson and Mr Bodna spent their working days dealing with the problems of the disabled, including those who are incompetent. They consider that people, while they are competent, should have the right to nominate persons they trust to act as their agents in medical treatment decisions if they become incompetent.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! The Committee has not voted on the Minister's amendment No. 9.

The Hon. D. R. WHITE—I apologise, Mr Chairman, I shall continue my remarks after the amendment has been dealt with.

The amendment was agreed to.

The Hon. D. R. WHITE (Minister for Health)—As I was saying, Mr Lawson and Mr Bodna spent their working days dealing with the problems of the disabled, including those who are incompetent. They consider that people, while they are competent, should have the right to nominate persons they trust to act as their agents in medical treatment decisions if they become incompetent.

As Mr Lawson indicated in a letter he sent to Mr Chamberlain and which, by way of courtesy, was also sent to the Attorney-General, the Guardianship and Administration Board sees itself as only playing a residual role. It is there to provide guardians where no agents have been nominated. Clearly the board does not deal with the circumstances of the capacity of a competent person to appoint an agent. As Mr Castan said, the common law is totally inadequate when it comes to allowing people to nominate a medical treatment agent. The much vaunted common law has developed principles only in relation to the position of the patient who is competent at the time of medical treatment.

This matter was pursued at length during the second-reading debate. Mr Castan pointed out that the result of this situation is that medical decisions affecting the incompetent are entirely the legal responsibility of the medical practitioner. Although doctors are free to take account of the wishes of relatives or friends, they are not obliged to do so. As the Social Development Committee indicated, this legal situation is an affront to the notions of compassion and respect for the rights of the individual. Clauses 9 and 10 rectified that situation.

The attitude of the Opposition is all the more surprising because, when in government in 1981, it introduced a Bill to amend the Instruments Act and to allow for an enduring power of attorney. That proposed legislation did away with the previous legal rule that the power of attorney ceased to be effective if the person who gave the power of attorney became incompetent. At that time the then Liberal government considered that reform important because it enabled people to nominate agents to look after their affairs once they became incompetent; for example, as a result of senility or serious illness.

The Guardianship and Administration Board and the Public Advocate have been enthusiastic promoters of the desirability of people making enduring powers of attorney, as have financial advisers such as trustee companies; but the weight of legal opinion is that it is extremely doubtful whether an enduring power of attorney, while a good reform of the previous administration, can be used to give an agent authority to make medical decisions about an incompetent person.

Clauses 9 and 10 of the Bill rectify this problem in the sense that the enduring power of attorney deals with financial and administrative matters. They, that is the Public Advocate and the head of the Guardianship and Administration Board, also acknowledge that many

people would prefer the medical treatment agent to be a different person from the one who handles their financial affairs. That is why Schedule 2 is in the Bill.

The government's amendment to clause 9 is intended to place appropriate constraints on an agent who makes a refusal of treatment decision. The terms of those safeguards have the specific approval of the Catholic Archbishop of Melbourne and are considered by him to be consistent with Christian moral principles.

I wish to emphasise that the enduring power of attorney provision in the Bill is drafted so that the medical treatment power of attorney becomes incompetent. This is in contrast to the situation under the Instruments Act, whereby the enduring power of authority would take effect immediately upon being made. The safeguard I have mentioned is an important feature of the Bill.

Therefore, there are two major reasons for the government pursuing the clause. Firstly, it is entirely consistent with, reflects and complements legislation passed by the previous administration in providing for enduring powers of attorney and, secondly, it complements the major principle of the Bill to which we have just agreed in the first eight clauses.

The first eight clauses essentially relate to the competent person and the Opposition, albeit belatedly, has now agreed that those rights should exist for the competent person. We are now dealing with the rights of the competent person who becomes incompetent, and it would be entirely inconsistent for the Opposition and the National Party to argue that, having recognised that the rights of the competent person ought to be put into legislation, those rights should be denied to an incompetent person.

The Hon. B. A. CHAMBERLAIN (Western Province)—The point to be made is that the Social Development Committee did not recommend this provision. If it had thought the provision was so important, I am sure it would have recommended it. The Social Development Committee drew attention to the fact that it was possible, under the Instruments Act, to enter a power of attorney and the power of attorney, as the Minister said, is unlike the ordinary power of attorney. It has the advantage of being still in operation once the person becomes incompetent. I recommend to every member of this House who is in a stable domestic relationship, to give his or her partner an enduring power of attorney.

The Hon. M. J. Arnold—You believe the law is clear on that point?

The Hon. B. A. CHAMBERLAIN—The question exists of whether, under such a power of attorney, there is an ability to make medical decisions and doubt exists on that issue but that point can be cleared up without this Bill. It can be cleared up with an amendment to the Instruments Act.

The Hon. M. J. Arnold—And you will agree to that?

The Hon. B. A. CHAMBERLAIN—What I am saying is that I have no objection to it if it were not in this framework and, later on, when we come to the implications of the certificate processes, it is in those areas and in that context that its dangers will become apparent.

In relation to the clause itself, again I refer to Mr Tom Smith, QC, who notes that it is not apparent why the safeguards in clause 5—the condition that one must be satisfied that the person understands what he or she is doing and makes a free decision—are not in clause 9.

The Minister said the Opposition would be inconsistent if it did not go along with the clause but it is inconsistent to have a provision with no safeguards whatsoever in respect of the lack of pressure on the patient, when those provisions are included in clause 5. Again, it is suggested by Mr Smith that it would be desirable that two medical practitioners not involved in treating the patient should give the necessary advice.

The next point to make is that it is important to ensure that the power of attorney is itself not given under pressure. The witnesses to the giving of the power of attorney should be able to testify to this and should have no pecuniary interest. It is perhaps right to say that if a person is given a power of attorney and the person knows that that power of attorney gives him or her the right to make medical decisions including turning off life support systems, and that same person is a beneficiary under the will of that person, clearly some people—and I stress "some"—could be well influenced by that situation. No provision exists in the Bill to inhibit that situation.

Mrs Dixon said earlier that in the case of a person who is not incompetent—in other words, no longer incompetent, the power of attorney cannot be used. That is one of the problems. First of all, the problem is one of definition. The Bill contains no definition of incompetence. There is no mechanism for deciding how to ascertain that state and, again, the Australian and New Zealand College of Psychiatrists points out the difficulty in that area.

As the Minister said, the power of attorney in the Bill is different from a normal enduring power of attorney because it can operate only once the person is incompetent, yet there is no definition of incompetence and there is no way of testing that issue.

Edmund Chiu from the college of psychiatry says that this is still a major problem and he believes further work needs to be done on this central issue. The Opposition puts the government on notice that it has done nothing about the provision. Other problems exist, and I shall not go through them but these provisions are fraught with difficulty. They are open to abuse by unscrupulous people and the Opposition intends to vigorously oppose this provision and clause 10.

The Hon. M. J. ARNOLD (Templestowe Province)—In the second-reading debate Mr Hunt made a comment that is relevant to the clause and I shall quote from the debate:

> Just as I hold that it is the right of a person of sound mind and full age to refuse treatment, and that right ought to be clarified and reinforced, so I find it impossible to accept that an agent, who may be a member of a family, or may even be a person standing to benefit, can act for a person to make that choice once the person is no longer able to speak for himself or herself.
>
> I find that ethically offensive. That is a matter that must be considered further in Committee. It will need consultation between the parties. It is a matter which, with goodwill, can be resolved.

I certainly hope that that goodwill will be exercised here this evening. It certainly does not appear that it will, from the words of the Leader of the Opposition in this place. There is no doubt that when Mr Hunt made his dramatic announcement, he was sincere but I certainly hope that later on a suggestion will not be made that it was a cynical political exercise because we are waiting for the exercise of goodwill to resolve a matter of great concern.

Mr Chamberlain claims that if the clause is defeated the whole point made in the committee's report in terms of the question of the enduring power of attorney as it applies to medical treatment would be clarified and I take up what appeared to be an offer by Mr Chamberlain that the Instruments Act could be amended to clarify that point. I am uncertain as to whether it was an offer or not but it was mentioned in the course of the debate and it means, in effect, that the refusal of medical treatment certificate, which has been agreed to by this House and has become part of the legislation, is liable to lapse.

Because of the difference of views on the law regarding incompetence, a competent person can sign a refusal of medical treatment certificate but if that person becomes incompetent, the certificate will lapse and, therefore, be not binding on a medical practitioner. What is the point of that? The Liberal Party suggesting that this clause be omitted from the Bill makes a nonsense of the provision regarding the refusal of medical treatment certificate. It is incumbent on the Committee to pass this clause not only for the self-apparent reasons that have been expressed but also to avoid making a nonsense of the fact that the Committee passed an earlier clause in the Bill.

I look forward to the Opposition supporting the clause. I certainly look forward to Mr Hunt, in the spirit of goodwill to try to achieve an appropriate settlement on the question of agency, speaking on this issue.

The Hon. R. A. MACKENZIE (Geelong Province)—I am disappointed at the attitude Mr Chamberlain has taken to what is one of the vital clauses in the Bill. One of the difficulties with the Refusal of Medical Treatment Bill was that it did not contain a clause containing a power of attorney for medical decisions; it left the matter entirely to a certicate, like a living will. That created some difficulties about where such a will would be lodged.

I was pleased when the Social Development Committee recommended that the power of attorney should be granted in the case of medical application because it was a big breakthrough. The power of attorney in this context exists in several States of the United States of America, and it has worked well. The problems Mr Chamberlain forsees have not eventuated. There has not been any litigation or barristers' banquets, as he referred to earlier. Clause 9 is the crux of the Bill. Removing it from the measure would be tantamount to emasculating the Bill.

In the spirit of trying to get the Bill to work, I expected Mr Chamberlain to offer some positive suggestion as to how the clause could be improved to put his mind at rest. I strongly support the clause.

The Hon. D. R. WHITE (Minister for Health)—The Opposition stated that it supports enduring power of attorney for property but not for the body. If it persists with that view, at the end of this sessional period, the Bill will become an Act without this clause and the government will continue to campaign publicly on this issue during the recess. In the spring sessional period, the government will return with a new Bill containing any measures that may have risen from public comment but it will resume the argument on this issue. The government knows that not only will there be breaks in the ranks of the Opposition but also that the government will prevail on this issue.

The Hon. J. V. C. GUEST (Monash Province)—I regret the extraordinary political tone that the Minister has introduced to the debate. At least members of the Liberal Party can exercise their vote according to their consciences. My conscience could live with a vote for or against this Bill.

I agree with Mr Mackenzie that the principal operative part of the Bill is the provision for an agent to be appointed. I take the libertarian point that I should be able to appoint someone to make any decision on my behalf. However, I have heard fully paid up libertarians argue strongly that one thing wrong with the Bill is that a person other than the person directly affected is able to make a life or death decision relating to medical treatment.

Members of the Committee should not be plunged into debating this clause without sorting out some basic assumptions. The Social Development Committee did not investigate the matter and did not recommend the provision contained in clause 9. Under common law it is not clear whether an agent may or may not be appointed to make decisions regarding medical treatment for someone else, particularly treatment related to terminal illnesses. It is unclear whether an agent can make decisions about the provision of palliative care or attempts to cure a patient.

The general proposition from a well-known text on the law, the fourth edition of *Halsbury's Laws of England* on the question of agency is that whatever a person has power to do himself, he may do by means of an agent. I was prepared to accept that proposition. It means that an enduring power of attorney can do what is required without the assistance of clause 9.

I accepted the invitation to speak to Mr Castan, and he obviously has not had time to research this matter because he was not briefed early enough by the government. Without being able to research all the possible cases, Mr Castan expressed general doubt about

whether it was possible under common law to appoint an agent to make decisions about medical treatment.

If one cannot appoint a person to consent or not consent to an invasion of one's body, it must be because there are deep reasons of public policy enunciated or at least adopted explicitly or implicitly as a matter of principle by the common-law courts over the centuries of the development of common law. If honourable members are to change such principles, we should consider in advance what the law is and the principles that are only now, at the end of the sessional period, coming to light. We should then decide what are the reasons for the law as it now stands and whether it should be changed.

The Hon. D. R. White—We are not changing it: we are saying it is silent in this area and that is why we are doing what we are doing.

The Hon. J. V. C. GUEST—I am afraid the law is not silent in this area. If someone has been given an enduring power of attorney to make decisions about medical treatment and he purports to make them but a doctor refuses to abide by that decision because he has legal advice that the common law does not allow the appointment of an agent to make that kind of decision—despite the fact that an agent can make decisions about property, contracts and pushing someone out of a pub—if the attorney were trying to stick up for the patient, he would go to the courts. The courts would then decide the matter and the law would be found not to be silent on this matter. The courts would make a decision according to principles after careful research of cases and authoritative texts. If the common law were were found to limit the power of agents in the relevant way we might have to face up to overturning an extremely important underlying principle. Honourable members should not ignore the accumulated wisdom of the best minds of the bar and bench when taking account, as they should, of what the law now is and the principles underlying it. In answer to interjections I point out that that means the legal profession has a systematic way of sorting through the relevant issues.

The Hon. M. J. Arnold—So have we!

The Hon. J. V. C. GUEST—What has the Labor Party done? In the dying days of the sessional period, with about 40 or 50 Bills still to be dealt with——

Honourable members interjecting.

The Hon. J. V. C. GUEST—At least Opposition members are busy. There is certainly evidence that government members are not. One is reminded of the maxim that the devil makes work for idle hands. Presumably government members have taken their orders some time ago.

The Hon. M. J. Arnold—Get back to the clause.

The Hon. J. V. C. GUEST—Honourable members have been forced to deal with the detail of very many Bills, which have been pushed through Parliament and which need extensive amendment, in the dying days of the sessional period. Yet this extremely important Bill in its ninth version is being pushed through.

Honourable members interjecting.

The Hon. J. V. C. GUEST—We are told—tongue in cheek, I trust—that we ought to be making a contribution in this marvellous drafting Committee of 44 members, all sitting around, to try to patch up the tenth version, when it may be perfect. Honourable members opposite seem to be saying that clause 9 may be made perfect if Opposition members would only contribute. I suggest that the serious way of trying to get this provision right would be to send it off to——

The Hon. M. J. Arnold—A Parliamentary committee!

The Hon. J. V. C. GUEST—Indeed, it ought to be sent off to some of those who are practised in actually dealing with drafting and matters of law so that they can examine the narrow issue.

The Hon. M. J. Arnold—You are able to get on the Committee.

The CHAIRMAN (the Hon. G. A. Sgro)—Order!

The Hon. J. V. C. GUEST—I have just suggested how this clause may be dealt with more appropriately in the light of numerous cogent objections made by lawyers and the failure to address at a sufficiently early stage, before the heated fury of the last week of the sessional period, some of the fundamental issues that have been involved.

The Hon. M. J. Arnold—How about addressing the clause?

The Hon. J. V. C. GUEST—In addition to the problems that have been raised by Mr Smith and by Mr Castan, who has made a statement in which he expresses no view of the policy of providing a Bill for the case that clause 9 addresses, the Opposition has just received an opinion from another leading Queen's Counsel of the Victorian Bar, Mr Peter O'Callaghan. I shall quote just a sufficient extract from his opinion to illustrate that caution—not political threats—needs to be exercised and that more time is required——

The CHAIRMAN—Does the quote relate to clause 9?

The Hon. J. V. C. GUEST—Yes, Mr Chairman. Mr O'Callaghan says:

I regret that Mr Castan did not attempt to undertake a detailed analysis of the precise language used in the Bill. Somebody must analyse that language, and see whether it achieves the objects which it is stated are desired to be achieved.

A lawyer of the status of Mr Castan is trained to determine the effects of words in a statute, and if lawyers do not do it, who can?

Of course, Mr Castan did not have time—we know that he did not have time—to do that. Mr O'Callaghan's opinion continues:

Unless there is a detailed consideration of the wording in the Bill, who will know its potential effects prior to it becoming law? For instance is the Bill intended to relate to terminally ill patients only, or to any patient suffering an illness?

The CHAIRMAN (the Hon. G. A. Sgro)—Once again, I remind Mr Guest that the Committee is dealing with clause 9. I warn him for the last time to confine his remarks to that clause; if he does not, I shall rule him out of order.

The Hon. J. V. C. GUEST—If you would care to read clause 9, Mr Chairman, you will note it raises this precise point. In fact, Mr O'Callaghan says something that is applicable to both clauses 9 and 5 but I say, as my contribution, that it clearly applies and is meant to apply to clause 9, and that is why I am quoting it.

There is no time to go through all of the practical aspects, which is why the matter should not be dealt with in this extraordinarily political way; no doubt that is being done under instruction from the Premier who, unlike the Minister for Health, has long wanted to make this a political issue. Nonetheless, I shall deal with one of the many, and still accumulating, submissions made to me by people who have become anxious over the past week or so. It relates very precisely to this clause and it concerns the situation of many disabled people, particularly elderly disabled people, under their care.

The lady who communicated this submission said that she really did fear that the provisions of this clause, like those of other clauses, would be used to get rid of those people causing discomfort to their families, who did not like visiting them or supporting them. One would hope that those would be the rare cases, but while that sort of apprehension exists in the community, there is absolutely no case for rushing through the Bill in this way.

The Hon. D. R. WHITE (Minister for Health)—The Instruments Act is the basis upon which the enduring power of attorney is provided for property administration, not the common law, as put forward by Mr Guest.

I also wish to take this opportunity of making quite clear what Mr Castan said at page 13 of his opinion. He said that, on the contrary, where one is dealing with a competent person wishing to appoint an agent prior to going into a condition of incompetence, there is no relevant common-law principle to deal with that issue. If he was unclear about any issue, he was absolutely fundamental about one issue: that is, that there ought to be legislation in this area. Mr Guest has not made a case for opposing clause 9.

The Hon. J. L. DIXON (Boronia Province)—Before I begin my remarks on clause 9, I point out that there comes a time when we hear many untruths in this place and certainly many twistings of the facts. I have had enough of Mr Guest and some of the things he has said. I would ask him simply to table the other eight versions of the Bill in Parliament. I am sick of Mr Guest talking scathingly and smarmily about nine versions of the Bill.

In regard to clause 9, no matter how Opposition members try to dress up their comments about the clause, let us get down to the real basics. What they are saying about clause 9—and there is nothing else—is that it is okay if one is competent. They say, "We are very big hearted, and we will let you clarify your common-law right to refuse medical treatment. But as soon as you become incompetent, that is it. Not only do you have no common-law right but also we are not going to allow you to have any right in statute. We will get rid of schedules 2 and 3. You will have no rights. Somebody will make the decisions about your medical treatment because, obviously, you will not stay in a hospital bed for ever and ever. Somebody will make the decision but we, the 44 people in this Committee, do not care. We do not care who makes that decision about you, so long as we can back off".

As Mr Chamberlain said, the clause is fraught with too many difficulties for him, so the Opposition wants to leave it to chance. The doctor might decide; the nurse might decide, the conniving relatives to whom the Opposition referred so often might decide. Somebody will decide, but the Opposition will not help those people.

The Hon. A. J. HUNT (South Eastern Province)—During the second-reading debate I made it quite clear that I not only accepted but also upheld the right of a patient of sound mind to refuse medical treatment, a longstanding right of common law. However, I see a world of difference between that proposition and accepting a brand-new right on the part of a third party, who may well have an interest, to make that decision for a patient. That is quite a different proposition to me.

Having taken that view and having expressed it clearly in the second-reading debate, it is obvious as a matter of logic that I could have no conscious objection to the decision of my party to oppose this clause. It therefore follows that whatever I may think on the wisdom or otherwise of the clause, I must oppose it with my party.

That being said, it is clear that a gap will be left in the law by the dropping of this clause to which honourable members on all sides of the House must address themselves. There is the problem of a person who gives a certificate in anticipation of a condition and that condition arises in changing circumstances; the certificate may no longer be valid. That needs to be addressed.

I have endeavoured to address it, but I have not as yet found a way that is acceptable to the draftsman. Mr Chamberlain mentioned the possibility of amendments to the Instruments Act. There is also the possibility of amendments to the Guardianship and Administration Board Act.

I believe members on both sides of the House have to be prepared to address those possibilities between now and the next sessional period, and to do so in a spirit of goodwill. Meanwhile, however, I will, of course, vote with my party on the clause.

The Hon. R. A. MACKENZIE (Geelong Province)—I have listened with interest to Mr Hunt's comments and followed his line of argument. Not being a lawyer, I am a bit reluctant to lock horns with him on a point of law. However, my understanding of a power of attorney is that it involves passing on one's decision to be exercised by someone else.

Mr Hunt is saying that it is giving rights to someone else. It is not. If one gives a power of attorney to someone, it is so that that person can act on one's behalf, whether for business reasons or medical reasons, as in the case of the Bill. The decision is made by the person who gives the power of attorney. The person who is in the role of attorney is only carrying out someone else's wishes; that person is not making the decision. The decision has been made by the person involved. The person who has been given the power of attorney is a third person or mediator who passes that decision on to the relevant authorities—in this case, the medical practitioners.

I am not a lawyer, but in layman's logic that is what I should have thought a power of attorney meant, and that is what many people would think a power of attorney involves. It is the passing on of a decision made by a person. One is not passing the decision making on to anyone else. I do not see how Mr Hunt can bring himself to vote against what is the crux of the clause.

The Hon. D. R. WHITE (Minister for Health)—The Bill has had a gestation of two years, and eight separate editions were produced prior to its introduction. It is a pity that we are reaching a stage in the debate where Mr Hunt is foreshadowing that he wants to embark on some further activity because he is not satisfied with the position that he has taken in opposition to clause 9.

He will continue in opposition, but he foreshadowed that he believes the Opposition has not fulfilled its responsibility. It certainly has provided in the past an enduring power of attorney in respect of an amendment to the Instruments Act in so far as it relates to property and financial administration, but has not fulfilled its responsibility in ensuring that a similar enduring right exists in relation to a competent person appointing an agent and subsequently becoming incompetent. I assure the Commmittee that the government will ensure that, prior to, and at the commencement of the next sessional period, it will make sure the Opposition fulfils its responsibility.

The Committee divided on the clause, as amended (the Hon. G. A. Sgro in the chair).

Ayes	20
Noes	21
Majority against the clause, as amended	1

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 Dunn
Mr Kennan	Mr Evans
Mr Kennedy	Mr Granter
Mrs Kirner	Mr Guest
Mr Landeryou	Mr Hallam
Mrs Lyster	Mr Hunt
Mr Mackenzie	Mr Knowles
Mr Mier	Mr Lawson
Mr Murphy	Mr Macey
Mr Sandon	Mr Miles
Mr Van Buren	Mrs Tehan
Mr Walker	Mrs Varty
Mr White	Mr Ward
	Mr Wright
Tellers:	*Tellers:*
Mr McArthur	Mr Long
Mr Pullen	Mr Reid

PAIR

Mrs McLean | Mr Storey

The sitting was suspended at 6.40 *p.m. until* 8.18 *p.m.*

Clause 10 was negatived.

Clause 11

The Hon. B. A. CHAMBERLAIN (Western Province)—This is an important provision and it highlights one of the greatest weaknesses of the Bill. The provision should be put on record. It is to give protection to medical practitioners who, having gone through the procedure of complying with a refusal of treatment certificate, withhold treatment. It states:

11. (1) A medical practitioner or a person acting under the direction of a medical practitioner who, in good faith and in reliance on a refusal of treatment certificate, refuses to perform or continue the medical treatment which the person has refused is not—

(*a*) guilty of misconduct or infamous misconduct in a professional respect; or

(*b*) guilty of an offence; or

(*c*) liable in any civil proceedings—

because of the failure to perform or continue that treatment.

This is an invitation to professional incompetence. I shall explain to the House how it works.

The Hon. J. L. Dixon—Tell us about it, Bruce, you know all about it; more than I do.

The Hon. B. A. CHAMBERLAIN—Mrs Dixon condemns herself out of her own mouth. The position is this: clause 5 provides for conditions for the granting or the giving of a refusal of treatment certificate. It is possible that a medical practitioner can negligently advise someone as to his or her condition. This provision completely exonerates that medical practitioner.

Assume that you, Mr Chairman, went to a doctor and received advice on your condition. You said to the doctor, "You say I have cancer. I do not want chemotherapy and I do not want drugs, and therefore on the basis of your advice I refuse that treatment". Assume that I, as the doctor, have given you the wrong advice and that you did not have cancer but another curable problem. Under this provision the doctor is completely exonerated. To continue the example, Mr Chairman, if you die as a result of my negligence or negligent advice, there is no capacity for your family to sue me for professional negligence because the conditions of clause 11 give an absolute clearance to the negligent doctor.

The doctor can be acting in good faith but he would be exonerated of any negligence. No wonder many doctors want this provision incorporated, and no wonder the medical defence fund wants this provision included, because it will save the negligent doctor from being sued by his patients. It is a travesty. The problem has previously been brought to the attention of the government, but nothing has been done about it. That is one of the important weaknesses of the provision. I ask the Minister to indicate why the government has left this large loophole.

The clause was agreed to.

Schedule 1

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

10. Schedule 1, omit "patient has attained" and insert "patient is of sound mind and has attained".

The amendment was agreed to.

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

11. Schedule 1, omit the definition of "palliative care" and insert—

'**"Palliative care"** includes—

(*a*) the provision of reasonable medical procedures for the relief of pain, suffering and discomfort; or

(*b*) the reasonable provision of food and water.

The refusal of palliative care is not covered by the *Medical Treatment Act* 1988.'

The amendment was agreed to.

The Hon. R. J. LONG (Gippsland Province)—I shall not worry the Minister about Schedule 3 now, but with reference to Schedule 1, I ask the Minister why a form of refusal of treatment certificate in relation to a competent person is set out but no provision has been made for a situation where a patient, having signed that form, may want to cancel or modify the certificate.

The Hon. J. L. Dixon—Why don't you look at the Bill?

The Hon. R. J. LONG—Surely I am entitled to ask a question and get a sensible answer.

Honourable members interjecting.

The Hon. J. L. Dixon—Look at clause 7.

The Hon. R. J. LONG—I am asking why no form has been prescribed. A form of refusal is prescribed as an evidentiary provision, but why is a cancellation or modification of that certificate not prescribed, and why is there no insistence upon a form? That seems to be a very sensible question and the government should give an answer.

The Hon. D. R. WHITE (Minister for Health)—Mr Chairman, the Committee dealt with the matter of the method of cancellation, modification or cessation of a certificate when debating clause 7. Clearly that was the appropriate time to deal with the issue of the manner in which that should occur. That has now been dealt with by the Committee. Clearly the clauses have foreshadowed the manner of the certificate, and the Committee is now dealing, under Schedule 1, with the form of that certificate, taking into account what was agreed to in clause 7. It is clearly understood that a person who is competent does have a right at any time to withdraw the certificate. After discussions and further amendment, it is clear to the government that, when the circumstances or condition of a competent patient change, the certificate lapses.

Those matters have been dealt with and it is unnecessary to refer to them specifically in the schedule. The government's concern is now with the schedule. Now that clause 9 has been omitted, a person in a competent condition has his rights protected under enshrining legislation. His common-law rights are protected under the law so that there is a right to refuse medical treatment. That provides the procedure that protects those rights, as well as protecting the medical practitioner from being sued for negligence after having consented to allow a patient no longer to receive medical treatment.

Now that clause 9 has been omitted, a new difficulty exists, but the Opposition has not yet attended to that—namely, the situation of a competent person completing a refusal of treatment certificate and then lapsing into incompetence. The rights and privileges of an incompetent person have yet to be dealt with. That matter must be attended to.

The Hon. J. V. C. GUEST (Monash Province)—I address the point made by the Minister. His allegation is that there is a special problem when someone lapses into incompetence. Mrs Dixon made a similar comment earlier, but that was corrected by one of the statements made by the Minister. The Minister shares the same error on this aspect.

If one examines the Guardianship and Administration Board Act 1986, one sees that section 37 provides:

(1) A medical practitioner must not carry out any procedure which is a major medical procedure on a represented person unless the consent of the guardian and the Board has been obtained.

(2) A medical practitioner who contravenes sub-section (1) is guilty of professional misconduct.

(3) The Board may issue guidelines specifying major medical procedures for the purposes of this section.

The problem is placed in the hands of people professionally fitted to make appropriate judgments. It should not run into the problem that has been raised earlier, namely conflicts of interest.

Section 38 (1) of that Act states:

A guardian must not consent to a procedure referred to in section 37 unless the consent of the Board has been first obtained.

It is not good enough that the Minister for Health should put on his Mr Hyde face and make blatantly oversimplified remarks for political consumption, because the Premier now wishes to beat this delicate issue politically. I prefer the Minister as Dr Jekyll, as he appeared when he corrected Mrs Dixon on the matter of the eight versions of the Bill. He is rightly proud of the fact that, having been lumbered by Mrs Dixon with the necessity to legislate—and, admittedly, Mrs Dixon has put much work into the issue—he is now trying to get it right. I give him credit for that. The Minister and other honourable members who are interjecting ought to have the wisdom to reflect on the speed with which importnt social changes usually occur.

A number of honourable members took a serious interest in the Crimes (Sexual Offences) Bill in 1980. Honourable members will remember that when that Bill was passed those matters had been debated not for only six months or two years but for many years. I suggest there have been advances but that the matter may require a bit more time.

The Hon. M. J. Arnold interjected.

The Hon. J. V. C. GUEST—I ask that Mr Arnold take the issue seriously.

The Hon. D. R. WHITE (Minister for Health)—On a point of order, once again—and this has been the case on every clause that Mr Guest has debated the—he has not attempted to speak to the schedule. If Mr Guest had spent as much time preparing this issue as he has speaking to it, the Committee would have been much better for it.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! I advise Mr Guest that I agree with the Minister that he has not mentioned the schedule once. The honourable member is debating the matter as if this were the second-reading debate. I ask Mr Guest to come back to Schedule 1.

The Hon. J. V. C. GUEST (Monash Province)—I have attempted to answer the points made by the Minister. It should be understood that the schedule will not cause difficulties because clause 9 has been deleted. In that sense that is not relevant to what the Minister believes is important in Schedule 1.

The Hon. J. L. DIXON (Boronia Province)—The Committee is debating Schedule 1. Mr Guest referred to the Guardianship and Administration Board, but what the Opposition has done tonight is to accept that if one is disabled or incompetent from one's birth or before one turns eighteen years of age one will have a guardian appointed by the board so that one will be cared for.

That is not a provision in the spirit of self-determination. That is not in the spirit of Gladstone and all the things that I believed the Liberal Party stood for. It is not in the spirit of human autonomy and self-determination.

The Guardianship and Administration Board can appoint a guardian but the Opposition has totally rejected the concept of freedom of choice.

Mr Hunt may shake his head but he should understand that this provision is entirely voluntary. One does not have to appoint an agent. If one would prefer to take one's chances in the lottery as Mr Hallam, Mr Knowles and other members of the Social Development Committee are aware, one can then take the luck of the draw with a hospital

that has an ethics committee or a bio-ethics committee, which will undertake a decision-making process.

Heaven help a patient of a doctor such as Dr Jago from Mildura who has said, "If the ethics committee does not agree with me I shall not take the slightest notice of it". That doctor would actually dismiss the committee and make the decision himself.

The Opposition has rejected the concept of freedom of choice. It should not expect honourable members on this side of the Chamber to believe it when it espouses principles of self-determination, freedom of choice or moral decision-making. The Opposition has shown tonight that that is nonsense.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! I direct Mrs Dixon to Schedule 1.

The Hon. J. L. DIXON—If one is disabled or incompetent, the Guardianship and Administration Board will appoint a guardian. Mr Lawson made that point clearly tonight. However, the persons who will have no rights, because of the action of the Opposition, will be all of us so-called competent people.

If a person walked out of Parliament tonight, were hit by a bus and sunk into a coma he or she would have to take the luck of the draw. Someone else would make that person's decisions. Mr Chamberlain is comfortable with that position. Someone else will make a decision about that person.

With regard to Schedule 1, the Social Development Committee consulted with many caring doctors, caring lawyers, ethicists, members of Parliament and anyone else who chose to consult with it. I made many endeavours to consult with Mr Chamberlain—he can turn his head away, but he knows of the efforts I made to consult with him and to join with him in a non-party consultation.

The day before Mr Chamberlain decided to oppose the proposed legislation I gave him all the proposed amendments. Mr Chamberlain did not consult with me and I know that none of those amendments hit the Liberal Party room. The Opposition is treating the amendments as through they were new amendments but it could have had those amendments a month ago. Mr Hallam will support the fact that those amendments were available then.

Schedule 1 was determined carefully. The committee was concerned that it be in plain English. It spent much time considering Schedule 1. The committee consulted with many people, it knows so much more about this matter than does Mr Chamberlain with his half-hearted second-hand comments from various people.

The committee understood that a patient in a hospital should not be faced with an Act of Parliament but with Schedule 1. That is the only document that the patient would probably see. The committee spent much time ensuring that schedules Nos 1, 2 and 3 were clear so that when a patient was signing one of these documents with the doctor and an independent person there would be no confusion.

I listened when Mr Chamberlain spoke on the previous clauses; he said that a doctor verifying a certificate should not be the treating doctor. How can a doctor who is not the treating doctor give informed advice about the medical condition of a patient? Is Dr Joe Blow from another hospital called in to make a medical diagnosis and prognosis not about his patient but about somebody else's patient?

The next matter that the committee discussed was the matter of "another person". Mr Chamberlain has said that perhaps there should not be "another person" and that there should be more fences around that provision. He said that "another person" should have no pecuniary interest. This is another example of Mr Chamberlain's lack of thought.

I ask all Opposition members, who are being so self-righteous, if any one of them was in a voluntary position to appoint an agent: whom would you choose?

It is likely that the person one chooses would be one's nearest and dearest person. If one chooses that person to make decisions about one's body it is likely that that person may have a pecuniary interest. One's nearest and dearest person may not necessarily have a pecuniary interest, but is fairly likely to have. One would normally choose one's spouse, child or parent; and if one had any assets, property or financial dealings, it is likely they would be left to one's spouse, parent or child.

Mr Chamberlain said that is not so and that, if a person appoints an agent, it cannot be anyone who has a pecuniary interest. Perhaps a neighbour could be canvassed; someone who knows the person and can act as the agent. One could use the enduring power of attorney. If one had money in the bank or large investments, it would be important to appoint someone who knew something about finance. Many people may appoint their bank manager as the agent to have enduring power of attorney. Would people be comfortable in having their bank manager make decisions about their medical treatment? The Leader of the Opposition, in another place, said that there is already a provision contained in one of the medical Bills for the enduring power of attorney. That person could make the decision. Would a bank manager know much about one's medical condition?

The Social Development Committee did not want to impose a number of rigid conditions on doctors. The government does not want to say that one's treating doctor must make the decision; the individual's freedom of choice and moral autonomy are involved.

The schedule is an importnt part of the proposed legislation. The Opposition does not realise its importance. The parameters and barriers are set out in the schedule. The process is better than the current process, which is a disaster. There are no barriers or fences under the present rules.

Schedule 1 was drafted as a result of much effort by those concerned. I expected more of Mr Guest than was apparent from his contribution. Perhaps I overestimated Mr Guest's intelligence when I asked him to table the eight versions of the Bill. The Medical Treatment Bill (No. 1) was first read in October last year. After considerable consultation and discussion the Medical Treatment Bill (No. 2) was introduced, and there have been two versions of the Bill; so it is nonsense to say that there were eight versions. I thought Mr Guest would be more honest about it.

The Hon. B. A. Chamberlain—The Minister said there were eight versions.

The Hon. J. L. DIXON—The Minister did not say that. I ask honourable members for the last time to understand the implications of the Bill. I ask them to examine their consciences and consider what they are doing for the people of Victoria.

The Hon. B. A. CHAMBERLAIN (Western Province)—Mrs Dixon has just made an impassioned speech. It is a pity that she did not see fit to translate those views into the report of the Social Development Committee, because that committee did not recommend the very issues on which Mrs Dixon spoke. The report recommended only the enduring power of attorney. Recommendation No. 21 related to members of the public considering the value of appointing a person to act on their behalf in case of their incompetency, by way of an enduring power of attorney. If the issue is so important, why is there not a recommendation from the committee along the lines of the Bill? Schedule 1 was cobbled up after the event. The Bill is supposed to implement the recommendations and report of the Social Development Committee.

The Hon. B. A. Mier—That is right.

The Hon. B. A. CHAMBERLAIN—Mr Mier says that is right, but the problem is that the provisions in the schedule were not included in the report of the Social Development Committee.

Mr Mier—It is part of the spirit of the Bill.

The Hon. B. A. CHAMBERLAIN—If Mrs Dixon had listened to what I said, she would have recognised that I was not quoting my views but the views of Mr Tom Smith, QC. Mrs Dixon did not differentiate about that.

I visited the Guardianship and Administration Board last week to discuss the operation of that board. That board has been in operation only since July 1987.

The Hon. D. R. WHITE (Minister for Health)—On a point of order, Mr Chairman, Mr Chamberlain's observations about the role of the Guardianship and Administration Board do not relate to Schedule 1 of the Bill.

The Hon. B. A. CHAMBERLAIN (Western Province)—On the point of order, Mr Chairman, I am responding to the issues raised by Mrs Dixon, who referred to the board and very specifically to those issues; and for those reasons I am entitled to respond along these lines.

The Hon. D. R. WHITE (Minister for Health)—On a further point of order, in accordance with the forms of the Committee, it is the obligation of the honourable member to confine himself to the matters before the Committee. If Mr Chamberlain had any difficulty with the words used by Mrs Dixon he had the opportunity to raise a point of order. He chose not to do so. My point of order is that Mr Chamberlain is not speaking to Schedule 1 and, consequently, is out of order.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! I have allowed Mr Chamberlain to canvass the matters on which Mrs Dixon spoke, but I now ask Mr Chamberlain to return to Schedule 1 of the Bill.

The Hon. B. A. CHAMBERLAIN (Western Province)—I shall reserve my comments to Schedule 2.

The schedule, as amended, was agreed to.

Schedule 2

The Hon. B. A. CHAMBERLAIN (Western Province)—Schedule 2 deals with the agency provision where people can make decisions on behalf of others. It is appropriate to examine the alternative to this schedule, which is the Guardianship and Administration Board. That board was established by the government with the support of the Opposition, and began operation in July last year.

The board has the charter, among other things, to make medical decisions for incompetent people. The board can act quickly and decisively. the board said that it can act within 2 hours. I was given the example that, if a hospital contacted the board, within 2 hours the board could be convened and a decision could be made so that a member of the family was appointed a guardian of the person concerned. That procedure was not in operation when the Social Development Committee made its report.

The Opposition's view is that a number of things can be done to correct some of the problems that have been elicited during the course of the debate, without necessarily falling back on the Medical Treatment Bill (No. 2). Firstly, there is the possibility of appointing an agent under an enduring power of attorney, which would include the right to act on medical issues. Secondly, it is possible to use the schedules to the Bill as evidentiary provisions, without a legislative background—evidence of a decision of a particular patient not to have particular medical treatment, but without all the legal claptrap that is contained in the Bill.

The third possibility is to appoint the Guardianship and Administration Board as agent and give it the power to apply for injunctions where there is an abuse of the enduring power of attorney. The government has ignored all of those issues.

The Opposition will oppose the schedule, as should the Committee, because clause 9, to which it relates, has already been negatived.

The Hon. D. R. WHITE (Minister for Health)—Mr Chamberlain has referred to the Guardianship and Administration Board, members of which wrote to him and said that they wanted the schedule included in the Bill. Throughout the debate tonight the government has had to deal with three varying points of view in respect of all the clauses. Firstly, in respect of Schedule 2, Mr Chamberlain argued that every schedule and every clause should be opposed. The only person who supported him was Mr Guest, who has not read the Bill.

The Committee has not heard from those Opposition members who served on the Social Development Committee. The Committee has not heard from Mr Hallam, who served on that committee; from Mr Knowles, who served on that committee; nor from Mrs Tehan, who participated in the second-reading debate. As for Mr Hunt, he has now decided, after having exercised his conscience vote, that he is half pregnant—he is halfway forward and halfway backward! There is only one natural conclusion one can reach when a person is half pregnant. We will all be here in September and October to witness the birth!

In its current form, the Bill protects the rights of a competent person, but does not protect the rights of an incompetent person. Mr Chamberlain has not made an offer on either Schedule 2 or Schedule 3 to resolve the issue. The Opposition is all at sea. Members of the Opposition are all offering different points of opinion. It is an absolute disgrace that Mr Guest has joined in the debate with the limited preparation he has undertaken.

The Committee has not heard from either Mr Hallam or Mr Knowles. In the Committee stage the government wants to see evidence of how the Opposition intends to overcome the problem of a competent person obtaining a certificate and then moving into a state of incompetence and not being able to exercise that certificate. There is nothing that Opposition members have either said or done tonight to resolve that problem.

Honourable members should not underestimate what Mr Chamberlain is about. He will use every attempt in dealing with every clause to defeat every aspect of the Bill. Is that the view of the Opposition?

The Hon. A. J. HUNT (South Eastern Province)—The Committee is having a sham argument on Schedule 2 because the omission of the schedule is consequential upon the omission of clause 9. It ill behoves the Minister to blame the problems faced by incompetent people on the omission of the schedule.

The Hon. J. L. Dixon—Why?

The Hon. A. J. HUNT—Because there is no reason at all why a certificate by a competent person who is approaching a stage of incompetence ought not to be able to acknowledge that fact. There is no reason why a person who has reasonably anticipated an imminent condition ought not to be able to certify what is required in the event of that condition occurring, rather than leaving it to an agent. I would far rather that a person who has a brain tumour, knowing that he or she was about to lapse into a coma at an early date, should be able to give directions as to what should happen when that occurs.

There is no reason at all why the earlier provisions of the Bill could not have provided for that, rather than insisting that the certificate becomes invalid when the medical condition occurs, even if anticipated, and that the decision must be made by an agent.

I have made that proposal; others have made other proposals. The fact is that this is a sham argument because the omission of this schedule is absolutely consequential upon the omission of clause 9. Without clause 9 the schedule, clearly, as a matter of logic, law and draftsmanship, cannot stand.

The Hon. D. R. WHITE (Minister for Health)—It is worth putting on the record that Mr Hunt is putting forward a radical proposition, a radical proposition that was the subject

of consideration by the Social Development Committee—that is, advance declarations in anticipation of a condition, saying that the person has a right to refuse medical treatment. That proposition was considered by the committee across the political spectrum, and was rejected.

Mr Hunt has recognised the dilemma. He has recognised that there is a problem, which has been created because of the Opposition's rejection of clauses 9 and 10. I recognise that Mr Hunt has indicated that he wants to address the problem. What he is suggesting, in his attempts to do so, is something more radical than the committee contemplated, and certainly far more radical than Mr Chamberlain would ever embrace. I make it clear that there is a wide difference between the position that Mr Hunt is putting forward and that which Mr Chamberlain would support.

The government wants to know whether the Opposition will get its act together and allow the government to pursue any proposition that Mr Hunt wants to put forward. As I said, Mr Hunt recognises that there is a problem. The government wants to hear his suggestions about how the problem should be resolved. Mr Hunt should understand the enormity of what he is suggesting: the opportunity for a competent person to make an advance declaration. The government will take that on notice.

The Hon. J. V. C. GUEST (Monash Province)—I shall take the opportunity of doing what the Minister has asked and address myself to the remedies for the situation to which he has referred. I agree with him that there is a problem.

It seems that some lawyers do not think that an agent can be appointed to either refuse or consent to medical treatment, in which case that is something that ought to be addressed. If I were to become incompetent and decisions had to be made I should certainly prefer to be able to choose the person to make decisions for me. That person may not necessarily be a member of the medical profession or a member of my family. I share that view with the majority of the community.

It is unfortunate that only now, during the Committee stage, have honourable members come to terms with the problem. For that reason, the Minister and the government may perhaps be forgiven for not addressing the question of what powers an agent should have. One wonders what the consequences would be of giving an enduring power of attorney. Should it be possible?

The Hon. M. J. Arnold interjected.

The Hon. J. V. V. GUEST—Mr Arnold is wrong. The Bill does not address the general proposition of what powers an agent should be allowed to have. I am not just speaking about the question of people who are terminally ill. I am talking about the general proposition of the degree to which an agent may be given the power to make decisions on behalf of another. That is an extremely important question that has its roots in the common law.

It would have been appropriate if that question had been open to public debate, perhaps by way of a White Paper, before the government attempted to draft the Bill. If that had been done, the Committee would not have witnessed such a regrettably acrimonious debate, especially regrettable when the Chamber has to attend to many other matters before the end of the sessional period. The government should not pretend that the Bill must be agreed to by the end of the sessional period. That is certainly not the usual course to take with a Bill dealing with such a delicate matter, nor is it appropriate.

I suggest that the government could address such matters—especially the appropriate powers to be given to agents—by introducing a Bill to amend the Instruments Act. I have made my position clear. People ought to be able to choose those who will make decisions for them when decisions have to be made. If that general proposition were accepted, a considerable advance may be made. This is not the appropriate time, nor is the Committee stage an appropriate vehicle, to make such a decision about legal principle.

The Hon. J. L. DIXON (Boronia Pronvince)—I am finding it increasingly difficult to follow the arguments put by the Opposition. In the past couple of weeks I have formed the clear view that most Opposition members know nothing about the Bill.

I doubt whether Mr Guest has read the Bill, especially in the light of his remarks in support of an agent making decisions—or a person making decisions while he or she is competent so that an agent can enforce those decisions when the person is incompetent. One wonders why Mr Guest did not support clause 9. In his remarks he quoted clause 9 almost word for word and said that he would support such a proposition.

It is absolute nonsense. The level of debate coming from the Opposition benches is pathetic. Mr Guest should hang his head in shame. All Victorians should be made aware of what he has done tonight. Mr Guest is pathetic. He has not read the Bill. In speaking to Schedule 2, he is supporting the exact words that were included in clause 9.

It is difficult to understand the thrust of the Opposition's argument. I have listened to each Opposition speaker and have jotted down points. I tried to jot down the main points they were making but they jumped all over the place. I cannot follow the Opposition's argument. I should have thought there would be some philsophical point flowing through, some view through self-determination or moral autonomy, especially the freedom to choose. I thought perhaps we could follow that thread through and somehow ascertain the direction taken by the Opposition.

I believe Mr Mackenzie made that point quite clear. The government is not forcing anybody to take up an agent. The government is not forcing anybody to go along to the post office and sign away his or her future. This Bill will allow a person to choose somebody as an agent, and that person can fill in Schedules 2 and 3 if he or she wishes to appoint someone.

If one believes it may be better to have the nearest and dearest person making choices about one's body when one becomes incompetent rather than some mishmash legal, medical, moral or philosophical lottery, so be it. The mishmash might revolve around whether one is a patient in a small bush nursing home or a sophisticated hospital in the city.

The government is simply saying that perhaps it would be nice if a competent person could have the opportunity of choosing or naming somebody to make those decisions. That is all the Bill provides. There is no compulsion, no bureaucracy; the government is simply offering a choice. Yet the Opposition is offering all this nonsense. I find it excruciating to hear Mr Guest recite word for word clause 9, which he voted against.

The Hon. J. V. C. GUEST (Monash Province)—I cannot let stand Mrs Dixon's misrepresentations about the distinction I was making, and thereby make it appear that I had agreed by my remaining silent. When I was discussing clause 9, I made it clear that I had a great deal of sympathy for the underlying general proposition, not for the details or the way the provision might be executed.

I tried to make clear in discussing both Scheule 2 and clause 9 that I thought the general underlying question of what an agent should be allowed to do was the important matter which ought to be decided first, but that had not been addressed. I believe it is not appropriate to decide a small part of that question based only on clause 9 and Schedule 2.

I have sympathy for the general proposition that someone ought to be able to choose a person to make a decision if the formerly competent person becomes incompetent, but not in the form of clause 9 at this stage nor Schedule 2—indeed, never in the form of clause 9.

The Committee divided on the schedule (the Hon. G. A. Sgro in the chair).

Ayes	19
Noes	19

AYES	NOES
Mr Arnold	Mr Baxter
Mrs Coxsedge	Mr Birrell
Mr Henshaw	Mr Chamberlain
Mrs Hogg	Mr Connard
Mr Kennedy	Mr Dunn
Mrs Kirner	Mr Evans
Mrs Lyster	Mr Granter
Mr McArthur	Mr Guest
Mrs McLean	Mr Hallam
Mr Mackenzie	Mr Hunt
Mr Mier	Mr Knowles
Mr Murphy	Mr Lawson
Mr Pullen	Mr Long
Mr Sandon	Mr Miles
Mr Van Buren	Mr Reid
Mr Walker	Mrs Tehan
Mr White	Mr Ward
Tellers:	*Tellers:*
Mrs Dixon	Mr de Fegely
Mr Landeryou	Mrs Varty
PAIRS	
Mr Crawford	Mr Storey
Mr Kennan	Mr Wright

The CHAIRMAN (the Hon. G. A. Sgro)—Order! The result of the division is Ayes 19, Noes 19. The numbers being equal, it falls to the Chair to give a casting vote. I vote with the Ayes; therefore, the Ayes have it.

The schedule was therefore agreed to.

Schedule 3

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

12. Schedule 3, at the end of the Schedule insert—

'Note: **"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.

"Palliative care" includes—

(*a*) the provision of reasonable medical procedures for the relief of pain, suffering and discomfort; or

(*b*) the reasonable provision of food and water'.

The refusal of palliative care is not coverd by the Medical Treatment Act 1988.'

The amendment was agreed to.

The Committee divided on the schedule, as amended (the Hon. G. A. Sgro in the chair).

Ayes	19
Noes	20
Majority against the schedule	1

AYES	NOES
Mrs Coxsedge	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 Granter
Mr McArthur	Mr Guest
Mrs McLean	Mr Hallam
Mr Mackenzie	Mr Hunt
Mr Mier	Mr Knowles
Mr Murphy	Mr Long
Mr Pullen	Mr Macey
Mr Van Buren	Mr Miles
Mr Walker	Mrs Tehan
Mr White	Mrs Varty
	Mr Ward
Tellers:	
Mr Arnold	*Tellers:*
Mr Sandon	Mr Lawson
	Mr Reid
PAIRS	
Mr Crawford	Mr Storey
Mr Kennan	Mr Wright

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.

I make the observation that the debate this evening in the Committee stage has not been as coherent as it could have been. It is true that a schedule that now exists in the Bill cannot be brought into effect until such time as the matters that Mr Hunt understands have to be addressed have been addressed. Those issues will be reported to another place and the government has every intention of continuing to pursue the matter of the right of an incompetent person to refuse medical treatment, and to have the rights of that person addressed prior to that person becoming incompetent. That major aspect of the Bill has not been adequately addressed.

It is of concern to me to note, and I repeat it in this debate on the third reading, that the members of the Parliamentary Social Development Committee who worked on this issue over the past two years and who represented the Liberal Party and the National Party—namely, Mr Knowles and Mr Hallam—did not participate in the debate, while some honourable members who did participate in the debate were not as adequately prepared as those who obviously had been party to the Social Development Committee inquiry.

It is clear that, in exercising his conscience vote, Mr Hunt has hesitated; he has agreed to protect the rights of the competent person but is not yet prepared to define and acknowledge the rights of the competent person who at some stage may become incompetent.

Interestingly and surprisingly, Mr Hunt has taken the radical step of saying that patients ought to be able to anticipate a change in their condition. Mr Hunt should know that is much closer to the notion of euthanasia, which was rejected by the Social Development Committee. The government will take that on notice.

The Hon. A. J. HUNT (South Eastern Province)—On the second reading, I expressly reserved my position on the third reading.

I note first the fact that the government has made a number of substantive and substantial improvements to the Bill which have met many community concerns which have been

raised. I accept that they are genuine improvements that will further assist in the operation of the measure.

Secondly, two clauses have been omitted which many people find ethically offensive. That omission deals with a reservation that I expressed on the second reading. I acknowledged that it leaves a gap in the law but that gap already existed; it is not a new one, and it is a gap that can be filled following further community consultation and discussions on a basis of goodwill between the parties.

The Hon. B. W. Mier—You misled the community; you are dishonest.

The Hon. A. J. HUNT—The result is that what has been——

The Hon. H. R. WARD (South Eastern Province)—On a point of order, Mr President, Mr Mier's interjection reflects on Mr Hunt's character and I ask him to withdraw it.

The PRESIDENT—Order! I ask the honourable member to withdraw the comment.

The Hon. B. W. MIER (Waverley Province)—I withdraw my comment about Mr Hunt's dishonesty.

The Hon. A. J. HUNT (South Eastern Province)—What has occurred, therefore, reinforces rather than derogates from the position that I took on the second reading. However, I believe there is a greater reason for me to maintain my stand than existed then.

Rejection of the Bill at this stage would, in my view, worsen those problems which I then said existed under common law. Those problems exist already in practice but I believe they would be enormously exacerbated if the Bill were now to be rejected.

Those doctors who, because of their own ethical views, were reluctant to implement a decision of a patient to refrain from further treatment, would be enormously encouraged in their stand if the Bill were rejected. They would be less likely again to implement the will of the patient. Those doctors who are slow to do so because of their fears that they may be sued may have those fears compounded if the Bill were now to be rejected after the publicity that has arisen.

If the Bill were to be defeated after this publicity patients would be led to believe they had no right to refuse medical treatment. It is not what the law says that counts; it is the perceptions of the doctors and the patients. Those perceptions I believe would be seriously eroded as to the existence of those rights. Patients would be less likely to insist upon them, would be less likely to know that they could insist upon them, and if they did insist they would be less likely to be effective in their insistence.

For all those reasons, I propose to take the same stand as I did on the second reading.

The House divided on the motion (the Hon. R. A. Mackenzie in the chair).

Ayes	19
Noes	19

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
Mrs Lyster	Mr Evans
Mr McArthur	Mr Granter
Mrs McLean	Mr Guest
Mr Mier	Mr Hallam
Mr Murphy	Mr Knowles
Mr Pullen	Mr Lawson

AYES		NOES
Mr Sandon		Mr Long
Mr Sgro		Mr Macey
Mr Van Buren		Mr Miles
Mr Walker		Mr Reid
Mr White		Mr Ward
Tellers:		*Tellers:*
Mrs Dixon		Mrs Tehan
Mr Landeryou		Mrs Varty
	PAIRS	
Mr Crawford		Mr Storey
Mr Kennan		Mr Wright

The Hon. B. A. CHAMBERLAIN (Western Province)—I seek leave to address you, Mr President, on a casting vote.

The PRESIDENT—Order! Is leave granted?

The Hon. D. R. WHITE (Minister for Health)—No, leave is refused.

The Hon. B. A. Chamberlain—I will remember that next time!

The PRESIDENT—Order! The numbers in the vote being equal, it devolves on me to give the casting vote.

The role of the Presiding Officer in relation to exercising this casting vote on the stages of Bills is now quite well settled.

At second reading, the duty is to vote for preservation of the Bill so that discussion may continue in Committee of the Whole.

At third reading, the President is entitled to exercise his vote according to his best judgment of the merits of the case. It is, in effect, a delayed deliberative vote. Matters to be take into consideration at that stage include the degree of effort that has been made to accommodate amendments to the original proposition put to the House in order to allay concerns raised in debate. Regard should also be had to the communtiy feeling and interest in the subject matter and also the Presiding Officer's responsibility to those constituents he represents in this place.

In relation to the Medical Treatment Bill (No. 2) the subject matter is one that has engendered considerable—and at times passionate—debate in the community. It has the backing of an all-party Select Committee of this Parliament, which received evidence from a wide spectrum of community and professional interests. The committee weighed those submissions and was able to form a view that was unanimous, and one which has received considerable commendation from eminent quarters.

The proposals in the Bill have been examined minutely and discussed exhaustively both in this House and in other forums, and I am comfortable with my view that there has been wide input and thorough scrutiny.

The final criterion I apply to decisions of this nature is whether or not, in my conscience, I feel that the proposed legislation will be of benefit to the people of Victoria and, in this case, I believe it will. Therefore, I cast my vote with the Ayes. The Ayes therefore have it.

The motion was therefore agreed to, and the Bill was read a third time.

STATE SUPERANNUATION BILL

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

That this Bill be now read a second time.

Since the tabling in 1984 of the report of the Parliamentary Economic and Budget Review Committee into Victorian public sector superannuation schemes, the government has had

under way a major process to restructure public sector superannuation into nine industry schemes.

On 1 January 1987 the Emergency Services Superannuation Scheme commenced. During 1987 revised modern superannuation schemes were negotiated and commenced for employees of the State Electricity Commission, the Melbourne and Metropolitan Board of Works, the Gas and Fuel Corporation and the State Bank so that five of the proposed nine schemes are now in place.

This Bill represents a further major step in the process, by revising the State Superannuation Fund, which covers public servants, teachers and employees of many smaller public bodies. The changes apply only to those still in employment. Pensions now payable to retired officers and to dependants, including indexation for cost-of-living increases, will be in no way affected.

An important step is that in future exempt employees under the Public Service Act will be eligible for the same superannuation fund as permanent officers, instead of being required to join the separate State Employees Retirement Benefits Fund. There will in future be a separate fund for employees of the various transport authorities, including those who now participate in the State Superannuation Fund. Transport employees who are now members of the State fund will however be able to elect to continue as contributors.

As has been the case in all other recently restructured public sector superannuation funds, the Bill includes the government's response, for the employees concerned, to the award in the 1986 national wage case of a productivity contribution of 3 per cent of salaries to superannuation. For present State Superannuation Fund members the 3 per cent productivity contribution has not been simply added to existing benefits but, by agreement with unions representing public sector employees, has been applied to a package of changes intended to remedy weaknesses or problems in the fund.

The two key changes for existing employees, which together will absorb most of the 3 per cent of salaries to be added to the government's long-term superannuation costs, are improvements in resignation benefits and a simpler scale of employee contributions. Resigning employees will in future receive interest on their refunds of contributions. In addition, if they have given five or more years of service, there will be a graduated vesting of employer-financed benefits. To ensure the public moneys are used towards genuine retirement provision the vested employer benefits will be deferred in the same way that the Commonwealth now requires preservation of vested benefits in private sector superannuation plans.

The complex unit system of contributions will be scrapped, as recommended by the 1984 report, and replaced by a new ascending scale of employee contributions. The scale will rise from 3 per cent of salary for officers aged under 30 years to 8 per cent of salary for those aged 55 years or over. As foreshadowed in 1987–88 Budget Paper No. 2, there will also be a simpler system of sharing the costs of benefits between the superannuation fund, which is built up from investment of employee contributions only, and the Consolidated Fund.

Under the new system the superannuation and consolidated funds will meet complementary percentages of benefits, as recommended in the recently tabled actuarial report. The systematic adjustment of those percentages will become the focus of future actuarial review and a clear performance indicator for the superannuation fund in key areas such as investment returns and management of disability pensions.

The relative percentages will be a clear demonstration of the costs of benefits to employees and to the government. Under the present complex system, it is often not appreciated that the government and other employers provide approximately $3 in superannuation contributions for every $1 paid by contributors.

For employees recruited from 1 July 1988 onwards the State Superannuation Fund will offer lump sum retirement benefits rather than pensions. All officers will have a choice of

three levels of benefits and contributions, including a basic non-contributory option under which lump sum retirement benefits will accrue at a rate of 10 per cent of final salary for each year of service. The 5 per cent contributory option will provide lump sum retirement benefits of 20 per cent of final salary for each year of contribution at that rate. Contributions at 3 per cent of salary will generate retirement lump sums of 16 per cent of final salary. Both these scales exactly match the scales for non-operational personnel under the Emergency Services Superannuation Scheme.

Officers who have chosen lower contribution options early in their careers will have the opportunity to pay 7 per cent contributions to catch up to benefits which would have accrued if they had always paid 5 per cent contributions. Seven per cent contribution options will also be available to all officers over the age of 40 and to all Department of Conservation, Forests and Lands firefighters, who are more likely than others to wish to retire early. A special 8 per cent option will also be available after twenty or more years of service to present Department of Conservation, Forests and Lands firefighters who elect to transfer to the new scheme.

Disability benefits for new scheme members will be in pension form, and will be integrated with WorkCare. Resignation benefits will match as closely as practical the improved benefits for existing employees, including the requirement that employer-financed benefits be preserved for payment at eventual retirement. The medical classification system will be improved.

The optional contribution and benefit structure reflects the recommendations of the Parliamentary inquiry, with adjustment for the subsequent 3 per cent productivity award. Actuarial estimates indicate that, in the longer term, its substitution for the present scale of benefits should generate considerable savings to the government and other employers, but still provide a truly competitive scale of superannuation.

Present contributors to the State Superannuation Fund may elect to transfer to the new lump sum benefits for future years of service. In that event they will be entitled to preserve pension benefits for completed years of State Superannuation Fund membership. The Bill also includes new provisions for financing of lump sums payable to retiring employees which were announced in the 1987–88 Budget, and for the funding on private sector lines of superannuation liabilities of self-funding agencies.

I commend the Bill to the House.

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

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

TRANSPORT SUPERANNUATION BILL

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

That this Bill be now read a second time.

When recently introducing other Bills to restructure public sector superannuation I have explained that the government's strategy is to establish nine separate but consistent funds on an industry basis.

The present superannuation arrangements for the various authorities of the Ministry of Transport are the most fragmented in the whole public sector. As mentioned in the report of the 1984 Parliamentary inquiry, there are six different funds covering employees of the larger authorities, and several smaller funds covering closed groups of employees. A large number of transport employees, especially in railways, are not members of any superannuation fund.

The Bill will establish a single fund for all transport employees, except public servants in the Ministry itself, including the government's response to the 3 per cent productivity superannuation contribution awarded in the 1986 national wage case.

Membership will be automatic for all employees not already superannuated and for those who commence work on 1 July 1988 or later; it is expected that a majority of present employees will voluntarily elect to transfer from their existing funds but those who wish will be free to enjoy their present superannuation benefits for the remainder of their careers with present employers.

The transport fund will vary only slightly in structure from the new State Superannuation Fund, and thus embody major features of the scheme recommended by the 1984 report. It will offer a similar range of optional contributions and lump sum benefits. The lump sum retirement benefits under the non-contributory option will accrue at 10 per cent of final salary per year of service as under the State Superannuation Fund. For those who choose to contribute 5 per cent of salary, benefits will accrue at 20 per cent of final salary each year, also as under the State Superannuation Fund.

Instead of a 3 per cent contribution option there will be a 2·5 per cent option, with a commensurately lower benefit. The catch-up option will be subject to similar conditions but will require a contribution of 7·5 per cent of salary rather than 7 per cent. These small differences tend to compensate and should therefore have a marginal overall financial effect. They are designed to facilitate transfers from existing funds so that progress towards the objective of a single fund for all transport employees should be as quick as possible.

A second difference from the restructured State Superannuation Fund will be in resignation benefits. In the transport fund 3 per cent productivity contributions will vest immediately, not after five years of service, because some areas of employment are less career oriented. The more generous benefits for early resignations will be compensated for by a generally lower vesting scale for resignation after five or more years of service.

As in the revised State Superannuation Fund, resignation benefits in excess of employee contributions plus interest will be compulsorily preserved until retirement, in line with recent Commonwealth regulations for private sector superannuation plans. The new Transport Superannuation Fund will bring equity to employees in the various authorities and remove significant obstacles to mobility of employees within the transport sector in response to career opportunities. As it will be consistent with the restructured State Superannuation Fund, and other public sector industry superannuation funds, wider portability will also be simplified.

I commend the Bill to the House.

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

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

HOSPITALS SUPERANNUATION BILL

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

That this Bill be now read a second time.

The Bill is a further step in the restructure of public sector superannuation that this government began when it came to office. As has been indicated previously, the strategy is to establish nine public sector industry schemes. The establishment of several large superannuation schemes, rather than just one for the whole public sector as recommended by the Economic and Budget Review Committee, enables each scheme to be tailored to the particular conditions and superannuation needs of the industry it covers.

Nowhere is the need for a custom-designed superannuation scheme clearer than in the hospitals sector, which is unique both in terms of present superannuation arrangements

and employment structures. The present Hospitals Superannuation Fund is unique in the public sector because it is a voluntary scheme. Fewer than 25 per cent of hospital employees eligible to join have responded to the Hospitals Superannuation Board's efforts to enrol them as contributors to the fund. The result is that many thousands of permanent public sector employees, including a large number of women, have no superannuation.

Secondly, a significant number of all staff employed in the hospital sector are casual employees. In the past, these employees have not been eligible for superannuation because of the casual nature of their employment. Social justice requires that superannuation should be provided for all public sector employees. In consultation with the Victorian Trades Hall Council, the government has therefore designed a completely revised Hospitals Superannuation Fund which will automatically cover all hospital employees, and incorporate our response to the 3 per cent productivity award in the 1986 national wage case.

Like other restructured public sector funds the new Hospitals Superannuation Fund will provide a basic non-contributory benefit and allow two levels of optional contributions for higher benefits. The retirement benefits will all be lump sums which employees should find simpler to understand than the present combination of lump sums and pensions. The basic benefit for all employees, casual or regular, will be the productivity benefit equal to a contribution of 3 per cent of salary accumulated with interest plus, in the event of death of disability, a complementary insurance benefit. No further benefits will be available to casual employees.

Hospital staff other than casuals will be able, if they wish, to make contributions to provide additional retirement benefits, and commensurate death and disability benefits. The two optional rates of contribution will be 3 per cent and 6 per cent of salary. For each year of 3 per cent contributions the additional retirement benefit will be 9 per cent of final salary; 6 per cent contributions will secure additional benefits of 18 per cent of salary. The maximum retirement benefit, consisting of the 3 per cent productivity benefit plus the additional defined benefit of 18 per cent of salary or each year of contributing at 6 per cent is consistent with the defined benefits in other restructured Public Service superannuation funds. For example, the restructured State Superannuation Fund will provide a retirement benefit of 20 per cent of salary for each year of contributing at 5 per cent.

All existing contributors to the Hospitals Superannuation Fund will become members of the revised fund, and will be entitled to the new scale of benefits for future years of membership. The Bill provides for regulations to be made to cover transitional arrangements to ensure that existing members will have a choice, at retirement or earlier termination of service, between the new and old scales of benefit. The regulations will improve old benefits, to reflect the 3 per cent productivity award. In particular, the limit of 30 years of recognised contributory membership which now restricts the benefits for long-serving employees will be extended.

The other unique feature of the Hospitals Superannuation Fund is its extension beyond the public sector to class B institutions such as community hospitals and other voluntary agencies. As this has real portability advantages the government will welcome community hospitals remaining as full participants in the fund. The Bill allows the board to admit class B institutions on special terms and conditions. One such condition may be a probationary period before the hospital is required to contribute to provide superannuation beyond the 3 per cent productivity benefit for new employees. If a community hospital now participating in the Hospitals Superannuation Fund prefers to make other arrangements for its employees, it will be able to restrict membership of the fund to those who are already contributors, or to negotiate terms to withdraw from the Hospitals Superannuation Fund.

Superannuation reform has been a long-term project of this government. The Bill will restructure superannuation in a sector of employment with unusual features, and the lowest present superannuation coverage.

I commend the Bill to the House.

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

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

LOCAL AUTHORITIES SUPERANNUATION BILL

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

That this Bill be now read a second time.

The Bill is a re-enactment, with amendments, of the Local Authorities Superannuation Act 1958. The Bill incorporates a revised structure of benefits for contributors to the local authorities superannuation scheme. The new benefits are the result of successful negotiations between employers and unions in 1987.

Features of the restructured benefits include:

Retirement benefits—Lump sum retirement benefits will be 21 per cent of adjusted final salary for each year of scheme membership, up to a maximum of 8·4 times salary. The calculation will include a proportionate adjustment for part years of service.

Thirty-year limit—The existing limit of 30 years' service for the calculation of benefits will be removed. Employee contributions will cease after 40 years scheme membership.

Resignation benefits—Improved resignation benefits will be 9 per cent of adjusted final salary for up to five years of scheme membership, plus 15 per cent for years in excess of five. However, this improvement in resignation benefits will not be paid immediately, but will be preserved until retirement after age 55, in accordance with government guidelines.

In addition, the new benefits include a number of matters of detail agreed upon by a working party of unions, employers and the Local Authorities Superannuation Board. These comprise the following:

Medical classification—All class 2 medical classifications to be upgraded to class 1 after fifteen years in the scheme.

Pension benefits—Members in the scheme prior to the introduction of the new benefits—approximately May 1988—are to have a choice of exchanging a portion of their lump sum for an indexed pension.

Resignation benefits—Members will have the option of leaving any preserved improvement in resignation benefits in the Local Authorities Superannuation Fund, or transferring it to one of the special approved deposit funds operating under government productivity guidelines.

Deferred benefit—An improved deferred benefit of 21 per cent of adjusted final salary for each year of membership to be available to those resigning prior to age 55 years where no cash resignation benefit is taken.

Retrenchment benefits—An improved retrenchment benefit of 21 per cent of adjusted final salary for each year of membership to be available subject to approval.

Death benefits—All death benefits will be paid in the form of a lump sum payment to the deceased member's legal personal representative.

Ill-health benefit—Where members do not qualify for disability benefits, an ill-health benefit of 21 per cent of adjusted final salary for each year of membership may be offered by the board.

Medical review panel—A medical review panel consisting of an independent doctor, independent actuary and a board member will be set up to review medical classifications upon the appeal of a member.

Disability review panel—A disability review panel, similar to the medical review panel, will be set up to hear appeals regarding disability claims.

Leave without pay—Employee and employer contributions will be suspended during any period of approved leave without pay, and the period of such leave will not count for the calculation of retirement or resignation benefits. Members wishing to maintain their full death and disability cover during the period of unpaid leave may do so by paying a contribution of 2 per cent of salary.

Protection of benefits—Special provisions will be introduced to maintain members' accrued benefits in the case of salary decreases, where a change in employment circumstances means a lower salary.

Additional benefits contracts—All future additional benefits contracts will be an accumulation of contributions plus interest.

Honourable members should note that the superannuation model adopted by local government is not the same as the model for the State public sector. In particular, the decision to include compulsory employee contributions is a result of an agreement between the Municipal Association of Victoria and local government unions.

Parts 1 and 7 of the Bill are deemed to have come into operation on 1 September 1987. The effect of this will be that members who have left the scheme since that date will be entitled to the improved benefits under the terms of the new legislation.

In redrafting the legislation the opportunity has been taken to simplify and modernise its structure and to bring it into line with other recent superannuation Acts.

I commend the Bill to the House.

On the motion of 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 Local Authorities Superannuation Bill, the Hospitals Superannuation Bill, the State Superannuation Bill and the Transport Superannuation Bill to be taken concurrently upon the Order of the Day for the resumption of debate on any one of them being read.

The Hon. H. R. WARD (South Eastern Province)—The Opposition agrees to the motion. We understand that the Local Authorities Superannuation Bill is not entirely the same as the others but the cognate debate is agreed to, realising that there may be some slight differences.

The motion was agreed to.

DEPUTY OMBUDSMAN (POLICE COMPLAINTS) BILL

For the **Hon. J. E. KIRNER** (Minister for Conservation, Forests and Lands), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The police possess powers which are not available to most members of the community, and the exercise of these powers and particularly their misuse can have far-reaching consequences. When the Labor Party came into office in 1982, it was particularly concerned that in utilising these powers the police should be fully accountable to the public and the government.

It was believed that this accountability would be best achieved by providing a special focus for the resolution of police complaints. This was achieved by creating a fully independent civil body. It was on these lines that the Police Complaints Authority—PCA—was created and came into operation in July 1986.

In September 1987, the government responded to an increasing groundswell of criticism against the police complaints framework, especially relating to excessive delays, the possibility of bias and collaboration and the appalling relationship between the police Internal Investigation Department—the IID—police command and the PCA. The response was to commission former Commonwealth Ombudsman, Professor Jack Richardson, to investigate the efficiency of IID's internal practices and procedures and staffing levels, to recommend a statement of role and functions for the IID and to recommend whether changes were necessary to improve the procedural relationship between the IID and the PCA.

Professor Richardson reported at the end of October 1987 and was particularly critical of the relationship between the IID and the PCA. He also went so far as to make strong criticisms of the PCA's internal office and staffing arrangements as well as the emphasis of his activities. In fact, he suggested that were the relationship between the PCA and the IID not to radically improve by the end of April 1988, then the PCA office should be returned to the umbrella of the Ombudsman's organisation.

The chief commissioner quickly made significant changes to the IID's internal manual and to the force circular memorandum to reflect many of Professor Richardson's recommendations, for example, to introduce audiotaping and simultaneous interview of police witnesses to reduce possibility of collaboration. Other recommendations involving legislation are still under consideration.

The PCA, on the other hand, made only minimal changes in response to Professor Richardson's suggestions, and did not take the opportunity of responding to the report when this was formally offered in December 1987. Public comments were received on the Richardson report from early November 1987 until February 1988. Although some of these comments were critical of the IID many were even more damning in their condemnation of the PCA.

It became apparent to the government that the PCA's ability to perform its prime role of civilian review of police complaints had become substantially jeopardised by the authority's broad-brush approach to its charter, its questionable internal procedures, its sometimes pre-emptory dealings with clients and its inability to improve its relationship to a professional working level with any relevant organisation. The authority and the police made efforts to improve their relationship and some minor advances were made in this area but the end result was still a dysfunctional PCA, and declining public confidence in the police complaint review process.

The government's response to these problems has been to alter the machinery of government arrangements controlling the civil review of police complaints to ensure, firstly, that a special independent focus is maintained and, secondly, that an effective administrative and organisational infrastructure is utilised in order to better support the review function and augment the capacity to deliver its service to all Victorians.

It has also been the government's concern to institute these changes with a minimum of disruption to the existing policy and legal framework. Existing legislation has therefore

remained almost completely as is, simply substituting a Deputy Ombudsman (Police Complaints) for the Police Complaints Authority function.

The proposal will ensure that the public is presented with a single established and effective complaints resolution facility, which maintains the independent civilian review and special focus of the police complaints review function demanded by the special powers possessed by police.

The Ombudsman's 1986–87 annual report released earlier this week has in the strongest terms criticised the Police Complaints Authority's internal procedures, philosophy and relationship with other bodies reflecting the comments made six months ago by Professor Richardson. The Ombudsman's comments serve to confirm the actions the government is proposing in the Bill.

It might also be added that, in seeking to minimise destabilising the police complaints review process, the Bill has ensured the continuity of existing Police Complaints Authority reviews and allowed for the transfer of some of the authority's staff should such a transfer be desirable.

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 later this day.

RURAL FINANCE 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.

FLORA AND FAUNA GUARANTEE BILL

The House went into Committee for the consideration of this Bill.

Clause 1 was agreed to.

Clause 2

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I shall respond to a couple of issues raised during the second-reading debate by Opposition and government members. I thank members of the Opposition for the time they have taken in coming to terms with the complicated process of the Bill. Regardless of whether they agree with the measure, they have taken the view that its concepts must be understood because they are important. The Bill deals with the survival of part of our planet. Honourable members are not simply talking about the survival of flora and fauna species but about the survival of the whole ecology.

Mrs Tehan raised the question of how the government will ensure that the Bill is more than just words. I hasten to assure her that that will be done by careful implementation. Some provisions in the Bill are quite new and, in fact, they are landmark decisions by the government in comparison with governments across the world. They will ensure that flora and fauna species not only survive but also survive in abundance.

Mr Evans made a statement that Victoria has never lost a species for lack of interim conservation orders since the creation of the Department of Conservation, Forests and Lands. Although that may be complimentary to the department, it is not true. The power to make an interim conservation order is quite necessary. For example, in the clearing of vegetation in the Mallee area, an interim conservation order could have been absolutely essential for the survival of a particular species. In the case of the black-eared miner, an interim conservation order could have been essential for the survival of that species. It just so happened, and in this sense Mr Evans is correct, that persuasion was able to be

used to save that group of species, at that time. However, the possibility was always there. Honourable members do not need to debate whether Victoria has lost species, because all honourable members know that we have made flora and fauna species suffer over the past 150 years.

I shall make two other points: firstly, the Bill is not centred on compulsion; it is centred on understanding and knowledge. That is how it should be in any attempt to ensure conservation of flora and fauna species. Secondly—and this point was overlooked in the second-reading debate—the Crown is bound to comply with the Bill. It is not just a matter of individual private landholders being bound by the Bill; the Crown is also bound by it. The Department of Conservation, Forests and Lands has basic responsibility for public land and it is bound by the Bill. However, just as important as that is the fact that other government agencies, such as the Road Construction Authority and the Department of Water Resources, are also bound by the Bill and are competent to enter into management agreements with the Department of Conservation, Forests and Lands.

The third and final point I make is that the Bill could have been much shorter—and I am sure my Opposition colleagues would have been delighted if that had been the case—if the government had decided not to ensure that a public consultation process occurred at every stage. Throughout the Bill, not only are the objectives and the enforcement powers written clearly but also the process is clearly spelt out.

I believe that is why, eventually, the fears of the community—and they were quite genuine fears in some sections of the community, particularly among landholders—were calmed, because the Bill provides for a process of public consultation.

I take this opportunity of thanking members of the Opposition and the Victorian Farmers Federation for suggesting that perhaps it was not enough just to conduct a seminar in Melbourne and provide a copious amount of written material to persuade the community that the Bill was appropriate or to give people a chance to decide for themselves, but that a series of seminars ought to be undertaken around country areas, and the government did that. I also thank the Conservation Council of Victoria for its excellent contribution not only to the seminars but also to the development of the Bill.

The ACTING CHAIRMAN (the Hon. Robert Lawson)—Order! I am advised that Mrs Tehan and Mr Evans propose to move identical amendments to clause 2 that will have the effect of removing from the provision the words "or days". I propose to deal with them first, after which time the Minister can decide whether she wishes to invite the Committee to vote against the clause in its entirety.

The Hon. M. T. TEHAN (Central Highlands Province)—The Opposition's position on the first amendment to clause 2 circulated in my name, which proposes to omit the words "or days", has been changed during the course of discussion with the government. As a result, the Opposition has agreed that it will vote against the clause, subject to the insertion of the new clause which is contained in the Minister's proposed amendment No. 22.

The Hon. D. M. EVANS (North Eastern Province)—I accept that procedure, and the National Party is quite happy not to proceed with its proposed amendment to the clause.

I should like to make a couple of comments in regard to my remarks during the second-reading debate yesterday, when I stated that I had been informed by officers of the Department of Conservation, Forests and Lands in discussions on this Bill some months ago that at least in recent times the department had never lost a species in Victoria because of lack of emergency powers. I made that statement and qualified it by saying that I accepted that there may have been occasions when those powers would have been of advantage and would have made the whole process easier.

In further remarks during that debate, I quite specifically accepted that in certain cases—and this matter will be the subject of a National Party amendment later—emergency powers could reasonably be expected to be written into the Bill. I wish to make that clear, because I certainly do not want anyone to gain the impression that the National Party

believes emergency powers will never be necessary or should not be included in the Bill simply because their use has not been required to date. I recognised that there may have been a fairly close call on a couple of occasions, but it never actually came to the final crunch. I believe the Minister acknowledged that. It was certainly inherent in my remarks.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mrs Tehan has spelt out the situation in regard to this clause. I will move amendment No. 22 circulated in my name and, as a subsidiary amendment, I now invite the Committee to vote against the clause.

If the Committee agrees to the omission of the clause, it will allow a split proclamation of the Bill so that the Scientific Advisory Committee work can be done, the process can be got in order, and the criteria can be developed. Once that work is done, it will be possible to proclaim the rest of the Bill.

The clause was negatived.

Clause 3

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

2. Clause 3, page 2, line 4, after this line insert—

'"Committee" means the Scientific Advisory Committee established under section 8.'.

This amendment simply clarifies the meaning of "Committee". Before the amendments had been taken on board in another place, there was reference to a single committee—which, at that stage, was the Scientific Advisory Committee. However, another committee was added by amendment, the Conservation Advisory Committee, so the amendment now before the Committee clarifies the meaning of "Committee" under clause 8.

The Hon. M. T. TEHAN (Central Highlands Province)—The amendment will clarify that the word "Committee" in clause 8 of this Bill relates to the Scientific Advisory Committee. It enhances and clarifies the meaning in the Bill.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

3. Clause 3, page 2, line 8, omit "mean" and insert "means".

This is simply a correction of a typograhical error and adds "s" to "mean" so that it now reads "means".

The amendment was agreed to.

The Hon. D. M. EVANS (North Eastern Province)—I move:

2. Clause 3, page 2, line 43, omit "Land holder" and insert "Land owner".

The National Party has not been happy with the nomenclature of "landholder". We believe that a more appropriate description would be landowner. The Committee will note that I propose to move a number of amendments that deal with this nomenclature. I propose to test those further amendments by the amendment now before the Committee.

The amendment simply removes the word "landholder" and replaces it with "landowner". The National Party believes this is a more appropriate term to be used in this position, and I mention that the Victorian Farmers Federation concurs with that view.

The Hon. M. T. TEHAN (Central Highlands Province)—The Opposition has considered the National Party's amendment. I should like to make a couple of comments. Prior to the consensus position taken when seminars were held around the countryside, to which the Minister has already referred, the original provision contained the words "land manager", which did affect and concern a number of people and which did not aptly describe the variety of people involved, such as landholders, lessees, licensees and tenants;

and it did have connotations of a lack of right to land ownership which our alienated land law prescribes. Therefore, the original expression "land manager" was changed to "landholder".

I have no doubt that "landholder" is a more accurate term as set out in paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*) in the definitions clause. In terms of both plain English and legal interpretation, the Opposition believes it would be totally inappropriate to use the word "landowner" to include a person who is in occupation of or has the management or control of such land. In no circumstances could such a person be described as a "landowner" and, for that reason, the Liberal Party will oppose the National Party's amendment. I confirm that the term "landowner" is inappropriate and "landholder" covers the people that the Bill is attempting to cover in the definitions clause.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

3. Clause 3, page 3, lines 30 and 31, omit "may have the capability to threaten" and insert "threatens the ecosystem essential for".

The amendment really tries to reword the definition of a "potentially threatening process" and the National Party proposes to replace the words "may have the capability to threaten", which is an airy-fairy expression, with the words "threatens the ecosystem essential for". The latter expression is far tighter, far more descriptive and far more appropriate for the definition.

The expression "may have the capability to threaten" is so wide and vague that it is almost impossible to define. By tightening it up in the way proposed in the amendment, the National Party believes it makes the Bill much better. Honourable members have discussed the fact that the Bill is long and bureaucratic and the provisions are difficult to define. It needs to be tightened up, and the amendment is part of the process. I ask the Committee to agree to the sensible amendment moved by the National Party.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government disagrees with the amendment. I understand what Mr Evans is trying to do. It is difficult to carefully define the term "potentially threatening process". However, I believe the expression "threatens the ecosystem essential for" broadens the definition and does not tighten it at all.

It may have the effect of completely destroying the reason for including the list of potentially threatened species; that is, we want to have the ability to identify agencies that could cause individual species to enter the threatened category. Therefore, in the definition of "potentially threatening process", one needs to have the capacity to think forward, and not just to think of the actual threat to the habitat at the time. The word "may" is not meant to be an airy-fairy or loose description; it is meant to ensure that we have the power to cope with any threatening process, whether actual or potential.

The Hon. M. T. TEHAN (Central Highlands Province)—The reasons outlined by the Minister, in that the words within the definition may provide the capability for looking forward and alerting people to the possibility of protection, far outweigh the present tense that the National Party proposes by the use of the word "threatens". As it is an anticipatory process and we are trying to preclude any problems arising, I do not support the amendment.

The Hon. D. M. EVANS (North Eastern Province)—I do not believe the logic advanced by the Minister and Mrs Tehan is as good as it sounds. I do not believe it is sufficient to dissuade me from my view that the words proposed by the National Party in the amendment are a better series of words. The use of the word "may" gives licence to use one's imagination. It is almost "Jules Vernish" in the way it can be applied.

For that reason, given that we are trying to tighten the proposed legislation as much as we possibly can and make it as good as we possibly can, I still submit that the Committee should agree with the amendment proposed in good faith by the National Party.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

4. Clause 3, page 3, line 31, omit ", abundance".

The word "abundance" in the definition of "potentially threatening process" appears to be almost incapable of achievement. One cannot absolutely guarantee forever and a day a particular state in nature.

The word "abundance" in this context certainly means that that is the intention of a definition of a "potentially threatening process". Given that point and given that the clause itself already refers to the important issues of survival and evolutionary development of any taxon or community of flora and fauna, the word "abundance" really does make somewhat of a nonsense of the intention of the clause. It should not remain in the provision, and the amendment seeks to remove it because it is unachievable and, therefore, a nonsense.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. I suppose it would never have introduced the proposed legislation if it had taken the less than optimistic view that one could protect only for survival, but not for growth and abundance.

The word "abundance", as defined in the Bill, is a hoped-for outcome. No-one knows whether in the area of evolutionary development the desired outcome will actually be achieved. However, that should not stop us from time to time, as lawmakers, from having some vision about what we want to achieve.

The Hon. M. T. TEHAN (Central Highlands Province)—I have two points to make. The use of the word "abundance" varies from the normal nomenclature in which one suggests an abundance of riches. However, in terms of the botanical meaning of the word, it just means something normally flourishing. It does not mean an over-abundance or a surfeit of flora and fauna, especially fauna. It is a prescriptive botanical meaning which is considerably less than the normal use of the word.

My second point is that I accept what Mr Evans is trying to do, but the proposed legislation is aimed at the survival and evolutionary development of threatened species.

I understand the matter will be addressed later in clause 7 when the Committee looks more specifically at the definition of the flora and fauna which are being protected. For those reasons I oppose the amendment.

The Hon. D. M. EVANS (North Eastern Province)—I cannot accept the logic advanced by the Minister and Mrs Tehan because the word "abundance" in the dictionary definition has a reference to a numerical figure; in other words, retaining the actual numbers in that fashion. Very clearly, it is unachievable. It may be achievable if one is prepared to have that particular objective above all others.

For example, if one wanted to retain an abundance of kangaroos in Victoria—they are a native species for which I have some affection—that really means in dictionary terms, as I understand it, that one must retain the numbers at least at that level all the time. In nature numbers vary considerably.

The Hon. Rosemary Varty—That is semantics.

The Hon. D. M. EVANS—I know; the Committee is dealing with a definition. If a drought occurs, obviously the number of kangaroos will drop back. That drought becomes a threatening process. If one were fair dinkum about the situation, one would have to start feeding the kangaroos during times of drought.

That makes it somewhat of a nonsense. It is certainly regarded as a nonsense by the Victorian Farmers Federation who suggested this amendment to me, and, I am sure, also suggested it to the Minister.

I stand by my case. The word should come out, given that the definition without it is a much clearer, tighter amd more realistic definition.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

5. Clause 3, page 3, line 33, after "fauna" insert "listed in Schedule 2".

The words "listed in Schedule 2" should be inserted simply as a clarification. It is a drafting matter and it has not special significance although again it does clarify the way the Bill is written. I ask the Committee to support this amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. It has the same effect of clarification and the same argument against it as the government argued against Mr Evans's amendment No. 3.

The Hon. M. T. TEHAN (Central Highlands Province)—The Liberal Party opposes the amendment.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

6. Clause 3, page 3, lines 35-37, omit "declared to be protected by Order of the Governor in Council published in the *Government Gazette*" and insert "prescribed in the regulations as protected flora".

I explained carefully during the second-reading debate yesterday afternoon that considerable executive action is available to the Minister outside the control of Parliament. Since the spring sessional period in 1987 it has been a regular practice to try to bring back control over the destiny of its own legislation to this Parliament. By having a declaration of protected flora or any other declaration which has some importance—and I assume the declaration of protected flora does have importance, otherwise it should not be in the Bill—this process should be able to be controlled by Parliament in exactly the same way as the legislation on which it is dependent.

The wording in the clause, "by Order of the Governor in Council published in the *Government Gazette*", allows the declaration of protected flora to be made by the Minister without any reference to Parliament and means that Parliament is giving away responsibility for its own legislation. The National Party proposes that the word "regulation" be inserted to provide that a declaration of protected flora should be by regulation. That is the normal way of extending the influence of an Act of Parliament and, at a later stage, the National Party will propose that regulations be subject to a provision which would allow disallowance by either House of Parliament.

If the Committee, as I believe it should, accepts the National Party amendment, it will indeed provide Parliament with the means to control the processes that it sets up under legislation. What could be more democratic than Parliament elected by the people controlling its own legislation? I ask the Committee to support the amendment.

The Hon. M. T. TEHAN (Central Highlands Province)—The Liberal Party has given serious consideration to the matter raised by Mr Evans. I know it is an issue upon which he places much emphasis. I propose to argue the issue with him when it arises in the more operative provision affecting clause 10.

For that reason, I shall not support the proposal by Mr Evans at this stage. I also indicate that, in his reference to protected wildlife, if he singularly wants to have a regulation, therefore a disallowance by this House, the Wildlife Act provides that the proclamation is by Order in Council and not by a regulatory process.

The Hon. D. M. EVANS (North Eastern Province)—It is interesting that the Wildlife Act 1975 should be quoted because it is also stated in that Act that regulations are subject to disallowance by either House of Parliament. That has been the regular practice in this House only since the 1987 spring sessional period and a practice normally initiated by the

Opposition although, of course, the original suggestion for this process came from the National Party some time ago.

This issue will not arise again in clause 10. This is a one-off situation because it relates to protected flora. If we lose the opportunity of controlling the declaration of protected flora by this House on this occasion, it is lost forever. We are not being consistent with the practice that has been taking place in this Chamber for some time if this is not supported. I again urge the Committee to support the National Party's amendment.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

7. Clause 3, page 4, line 11, after "developed" insert "and includes existing and traditional land use".

The National Party had some difficulty with this clause in relation to "land includes use or proposed use for the purpose for which the land has been or is being or may be developed". Our difficulty came because of the word "developed" which seemed to indicate that to have the word "use" fully operative, a person must have carried out some process to change the land. In our view, "developed" means fencing, sowing of pasture, clearing, planting trees or doing something that changes the natural state of the land.

The National Party believes "use" should also include existing uses; in other words, traditional uses or uses that have taken place over a period. By adding the words suggested by the amendment, protection would be given to people who do not actually carry out development work on the land but use it in its natural state.

The Hon. J. E. Kirner—Such as?

The Hon. D. M. EVANS—Such as the mountain cattlemen.

The Hon. J. E. Kirner—They do not change the land?

The Hon. D. M. EVANS—They do not do things such as developing the land, Minister. The Minister is correct: anything that happens changes the balance of nature. The very fact that the sun shines one day and does not shine the next changes the balance of nature—if we want to get into semantics. I mean that the mountain cattlemen do not develop the land; they do not sow pasture—although they do build dams.

However, the point I make is that leaving the land in its natural state and using it in its natural state is not adequately covered in this definition. By adding the words suggested in the amendment, the provision would be tighter. I know that the Victorian Farmers Federation, following participation in the consultative process, is still keen to have this amendment made to the Bill. If the consultation process is to mean anything, I am sure that the Chamber and the government will accept the amendment I propose.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government did take seriously the view of the mountain cattlemen and also considered seriously Mr Evans's concern about this definition. I have made investigations about whether existing and traditional use is covered by the words used in the Bill which are:

. . . includes use or proposed use for the purpose for which the land has been or is being or may be developed.

I am assured that that definition covers all the land uses about which Mr Evans is concerned.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I point out that I shall not proceed with amendments Nos 8 and 9 standing in my name. That issue has already been tested.

The clause, as amended, was agreed to.

Clause 4

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

4. Clause 4, page 4, line 40, after "fauna" insert "through, amongst other things the entering into of land management co-operative agreements under the *Conservation Forests and Lands Act* 1987".

The proposed amendment has the effect of clarifying the terms of a land management cooperative agreement, and specifies that it should be used for flora and fauna purposes. A land management cooperative agreement is reflected under the Conservation, Forests and Lands Act. Concerns were expressed at the time of debate on the measure in the community that the government was not making it clear enough and that the cooperative agreement would be pushed forward for use under the management plans for farming and grazing purposes.

The proposed amendment clarifies that intention, and is an alternative to a National Party amendment which also seeks to ensure that land management cooperative agreements are a significant feature of the implementation of the Bill.

The Hon. M. T. TEHAN (Central Highlands Province)—In its foreshadowed amendment the National Party alerted the Liberal Party to the opportunity in the Bill to incorporate management cooperative agreements between landowners and landholders and the Department of Conservation, Forests and Lands preserving and protecting flora and fauna. Upon reflection, it seemed that the capacity for a management agreement was already incorporated in the Conservation, Forests and Lands Act of 1987.

The Liberal Party considered it was probably the best vehicle to accommodate the amendment brought to our attention by Mr Evans. The Liberal Party supports the government's amendment.

The Hon. D. M. EVANS (North Eastern Province)—The National Party initiative in this matter has been acknowledged, and I thank the Minister. The National Party's amendment was to come later in the same clause and would have inserted after the word "endeavours" the words "and co-operative management agreements with land owners" so that subclause (*g*) would have read:

to encourage the conserving of flora and fauna through co-operative community endeavours and co-operative management agreements with land owners.

The Minister's amendment picks up the sense of our amendment, and I am happy with that.

I recognise that the Conservation, Forests and Lands Act had the capacity to allow the Minister and her department to enter into cooperative management agreements, but in fact that Act, at this stage, is not tied to the Flora and Fauna Guarantee Bill. It would require further action by the Minister, because it is not yet part of the Bill, to include those provisions in the schedule of the Conservation Forests and Lands Act.

The amendment will ensure that it applies for the purposes of this Bill. It is part of the thrust of the National Party's idea of how the issue of flora and fauna survival should be addressed. Cooperation with, education of and assistance for private landowners, lessees and licence-holders of land clearly is the most effective way to go. It is easier to work with a willing horse than an unwilling horse, and the effects will be so much more beneficial.

The National Party is happy with the Minister's proposed amendment and thanks her for recognising this initiative.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 5 to 9.

Clause 10

The Hon D. M. EVANS (North Eastern Province)—I move:

11. Clause 10, lines 21 and 22, omit sub-clause (1) and insert:

"( ) Part 1 of Schedule 2 contains a list of taxa and communities of flora and fauna which are threatened and Part 2 of Schedule 2 contains a list of taxa and communities of flora and fauna which are critically endangered.

Amendments Nos 11 and 16 are related. Could the Committee deal with those amendments concurrently, because amendment No. 11 deals with the first part of the acceptance of amendment No. 16?

The ACTING CHAIRMAN (the Hon. Robert Lawson)—Mr Evans may foreshadow amendment No. 16.

The Hon. D. M. EVANS—The National Party proposes that clause 10 should include a two-part schedule under schedule 2 to allow for the Bill to recognise that some species of flora and fauna are in danger in Victoria but there is another group which the National Party regards as the more important group—the critically endangered species.

In proposed amendment No. 16 we will suggest that clause 11 should contain a definition of "critically endangered". That definition would state:

( ) A taxon or community of flora or fauna is eligible to be listed as critically endangered if—

(*a*) there is only one known community, or a small number of communities, existing within the State; or

(*b*) the taxon population has only a small number of individuals, the communities of these are widely scattered and only a small number of communities occur throughout the State; or

(*c*) the existence of a new or previously unknown taxon is discovered and recognized by the Committee; or

(*d*) the taxon is rare and in serious danger of extinction; or

(*e*) immediate action needs to be taken to ensure the survival of the taxon in this State.

The National Party has two important reasons for considering that the two-part schedule is necessary. The first is a very practical one, in that the processes described in the Bill which will need to be covered to give effect to the provisions will take a considerable time to implement. Factors such as recognition by the scientific committiee on which the drawing up of a schedule of management plans is based, and the entire business of advertising and calling for various and quite lengthy public consultations would clearly take a considerable time.

Given that same species obviously could be endangered in the future—and I mentioned during the second-reading debate that many experts predict the koala could be endangered or extinct in 30 or 40 years' time—could be stated to be endangered. When very few individuals of a species exist in the State—perhaps only ten or twelve, or, in the case of the pandas in China, only 800 in the world—it creates a degree of urgency in dealing with that species.

Some species genuinely deserve the definition of critically endangered; deliberately putting them into the schedule would ensure that attention was paid to those species in the first instance.

I thought I would attempt to define "critically endangered" more simply by saying that a species surely is critically endangered if the loss of one single individual is a disaster'. If 20 or 30 individuals of a species remain in the world, and one is lost, that is indeed a disaster.

However, using the example of the koala which some people say is endangered because it could be extinct in 40 years, the loss of one individual is not a disaster. If it is considered a disaster, why have I not been able to convince the Minister to do something about the loss of koalas on the Hume Highway?

If one has a list of critically endangered species, that would be included in amendments that I intend to propose to the Committee later. The Minister may argue that it may be done, and the Minister or some other speaker may say that it would be the commonsense process, and I agree. That process is written into the proposed legislation.

The National Party is concerned about the possible misuse of interim conservation orders, which could impose serious disciplines on a landowner, or on an adjoining landowner. An adjoining landowner could include Crown land, another government department or a private individual.

Those disciplines include a cessation of a threatening process, a process which threatens a declared endangered species. That threatening process could be the draining of a swamp, the clearing of land, the grazing of cattle, or the planting of a crop or it may be that a farmer has rabbits on his property which are endangering a species of rare flora by eating it, and an interim conservation order in those circumstances can require under pain of substantial penalty of up to 100 penalty units that the landholder do certain things.

The National Party is prepared to accept that an emergency justifies the power given by the interim conservation order. However, it is not prepared to accept that an emergency exists in all cases of endangered species. Only for critically endangered species is that power required.

Indeed, the National Party suggests that because an interim conservation order does provide such a draconian power to the Minister its use or the possible threat of its use could be counter-productive. An interim conservation order can be applied by a delegated officer of the Minister.

Under clause 11 of the Conservation, Forests and Lands Act (1987) the Minister has power to delegate authority, and if the Flora and Fauna Guarantee Act is included in the schedule of the Conservation, Forests and Lands Act as a relevant Act, the Minister will have power to delegate the power to issue and enforce an interim conservation order to any officer of her department. That officer might well be one of the lowest ranking officers in the department. He or she could be a regional manager or a senior officer in the region.

The power to delegate an interim conservation order is a considerable force. The National Party accepts that there will be a genuine need to use such a force from time to time, but it should not be used often. This matter concerns the National Party and it concerns its farming friends.

When the National Party first saw the proposed legislation it wondered how it could overcome the dilemma, and found that that could be resolved by constraining the use of the interim conservation order to a declaration of a critically endangered species. The difference would be that an interim conservation order could be applied to a potentially disastrous situation and not to a misfortune.

If a landowner believes his options are under threat, particularly if he himself is under financial pressure from his bank manager or someone else, and there is an endangered species on his property the landowner is more likely to try to bury it before someone finds out about it and an interim conservation order is applied.

It would be far more sensible to offer the landowner a cooperative management agreement. The majority of landowners would respond positively to that approach. The Minister recognised that fact in her second-reading speech when she stated that landowners have become increasingly conservation conscious. To threaten a person gets that person's back up; the bottom line of a threat of the application of an interim conservation order prescribed in the clause will have that result.

The Minister will probably say that she, as the Minister, would not follow that process. I accept that, but the proposed legislation will continue in force and it cannot be guaranteed by Parliament or the Minister what a future Minister may do. We do not know who may be given that power of delegation.

The National Party believes this is a vitally important issue. It is so important that without the National Party amendments being carried it believes the Bill would be most dangerous, as it would provide a draconian power to which the National Party could not agree. The National Party believes it must protect the interests of its constituents. We should go back to square one.

By accepting the process I have suggested positive benefits will be gained, such as support, a greater degree of acceptance by the farming community, and greater cooperation.

Direction would then be given to those who must administer the Bill to deal firstly with those species which are most in need of protection, the critically endangered list.

The National Party's proposition is responsible. It protects all interests and it improves the Bill. In order to put these provisions in place the National Party proposes that the amendment to clause 11 must be carried and the amendment to clause 16 would also need to be carried. There are a number of other consequential amendments which, if accepted by the Committee, will firm up the proposal.

I am sincere in my desire to have the amendment accepted because I am concerned to be constructive in dealing with the Bill. I have a genuine interest in conservation and I have also a genuine sense of responsibility to my constituents and constituency.

By proposing that these amendments be accepted I have carried out my responsibility. I urge the Committee to accept my amendment and, a little later, to agree to the amendment to clause 16.

The Hon. M. T. TEHAN (Central Highlands Province)—I have listened with interest to the arguments in support of the fundamental variation to the concept of the listing process provided in the Bill.

Mr Evans is concerned about the powers of the interim conservation order. I shall address those matters when the Committee discusses clause 25. In place of the listing process described in clause 11, which proceeds to allow a scientific advisory committee to list on a schedule those species considered to be threatened, Mr Evans has proposed a dual classification which could be summarised in terms of "disastrous situations" or "misfortune". Mr Evans's argument is emotive. I believe it is necessary for him to have a more scientific basis to his argument.

For that reason alone I am not convinced by Mr Evans's argument. More importantly the simplistic approach of having only two categories is unacceptable. It is obvious that throughout the indigenous species of flora and fauna, mammals, birds and plants that are considered in the Bill, there is a complex, interwoven system of protection required for particular species.

I refer especially to a book to which I referred in my second-reading speech, *The Nature Conservation in Victoria Study Report*, Vol. 1, by Doug Frood, B. Sc. (Hons.) (Melb.) and Malcolm Calder, M. Sc. (NZ); Ph.D. (Wales); M.I. Biol. Both men are members of the School of Botany, University of Melbourne. Table 4.1 on page 103 of their report refers to the status classifications for the various mammals in Victoria. Those classifications are: endangered in Victoria; vulnerable in Victoria; restricted distribution or rare or both; indeterminate, possibly threatened; requires careful monitoring; presumed extinct in Victoria; and recent addition to State list.

To try to provide in the Bill only two categories, which are classified in the terms of "disaster" and "misfortune", to cover the classifications "critically endangered" and "threatened", is an oversimplification.

Clause 11 succinctly and clearly establishes what the Scientific Advisory Committee will purport to do in the classification. It provides:

> A community of flora and fauna is eligible to be listed if it is in a demonstrable state of decline which is likely to result in extinction or if it is significantly prone to future threats which are likely to result in extinction.

That provision clarifies quite clearly the broad category that the Bill purports to protect and, with the proper listing, will be able to protect.

I similarly indicate that the Scientific Advisory Committee is drawn from a broad panel of many professions and qualifications; and that committee, more than anyone else, will ensure that the list will bring in all of the threatened species referred to in the Bill. For that reason the Opposition will not support the amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government also opposes the amendment. As Mr Evans said, the clause goes to the heart of the Bill which is, of course, the protection of flora and fauna species—not just the critically endangered flora and fauna, but the endangered flora and fauna. If Mr Evans wants to prevent the misuse of an interim conservation order and wants to ensure that the Scientific Advisory Committee gives priority to those species that are most endangered, that can be done in other ways.

The issue of an interim conservation order is covered in other provisions in the Bill, which describe the process by which the Minister may issue an interim conservation order and place an obligation on the government to give compensation up front when an order is issued. The essential thrust of the Bill should not be amended in an attempt to get a secondary result, to stop the misuse of an interim conservation order. That would defeat the central purpose of the Bill which is to ensure that the government protects the critical habitat of threatened species.

It is often not only cheaper but also more desirable to attack the issue when the species is threatened rather than when the species becomes critically endangered. The whole point is that the Bill is preventive; it is not designed as a last minute rescue action, as is the case with the State Disaster Plan.

I appreciate that Mr Evans is trying to ensure that a strong power like the interim conservation order is not abused. Mr Evans well knows that I currently have the power of compulsory acquisition of land, but that I have used that power only twice since I have been the Minister, because I do not believe it is the appropriate way to achieve a conservation purpose.

I say to Mr Evans that I am not opposing the amendment because I have the view that the Minister should be constrained in the use of the interim conservation order. I oppose the amendment because it would destroy the central thrust of the Bill, which is to protect threatened species and to take preventive action before they become critically endangered. Once a species is critically endangered, such as the black-eared miner, which may only have eight producing pairs left, it may be too late to act. I do not want a Bill that enables me to act with an interim conservation order only when the issuing of the order has no effect and is too late anyway.

The Hon. D. M. EVANS (North Eastern Province)—Mrs Tehan argued for the particular amendment, perhaps inadvertently. She said that my proposed amendment was an oversimplification of the issue, because there are a number of different categories and degrees of endangerment and therefore, simply to provide for only two categories is not enough. Mrs Tehan seemed to argue that the Bill should have three to six categories and that because the amendment did not propose three to six categories there should be one category; and that is not logical.

I accept that what Mrs Tehan says is correct; there are a substantial number of species which to some degree are endangered and the degree of danger is different for various species. Mrs Tehan took issue with me on the simple explanation that I gave of the difference between "endangered" and "critically endangered" species—loss of one a disaster and and the other a misfortune. That explanation was given so that people who are not used to reading legislation can understand the provisions more clearly. In fact, I have already defined in clear terms how I proposed, in amendment No. 16, to deal with and define critically endangered species. The black-eared miner, with eight breeding pairs, obviously would be one of the first species that should be considered for listing as critically endangered. No-one argues with that; certainly not the National Party. Nor does the National Party argue that, if a person should threaten the existence of even one of those birds, the Minister should have emergency powers. In fact, the National Party believes the Minister should have emergency powers.

If an individual koala were endangered at some future date, the National Party believes that not only should the Minister not be able to use an interim conservation order, but

that no-one in the future should use that order in that circumstance; and, consequently, there is no need for the provision in the Bill of interim conservation order powers in that case.

I believe the draconian powers contained in the clause woud be counterproductive—that is, it is more likely that a species would be lost because of the threat of an interim conservation order and the ways in which farmers may react. It would be better if an interim order were not imposed and other more effective processes of protection were adopted—particularly where a species exists in reasonable numbers—such as cooperative management agreements and education assistance. That is why the National Party has proposed the amendment.

The Minister has not convinced members of the National Party that the amendment is not a good one. The National Party will call for a division on the amendment because it is fundamental to the protection of our constituents.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I shall give Mr Evans an example, because I know he feels strongly about the issue and he will convey what I say to his constituents.

Mr Evans said that koalas would not be placed in the category of a critically endangered species. In terms of the size of the koala population, I suppose that is so. The Bill provides that the Minister will not make such an assessment, because that is the responsibility of the Scientific Advisory Committee. In Victoria, there are two healthy breeding colonies of koalas—one on French Island and one other colony. If, God forbid, Sir Joh Bjelke-Petersen were to become Premier of Victoria and threatened to flog off French Island for a tourist development—in the same way that he threatened to flog off an island on the Great Barrier Reef—that would put at risk the largest healthy breeding colony of koalas, which is used to both protect and develop the species in other areas. If one wanted to stop such an action, one would have seriously to consider imposing an interim conservation order.

I shall not argue the matter again, because I do not expect to persuade Mr Evans of the merits of my argument. But if the National Party wants to prevent an abuse of the interim conservation order, it should make sure that the process is absolutely correct. Mr Evans should not destroy the central tenet of the Bill by proceeding with his amendment.

The Hon. D. M. EVANS (North Eastern Province)—If Sir Joh Bjelke-Petersen were to become Premier of Victoria, no Minister of his Cabinet would be game to use an interim conservation order on one of his pet projects!

The Committee divided on the question that the subclause proposed by Mr Evans to be omitted stand part of the clause (the Hon. Robert Lawson in the chair).

Ayes	30
Noes	5
Majority against the amendment	25

AYES	NOES
Mr Arnold	Mr Dunn
Mr Birrell	Mr Hallam
Mr Chamberlain	Mr Wright
Mr Connard	
Mrs Coxsedge	*Tellers:*
Mr de Fegely	Mr Baxter
Mrs Dixon	Mr Evans
Mr Granter	
Mr Henshaw	
Mrs Hogg	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	

AYES	NOES
Mr Knowles	
Mr Landeryou	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Macey	
Mr Mier	
Mr Murphy	
Mr Reid	
Mr Sandon	
Mr Van Buren	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mr Pullen	
Mrs Tehan	

The Hon. D. M. EVANS (North Eastern Province)—I move:

Clause 10, line 25, omit "and by Order published in the *Government Gazette*" and insert "make regulations which".

This is the second most important amendment the National Party will move to this Bill. Interim conservation orders can be used only for a taxon or a community of flora or fauna listed on Schedule 2. Certainly there is a prolonged process of consultation that the Minister must go through prior to listing a taxon or community in Schedule 2 or a threatening process in Schedule 3. That process appears to be so complete that there should be no danger. However, the facts are that the Minister can go through the consultative process and still take whatever action he or she desires. The Minister has only to consult. He or she does not have to accept the recommendations of the Scientific Advisory Committee.

It may well be that the Minister would not move away from the recommendations of that committee. It may be that from time to time the committee would have particular views which would not be shared by the remainder of the scientific community by people with equal expertise to members of that committee. The committee itself may be divided on whether a species should be on the list. If the composition of the committee were different because one member could not attend, the decision made by that committee might also be different.

Therefore, there are a number of very good reasons why the Minister is not bound by the decision of the Scientific Advisory Committee. If this Bill is passed without some Parliamentary control in this area, unfettered power will be given to the Minister to include a taxon or threatened community of flora and fauna in schedules 2 and 3 of the Bill. No Parliament should provide that degree of power to executive government.

The National Party's amendment proposes that listing on schedules 2 and 3 should be by regulation in the expectation that it will move amendments later in the Committee stage for regulations to be disallowed by either House of Parliament. In effect, that provides for exactly the same procedure to apply as if all the items—all the taxon and threatened communities—were already listed in the schedules. That should be so because then Parliament, as the representative of the people, would have the opportunity of judging the fitness of the inclusion of the various items on the schedules. I have no doubt that a properly constituted Scientific Advisory Committee would provide proper advice and that advice would be taken by Parliament. However, because a Minister is not bound by the recommendations of that committee, it is essential to have the additional protection that I propose so that Parliament can have the opportunity of making the final judgment. At present Parliament does not have executive power in this area. The amendment is critical

and essential if the Bill is to meet the needs of our constituents and to provide them with reasonable protection.

The Hon. M. T. TEHAN (Central Highlands Province)—Again, the Liberal Party recognises the genuineness with which the amendment has been proposed by the National Party. The National Party has proposed a package by which the listing process will be restricted to two categories, and it wants to make that provision subject to disallowance through the regulatory power available to either House of Parliament.

The Liberal Party has given due consideration to the reasons outlined by Mr Evans this evening, but for four specific reasons it has decided that there is no necessity for the amendment. The Liberal Party believes it will be a retrograde step and it is the best interests of the Bill if the amendment is defeated.

The Opposition accepts that the notification must be provided to each House of Parliament and that the listing should be the first process by which further actions arising out of the Bill are linked, so that the listing process is an important initiating part. For that reason, an amendment was made in the other House and a subclause was added so that an order made under clause 10 (3) must be tabled in each House of Parliament within seven sitting days of its making. Therefore, members of Parliament are made aware of the trigger or initiation of the process involving this Bill through fauna and flora threatening processes being placed on the schedule.

The Opposition decided that as the Scientific Advisory Committee has been established, and as it is the botanical expert and the expert in all the other categories that have been alluded to and set out in clause 8, it would be inappropriate to "re-guess" what should be solely a scientific botanical analysis of the strengths or weaknesses of the argument for listing those species. Any input that would come from members of either House of Parliament in a disallowance procedure would be from political, amateur lay people, and would really be pushing the Scientific Advisory Committee away from assessing on botanical grounds what is appropriate for listing purposes.

It is important that honourable members recognise that those botanical reasons are the only criteria on which the committee makes its decision and recommends to the Minister the listing process to be carried out.

I also point out that in the listing process in clause 11 the criteria has been established on which the Scientific Advisory Committee must take note. In later proposed amendments the criteria for which the eligibility of taxa or communities being threatened will be the subject of regulation and will protect the advice that Mr Evans believes is so necessary.

The Bill has already had an amendment inserted in the other place to cover the specific expertise that the Scientific Advisory Committee will have, and those criteria are based solely on a botanical scientific base. There is no other input into those decisions, so there should be a correct and proper scientific approach, and it would not be appropriate for Parliament to be "re-guessing" or second-guessing the decision of the Minister based on the recommendations of the Scientific Advisory Committee. Therefore, the Liberal Party will not support the amendment.

The Hon. D. M. EVANS (North Eastern Province)—I am disappointed that the Minister for Conservation, Forests and Lands has not responded. I listened to Mrs Tehan's comments and I have two points to make. It is of value to have tabled in this Chamber nominations for placement on the list. However, at present it will be of no value because unless my amendment is carried, and subsequent proposed amendments give it full effect, it will be a purely academic or interest only exercise. Honourable members will be able to do nothing about those nominations. They will be almost wasting their time in discussing them. It will be simply a public information process particularised for Parliament. However, if we could have—as I believe we should—reserved to Parliament the opportunity of taking action if the proposed action were inappropriate, there would be some point in it.

Perhaps I should have prepared a contingent amendment providing that the Minister could place taxa, communities, or threatening processes in schedules 2 or 3 only if a

recommendation for that decision has been made by the Scientific Advisory Committee. Mrs Tehan may then have agreed to the amendment. I have not done so, but if I had the argument that Mrs Tehan has advanced against my amendment would have been far more cogent because the facts are that the Minister can listen with great interest to the Scientific Advisory Committee but does not have to take notice of it—in fact, the government does not have to be bound by it. The Minister can take a listing nomination from the Scientific Advisory Committee and ignore it, or need not even obtain a positive recommendation from the Scientific Advisory Committee, and can act of his or her own volition.

I should be interested to hear from Mrs Tehan whether the Liberal Party would, as a second barrel, if you like, accept an amendment that would make it mandatory for the Minister to list those on schedule 2 or 3 only following a recommendation from the Scientific Advisory Committee.

The Committee divided on the question that the words proposed by Mr Evans to be omitted stand part of the clause (the Hon. Robert Lawson in the chair).

Ayes	29
Noes	5
Majority against the amendment	24

AYES	NOES
Mr Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Chamberlain	Mr Wright
Mr de Fegely	
Mr Henshaw	*Tellers:*
Mrs Hogg	Mrt Evans
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Landeryou	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Macey	
Mr Mier	
Mr Miles	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mrs Coxsedge	
Mr Connard	

The Hon. D. M. EVANS (North Eastern Province)—Amendment No. 13 standing in my name is consequential and I shall not proceed with it. I move:

14. Clause 10, line 32, after "Committee" insert "and after consulting the Land Protection Council".

The amendment provides for a consultative process involving the Land Protection Council. Clause 10 (5) provides that the Minister must consult with the Scientific Advisory Committee before adding an item to Schedule 2 or Schedule 3. The National Party suggests

in its amendment that that consultation procedure should go further and involve the Land Protection Council.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Acting Chairman, I seek your guidance. I shall be moving amendments Nos 7 and 8 standing in my name, which provide that two bodies, the Conservation Advisory Committee and the Land Protection Council, are to be consulted at the appropriate stages. The amendments will be effected in clause 15, line 26 and clause 16, line 34. I should have thought that they cover part of Mr Evans's amendment.

The government is saying that the two groups that have the main interest in this debate are the Land Protection Council—which is a body set up by legislation and comprising a majority of elected landholders which advises me on land protection matters—representing private landholders on the one hand and, on the other hand, the Conservation Advisory Committee—which is a body that advises the Minister under the Conservation, Forests and Lands Act on matters affecting conservation and has a broad membership ranging from the Trades Hall Council and the Victorian Farmers Federation to the Conservation Council of Victoria.

I am seeking your guidance, Mr Acting Chairman, on how the government should cope with the three amendments.

The Hon. D. M. EVANS (North Eastern Province)—Would it make it easier for the Minister if I accepted her suggestion that the Conservation Advisory Committee be added to my amendment?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—It would be helpful to the process.

The Hon. D. M. EVANS (North Eastern Province)—I would be prepared to accept that.

The Hon. M. T. TEHAN (Central Highlands Province)—I understand that both Mr Evans and the Minister are trying to balance the input of information to the Minister. Clauses 15 and 16 relate to advice to the Minister for Conservation, Forests and Lands, which advice the Minister must take into account.

For the sake of consistency, the Liberal Party should not support the National Party's amendment, which will now read, "after consulting the Land Protection Council", on the grounds to which I alluded when I spoke on the listing process. It is a strict scientific process, based solely on scientific grounds and should be left to the Scientific Advisory Committee, without any input from the Land Protection Council or the Conservation Advisory Committee. Only the Scientific Advisory Committee should make that recommendation to the Minister and the Minister should act only on that advice.

On those grounds, the Liberal Party will not support the National Party's amendment in this instance but certainly will in respect of clauses 15 and 16.

The amendment was negatived, and the clause was agreed to.

Clause 11

The Hon. D. M. EVANS (North Eastern Province)—I move:

15. Clause 11, line 5, after "listed" insert "as threatened".

The amendment will make the clause a bit tighter and is really nothing more than an editorial suggestion.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The same arguments apply to this clause as applied to the clause the Committee divided on earlier, which was that dealt with by amendment No. 11 moved by Mr Evans. For those reasons, it is not just a matter of tightening the clause but changing the emphasis of the clause. I oppose the amendment.

The Hon. M. T. TEHAN (Central Highlands Province)—The Liberal Party opposes the amendment on a different ground in that the eligibility for listing in clause 11 is based on the understanding that the taxon or community of flora and fauna is threatened and it would not be listed unless it were threatened; so there is no point in adding the words "as threatened". It is eligible for listing in Schedule 2 only if it is threatened. Adding the words does nothing to the sense of the clause.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—Amendment No. 16 standing in my name has already been tested.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

5. Clause 11, line 15, after "threat to" insert "the survival or evolutionary development of".

The amendment will have the effect of removing a threat to an abundance as a criterion for listing threats and comes to terms with some concerns expressed in both community consultation and by the Liberal Opposition about the breadth of using a threat to abundance as a criterion for listing.

The Hon. M. T. TEHAN (Central Highlands Province)—As the Minister suggested, this potentially threatening process has caused some concern in the community. The Liberal Party proposed the addition of some words to this clause when the Bill was in another place. In the absence of appropriate management, the Liberal Party sought to insert the words so that the clause was tightened—for want of a better word—in respect of a potentially threatening process. The Liberal Party has substantially restricted as the unfettered use of the potentially threatening process.

As was alluded to earlier when I referred to the definitions section, the Liberal Party considered it more appropriate to incorporate the Minister's words in this instance because this is where the listing process rather than the definitions section is operative. The proposed amendment has the same effect as not using the word "abundant" but is a far better process. For that reason, the Liberal Party supports the amendment.

The amendment was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

6. Clause 11, line 18, after this line insert—

"( ) The set of criteria referred to in sub-section (4) is of no effect unless it is included in regulations."

The amendment will have the effect of ensuring that the detailed set of criteria for listing must be established by regulation. This provision was not in the Bill when it was in the Lower House, but both opposition parties have said that it is important that the criteria for listing be subject to regulation, if requested, or be reviewed by Parliament.

I have no problem with that as it does not interfere with the proper process of the Bill. As the criteria are essentially part of the decision and also of public understanding of the reasons for the decision, I have no problem with it being part of a regulation and what flows from that.

The Hon. M. T. TEHAN (Central Highlands Province)—In not being able to support the regulations required within the listing process that Mr Evans referred to earlier, I was able to argue that by ensuring that there was a possibility of Parliament looking at the criteria it would be able to have some control over the listing process; and it was far better to do it in setting the parameters of the criteria if that need arises—and I doubt it will very often—at which time the parameters of the criteria can be established. Clear direction can be given to the Scientific Advisory Committee that it make its listing process pursuant to that criteria, which is subject to review by Parliament.

The Hon. D. M. EVANS (North Eastern Province)—The National Party pursued with considerable vigour a much more efficient and effective protective process than that provided under clause 4, which does give a modicum of additional protection.

It is interesting to note that it was in discussion between Mrs Tehan and myself that it was realised that there was no connection between the power to make regulations in clause 68 of the Bill and a requirement to use regulations to guide the Scientific Advisory Committee; the two were not connected.

I would not have recognised and realised the true situation, had the Minister not desired to proclaim the Bill by more than one stage and included clause 11 (4) in the original Bill. When I paid closer attention to it I realised the deficiency. I am pleased that it is there; it is a reasonable provision.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 12.

Clause 13

The Hon. D. M. EVANS (North Eastern Province)—Because of the fact that amendments Nos 11 and 16 were defeated, my proposed amendment No. 17 to this clause will have no effect. It had been the National Party's intention to include this amendment, which would mean that the committee must give priority to the most endangered species of taxon or community of flora and fauna. I do not intend to proceed with the amendment as the list of critically endangered species is not a two-part listing. Therefore, there is no point in proceeding with the proposed amendment, which would have made the Bill more effective.

The clause was agreed to, as was clause 14.

Clause 15

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

7. Clause 15, 26, after "nominator" insert ", the Conservation Advisory Committee and the Land Protection Council".

The amendment will have the effect of inserting after "nominator" the expression "the Conservation Advisory Committee and the Land Protection Council." I gave the reasons for the amendment when I was canvassing Mr Evans's earlier amendment. It simply ensures that those committees know of the recommendations of the Scientific Advisory Committee and can comment to the Minister on those recommendations if they wish to do so.

The Hon. M. T. TEHAN (Central Highlands Province)—The Opposition supports the amendment and also gives notice that it will support the amendment to clause 16 so that those committees can comment to the Minister and have the opportunity of advice on both counts. The Opposition supports the amendment.

The Hon. D. M. EVANS (North Eastern Province)—The National Party considers the amendment is a valuable addition to the Bill and will support it.

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

Clause 16

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

8. Clause 16, line 34, after "recommendation" insert "and any comments of the Conservation Advisory Committee and the Land Protection Council".

This follows the previous amendment and will ensure that the Minister considers comments from the Conservation Advisory Committee and the Land Protection Council.

The Hon. D. M. EVANS (North Eastern Province)—The National Party had proposed to move a similar amendment. The Minister had drawn my attention to this amendment, so I apologise for not having noticed it initially. The National Party supports the amendment and thanks the Minister for taking up its initiative.

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

Clause 17

The Hon. D. M. EVANS (North Eastern Province)—I move:

19. Clause 17, line 11, after "guaranteeing" insert "subject to sub-section (3)".

Clause 17 (2) provides that the strategy must include proposals for guaranteeing the survival, abundance and evolutionary development in the wild of all taxa and communities of flora and fauna. The National Party believes that is an optimistic aim and proposes that it be tempered by including the expression "subject to sub-section (3)", where certain conditions are noted for the guaranteeing mentioned in clause 17 (2) (*a*).

The Hon. M. T. TEHAN (Central Highlands Province)—The Opposition will support the National Party's amendment. There was considerable discussion in the second-reading debate on the word "guaranteeing" and how effectively and literally it can be interpreted. The Opposition envisages no problems in inserting the words so that the guarantee is subject to clause 17 (3). If the guarantee cannot literally be brought about, the provisions of clause 17 (3) will modify that requirement.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. It would limit the concept of the guarantee by making it subject to social and economic concerns. I suppose this comes back to an ideological position because, in the government's view, the concept of guaranteeing the survival of native species is an ideal to be aimed at and, although it may never be fully achieved in practice, it should be striven for. I do not understand what the amendment would gain. I am surprised that the Liberal Opposition will accept the amendment. It is a watering-down of the original goal.

The Bill makes it perfectly clear that social and economic issues should not be ignored, but the essential framework is to achieve nature conservation; so the concept of guaranteeing the survival of all native species ought to remain as the essential aim. The aim of the Bill is to identify what can be done to achieve nature conservation; social and economic objectives must be considered at the same time, so there seems no point in adding to the concept of the guarantee subject to clause 17 (3).

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 18.

The sitting was suspended at 11.58 *p.m. until* 12.23 *a.m. (Friday).*

Clause 19

The Hon. D. M. EVANS (North Eastern Province)—Amendment No. 20 in my name was intended to amend subclause (1) which states:

The Director-General must prepare an action statement for any listed taxon or community of flora and fauna or potentially threatening process as soon as possible as soon as that taxon, community or process is listed.

The National Party intended to include critically endangered species in that by including in the subclause that the director-general must give priority to the preparation of an action statement for any taxon or community of flora and fauna which is listed as critically endangered. That would have improved the Bill. However, the Committee did not agree to a previous amendment, so I shall not proceed with my amendment No. 20. The Bill will be deficient to that extent.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

9. Clause 19, line 21, after "Committee" insert ", the Conservation Advisory Committee and the Land Protection Council".

The amendment provides that when preparing for an action statement, the advice of the Conservation Advisory Committee, and the Land Protection Council be considered. That takes into account community concerns and issues raised by opposition parties.

The Hon. D. M. EVANS (North Eastern Province)—The National Party agrees with the amendment. It had proposed to include at least the Land Protection Council in the provision, but the additional inclusion of the Conservation Advisory Committee is sensible.

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

Clause 20

The Hon. D. M. EVANS (North Eastern Province)—The National Party has already proposed that the word "listed" be included in an earlier similar clause. Although it would clarify matters, it is unlikely that amendment No. 22 in my name will be accepted. Therefore, I shall not move amendments Nos 22 to 24 in my name.

The clause was agreed to.

Clause 21

The Hon. D. M. EVANS (North Eastern Province)—Amendment No. 25 in my name proposed to insert the word "listed". As I have indicated, that has been tested and it has not been successful. Therefore, I shall not move amendments Nos 25 to 27.

The clause was agreed to, as were clauses 22 and 23.

Clause 24

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

10. Clause 24, line 38, omit "(*c*)" and insert "(1) (*d*)".

This is a consequential amendment arising from a change made in another place.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 25.

Clause 26

The Hon. D. M. EVANS (North Eastern Province)—Amendment No. 28 in my name is consequential upon clauses 11 and 16. The clause refers to the application of interim conservation orders. As the Committee was not prepared to agree to my proposal at an earlier stage, I regret that there is no point in moving my amendment. Therefore I shall not proceed with amendments Nos 28 to 32.

The clause was agreed to, as was clause 27.

Clause 28

The Hon. D. M. EVANS (North Eastern Province)—Amendment No. 33 in my name has already been tested and I do not intend to proceed with it.

The clause was agreed to, as were clauses 29 to 40.

Clause 41

The Hon. D. M. EVANS (North Eastern Province)—I move:

37. Clause 41, page 21, line 12, after "section 38" insert—

"; or

(*d*) any decision of the Minister or Director-General which causes financial loss or economic hardship to any person or which requires a person to incur costs in order to comply with it".

A very important issue for the landowners in Victoria is the ability to appeal against any decision made under this measure. It is important that the terms of and the reasons for which those appeals may be made should be defined very clearly.

The amendment provides, in addition to the other listed reasons why a person may apply to the Administrative Appeals Tribunal for various reviews, that any decision of the Minister or director-general which causes financial loss or economic hardship to any person or which requires a person to incur costs in order to comply with it is appealable.

If the community wishes to have flora and fauna conserved, which is an objective with which the National Party agrees completely, the landowner should be protected against having to bear additional expense on his own for the community's benefit. The amendment I have moved tightens up the provision and increases the individual landowner's ability to appeal and, therefore, also the protection that is given to him against an unwarranted cost.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment because it is my understanding that clause 41 (1) of the Bill covers all the issues that the person affected may wish to appeal against. I do not believe there is a necessity to insert an additional paragraph in the clause, as Mr Evans's amendment seeks to do.

The Hon. M. T. TEHAN (Central Highlands Province)—The Liberal Party will not support the amendment for two reasons. Firstly, the amendment refers to the financial or economic hardship incurred by anyone pursuant to any decision of the Minister, which will be sufficiently covered in amendment No. 11 proposed to be moved by the Minister to clause 43, which relates to the compensation area. Therefore, what the National Party's amendment attempts to do will be covered more adequately in the compensation clause, and people affected in this way will have available to them the normal compensation appeal provisions under clause 43.

Secondly, the wording of the National Party's amendment is so broad that the Liberal Party does not believe it would have sufficent precision to be legally effective and would create problems in its present form. For both those reasons, the Opposition does not support the amendment.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

38. Clause 41, page 21, line 23, after this line insert—

"( ) For the purposes of section 7 (3) (*b*) of the *Administrative Appeals Tribunal Act* 1984 the special knowledge or skill which at least one member of the Tribunal must have to hear an appeal under this section is practical experience in land management and flora and fauna matters in a private capacity.".

An important provision in the Bill as a protection to landowners is the right to appeal, firstly, to the Administrative Appeals Tribunal—and the conditions under which that appeal may be made and the reasons for it are set out in clause 41—and, secondly, also to the Land Valuation Boards of Review. However, the clause refers to the Administrative Appeals Tribunal.

The tribunal process is intended to be a simple and inexpensive appeal mechanism and relies on a simple process in order to make an impartial decision. The National Party believes the umpires need to be well aware of all the rules and to understand the subject.

The tribunal is not a court of law and, therefore, it seems reasonable to the National Party that a rider should be included so that, when there is a power to go to the Administrative Appeals Tribunal to have a matter reviewed, the measure is able also to spell out some of the conditions under which the tribunal makes its judgment.

The National Party suggests that, among those persons who may form a tribunal under the Administrative Appeals Tribunal Act should be included at least one member who has

practical experience in the issues of land management and flora and fauna matters in a private capacity. In other words, the umpires should know something about the game, and the amendment would provide an additional protection.

I believe it is perfectly in order to include such a person on the tribunal under the Administrative Appeals Tribunal Act because, surely, one is entitled to set up the terms and conditions if one wishes to go to that sort of tribunal. The amendment would provide a more effective and efficient tribunal and, most of all, it would enable it to become a tribunal where an aggrieved person could feel that there were some members on it who had a full, practical knowledge of the problem that he or she may bring before it.

It needs to be understood that many of those people who go through the appeals process will not be particularly familiar with a courtroom or an appeals tribunal procedure. They will require assistance, which would normally be provided to them in a court of law by a lawyer at low cost. The amendment will assist the aggrieved person who appeared before the tribunal in believing that his case had been justly heard.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. I understand what Mr Evans is trying to do, but there are two reasons for the government's opposition. The first reason is that it is already possible for the tribunal to select persons who have practical experience in a whole range of areas, as Mr Evans intimated. Therefore, I see no reason for requiring a specific person who has practical experience in land management and flora and fauna matters in a private capacity. It is extremely important to leave with the Administrative Appeals Tribunal the ability to choose the best person for the task.

It is highly possible that, as most of the actions arising from this flora and fauna guarantee are likely to arise in regard to public land, it is not appropriate to have a person whose expertise is in a private capacity in terms of land management and flora and fauna understanding. For example, the tribunal may be dealing with the issues of forests or fisheries. Therefore, the amendment is too restrictive of the ability of the tribunal to be of assistance and to select the right person.

In addition, the insertion of the word "private" suggests that the only persons who can deal competently with a public land matter are those who have expertise in a private capacity. I reject the amendment for those two reasons.

The Hon. M. T. TEHAN (Central Highlands Province)—I have examined this amendment with interest and have sought some wide input into its merits. Based on the information I have been able to glean, the disadvantages of incorporating this amendment in the Bill outweigh the advantages. I was interested to hear Mr Evans refer to an umpire having to know something about the rules because, in most instances, in our judicial system the judge is certainly not an expert in the area in which he is presiding or deciding, and I do not believe that argument carries a great deal of weight.

I spoke with the most recent past president of the Administrative Appeals Tribunal and asked him what the history of legislation incorporating provisions such as this in the jurisdiction of the tribunal was. He indicated that, until the Planning Appeals Tribunal was incorporated into the Administrative Appeals Tribunal, so far as he was aware, there were no specific legislative provisions that insisted that persons with specialist knowledge be included within the panel.

He said—and I have taken account of the arguments he put—that if the provision is included we are virtually insisting that any panel of the Administrative Appeals Tribunal must be a triple panel. The normal process is for a lawyer to sit alone. However, if the provision goes in, a three-man panel would be required. The expense alone is a matter that should be considered.

He was able to suggest that, having an expert sitting on the panel in many instances did preclude expert evidence being brought before the tribunal and being open to public scrutiny and cross-examination.

Mr Evans referred to the need for an informal procedure and for appellants to feel at home, which perhaps they would with someone of their own ilk. However, from my admittedly limited experience in the Administrative Appeals Tribunal and other tribunals of that sort, there is not excessive formality; and I do not see that as a compelling reason to set a precedent whereby legislation imposes upon the judicial system the type of members that should hear the cases. For those reasons I cannot support the National Party's amendment.

The Hon. D. M. EVANS (North Eastern Province)—I am interested in the comments made by the Minister and Mrs Tehan. The Minister's comments appeared to indicate that I thought the intention of the amendment proposed by the National Party was that the person should be a farmer. It certainly does not say that. I said that the person has to act in a private capacity. The person does not have to be a farmer; he could be a timberman or a person with some form of experience who could act in a private capacity.

Mrs Tehan advanced an interesting argument that to require a person with particular expertise to be on the tribunal would mean the tribunal must consist of three persons. It does not mean that; it could be one person, because at least one person has to have experience. There could be a tribunal of one person only, provided that person had the experience suggested.

I remind Mrs Tehan that one of the most successful systems of justice in the world over a long period was the justice of the peace system where the person who was put on trial or was in any way judged, was judged by a person in the community who had a very full knowledge of the circumstances of the case—and very often of the person concerned.

Very good justice was meted out under that system because it was a simple matter. It was not a matter of high legal argument or complex law; nor is this a matter of high legal content or complex law. It concerns a simple matter of judgment based on equity and fairness. In that case, experience in the field, I suggest, would be an admirable criterion to have in the proposed legislation to ensure that the Administrative Appeals Tribunal had that sort of experience available to it. The amendment would be a valuable addition to the proposed legislation. I trust the Minister and Mrs Tehan will reconsider their decisions and support the amendment.

The amendment was negatived, and the clause was agreed to.

Clause 42

The Hon. M. T. TEHAN (Central Highlands Province)—I move:

2. Clause 42, line 28, after "may" insert "having first given notice to the landholder or water manager".

The clause provides:

If an authorised officer believes on reasonable grounds that a landholder or water manager has not satisfactorily complied with the terms of an interim conservation order, the authorised officer, with any assistance the authorised officer considers necessary, may enter onto the land or water . . .

The amendment proposes to insert the words "having first given notice to the landholder or water manager" after the word "may".

The reason for the amendment is that the Opposition is well aware of the ever-increasing and encroaching authority of bureaucrats and of both government and statutory authorities having access to private land and buildings in what could well be situations that abridge the accepted rights, civil liberties and privacy people have in terms of legislation.

Being conscious of that, the Opposition considered, in this instance especially, that the requirement to give notice was not unduly restrictive and acknowledged the rights of landowners to have people come onto their land only after having first given notice.

In this particular instance, it will be as a result of an interim conservation order and the requirement for an authorised officer to enter the property and take action in the event of non-compliance with the order.

The Opposition suggests that, if the Bill were implemented along the lines the Minister has suggested and in line with the terms Mr Evans and I have suggested it should be implemented, there would be an ongoing situation of appeals and discussions—maybe not agreement—in reaching the situation where an interim conservation order was made. Nonetheless, even if there had not been agreement, there would still be a situation of persons operating together in some form to ensure that the interim conservation order would be effective.

A further reason why the Opposition has suggested that notice be given is that the authorised officer is entering the land with respect to an enforcement procedure and he can do anything he reasonably believes necessary. In that instance it is even more imperative that notice be given before someone—even justifiably—enters private land and takes action on that private land.

The Hon. D. M. EVANS (North Eastern Province)—The National Party agrees with this procedure. It is fair and reasonable that, if someone is to enter private property, the owner should have the opportunity of being there when the inspection is carried out. In order for that to occur, it is necessary for the person to be notified in advance. I assume the manner of notification will be spelt out later in the regulations.

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

Clause 43

The Hon. D. M. EVANS (North Eastern Province)—I move:

42. Clause 43, page 22, line 29, after "relevant" insert ", including financial assistance, management fees or works carried out by the Department".

The clause refers to compensation paid to landowners. Subclause (6) refers to determinations made under subsection (5) by the director-general, who determines how much compensation needs to be paid.

The National Party believes the several particular issues that need to be addressed in determining compensation should include any financial assistance, management fees or works carried out by the department. That should be spelt out in the proposed legislation. The amendment makes much clearer to a landowner or anybody else the terms and conditions applicable in the event of an appeal being made against the decision of the director-general. It makes it clear to the landowner that, if assistance has been received, it will be taken into account in determining compensation. The amendment is a valuable addition to the Bill and I trust the Minister will agree to it.

The Hon. M. T. TEHAN (Central Highlands Province)—I do not support the amendment, nor do I disagree with it. The impact is fine but it is covered adequately in clause 43 (6) (*b*) which states that it is the amount of financial loss to the person which, in the director-general's opinion, would result from compliance with the order. Following that, clause 43 (6) (*f*) relates to any other matter which the director-general considers relevant. Although I am not objecting to the amendment, it is superfluous because it is sufficiently covered in the Bill as it stands. For that reason, I do not support the amendment.

The Hon. D. M. EVANS (North Eastern Province)—I believe the arguments I have advanced are somewhat better than Mrs Tehan's—especially the last argument she advanced, which was a nonsense. If "any other matter which the director-general considers relevant" covers the issue that I have raised, equally it covers all of the other issues that have been raised.

The amendment was negatived.

The Hon. D. M. EVANS (North Eastern Province)—I move:

43. Clause 43, page 22, line 35, after "Director-General" insert "must make a payment in advance for any direct costs of complying with an order and".

The amendment is intended to ensure that, if a landowner is faced with costs of compliance with an interim conservation order, those costs should not be borne by the landowner but should be borne by the department. The National Party is especially concerned about direct costs of compliance. If compliance with an interim conservation order requires the fencing out of a specific area of land, a direct cost to the landowner will be incurred with the purchase of materials to do that work.

During discussion at the seminars, which were intended to explain the Bill to people in country areas, I was struck by a comment made by one officer of the department that interim conservation orders would not be unreasonably applied or too frequently applied. The reason he advanced was that the department simply could not afford to apply interim conservation orders too liberally; it did not have enough money.

I can readily understand that if it appears to the person who has the power to impose an interim conservation order that a species or a community is endangered, that will become an overriding consideration. The fact that the department has no money to meet the cost of compliance will not matter; the farmer will simply have to meet the cost and will then have to apply to the director-general to obtain compensation. That is not fair. Although the Minister has the power under another clause of the Bill to make payments in advance, the National Party wants to make absolutely certain that before an interim conservation order can be applied at least the truckload of wire and fence posts required to implement the order arrives to assist the farmer.

This in another of the package of amendments that the National Party has proposed to cover protection of the landowner so that the costs of flora and fauna conservation, which is a matter of community interest, are borne by the community and not by the individual who is in the fortunate position—or unfortunate position—of playing host to the desired species.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Amendment No. 11 standing in my name does the task better than Mr Evans's amendment. I shall take up the thrust of his amendment and ask him to consider dropping his amendment and accepting my amendment No. 11. That amendment ensures that the government must pay compensation and that the assistance is given to the landowner before the requirement is enforced.

Honourable members involved in community consultations about the Bill know that that was one of the concerns of people in the community; that they might have to fork out the money for works required and have to wait for compensation. That is not an appropriate way to operate if one wants the cooperation of people. My amendment is an elaboration of Mr Evans's amendment. I suggest that Mr Evans pick up my amendment, which takes up his concept, broadens it and makes it tighter in its application.

The Hon. D. M. EVANS (North Eastern Province)—I am happy to accept the Minister's request and I am pleased that her amendment has come forward. This was an issue which I took up in one of the discussion papers I circulated widely over the past several months. I knew the Minister was aware of this issue because I had discussed it with members of her staff prior to Christmas.

I agree with the Minister that the amendment she proposes is a little wider than mine. It carries all the benefits of my amendment with some additional benefits and I am happy to defer and accept her amendment.

By leave, the amendment was withdrawn.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

11. Clause 43, page 22, line 38, after this line insert—

"( ) The Director-General must undertake to assist any person who is required to carry out works under an interim conservation order if the Director-General is of the opinion that that person could claim compensation for those works and the assistance must be given before the requirement is enforced.

( ) The assistance given by the Director-General may be either—

(*a*) a payment of money; or

(*b*) a provision of labour, goods or other services—

and the money paid or cost of other assistance given must be that which in the Director-General's opinion is the reasonable and direct costs of carrying out the works.".

The Hon. M. T. TEHAN (Central Highlands Province)—The requirement in the proposed amendment withdrawn by the National Party that a payment be made in advance is a worthy one and, as the Minister has acknowledged, one which was of concern to farming people. However, the verbiage used in the Minister's amendment is more appropriate, especially in relation to the provision of labour, goods or other services. In those circumstances, the Liberal Party supports the amendment.

The provision for compensation will become part of clause 43 and will then be subject to the appeal provisions of clause 43 (10). The Opposition was not able to agree with the National Party's requirement for financial assistance or management fees for work carried out by the department to be included in clause 43; it is more appropriately covered in the government's amendment.

The amendment was agreed to.

The Hon. D. M. EVANS (North Eastern Province)—I move:

45. Clause 43, page 23, after line 2 insert—

"( ) A tribunal appointed under the *Land Acquisition and Compensation Act* 1986 for the purposes of sub-section (10) must contain at least one member who has practical experience in land management and flora and fauna matters in a private capacity.".

This is similar to the amendment I proposed concerning the Administrative Appeals Tribunal. Where there is an appeal to the Land Valuation Board of Review the tribunal appointed under the relevant Act should contain one member who has had practical experience in land management and flora and fauna matters in a private capacity.

The arguments I advanced for a similar provision applying to the Administrative Appeals Tribunal stand in this case, but I raise the additional point that I have discussed this proposition with the Registrar of the Land Valuation Board of Review, Mr Beckwith, who informed me that it would be normal to expect a person with that sort of experience to be appointed. He considered that to be a reasonable provision to be included in the Bill. In those terms, it appears to be a simple matter and I suggest that on this occasion the Committee agrees to the amendment I propose.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment. I know I am beginning to sound churlish. It is not that I am not taking on board Mr Evans's ideas on these issues, but I simply see this amendment as unnecessary because it is already possible for the Land Valuation Board of Review to use a panel which has appropriate skills and experience. It is inappropriate both to set a precedent and to set a restriction on the way the Land Valuation Board of Review handles its affairs.

The amendment was negatived, and the clause, as amended, was adopted, as was clause 44.

Clause 45

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

12. Clause 45, line 11, after "Division" insert "and in Part 6".

The amendment is a technical correction which ensures that regulations can be drawn using the broader definition of "flora" as established in this clause.

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

Clause 46

The Hon. D. M. EVANS (North Eastern Province)—The effect of amendment No. 46 circulated in my name has been previously tested, and I shall not proceed with it.

The clause was agreed to.

Clause 47

The Hon. D. M. EVANS (North Eastern Province)—The effect of my proposed amendment No. 47 has also been tested by the Committee and was found wanting, so I shall not proceed with it, either.

For the same reason, I shall not proceed with amendments Nos 48 and 49.

The clause was agreed to, as were clauses 48 to 56.

Clause 57

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

13. Clause 57, page 27, line 7, omit "unoccupied premises" and insert "buildings not occupied as places of residence".

14. Clause 57, page 27, line 7, after this line insert—

"( ) search any land, buildings not occupied as places of residence or vehicles; or

( ) with a warrant, search any building occupied as a place of residence; or".

15. Clause 57, page 27, line 8, omit "land, unoccupied premises, vehicles".

16. Clause 57, page 27, line 10, after this line insert—

"( ) require a moving vehicle to be stopped; or".

The government is attempting by means of the proposed amendments to pick up concerns expressed in the other House and by some members of the community. In debate on the Bill in the other place reference was made to the powers not being defined clearly enough or going too far as enforcement powers. Amendments were moved in the other House which could have had the effect of not allowing departmental authorised officers to carry out their very important duties in the enforcement of the provisions in the Bill.

Amendment No. 13 is a technical correction. Amendment No. 14 corrects deficiencies in the enforcement provisions of the Bill, as discussed in the other House. That allows for a search power on any land, buildings not occupied as places of residence or vehicles, and for a search power, with the application of a search warrant, in occupied premises. That power currently exists under the Wildlife Act and apparently is also exercised under the Summary Offences Act.

Amendment No. 15 is consequential and relates to a previous government amendment. Amendment No. 16 corrects an anomaly relating to a deficiency, as discussed in the other House. If that amendment was not passed, thereby enabling a vehicle to be stopped, officers could not stop a vehicle for an inspection. They would probably then need to develop a talent for searching moving vehicles, which I am sure is something they would not be too pleased about.

The amendments were agreed to.

The Hon. D. M. EVANS (North Eastern Province)—I move:

50. Clause 57, page 27, line 12 after "from" insert "relevant".

The reason for the amendment is that clause 57 (2) (*d*) includes the power to:

. . . seize, examine or take copies of, or extracts from documents;

That power is too broad, and the word "relevant" should be inserted. That would clarify the power to take extracts and copies being limited to relevant documents.

The Hon. M. T. TEHAN (Central Highlands Province)—The proposed amendment had some merit for a short time, due to my lack of understanding of proposed clause 57 (2) as it relates to clause 57 (1). When it became apparent to me that clause 57 (2) is confined to provisions in clause 57 (1), it was obvious that the word "relevant" was not needed in order to "seize, examine or take copies of, or extracts from documents". Documents under the provisions of the Act, or any Orders in Council made under the Act, or interim conservation council orders, public authority management agreements or land management cooperative agreements are the only ones that have a complete relevance to the matters in hand, and certainly are limited to that class of category set out in clause 57 (1).

For that reason, nothing is to be gained by adopting the amendment proposed by the National Party. In the best interests of the Bill and its drafting, the Liberal Party will not support the amendment.

The amendment was negatived.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

17. Clause 57, page 27, line 28, after "notice" insert "to the owner and to the person in possession of the land".

18. Clause 57, page 27, line 30, after "notice" insert "to the owner and to the person in possession of the land".

The proposed amendments clarify to whom notice is to be given, and are in response to a concern raised with me by Mr Evans. There needs to be absolute certainty in the Bill as to whom the notice should be given.

The Hon. D. M. EVANS (North Eastern Province)—The amendments moved by the Minister cover the intentions of the National Party. I am happy to agree to them.

Consequently, I shall not move amendments Nos 51 and 52 standing in my name.

The Hon. M. T. TEHAN (Central Highlands Province)—The amendments of the Minister for Conservation, Forests and Lands go further than proposed amendments Nos 51 and 52 of the National Party. I commend the Minister on ensuring that notice is given to the owner and to the person in possession of the land.

The amendments were agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

19. Clause 57, page 27, line 37, after this line insert—

"( ) A justice may issue a warrant to search any building to an authorised officer if the justice is satisfied by information upon oath laid by the authorised officer that there is reasonable grounds for believing flora or fauna is being held there in contravention of this Act".

This amendment is consequential upon amendment No. 13. It has the effect of providing a head of power for justices to issue search warrants.

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

Clause 58

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

20. Clause 58, page 28, lines 6 and 7, omit all words and expressions on these lines and insert—

"( ) refuse to give that person's name and place of residence; or."

This clause probably generated the most debate in the Lower House. The honourable member for Portland, Mr Crozier, described the clause without this amendment as taking a fascist position, which is a nice reversal of form!

The amendment corrects what I believe on consideration to be an unnecessarily wide power. It brings the provision into line with powers in the Wildlife Act and the Fisheries Act. Those acts include wide powers which were introduced by previous governments and

they are considered important by fisheries and wildlife officers in the execution of their duties. I do not believe there is any need to go beyond those powers.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 59 to 66.

Clause 67

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

21. Clause 67, page 31, line 12, after "comments" insert "to the Minister on that recommendation".

The amendment provides a technical clarification of the precise nature of comments that must be made public.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 68.

Clause 69

The Hon. D. M. EVANS (North Eastern Province)—I believe amendment No. 53 circulated in my name is consequential and I shall not move it.

The Hon. M. T. TEHAN (Central Highlands Province)—I move:

3. Clause 69, page 32, after line 19 insert—

"( ) 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.

( ) 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 basis for the amendment has been debated substantially in this Chamber and I shall not carry the argument further.

The Hon. D. M. EVANS (North Eastern Province)—The amendment moved by Mrs Tehan is similar to amendment No. 54 circulated in my name.

The amendment was agreed to, and the clause, as amended, was adopted, as were the remaining clauses.

New clauses

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

22. *Insert the following new clause to follow clause* 1:

Commencement

"AA. (1) Sections 1, 2, 3, 4, 8, 11 and 69 come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act come into operation on a day to be proclaimed.".

The proposed new clause relates to earlier debate on clause 2. It provides that clauses 1, 2, 3, 4, 8, 11 and 69 will come into operation on the day on which the Bill receives the Royal Assent. The remaining provisions of the Bill will come into operation on the one day.

I am grateful to the Liberal Party and the National Party for accepting the amendment because it is necessary that the Scientific Advisory Committee be set up so that it is ready when the remaining provisions of the Bill come into operation.

The amendment will allow for the smoother running of the Flora and Fauna Guarantee Bill.

The Hon. D. M. EVANS (North Eastern Province)—The National Party is happy to agree to the amendment because on the day of proclamation the Bill will come into force.

During the examination of the Bill by the National Party it became increasingly clear that the first priority should be to carry out the listing process. We were unsure how this provision could be included in an amendment to the Bill. We gave the matter away as it was too difficult and decided on an option under which any critically endangered species should be given a first priority and that the listing committee should quickly got on with its job and set priorities.

The National Party is happy that the Scientific Advisory Committee will come into operation immediately the Bill receives Royal Assent and it can understand why it is advantageous to have the other provisions in the Bill not proclaimed until that work has been completed.

The Hon. M. T. TEHAN (Central Highlands Province)—The Opposition similarly supports the amendment. I am pleased that Mr Evans recognised that a technique was found to overcome the problem to which he alluded of getting the listing process started immediately. The listing process in the full sense of the words, threatens what we had debated earlier in the Bill.

The Hon. D. M. Evans—It has nothing to do with that issue.

The Hon. M. T. TEHAN —Mr Evans spoke of a need for critically endangered species to be provided for in the Bill and his party had difficulty covering that situation. Now there is a situation where we have been able to set up the Scientific Advisory Committee to go straight into the listing process, including the criteria to be established, that the regulations to be brought down which will set up those criteria on the day the Bill receives Royal Assent and the remainder will be proclaimed on one day. By a series of compromises the requirements of all parties have been accommodated.

The new clause was agreed to.

The Hon. D. M. EVANS (North Eastern Province)—I proposed to insert a new Division 5 for landowner management agreements. A detailed amendment was circulated in my name but it appears that, although there may be some advantages in spelling out more clearly and specifically the way in which the new clause should follow clause 25, it is possible, in view of the fact that the Minister has included cooperative management agreements and made specific reference to relevant clauses in the Conservation, Forests and Lands Act 1987, that the majority of issues encompassed in that amendment are adequately covered.

If the Committee were to consider amendment No. 55 circulated in my name there could perhaps be some contest between the two provisions, and even though I believe there would have been some advantage in having the words included in the Bill, nevertheless, having agreed to the previous procedure, it would be reasonable not to move the amendment at this stage. I reiterate the reason for having cooperative management agreements: it is to obtain the assistance and cooperation of landowners. The agreement is an important part of the National Party's approach to the issue of the conservation of flora and fauna in Victoria, and it is also an integral part of any successful program. I shall proceed with amendment No. 56.

I move:

56. *Insert the following new clause to follow clause* 68:

Interstate agreements.

"B. The Minister may enter into agreements with the appropriate Minister of any other State to make sure that the objectives of this Act are carried out, if the operation of this Act is or may be affected by activities in that other State."

There should be included in the Bill some power for the Minister to enter into interstate agreements. I am interested in having the amendment discussed, and although I have already discussed it with the Minister, I should like to make it clear that the River Murray is not the only boundary for Victoria. Victoria has extensive boundaries with New South

Wales in the north-east region of the State, in the far north-eastern corner of Victoria, in the area generally represented by the honourable member for Gippsland East in another place, and also an extensive boundary with South Australia in the far west of the State.

The boundary is really no more than a line on the map and it would appear that there could be some advantage in having an ability to enter into interstate agreements between the Victorian Minister and the Ministers in South Australia and New South Wales. The amendment will facilitate that process.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The government opposes the amendment but I should like to canvass the issue. It may be that Mr Evans does not wish to proceed with it. I understood the concept he was putting to me in our discussions and I talked to both parties about it and my advice is that the proposal, in its weaker form as it appears in the amendment, is not needed.

If one wants an interstate agreement that can be entered into without specific legislation then the compliance with the agreement does not depend on a new legal head of power; so, if it can be done without a new legislative head of power, I can obviously go ahead with an agreement such as the Alpine Planning Agreement.

However, if it did require a new Act or an amendment to an Act to give those specific powers—and an example would be the new head of powers created to manage the Murray-Darling Basin which passed through the House in the last sessional period—the Flora and Fauna Guarantee Act could not create the power unless it were amended in certain ways and reciprocal legislation in the other States were involved. In the case of the Commonwealth, Commonwealth legislation would have to be involved.

I examined Mr Evans's idea carefully and with interest, but it does not appear to add anything to interstate agreements.

The Hon. D. M. EVANS (North Eastern Province)—I accept the outcome of the discussions and I accept that the amendment should not go forward, but the issue itself is important enough to be canvassed and it is one that I am not sorry I introduced in this form. I relied on Parliamentary Counsel to draw up the amendment and I acted on their advice. The Minister has obviously taken additional advice and, while the concept is certainly supported, it is best proceeded with if there is a requirement by a particular amendment at a later stage. Therefore, I am happy to withdraw the amendment.

By leave, the amendment was withdrawn.

Schedule 1 was agreed to.

Schedule 2

The Hon. D. M. EVANS (North Eastern Province)—I move:

57. Schedule 2, page 33, before "Taxa" insert "Part 1—".

58. Schedule 2, at the end of the Schedule insert:

"Part 2—Taxa or Communities of Flora or Fauna which are Critically Endangered.".

The amendments are consequential.

The amendments were agreed to, and the Schedule, as amended, was adopted, as were schedules 3 and 4.

The Bill was reported to the House with amendments, and the amendments were adopted.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

That this Bill be now read a third time.

In so doing, I pay tribute to a number of people. Firstly, I pay tribute to the two previous conservation Ministers—the Minister for Agriculture and Rural Affairs, who was the

Minister for Conservation when the government first came to office, and his successor, now the President. They really developed and nurtured the concept of the Bill, which is dear to the conservation movement, to the Australian Labor Party and particularly to the Conservation Environment Policy Committee.

Secondly, I thank Mrs Tehan for her excellent work on the Bill and her terrific understanding and commitment to its purpose. I thank Mr Evans who also shares a commitment to the overall thrust of the Bill and, as usual, he displayed his understanding and concern for his constituents.

Mr Phillip Sutton was, one could say, the committed guru of the Bill but, as guru, he actually managed to put it into plain English. I also thank Barry Dexter and the other members of my ecological unit in the department and members of the conservation movement, particularly Stephen Ray and Felicity Faris who, with others, have ensured that the climate was appropriate for the acceptance of a Bill that takes a major step forward on conservation history in Victoria.

The Hon. D. M. EVANS (North Eastern Province)—Although the National Party accepts that substantial amendments have been made to the Bill both during the consultative process and during the Committee stage this evening, nevertheless there are two important issues in the Bill which the National Party regards as unacceptable.

The first is the fact that Parliament is unable to control—because the House did not agree to the amendments put forward by the National Party—the listing of processes on schedules 2 and 3. Secondly, in the National Party's view, the power to administer and apply an interim conservation order is too wide.

For those reasons, the National Party is not happy with the Bill. It cannot support the Bill without the amendments that it proposed being made in those key areas.

The motion was agreed to, and the Bill was read a third time.

FIREARMS (AMENDMENT) BILL (No. 2)

This Bill was returned from the Assembly with a message relating to amendments and suggested amendments.

It was ordered that, in so far as it relates to the suggested amendments, the Bill be referred to the Committee of the Whole on the Bill, and that the remainder of the message be taken into consideration later this day.

TRANSPORT ACCIDENT (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. J. H. KENNAN (Minister for Transport), was read a first time.

CRIMES (FINGERPRINTING) 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.

SUPPLY (1988–89, No. 1) BILL

The House went into Committee for the further consideration of the Bill.

Clause 2 was agreed to, as was clause 3.

Clause 4

The CHAIRMAN (the Hon. G. A. Sgro)—Order! I inform honourable members that at this stage they may discuss the programs shown in the table which forms part of clause 4 and which appear at pages 3 to 8 of the Bill.

I ask honourable members to nominate the particular program or programs to which their remarks are directed.

The Hon. H. R. WARD (South Eastern Province)—I shall speak on various programs. Parliament should be concerned about the allocation of funds under item 10. Along with other honourable members, I believe a special allocation should be made to Parliament so that it can run its own affairs and is not reliant on government. I hope that the President, as the honourable member for Geelong Province, also speaks on this matter from the floor of the Chamber.

Parliament House may appear satisfactory, but the facilities are deplorable. The facilities for the press are shocking. Honourable members often complain about press statements, but is it any wonder with the shocking conditions that members of the Press Gallery work in?

The telephone system is chaotic. I attempted to ring out today and I had to ring fifteen times before I could get a line out of Parliament. Honourable members have complained about the system during this session of Parliament and on many previous occasions. It is extremely difficult to make a call out of Parliament House and often one is connected into another line. Last night I telephoned my home and Mrs Varty answered.

Parliament also requires its own allocation so that it can improve its parking facilities and gardens. Representations have to be made to a fifth-class officer at the Department of Management and Budget, who decides whether Parliament should be allocated money to look after the buildings and surrounds.

The Hon. E. H. Walker—Is that a real problem?

The Hon. H. R. WARD—Of course it is.

The Hon. E. H. Walker—I was talking about the telephones.

The Hon. H. R. WARD—The telephones are a real problem and I am concerned about them. I hope that the President, acting in another capacity, takes up this plea.

One could speak for a long time about the shocking facilities in Parliament House. After 130 years the structure of Parliament House has not been completed. Give the job to a politician and it will never be done. All honourable members agree that Parliament House should be completed. The outbuildings in the garden are a monstrosity. This matter ought to be attended to and I regret that nothing has occurred.

I shall retire from Parliament shortly. I recall that approximately eighteen years ago, Mr Doug Elliot, said that an honourable member who was in Parliament for 50 years might see something done.

I shall now refer to Item 14, which deals with the arts. I wish to praise the efforts of the former Minister for the Arts, the present Minister for Community Services. He has a great love for the arts and took a personal interest in any additions to art galleries. Another former Minister for the Arts, the Honourable Rupert Hamer, was also involved in supporting the arts. I place on record the efforts of the former Minister for the Arts, the present Minister for Community Services.

I shall now refer to Item 16, which deals with the Attorney-General's Department. In an article in the *Herald* under the heading "A rap for Cain on judges", Professor Colin Howard, the Professor of Law at Melbourne University, is critical of the state of the judicial system in Victoria. It is a small article but it contains some interesting comments.

I direct the attention of the government to a statement by the Chairman of the Victorian bar, Mr Charles Francis, who wrote to all members of Parliament about the sorry state of

the judicial system. He clearly laid out the needs of the judiciary, particularly of the Supreme Court. It is surprising that so little money is allocated to the library of the Supreme Court.

Some two years ago the government established a committee to consider the salaries of judges. Under the chairmanship of Mr Justice Robinson, who is now retired, the committee recommended a salary increase. However, two years later, nothing has been done. It is another case of politicians saying that this is not an appropriate time. I ask the Minister for Health, who is at the table, to direct the attention of the Premier and the Attorney-General to this matter.

Item 20 deals with conservation, forests and lands. Proposed legislation is currently before Parliament to extend national parks. Tonight the Chamber dealt with the Flora and Fauna Guarantee Bill. It is no good for Parliament to extend the areas of national parks if they are not managed properly and if adequate funds are not provided. If that is not done, the parks will deteriorate.

Areas in Gippsland have been overrun by ragwort. Paterson's curse will overrun the northern parts of the State and Victoria's national parks will be destroyed. Rangers must be provided to look after the parks, and I draw attention to the absolute need for that.

As to Item 29, which deals with education, the Minister should be concerned about the proposals by the Federal government to introduce tertiary fees in 1989. Certainly, it is a Federal matter, but the Minister has a part to play. Education is a right and not a privilege. However, people are kowtowing to those who can pay for education and the poor people will get nothing. The problems with the introduction of fees has been well documented in newspapers. I ask the Minister for Health to direct this matter to the attention of the Minister for Education.

Item 40 deals with housing and construction. The problems of the Ministry of Housing and Construction are unbelievable. It took me almost a month to get an answer to a matter I raised in this place about a person needing a front fence. A woman with four children living on a widow's pension could not get any attention. I had to raise the matter twice in this place, speak to the Minister and telephone the Ministry before someone eventually decided to consider the matter.

In Hastings, at least seven houses have been unoccupied for some months . They were repaired and have been left unoccupied to be ruined by vandals. The Ministry did not do anything about that. That matter has been raised by the honourable member for Mornington in the other place. It is an unfortunate situation that should not occur. Something is drastically wrong with the management of the Ministry, and I direct attention to the needs in that area.

I shall now deal with Item 58, which refers to police and emergency services. The police have demanded that better services be provided. A need exists for more police to man 24-hour police stations. I refer to police stations on the Mornington Peninsula, such as Wonthaggi, Leongatha, and the beach areas.

I shall now refer to Item 68, which deals with transport. I have been concerned for some time about how long it has taken to complete the South Gippsland Highway. It appears that it will be some three or four years before the duplicated sections of the highway will be connected between Five Ways and the Koo-wee-rup turn off. I know that there are problems with building bridges in that area, but it is an accident prone area.

Where does the funding go? Every member of Parliament has been provided with information by the Royal Automobile Club of Victoria pointing out the failure of the Federal government to provide the necessary funds for the maintenance of roads.

A bypass road should be constructed around the town of Cranbourne. Because the main road travels through the shopping area, I am concerned that a serious accident will occur. A similar problem exists on Punt Road, for example, where pedestrian lights often hold

up the flow of heavy traffic. Shire councillors have made submissions to the Minister for Transport about the need for an arterial road in the area; and the Minister has listened sympathetically to what they have had to say.

In the Shire of Buln Buln, 31 cents of every $1 gathered in rates is spent on the maintenance of roads; in the Shire of Cranbourne, 33 cents in every $1 of rates collected is spent in the same way. More funds should be made available for the maintenance of both roads and social welfare services, as well as for the other areas to which I have referred.

I have raised only some matters of concern to residents in the south Gippsland area. Although I could mention many others, in view of the hour I shall confine my remarks to those crucial matters.

The Hon. R. S. de FEGELY (Ballarat Province)—The first matter to which I shall refer is Item 13—agriculture and rural affairs. Although the department has received an increase in funding, I am concerned that the services that have been provided to the farming community are being allowed to run down. I wonder how the additional money provided is being spent, because the services provided by officers who are directly involved with the farming community are being affected. There is a fall off in the numbers of research personnel employed by the department; yet it is essential to maintain research facilities if the agricultural industry is to prosper.

When I became a member of Parliament three years ago, honourable members were often told that there was no future for farming in Australia, and that the future prosperity of Australia lay with the development of the manufacturing and service industries.

The Hon. E. H. Walker—We fixed that up, didn't we!

The Hon. R. S. de FEGELY—We fixed that up, as the Minister says. In my maiden speech to the House, and in the first speech I made during a Budget debate, I said that to expect the manufacturing and service industries to provide for the future prosperity of Australia was absolute rubbish and that primary industry would once again be the saviour of the nation. The revenue gained from the export of primary products has helped to alleviate Australia's balance of payments problems. The revenue gained from such exports has also been of great assistance to Victoria.

The extension services within the Department of Agriculture and Rural Affairs are being allowed to run down. Those extension services are vital to the farming community, which produces so much of the State's wealth. Farmers need to be advised of the latest technology so that they can become both more proficient and more efficient.

The next item to which I will refer is Item 20, which deals with conservation, forests and lands. Like my colleague, Mr Ward, I am concerned about the proliferation of noxious weeds on Crown land. The government is not spending an adequate amount of money to safeguard the State from the spread of such weeds as blackberries, furze and ragwort, the spread of which appears to be neglected by the department.

The funding in this area has been reduced by $3 million. National parks are more expensive to maintain than State forests. Yet the activities of the Department of Conservation, Forests and Lands at regional levels are inadequately financed at present. It is strange that the funding of the department in the area has been cut, while the government is prepared to create more national parks.

The next item I will comment on is Item 47, which deals with industry, technology and resources. There has been a reduction in the amount of funding provided in this area, and I wonder in what ways the cutbacks will be applied. In the province I represent, cutbacks have been proposed in the provision of services, particularly in relation to the State Electricity Commission. It is proposed that offices of the commission which have been in the townships of St Arnaud, Sunbury and Stawell for a long time will be removed.

Some of those offices will be relocated in other towns or cities; but these towns, all of which are growing centres, require the offices to be maintained. I wonder if it is to be the country areas that will suffer as a result of the cutback in funding, as has been the habit of this government.

The next item I will mention is Item 58, which deals with police and emergency services, an area which has suffered a considerable cutback in funding. The government should be spending more money on matters to do with law and order. A future Liberal government has pledged to increase funding for police and emergency services to ensure that Victoria is a safer place in which to live.

The crime rate in Victoria is increasing, and the State is short of police officers. For example, Ballarat has an inadequate number of police officers to service it. On the Friday night before Christmas last year I rang D24 to find out the strength of the Police Force in Ballarat on that night. I discovered that only two police cars were available. At the time I rang, one of the cars was being used by police officers who were questioning a suspect, a matter which looked like taking 4 to 6 hours to complete. In effect, on the Friday night before Christmas there was only one police car to service the entire City of Ballarat. To me, that is an area in which more money should be spent, and the government should be chastised for its reduction of funding in that area.

I refer briefly to Item 62, which relates to the Department of Property and Services. I do so simply because the people in that department are the ones who look after education housing and, in particular, government employee housing.

At present, some problems are being experienced in country areas by the department through the sale of houses. In Beaufort, which is a fairly small town, the three houses that remain—three have already been sold off—are again under threat. I understand this is occurring under a policy of the government, which has elected to sell a large proportion of its houses, of which there are 520 in Victoria. The people at Beaufort are still in the dark about whether they will be able to retain the three houses. I know also that other country towns are concerned about their education houses.

I am fairly critical of the government in this regard. It is not possible to obtain alternative housing in a town like Beaufort. Last year, the promise was made that towns that were more than 25 miles or 40 kilometres from a major centre would not have their houses sold off, yet Beaufort is a town in such a situation, as is Lake Bolac, and the houses in those areas are under threat.

I refer now to Item 68 which deals with the Ministry of Transport. I raise specifically the problem of rural and local road funding. To illustrate what people are saying about road funding in Victoria I refer to a statement in the Royal Automobile Club of Victoria journal, *Royalauto*, of May 1988 which indicates that the road funding crisis deepens.

There is no doubt, in the three years that I have been a member of Parliament and have travelled widely around country Victoria and throughout my electorate, that the roads have deteriorated quite alarmingly. It is up to the Victorian government to pressure the Federal government to make available more funds to the State and also to divert more of the funds it has available to road funding, particularly for the improvement of major roads. Unless the government does that, roads will deteriorate to the stage where they are beyond repair through normal maintenance and they will have to be completely ripped up and re-formed. That will cost huge amounts of money and, eventually, the people of Victoria will not be able to afford it.

The Hon. R. A. MACKENZIE (Geelong Province)—Mr Chairman——

The Hon. D. R. White—This could become a habit!

The Hon. R. A. MACKENZIE—I assure honourable members that my speaking in debates will not become a habit. It just happens to be a coincidence that two issues are being debated today on which I believe I should make some comment.

I should like to speak briefly on one item in particular, Item 10, which relates to the Parliament. I wish to say right at the outset quite clearly and distinctly that my remarks are not to be construed in any way as being criticism of the government, but I wish to direct to the attenion of the Committee and the government the concerns that I have in regard to the financing of the Parliament.

One of the main concerns is that over a long period of time, to a certain degree, there has been an eroding of the powers and controls that Parliament has over its own destiny. It has been an aspect of governments not only in Victoria but also throughout the world. In fact, in this Parliament in 1969, the then Speaker of the Legislative Assembly, the Honourable Vernon Christie, mentioned this very fact at a Presiding Officers conference. At that conference, the Honourable Vernon Christie said:

> It is admitted by people who think rather deeply and in very authoritative circles, even in the Press itself, that this trend of encroachment on the executive of Parliament is increasing and the old cliche of Parliament becoming a rubber stamp is used more and more frequently.

This is the subject on which I wish briefly to address the Committee tonight. What is occurring in the Victorian Parliament and what was occurring in the Federal Parliament up until four years ago, is that the authority of Parliament to decide its own appropriations was taken away over a period of time by executive government. It seems to me that even when one examines the Victorian Budget Papers, one notes that Parliament is listed under departmental votes, and in no way can one say that Parliament is a government department.

Unfortunately, if we do not take a stand as members of Parliament, the public will come to accept that that is the way it is, that Parliament is part of just another government department.

In my experience as President of the Legislative Council, this has already occurred. There was the instance recently of industrial trouble within the Parliament and, as a result of that, I became very much aware of the fact that the people who carried out the investigation—and I cast no criticisms on them at all—through lack of understanding, treated Parliament and its officers like another government department. The staff in this establishment, in return for the 4 per cent wage increase, were obliged to show increased productivity.

That is all very well. I understand the reasoning for that and I agree with the principle of it; but how can one apply that to Parliament, where every member of staff here is employed to service the members of Parliament? How can there be any productivity? How can one do that when their sole job is to service the mebers of Parliament?

It is also increasingly frustrating for the Parliamentary committees to realise that honourable members are not being serviced in the way that they should be, and perhaps I can use as an example the Parliamentary Library, where additional staff and research officers could be employed. There is a great need for increased staff; the existing staff are overworked in that area. The Parliamentary Library Committee is all in favour of the appointment of additional staff, but we have no say; we cannot employ those staff without the permission of the government, and I do not believe that is right. I do not believe Parliament should be run at the whim of the government.

I am suggesting that this Parliament should take similar action to that which Federal Parliament took following investigation by the Senate Select Committee. In its report entitled "Parliament's Appropriations and Staffing" presented in 1981, the Senate Select Committee made the following recommendations:

> 2. The Select Committee recommends that the appropriations for the Parliament be removed from the Bill for the ordinary annual services of the Government and included in a separate Parliamentary Appropriation Bill . . .
>
> 3. The Select Committee also recommends that all items of expenditure administered by the Executive departments on behalf of the Parliament be brought together in the Parliamentary Appropriation Bill . . .

4. The Select Committee recommends that the President arranges for discussions to be held with the appropriate Executive departments to review those functions which are currently administered by them, and subsequently to plan the transfer of functions suitable for administration by the Senate . . .

5. The Select Committee recommends that section 9 of the *Public Service Act* 1922 be amended to vest in the Presiding Officers, separately or jointly as the case may be, the power of appointment, promotion, creation, abolition and reclassification of offices, and the determination of rates of pay and conditions of service.

I believe that would be in the best interests of this Parliament. It is not breaking new ground, by any means. The Canadian Parliament has had separate appropriations for 120 years. If one examines the various Parliaments of the world, one will discover that a majority of them have single line appropriations, with committees comprising some government members, often the Treasurer. The appropriations are thoroughly examined, with government input, and heads of departments put forward appropriations. The figures are decided on, and it comes back to Parliament as a single line appropriation.

The Commonwealth government introduced this system and has had a great deal of success. The system has provided the Commonwealth Parliament with an autonomy that all Parliaments should have. It would benefit the Victorian Parliament. I believe the general public is losing respect for Parliament because it cannot stand on its own two feet.

Mr Chairman, the hour is late and I shall not take up any more time of the Committee. I ask all members of Parliament to consider what I have put forward tonight. I am not criticising the government because what is occurring now has occurred for a long time. I bring to the attention of honourable members the need for this Parliament to take a stand.

Recently the Auditor-General examined the operations of Parliament and reported to the Speaker and me. One recommendation was that there should be a single line appropriation for Parliament.

Mr Chairman, I thank you for allowing me to address the Committee for the second time today. I ask the Leader of the government in this Chamber, the Minister for Health, who is at the table, and their colleagues to consider my contribution.

The Hon. N. B. REID (Bendigo Province)—Due to the late hour, I shall comment on only one issue in the Bill, Program 207 which covers land resource management. I have been contacted by a constituent, Mr Glenn Woodhatch, about the use of Crown land and, in particular, a piece of land calculated to be 2·2 hectares in total. I raise this matter for the attention of the Minister for Conservation, Forests and Lands and her department because what is at stake is an important issue to the person who has the lease on this land.

Mr Woodhatch has paid the rental on a disused government road. He appealed against the $50 required for the 2·2 hectares but his appeal was rejected. I shall illustrate the problem for the benefit of the Committee. The road in question forms part of 42·48 hectares of land which he owns at Berrimal. The land was purchased in 1980 from an uncle to keep the land in the family. The land has been in the family since 1890 officially, and prior to that the family had grazing rights over that area.

Mr Woodhatch purchased the 42·48 hectares for $40 an acre, and that figure was estimated by a land valuer as being fair. The land consists mainly of a large hill with rocky outcrops, various types of timber and scrub. The road in question has never been used as a road and a large waterwash makes up a considerable part of the 2·2 hectares.

When Mr Woodhatch lodged an appeal, he pointed out that the land was completely unsuitable for cropping, did not provide access to water or shelter, and was not suitable for any improvement. The road itself has no grazing value. He was required to take out a licence and he lodged an objection to the excessive rental for the road. He asked about the possibility of purchasing the road, which brings me back to the government's policy on the sale of Crown land.

Recently the community was involved in a spirited debate on the sale of leased railway land. In this case a potential purchaser wishes to buy some Crown land at a fair valuation.

He would be happy to accept the Valuer-General's valuation. Most of the land could then be improved by the owner. He could attend to the large waterwash which comprises part of that property.

The land was inspected by a land management officer of the department who supported Mr Woodhatch's description of the area. However, his application to purchase that land was rejected. From time to time the 42·48 hectares is used by Mr Woodhatch's father to feed 60 sheep. To give an indication of the poor quality of the land, the diet of the sheep has to be supported by handfeeding, and after eight months the land has to be spelled to enable regrowth. It is obvious that the unused road has very little value, and certainly no farming value.

Mr Woodhatch would like to purchase this land, so I ask the Minister to take on board this matter because it concerns the proper use of land in this State. There are many unused roads and areas of Crown land adjoining land owned by private citizens who are prepared to purchase the land at a fair and just valuation.

The Hon. G. P CONNARD (Higinbotham Province)—I refer to Programs Nos 103 to 107 covering Parliament. I was delighted that the President made some remarks on Parliament earlier because the *Herald* of 4 May reported some of his thoughts and he expanded on them in Committee this evening. I am delighted that a senior Parliamentary officer has taken up the issues I raised in this Chamber on 30 April and 14 November 1985 when I asked the Minister for Agriculture and Rural Affairs to consider my remarks.

What I argued on those occasions was precisely what the President said a short time ago: this Parliament is a traditional Westminster Paliament, and that institution has governed people for more than 1000 years. In recent times the independence of Parliament has suffered because of the government's control over the Treasury. Despite what the President said about increased powers recommended by the Senate Select Committee, no Parliament in Australia has complete control over its fiscal and human resources. Its independence is limited by the increasing power of the executive. There has been a general inertia in Parliament, particularly in Australian Parliaments. Because of the inherent smallness of Parliamentary numbers required to control both Houses, the executive in the Victorian Parliament consists of approximately 25 per cent of the total number of members.

So, the executive control of Parliament and its independence are strictly controlled by the Treasurer's ability to restrict services. I maintained and argued at the time that it appeared to me to be inappropriate that the five departments of Parliament—the Legislative Council, the Legislative Assembly, *Hansard*, the Parliamentary Library and the House Committee—should have to develop and argue their own budgets in their own individual ways.

I encourage Mr President's attitude that at least there should be one budget item for the total Parliament by which the Presiding Officers—subject to the advice of their committees and senior Parliamentary officers—should be able to develop this Parliament in line with whatever priority they determine. That is an "at least" situation.

I encourage Parliament to consider what other countries have done. I note the actions of the Speaker of the House of Commons in 1973 when he invited Sir Edward Compton, a former Auditor-General and Ombudsman, to make a report on the administrative services of the House.

Some twelve months later he produced a report. Following the report the Speaker of the day appointed an all-party committee to report to him on the Compton report. The report subsequently was involved in a House of Commons commission designed to coordinate departments of the House and requiring the Speaker to take to Treasury the requirements of the House.

It is somewhat of a lunacy to be discussing important issues such as this at 2.20 a.m., and one has little time to fully discuss the matter. Several Parliaments around the world are addressing this issue. I have indicated the action of the House of Commons and,

during my last visit there in the winter of last year, that commission seemed to be operating satisfactorily.

The Canadian Parliament has addressed this problem. We will not get anywhere while either Mr President or I raise matters in this place; it requires a determination of this House—or preferably the joint Houses—to at least get a committee together, as the House of Commons did, and to deliberate about what other Parliaments are doing and select the best model. It should be not on a party basis, but on a joint Parliamentary committee basis.

Through the activities of the Economic and Budget Review Committee, I endeavoured to raise these issues. I must say I had the unanimous support of that committee which saw the economic and Parliamentary need to review the best means of administering this House in terms of services to its members and, indeed, to the people those members serve. Because of the importance of the matter the Economic and Budget Review Committee wrote to the Premier. I shall not quote the entire letter the Premier wrote to the committee in reply, but the last paragraph states:

> Statutory considerations aside, I question the desirability, first, of a specialist committee carrying out a general review of its parent bodies, the two Houses of Parliament and, second, of the committee carrying out a review that will require it to review its own activities.

Although I did not appreciate the letter, I can understand the logic of the Premier's conclusion. It seems to me there is not a process at present by which, through the committee system of Parliament, this could happen unless Parliament itself institutes such a measure.

I request the Minister for Health, who is at the table—I note the Leader of the government is also in the House—to have discussions on this important principle. Perhaps we could appoint a joint committee—like the normal joint Parliamentary committees—but in this case it would be a specialist committee for the purposes of studying and presenting a report to Parliament about the best way in which Parliament could address the issue.

The fundamental issue is exactly what Mr President said a few minutes ago: there has been an erosion of the independence and the authority of Parliament because of the executive control through the Treasurer. Those honourable members who have served on Parliamentary committees have noted, for instance, that there are no career structures available for any of the officers who serve on those committees.

Because the Victorian Parliament is small, it cannot adopt the system the House of Commons has in place. During my recent visit there I noted that it has more than 58 Parliamentary committees. The House of Commons has 700 members. Because the Victorian Parliament is small, the House of Commons model is not appropriate. The House of Commons has a career structure whereby clerks can follow career paths up to the level of Clerk of the Parliament. We do not have such a luxury in the Victorian Parliament. However, if our Parliamentary committee system is to work, we must provide appropriate career structures for the secretaries and research directors of those committees. This is a serious problem and I respectfully request the Minister for Health to at least initiate discussions on this basis.

I now turn to specific local issues which I shall direct briefly to the attention of the House.

The Hon. B. P. Dunn—Make it brief!

The Hon. G. P. CONNARD—I recognise the inability of the government to manage its affairs and that this important issue is being debated at such a late hour, two days before the rising of the House.

With respect to the police and emergency services budget I refer to the Criminal Investigation Bureau within Higinbotham Province. The unit, which is located in Boundary Road, Bentleigh, suffers a lack of manpower. The police station ought to have an establishment comprising a senior sergeant, a sergeant and, I understand, nine or ten

detective constables. The senior sergeant was promoted and the sergeant was sent to the National Crime Authority leaving the unit in the hands of a temporary sergeant with three detective constables on duty.

This is a residential and factory area and, regrettably, it has a high incidence of crime. There is no question that it is one of the Melbourne suburbs that is a centre for the manufacture of drugs. The limited staff has had outstanding success in the detection of crime, particularly major crime associated with drugs. I compliment the police officers on their work, but I wonder how they can possibly be encouraged to do their duties when, as cases come in day by day, the yellow sheets on which crimes are reported accumulate on their desks and will never be examined because of the limited time available to do so.

It is all very well to discuss legislation involving fingerprinting of suspects and so on. Unless police are provided with adequate staff they cannot perform the services required. The government has been good on rhetoric, but very poor on performance.

I turn now to the transport budget. I mentioned in Parliament the regret I had some two years ago about the F6 Freeway stopping at Springvale Road with no adequate means of connecting it to the end of South Road, on which there are freeway reservations.

At that time I was castigated in a public statement by the Treasurer, who said that I wanted to spend $1 million. That was not the purpose of my remarks. The purpose of my remarks was to ensure that the reservations were retained. Since then the government has been forced to build secondary roads through the area, wasting millions of dollars, yet it refused to do what is appropriate: undertake the proper planning and connect the F6 Freeway. Two years later I note that the City of Chelsea and the City of Mordialloc have stated that the government is merely increasing the traffic problems and that the only way to control the traffic from Melbourne to the southern suburbs and through to the industrial districts and high-rise residential areas of the Mornington Peninsula is what the Liberal Party proposed some time ago.

There is strong pressure from those councils to do that. Perhaps the Opposition will get through to the brains of this incompetent government that it has to do something about providing services for the residents in the southern suburbs. I have said, and say again, that the government refuses to consider those residents and refuses to allocate sufficient funds to improve their lot. The government is spending its funds almost entirely in the western suburbs.

I mention briefly Program No. 207, conservation, forests and lands. There is a large block of land commonly known as the Bayside Metropolitan Park in Lower Dandenong Road at Keysborough. The Board of Works former sewerage farm was situated in the land, it has been closed down and the area is being developed as a metropolitan park. I compliment the Minister for Conservation, Forests and Lands for developing two-thirds of that park in a conservation mode. I have written several letters to the Minister, and I am delighted that a committee of management has been set up to develop the park.

It is tragic that with such a large block of land the total area is not being developed. Because of the government's inability to control its finances, it is being forced to sell major pieces of property and land around metropolitan Melbourne. This area of land has the potential of being one of the finest parks in Melbourne, which is short of such parks. The government's proposal to sell one-third of that area for development as an industrial estate—and I say industrial estate rather than a residential estate—will impact on the conservation mode of the Bayside Metropolitan Park. The park is an integral part of the conservation of Melbourne because numerous birdlife from around the world use the park as a breeding ground. Regrettably, because of its overspending, the government is about to sell one-third of the park to make money.

I now turn to Program No. 724, which deals with developing economic and financial plans and strategies and reviewing performance, and the government's inability to control its financial destiny. It has been said time and again that it is a typical example of a

socialist government overspending and, as I said earlier, the government is unable to provide services for people and is unable to provide the services for our general community. Simply put, the State is a heavy spending State and the economy is running unchecked. The government's planning, which is supposed to be the best in the world, has failed. Per capita State taxation figure for 1987–88 in Victoria is expected to be $1022. The nearest State to Victoria is New South Wales, with $899; Tasmania's figure is $744; South Australia, $732; Western Australia, $707; and Queensland, $525. Victoria has the highest per capita taxation of any State in Australia. Government borrowings are out of proportion to those of any other State.

The government is unable to control its own affairs. The State debt has doubled over the six years that the government has been in power. It took 150 years to get to half that figure; it has been doubled over the past six years by this profligate government. I use that term deliberately because that is how it was used in an article. The government has been deceptive to the community it serves, because it boasts that it is economically sound. It is not economically sound. In business terms, the State is bankrupt. The actual liability as of 30 June 1987 was $32·288 billion.

When the Liberal Party is in government after the next election, it will have to adjust the State's financial affairs; the waste of money by this government is tragic.

The clause was agreed to, as was the remaining clause.

The Bill was reported to the House without amendment, and passed through its remaining stages.

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

The motion (last debated on April 21) of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was agreed to.

The Bill was read a second time, and passed through its remaining stages.

ADJOURNMENT

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

That the Council, at its rising, adjourn until this day, at half-past ten o'clock.

The motion was agreed to.

The House adjourned at 2.41 *a.m. (Friday).*

QUESTION ON NOTICE

BRUNSWICK AND COLLINGWOOD COMMUNITY HEALTH CENTRES

(Question No. 45)

The Hon. M. A. BIRRELL (East Yarra Province) asked the Minister for Health:

(*a*) For each quarterly period since 1 January 1985, what was—(i) the actual surplus/deficit; and (ii) the cash surplus/deficit incurred by the Brunswick Community Health Centre and the Collingwood Community Health Centre, respectively?

(*b*) Does the Minister have full confidence in the way in which each centre is managed, and has this been the case since 1 January 1985?

The Hon. D. R. WHITE (Minister for Health)—The answer is lengthy, and I seek leave of the House to have it incorporated in *Hansard.*

Leave was granted, and the answer was as follows:

(*a*)

Quarter ended	*Surplus/(Deficit)* $	
	Brunswick CHC	*Collingwood CHC*
31 March 1985	11 326	212 095
30 June 1985	567	17 263
30 September 1985	(1 243)	7 974
31 December 1985	(5 062)	13 837
31 March 1986	4 711	54 484
30 June 1986	(17 033)	(38 462)
30 September 1986	(5 407)	(25 336)
31 December 1986	9 190	65 800
31 March 1987	(6 783)	(72 499)
30 June 1987	(194)	21 276

N.B. As community health centres use a cash accounting system the above information relates to the cash balances of the centres in question. A separate "actual" position, as described in the terms of the question is not held. The term "actual" is a budgetary notion which relates to current monthly and current progressive expenditure as compared to budgeted expenditure.

(*b*) I am confident that the management of all community health centres will be enhanced through health service agreements negotiated with Health Department Victoria.

Friday, 6 May 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 10.33 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

TRAIN MAINTENANCE DEPOT EMPLOYEES

The Hon. B. A. CHAMBERLAIN (Western Province)—I ask the Minister for Transport whether it is a fact that for the full two-week period prior to Easter more than 200 staff of the metropolitan train maintenance depot at Jolimont did not work at all because of a union dispute involving fitters and supervisors but that all of these people were paid in full for those two weeks? What did this outrageous decision cost the Victorian taxpayer?

The Hon. J. H. KENNAN (Minister for Transport)—The Opposition is being constantly fed misleading material and it is a matter to which you, Mr President, should give some consideration. It is a matter of grave embarrassment that, for instance, poor old Mr Reid got set up by the Opposition leadership in another place the other day because he asked a question about gross misuse of material along similar lines to Mr Chamberlain's question, when he asked about non-payment of accounts leading to a dispute in relation to the occupation of a building by a transport authority.

The Hon. M. A. Birrell—What about this question?

The Hon. J. H. KENNAN—Mr Birrell must watch his tongue outside and he should make an explanation about his defamation action and whether he had to shell out any money last year because of his loose tongue. Perhaps he should make an apology, not only to Mr Black, QC, and Miss Spiller, but also to a lot of others.

He ought to watch his mouth. He hardly has the courage to open his mouth on health issues in here any more——

Honourable members interjecting.

The Hon. J. H. KENNAN—Mr Reid asked a question relating to a matter that was, in fact, sub judice; he had been fed misleading material by the Opposition leadership to set him up. The question had nothing to do with the non-payment of accounts, but was a matter that related to litigation in the Supreme Court. Mr Reid did not know that. The question is: did the Opposition leadership who fed him that know it and deliberately set him up, or were they relying on misleading information? Mr Chamberlain's example is another example of grossly misleading information; he comes in here smearing people. On every other issue he gets his instructions from Margaret Tighe before he even speaks. Government members know that he prefers not to come into question time at all. We know the real Leader of the Opposition——

The Hon. B. A. CHAMBERLAIN (Western Province)—On a point of order, Mr President, the preamble to the Minister's answer has been quite extensive and a repear of what we have been hearing all this week.

The Hon. J. H. Kennan—You liar!

The PRESIDENT—Order! The Minister will withdraw that remark.

The Hon. J. H. KENNAN (Minister for Transport)—I withdraw the remark.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Minister has made no attempt to answer the question. The question asked why 200 employees were paid for not

working for two weeks. A specific part of the question asked how much that cost. The Minister has not addressed that issue at all.

The Hon. D. R. WHITE (Minister for Health)—On a point of order, the Minister for Transport has been demonstrating that the Opposition has not only asked questions that are based on assertions that are untrue but has also presented information that is untrue and, in doing so, has reflected adversely on members of the Public Service. The Opposition is continually asking those sorts of questions. Opposition members are misusing the House by asking those questions, one of which was the subject of litigation in the Supreme Court, another of which is clearly known to be based on untrue allegations; and are part of a series of questions that contain statements about our public servants that are not only untrue but are also known to be untrue.

The Minister is demonstrating that the Opposition's leadership is providing questions that not only misrepresent all the facts but are also part of a series of questions misrepresenting the facts. It is proper and appropriate for the Minister for Transport to demonstrate that the question is part of a series of questions that are based on assertions which are untrue and which are known to be untrue.

The Hon. W. A. LANDERYOU (Doutta Galla Province)—On the point of order, I wish to add another dimension to the argument. I suggest that it would be untenable for you, Mr President, as the Presiding Officer of this Chamber, to attempt in any way to censor the answers given by Ministers. The Leader of the Opposition and Opposition members are entitled to ask questions and canvass viewpoints, but they are stuck with the answers given. Any tendency for anyone in this Chamber in any way to restrict a Minister in responding to questions in the way he or she sees fit, so long as it is relevant, seems to me to be unparliamentary. The Leader of the Opposition in this Chamber is trying to silence the Minister, who has effectively returned to the bar.

The Hon. B. A. CHAMBERLAIN (Western Province)—I raise two issues on the point of order. The matter raised by Mr Landeryou is fully covered by your ruling, Mr President, in this House on 25 February 1987, which makes it clear that, although the Minister has wide latitude in the preamble, he must ultimately address the question.

The second issue raised by the Minister for Health was that the Opposition is making allegations. The question was: is it a fact that 200 employees were paid for not working for two weeks? The Opposition wants the Minister for Transport to tell it whether it is right or wrong. It is in the hands of the Minister to state that it is wrong, if it is wrong.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, the Leader of the Opposition has just completely rephrased the question. If a tenet of the Opposition will be to move points of order as a vehicle to censor Ministers during question time and to have complete freedom and carte blanche to reflect, as it wishes, on the Public Service, Ministers can deal easily with that. Ministers can tell the Opposition to put the question on the Notice Paper. That is the answer the Opposition will be given.

Ministers can easily handle any attempt to censor the way they handle answers during question time when the Opposition has the freedom to reflect however it wishes on any person in any walk of life. The Opposition is not asking neutral questions; it is completely misrepresenting the facts to reflect adversely not on the government but on the Public Service.

The Hon. J. H. KENNAN (Minister for Transport)—Further on the point of order, Mr President, Mr Chamberlain said that the question has not begun to be answered and that I have said the same things I have been saying all week. Mr Chamberlain knows that the statement is not true; he and everyone in the House knows that he knows that it is not true. All honourable members know that that is the first reference I have made to it because I did not want to make that reference. I warned the House that I would give the answer outside the House because it was a matter in relation to Supreme Court litigation which ought not to have been raised. I gave the Opposition the opportunity of dealing

with the matter properly outside the House and letting Mr Reid off the hook, yet the Opposition peddles another ferocious lie in this place.

This question is part of a tissue of systematic lies and misleading information peddled by a spokesperson for the Opposition in another place who has been saying, since Sunday, that he has a list of 23 public servants; he has now inflated that figure to 40 members of the Metropolitan Transit Authority whom he wants to bag and who he says are engaging in conduct that is tantamount to stealing. He has still not given that list to the press.

If you, Mr President, as a President, follow Parliamentary practice and follow what happens at Westminster, if you were familiar with the way questions have been answered for generations by Ministers in the House of Commons, you, Sir, would be aware that those question times are vigorous. The wimpish behaviour of members of the Opposition in raising points of order when a Minister is 2 or 3 minutes, at the most, into answering the question and saying, "I am wounded. The Minister should now shut up," which is effectively what the Opposition is saying, has no basis in Parliamentary practice and traditions to which, I believe, you, Mr President, Parliament and the Opposition subscribe.

At any time in the past twenty years, one need only have spent time in the House of Commons at question time to have an understanding that what the Opposition is doing is unique to this Parliament. It has no foundation in any other practice. Anyone with any experience in listening to successive Prime Ministers and governments and what happens in the House of Commons would know what I am saying is true. It takes some hillbilly to misbehave.

The PRESIDENT—Order! On the point of order, before the whole situation gets entirely out of hand, honourable members should reflect on what question time is all about. As the Minister for Transport said, referring to the House of Commons and the tradition of question time, all honourable members know that it is basically to elicit information. In the past, question time has also developed into a test of Ministers by Oppositions to ascertain whether they are up to their mettle and understand their portfolios. That has become a legitimate part of question time.

With regard to the particular question in hand, in my view, it is not up to the President to judge whether the information in the question is correct. One always assumes that it is, but it is not up to the President to question that. In this instance, the question to the Minister appeared legitimate. In the preamble to his answer, the Minister had ample opportunity of referring to other questions of a similar nature that he believed had breached correct procedures. If the Minister believes the information is not true, he should say that it is not true and pass on to the next question.

The Hon. J. H. KENNAN (Minister for Transport)—The matters alleged in the question are part of a sustained campaign of deliberately peddled lies, distorted in order to undermine public confidence in the management of the metropolitan transport system and to attack those public servants.

Earlier, in relation to this question and the dispute to which Mr Chamberlain refers, the Opposition issued a press release attacking the settlement of the dispute, which occurred the day before Easter. The Opposition must know the falsehood of what it is putting forward. It is wilfully making allegations which it now knows to be untrue.

The press release issued referred to the question of arrangements for the payment of overtime made available to members of certain unions and the dispute concerned whether or not supervisors were available to work on overtime; and if they were not, no work could be done at a particular time. That is what the dispute was about.

Unlike the Opposition, which believes in nothing but confrontation between management and employees, I am interested in installing a system by consensus. Satisfactory arrangements are not achieved by grinding unions into the dust. Consensus is not achieved by a siege mentality or by this outrageous bagging of union officials in the railways. It is impossible to obtain change, effective management or improvements in productivity by

constant sieges of unions, as the Opposition wants to do now on management and as it has threatened to do if ever it comes to power.

When this issue was raised previously in another form, I said I was concerned about improving productivity in the railways and that there was certainly a problem in relation to overtime not being available to supervisors, the people under them not being able to work if a supervisor was off a particular shift; but to say that 200 employees for a fortnight did no work whatsoever and were paid for it is an outrageous scandal and is a ferocious attack on those employees and on management.

It is untrue and it is known to be untrue because earlier this week the Opposition raised the question of the settlement of the dispute. It knew what the dispute was about and the material that the Opposition put out demonstrates that it knew that what it was saying was a lie.

DROUGHT CONDITIONS IN NORTH-EASTERN VICTORIA

The Hon. D. M. EVANS (North Eastern Province)—I almost hesitate to ask a question, after that last response, but I direct my question to the Minister for Agriculture and Rural Affairs and it is on a far more mundane matter.

Honourable members interjecting.

The PRESIDENT—Order!

Honourable members interjecting.

The PRESIDENT—Order! When I say "Order" I mean order. I do not want to be constantly calling for order and having those requests ignored. I remind honourable members that we are all a bit tired and crotchety, and I am just as tired and crotchety as everybody else!

The Hon. D. M. EVANS—I ask: is the Minister aware of the extremely dry conditions in the north-eastern area of this State since the middle of spring last year? Also, is he aware that there has been little or no rain in the upper Murray region and that the Shire of Upper Murray has made a drought declaration application? If he is aware of the application, will he indicate how soon the application will be dealt with?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I am conscious of the dry conditions in the north-east of the State; I am conscious that an application has been made. Mr Evans is not conscious of the fact that today I sent two senior officers to inspect the area and to report to me—which process is followed when similar conditions occur elsewhere in the State—to determine whether my decision on drought relief is due now or whether it should be delayed. Mr Evans can rest easy that the government, as usual, is on top of the situation.

DEVELOPMENT OF OYSTER FARMS

The Hon. M. J. SANDON (Chelsea Province)—Before I direct my question to the Minister for Conservation, Forests and Lands, I point out to you, Mr President, that you might wish to inform the *Age* that the Legislative Council is meeting tomorrow so that that fact can be incorporated in the good entertainment in Melbourne section.

I wish to ask a question about oysters. I note the recent decision to continue the ban on the culture of the exotic Pacific oyster in Victoria because of ecological damage and commercial opportunities of the local indigenous species. Will the Minister outline what action is being taken to develop a commercial oyster farm in Victoria?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Sandon's reputation for his interest in Port Phillip Bay is well established. Almost single-handedly he has managed to stop mussel dredging in Port Phillip Bay, which is an ecologically

sensitive area. His interest in eating oysters might be less well known, but it is certainly well established, provided that they are accompanied by the appropriate condiments.

Honourable members will recall that when I made the decision to not allow the development of the Pacific oyster, I said that it was another decision where one must carefully balance the ecological, environmental and economic arguments. In this case, I believed it was better not to take the decision to develop the Pacific oyster, which, because it is an exotic species, has the potential to take over. I decided it was preferable to develop the flat oyster industry through flat oyster farms.

I am pleased that a total area of 21 hectares adjacent to the existing mussel farms on the western side of Port Phillip Bay has been made available to four groups for developmental culture of the Australian flat oyster. Granting of permits is part of an ongoing program in aquiculture to which the government is committed. Over the next five years, the full commercial potential of the flat oyster will come into play.

As all aquiculture programs must be, the program is built on a careful three-year research program. Those honourable members who had the recent pleasure of visiting the Marine Science Laboratories——

The Hon. M. T. Tehan—Those who were invited.

The Hon. J. E. KIRNER—I offer my humble apologies to Mrs Tehan; everyone was invited except for the shadow Minister. Despite that, Mrs Tehan still supported the Flora and Fauna Guarantee Bill. Those who visited the laboratories would have seen interesting research on the development of the flat oyster. It is now clear that a commercial crop of flat oysters can be grown in less than two years. That is a real commercial possibility. The preliminary assessment of the economic potential suggests that not only will there be a domestic market but also a considerable export market.

In releasing the sites for the flat oyster farms, it was important to ensure that they were advertised publicly because people will be getting in at the beginning of a valuable industry. Some sixteen submissions were received and the permits, which include a three-year development plan, were judged by an independent panel.

In order to supply the successful applicants with oyster seed, a pilot commercial oyster hatchery has been established at the Marine Science Laboratories. In the first year of operation, it is planned to expand seed production to 5 million in 1989–90, which suggests that the flat oyster is almost as prolific as the rabbit.

To ensure that this enormous aquiculture project, which has a huge potential for commercial development, is supported and becomes viable, my department and I are taking all steps necessary to ensure that that occurs.

EDUCATION BUDGET

The Hon. HADDON STOREY (East Yarra Province)—I refer the Minister for Education to my question without notice yesterday and her answer about the $40 million deficit in the education budget. I ask the Minister: is it a fact that that $40 million overrun includes an increase in teacher excesses of $4·5 million, despite the government last year saying it would correct that problem; an increase of $5·8 million in the budget for school cleaners, despite the Auditor-General's recommendation; and the non-implementation of the agreement reached last year with the Teachers Federation of Victoria in respect of emergency teachers, which has cost an additional $2 million? Why has the Minister not acted upon those agreements made last year in order to avoid these overruns?

The Hon. C. J. HOGG (Minister for Education)—I thank Mr Storey for his question and note that, when answering a similar question yesterday, I directed attention to the fact that I believed the House should not regard those figures as absolutely firm.

I thought I answered yesterday several of the points that Mr Storey hss made again today. Very firm strategies are in place to make savings within the area of school cleaning with the implementation of the agreement relating to emergency teachers and in a measured, responsible way, to solve the problem of excess teachers, which exists largely in some technical schools. That excess is gradually being reduced and within the next eighteen months that will no longer be a problem.

The point that Mr Storey has perhaps shied away from and not mentioned is that there has been an expense, which I readily acknowledge, as does everybody, that relates to participation rates and increased retention rates. When there are approximately 9000 more students in the government system than were bargained for or projected in the departmental figures—and that is a very good situation—it costs money. That is not something that the government resiles from, because it believes the measures that have been taken in the education area, particularly by the Victorian government—not so much the Federal government—means that the community now realises that for children to have a chance in life, they need to stay at school until Year 12, if possible, and certainly at least until Year 11.

That is getting through to the community, and the goverment does not resile from the situation. Of course, that does result in the employment of additional teachers and sometimes additional ancillary staff. It is something this government understands, and it is a very legitimate expenditure.

ROAD TRANSPORT OF GRAIN

The Hon. R. M. HALLAM (Western Province)—I refer the Minister for Transport to the notice of determination of policy for the issue of permits for the transport by road of bulk barley, oats and wheat, which was issued under the Minister's signature on 12 April 1988. It requires that before a permit is issued the Road Traffic Authority must be satisfied, after consultation with the State Transport Authority and the Grain Elevators Board, that the transport of grain by rail is impracticable and that road transport of the goods is necessary.

I put to the Minister that this is creating extraordinary concern, as under the system it usually takes ten days for a permit to be processed. That is of major concern, particularly for farmers who are facing the need to buy additional grain to carry stock over the late season.

Will the Minister urgently review the determination to see whether a fast-track system can be implemented to overcome what is a serious concern?

The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Hallam for the question. I should apologise to you, Mr President, for omitting, during my answer to an earlier question, to congratulate you on your excellent speech yesterday afternoon. I am not referring to the one at 2 a.m. because I was too tired to take it all in. However, your earlier speech was an outstanding contribution.

It is well known in this place and others that I am a beacon of calmness and reason. I thank Mr Hallam for his perceptive and instructive question and for raising the issue. I give an assurance that I am concerned about the delays that are apparently being caused in that area, and we will give it ready attention in the next few days to see if the situation can be rapidly improved.

CHEMICAL RESIDUES

The Hon. L. A. McARTHUR (Nunawading Province)—I again refer the Minister for Agriculture and Rural Affairs to the problem of chemical residues.

Honourable members interjecting.

The Hon. L. A. McARTHUR—Even though honourable members opposite may think chemical residues have no economic importance, the Minister does not subscribe to that view. The government has put together an excellent package of assistance to farmers whose properties have been quarantined. Will the Minister inform the House how effective those measures have been and what sort of responsibility the quarantined farmers have demonstrated in coping with the contamination?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I am pleased to inform the House that the assistance measures to which Mr McArthur refers have met with a favourable response. I have mentioned the matter in the House previously. As of yesterday, in regard to the cattle purchase plan, some 4000 head of cattle have been or are being purchased—that is a significant number— by the Rural Finance Commission. One-third or so of the cattle will be slaughtered almost immediately and two-thirds will be put on clean properties. At present the Rural Finance Commission is using the Heytesbury land, but, as the Minister for Conservation, Forests and Lands indicated yesterday, there may be a need to ask her to allow properties in the western and north-eastern parts of the State to be used for some of those cattle.

Those that have taken part in the scheme represent a significant majority of farmers from quarantined properties. Of the quarantined properties—I do not want that figure to be mixed up with the total number of properties being examined in respect of quarantine; that is more than 200—more than 100 property owners have taken advantage of the scheme. If one ever wanted to see a reasurring response to a scheme—and it obviously meets a need—that is it.

I stress the excellent work that has done by officers of the department and the Rural Finance Commission and also the excellent work being done to accommodate this scheme by the abattoirs, which have been under considerable extra strain in terms of numbers of cattle and the procedures necessary. Contaminated cattle that are sold through the stockyards to the abattoirs, must be treated separately and differently.

I inform the House that the other good part of the assistance package, the property management plan, is well under way. As I said earlier, property management plans are to be drawn up for each of the quarantined properties, and they will go a long way towards addressing the long-term problem. A plan is being drawn up for each property with a direct adviser.

One of the departmental members will follow through with each property to ensure that the plan is put into effect. My department is paying for all the soil and animal tests needed to put that plan together, and my staff have been working very well—in fact, tirelessly—on the matter. No further details are necessary at the moment.

Earlier there was some doubt about whether the farmers would respond favourably to the scheme. They have taken the matter up in such a manner that one can say now that the government has structured a scheme which goes right to the core of the problem, and the farmers who have been affected are appreciative of the help offered.

MOOROOLDALE STATION PROJECT

The Hon. ROSEMARY VARTY (Nunawading Province)—As the Minister for Transport is at his most rational and composed best this morning, he will be aware of the new Moorooldale station project announced in November 1986 with great publicity by his predecessor. Is it a fact that the Moorooldale project has shrunk considerably in size, and is based on a different site? If so, will the Minister explain why?

The Hon. J. H. KENNAN (Minister for Transport)—In 1986 the government announced that a model station would be constructed at Moorooldale with a car parking capacity for 2000 vehicles. The cost of the land was thought to be high, but the overall objectives are still being pursued. In contradistinction to the Opposition's stand on rail transport, the objectives of the station are to increase public transport usage by commuters from the

Moorooldale area to the Melbourne central business district and to meet the increasing demand for access to public transport in an area that is undergoing rapid residential expansion. That line it busy and is operating well.

It reflects adversely on the Opposition when a member of the Opposition is fed a question which is in contradistinction to the other question she has been fed this week. The tone of this question was, "What are you doing to support the rail system?", and the answer is, "A lot", whereas the tone of the earlier questions was; "What has happened to the rail system? The top staff are hopeless and engage in conduct tantamount to stealing, but we are not prepared to name them".

Discussions in relation to the line are continuing with the Lillydale Shire Council and rail authorities. The government is considering a smaller size than the original 2000 capacity car park and looking for options that would provide additional spaces at Lilydale and Moorooldale.

Thanks to the outstanding work of the honourable members for Monbulk and Warrandyte in another place, Mr Pope and Mr Hill, who are the operative and active Lower House members in the area, the government will come up with a satisfactory result in a short time. Those honourable members have taken a particular interest in the project.

Honourable members interjecting.

The Hon. J. H. KENNAN—Members of the Opposition cannot complain that the answer is not relevant on this occasion. They want to have it both ways. They complain that the answer is either not relevant or that it is embarrassingly relevant.

Honourable members interjecting.

The PRESIDENT—Order! I believe the Minister has adequately covered the question.

The Hon. J. H. KENNAN—No, I have not.

The PRESIDENT—Order! I think he has.

STUDENT ACCOMMODATION

The Hon. B. P. DUNN (North Western Province)—The Minister for Education will be aware of the severe shortage of accommodation in Melbourne for country tertiary students. She is probably also aware that there is a proposal to develop the former Midway Migrant Centre in Maribyrnong as a student accommodation centre. Does the Minister support this proposal? If she is aware of it, will she add her support to the proposal?

The proposal is before a number of other Ministers. What other action is the government taking to assist country students to obtain suitable accommodation in Melbourne?

The Hon. C. J. HOGG (Minister for Education)—I thank Mr Dunn for bringing this matter to my attention. I am not able to answer it in any great detail. I imagine that the matter has been put before my colleague, the Minister assisting me in the other place, Mr Cathie, who has direct responsibility for post-secondary education; I imagine the information is on his desk as well as on the desks of other government Ministers.

From what Mr Dunn has said, the proposal appears to be a sound suggestion. I undertake to find out more about it and provide him with an answer.

TOURISM IN EAST GIPPSLAND

The Hon. C. F. VAN BUREN (Eumemmering Province)—My question is directed to the attention of the Minister for Conservation, Forests and Lands, as a person interested in the east Gippsland area, and who has spent much time there. There has been some talk about using tourism as a means of creating jobs in east Gippsland. What is the government doing about this?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mr Van Buren for his question and for his interest in the east Gippsland area. Indeed, I have made a number of visits to the area. I think the Minister for Transport and I hold the record for the most visits to east Gippsland.

What must be done in east Gippsland is to have the community committed to the next twenty years of economic development, looking at it not only in terms of current industries but also in terms of potential for future industries. It was agreed by the government to develop an east Gippsland tourism strategy as part of its commitment to both the conservation and tourism industry strategies.

In February 1987 the government set up a tourism study group consisting of the Department of Conservation, Forests and Lands, the Ministry for Planning and Environment and the Victorian Tourism Commission. The project team released an interim report for public information at the end of last year. That was a fairly general report covering all areas of broad interest.

What was important about it was that for the first time the report had attached to it as an appendix a comprehensive inventory of the east Gippsland tourism resources. Prior to that, information about the potential of that area had not been compiled into one database.

Last month I appointed a market research consultant—Destination Australia—operated by Mr Bill King, of considerable fame in the tourism world, particularly tourism in the natural environment. He was contracted to complete a study on the tourist strengths in east Gippsland, and to indicate how the government might build on those strengths. I expect that the report will be available to the responsible Ministers at the end of this month.

I must say how delighted I am that local confidence in tourism as a possible economic development is increasing. When I began travelling to that area people thought that tourism was a con to undermine the timber industry. The wilderness promotion by local government, combined with what the Victorian Eastern Development Association is doing in the area, is fantastic. The Waratah tours group is associated with the East Gippsland Coalition in running information tours for small groups; they are of particular ecologically sustainable value.

Recently I launched a book by Grant da Costa entitled *Car Touring and Bushwalking in East Gippsland.* I shall place a copy of that book in the Library. It is a fantastic publication—the best I have ever seen on tourism at the level of linking the community into what is available in east Gippsland. I am proud to have had my department associated with that publication.

In addition, the Department of Conservation, Forests and Lands, as part of the public sector, has a responsibility to inject resources. My department will be building a rainforest information centre at Orbost. Work on the Spencer walking track—a bicentennial walking trail project that follows the historic route of Spencer's 1889 exploration—has been commenced, and I expect the low-cost, cabin-style accommodation at Cape Conran to be finished by the end of the year.

The next stage of the tourism strategy is to have assessments made by the community. That will be done in a tourism workshop, probably to be conducted in Orbost in about two months. As a conservative estimate, these initiatives should generate approximately 70 jobs in the private and public sectors in the next five years, and approximately 250 jobs in the long term.

MINISTRY OF EDUCATION BROCHURE

The Hon. M. A. BIRRELL (East Yarra Province)—My question is directed to the Minister for Education.

Honourable members interjecting

The Hon. M. A. BIRRELL—I refer the Minister to the costly glossy brochures produced by the Ministry of Education Western Metropolitan Region, copies of which have been given to the Minister. Is the photograph of the general manager, Mr Jim Betson, the only difference between the brochures? Is it a fact that the first version of this costly brochure was pulped at considerable expense because of Mr Betson's personal dissatisfaction with the photograph?

The Hon. C. J. HOGG (Minister for Education)—I have not seen the brochure in the coloured form to which Mr Birrell refers and I have not during the past 10 minutes, since Mr Ward brought these copies across to me, had a chance to go through the fine print to see whether there are any differences.

I believe the team of eight general managers who have the responsibility for the education regions are a fantastic group of people.

The Hon. Robert Lawson—Which photograph do you like?

The Hon. C. J. HOGG—Indeed, that view is shared by members opposite. I have been to each of the eight regions in this State many times, sometimes in the company of members of government and sometimes in the company of members opposite. On every occasion honourable members have said about the respective general managers, "What a good choice; he or she is doing a good job".

The Hon. Robert Lawson—Is he photogenic?

The Hon. C. J. HOGG—I have enormous confidence in the capacity of our general managers; they are doing good jobs in what I regard as extremely large regions during times of change.

If there has been a pulping of one of these documents which resulted in extra expense, and there were few serious differences between the first and second brochure, I would regard that as an unfortunate waste of money. I have not had a chance to compare the brochures in detail and at this stage and I am not persuaded by the arguments and certainly not by the interjections of the Opposition that that is the case.

RAILWAY FINANCES

The Hon. D. E. HENSHAW (Geelong Province)—My question of the Minister for Transport follows a question asked yesterday by Mr Hunt which referred to the financial statistics of the Commonwealth Grants Commission and the Federal Department of Transport. Will the Minister advise the House how these figures reconcile with the State Budget performance of the Ministry of Transport?

The Hon. J. H. KENNAN (Minister for Transport)—I am happy to pay tribute to Mr Hunt for raising this matter. I indicated to Mr Hunt, following his recognition of me as a beacon of calmness and reason, that I would be in a position to give a full and informative answer. Yesterday reference was made to the public transport deficit for 1985–86 which was two and a half times greater than what it was in 1982, which was referred to by the Commonwealth Grants Commission. The government rejects those comparisons.

The Commonwealth Grants Commission report—indeed the Opposition did not refer to the fact—contained a disclaimer which said that because of the changes that have occurred in institutional and accounting practices in the Victorian public transport sector, great care should be taken in comparing year-by-year results.

The report acknowledges that there may be no comparisons of apples with apples. Nonetheless, the Opposition—which is its standard practice on these transport questions—was not interested in giving a full picture or even an informed picture.

The Commonwealth Grants Commission report referred to did not take into account the changes in the accounting methods for public transport. In 1981–82, the public transport authorities did not follow recognised accounting principles, which the Cain government

has subsequently introduced and which have impacted on the operating deficit of public transport. For example, superannuation, long service leave costs, insurance and so on are now included, whereas those items were previously not included. A method of costing was used which did not compare apples with apples and the results cannot be relied on.

The Opposition yesterday also referred to a report by the Federal Department of Transport. Specifically, it was stated that in the five years to 1985–86 revenue had fallen 13 per cent but that expenditure had grown by 47 per cent.

A number of points need to be made about the report. Like the Commonwealth Grants Commission report the report does not make adjustments for changes to accounting practices, that is, it compares apples with pears. It is based on full accrual accounting which is not the method of accounting which illustrates the real cost to the State Budget.

It takes no account of government policies on taxes and charges which, in effect, puts a ceiling on revenue—because as a government we are committed to holding down taxes and charges—which the Opposition is now effectively promising to inflate by 250 per cent.

The report also gives no credit for the increases in patronage and cost recovery.

Yesterday Mr Hunt also asked me if I stood by and could substantiate figures showing, in real terms, the increased performance relating to the transport system. I promised to refer to the patronage figures today, and I do so. Patronage on the metropolitan system is now 15 per cent higher than it was in 1981–82 and approximately 57 per cent higher on the country system.

Since 1981–82 passenger fares and grain freight rates have reduced in real terms—a real benefit. Costs funded from revenue and appropriations have been reduced by approximately 6 per cent in real terms since 1981–82. That is especially impressive, given the improvement to rolling stock and modernisation of the system.

The Opposition has great difficulty with government subsidies to the public transport system, as reflected by the distortions that have been peddled in the press recently. Government subsidies to public transport have reduced by 15·4 per cent on a per capita basis between 1981–82 and 1987–88. As a share of the total State Budget, public transport costs have reduced from approximately 9·8 per cent in 1981–82, to 7·5 per cent in 1987–88.

In the 1978–79 to 1981–82 period, public transport deficits increased 34 per cent, whereas, during the past six years, they have declined by 11·3 per cent.

The government stands by these figures. It has done an extraordinarily good job with public transport and has made a strong commitment to the future of the public transport system and the management of that system. The Opposition can only bag, whinge, distort and talk about selling off the public transport system.

ESTIMATES COMMITTEE
1987–88 receipts and payments

The Hon. M. T. TEHAN (Central Highlands Province) presented the second report from the Estimates Committee upon the 1987–88 estimates of receipts and payments, together with an appendix and minutes of evidence.

It was ordered that they be laid on the table, and that the report and appendix be printed.

SOCIAL DEVELOPMENT COMMITTEE
Drink-driving

The Hon. J. L. DIXON (Boronia Province) presented the first report from the Social Development Committee upon the management of drink-drivers apprehended with high blood alcohol levels, together with appendices.

The Hon. J. L. DIXON (Boronia Province)—I move:

That they be laid on the table, and that the report and appendices be printed.

In so moving, I indicate that this is the second report from the Social Development Committee tabled this week. The reports are complex and were prepared under tight time constraints. They have meant extra work for committee members and staff, and I place on the record my appreciation of that dedication and hard work and the extra meeting times that committee members and staff have done and made available so unstintingly.

The motion was agreed to.

On the motion of the Hon. R. S. de FEGELY (Ballarat Province), it was ordered that the report be taken into consideration on the next day of meeting.

PAPERS

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

Law Reform Commission—Report upon the Occupational Review of Estate Agents and Auctioneers.

Statutory Rules under the following Acts of Parliament:

Audit Act 1958—No. 113.

Building Control Act 1981—No. 114.

Drugs, Poisons and Controlled Substances Act 1981—No. 118.

Health Act 1958—No. 119.

Loddon-Campaspe Regional Planning Authority Act 1987—No. 120.

Public Service Act 1974—PSD's 14 and 15.

Superannuation Act 1958—No. 115.

FIREARMS (PROHIBITED WEAPONS) REGULATIONS

The following notice of motion by the Hon. R. M. Hallam (Western Province) was called on:

That pursuant to section 49 (1A) of the *Firearms Act* 1958, the Firearms (Prohibited Weapons) Regulations 1988 (S.R. No. 92/1988) be disallowed.

The Hon. R. M. HALLAM (Western Province)—I move:

That the consideration of Notices of Motion, Business to take Precedence, No. 1, be postponed until later this day.

I move the motion on the understanding that Notices of Motion, Business to take Precedence, No. 1, will be dealt with today if the Firearms (Amendment) Bill (No. 2) has not been read a third time. This is the last day on which the matters can be dealt with, and it is a matter of some importance to the Firearms (Amendment) Bill (No. 2).

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I understand what Mr Hallam is saying and he is absolutely correct. The Firearms (Amendment) Bill (No. 2) has been moved up the Notice Paper, and I assure Mr Hallam that what he asks for will be handled early this afternoon.

The motion was agreed to.

CRIMES (FINGERPRINTING) BILL

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

That this Bill now be read a second time.

INTRODUCTION

This Bill regulates the circumstances in which the police may obtain fingerprints from a suspect. For the first time in Victoria, the police will have the power, in appropriate cases, to take fingerprints without the suspect's consent. The power is accompanied by important

safeguards to ensure a balance between the need for effective law enforcement and the protection of fundamental freedoms. The Bill implements the recommendations made by the Consultative Committee on Police Powers of Investigation in its recent report on fingerprinting.

THE CONSULTATIVE COMMITTEE ON POLICE POWERS OF INVESTIGATION

Honourable members will recall that in 1984 the government asked the then Director of Public Prosecutions, Mr J. H. Phillips, QC—now Mr Justice Phillips—to convene a committee including prosecutors, defence lawyers and police officers to examine certain issues associated with police powers. This was the genesis of the consultative committee. When Mr Phillips was appointed a judge of the Supreme Court, the chairmanship of the committee passed to his successor as DDP, Mr John Coldrey, QC.

The first issue the committee considered was the law governing the questioning of suspects. Its report on that subject, entitled *Custody and Investigation*, forms the basis of the Crimes (Custody and Investigation) Bill, which was introduced into Parliament on 8 October 1987. Since the presentation of that report, the committee has devoted its attention to the issues relating to investigative procedures and powers to obtain identification evidence. Last year the committee presented the first of its reports on this subject, a detailed analysis of the rules governing fingerprinting. That report was tabled in the Legislative Council on 6 October 1987.

The report examines present powers and practices—both in Victoria and in other common-law countries—proposals for change to the law, and the legal philosophical issues relating to fingerprinting. It is, so far as the government is aware, the most comprehensive analysis of the issues associated with fingerprinting that has been produced by any law reform body in the common-law world. I should like to take this opportunity, on behalf of the government, of thanking Mr Coldrey and the other members of the committee for the many hours they contributed to the production of the report and for their major contribution to public discussion of the issues.

THE PRESENT POSITION

Fingerprints were first used by police in Victoria as a means of identification in 1903. For 85 years the police have obtained fingerprints from suspects with their consent. Under the common law, there has never been power for police to take fingerprints if a suspect refuses; indeed to take fingerprints against the will of a suspect would be an assault. However, suspects usually consent to provide their fingerprints to police upon request, and the Victoria Police have on record some 568 000 sets of prints. This stock of prints increases by about 17 000 a year. In addition, through the automated fingerprint identification system, the Victoria Police have access to about 1·6 million sets of prints obtained by police forces Australia-wide. This is equivalent to about 10 per cent of the Australian population.

THE COMMITTEE'S PROPOSALS

In considering whether a departure from the common law position is warranted, the Coldrey committee's report brings a welcome sense of perspective to the discussion of police powers. Its measured and sensible analysis of the evidence and the issues relating to police powers stands in contrast with the shrill approach taken by the Opposition. The committee does not suggest that fingerprinting is a panacea for crime. In fact, in paragraph 2.19 of its report the committee observes that:

> Given the small percentage of cases in which fingerprints are relevant at all, and the very small number of cases in which fingerprints are relevant to serious offences, significant overall gains in the clear-up rate or the reduction of crime will not be obtained through compulsory fingerprinting powers. In short, fingerprinting is not a prescription for the wholesale reduction of crime in our State.

Nevertheless, the committee recognises that a power to take fingerprints without consent could be decisive in a small number of serious cases and on this basis it recommends a modification of the common law. In the committee's view there is a need for the police to

be able to obtain fingerprints without consent, so that they can be compared with those found at the crime scene or on an article which would tend to exculpate or inculpate the suspect, such as a weapon used in the commission of the offence. For this purpose the committee proposes that the police be able to obtain a court order requiring the suspect to provide the print. The order would be obtainable from a Magistrates Court or, if the suspect is a child, the Children's Court. If the suspect still refuses to provide the print, reasonable force could be used to enforce the court's order. If the person is ultimately charged and convicted, the fingerprints could be used in any future case to identify the person as a suspect or to confirm or deny his or her involvement in an offence. If, however, the suspect is not charged, or is acquitted, the fingerprints could be destroyed. There is already power for the Director-General of Corrections to obtain fingerprints from persons sentenced to imprisonment and the committee proposes that this be done in all cases.

THE GOVERNMENT'S RESPONSE

The government has accepted the thrust of the committee's recommendations and they are implemented in the Bill. The central feature of the Bill, and of the committee's proposals, is that non-consensual fingerprinting of suspects will be available to police in criminal investigations. The key safeguard balancing this power is the requirement of a court order. This control corresponds with the scrutiny of courts over other intrusive investigative procedures like the use of listening devices and the search of one's house. Judicial supervision ensures a degree of independence in the assessment of whether fingerprinting is justified in the particular case and greatly reduces the likelihood of later disputes.

Some disquiet has been suggested about the committee's proposal that the police be authorised to use reasonable force to execute a magistrate's order. However, the government considers that it is necessary to allow reasonable steps to be taken to obtain fingerprints in those cases in which a suspect refuses to comply with an order. It should be stressed that such cases are expected to be rare. To counter false allegations against police about the way in which prints were taken, the Bill provides that whenever fingerprints are to be taken without consent either an independent person must be present or the procedure must be video-recorded. Like the mandatory tape-recording of the questioning of suspects in serious cases, which is provided for by the Crimes (Custody and Investigation) Bill, these verification procedures will protect police and suspects alike. They will also greatly reduce the likelihood of later time-consuming and costly disputes in court over the admissibility of evidence.

The government has decided to go further than the Coldrey committee's proposals in two important respects. Firstly, the Bill allows a court to order fingerprinting of a person suspected of a serious offence if there is real doubt about his or her identity and fingerprinting would dispel that doubt. This will allow fingerprinting if, for example, there is reason to believe that the suspect is a known criminal using an alias. Secondly, the Bill allows police to fingerprint all persons convicted of serious offences without their consent. This will help police to maintain accurate criminal records and to keep fingerprints for use in future investigations if the person reoffends. At the same time, the Bill recognises the vital distinction between a suspect and a person convicted of an offence. A person merely suspected of an offence is presumed to be innocent and should be subjected to fingerprinting only if it is necessary for the investigation or prosecution. After a person is convicted of a serious offence, however, there is a strong social interest in obtaining and filing his or her prints for future use. It is worth noting that no other State or Territory has given such an extensive power to take fingerprints from convicted persons.

The Bill also sets out special rules governing the fingerprinting of children suspected of an offence, an issue upon which the majority of the committee was unable to reach agreement. Consistently with the Children and Young Persons Bill, which raises the age of criminal responsibility from eight to ten years, a child under ten who is suspected of an offence will not be subjected to fingerprinting. A child between ten and sixteen years old, inclusive, will be liable to fingerprinting only by order of the Children's Court. The court

will be permitted to make an order if the child is charged with or in custody for an indictable offence, the criteria applicable to adults are satisfied and in all circumstances—including the seriousness of the offence, the age of the child and the alleged degree of his or her participation in the offence—fingerprinting is justified. The parent or guardian of the child will be notified of an application for fingerprinting. Unlike applications in relation to adults, the child against whom the order is sought will have a right to be represented. Under the Crimes (Custody and Investigation) Bill, if a child is interviewed about an offence his or her parent or guardian must be present; under this Bill, a similar rule will apply to the fingerprinting of a child. These special rules are necessary to ensure that a child is not overborne and to ensure, as the committee says, "that any stigmatising effects of fingerprinting occur only in those cases where the offence is so serious that the community cannot tolerate the child being diverted, or dealt with without significant punishment".

Finally, mention should be made of one specific recommendation of the committee that is not incorporated in the Bill. In giving evidence of whether a fingerprint taken from a suspect matches a print found at the scene of a crime, a fingerprint expert will identify points of similarity between the two prints. These are known as matching friction ridge characteristics. Police fingerprint experts in Australia have established twelve matching characteristics in single-print comparisons as the minimum standard upon which they will give evidence that two fingerprints are the same. The standard varies from country to country: for example, in Britain the minimum standard is sixteen characteristics and in France it is seventeen but in the United States of America the generally accepted level is eight. The Coldrey committee proposed that the existing minimum standards of comparison used in Australia be enshrined in legislation, to prevent standards being arbitrarily lowered at some time in the future. The government has decided, however, that the maintenance of appropriate standards is better left to courts and to fingerprint experts themselves. At the same time, the government endorses the longstanding practice of Victoria Police fingerprint experts, upon which their high reputation and the considerable probative value of fingerprint evidence depend.

CONCLUSION

The Bill is a further important part of the government's program of reform of the law relating to criminal investigation, an area of law that has long proven to be, in the words of Mr Justice Kirby, "a mortuary of law reform". The Bill presents a sensible balance of measures, providing for more effective criminal investigation within a practical framework of safeguards.

I commend the Bill to the House.

The Hon. H. R. WARD (South Eastern Province)—On behalf of Mr Chamberlain, I move:

That the debate be now adjourned.

Often honourable members read second-reading notes and wonder why they are not in simple English. In order to inculpate the government for introducing the Bill and exculpate the Opposition, I suggest that the debate be adjourned until later this day.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until later this day.

DEPUTY OMBUDSMAN (POLICE COMPLAINTS) BILL

The debate (adjourned from the previous day) on the motion of the Hon. J. E. Kirner (Minister for Conservation, Forests and Lands) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition is happy to support the Bill, for the reasons articulated by the shadow Minister for Police and Emergency Services, the honourable member for Mornington in the other place.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party is pleased to support the Bill. I suppose I could say for the reasons outlined in the other place by the National Party's spokesman on police and emergency services, the honourable member for Benalla, but I shall go further than that and say that the initiative of the government early in its term of office to establish the Police Complaints Authority was a worthy step. It is a tragedy that it did not work out in the way that was intended, but I am not certain that is the fault of the government. There appeared to be other matters that caused some difficulty.

The calling in of the former Commonwealth Ombudsman, Professor Jack Richardson—a man for whom I have a very high regard—was a wise decision. It is to be regretted that the Police Complaints Authority did not respond more positively to Professor Richardson's recommendations. By the same token, it is commendable that the then Chief Commissioner of Police, Mr Miller, immediately moved to change some procedures in the Police Internal Investigations Department to take account of Professor Richardson's recommendations.

I am confident that the procedure to create the office of Deputy Ombudsman, with specific responsibility for complaints relating to the police, will be a satisfactory mechanism. I have a great deal of respect for the Office of the Ombudsman and its incumbent, Mr Norman Geschke.

He runs a very tight ship, and bends over backwards to give every complaint the greatest possible airing before closing off the file if he is unable to recommend some remedial action. I believe bringing the police complaints mechanism under the control of the Office of the Ombudsman will be worthwhile. I hope the unfortunate experiences that have occurred over the past eighteen months are behind us, and that the new system will work well.

The Hon. H. R. WARD (South Eastern Province)—I shall add a few remarks about the role of the Ombudsman in this new proposal, and I endorse what Mr Baxter said. Two men have been involved with this office, Sir John Dillon and Norman Geschke, and no-one could complain about the way these gentlemen have maintained the independence of that office. They have carried out their tasks without fear or favour, and I have nothing but praise for their staff. I have been told by people making complaints that officers of the Ombudsman have carefully investigated the complaints and been very kind to the people making them.

The Office of the Ombudsman is well handled and appreciated by 99·9 per cent of the population. There will always be that one person who thinks he does not get a fair go. The Ombudsman goes out of his way to ensure that complaints are well investigated and, if necessary, recommendations are made.

I commend the Bill for establishing a Deputy Ombudsman, although that person will be involved particularly with police complaints. The Ombudman is a great office and I support this measure.

The motion was agreed to.

The Bill was read a second time.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—By leave, I move:

That this Bill be now read a third time.

In so doing, I thank honourable members opposite for their support and brevity, and I endorse their comments.

The motion was agreed to, and the Bill was read a third time.

LOCAL AUTHORITIES SUPERANNUATION BILL, HOSPITALS SUPERANNUATION BILL, STATE SUPERANNUATION BILL AND TRANSPORT SUPERANNUATION BILL

The debates (adjourned from the previous day) on the motions of the Hon. D. R. White (Minister for Health) for the second reading of these Bills were resumed.

The Hon. J. V. C. GUEST (Monash Province)—Although the four Bills are now being debated cognately, the Local Authorities Superannuation Bill has been treated as a local government Bill and the negotiations of its terms has followed a different process from that of the others.

The processes of Parliament have suffered in a not totally unprecedented way in the past week or so through the ridiculous flood of Bills being introduced. No time has been allowed for the deliberations that—at least in textbook theory—are desirable for proposed legislation.

Of course, the procedures of this House are not assisted by inability to forecast when Bills will be brought on for debate and how long the debate will take. It would not have been impossible for these measures to have been debated a long time ago.

I shall not pretend that these Bills, which have largely been prepared by the government under pressure of its union friends, can be usefully examined and debated in this House when the government is, as usual, trying to bring this sessional period to a premature close, despite there still being important matters to be considered.

I should have liked to have had the proper opportunity to debate, expand on and discuss the four superannuation Bills being debated cognately, which form part of a set of nine Bills that the government has determined should be the substitute for the one Bill recommended by the Economic and Budget Review Committee in 1984 to cover the whole public sector.

I claim to be one of the Parliamentary grandfathers of this proposed legislation. The other would be the Minister for Labour. After the government came to office in 1982, the Minister, who was an actuary, acting in a largely bipartisan way, raised the important issue of public sector superannuation. I had been responsible for raising the issue in the Parliamentary arena over some years before that; and other persons, including Mr Ron Hay and Mr Howard Carter, had also raised the issue for discussion over many years as well as others in a more general way. Those two gentlemen were concerned about the expensive character of the public sector superannuation schemes and the absence of proper funding, with its inevitable consequence that future generations of taxpayers would be burdened unacceptably, particularly because of the superannuation benefits provided for in the mid-1970s and early 1980s.

Like many a grandfather, I am not happy with the way the parents have brought up their children; and, to extend the metaphor, I am not happy with the way others have had a hand in their children's upbringing or the way teachers in schools have dealt with them as schoolchildren. Some good has come out of the Economic and Budget Review Committee's report of 1984. I give credit to Mr Ron Champion for what is good about these successive Bills, starting with the proposals for the emergency services superannuation scheme. If it were not for the confidence I have in Mr Champion and his ability to discuss the legislation in a professional way, I should be amazed that we would let through major Bills dealing with large amounts of money and more than 100 000 people in the cursory way that has become normal.

So far as the actuarial side of it is concerned, I have confidence in those who have assured me of the comparability of the cost of each of the schemes—apart from some exceptions relating to the emergency services scheme—in the new overall public sector superannuation system.

However, I do not have confidence in the relationship between the government and the trade union movement. The opportunities for saving considerable amounts of money for current and future taxpayers will be inhibited to a considerable extent, if not vitiated, by the relationship between the government and the unions. When it comes to it, the unions have the majority voting power within the Australian Labor Party and, therefore, control preselection. In the end, the unions will give in to government persuasion only when they wish to be economically responsible. If it happens to be a Labor government the unions can be told, "The claim is too absurd. We simply cannot get the legislation passed". But that still leaves a lot of room for unacceptable deals.

To a certain degree, the public interest has been safeguarded by the competence and technique of people like Mr Champion and Mr Carter because it is through their briefing of representatives of, the Opposition and the National Party that members of the public are able to obtain an understanding of the implications of these sorts of Bills.

The most obvious of the deals for which there is no justification is the 1986 3 per cent productivity deal. The productivity gains are largely phoney. And there was no evidence of any interest in productivity gains, rather than costs, being passed on to future generations, who will, in the end, pay for the unfunded costs of these new schemes. The liability has also been imposed on the current users of the services of the Melbourne and Metropolitan Board of Works, the State Electricity Commission, the Gas and Fuel Corporation and private hospitals.

My personal position on the future of public sector superannuation, and the direction superannuation generally should take in the community, was substantially set out in my minority report appended to the 1984 final report of the Economic and Budget Review Committee dealing with Parliamentarians' and judges' superannuation. I shall not go through the principles that I set out in that report, but I point out that it should still be possible to give efect to some of those principles when the next government, not beholden to trade unions, comes to office and attempts to give public servants—and the taxpayer—a better deal. It will give public sector employees more freedom of choice and try to save future generations from the enormous costs being built up by unfunded schemes.

I am especially pleased to find in the schemes that have been devised an improvement on the scheme recommended by the Economic and Budget Review Committee, and improvement which was in line with the principles I set out in the minority report referred to. Again I give the government's professional advisers credit——

The Hon. M. A. Birrell—For reading your report.

The Hon. J. V. C. GUEST—Mr Birrell has said, perhaps with irony, for reading my report. However, I do know that Mr Champion did read my report and his views seem to be in accord with what I wrote. I should give him credit for introducing into the Bills the notion of non-contributory superannuation. It has been done possibly on a rather lavish scale, given that the other premise that I would have liked to have been adopted has not been adopted: that is, what should be first determined is the total remuneration package.

That is a concept now familiar in the private sector and, I dare say, in the Senior Executive Service of the government. After all, it is logical that the government should pay the same amount, in whatever form it pays it, to all employees giving the same value of service. It is unfair in a sense that the government should be able to save money by holding out the inducement to people to accept non-contributory superannuation knowing that they are getting a short-term gain but a long-term loss. Nonetheless, I congratulate the government's professional advisers for a measure that will undoubtedly save the State money.

In South Australia, for example, the scheme—which was, if possible, more outrageously expensive in its structure than the Victorian scheme—introduced in the mid-1970s benefited enormously from the 30 per cent of those eligible to join who did not join.

Whereas the situation in Victoria is that the State superannuation scheme is compulsory for all those eligible.

I have made it clear enough along the way that the Opposition does not seek to oppose any aspect of these Bills at the moment, although it was concerned about some aspects when the Bills were first introduced. I am pleased that the government has accepted all of the Opposition's amendments in the other place. Because of the impossibility of doing anything serious in detail at this stage about Bills that continue to operate from 1 July or, in some cases, operate retrospectively, the Opposition will not oppose the Bills.

I return to the relationship of the government to the union movement. It is a serious matter when one finds that the union movement has not only claimed a great victory in achieving the agreements that underlie these Bills—what else can that be but the exercise of monopoly power on people who are susceptible for a number of reasons to economic, as I have pointed out, and political pressure—but it has also been misleading employees about the benefits that have been obtained.

I shall quote from a letter that appears to have been written last October to members of the local authorities' superannuation scheme:

SUPERANNUATION IMPROVEMENTS

As you would be aware, employers and combined local government unions have reached agreement on an improved local authorities' superannuation scheme, pursuant to the 3 per cent productivity negotiations.

Although legislation has not been enacted and a number of very important matters remain to be resolved, it is anticipated that the changes will apply from 1 September 1987.

The agreement provides for retirement benefits to be paid either in the form of a single lump sum payment or a combination of lump sum and pension.

The lump sum retirement benefit will be 21 per cent of adjusted final salary for each year of contributory service (including part years, maximum benefit 8·4 times AFS), with an option to convert part of the lump sum to an indexed pension.

A press release dated 13 October 1987 from the Municipal Employees Union states:

The joint MEU/MOA claim for a new and improved local authorities' superannuation scheme . . . has been accepted by the employer associations. The new scheme is a vast improvement and demonstrates the advantage of MEU/MOA co-operation.

The press release is headed, "Union Victory in Superannuation Claim", and states that the 3 per cent productivity claim has been accepted. It claims, in effect, that the unions have achieved a doubling of benefit. As I think Mr Hallam would be able to illustrate from the personal stories related to him, many people have been deceived by this. This extremely deceptive claim was based on the fact that previously only parts of the pension could be commuted so that, naturally, the lump sum available was only approximately half of the lump sum that is now available when the whole pension can be commuted.

The table set out in the press release is extremely deceptive and I shall give an example of that. Working from a finally adjusted salary of $15 000 per annum, after 10 years of service, the new scheme multiple of benefit in current dollars is $31 500; the old scheme multiple of benefit in current dollars is $15 000. That is totally deceptive because the reality is, as I have explained, that under the previous scheme only half the pension could be commuted whereas now, because the whole of the pension has to be given up if the advantage of being able to take 100 per cent lump sum is achieved, this small real addition to the lump sum is the result of the phony productivity claim accepted by this government, which has not at any point been able to resist any claim from its union friends that has the remotest plausibility.

The Local Authorities Superannuation Bill is not entirely cognate with the other Bills, although the House is debating them cognately. The professional advisers to the government in the Department of Management and Budget have not had the necessary input or undertaken the necessary negotiations. The Opposition was told that negotiations were conducted between various bodies representing local government, local government unions

and the existing Local Authorities Superannuation Board. The Liberal Party adheres to the principle that local government should have considerable autonomy and be treated as a respected part of the governmental structure of the State.

The Hon. W. A. Landeryou—Do you support a referendum, Mr Guest?

The Hon. J. V. C. GUEST—Mr Landeryou ought to examine my record at the Brisbane Constitutional Convention; I have not changed my views since then.

The Liberal Party approves of accountability mechanisms of local government that do not depend upon constant nanny-like oversight by the State government. Nonetheless, the generous improvements in the local authorities scheme, negotiated, as they have been, without any one of the 200-odd local government councils in this State being involved, will result in extra costs being thrust upon ratepayers. Those considerable costs cause most Opposition members, especially me, much concern.

It is the responsibility of local government to negotiate appropriate terms of employment, but it is difficult to accept that that accountability mechanism is adequate when the bodies involved in the negotiations ultimately have their 200-odd councils bound by an Act of Parliament. The accountability responsibility is therefore defeated. It is my view that the next government should refer the issue to the Economic and Budget Review Committee, or otherwise cause an inquiry to be made into the local Authorities Superannuation Act to determine whether it has met the criteria of a measure involving the expenditure of public money.

In fact, it would be desirable if all the new schemes of public sector superannuation were referred to the Economic and Budget Review Committee or some other body for open inquiry, if only because of the lasting suspicion one has that deals between this government and the unions have gone past the professional integrity and the actuarial soundness of the work done by the professionals, a situation that has led to some expensive problems—problems which are not only expensive for the State but are also unfair to the individual, or which fail to offer the free choice in which the Liberal Party believes and holds as part of its policy for dealing with individuals and employees in particular.

I do not want to go through the details of the Bill for the reasons I mentioned at the outset, but I regard one feature of the Local Authorities Superannuation Bill as undesirable and as a feature that adds weight to the suggestion that the scheme ought to be reviewed at a later date. By negotiation the parties agreed, contractually, that membership should be compulsory, and that there should be only one level of contribution, namely, 6 per cent. However, that agreement is totally at odds with the schemes for which the State government is responsible, as it has provided for at least three levels of contribution in each other case, if one includes the provision for non-contributory superannuation as one of those levels. The proposal to offer only one level of contribution is bound to make the scheme much more expensive, and it will certainly not suit members who are anxious about their immediate cash flows and who desire to choose a greater immediate cash flow in their pay-packets by giving up long-term superannuation benefits.

It may be said—no doubt this was in the minds of members of the board and unions who negotiated and agreed that people should be protected from themselves—that actuarial figures were so much in their favour, indicating that the majority of contributors would receive 21 per cent of their final salary in retirement benefits by accumulating contributions of 6 per cent, that this act of determinism is justified. The Liberal Party does not believe in that kind of determinism. It is not possible for anyone to say that such a scheme will benefit anything like all the members, or that one should be forced to grab such an actuarially favourable opportunity, set aside for people who could use the after-tax money—the after-tax 6 per cent of their salary—to produce greater financial benefits for themselves. That would be the case for any number of people who rightly see, in their point of view, no benefit in storing up lump sums for the distant future. It may be a matter of their health, marital status, the assets they have already accumulated or their likely future lifestyle. Those aspects of the Bill need to be reviewed.

Mr Hallam has drawn my attention to another matter. The Opposition supports what he has achieved. The Hospitals Superannuation Bill makes provision, as does the Local Authorities Superannuation Bill, with which I have been dealing, for retrospectivity for part of the benefits back to 1 January 1988. That is partly the result of the negotiations but it is also a matter for the government because, if the government remains in government, it is entitled to decide the budgets of public hospitals.

The provision will also affect private hospitals that have been part of the existing hospitals employees superannuation scheme. Without any negotiation or consultation with many of those hospitals, the Bill will require that they find 1·5 per cent of their annual salary bills to pay for the retrospectivity of benefits from 1 January 1988, instead of paying the benefits from 1 July, the date from which most provisions in these Bills will operate. As a result of considerable discussions and negotiations, Mr Hallam has obtained an assurance that private hospitals will be able to make the necessary additional payments over five or ten years.

I believe that is acceptable. One may say it is a compromise retrospectively thrust upon non-consenting parties, which is necessarily objectionable in principle but, nonetheless, given the complexities of the negotiations involved and the various industrial relations factors, one can only say that it is a matter for congratulation that, when these Bills are being rushed through the House, in no way can the chief executive officer of a particular hospital manage to achieve at least one important improvement as a result of the outcome of the passing of the measures at this time.

The Opposition, in broad terms, supports the proposed legislation.

The Hon. R. M. HALLAM (Western Province)—In 1984 the Economic and Budget Review Commitee undertook an inquiry into State superannuation. The four Bills before the House—the Local Authorities Superannuation Bill, the Hospitals Superannuation Bill, the State Superannuation Bill and the Transport Superannuation Bill—are largely a direct product of that inquiry.

The committee made two major recommendations; firstly, it said that there should be a single, universal superannuation scheme in the public sector; and, secondly, it recommended that there should be a move in the general direction towards the concept of lump sump payments as distinct from pensions or some commutation right.

With respect to the first recommendation, the government has undertaken a major restructure of the entire superannuation field but it has stopped short of producing a single and central superannuation scheme. It has opted for a profile of nine individual schemes which can be described as being delineated loosely on industry groups. The first of those nine was the emergency services superannuation scheme of 1987. The National Party considered the profile of the nine at that time and the rationale underlying the government's decision to head in that direction. It indicated its willingness to support that principle.

In effect, the four Bills before the House are the final four schemes under that profile. The National Party accepted the rationale of the government on the ground that conditions varied across the public sector and, therefore, it was a genuine argument that the schemes needed to be tailored, to some degree, to overcome the variances. One of the examples cited in the Minister's second-reading speech refers to the hospital sector, which is unique in the degree to which it employs people on a casual basis.

As I said, the National Party recognised the move to a profile of nine schemes as a realistic compromise. It gets rid of the previous hotchpotch and also takes into account the need to standardise, to some degree, conditions relating to matters of entry, contributions and benefits. It overcomes the major complaint that in the past we heard so regularly from contributors that they faced a bewildering array of arrangements under the individual schemes and that those arrangements depended almost entirely on which scheme they were entitled to enter. I should say that those problems or concerns will be overcome in the long term given that transitional arrangements are being discussed.

With respect to the second recommendation, the move away from the concept of pension entitlements to that of lump sums, the major attraction in that scheme as identified by the Economic and Budget Review Committee was elementary. The committee observed that a move towards lump sums as opposed to pension benefits represented a substantial reduction in costs to the fund, expecially over the long term.

That is crucial given that as at 30 June 1986 the inquiry alluded to a total liability in the public sector superannuation of $20 billion. It also alluded to the fact that the reserves from which that cost would have to be met—taken in a snapshot situation—fell far short of the total liability. In other words, a substantial unfunded liability existed and that unfunded liability was blowing out in giant proportions. Therefore, it was absolutely critical that the cost to the taxpayers had to be confronted.

I said that the committee observed the advantage of moving towards lump sum benefits as opposed to pensions. It goes without saying that that obviously depends on how much the lump sum is, compared with how much the pension is. However, based on actuarial computations that took into account life expectancy and drew upon a common net present value of both—that is the lump sum and the equivalent pension—it was clear that the majority of retirees chose the lump sum. I am not sure why that applies but it could be similar to the old suggestion that a bird in the hand is worth two in the bush, or perhaps retirees were not prepared to take a punt on their life expectancies.

The Hon. L. A. McArthur—They are pessimists.

The Hon. R. M. HALLAM—Perhaps they are. That is not without dangers. Perhaps many retirees found exactly the nature of those dangers last October when many had their fingers burnt on the stock market. It remains a fact that, from the point of view of superannuation funds, it is more attractive in the long-term cost for the retirees to go out under a lump sum arrangement. Therefore, that propensity to choose the lump sum was the government's and the community's salvation because no doubt a grave need existed to recognise and to rein in the frightening rate of expansion in the unfunded liability.

Previous governments have been benevolent in retirement benefits for the public sector. In the past I have been critical of that but the criticism was based not so much on the benevolence but on the fact that the cost of the benevolence was camouflaged—not announced—and postponed to be met by future generations. If honourable members are prepared to talk about the rate of retirement benefits, that is another thing, and I am happy to discuss it. It was clear from discussions that the real costs had been passed on and put on the never-never. The first thing that must be done is to recognise exactly the cost of the benefits to which we agree.

One other complicating factor in the restructuring process related to the "productivity" component, the 3 per cent that was negotiated in 1986 in lieu of a general wage increase, so that the computations involved in the restructure now had to take into account another range of factors. Some of that was taken up by amendments to the benefits structure and some was taken up by amendments to the contribution factor.

Members of the National and Liberal parties have gone through these various schemes and have been fully briefed by the senior members of the Department of Management and Budget, and I thank the Treasurer for arranging those briefing sessions. I compliment, in particular, Mr Ron Champion, who is obviously competent in this field. The briefings were extremely important, given the complexity of the matters contained within the four Bills.

We received explanations on a range of matters including benefits across the board and the computations in each case relating to disability, resignation benefits, retrenchment benefits and retirement benefits. We have had a chance to review the contribution levels and the degree to which they are optional under the new scheme and how they have been calculated. We sought and received explanations in relation to the transmission procedures and the rights and benefits that would be retained by members of the previous scheme and

would be gained by members of the new scheme. Those briefings have been of assistance in reaching our conclusion to support the four Bills.

The opposition parties put forward a number of amendments in another place which were all adopted by the government, and for that I am grateful. The main effect of the amendments goes to the problem I highlighted earlier—the level to which the liability being accumulated has been unfunded—and the government has now agreed, each year, to report upon the degree of that unfunded liability, so at least from now on we will have an actuarial assessment of the unfunded liability and we will be able to obtain comparisons from year to year. It is absolutely crucial to Parliament and to the entire Victorian community that that cost be monitored in future.

One major remaining concern in relation to the Hospitals Superannuation Bill arises from the fact that in this case and this case alone we see the inclusion of some private employers and, in this case, it is private hospitals. Approximately fourteen private hospitals are currently members of the scheme, with a membership of approximately 300 employees in those hospitals, so to all intents and purposes I concede that we are really talking about small fry in comparison with the totality of the scheme.

I have had eleventh hour discussions with the Chief Executive Officer of the Freemasons' Private Hospital, Mr Geoff Serpell, who also happens to be treasurer of the association for church and charitable private hospitals. I make it clear that Mr Serpell recognises the attraction of those hospitals being involved in the scheme. They are currently members of the scheme and they recognise the benefits of that membership.

The reasons are elementary. Private hospitals do not have their own training facilities so, to a large degree, they depend upon their ability to pirate staff—and I use the word kindly—from the public sector. In that circumstance, the portability of benefits becomes important because for those hospitals simply to be able to provide an attractive salary package to someone they would seek to recruit, their ability to offer worthwhile superannuation is important.

On top of that, Mr Serpell concedes that the hospitals are up for the basic 3 per cent increase that was agreed to, in lieu of the wage increase of 1986. There is no argument there but—and this is the problem—relatively few staff employed within those hospitals are currently enjoying superannuation benefits.

The problem to be confronted now is that conditions will be imposed on these hospitals for them to continue in the scheme. If the invitation is available to all staff members it will be an extremely costly exercise for those hospitals because if staff members choose to join their contributions have to be matched by the hospital; in most cases they have to be matched by 1·5 to 1 or 2 to 1 level. In other words, a 3 per cent contribution by staff members will require something like a 6 per cent contribution by the hospital, so it has a big impact on the cost of operation.

The private hospitals currently in the scheme want some control over the conditions of admission offered to their staff members. That is a fairly elementary and reasonable request. It certainly applies in most superannuation schemes in the private sector with which I am familiar.

I put it to the House that it would not be unreasonable for those hospitals to seek a qualifying period—say, two years—for staff members who were not offered superannuation benefits immediately upon their admission to staff unless they were specifically invited to do so by the employer in this case.

Under clause 26 of the Hospitals Superannuation Bill the conditions are laid out in relation to the administration of participating institutions. Those private sector hospitals are described as Class B institutions in the Bill. Clause 26 (1) states:

> With the approval of the Treasurer the Board may declare that an institution be admitted as a participating institution.

The clause also says that the board may admit that institution subject to any terms and conditions it considers appropriate. They are broad powers of negotiation, but I point to the fact that they are specifically related to the point of admission, so that will relate to the hospitals that would seek admission from the date of proclamation.

My concern relates to the class B institutions, which are already members of the scheme. In his second-reading speech the Minister states:

> The Bill allows the board to admit class B institutions on special terms and conditions. One such condition may be a probationary period before the hospital is required to contribute to provide superannuation beyond the 3 per cent productivity benefit for new employees.

That is precisely what I outlined a few minutes ago. The second-reading speech continues:

> If a community hospital now participating in the Hospitals Superannuation Fund prefers to make other arrangements for its employees, it will be able to restrict membership of the fund to those who are already contributors, or to negotiate terms to withdraw from the Hospitals Superannuation Fund.

The gap there relates to those staff members within Class B institutions who are currently not enjoying superannuation but for whom the hospital may seek admission. Therefore, I seek from the Minister an undertaking that the same negotiating conditions that shall apply under the outline to those hospitals which shall gain admission from 1 July, shall be made available to those hospitals which are currently members of the scheme. That is the first concern of the Class B institutions under the fund.

The second concern is the fact that, as stated in clause 4 (2):

> Basic benefits under section 33 (1) are payable in accordance with this Act on and from 1 January 1988.

It is presumed that the scheme will come into being on 1 July, so we have a hiatus of six months, and the hospital will be up for the equivalent of 3 per cent of the salaries over that six-month period, and that is where the cost equivalent to 1·5 per cent of annual salary quoted by Mr Guest came from.

The concern is that these conditions will be imposed on the hospitals, but they were not part of the negotiation team and did not anticipate the implications of the backdating. I concede that the hospitals are small fry in terms of the overall context of the scheme. I am not suggesting that they have been treated unfairly; however, they have been caught by the deal done between the unions and the government.

I sought relief from the government in relation to that problem. I remind the House that, in financial terms, it is a large penalty as it is the equivalent of 3 per cent of total salaries for six months. I shall quote a letter I received today from the Treasurer which states:

> Dear Mr Hallam
>
> HOSPITALS SUPERANNUATION BILL
>
> You raised the concern of private hospitals with the provisions of clause 4 (2) of this Bill which provide for basic benefits to commence from 1 January 1988.
>
> If the Bill is passed without further amendment the board, under section 29 (4), will have powers to fix differential rates of contribution for class B institutions. Where payment of arrears of 3 per cent contributions to 1 January 1988 would cause difficulties to a private hospital, I will request the board to arrange for those amounts to be paid by small additional contributions over 5 to 10 years from 1 July 1988.

That was one of the alternatives the National Party sought from the Treasurer. It sought a more magnanimous gesture in that it asked the government to pick up the cost of the retrospectivity to which it had agreed on behalf of the hospitals, but I admit the request was made somewhat tongue in cheek. The Treasurer's undertaking is generous and on behalf of the private hospitals, I place on record that it is appreciated. One of the ironies in this situation is that new private hospitals seeking admission from 1 July 1988 will do so under better conditions than those hospitals which were already in the scheme. The undertaking from the Treasurer slightly softens the blow.

The National Party supports the four Bills and appreciates the opportunity of debating them concurrently. I repeat that I seek from the Minister for Health an undertaking that the negotiating conditions that will apply to private hospitals currently in the scheme shall be the same conditions as those offered to hospitals which may seek admission from 1 July 1988 or the proclamation of the Act.

LOCAL AUTHORITIES SUPERANNUATION BILL

The PRESIDENT—Order! I shall deal with the Local Authorities Superannuation Bill first. The question is:

That this Bill be now read a second time.

The motion was agreed to.

The Bill was read a second time.

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

That this Bill be now read a third time.

In so doing, I thank Mr Hallam and Mr Guest for their contributions. In respect of Mr Guest's comments, I am advised by officers that the Treasurer is prepared to take up the matter he raised regarding a review of the Local Authorities Superannuation Scheme and its operation at the appropriate time after the passing of this Bill.

The motion was agreed to, and the Bill was read a third time.

HOSPITALS SUPERANNUATION BILL

The PRESIDENT—Order! I shall now deal with the Hospitals Superannuation Bill. The question is:

That this Bill be now read a second time.

The motion was agreed to.

The Bill was read a second time.

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

That this Bill be now read a third time.

In doing so, I thank honourable members for their support of the measure. In respect of the matters raised by Mr Hallam regarding the negotiations, private hospitals and the starting date, I am able to provide him with the assurances on behalf of the Treasurer.

As to the matter he raised about Part 5 contributions of participating institutions, I direct his attention to clause 26 (5) which states:

The Board may vary the terms and conditions under sub-section (4).

That is designed to meet the concerns Mr Hallam raised during the second-reading debate where any present class B institution will be able to negotiate a variation of the way in which it operates in the fund. That clause has been designed to meet the concerns that he raised.

The motion was agreed to, and the Bill was read a third time.

The Hon. D. R. WHITE (Minister for Health) (*By leave*)—I wish to make a statement to the House arising from the passing of the Hospitals Superannuation Bill relating to an assurance provided in writing by the Treasurer to Mr Hallam. The letter states:

Dear Mr Hallam

HOSPITALS SUPERANNUATION BILL

You raised the concern of private hospitals with the provisions of clause 4 (2) of this Bill which provide for basic benefits to commence from 1 January 1988.

If the Bill is passed without further amendment the board, under section 29 (4), will have powers to fix differential rates of contribution for class B institutions. Where payment of arrears of 3 percent contributions to 1 January 1988 would cause difficulties to a private hospital, I will request the board to arrange for those amounts to be paid by small additional contributions over 5 to 10 years from 1 July 1988.

STATE SUPERANNUATION BILL

The PRESIDENT—Order! I shall now deal with the State Superannuation Bill. The question is:

That this Bill be now read a second time.

The motion was agreed to.

The Bill was read a second time.

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

That this Bill be now read a third time.

In so doing I thank honourable members for their support of the measure.

The motion was agreed to, and the Bill was read a third time.

TRANSPORT SUPERANNUATION BILL

The PRESIDENT—Order! I shall now deal with the Transport Superannuation Bill. The question is:

That this Bill be now read a second time.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

The sitting was suspended at 12.51 *p.m. until* 2.3 *p.m.*

ORDER OF BUSINESS

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

That the consideration of Orders of the Day, Government Business, Nos 4 to 22, and Notices of Motion, General Business, and Orders of the Day, General Business, Nos 1 to 21, be postponed until later this day.

By way of explanation, I advise honourable members that the House is preparing to introduce the debate on the Firearms (Amendment) Bill (No. 2). Some papers have to be distributed before that occurs, so the House will now deal with Mr Hunt's motion on algal bloom in the Gippsland Lakes, as requested. While that is taking place, we will prepare for debate on the proposed firearms legislation.

The motion was agreed to.

ALGAL BLOOM IN GIPPSLAND LAKES

The debate (adjourned from April 13) was resumed on the motion of Mr Hunt:

That this House acknowledges the widespread and increasing community concern about the growing problem of algal bloom in the Gippsland Lakes and calls upon the government to immediately set up a committee with suitable scientific qualifications to assess—

(*a*) the present and probable effects of the bloom upon the lakes and their ecology and its implications for all sections of the community;

(*b*) all the available information as to the cause of the algal bloom;

(*c*) the effect of the Thomson dam on algal bloom;

(*d*) whether the release of further water would remove the bloom;

(*e*) what other steps could be taken to halt and remove the bloom and to eliminate or mitigate its adverse effects and implications; and

(*f*) the steps necessary to ensure a properly coordinated approach to the resolution of the problem—

and requests that the report of such committee be presented to Parliament as soon as is practicable.

and on Mr Long's amendment:

That "committee" (where first occurring) be omitted with the view of inserting in place thereof "small working party", and that "committee" (where second occurring) be omitted with the view of inserting in place thereof "working party".

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The debate on the motion moved by Mr Hunt on 13 April was adjourned to give me the opportunity of considering the comments made by honourable members in the debate and to respond, in particular, to two points Mr Hunt raised about the level of toxicity and also the suggestion that there be some sort of scientific advisory committee to deal with the implementation of a coordinated Gippsland Lakes plan.

I should like to make the following comments in respect of Mr Hunt's motion. The first point concerns toxicity testing. Toxicity testing on the algae has been arranged by my department. I advise the House that toxicity testing was in fact undertaken by the Department of Agriculture and Rural Affairs veterinary science laboratories at Bairnsdale at the instigation of officers of my department, not long after the bloom appeared in December 1987. It was found that an algal extract was toxic to mice when administered as a peritoneal injection. The interpretation of the laboratory toxicity data and their application to field situations where oral intake is likely to occur, can be done only on an indicative basis. As there have not been reports of stock or other animal deaths, it must be assumed that oral poisoning is not a problem, probably because the lake water is too salty for stock and most native wildlife to drink a sufficiently large volume of bloom material.

I promised the House that I would have toxicity testing conducted by Dr Falconer, the gentleman Mr Hunt mentioned, at the University of New England. A sample of bloom material was despatched to him last week. For a period after the debate it was not possible to obtain a suitable sample, because the bloom had dissipated. Results are expected within the next week. I will transmit the results to Mr Hunt as soon as they are available.

With respect to Mr Hunt's comments about how we should obtain a coordinated approach to the Gippsland Lakes issue, Mr Pullen suggested during the debate that it would be better to have an implementation committee rather than some kind of committee that examined the evidence and developed yet another plan or strategy.

I am proposing—and I have discussed the matter with Mr Hunt—that, although we have an existing interdepartmental steering committee which was established by the Ministry for Planning and Environment and which is responsible for the coordination of the appropriate planning activities of government departments, I also believe a need exists to have a committee, which one might call an implementation committee or a consultative committee, which includes not only people recognised as leading scientists on the issue concerning the Gippsland Lakes and their proper protection, but also local government representatives, and, of course, two representatives of the Save the Gippsland Lakes Committee.

I am proposing that the consultative committee should be formed and that it should be an advisory body to me on the development of a management plan for the total Gippsland Lakes system. Honourable members will understand there is already—and it is almost completed—a management plan for Lake Wellington. The committee should have the following composition: a government member, Mr Barry Pullen, as the chairperson; two representatives of the Save the Gippsland Lakes Committee; a representative of the Victorian Eastern Development Association—VEDA, an organisation that has a high

reputation in the area; two local government representatives; and, three scientists who are yet to be invited, but possible invitees are Dr Eric Bird and Mr Brian Newell.

I should be delighted if Mr Charles McCubbin could see his way clear to being a member of the consultative committee as a representative of the Save the Gippsland Lakes Committee, because he is one of the most able people in the total ecology field that I know.

I do not expect that it would be necessary to have representatives from the Department of Conservation, Forests and Lands, the Ministry for Planning and Environment, or the Department of Water Resources. They will be available for advice to the committee.

The tasks of the consultative committee will be:

to provide advice through the Minister for Conservation, Forests and Lands to the Natural Resources Sub-Committee of Cabinet on the development of a management plan for the Gippsland Lakes;

to ensure that the plan meets community expectations by providing for local community and external scientific input to the preparation of the Gippsland Lakes Management Plan;

to represent local community interests and ensure local interests are represented during the preparation of the management plan;

to facilitate the exchange of information between the community, the Department of Conservation, Forests and Lands and other agencies involved in the preparation of the management plan;

to provide a forum and contact point for input into the discussion of Gippsland Lakes issues;

to assess and advise on the adequacy of the scientific and technical data bases for the management plan, particularly on the issue that Mr Hunt raised of algal bloom and the issue of toxicity.

The Hon. R. J. Long—Would all government information be made available to that committee?

The Hon. J. E. KIRNER—Yes. Further tasks of the consultative committee will be:

to report on the progress in the preparation of the management plan;

to provide independent recommendations to the Minister for Conservation, Forests and Lands on the means of implementing the management plan; and

to advise the Minister on any matters requiring coordination between agencies.

I acknowledge the point raised by Mr Hunt that on an issue like the Gippsland Lakes—this would be particularly clear to people like Mr Long who have been interested in the Gippsland Lakes for some time—achieving coordination between all the agencies associated with the Gippsland Lakes is extraordinarily difficult. It was suggested in the course of the debate—I think by Mr Murphy—that the Department of Conservation, Forests and Lands might be the coordinating agency. I do not think that is possible in current government structures. My suggestion is that the consultative committee report to the Minister for Conservation, Forests and Lands, who will report to the Natural Resources Subcommittee of Cabinet which has the responsibility of coordinating natural resources decisions.

The Gippsland Lakes Management plan is an action plan; it is not a strategy plan which will have no action taken on it. It is a management plan devised to ensure the continuing protection of the Gippsland Lakes in an ecological sense, balancing the uses of the lakes—including agriculture, those by the water boards in the area, and recreational—with environmental and aesthetic values. Through the implementation

of the management plan the environmental, social and economic benefits of the lakes will be protected.

The specific tasks associated with the management plan are:

(*a*) to identify and describe the major issues;

(*b*) to set out the options for an approach;

(*c*) to take those options through a public participation process so that there is a preferred option;

(*d*) to identify what is there and what is needed in terms of data and to work out management prescriptions for particular issues;

(*e*) to look at the current administration arrangements and see if they can be improved; and

(*f*) to recommend on budgets.

The consultative committee will need to be well serviced: There is already a departmental working group led by Mr Graham Pooley which is comprised of representatives of the Department of Conservation, Forests and Lands; the Department of Water Resources, the Melbourne and Metropolitan Board of Works; the Environment Protection Authority; the Rural Water Commission; the Ministry for Planning and Environment; the Department of Agriculture and Rural Affairs; and the Victorian Tourism Commission. Most of those officers are based locally in the Gippsland area.

The working group will be responsible through the interdepartmental steering committee to the Cabinet committee and will work directly with the consultative committee, through its leader, Mr Pooley.

It is essential that the consultative committee be serviced by a good executive officer who has the capacity to consult closely with the community and to interpret the words of the committee back to the community so that the interchange of information will be the best possible.

Because so much work has been done already in the area, the consultative committee could make a contribution within the next six months. That does not mean there will be a management plan ready in that time, but in the next six months it will be clear what the issues are that must be addressed. I expect that high priority will be given to the matter of algal bloom. I thank the House for the indulgence afforded to me to respond to the points raised.

The Hon. B. A. MURPHY (Gippsland Province)—I congratulate the Minister for Conservation, Forests and Lands on her prompt action following one of the most important debates in this House in which I have been involved. The Gippsland Lakes comprise important tourist attractions in Victoria. In forming the consultative committee, the Minister indicated how important the Gippsland lakes are to the government and Parliament.

I congratulate the Minister on appointing Mr Pullen as chairman of the consultative committee. I am sure he will do a good job. Mr Long and I will have discussions with him later.

In the debate, mention was made of an experiment being conducted by the Shire of Bairnsdale, the Victorian Eastern Development Association, and the Department of Conservation, Forests and Lands by using a compressor pump on Lake Victoria. Mr Trevor Newton, the Secretary of the Shire of Bairnsdale, has indicated to me in a letter that the trials have been successful and I believe further tests should be conducted over a larger area. I hope the government will give further funding for the important work being carried out by the Shire of Bairnsdale and VEDA. VEDA has taken a leading role by highlighting the need for work to be done on the Gippsland Lakes.

I ask the Minister and Mr Pullen to consider including a representative of the Latrobe Regional Commission on the consultative committee because many of the problems associated with the Gippsland Lakes begin in the Latrobe Valley. The commission has an office with good back-up support for work that would need to be done by the consultative committee. Members of the commission have vast knowledge and experience of the work done with the Environment Protection Authority and the Latrobe Valley Water and Sewerage Board.

The establishment of the consultative committee marks a great step forward. Mr Hunt is to be congratulated for initiating the debate because, as I have said, it is one of the most important debates that has been conducted in the House. The consultative committee established by the Minister will ensure that the Gippsland Lakes are not only restored to their former beauty but also improved.

The Hon. R. J. LONG (Gippsland Province) (*By leave*)—I thank the Minister for the action she has taken.

I think I can claim to be a promoter of the debate, in collaboration with my colleague Mr Hunt. I am delighted with the way the debate progressed. If we have achieved nothing more for the Gippsland Lakes than the establishment of the consultative committee, it has been a worthwhile effort.

On the motion of the Hon. H. R. Ward, for the Hon. A. J. HUNT (South Eastern Province), the debate was adjourned.

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

FIREARMS (AMENDMENT) BILL (No. 2)

The message from the Assembly relating to amendments suggested by the Council on the consideration of this Bill in Committee was taken into consideration.

The House went into Committee for the further consideration of this Bill.

Postponed clause 16, including the amendments suggested by the Council as made by the Assembly, was agreed to.

The Bill, including the amendments suggested by the Council as made by the Assembly, was reported to the House without amendment, and passed through its remaining stages.

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

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

That the Council do not insist on amendments Nos 20, 21, 23, 24 and 25 with which the Assembly have disagreed.

The motion was agreed to.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

That the Council do not insist on amendment No. 45 with which the Assembly have disagreed.

This amendment would have the effect of debarring the remaking of a regulation for six months after it had been disallowed by either House of Parliament. In the 1987 spring sessional period a provision was inserted in the Firearms Act to enable the minority parties to override the executive decisions of the elected representatives of the people of Victoria. That power has been used to remove the prohibition on semiautomatic rifles, but the government quite rightly exercised its mandate to govern and to give effect to the express wishes of the Legislative Assembly, and the prohibition was immediately restored. This amendment, if adopted, would further inhibit the government of the day in its ability to discharge its functions.

That having been said, it is evident that any provision such as this should be considered for inclusion in the Subordinate Legislation Act and thus apply to all regulations rather than being applied on a piecemeal basis in the course of debates on other complex issues. If one wanted to carry that argument, which is an obvious argument on the disallowance about executive powers versus democratic powers, that aspect should be considered in the course of debate on other very complex issues.

It would mean that consideration of the wider implications of the proposal by the Legal and Constitutional Committee would be more apropriate.

During debate on the Flora and Fauna Guarantee Bill—a complex Bill on which, fortunately, debate has not taken quite so long in the House—the National Party had in front of it an amendment which proposed to do exactly the same thing as is being proposed in this Bill. I was pleased when the National Party did not proceed on the Flora and Fauna Guarantee Bill with that intrusion into the efficiency and effectiveness of the executive arm of government. Therefore, I ask the Opposition to consider carefully the points I have made.

I am not saying that there is not a case to be made for looking at this issue, but I do not believe it is appropriate to do it as a political reaction in a complex piece of legislation. If it needs to be done, it shoud be done in the process of consideration of the Subordinate Legislation Act.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition does not disagree with the general proposition put in relation to the desirability of having both the power of disallowance and the power not to reimpose regulations within six months incorporated in the Subordinate Legislation Act. However, it must be borne in mind that the reason this had to be put up at all was that the executive government overturned the decision of this House.

The Minister has suggested that the House overturn the views of a minority. However, the Opposition was exercising a right that was a decision of both Houses of Parliament. Last November, Parliament gave to either House the right to disallow regulations. It was not only the Liberal Party and the National Party who put up their hands on this issue but also the Premier, the Minister for Labour and the others who control the numbers in the other place who agreed to that proposition.

Having exercised the power given to this Chamber pursuant to a duly adopted Act of Parliament, it is extraordinary for the Minister to now say that the opposition parties have no right to override the executive.

During the Committee stage the Opposition, in support of the proposal moved by Mr Hallam, said that, in effect, the subordinate legislation should be in the same category as the statutes themselves. In effect, the government is suggesting that subordinate legislation must be approved by both Houses of Parliament. It is not the same direct way of handling that but, in effect, by having the power to veto that is what will happen. That was the legitimate reason for the National Party to move the amendment and for the Opposition to support it. It is not a question of a minority overriding the executive government.

The Opposition insisted on the amendment proceeding but it also accepted the general proposition that it is much better to deal with that issue on a global basis covering all Acts of Parliament unless a specific Act negatived that proposition, as Federal legislation can do. It is best to do it on that basis in this instance. The Opposition insists that the particular provision should remain in the Bill.

The Hon. R. M. HALLAM (Western Province)—The view of the National Party on this precise point is well known because it has been widely canvassed during the second-reading debate. I have no argument with the proposition that the Minister now puts that a power as broad ranging as this should indeed be referred to an all-party Parliamentary committee.

I agree the matter is a fundamental issue. I made that clear during the second-reading debate. It goes to the authority of this Chamber. I make the point that that does not change our stance in these circumstances. If the government wishes to send this question in principle to an all-party Parliamentary committee the National Party supports that action, but the government abused the power provided under the Firearms Act when it sought the authority to prohibit firearms under regulation.

It was made clear that this power was not to be used in a broad-ranging thrust or for changing policy. It was intended to capture an incidental issue that may have arisen sometime in the future. Instead the government used this power to ban thousands of firearms in the community, many of which had been in people's possession for 50 or 60 years and were proven safe.

The National Party regarded the reversal of the regulation to be an action in contempt of Parliament. The National Party levelled that charge at the Premier at the time. What the Premier did was contemptible and it was contemptuous of this Chamber.

I believe the amendment that the National Party moved, which is supported by Federal legislation, was designed to protect the precise issue which is being debated. It was designed to protect the Parliament from the way in which the executive government may abuse a power given to it.

At the time the National Party introduced the amendment it considered it to be extremely important. Notwithstanding that, the National Party is prepared to agree with the Minister. The National Party does not say that this matter should not be referred to a Parliamentary committee; however, it is of fundamental importance to have the protection mechanism built into the Firearms (Amendment) Bill because of the way the government was prepared to abuse this power—for which abuse it is now paying.

The Hon. B. A. MURPHY (Gippsland Province)—The government must be responsible at all times to Parliament. It should not govern by regulations.

The House divided on the motion (the Hon. R. A. Mackenzie in the chair).

Ayes	17
Noes	19
Majority against the motion ..	2

AYES	NOES
Mrs Coxsedge	Mr Baxter
Mr Crawford	Mr Birrell
Mrs Dixon	Mr Chamberlain
Mrs Hogg	Mr Connard
Mrs Kirner	Mr de Fegely
Mr Landeryou	Mr Dunn
Mrs Lyster	Mr Evans
Mr McArthur	Mr Granter
Mrs McLean	Mr Guest
Mr Mier	Mr Lawson
Mr Pullen	Mr Macey
Mr Sandon	Mr Miles
Mr Sgro	Mr Reid
Mr Walker	Mr Storey
Mr White	Mrs Tehan
	Mrs Varty
	Mr Wright
Tellers:	*Tellers:*
Mr Henshaw	Mr Hallam
Mr Kennedy	Mr Ward

PAIRS

Mr Arnold	Mr Long
Mr Kennan	Mr Knowles
Mr Van Buren	Mr Hunt

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:

3. That the Council agree to the amendments made to amendment No. 46, with the following amendments:

1. Amendment No. 2, proposed paragraph (*b*) (i), omit "one" and insert "two".

2. Amendment No. 2, proposed paragraph (*b*) (i), omit "three" and insert "five".

3. Amendment No. 2, paragraph (*b*) omit proposed sub-paragraph (v).

The amendment has been the subject of considerable discussion between all parties and other interested organisations.

The government agrees with the prescription in the Act of organisations from which nominations must be sought of persons for appointment to the Firearms Consultative Committee. However, ideally the government wants those organisations from which nominations are currently sought to be so prescribed. The original amendment made by the Legislative Council did not do this. If that amendment were to be adopted, there would be no direct representation on the committee of the majority of shooters who are neither farmers nor members of gun clubs. Nor would there be any guarantee that pistol shooters would be represented. Accordingly, whilst agreeing with the principle of the amendment, the Legislative Assembly made a number of amendments.

Amendment No. 1 deletes the requirement for the Law Institute of Victoria to consult with the Victorian Bar Council on nominating persons for appointment to the committee. In practice, this would prove to be unduly restrictive. In the early years of the committee, two members, including the inaugural chairman, were appointed on the nomination of the Victorian Bar Council. However, experience indicated that the nature of a barrister's profession made it difficult for the committee to schedule its activities, both in its advisory role and its appellate role. Accordingly, for the past four years, it has been the practice to appoint solicitors to the committee. It would not be appropriate for the Law Institute of Victoria to consult with the Victorian Bar Council on the nomination of solicitors alone.

The second amendment prescribes those organisations from which nominations for membership of the committee are currently sought. These organisations are: the Shooting Sports Council of Victoria representing the owners of rifles and shotguns who belong to gun clubs or organisations affiliated with the council; the Victorian Amateur Pistol Association as the representative of pistol target shooters and persons, such as security guards, who carry pistols in their work; the Firearms Traders Association of Victoria as the representative of licensed gun dealers; and the Victorian Farmers Federation to represent farmers.

The fifth member of the council, appointed to represent the interests of the holders of licences under the Act, is nominated by the Minister to represent the majority of shooters who are not represented by the above organisations or, in fact, by any credible organisation.

The government is prepared, in the interests of the passage of the Bill, to delete the provision for a Ministerial nominee and to provide for the appointment of two representatives of the Shooting Sports Council of Victoria, selected from a panel of five nomineees. It is to be hoped that the council, in nominating its panel, will have due regard to the interests of the majority of shooters who do not belong to shooting clubs or organisations.

Direct representation for pistol shooters is retained to ensure an input from this group of licence holders.

The third amendment provides for the reconstituted committee to commence on 15 October 1988, rather than six months after the proclamation of the Act, as the current terms of appointment of all committee members expire on 14 October 1988.

The Hon. R. M. HALLAM (Western Province)—The National Party has no objection to the amendments proposed by the Legislative Assembly.

The first amendment deletes the requirement for the Law Institute of Victoria to consult with the Victorian Bar Council on nominating persons for appointment to the Firearms Consultative Committee. That amendment was included more by way of courtesy than as a practical arrangement. If the legal profession is represented on the committee, the National Party believes that, as a matter of courtesy, the Victorian Bar Council should be involved in that selection process. If that is not a practical process, the National Party is willing to agree to delete that provision.

The National Party accepts the minor restructure of the Firearms Consultative Committee. The amendment provides that persons representing the Victorian Amateur Pistol Association will be included on the panel of nominations. That organisation is affiliated with the Shooting Sports Council of Victoria, and it was felt that the organisation would be represented through the council.

The amendment guarantees that representation from the Shooting Sports Council of Victoria includes representatives from the Victorian Amateur Pistol Association.

The amendment to the starting date of the reconstituted committee is a practical alternative, and the National Party has no objection to it.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Liberal Party supports the compromise reached on this matter and is pleased with the agreement on the issues.

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.

RURAL FINANCE BILL

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

That this Bill be now read a second time.

This Bill constitutes the Rural Development Bank of Victoria, charged with the responsibility to promote the economic growth of regional Victoria and promote the establishment, growth and stability of, and increased opportunities in, rural industries in Victoria.

In its statement of policy *Victoria The Next Decade*, the government foreshadowed an enhanced and expanded role for the Rural Finance Commission. The commission has been identified as a financially strong institution with net assets of over $100 million, providing a range of financial services to rural Victoria. In the 25 years of its existence the commission, with good management, has built up a significant potential to maintain and expand its present role as well as increase the level of financial resources available for the economic development of provincial and rural Victoria.

The government, in the implementation of its policies, has perceived the capital resources and the expertise of the commission's staff as forming the basis for the establishment of a major public financial institution dedicated to development in all types of industries, particularly those based on agriculture.

The Rural Development Bank of Victoria will raise funding in the wholesale finance market to augment the lending patterns already established by the commission, as well as allowing the new bank to develop a much wider range of financial projects, particularly geared to rural industries, of which the most important segment is the family farm.

The government has set objectives and functions for the bank and this Bill puts in place the appropriate measures to give the bank a secure capital base and adequate fundraising powers, the repayment of funds so raised being guaranteed by the Treasurer. There is also

a considerably enhanced power to offer the widest range of financial facilities. As an example, it will be possible for the bank to take equity capital in target industries. It is also a requirement that the bank operate in close cooperation with existing financial institutions.

I assure the House the bank will not in any way be giving up the important function the commission now carries out in administering both Commonwealth and State assistance programs, including the Commonwealth Rural Adjustment Scheme. The Treasurer will be given the appropriate authority to ensure that there is no undue overlap of the functions of the bank, the State Bank and the Victorian Economic Development Corporation.

The Board of Management of the bank will consist of a minimum of five members and a maximum of seven appointed by the Governor in Council, and the chief executive officer of the bank. The board will appoint the chief executive officer with the approval of the Treasurer. The chairman of the board will be part time, with an option for board members to be full time or part time.

The bank, which will operate under the general direction and control of the Minister for Agriculture and Rural Affairs and within guidelines set by the Treasurer, will make loans, give guarantees and provide a wide range of other services to promote rural industries. Industries important to marketing rural products and located in the metropolitan area, as well as farmers carrying on business in the metropolitan area, are also eligible to utilise the bank's services.

Special provision is made to continue the financial assistance the Rural Finance Commission now gives to highly experienced and capable young farmers who need special financial arrangements to help them on their way to farm ownership. The fundraising powers contained in the Bill will enhance the funding available for young farmers and for special schemes of assistance as may be necessary from time to time.

Soldier settlement in Victoria commenced over 40 years ago for ex-service men from the second world war. Based on the successful operation of soldier settlement, a similar development program was undertaken for civilian farmers eligible to take up farms. The great bulk of soldier settlers have repaid their liabilities and administration now centres around the collection of purchase lease and mortgage payments and the subsequent issue of freehold title for land under purchase lease. Similarly, the land settlement projects in the Goulburn Valley and Heytesbury in the Western District and smaller projects elsewhere are in the process of finalisation.

The Bill repeals the Soldier Settlement Act and the Land Settlement Act and transfers the assets and liabilities in respect to those Acts to the bank. The Bill ensures that the existing rights of lessees, mortgagors and others having contracts with the commission in respect to these Acts are fully preserved.

In line with government policy and given the substantial capital asset backing the Bill provides for the bank, there is provision for the bank to pay the Treasurer an annual sum equivalent to income tax as if the bank were subject to Federal income tax. Provision is also made for the payment of a dividend as determined by the Treasurer after consultation with the bank. These provisions are similar to those in the current State Bank Act.

The Bill allows for the existing insurance powers of the Rural Finance Commission to be continued, whereby property which forms security for a loan may be insured by the bank at the bank's option.

In summary, the government believes a strongly based development bank with a special charter for rural Victoria is an important forward move to foster development and diversity, which will enhance the financial services being provided at present.

I commend the Bill to the House.

The Hon. B. P. DUNN (North Western Province)—The National Party welcomes the introduction of the Bill. I shall briefly comment about it and, in particular, about the Rural Finance Commission—or, as it will become known, the Rural Finance Corporation.

Honourable members who represent country areas will be aware of the role of the Rural Finance Commission in agricultural and rural matters. It is an outstanding organisation; and I speak not only about those who work at the top level of that organisation but also the most junior employees in the field. They all have a pride in the organisation and are committed to the work they perform. That makes the organisation unique and one of which all honourable members should be proud.

The chairman of the commission, Mr Ian Morton, is one of the most able people working in the financial industry in Victoria—certainly so far as agriculture is concerned. Although he has been criticised, his wisdom in dealing with the operations of the commission has always shone through. Members of the National Party have always valued the opportunity of being able to sit down with a cup of tea and talk to Mr Morton about the problems facing agriculture in Victoria. He is a person of sound ability with a fine reputation in the financial industry. His contribution to the commission, and to agriculture in general, has been outstanding. Mr Morton is supported by a number of first-rate people, such as Malcolm Smith, John Fox and Bob Douglas, of whom you would know, Mr President. Members of the National Party have had dealings with those people over a long period. They have built up considerable knowledge and expertise in dealing with the unique problems that face the rural community.

Through good luck and good management the Rural Finance Commission has suffered little from government interference; and that situation must continue. The Rural Finance Commission has been the success that it has because the government has not interfered as much as it could have on occasions in the day-to-day operations of the commission. Indeed, until now, the government has not tampered with the assets of the commission. The commission is financially soundly based to continue to assist the rural community.

Members of the National Party have occasionally criticised the decisions made by the commission. Such criticisms cannot be avoided in a volatile industry such as agriculture, where crises occur from time to time—for example, the fall in wheat prices, the effects of which are continuing. The fall in wheat prices had a disastrous effect on many parts of the grain growing areas of the State, particularly in 1985–86 and 1986–87. As I said, problems remain because of the fall in prices and those problems are still being addressed by both the banks and the Rural Finance Commission. At that time, the policies of the commission were criticised because more was expected of the commission; at times, I expected more of the commission. It was bound by the decisions of governments, both Federal and State. The Federal government, through the rural adjustment program, provided limited funds to be administered by the State government; and the State government did not provide additional funds for schemes such as the crop planting scheme in the Mallee, which had to be financed by the Rural Finance Commission.

At that time, the commission was unable to service a significant percentage of rural debt, the levels of which were enormous—and a high level of debt still exists. Although things have improved a little in the grazing industry, farmers in grain growing areas are still faced with huge debts. Although the Rural Finance Commission has serviced a certain percentage of that debt, it was expected to take an even greater role than it did at the time.

I defended the commission then because I believed it would have been self-defeating and would not have helped the situation if I, together with other members of the National Party, had also criticised the commission. Those who work for the commission have gained extensive experience of the booms and busts that occur in agricultural industries.

The Bill will provide the new Rural Finance Corporation with wider powers and greater scope to increase its support not only for rural industries but also for the development of other secondary and manufacturing industries in Victoria. The National Party hopes the widening of the corporation's scope will be used carefully. The National Party views the authority primarily as an organisation for Victorian primary industries. It hopes the corporation will not be asked to extend its coverage too widely in secondary industries to the detriment of the farming sector.

In recent decades Australia has lacked a financial institution that can provide the sort of money agriculture needs. The National Party had big hopes for the Rural Bank which was established by the Federal government. It was considered that that bank could fit the bill but it did not because its interest rates were even higher than commercial banks. When rural industries were in crisis, interest rates were 21 or 22 per cent, and the bank did nothing to assist the farming community. Trading banks offer short-term loans and their interest rates fluctuate. Often they ask for interest to be paid on a monthly or quarterly basis. Those provisions have not helped agriculture in Victoria.

The two institutions which have done the most for agriculture are what will now be the Rural Finance Corporation and the State Bank of Victoria. Together they have met some of the needs of the farming community.

National Party policy is to provide for a State rural financial corporation, and the powers in this Bill are probably adequate to achieve that objective, so long as the corporation has the resources and backup. As I said earlier, the National Party does not want government intervention in an independent organisation. One of the Rural Finance Commission's greatest strengths has been its independence and leadership, and I have already paid tribute to Mr Ian Morton.

An area to which more attention should be paid is providing assistance to young farmers. Every day as I move around the North Western Province, I witness the tragedy facing young people living on the land. Many young peole have seen their parents live their lives, often with a shortage of ready cash, while wage earners always appear to have cash in their pockets. It is not surprising, when these young people see their parents battling, that they decide that living on the land is not for them. They leave home, their parents sell the farm because there is no future, and the young people receive part of the proceeds to purchase their houses. Thus, young people are lost to the land. Many young people who are faced with the option of moving away or staying on the land would prefer to stay on the land.

The Hon. M. J. Arnold—They have been saying that for 30 years, but they still keep going on the land!

The Hon. B. P. DUNN—Young people are now leaving the land in greater numbers than ever, and that is a tragedy. Australian agriculture will suffer tremendously because of this consistent drain of young people leaving the land. What is needed is a young farmers' establishment scheme to help these people. At present the Federal scheme is grossly inadequate. It does not help the number of people that it should, and those whom it does help are assisted in only limited fashion. The National Party would introduce a lease purchase scheme so that young people could receive government financial support from the corporation towards the purchase of their first farms. At first they would lease the farm, say, for three to five years, until they had paid off plant and had some ready cash. They would then have the right to purchase the property at the initial purchase price paid by the corporation, and they would be backed by long-term finance at an advantageous interest rate through the corporation. There is a strong need to expand that lending area.

I refer to two aspects concerning the rural adjustment scheme administered by the Federal government in Canberra. The National Party has had difficulty with some of the requirements of that scheme, and believes many provisions should be reviewed. The Federal government applies an assets test to unemployment benefits. Normally if a person losses his job and is unemployed, he can qualify for unemployment benefits; but if he is living on a farm and loses his income, and is in virtual poverty, an assets test is applied and he cannot qualify for unemployment benefits.

During the crisis in the Mallee, unemployment benefits were drawn by some people who had absolutely no incomes. That was of significant assistance to those people but the option has now been closed off, which will make their situation even more difficult.

The National Party supports the Bill because it believes the Rural Finance Commission is an outstanding organisation and has strong leadership. The commission is not always

without criticism. If the National Party is concerned about an issue, it ensures that the criticism flows through to Ian Morton, the Chairman of what will be the Rural Finance Corporation.

The National Party hopes the government will continue to adopt a policy of not intervening in the running of the corporation to any significant extent because that is one of the organisation's greatest strengths.

On the motion of the Hon. R. I. KNOWLES (Ballarat Province), the debate was adjourned.

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

MENTAL HEALTH (AMENDMENT) BILL

The debate (adjourned from April 22) 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)—This small Bill is based on the fact that the Minister's second-reading speech noted:

> . . . 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 finetuned. The purpose of this Bill is to make the more pressing amendments required to the Act to improve its effectiveness.

It is distressing in the extreme that a Bill which passed through Parliament only two years ago is now back before the House to be finetuned before it can be fully proclaimed. It is a strong indication of how any major measure such as this places a heavy responsibility on the government to get it right the first time. The government did not do that, and this Bill is designed to amend the Mental Health Act and to make it workable.

There are substantial weaknesses in that Act which the Opposition alluded to in the 1986 debate.

The Opposition has had wide consultation on this Bill and has received submissions from organisations such as the Royal Australian and New Zealand College of Psychiatrists, the Australian Medical Association, the Schizophrenia Fellowship of Victoria, Inc. and the association for State-employed psychiatrists.

The strong view of those organisations is that the Opposition should not oppose the Bill, and that is the stance it has adopted. Although there are some remaining areas of the Mental Health Act that can be debated legitimately, now is not the time to do so. In the future the Opposition will raise its concerns about the administration of mental health in this State, but this Bill is not the proper forum to do so.

I place on record the Opposition's concern that the Bill was introduced into Parliament without any public consultation. The Bill is a classic example of a legislative proposal that has been prepared in a way that ignores community input and ignores the views of professional and community groups—which is the low-water mark on how to prepare good legislation. That view was expressed by a number of groups. In a letter to me dated 14 April 1988 from the Association of Relatives and Friends of the Emotionally and Mentally Ill (ARAFEMI) Victoria Inc., the president, Georgie Shield, said:

> We are disappointed that amendments to the Mental Health Act 1986 have been drafted and are now before the Parliament without adequate consultation with people whose lives may be affected by the Act.

That serious view was echoed by an organisation known as Changing Attitudes Towards Schizophrenia—CATS. In a letter to me of 14 April 1988, Barbara Briggs, on behalf of that organisation, said:

> The CATS group, a group of concerned parents all of whom have a son or daughter with schizophrenia, wishes to express our concern over the amendments to the Mental Health Act 1986, currently under debate in Parliament.

We are concerned for two reasons:

(1) We have been given no opportunity to contribute our opinions on the Mental Health Act or the proposed amendments . . .

In a letter to the *Age* of 22 April 1988, that view was taken further. The letter was signed by Gaby Marcus, Education and Information Officer of the Mental Health Legal Centre, who said:

The Mental Health Legal Centre would like to voice our objection to the way in which the government is streamrolling its amendments to the Mental Health Act through Parliament. Haven't they heard of community consultation?

Obviously the government has not taken the matter seriously, and it is a blight on Health Department Victoria that such an important set of proposals can be proposed in Parliament without the views of people in the field having been sought. It is a process that the Opposition regards as unacceptable and one that the Opposition will not follow.

The Opposition has consulted widely since receiving the Bill, and the response from various bodies has, over a period, been positive.

The Royal Australian and New Zealand College of Psychiatrists has asked the Opposition to support the proposals, and in a letter of 27 April 1988, it states:

A special meeting of the executive of the Victorian branch of the RANZCP has considered the package of amendments up to 26 April 1988. The Victorian branch endorses the range of amendments as listed.

In a separate letter on 26 April 1988, Dr Margaret Leggatt, Director of the Schizophrenia Fellowship of Victoria Inc., said this about the proposed Bill:

The decision to allow people to be detained in a psychiatric inpatient service for "care" as well as "treatment", will help to overcome difficult situations with which this fellowship has been struggling since the new Mental Health Act was proclaimed. I refer to many young people whose schizophrenic disturbance is still so out of control that they cannot make the best use of community support facilities such as the fellowship.

I hope you will support this amendment to the Mental Health Act, as it will make a great difference to the well-being of people with schizophrenia.

There are a number of outstanding issues, and I shall briefly refer to them by drawing on three points of view put to the Opposition, among others, stating that there is a need to look again at certain areas of the Mental Health Act. Dr Cunningham Dax, who is a doyen in this field, wrote to me on 15 April 1988, and said, in part:

The Act itself included much which should never have been promulgated. As many of us anticipated, it has contributed to an inefficient Office of Psychiatric Services, a loss of trust and poor morale, an inflated bureaucracy, and the disappearance of professional advisers with a growth of the use of consultants. Worse still, there is the appalling clumsiness of the tribunal (board) and the needless and exhorbitant cost involved.

The Hon. D. R. White—Do you support him?

The Hon. M. A. BIRRELL—I share many of the concerns that have been expressed by Dr Cunningham Dax. The other concerns that have been expressed by organisations like the Royal Australian and New Zealand College of Psychiatrists relate to the definitions of voluntary and involuntary patients. That organisation has raised with me, in correspondence dated 29 April 1988, its concern about the distinction between "voluntary" and "involuntary" in relation to child psychiatric patients. It is the belief of the college, and many other psychiatrists, that the words used should not be "voluntary" and "involuntary". The distinction should be between informal patients and involuntary patients; with informal patients being defined similarly to patients who attend general hospitals. In a letter dated 29 April 1988, the Chairman of the Child Psychiatry Section (Victorian Branch), Mr Mark Lowen, said:

The section of Child Psychiatry (Victorian Branch) has had serious concerns about potential adverse affects of the Mental Health Act on child psychiatry in-patient units and . . . the programs they provide to their patients.

He went on to say:

> Until the advent of the new Act, all units admitted patients on an informal basis. This was found to be the most de-stigmatising way to ensure that distressed and disturbed children, adolescents and their families seek and accept the professional help they so desperately needed. In addition, the use of informal admissions is of importance because of the increasing trend in child psychiatry to admit the child together with his or her family. Such admissions enable better diagnostic assessments of the child and the family in what are usually very complex cases where it is of vital importance to deal with the pathology of the child and of the family and especially the way in which these issues interact with each other.

He concluded by saying:

> Under the current Act, there is no mention of informal status and patients in gazetted units must be either voluntary or involuntary. The legal processes involved in statutory voluntary admissions represent a serious stigmatising impediment to the delicate and cooperative process by which children, adolescents and their families are admitted to residential services.

That issue remains today just as it did prior to these amendments, and I can understand many groups, including the Royal Australian and New Zealand College of Psychiatrists and others, saying that if the Act is not amended in that way other amendments should be considered, but the government does not do so.

I conclude by quoting Dr Faika Jappie of the Police Surgeon's Office. That office is in the front line with many involuntary admissions, and Dr Jappie pointed out in a letter dated 15 April 1988:

> We have noted with interest that various amendments to the Mental Health Act 1986 are currently being proposed.
>
> As you are probably aware, the majority of admissions under section 9 are done by the Police Surgeon's Office.
>
> We are extremely concerned that there has been no consultation with interested and involved groups such as ourselves about these amendments. Indeed, we deplore the lack of publicity and public information on this issue. We also feel that the issue of transport of psychiatric patients should be addressed.
>
> We wish to register our concern in this matter . . .

The views that I have just quoted are not idle requests from people who have a particular interest in this area of the health portfolio; they have a practical concern about the weaknesses as they see them in the Mental Health Act. Many of those issues have not been addressed in the Bill.

Many of the proposals in the Bill have support in the community, and the Opposition will not oppose the Bill.

The Hon. K. I. M. WRIGHT (North Western Province)—The National Party supports the Bill. We have had representations from organisations in the community, similar to those received by the Liberal Party, and I shall not take up the time of the House by going through the responses, except to say that, in representations to Mr Rassaby of the Minister's staff, the National Party was able to answer a number of the queries and comments that had been raised by the various organisations. The National Party supports the Bill.

The Hon. G. P. CONNARD (Higinbotham Province)—I have some concern with clause 4 (2) regarding the appointment of community visitors by the Public Advocate rather than by the Minister for Health. What concerns me is not the excellent procedure of having community visitors, but the possibility of an inappropriate community visitor being appointed. The ability for the Minister to dispose of the services on the basis of the quality of the community visitor is appropriate, but it would be easier if the Minister directly dispensed with the services of an inappropriate community visitor.

I do not anticipate that that will be necessary but when one is considering any such appointment by the government—especially in this sensitive area of community visitors, which is also involved in several other aspects of government—one must always be aware that some community visitors may prove to be inappropriate, which will become apparent

when their activities are monitored. It is inappropriate to give these responsibilities to the Public Advocate rather than to the Minister, especially in respect of dismissals.

I compliment the government on proposing to include the words "or care" after "treatment" in clause 4 (4) (*c*) so that the clause relates not only to treatment but also to care. It is equally important to focus on the care of a patient and to reserve the continued treatment if required. It is not just custodial care but continous care that is required in the observation of a patient.

It is regrettable that clause 4 (5) is needed. The explanatory memorandum to the Bill states:

> As currently drafted, a patient admitted involuntarily to a psychiatric in-patient service cannot be treated for his or her mental illness until such time as the admission has been confirmed by the authorised psychiatrist.

It is unfortunate that the proposed amendment is required in the Bill but it is necessary because the department has not been able to provide a sufficient number of authorised psychiatrists at locations throughout the State. There is a definite shortage of psychiatrists. The government has not addressed the issue of providing psychiatrists in sufficient numbers at institutions where patients are admitted involuntarily and require that service. Because of that shortage, the amendment to the Act is necessary.

It is a step in a direction but it is not a direction that is approved by the Liberal Party, although I reluctantly agree to it. I encourage the Minister to secure the services of appropriate psychiatrists, especially in rural areas, and offer conditions that will attract psychiatrists to those areas so that the admission and treatment of involuntary patients is not delayed. It is extremely sad that the government has fallen down in the provision of psychiatrists to the services.

The Bill was read a second time and committed.

[Heading to Part]

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

1. Part heading preceding clause 1, line 2, omit this heading.

The amendment was agreed to.

Clause 1 was agreed to.

Clause 2

The Hon. D. R. WHITE (Minister for Health)—I agree with the Opposition and the National Party that these measures have warm support. The amendments proposed to the Mental Health Act arise from advice from the head of the Mental Health Review Board, Mr Neil Rees, and do not relate to policy issues, they are technical issues.

I note the comments made by Dr Cunningham Dax and in response I state that Victoria has the best Mental Health Act in Australia. We have, in the leadership of the Office of Psychiatric Services with Mr Tim Daly, Mr John Rimmer, Professor Singh and Mr Neil Rees, on the Mental Health Review Board, the best management team of psychiatric services in Australia. We have the best policy framework of any government in Australia—and that is now known and understood in Canberra—and the initiatives we are taking at Willsmere and Frankston are indicative of that.

We look forward to hearing from the Opposition and the National Party when they show sufficient interest in this area of human activity to produce some policy. With respect to the issue raised by the Royal Australian and New Zealand College of Psychiatrists regarding voluntary patients, we will be initiating a review of the legal status of voluntary patients for further consideration and that will be done in conjunction with the college.

With regard to psychiatric services, the department will develop proposals for more appropriate regulatory mechanisms for child psychiatric inpatient services in consultation

with service providers and other interested parties. With regard to issues of transportation, we will have further discussions with the police surgeons. I should like the House to know of current concerns about using psychiatric nurses. we also note the concerns about surgeons, and having police involved in that. It is an issue we wish to consider further.

I place on record the outstanding work that is being done by the Office of Psychiatric Services in ensuring that Victoria is not only at the forefront in changes to legislative policy and practice but is doing it in a way that is humane and sensitive and is producing no significant dislocation to those individuals who are being given maximum opportunity to spend the greater part of their lives back in their community.

The Hon. K. I. M. WRIGHT (North Western Province)—Contrary to what the Minister said, the National Party is most sensitive to these issues.

The Hon. D. R. WHITE (Minister for Health)—On a point of order. Mr Chairman, clause 2 of the Bill provides an opportunity for the Minister to respond to the remarks during the second-reading debate. It does not provide an opportunity for a member of the National Party or the Opposition to speak other than to the clause.

The Hon. K. I. M. WRIGHT (North Western Province)—On the point of order, Mr Chairman, an incorrect statement has been made and I want briefly to indicate——

The Hon. D. R. White—You do not have any policy. When will you produce a policy? You have not produced one piece of policy in three years on anything to do with health. That is the point I am making.

The Hon. K. I. M. WRIGHT—On the point of order or as a personal explanation—I do not care which way you rule, Mr Chairman, so long as it is on the record—the Minister has made an untrue statement. The National Party is sensitive to these specific problems. I completed my policy on both health and mental health more than a month ago and it will be released at a time convenient to the National Party, not at a time convenient to the Minister.

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

2. Clause 2, line 7, omit "This" and insert—

"(1) Section 15 (1) is deemed to have come into operation on 1 October 1987.

(2) The rest of this".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 3.

Clause 4

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

3. Clause 4, page 2, after line 6, insert—

'( ) In section 3 of the Principal Act, in the definition of "Senior officer", for "an approved psychiatric hospital" substitute "the Chief General Manager".'

4. Clause 4, page 2, line 15, omit 'after "treatment" insert "or care" ' and insert 'for "voluntarily submit to necessary treatment" substitute "consent to the necessary treatment or care" '.

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

Clause 5

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

5. Clause 5, page 2, line 36, after "5." insert—

'(1) After section 14 (1) of the Principal Act insert—

"(1A) For the purposes of sub-section (1), the criteria specified in section 8 (1) apply as if a reference to admission to and detention in a psychiatric in-patient service were a reference to making a person subject to a community treatment order." '.

6. Clause 5, page 2, line 37, after "treatment" insert "or care".

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

Clause 6

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

7. Clause 6, page 4, line 6, omit "sub-section" and insert "sub-sections".

8. Clause 6, page 4, lines 8 to 19, omit all words and expressions on these lines and insert—

"(5) Where on the trial of a person for a criminal offence—

(*a*) the person is found guilty; and

(*b*) the court has not received a report under sub-section (2) but, having regard to the criteria specified in sub-section (1) (*b*) (i), (ii) and (iii), the court is of the opinion that a hospital order may be appropriate—

".

9. Clause 6, page 4, line 21, omit "psychiatrist" and insert "psychiatric".

10. Clause 6, page 4, after line 27 insert—

"(7) A court, when making an assessment order, may include in the order the names of a person or persons who shall be responsible for taking the person to whom the order applies—

(*a*) to the psychiatric in-patient service named in the order; and

(*b*) from the psychiatric in-patient service to the court for the purposes of sub-sections (5) and (8).".

11. Clause 6, page 4, line 28, omit "(7)" and insert "(8)".

12. Clause 6, page 4, lines 31 and 32, omit "cause the person sent for assessment to be returned to the court" and insert "arrange for the person or persons named in the assessment order in accordance with sub-section (7) to return the person sent for assessment to the court or, if the court is not then sitting, that person is to be taken to and detained in a prison, police gaol, remand centre or youth training centre, as the case requires, until the court is next sitting".

13. Clause 6, page 4, line 33, omit "(8)" and insert "(9)".

14. Clause 6, page 4, line 33, after "deemed" insert ", whilst at the psychiatric in-patient service,".

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 7.

Clause 8

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

15. Clause 8, line 6, omit "31" and insert "32".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 9.

Clause 10

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

16. Clause 10, page 5, line 35, after 'transfer' insert—

'; and

( ) after sub-section (4) insert—

"(5) An involuntary patient subject to a transfer order under sub-section (1) or (2) may appeal to the Board against the transfer.

(6) On an appeal under sub-section (5), the Board must consider whether the transfer—

(*a*) will be of benefit to the patient; and

(*b*) is necessary for the patient's care and treatment.

(7) On an appeal under sub-section (5), the Board may—

(*a*) confirm the decision of the authorised psychiatrist or chief psychiatrist to transfer the patient; or

(*b*) direct that the patient—

(i) continue to be detained in the same psychiatric in-patient service; or

(ii) if the patient has already been transferred, be returned to the psychiatric in-patient service from which the patient was transferred." '.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 11.

Clause 12

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

17. Clause 12, after line 18 insert—

'( ) After section 49 (3) of the Principal Act insert—

"(4) A security patient subject to a transfer order under sub-section (1) may appeal to the Board against the transfer.

(5) On an appeal under sub-section (4), the Board must consider whether the transfer—

(*a*) will be of benefit to the patient; and

(*b*) is necessary for the patient's care and treatment.

(6) On an appeal under sub-section (4), the Board may—

(*a*) confirm the decision of the chief psychiatrist to transfer the patient; or

(*b*) direct that the patient—

(i) continue to be detained in the same psychiatric in-patient service; or

(ii) if the patient has already been transferred, be returned to the psychiatric in-patient service from which the patient was transferred." '.

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

Clause 13

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

18. Clause 13, page 6, line 39, after "basal ganglia" insert "; and".

19. Clause 13, page 7, lines 1 and 2, omit sub-clause (2) and insert—

"(2) In section 55 (2) of the Principal Act, sub-section (2) is repealed.".

20. Clause 13, page 7, line 10, after "Act" insert—

'—

(*a*) after "64." insert "(1)"; and

(*b*) '.

21. Clause 13, page 7, after line 14 insert—

(*c*) at the end of section 64 insert—

"(2) Despite sub-section (1) (*b*), the Psychosurgery Review Board must give its consent in accordance with section 66 if it—

(*a*) is not satisfied as to the matters specified in section 65 (*a*) and (*b*) because the person is not capable of giving informed consent; but

(*b*) is satisfied—

(i) as to the matters specified in section 65 (*c*) to (*g*); and

(ii) that it is in the person's best interests to have the psychosurgery performed.' .'.

22. Clause 13, page 7, after line 16 insert—

"( ) A neurosurgeon who performs psychosurgery on a person must make a written report to the Psychosurgery Review Board as to the performance of the operation within three months after the completion of the psychosurgery".

23. Clause 13, page 7, line 17, omit "(1) A person who performs psychosurgery" and insert "(1A) A psychiatrist who has arranged for a neurosurgeon to perform psychosurgery on a person".

24. Clause 13, page 7, after line 38 insert—

'( ) in sub-section (1), for "a patient" substitute "an involuntary patient or security patient".'.

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

Clause 14

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

25. Clause 14, page 8, line 28, omit "on behalf of any patient in" and insert "by".

26. Clause 14, page 8, line 31, omit "or" and insert ", mental hospital or repatriation".

27. Clause 14, page 9, line 41, omit "the psychiatric in-patient service" and insert "a psychiatric hospital, mental hospital or repatriation mental hospital under the *Mental Health Act* 1959".

28. Clause 14, page 10, line 4, omit "by" and insert "for".

29. Clause 14, page 10, line 26, omit "in" and insert "In".

30. Clause 14, page 10, line 27, omit "(*d*)" and insert "(*c*)".

31. Clause 14, page 10, line 32, omit "patient's" and insert "patients' ".

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

Clause 15

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

32. Clause 15, page 10, line 35, after "15." insert—

'(1) In section 94 (3) of the Principal Act—

(*a*) for "or mental" substitute ", mental hospital or repatriation"; and

(*b*) omit "to have been proclaimed under this section".'.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 16.

Clause 17 was negatived.

Clause 18 was agreed to.

Clause 19

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

34. Clause 19, page 11, lines 27 and 28, omit paragraph (*a*).

35. Clause 19, page 12, lines 1 to 5, omit paragraph (*e*) and insert—

'(*e*) In section 113, for sub-section (3) substitute—

"(3) After seeing a person who has requested to be seen, the community visitor may submit a report to the chief psychiatrist and the Public Advocate containing such recommendations as he or she considers appropriate.";'

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 20.

Clause 21

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

36. Clause 21, line 2, after "21." insert "(1)".

37. Clause 21, lines 2 and 3, omit ", for paragraph (*c*) substitute—" and insert—

"—

(*a*) for paragraph (*c*) substitute—".

38. Clause 21, lines 5 and 6, omit "patient in any psychiatric in-patient service; and" and insert—

"person by a psychiatric service within the meaning of section 106 which is operated by the Chief General Manager; and"; and

(*b*) for paragraph (*h*) substitute—

"(*h*) standards of care for persons receiving service from a psychiatric service within the meaning of section 106; and".'.

39. Clause 21, after line 6 insert—

'( ) After section 142 (2) of the Principal Act insert—

"(3) The Chief General Manager may in a particular case waive any fees or charges that would otherwise be payable under sub-section (1) (*c*)." '.

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

Clause 22

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

40. Clause 22, line 11, after "credit" insert "to".

41. Clause 22, line 13, omit "or on behalf of".

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

Clause 23

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

42. Clause 23, lines 20 to 23, omit paragraphs (*a*) and (*b*).

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

New clauses

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

43. *Insert the following new clause to follow clause* 7:

Repeal of Division 4 of Part 3—Repatriation Patients.

"AA. Division 4 of Part 3 of the Principal Act is repealed.

Appeals to Board against transfers.

'BB. After section 22 (1) (*c*) of the Principal Act insert—

"(*ca*) To hear appeals against the transfer of involuntary patients and security patients;" '.

44. *Insert the following new clause to follow clause* 16:

Amendment of section 106.

'CC. In section 106 of the Principal Act—

(*a*) in sub-section (2), for "patient" (where twice occurring) substitute "person"; and

(*b*) in sub-section (4), for "patient" substitute "person, other than a patient in a psychiatric in-patient service"; and

(*c*) in sub-section (5), for "patient" substitute "person".'.

45. *Insert the following new clause to follow clause* 20:

Amendment of sections 132 and 133.

'DD. (1) In section 132 (1) of the Principal Act, for ", 59 (2) (*b*) or 68 (2) (*b*)" substitute "or 59 (2) (*b*)".

(2) In section 133 of the Principal Act for ", 59 (2) (*b*) or 68 (2) (*b*)" substitute "or 59 (2) (*b*)".'.

The new clauses were agreed to.

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 doing so, I indicate that I look forward to hearing the policy of the National Party.

The motion was agreed to, and the Bill was read a third time.

RURAL FINANCE BILL

The debate (adjourned from earlier this day) 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 Liberal Party supports this important Bill because it provides a more appropriate structure for the continuation of the Rural Finance Commission. Honourable members who have had any association with the commission cannot do anything other than admire the leadership of Mr Ian Morton and the constructive and positive role the commission has played over many years. It would be interesting to contrast the role played by the Rural Finance Commission and its success with that of similar organisations interstate or, as Mr Dunn mentioned, the Australian Rural Bank that was set up some years ago.

Over the past 25 years the Rural Finance Commission has built up a capital base from virtually nothing to something like $125 million. I understand that it is likely to record a profit of $20 million this financial year, a profit that has been achieved at the same time that the commission has been assisting many farmers. It plays a crucial role in rural credit, meeting, as I understand it, approximately 18 per cent of the credit needs of the State. The Bill will provide an appropriate structure to enable that role to continue. It provides safeguards against a Treasurer who may wish to take the profits of the corporation. For all those reasons the Liberal Party supports the Bill. I take this opportunity of placing on record the Opposition's admiration and respect for the leadership Mr Ian Morton has given the commission.

The Hon. F. J. GRANTER (Central Highlands Province)—I am sure every honourable member who represents a country area would like to pay a tribute to the Rural Finance Commission and its activities throughout Victoria. As a member who represents a country area, I have introduced many farmers to the commission so they could take out loans to continue their farming activities. In the past 24 years the number of farmers I have recommended to the commission is more that 100. I do not think one of those people has made a loss.

In the early days, the Rural Finance and Settlement Commission, as it was known then, filled the gap when banks would not extend loans to farmers. The commission did not provide a concessional interest rate but it provided a long-term loan. I could name many farmers who have continued farming with the support of the commission.

Mr Ian Morton, the chairman, has been with the commission for approximately 30 years. He was appointed by the late Keith Turnbull, a former Minister of Lands, and I do not think Mr Morton had specialised training in this field. He has certainly made a contribution to the Victorian financial institution industry. He has been a member of the boards of the State Bank, the Rural Finance Commission and now to be the Rural Finance Corporation of Victoria.

I agree with Mr Dunn's comments about young farmers. Greater consideration should be given to young people who wish to take up farming as an occupation or a profession. Not enough is currently being done for them. Many parents do not have the wherewithal to support their children in starting a farm, but young people are enterprising enough to get out and do something on their own. Their fathers and mothers may wish to retire and

hand over their farms to their children but this is not always possible because the parents need the capital from the farm to buy a home in a country town and to live on.

The Rural Finance Commission Board impresses me very much with Mr Morton as its chairperson and John Fox and Malcolm Smith as members. I well remember Friday, 16 January 1986, when the bushfires went through Heathcote. On the following Sunday, Malcolm Smith visited the district and asked vineyard owners and farmers whose properties had been burnt out what assistance the commission could give them. I was impressed with Mr Smith because he went to Heathcote in his own time and probably in his own car.

With the management headed by Mr Morton, the commission will continue to generate the funds it has in the past to assist farmers. Although I am aware that in the past the Federal government has assisted the commission with money, it has not received much from the State government. The commission has been partially under the control of the Federal government as to repayments of government loans.

The Rural Finance Commission has greatly assisted farmers, placed them on farms and allowed them to continue farming whereas, in other circumstances, when banks have wanted to foreclose on farmers' loans, they would not have had that opportunity. Like other honourable members, I support the Bill.

The motion was agreed to.

The Bill was read a second time.

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

That this Bill be now read a third time.

I appreciate the comments of the opposition parties and the support they have indicated for the work of the Rural Finance Commission in the past, especially for the work of Ian Morton over the years, and the extension of that work in the future.

I make an apology for a mistake in the second-reading notes used today. The notes are old in the sense that they still refer to the rural bank when in fact they should refer to the Rural Finance Corporation of Victoria. The change was the result of an amendment made in another place.

The motion was agreed to, and the Bill was read a third time.

ACCIDENT COMPENSATION (FURTHER 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.

STATE BANK BILL

The debate (adjourned from May 3) 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)—I do not intend making my quite frequent complaint about Bills being dealt with in an inappropriate rush towards the end of a sessional period. Although it is undesirable that the government should put an end to the sessional period to prevent legitimate interests being consulted—Parliament should be recalled next week to deal with this matter—nonetheless, the Oppositon had time to consult with most interested parties before the two last desperate weeks of rapid legislating.

The Opposition is satisfied that, as the shadow Treasurer said, the Bill is important. It is not directly changing the existing state of affairs; it is giving the State Bank a better drafted charter for its activities, and that is desirable because, despite what the Premier

and others may say from time to time, the Liberal Party has a long record of supporting the socially and economically useful work of the State Bank. The Liberal government has supported the State Bank over the past seven years to the extent of its powers so that it can compete in the marketplace.

Without going over matters that have been adequately covered on behalf of the Opposition, our principal concern is that there should be the much talked about level playing field for the bank to compete fairly and only fairly with other banks in the commercial sector. If what is said by the government is to be accepted, there is no doubt that the Treasurer and the government accept that principle.

It is wrong that the State Bank should be able to take undue advantage of tax and duty exemptions, or the right or privilege of the Crown not to file prospectuses or not to comply with regulations or administrative orders from the commissioners for corporate affairs or life insurance, for example.

I am content to believe probably the strongest support in the public sector for this position comes from the Chairman and from the Managing Director of the State Bank—Messrs Arnold Hancock and Bill Moyle, respectively, both of whom come from the private sector.

The Hon. D. R. White—They are excellent appointments. You described all our appointments as "captive" the other day, those are three exceptions we now have—the Auditor-General and those two.

The Hon. J. V. C. GUEST—I think the government has appointed an excellent Governor, too.

The Hon. D. R. White—That is four. We are building onto the list!

The Hon. J. V. C. GUEST—And it even kept on one or two good people!

The Hon. D. R. White—I want to know who they are!

The Hon. J. V. C. GUEST—I think the President will stop either one or both of us very soon, so I shall continue with my contribution. I am content that these gentlemen who have come from the private sector have no inhibition about competing fairly and only fairly in the banking sector. The exception that, perhaps, still remains in the law relating to the State Bank as it will be after the Bill is passed is not an exception that these gentlemen especially desire to take advantage of. In some areas, the State Bank cannot compete on all fours with the commercial banks. In order to be a State bank and, above all, to provide revenue in the form of income tax to this State, it has to be an emanation of the Crown and it has to fulfil the constitutional requirements of a State bank.

For that reason, the desirable increase in the capital of the bank is, in many respects, comparable to commercial equity capital. It has to be achieved if the taxpayer is not to put funds from the Consolidated Fund into the bank by such devices as have been used in the Bill, whereby a number of other Crown bodies can hold shares which carry dividends and no other rights but dividends in the State Bank.

It is not absolutely true to say that they carry no other rights but dividends. Despite an amendment in the other place, the Bill will allow fresh capital to be created with a number of rights attached to it. It is hard to think of any and they may be only preferential dividend rights, excepting only voting rights. The Opposition has no strong objection to the provision. For my part I should like to think that the attempts to provide a share capital are a precursor to the privatisation of the State Bank. That is the policy of the Liberal Party and I hope it will be the policy in future of the government, which is learning slowly. Were it to learn some lessons from the Federal Labor government, it may well be that, in future, the present government will support the Liberal government in the privatisation of the State Bank.

The interesting factor to have emerged recently is the enthusiasm of many people in the public sector for the privatisation of their activities. Management bias has become common enough and the advantages of privatisation are quite obvious, particularly to bank managers. It has now been purported that the New South Wales State Bank senior executives and the board are in favour of privatisation support being received from the Commonwealth Bank and, likewise, from Qantas Airways Ltd.

It is hoped the Victorian government will eventually catch up. Certainly, the State Bank will have no problem with the senior management of the board accommodating competition in the private sector with equanimity.

In the past I would have expected that the peculiar type of relationship between the National Party and the State Bank might have got in the way of privatisation, but it is readily recognised by all parties that a banking sector that has fifteen or sixteen private trading banks, not counting the numerous specialist merchant banks and so on, is not a banking sector in which it is really necessary to foster a relationship of the kind that State financial institutions used to foster, especially in propping up sectors of the housing market or the rural sector.

Some evidence exists that the cottage industry organisation is departing from the public financial sector. The Rural Finance Bill gave evidence of the same tendency. The satisfactory aspect of both measures is that all parties are coming to understand the importance of truly competitive market-oriented organisations that will provide all the services that organisations such as the State Bank, as it was formerly constituted, provided simply because they are in competition and are all seeking to find a niche in the market.

During the Committee stage, the Opposition will propose two amendments to ensure both a level playing field and proper disclosure of information about an organisation that still remains heavily under the influence of the executive government, particularly the Department of Management and Budget. The proposed amendments both relate to clause 46, and I shall not outline them before I deal with that clause. Some attention has been paid to them when the Bill was debated in the other place.

The Life Insurance Federation of Australia would like the Opposition to propose certain amendments. The association has approached the Treasurer and the Opposition to express its dissatisfaction with the limited nature of the amendments made in the other place to prevent the State Bank competing unfairly with those organisations in the private sector that are under supervision of the Federal Office of the Life Insurance Commissioner. The power in the original Bill for the State Bank to conduct life insurance business generally has been limited so that it will deal with mortgages and true banking business.

There remains, however, in the clause outlining the functions of the bank a provision to allow it to engage in the writing of annuities. It has been pointed out that, on the one hand, that is a broad description so that business that may be well beyond what constitutes annuities business within the meaning of the Commonwealth Life Insurance Act can be conducted while, on the other hand, it has been pointed out that that business which would require detailed submissions to the Office of the Life Insurance Commissioner if conducted by a private company can be conducted by the State Bank without such impediments to its low cost administration or the offering of terms that are improperly generous, regardless of whether they involve cross subsidisation or an undertaking of excessive risk.

I understand that the Treasurer has not expressed a willingness to accept any amendments. However, it would be helpful if the Minister for Health, on behalf of the Treasurer, expressed the clear understanding with regard to annuities business and other business in which the State Bank takes part—for example, in marketing of approved government funds—that the bank will operate and be made to operate on a level playing field without having advantages afforded to it by its status as the State Bank. I trust that the Minister will give that assurance.

Prior to the suspension of the sitting, I met with a deputation from the Life Insurance Federation of Australia, and it indicated that it would gain satisfaction to some extent by meeting with the excellent custodians of the State Bank, Mr Hancock and Mr Moyle, who, as I have said before, have no desire to trade unfairly. I understand that a memorandum of understanding could be drawn up so that the difficulties—of which honourable members have been reminded so forcibly by the legislation debated this week—of trying to embody in legislation controls on delicate, fluctuating situations can be avoided.

I shall make one observation arising from the discussions I have just mentioned. A range of business is likely to increase as the State Bank fills one niche after another. The bank has some advantages; I understand it is not required to lodge a prospectus when launching an approved government fund, as is the case with the conduct of annuities and the requirements of the Life Insurance Commission. Any diminution in the amount of paperwork that must be done by the State Bank must give it a competitive advantage. I do not believe the bank should be required to engage in that paper work, but, if it does not fulfil the requirements of other commercial organisations with which it competes, there must be good reason for that. That reason cannot be that the requirements are simply unnecessary because, if that is the case, we should get rid of the requirements.

I hope that the Minister will address himself to my concerns, especially those about annuities. In general, the Liberal Party supports the Bill and it supports, as it has for many years, the activities of the State Bank.

The Hon. B. P. DUNN (North Western Province)—On most occasions, members of the opposition parties are called on to be critical of what the government has done through various decisions it has taken. However, I commend the government for its action regarding the State Bank. The government removed the shackles from the bank that were placed on it by the previous government. The bank had been placed in an intolerable, uncompetetive position. It had restricted capacity to expand and do what it ought to do as a bank in the current system.

Since the government came to office and changes have been made, the State Bank has been one of the great success stories in Australian banking. I should like to commend not only the government but also the people at the management level of the bank who have taken it into a new era. The bank is one of the most modern, technologically advanced and dynamic forces in the Australian banking industry. The appointments that have been made have certainly assisted in that regard.

Most honourable members well know the bank's chief executive officer, Mr Moyle. I recognise also the work of the chairman of the board, Mr Hancock, and the commissioners: Mr Smith, Mr Baker, Mr Ironmonger, Mr Morton—whom other honourable members have already mentioned today—Mr Marsh and Mr Renard. Those people have led the State Bank into a new era. They work in modern premises and use modern banking techniques and, frankly, that has achieved great results.

When one examines the bank's latest annual report for 1987 one can see some of these achievements. Group capital funds rose, on balance sheet figures, by 60 per cent to $700 million. The group operating profit after tax and extraordinary items rose by 36·8 per cent to $133·1 million, despite a 12·4 per cent dowturn in the bank's operating profit before tax to $85·3 million. Total group assets were $16·3 billion, an increase of 31·3 per cent for the year. Market share increased again, despite competition from sixteen new banks. One could list numerous achievements by the bank, such as the fact that the bank's knew corporate logo was well established in the Victorian market, and I certainly agree with that; consumer insurance products were introduced; the Hong Kong office and State Bank of Victoria Asia Ltd were established. The list of the bank's achievements over the past year is extensive.

The bank plays an important part in Victoria's banking system and it leads the way in a number of areas, a couple of which I shall mention. I suppose most honourable members first became involved with the State Bank when they were at school, because the usual

initiation one has to banking is when one receives a State Bank passbook. I well recall, when I was in primary school, taking my passbook and my small amount of money to school and banking it with the State Bank each week. I am sure most children do that even now.

The bank plays a significant role in housing finance even today. Its annual report points out that after the regulation of interest rates on loans in April 1986—this is in regard to housing—other lenders re-entered the market and the State Bank's housing finance market settled back from a peak of 50 per cent share of the housing market to a more normal level of 33 per cent for much of the year. However, the bank's position as a market leader was not challenged, so it leads the way in housing. At one stage, as the report states, it had up to a 50 per cent share of the housing market.

I refer now to the bank's expansion into rural lending. When honourable members were discussing the Rural Finance Bill earlier today, I pointed out that both the Rural Finance Commission and the State Bank led the way in funding for agricultural industries. The State Bank has a very effective method of dealing with farm and rural loans. It is necessary to have a valuer or a person at a regional level who can deal with the applications for such loans, instead of the applications being sent to the head office in Melbourne and being dealt with by someone who does not understand the local situation.

The bank now has a team of valuers who cover the whole of Victoria. It is possible for them to make a decision to approve a loan at the local level, without having to refer to the head office in Melbourne or undergo other procedures. On behalf of his client, the bank manager can, through the bank's local regional valuer, actually approve those loans and undertake all the necessary paperwork and investigation. That is a considerable advantage and has attracted a vast amount of rural involvement and lending through that bank. I commend the State Bank for moving into that aspect of its operation and expanding its involvement in that area. People in many country towns rely on the State Bank. It is one of the few banks that has a shopfront presence, and it is certainly a wonderful asset for the bank to be able to expand into rural lending in order to meet the financial needs of rural industries.

The House is debating the passage of a proposed new State Bank Act; the Bill proposes a re-enactment of existing legislation, but it also contains a number of fairly significant changes. Of course, the Bill expands the financial functions and operations of the bank, but it also provides for fairly tight Ministerial control. Clause 29 provides the Minister with fairly considerable powers. Subclause (3) states:

> If the Minister and the Board do not reach agreement, . . .

That is, after a period of consultation on policy and so forth—

> . . . the Minister may, in writing, determine the policy . . . to be adopted by the Board and inform the Board that the Government accepts responsibility for the adoption by the Board of that policy . . .

The clause then provides that the Minister must ensure that that policy is published in the *Government Gazette* and so on. The provision allows considerable influence at a Ministerial level in the policy of the bank. I assume that will not apply unless there is a disagreement on an issue, but the power will have to be exercised carefully by the Minister and the government. I am sure they would not want to interfere unnecessarily in the bank's operations.

The original draft of the Bill that honourable members received enabled a director of the board to be replaced by the Minister. When the Bill was debated in another place, the National Party sought to restrict the government's capacity to remove a director from that position without reason. If that action were taken—and it is unlikely to be taken—the reasons would have to be presented to each House of Parliament and Parliament itself would be able to make a contribution and a decision on the issue.

I refer now to clause 38, in which the government is really exacting a tax or a compulsory payment from the bank, which is proposed to be equivalent to the amount of income tax

that would be payable to the Commonwealth if the bank were a public company. Therefore, the bank must pay a dividend to the Victorian government, the amount of which will ultimately be determined by the Treasurer based on the amount that it would have paid in income tax if it had been a public company. I suppose that provision is in line with the government's policy on public authority dividends and contributions from similar bodies.

I shall make no further comments other than to state that the National Party wishes the State Bank well. We recognise that it has done exceptionally well in recent years and we trust that the new Bill will assist the bank to expand further in the years ahead.

The Hon. G. P. CONNARD (Higinbotham Province)—I join Mr Guest, Mr Dunn and the Minister in complimenting a great Australian bank—the State Bank of Victoria. As one who has been associated with the bank since my early schooldays when I banked threepence a week, I am pleased to see that, with all those threepences from many people, the bank has become such an important Australian bank.

I wish to address clause 47, which deals with audits. I have a copy of the annual report of the State Bank for the year 1986–87 and I notice in the report of the auditors that two sets of auditors are appointed—one by the commissioners of the State Bank of Victoria, and the other by the Governor in Council. Several of the subsidiaries of the bank are not audited by the official auditors of the institution, according to H. N. Hewitt and B. Solnordal. The names of those subsidiaries and their auditors are:

Tricontinental Holdings Limited (and subsidiaries)	Galdnet Pty Ltd
S.B. Victoria Funding Inc.	Lasoace Pty Ltd
SBV Asia Ltd	Balesroom Pty Ltd

The operations of those companies are not recorded in the report of the auditors in the annual report. Those honourable members associated with the Economic and Budget Review Committee, particularly the Public Accounts Subcommittee, from time to time have consultations with the Auditor-General whose desire, I understand, is to accummulate information on the total assets and liabilities of the State.

The Auditor-General has mentioned from time to time that he believes he should at least have an overview of the several arms of government and the statutory authorities, as well as those that he already audits. The State Bank is one of the authorities that the Auditor-General does not audit, and so he cannot determine in any way for report to Parliament the exact status of the bank and its associated assets and liabilities. One of the arms of the State Bank is Tricontinental Holdings Ltd. It is almost imposible for anybody in Parliament to find out what that company does except from a report it shows to the bank itself.

Approximately two years ago in a significant debate in the Western Australian Parliament the Western Australian government was accused of corruption in a certain case associated with abattoirs in one of the rural areas of Western Australia. It was alleged in Parliament at the time that Tricontinental Holdings Ltd had given in excess of $1 million, through the Burke government, to make a major financial attack on an individual. Tricontinental was accused, because of a lack of security, of being involved in corruption. It is impossible for any member of this Parliament to pursue that and be assured of the honesty of Tricontinental Holdings Ltd. In my heart and mind I believe Tricontinental Holdings Ltd, with the bank under the control of the existing board, is free of corruption. But we should be assured of that by whatever process is available. Quite simply, the appropriate process is the Victorian Auditor-General.

All honourable members know and recognise the high standards of the office of the Auditor-General, especially the current Auditor-General, Mr R. G. Humphry and his predecessor, Mr Waldron. The Auditor-General continues to express to the Economic and Budget Review Committee the desirability of having at least the Auditor-General as the responsible officer for all of those sectors for which the government is responsible—and the government is given responsibility for the State Bank through the proposed legislation.

It is indeed appropriate and proper that the Auditor-General should make comments on the bank, as he does with other government instrumentalities. The government has addressed the issue in part. Clause 47 (1) provides:

> The financial statements referred to in section 46 must be audited by a registered company auditor appointed by the Board with the approval of the Auditor-General.

However, that is only the approval of the Auditor-General in respect of the status of the auditors: it does not say that the Auditor-General can undertake a direct relationship with or provide guidance to the State Bank or its auditors.

I should have thought the government woud take up the option of at least introducing in the new Bill the opportunity for the Auditor-General to provide some form of control and advice so that, in his wisdom, he could comment on its activities through his normal reporting process to Parliament.

In recent times in addition to auditing the accounts of instrumentalities, the Auditor-General has also looked for value-for-money audits and other appropriate management improvement opportunities to ensure that Parliament is obtaining its objectives from those authorities. The government has been perhaps a little weak. I should specifically like the Minister to answer the question: why has not the government, in the Bill, gone the whole way and permitted the Auditor-General to have a proper overview of the State Bank with an appropriate report to Parliament accordingly?

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 45 were agreed to.

Clause 46

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

> 1. Clause 46, line 29, after "appropriate" insert "including, unless the Treasurer otherwise directs, the information required under section 270 of the *Companies (Victoria) Code* to be included in the report of a company within the meaning of that Code".

The Treasurer has agreed to two amendments to the Bill. The first amendment relates to clause 1, which deals with the preparation of the annual report and the accompanying financial statements.

The shadow Treasurer in the Legislative Assembly moved an amendment that would require the State Bank, so far as practicable, to comply with all the relevant provisions of the Companies (Victoria) Code, as if it were a company within the meaning of the code. The amendment relates only to the preparation of the financial statements. However, from the debate it appeared that the shadow Treasurer was referring to the reporting requirements generally, that is, the preparation of the annual report and the financial statements.

The shadow Treasurer's rationale is that the State Bank should have the same reporting requirements as the private banks. Both the Leader of the National Party and the Treasurer agreed with that general principle.

The proposed amendment has the objective of placing the State Bank on the same footing as private banks. The government's response to the statements in the other place is the proposed amendment.

As I have said, the amendment seeks to make it clear that the State Bank must comply with section 270 of the Companies (Victoria) Code, which sets out the matters which should be covered in the director's report, or, in the case of the State Bank, the annual report, unless the Treasurer exempts the State Bank from such compliance. Under the code, it is open to private banks to seek exemption from the Commissioner for Corporate Affairs.

The amendment does not, however, require the State Bank to comply with the code when preparing its financial statements. Private banks are themselves exempt from the accounting requirements in the code because they are required to file annual reports under the Commonwealth Banking Act. When reporting or accounting to their shareholders, private banks follow the code's requirements on a voluntary basis, but subject to certain exemptions.

The Treasurer has powers under clause 46 (3) (*b*) and (*c*) to determine the form and content of the State Bank's financial statement. The Treasurer has indicated that he proposes to use those powers to require the State Bank—to the extent that it is not already doing so—to prepare financial statements that are in a form and contain a degree of disclosure which, so far as is practicable, is consistent with the private banks.

For that reason, the Treasurer has proposed and advised me to put an amendment which meets the issues raised by the shadow Treasurer in another place. That removes the need for Mr Guest and the Opposition to continue with their amendment.

The Hon. J. V. C. GUEST (Monash Province)—Perhaps I might ask whether the Minister for Health has a copy of the Opposition's amendment, which is slightly different from the amendment moved in the other place in that it picks up the point made about commercial banks being exempted from some of the provisions of the Companies (Victoria) Code and ensures that the State Bank would be similarly exempted. With the support of the National Party, the Opposition has amended its amendment to meet the problem referred to by the Treasurer.

The Opposition wishes to insist on the amendment which has been drafted with the assistance of Parliamentary Counsel and which would appear to incorporate precisely what is needed without leaving a discretion for the Treasurer. This seems to be unnecessary in practice and certainly undesirable in principle.

It has not been possible to digest immediately the statement that the Minister has just read out. The Opposition does not seek to simply use its numbers because we have not been able to absorb the reasons which have just been put before us. Unfortunately, we were not given a copy of the Minister's statement in advance. Unless the Minister is willing to accept the Opposition's amendment, it might be better to report progress so that discussion can take place.

The Hon. D. R. WHITE (Minister for Health)—The government's problem with the amendment proposed by Mr Guest, which may be supported by the National Party, is that the regulations under Schedule 7 of the Companies (Victoria) Code do not provide an obligation on private banks to comply with and follow that schedule. I understand that private banks do comply with it on a voluntary basis but the letter of the law does not require compliance. That has been taken into account by the government's proposed amendment. Because I believe that further discussion would assist in the matter, I shall seek leave to report progress and sit again later this day.

Progress was reported.

CRIMES (CUSTODY AND INVESTIGATION) BILL

The Bill (adjourned from May 3) 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. HADDON STOREY (East Yarra Province)—The Crimes (Custody and Investigation) Bill is important. It is not the culmination of but a further step in the saga of the power of members of the Police Force to interrogate a person suspected of criminal offences.

We have had a sorry history of legislation over the past few years on this matter. The government introduced legislation which imposed a time limit of 6 hours on the ability of police officers to question persons about criminal offences. When the legislation was

introduced, there were many objections to its impracticability and the fact that it would hamstring the police.

The government called for a review of what has happened with the operation of that legislation and it became clear from the review that there were all sorts of problems about the way the law was working.

The Opposition has consistently taken the view that it is important to give police officers the opportunity of asking questions of witnesses and people suspected of crimes and the ability to carry out investigations in the interests of the community. If the police are not able to properly investigate, it makes life easier for people who have committed crimes and lessens the safeguards that the members of the community deserve.

The Opposition was so concerned about that that it introduced a private member's Bill setting out a concept of how police powers to question witnesses should operate. That Bill struck the correct balance between the interests of law enforcement officers on behalf of the community, on the one hand, and the interests of people suspected of crimes on the other.

The Opposition very much regrets that the government did not see fit to proceed with that proposed legislation. The government has introduced its own Bill, the Crimes (Custody and Investigation) Bill. The Bill contains a number of provisions concerned basically with the ability of the police to ask questions of suspects and includes certain limitations on the operations of those provisions.

One of the important aspects of the Bill is that it provides for the mandatory tape-recording of the notification to a person of his rights under the proposed legislation, and of the questioning of a person under suspicion. The Opposition believes there are a number of problems about the Bill. It wishes the government had chosen to adopt the Bill introduced by Mr Chamberlain. That concern has been expressed quite widely by a number of people within the community, and particularly by members of the Police Force.

The Police Association of Victoria has written to Mr Chamberlain, the spokesman on these matters for the Opposition, registering its opposition to a number of provisions in the Bill. It is important to have placed on record the concerns of the members of that association. As stated in its letter of 11 April 1988 the association is concerned that, among other things, the Bill:

> . . . provides a right to a lawyer which will result in the exclusion of evidence on technical grounds which will in turn result in guilty persons being acquitted;

It has always been the practice of our courts at common law and under legislation to consider whether evidence obtained in contravention of a law should be admitted. The courts have exercised that discretion having regard to the conflicting interests of the community and the accused person. By and large, the courts have handled that very difficult task with a deal of sensible judgment. The Police Association is concerned that the provisions of the Bill may lead to the automatic exclusion of evidence which in the interests of the community as a whole ought to be admitted.

The second shortcoming mentioned by the Police Association is that the Bill:

> . . . maintains the present situation whereby police are prevented from interviewing any offenders already in prison and provides such offenders with virtual immunity from prosecution;

It must be clear that the fact that a person is already in prison as a result of a conviction for some crime should not enable that person to escape proper investigation for some other crime of which that person is accused or is suspected. The Police Association is concerned that that would be one of the effects of the Bill.

Thirdly, the Police Association is concerned that:

> . . . the provisions with respect to the audio recording of interviews, particularly field interviews, are unduly onerous;

The Bill imposes restrictions upon the way in which audio-recording or tape-recording can take place. There must be many practical concerns about the way in which it would operate. In order for proper tape-recording of interviews to take place the technology has to be developed.

That technology must be tested and developed in a way that will make it effective and practicable. The community cannot be satisfied, from what the government has put before the House, that that stage has been reached. Indeed, the way in which the Bill operates may work to the disadvantage of the police and the community.

The next concern of the Police Association related to that first concern is that in the past there has been a broken promise with respect to the funding of the audio pilot project undertaken by the government. It is concerned at the likelihood of Victoria Police being required to finance the necessary equipment, the cost of which will run into many thousands of dollars, out of its present budget. That means that members of the Police Force will be hampered in carrying out the tasks they already have to perform, and they will be further restricted by the reallocation of some of their scarce funds for the provision of the audio equipment.

Also related to that point is the concern of the Police Association that:

> . . . it will not be physically possible to purchase, install and train members in the equipment without a reasonable lead time.

They are very serious concerns and the Opposition has had to consider its position on the Bill very carefully. As I have said, the Opposition believes that the Bill introduced by Mr Chamberlain provides the proper balance in this area and is the one that ought to be brought into operation.

However, the Opposition is aware that the government has stated it is not prepared to accept that Bill and has introduced the Bill now being debated. The Opposition is faced with a difficult dilemma, in that should it amend the Bill to bring it into line with the Opposition Bill, the government will reject it. If the Opposition opposes the Bill and it is not passed, the community is left with the present highly unsatisfactory position.

The Opposition has come to the view that it will not oppose the Bill. I am not suggesting that it supports the Bill, and indeed it is concerned that the Bill will not be effective in achieving what the community needs and wants. The Opposition is very concerned that the Bill may prove to be quite impracticable and, in the end, could hamper proper investigation of crime.

On balance, it is probably better to try this Bill, pending a change of government, at which time the Liberal Party could introduce proper legislation rather than leaving the present situation that has been totally frustrating and hampering for the Police Force. I give the assurance that upon return to government the Liberal Party will introduce legislation along the lines of Mr Chamberlain's Bill, because it would be better in the interests of the community.

Until then the Opposition will monitor the operations of the Bill and certainly will bring any practical problems that arise from its introduction to the attention of the people of Victoria. The Opposition is reluctantly forced into the position of not opposing an unsatisfactory measure because it would be even less satisfactory to maintain the present law. The way in which the Bill has been introduced, surrounded with its constraints, is an indication that the government is soft on crime in Victoria. It is not prepared to give the members of the Police Force the powers that other police forces in Australia and around the world have at present. It is not prepared to back up the need of people to feel secure and to know that if their security is invaded by criminal acts proper law enforcement authorities will be able to investigate those crimes and bring offenders to the judgment of the courts.

For those reasons, and with a deal of reluctance, the Opposition will not oppose the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—This is a dreadful measure. The reluctance of Mr Storey to support the Bill is only surpassed by my own reluctance, which is tenfold his.

That is not to say that I do not believe section 460 does not require to be amended. In 1984 when the section was enacted I said that it would not work because it would hamstring the police and that it would give criminals a decided advantage when they were held by the police on suspicion of committing a crime. I attempted to move amendments to that provision in the Committee stage of that Bill and at that time, I forecasted that the police would find section 460 difficult, indeed, to work with. As has occurred on many occasions, it gives me no pleasure to claim that I was right.

The Bill amends section 460; it removes the 6-hour limitation for questioning and imposes a test of reasonableness on the time the police ought to have available to question suspects. It is all very well for the Coldrey committee to report as it has and for authors in learned journals to write as they do. In the May edition of the *Law Institute Journal* an article states that section 460 was satisfactory in more than 95 per cent of the cases. I do not contest that statistic because many crimes are relatively minor in nature and are cleared up easily within the 6-hour period because the suspect confesses voluntarily or the evidence against the suspect is overwhelming.

However, with investigation into complicated crimes—the multiple crimes, the crimes about which there is little evidence and when a suspect is completely uncooperative—the 6-hour limitation is too short. With more serious crimes the police are more likely to need longer than 6 hours to question a suspect.

Of course, under section 460 when the 6-hour limitation runs out the police may go to a magistrate and seek an extension of time for questioning. That may sound acceptable in theory but the section also requires the magistrate to obtain the consent of the suspect before he authorises an extension. As I said during the debate on this section in 1984: what is the point of the police going to the Magistrates Court if they are not able to obtain the consent of the suspect? It will serve no purpose at all if the suspect's consent is not given.

The Hon. R. M. Hallam—It was a joke!

The Hon. W. R. BAXTER—It was shown to be a joke; it was shown to be completely unworkable. I am pleased that the Bill will remove that 6-hour time limitation and will impose "a reasonable time", which has stood the test of time in legal procedures.

If this were all that the Bill was about I would be happy and I would resume my seat but, unfortunately, the government has taken the opportunity in the Bill of foisting more difficulties on the Police Force and of encumbering them by more bureaucratic procedures.

Parliament is being asked to support the Bill on the basis that it includes an acceptable provision and, therefore, on the Birrell theory—which Mr Birrell recently used when he declined to support a National Party amendment to the Health Services Bill because the bill happened to contain a few clauses that were useful—he maintained that the entire Bill should be supported. The 6-hour limit is removed by the Bill, but the further replacement provisions are diabolical. They do nothing else but further hamstring the Police Force.

Why is it necessary to do that? When one examines the increase in crime in this State there is no contesting the fact that crime is increasing in epidemic proportions in Victoria and Australia. The criminal element is resorting to every possible device and technological development to shield its activities and to avoid apprehension. Yet the government is proposing to place even more constraints on the Police Force.

So that the House is in no doubt about the increase in crime I remind it that from 1980–81 to 1986–87 major crime has increased to the following extent: homicide, by almost 28 per cent; serious assault by more than 80 per cent; robbery by 63 per cent; rape

by 35 per cent; burglary by 47 per cent; theft by 52 per cent; motor vehicle theft by 100 per cent; and fraud by almost 182 per cent.

The decline in clean-up rates has been well documented also. I believe those statistics were incorporated in *Hansard* in another place. The clean-up rates are declining because the Police Force is under resourced and overworked and also because it has not been given adequate investigatory powers.

The Bill will worsen that situation with its provisions that go a long way towards helping criminals and hindering the police. For example, before a policeman can begin questioning, a suspect must consent to be questioned.

In other words, the police do not have any rights to ask a person questions; of course, that person has a right to remain silent; that is a long-held right that is not challenged by the National Party. However, if one does not consent to be questioned, there is not much that the police can do about it. If the person consents, the police may carry out investigations in which that person participates. A number of things can be done—but only if the person consents.

An uncooperative suspect can refuse consent and the police are left with no avenue that they can take. worse still, section 464B of proposed subdivision (30A) refers to the questioning of a person who is held for another matter. Police can make an application to a Magistrates Court to interview that person in Pentridge Prison or wherever else he may be held but, before that can be done, that person must be given 48 hours' notice that the police will be interviewing him. That will give that person 48 hours in which to cook up a story and to fabricate an alibi.

A person who has been already convicted of an offence, who has already been involved in nefarious activities, will be given a warning of a police interview so that he may cook up his story and avoid detection of another offence that he may have committed. Victorians will be deeply alarmed to learn that that right will be given to people who are already in prison and that it will give them a further advantage to avoid investigation into their activities.

Section 464C of proposed subdivision (30A) will incorporate in Victorian law a matter that I do not believe exists elsewhere in Australia; certainly it exists in the United States of America, to the great detriment of the solution of crime and that is known as the Miranda rule.

The Miranda rule will require the police, prior to questioning a suspect, as well as advising the suspect of his or her right to remain silent, to advise the suspect that he or she has a right to contact a legal adviser. Questioning is delayed until that legal adviser arrives on the scene and has had a chance to speak with the suspect privately. I ask honourable members to think about that for a moment. Firstly, most of the suspects would not have a legal adviser so it means that the police have to assist the suspect to contact a legal adviser whom the suspect has not consulted before. That person will come to the police station at some stage later in the evening and, while police are awaiting the legal adviser, questioning cannot proceed. It provides plenty of opportunity for accomplices to make their escape or to dispose of incriminating evidence. What happens when the solicitor arrives? He has no duty to help solve the crime. In fact, he has a professional duty to help the person who summoned him there and to protect that person's interests. He will advise the accused to say nothing. It will mean the end of voluntary confessions. It is totally absurd that, with crime increasing at an enormous rate over the past decade, the government contemplates introducing the Miranda rule into Victoria.

Many articles have been written on the subject, including one by J. K. Bowen, a prosecutor for the Queen, in a magazine called *The Vocal Voice*, the official organ of the Victims of Crime Assistance League Inc. which states:

> Not surprisingly, in the United States, the Miranda rule has drastically reduced both the solution rate and the conviction rate for crime, seriously undermined the morale of law enforcement officers, and produced an

explosive growth in the dubious practice of plea bargaining. The need for duty lawyers to be available at police stations for 24 hours a day and seven days a week has proved to be a bonanza for the legal profession in the United States but an enormous drain on public figures. All of this has seriously eroded public confidence in the criminal justice systems of the United States . . .

That is the system that the government wants to implement in Victoria. Not only will it hinder the security of confessions from suspects; it will also eventually cost the taxpayers of this State millions of dollars because, once the practice comes into common usage, there will be a demand from organisations such as the Fitzroy Legal Service and their ilk for publicly paid duty solicitors to be available at police stations around the State, so that they can tell a suspect, "Keep your mouth shut and do not cooperate with the police". One can see that happening right now. Who will pay for it? The poor taxpayer of Victoria, just because some civil libertarian in the socialist left wing of the Labor Party believes this a good idea. It is a disgrace.

Some constituents in my electorate are beginning to believe they are under seige from crime; that they are not safe in walking down their own street, even in broad daylight, let alone after dark, because of the increase in assaults and other crimes, as indicated by the statistics that I quoted earlier. Yet the government proposes to weaken even further the powers of the police by these sorts of provisions. It will be a sorry day for Parliament and the State if the Miranda rule is introduced; yet clearly new section 464C proposes exactly that, and I am opposed to it.

The Bill also includes a provision for the tape-recording of cautions and interviews. I am not opposed, in the long term, to the introduction of tape-recording in those circumstances, although I have some reservations about it. The fact is, the Police Force is not currently resourced to provide that service. The police do not have the equipment, or the budget to provide for it. The Bill gives no indication that extra budgetary allocations will be made available to allow tape-recorders to be purchased, and presumably the police will be required to obtain that equipment from its existing budget. Honourable members know how deficient that budget is. Police in my electorate have been told to use less petrol and to work less overtime because there is not enough money to pay for those things. That situation will be aggravated by this provision.

The provision will lead to smart defence lawyers contesting the veracity of the tape-recording at every opportunity. Every time there is a click on the tape because the tape was changed or switched off, they will doubt its veracity and allege that it has been tampered with, that some words have been blanked out or inserted, or that something has been taken out of context. It will be, to use Mr Landeryou's well-known phrase, a barristers' banquet, while they argue about the integrity of tape-recordings.

I am not against this issue in the long term, but the provision is premature. Insufficient trialling has been done on how it will work, and it opens up more avenues for arguments in the court about the integrity of the recording. The budgetary aspects have not been considered. Again I express my strong reservations about the introduction of tape-recordings.

One might also ask: how practical is it? A policeman may apprehend a burglar getting out of a window with some property. The fellow confesses that he has committed a burglary. The policeman does not have his tape-recorder with him at that moment and subsequently, when the policeman tries to have that confession reconfirmed on a tape, the suspect denies that he was involved. It will not work in practice; a confession voluntarily given, but unable to be confirmed on the tape-recording because the suspect has changed his mind or has been advised by a solicitor under the Miranda rule to say nothing is another means of helping the criminal element and hindering the police. The people of Victoria are crying out for more powers to assist police to solve crimes and to improve the clean-up rate.

The Hon. C. F. Van Buren interjected.

The Hon. W. R. BAXTER—Mr Van Buren mentions South Africa. Every time members of the Labor Party are embarrassed they bring out South Africa. Mr Van Buren has never been to South Africa and does not know anything about it. He knows only what he has read from the biased articles that appear in the media. Mr Van Buren should go to South Africa to see for himself and then come back and report to the House.

I have prepared a large number of amendments, and negotiations have taken place during the past few days to ascertain how those amendments might be dealt with. A few moments ago I was advised by the Leader of the Opposition and the Deputy Premier that a letter was being sent from the Acting Chief Commissioner of Police, in which he indicates that the Police Force is happy with the proposed legislation. I felt that, as the Acting Chief Commissioner of Police was satisfied with the Bill, it took away from me my authority to move the amendments. Clearly, if the police are satisfied with the Bill, it would seem odd if I pressed on with my amendments.

I gave a tentative assurance that I would not proceed with my amendments in view of the letter that was coming. The debate on the Bill commenced while I was in conference with both the Premier and the Deputy Premier. When I returned to the House the letter was on my desk. I thought, "This will be good; I will read it! If it is satisfactory, well and good." When I read the letter, I was appalled; not only was I appalled, I was aghast! I shall read the letter to the House, because I want honourable members to know what the Acting Chief Commissioner of Police has put his name to. I wonder what the chief commissioner will say when he returns from overseas and discovers what the acting chief commissioner has done in his absence.

The letter is one of the most extraordinary documents I have read for a long time. It is under the letterhead of the chief commissioner and is addressed to the Secretary of the Ministry for Police and Emergency Services:

I have been asked to indicate the concurrence of the Victoria Police with the legislation amending section 460 of the Crimes Act.

As I understand it—

Honourable members should listen to what follows, which is in parenthesis—

. . . (and without the benefit of having had a written version of the legislation before me)

The Acting Chief Commissioner of Police has not seen the Bill yet he is prepared to write a letter to Parliament saying that what is in the Bill is okay—

. . . it would require the electronic recording of interviews for indictable offences of suspects of police premises—

I am sure that should read "on police premises"—

. . . and if no such recording is carried out, the evidence thereby obtained would be inadmissible. "Field recording" would not be required but an interview obtained in the field situation would be inadmissible if not subsequently confirmed on tape.

No penalty or disadvantage follows an inability to effect service of a copy-tape in circumstances where only one recording can be made at the time of interview.

I confirm to you that, subject to the above, this legislation is regarded by us as workable and satisfactory.

The letter is signed "N. R. Newnham, Acting Chief Commissioner".

What an extraordinary letter from the Acting Chief Commissioner of Police! He says that he is satisfied with the Bill yet admits that he has not seen a copy of it! It is clear that the version of the Bill that was given to him went only to the matter of tape-recording. What about the Miranda rule? What about the constraints on the test of reasonableness by the amendment of section 460? One wonders whether the acting chief commissioner was apprised of all aspects of the Bill; and one wonders whether he was sold a pup and asked to deal only with the tape-recording aspect of the Bill. In short, I am suspicious about what the Acting Chief Commissioner of Police has been led to believe. I make no further allegation than that.

It would be extraordinary if the acting chief commissioner were to sign such a letter if he were aware that the Bill also included the Miranda rule, among other things. The Police Association does not want the rule included in the Bill; and police officers in my province do not want it included. I am left in the situation of having to reconsider my position on my amendments. I am prepared to vote for the Bill at the second-reading stage, although with great reluctance—a view also expressed by Mr Storey—because the Bill deals with section 460, which I want amended. In terms of the other matters I have raised, I shall need to seek further advice at a later stage of the debate.

The Hon. HADDON STOREY (East Yarra Province)—I shall comment briefly on the questions raised by Mr Baxter about the letter from the Acting Chief Commissioner of Police. I agree with the concerns he has expressed. The Liberal Party asked the government to produce a letter from the acting chief commissioner saying that the Bill would be workable, because if it were not satisfied that that was the case it would not support the Bill.

The Liberal Party has some concerns about the practical application of the Bill. Putting to one side some of the peculiarities of the letter to which Mr Baxter referred, the acting chief commissioner concludes his letter with the view that, from a practical point of view, the Bill is workable. It is only because of that assurance that the Liberal Party has adopted the view of the Bill that it has.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 4 were agreed to.

Clause 5

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

1. Clause 5, lines 13–15, omit "(other than an investigating official who is engaged in covert investigations under the orders of a superior)".

2. Clause 5, lines 25–26, omit "or a Commonwealth Act" and insert "(other than a member or person who is engaged in covert investigations under the orders of a superior)".

These amendments apply to proposed sections 464 (1) (*c*) and 464 (2), and they should be dealt with together. They involve two changes to the definition of an investigating official. I shall not go into too much detail about the amendments, although, if asked, I can do so. The amendments refer to undercover agents, Commonwealth investigators, a definition of custody, and investigating officials.

The amendments were agreed to.

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

3. Clause 5, page 3, lines 4–13, omit sub-clause (2) and insert—

"(2) If a person suspected of having committed an offence is in custody for that offence, an investigating official may, within the reasonable time referred to in sub-section (1)—

(*a*) inform the person of the circumstances of that offence; and

(*b*) question the person or carry out investigations in which the person participates in order to determine the involvement (if any) of the person in that offence.".

This amendment will replace proposed section 464A (2). It involves three changes: it sets out more clearly what an investigating official may do within a reasonable time of taking a person into custody; deals with questions in relation to other offences; and deals with the matter of consent.

Again, I shall not go into any further detail unless either Mr Storey or Mr Baxter wants me to do so. I think they are familiar with the amendments as circulated.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! Does Mr Baxter wish to canvass amendments Nos 1 and 2 circulated in his name at this stage.

The Hon. W. R. BAXTER (North Eastern Province)—Amendments Nos 1 and 2 circulated in my name are overtaken by the Minister's amendments later on; and I am happy with that.

The amendment was agreed to.

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

4. Clause 5, page 3, lines 22–24, omit all words and expressions on these lines.
5. Clause 5, page 3, line 25, omit "(i)" and insert "(*b*)".
6. Clause 5, page 3, line 26, omit "and".
7. Clause 5, page 3, line 27, omit "(ii)" and insert "(*c*)".
8. Clause 5, page 3, line 30, omit "and"
9. Clause 5, page 3, line 31, omit "(iii)" and insert "(*d*)".
10. Clause 5, page 3, line 33, omit "and".
11. Clause 5, page 3, line 34, omit "(iv)" and insert "(*e*)".
12. Clause 5, page 3, line 36, omit "and".
13. Clause 5, page 3, line 37, omit "(v)" and insert "(*f*)".
14. Clause 5, page 3, line 39, omit "and".
15. Clause 5, page 3, line 40, omit "(vi)" and insert "(*g*)".

Later I shall move amendments Nos 16 to 25 circulated in my name, but the comments I make now also relate to them. These amendments in toto were suggested by Mr Baxter, and the government is happy to take them up. The amendments concern section 464A (4) of proposed subdivision (30B) which sets out the factors to be considered in determining what constitutes the "reasonable time" during which a suspect can be questioned. The effect of the amendments is to remove the express reference to the consent of suspects to questioning or investigation. This change is consequential upon amendment No. 3. It does not affect the obligation of investigators to charge or release a suspect promptly.

The Hon. W. R. BAXTER (North Eastern Province)—I am delighted the government has taken up the amendments that I suggested concerning consent provisions because they will be a distinct improvement.

The amendments were agreed to.

The CHAIRMAN—Order! I invite Mr Baxter to move amendment No.15 circulated in his name.

The Hon. W. R. BAXTER (North Eastern Province)—In view of the letter that I received from the Acting Chief Commissioner of Police, with which I had some difficulty, and in view of the commitment I gave earlier, I will not proceed with all my amendments. The next test will be amendment No. 31.

Mr Chairman, the one you have just invited me to move has some attachment to the Miranda rule, but not necessarily so, in that there is also an opportunity for a suspect, of his own volition, to request a legal practitioner. I am not contesting that right, so to that extent I am prepared to leave the reference to "legal practitioner" in the Bill.

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

16. Clause 5, page 3, line 42, omit and".
17. Clause 5, page 3, line 43, omit "(vii)" and insert "(*h*)".
18. Clause 5, page 4, line 2, omit "and".
19. Clause 5, page 4, line 3, omit "(viii)" and insert "(*i*)".

20. Clause 5, page 4, line 5, omit "and".

21. Clause 5, page 4, line 6, omit "(ix)" and insert "(*j*)".

22. Clause 5, page 4, line 8, omit "and".

23. Clause 5, page 4, line 9, omit "(x)" and insert "(*k*)".

24. Clause 5, page 4, line 11, omit "and" (where secondly occurring.)

25. Clause 5, page 4, line 12, omit "(xi)" and insert "(*l*)".

My earlier comments relate to these amendments.

The amendments were agreed to.

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

26. Clause 5, page 4, lines 31–34, omit all words and expressions on these lines.

The amendment was also proposed by Mr Baxter, and the government is prepared to take it up. It concerns notice to be given to a prisoner that investigators wish to question him or her. Under the Bill, 48 hours' notice is required, but the amendment will remove this fixed period of notice. The effect of the amendment is that a prisoner will have to be given reasonable notice of an application for a court order that he or she is to be questioned.

The Hon. W. R. BAXTER (North Eastern Province)—I am delighted that this amendment has been taken up because the original provision in the Bill was obnoxious. I am pleased to see it removed.

The amendment was agreed to.

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

27. Clause 5, page 5, after line 5, insert—

"(6) If an order is made under sub-section (5), before any questioning or investigation commences, an investigating official must inform the person in custody that he or she does not have to say or do anything but that anything the person does say or do may be given in evidence.".

28. Clause 5, page 5, line 6, omit "(6)" and insert "(7)".

29. Clause 5, page 5, line 10, omit "(7)"and insert "(8)".

30. Clause 5, page 5, line 18, omit "(8)" and insert "(9)".

These amendments clarify the requirement that an investigator should give a caution to a prisoner or detainee who is to be questioned on a fresh charge. I understand that the requirement is currently buried in section 464I (2) of proposed subdivision (30A).

The amendments were agreed to.

The Hon. W. R. BAXTER (North Eastern Province)—I move:

31. Clause 5, page 5, line 26, after "(1)" insert "Subject to sub-section (3)".

This is really a test for my amendment No. 41 and it relates to what is known in the National Party room as the "Bendoc rule". In examining any proposed legislation, the National Party first considers how it might affect the metropolitan area and the densely settled areas of Victoria because most legislation is drawn up with those areas in mind. The National Party then considers how it might affect the remote areas of the State where population is sparse and communication is difficult. Honourable members will be aware that Bendoc is a very remote village in the electorate of the honourable member for Gippsland East in the other place, hence the name the "Bendoc rule".

The National Party believes there should be provision in the Bill for questioning to proceed where it is not possible to communicate at the request ot the suspect with a friend, relative, legal practioner or whoever. Because of the distances involved, questioning could be delayed for many hours. For example, a person in Bendoc might summon someone from Bairnsdale, which is the largest closest centre but is still some hours away by car. In such circumstances there ought to be a facility for the policeman, having taken all reasonable

steps to facilitate communication, to proceed with the questioning if it is not possible for someone to be there within a reasonable time.

The Hon. J. H. KENNAN (Minister for Transport)—I should say at the outset that in moving the amendment to delete the words "if the person consents", the government is not to be taken as reversing the common law, as expressed, for instance, in *Ireland's* case, that confessions must be voluntary.

I just say that and put it on the record as a matter of caution. I would not want anyone tracing through the history of this legislation to say that Parliament was reversing the common-law position with respect to consent being given for questioning, nor do I take it that that was the position of the opposition parties, or that they were in any way affecting the existing common law for confessions being made voluntarily. It was a matter of clarifying a provision in the Bill rather than suggesting we are reversing the common law in saying that involuntary confessions are admissible.

The government opposes Mr Baxter's amendment. As I understand it, it relates to section 464C of proposed subdivision (30A) and is unnecessary because that provision requires only the investigating official to defer questioning for a time that is reasonable in the circumstances to enable the person to make, or attempt to make, the communication. The amendment is nonsensical in that if a person in custody has no means of communicating with a friend, relative or legal practitioner, presumably the investigating official would also be unable to do so. The amendment may lead to possible abuse if people are taken into custody, and away from a telephone, and the questioning starts with no attempt being made to allow the person to contact a friend, relative or lawyer. This partly results in ambiguity as to what is the meaning of "taken into custody in an area". The amendment defeats the purpose of the requirement for someone attempting to communicate with a lawyer. The communication is prior to questioning, so the person is informed as to his options.

The government points out that it is simply a matter of deferring questioning for a time that is reasonable in the circumstances to enable the person to make, or attempt to make, the communication. That is the only requirement involved and it is not unreasonable. It does not mean the actual communication has to be made even if it is not possible or reasonable in the circumstances.

The Hon. HADDON STOREY (East Yarra Province)—The Opposition has a great deal of sympathy with the views expressed by Mr Baxter, and believes he has raised a genuine problem that should be dealt with. However, the Opposition is placed in a dilemma because of the views it expressed during the second-reading debate, namely, that, although it has considerable concerns about the practicality of this Bill, there is no option but to allow it to operate in practice, to learn from that and then fix up the problems which undoubtedly will arise. The Opposition is also concerned because of the explanation given by the Minister for Transport which suggests doubts about the practicality of the amendment.

In those circumstances, although the Opposition has sympathy for what Mr Baxter has said and the concern he has expressed, reluctantly, it cannot support amendment No. 31.

The Hon. W. R. BAXTER (North Eastern Province)—I thank the Minister for Transport and Mr Storey for their remarks. Let me say that, as the Minister is a proponent of plain English, I endeavoured to write the amendment in plain English. Of course, I could have tied up the amendment in all sorts of ifs and buts, but they would not have met his Kennanisation principles.

To some extent the Minister does the Police Force a disservice by suggesting that my wording might enable it to get around the requirements in an unfair way. I believe the intent of what I was suggesting was pefectly clear to the police and they would abide by that. I have that confidence in the Police Force. I place great store in the Minister's remarks and hope that anyone reading the Bill will take into account the provisions of the Acts

Interpretation Act and will note the remarks of the Minister for Transport regarding the attempt to communicate. I place that on record: provided the policeman has made an attempt to communicate, even if it was not successful he can proceed with the questioning. That is an important principle and clarification of the fact that, provided an attempt has been made, questioning can proceed. I support the amendment, but I shall not call for a division on it.

The Hon. J. H. KENNAN (Minister for Transport)—Mr Baxter has correctly interpreted what I said, and that is what is set out in proposed section 464C: it refers to an attempt to communicate. I place on record that I was in no way decrying Mr Baxter's admirable efforts at Kennanisation into plain English. I regret any offence Mr Baxter may have taken as a result of those remarks.

The amendment was negatived.

The Hon. W. R. BAXTER (North Eastern Province)—I move:

32. Clause 5, page 5, line 29, omit "(*a*)".

This is a test of my principal amendment, No. 34, which would omit lines 32 and 33. Proposed section 464C (1) as it stands reads:

> Before any questioning or investigation under section 464A (2) commences, an investigating official must inform the person in custody that he or she—
>
> (*a*) may communicate with or attempt to communicate with a friend or relative to inform that person of his or her whereabouts; and
>
> (*b*) may communicate with or attempt to communicate with a legal practitioner—

I shall propose the omission of paragraph (*b*) if amendments Nos 32 and 33 are successful. It is the Miranda principle about which I expressed so much disquiet in my second-reading remarks. It is an undesirable principle to introduce in Victoria. It has had dire consequences on the clearing up of crimes and the securing of voluntary confessions in those States of the United States of America that have adopted it.

There is nothing wrong with a voluntary confession; and persons who have committed crimes of various degrees of seriousness and feel some remorse and want the matter cleared up, or feel that the evidence against them is so compelling that they are prepared to confess voluntarily, will now be advised by legal practitioners summoned on their behalf to say nothing. It is not desirable to bring that into Victoria where we have a Police Force of the highest integrity. There is no suggestion that the presence of a legal practitioner is required during the questioning stage.

I again refer to the letter of the Acting Chief Commissioner of Police and say that I am surprised that, in a letter that endorses the proposed legislation, the acting chief commissioner would not at least comment on such an important and new principle being introduced into Victoria if he was aware that it was contained in the proposed legislation. I have grave doubts as to his understanding of the exact content of the Bill.

The Hon. J. H. KENNAN (Minister for Transport)—The government cannot support Mr Baxter's amendment, although it is noted that he has couched it admirably plainly. The government does not believe it is appropriate to exclude provisions allowing the person to communicate or attempt to communicate with a legal practitioner. We know that it is argued that this will lead to a Miranda position, but the government does not believe Mr Baxter is correct. The rules in the United States of America are totally different. As Mr Baxter knows, I am a great admirer of the way that he picks up legal points and his capacity for mastering them, along with a whole range of other things he does well, but I must, without wishing to upset Mr Baxter and without wishing to detract from the appropriate gratuitous praise that I have heaped on him over the years, suggest——

The Hon. W. R. Baxter—It is water off a duck's back!

The Hon. J. H. KENNAN—Not absolutely: calm and rational flattering. Don't knock it! The rules in the United States of America are different. It is important to make that

point. Evidence obtained illegally in the United Sttes of America, even though on a technicality, is automatically excluded; here it is not. In Australia the rules are different. It is a matter for the court. If, for instance, the police fail to caution a suspect or to provide access to a lawyer or a friend or relative, it is within the court's discretion to admit or reject the evidence.

The criteria to be applied were laid down by the High Court in *Bunning* v. *Cross.* Clearly, there was difficulty for the police in complying with the law. The criteria are: whether the breach was technical or substantial; whether it was intentional, and the seriousness of the offences under investigation. With respect to the High Court, that is a sensible set of criteria for both the courts and the investigating police officials. As Mr Baxter has said, the government has confidence in the Police Force and there is no difficulty for the police in complying with those general grounds of reasonableness, and that is a matter for the courts.

The Bill codifies the position already contained in the Police Standing Orders, and the proper police practice now requires that police follow the procedures set out in the Bill. Standing Order 8.9–8.11 require police to caution suspects. Standing Orders 8.31 and 8.32 require police to allow a suspect to communicate comfidentially with a friend or a legal adviser. Standing Order 4.7 requires that an interpreter be obtained, and so on. I shall not go through all of the Police Standing Orders. These rules are not a new or substantial departure from that, they are standing directions given to the police by the former chief commissioner, Mr Miller. These standards are already used by the courts in determining whether police have treated a suspect fairly and legally, and that has already been raised in argument. The Bill simply gives that regime a statutory basis.

The Coldrey committee saw this as a key element in its proposals which it saw as a package. It stressed that the safeguards were an integral part of its preferred option, and said:

> The proposed amendments should not be made to the general nature of the section (i.e., s. 460 of the Crimes Act) unless the amendments protecting the rights of the individuals are also made.

That was at pages 116 and 117 of the report. The report was signed by the present Chief Commissioner of Police, Mr Kel Glare, who was a member of the committee; I shall not elaborate further on that point.

The Hon. W. R. BAXTER (North Eastern Province)—I do not contest the Minister's assertion that the rules in the United States of America and those to be imposed in this State are not identical; they are not. But it is a thin-end-of-the-wedge argument.

However, I do contest most strongly one of the assertions the Minister made—that the Bill merely codifyies existing Police Standing Orders. That is not true. Police Standing Orders provide for the police to facilitate the suspect getting in touch with his or her legal adviser if the suspect requests that contact. The Bill goes far further than that. It requires the police to inform the suspect that he may get in touch with a legal adviser. In other words before the police have any right to question a suspect, not only must they caution the person on his or her right to remain silent, but they must also advise the suspect that he or she may get in touch with a legal practitioner and must assist the person to do so. That is a vast expansion on current Police Standing Orders, which simply provide for facilitation of getting in contact with legal advisers if the suspect so requests. I suggest to the Committee that there is a long way between the two.

I realise the difficulties the Opposition faces both because of the letter from the Acting Chief Commissioner of Police and because of the absence of the shadow Attorney-General, who has been closely involved with the Bill. It is no use saying, as perhaps can be properly said about the Crimes (Fingerprinting) Bill and the Telecommunications (Interception) (State Provisions) Bill, that the Opposition will fix up any deficiencies whe it returns to government. This situation is different because the Bill gives a complete new right to the people of Victoria. Once a government gives a right to anyone, it is impossible to subsequently withdraw it.

The Opposition when next in government can possibly fix up deficiencies in the fingerprinting and telecommunications Bills because the Opposition will want to go further than the government. However, it is impossible with a Bill such as this that institutes a new right to pull back some time in the future. That will not be possible. As efficient as the prospective Attorney-General might consider himself to be, he will not be able to win that argument within his own party room. I do not want the Opposition to take comfort in the fact that it can let the Bill pass now on the basis that it will fix it up later, because it will be too late.

The Hon. HADDON STOREY (East Yarra Province)—Mr Chamberlain, the shadow Attorney-General, is not in the Chamber, but I assure Mr Baxter that my party has discussed all of these matters thoroughly and we are all aware of Mr Chamberlain's views. The situation is as I outlined to the Committee earlier. The Opposition has considerable reservations about the Bill and does not intend, as Mr Baxter is saying, to extend the provisions of the Bill. Upon return to government the Opposition will bring in a measure along the lines of the Bill introduced in this House by Mr Chamberlain.

The Hon. A. J. Hunt—Passed by this House, too.

The Hon. HADDON STOREY—Yes, and supported by the National Party. Mr Chamberlain's Bill contained a comprehensive code on the way in which interrogation should be allowed to take place. The Opposition does not envisage any difficulty in correcting any problems with that Bill on its return to government. The difficulty faced by the Opposition is of advancing the present situation pending its return to government. The only way to achieve that is to allow the Bill to pass. Indeed, that is why Mr Baxter is not opposing the Bill as a whole.

The point Mr Baxter raised is important, although I must point out that a totally different approach is adopted by the courts in Australia and in Victoria from that adopted by courts in the United States of America. It is important to allow the Bill to proceed. The amendment will be considered in the context of the Opposition's Bill when it returns to government. In the meantime, the police should be given the powers they currently lack. The Bill will at least go some of the way towards providing those powers. For that reason, the Opposition does not support Mr Baxter's amendment.

The Committee divided on the question that the expression proposed by Mr Baxter 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 Connard	Mr Dunn
Mrs Coxsedge	Mr Wright
Mr Crawford	*Tellers:*
Mr de Fegely	Mr Evans
Mrs Dixon	Mr Hallam
Mr Granter	
Mr Henshaw	
Mrs Hogg	
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Lawson	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Mier	

AYES	NOES
Mr Miles	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Storey	
Mrs Tehan	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mr Sandon	
Mr Van Buren	

The Hon. W. R. BAXTER (North Eastern Province)—I advise the Committee that I shall not be moving further amendments because most of them are consequential upon the amendments that have either been tested or were not put earlier. At the appropriate stage I shall address proposed amendment No. 44 standing in my name.

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

31. Clause 5, page 6 after line 9 insert—

"(3) This section (except sub-section (1) (*a*)) also applies to any questioning or investigation in accordance with an order made under section 464B (5).

(4) This section does not apply to questioning or investigation in connection with an offence under section 49 (1) of the *Road Safety Act* 1986.".

There are two elements to this amendment. Proposed section 464C (3) makes it clear that the right to communicate with a lawyer applies to prisoners and detainees as well as other suspects. At present the requirement is contained in section 464I (2).

Prisoners and detainees will not have the right enjoyed by other suspects to communicate with a friend or relative. The purpose of allowing suspects to contact a friend or relative is to notify his or her whereabouts; this is unnecessary in the case of prisoners and detainees.

The effect of the second element of the amendment, new section 464C (4), is that drink-driving investigations need not be delayed to allow the suspect to communicate with a lawyer. To require such delays could defeat the purpose of breathalyser tests, which must be conducted within 3 hours after the suspect was driving a motor vehicle. The exemption covers this situation. The government would expect, however, that in non-urgent investigations of drink-driving offences, suspects would be permitted to communicate with a lawyer in the usual way.

The amendment was agreed to.

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

32. Clause 5, page 6, line 11, after "464D." insert "(1)".

33. Clause 5, page 6, after line 16 insert—

"(2) This section also applies to any questioning or investigation in accordance with an order made under section 464B (5).

(3) This section does not apply to questioning or investigation in connection with an offence under section 49 (1) of the *Road Safety Act* 1986.".

These amendments have two purposes. First, they make it clear that a prisoner or detainee being questioned under section 464B has the same right to an interpreter as any other suspect. The requirement is currently in section 464I (2). Secondly, they provide that the right does not apply in drink-driving investigations. The reasons for this were discussed in relation to the amendments in section 464C.

The right to an interpreter was not included in the Opposition's Bill. The Opposition objected to the provision in the Legislative Assembly debate. The right to an interpreter was not discussed by the Coldrey committee, but it is already recognised in Police Standing Order 4.7. It is a crucial safeguard for non-English speakers and reflects the requirements of the common law.

The amendments were agreed to.

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

34. Clause 5, page 6, after line 36 insert—

"(3) This section also applies to any questioning or investigation in accordance with an order made under section 464B (5).

(4) This section does not apply to questioning or investigation in connection with an offence under section 49 (1) of the *Road Safety Act* 1986.".

Like amendments Nos 31, 32 and 33, this amendment has two purposes. Firstly, it makes it clear that the right of a child to have a parent, guardian or independent person present extends to prisoners and detainees as well as other suspects. The requirement is currently in section 464I (2). Secondly, it provides that the section does not apply to drink-driving investigations, for the same reasons as amendment 31.

The amendment was agreed to.

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

35. Clause 5, page 7, after line 14 insert—

"(3) This section does not apply to questioning or investigation in connection with an offence under section 49 (1) of the *Road Safety Act* 1986.".

This amendment provides an exemption for drink-driving investigations. It is similar to amendments Nos 31, 32 and 33.

The amendment was agreed to.

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

36. Clause 5, page 7, line 20, after "tape-record" insert ", if practicable,".

The amendment reflects the change in the tape-recording requirements of section 464H to be made by House amendment No. 38. Since field interviews with suspects will not be required to be tape-recorded in all cases, the notification to a suspect of his or her rights prior to the conduct of a field interview will also not need to be tape-recorded. Instead, the notification will be tape-recorded wherever practicable.

The Hon. W. R. BAXTER (North Eastern Province)—In dealing with the Minister's amendment No. 36, the committee bypassed my proposed amendment No. 44, but it is of no great moment as I had already advised that I would not be moving it. However, I should like to take this opportunity of commenting on why I shall not move the amendment.

Proposed amendment No. 44 would have removed from the Bill all the references to the tape-recording of information that is required to be given to a person in custody and all references to the tape-recording of confessions and admissions. As I indicated in the second-reading debate, it was not because of opposition to the concept and the principle of tape-recording, but more because the Victoria Police Force, in my view, is not in the position, both technically and in the sense of adequate resources, to put that mechanism into practice at this moment, and more trials need to be undertaken. The letter from the Chief Commissioner of Police dealt with that aspect of my proposed amendments. He has given an assurance that the police are in a position to deal with the tape-recording provisions and that those provisions will be workable. Therefore, I feel bound to take the advice of the Chief Commissioner of Police and shall not proceed with the proposed amendment.

The amendment was agreed to.

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

37. Clause 5, page 7, lines 27–28, omit "part of the prosecution case" and insert "evidence against the person".

38. Clause 5, page 7, lines 29–35, omit paragraphs (*c*) and (*d*) and insert—

"(*c*) if the confession or admission was made before the commencement of questioning, the confession or admission was tape-recorded, or the substance of the confession or admission was confirmed by the person and the confirmation was tape-recorded; or

(*d*) if the confession or admission was made during questioning at a place where facilities were available to conduct an interview, the questioning and anything said by the person questioned was tape-recorded; or

(*e*) if the confession or admission was made during questioning at a place where facilities were not available to conduct an interview, the questioning and anything said by the person questioned was tape-recorded, or the substance of the confession or admission was confirmed by the person questioned and the confirmation was tape-recorded—".

39. Clause 5, page 7, line 38, omit "the prosecution" and insert "the person seeking to adduce the evidence".

40. Clause 5, page 8, line 1, after "questioning" insert "or confession or admission, or the confirmation of a confession or admission,".

41. Clause 5, page 8, line 2, after "section" insert "or the giving of information is recorded as required under section 464G".

Amendments Nos 37 and 39 should be debated cognately. The amendment addresses a technical problem pointed out by the Criminal Justice Committee, which is chaired by Mr Justice Phillips. The Bill as drafted applies the mandatory tape-recording rule only to evidence led as part of the prosecution case. Sometimes, however, a co-accused will seek to lead evidence on an admission allegedly made by the accused person to police as part of the co-accused's defence.

At the Criminal Justice Committee's suggestion, the same rules will be applied to any evidence sought to be used against an accused, whether by the Crown or by a co-offender. The rule is intended to be for the protection of accused persons, so the same considerations apply regardless of which party is seeking to introduce the evidence.

Amendment No. 38 deals with the whole of the questioning being tape-recorded. Amendments Nos 40 and 41 amend proposed section 464H (3) by requiring police to give suspects a copy of the recording and, if applicable, a transcript of the tape-recording of the interview. The amendment will simply require that copies and, if applicable, transcripts of other relevant recordings also be provided. Generally they will be on the same tape.

The amendments were agreed to.

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

42. Clause 5, page 8, lines 9–17, omit proposed section 464I and insert—

No power to detain person not under arrest.

"464I. Nothing in sections 464 to 464H confers a power to detain against his or her will a person who is not under arrest.".

The amendment substitutes the proposed section 464I. The provision expressly preserves the common-law right of a suspect not under arrest to leave at any time.

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

Heading to Part 3

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

43. Heading to Part 3, page 8, line 31, omit "TRANSITIONAL PROVISION" and insert "APPLICATION OF ACT".

In doing so I shall foreshadow amendments Nos 44 and 45. These amendments substitute a new transitional provision.

The new provision allows the Act to be phased in region by region. The intention of the government is that the whole scheme apply throughout Victoria on one date, as soon as the police, the courts and other agencies are properly equipped for tape-recording. However, the new clause allows for staged introduction, if necessary.

The provision is likely to attract heavy criticism from the legal profession for allowing a patchwork of rules dependent upon where a suspect is taken into custody or questioned. The response is that it will only be used if necessary, and it will allow the benefits of the new scheme to commence in some areas earlier than would otherwise be the case.

The Hon. W. R. BAXTER (North Eastern Province)—The provision is curious. Does it mean that the State may be regionalised for all aspects of the Bill, or will the 6-hour time limit in section 460 be removed Statewide and the regionalisation apply only to the tape-recording scenario? I would feel much happier with that provision. I should not want police in country areas to be impeded by the limitations of the 6-hour rule simply because they did not have tape-recorders available.

The Hon. J. H. KENNAN (Minister for Transport)—It is a package; therefore, the whole lot will be introduced in a region or not at all. It means that, if this is carried out region by region, the regions that work under the existing 6-hour rule will do so while other regions will be working under the new system as a package. That has always been the understanding of the Coldrey committee recommendations.

Whatever the disagreements are about certain parts of the report, everyone dealing with it understood that the government would proceed with the Coldrey committee recommendation for a package. The report is two or three years old. The Police Force had a trial run of it in Bendigo and in Melbourne. Mr Reid used to ask, "Well, you have the Coldrey report, when will you introduce the Bill?". One of the reasons for delaying the proposed legislation was to see how the trial of the tape-recorders worked; country areas were included in that trial.

If some regions are not ready to adopt the system of tape-recording, they can continue under the existing system while others that are ready to implement the new system can do so. The provision allows for time. The ideal situation would be for all to implement the system at once. The provision provides flexibility.

The Hon. HADDON STOREY (East Yarra Province)—I am interested in the practical application of the provision in the case of a person apprehended by the police in one region and taken to another region for questioning. What rule applies if one region is proclaimed and the other is not?

The Hon. J. H. KENNAN (Minister for Transport)—At the outset I withdraw the reference I made earlier to the trial being held in Bendigo; I think it was held in Ballarat—I knew it was in a country area.

The Hon. N. B. Reid—I did take note of what you said.

The Hon. J. H. KENNAN—I knew Mr Reid would take note of that so I corrected myself just in case he intended to issue a press release. In answer to Mr Storey, it depends on where the questioning takes place or where the person is taken into custody.

The Hon. W. R. BAXTER (North Eastern Province)—I emphasise my disappointment if country areas are to be disadvantaged by regionalised proclamation of the provisions contained in the Bill simply because they do not have tape-recording facilities available. I urge the Minister to speak with his colleague, the Treasurer in another place, to ascertain whether adequate resources will be made available to police to provide tape-recorders.

The Minister said that the provision was part of a package. I do not believe it has to be a package because the section 460 amendment can stand alone. I urge that consideration be given to proclaiming the section 460 amendment removing the 6-hour limitation for the State as a whole as soon as possible.

The Hon. HADDON STOREY (East Yarra Province)—I revert to the answer I received from the Minister for Transport. I had some difficulty with it.

The Hon. J. H. Kennan—So did I. Give me another go.

The Hon. HADDON STOREY—Perhaps the Minister should have another attempt at answering my question.

The Hon. J. H. KENNAN (Minister for Transport)—Without derogating from the generality of the previous answer, as I understand it, if one is taken into custody in a region where the new rules apply, the new rules apply even if one is taken for questioning to a region that works under the "old" system. If one is taken into custody in a region that operates under the "old" system and then taken for questioning to a region that operates under the new system, the new rules still apply.

The Hon. HADDON STOREY (East Yarra Province)—I thank the Minister for his answer, but that is what I understood from the original answer he gave. The sequel to the first question is that, if a region is not proclaimed and is not set up to administer questions under the proposed arrangements, how will the police be able to apply the provision to the apprehended person if that region is not operating under the new rules?

The Hon. J. H. KENNAN (Minister for Transport)—The police will take a tape-recorder with them. That is within their power.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—My amendments Nos 43, 44 and 45 are connected in terms of their content. I have already spoken about them and debated them.

The clause, as amended, was agreed to.

Clause 6

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to vote against this clause.

The clause was negatived.

New clause

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

45. *Insert the following new clause to follow the heading to Part 3 on page 8:*

Application of Act

"AA. The Governor in Council may by proclamation published in the *Government Gazette* proclaim regions for the purposes of this Act.

(2) The Principal Act as amended by sections 4 and 5 of this Act applies to—

(*a*) persons taken into custody; or

(*b*) persons questioned; or

(*c*) persons in respect of whom an application is made under section 464B (1) to a court—

in a proclaimed region after the commencement of this Act.

(3) The Principal Act applies to—

(*a*) persons taken into custody; or

(*b*) persons questioned—

other than in a proclaimed region after the commencement of this Act as if sections 4 and 5 of this Act had not been enacted.".

The new clause was agreed to.

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

ACCIDENT COMPENSATION (FURTHER AMENDMENT) BILL

For the **Hon. D. R. WHITE** (Minister for Health), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The Bill presents two sets of amendments to the Accident Compensation Act. The first set implements the recommendations of the first report of the Joint Select Committee on WorkCare regarding transitional arrangements with insurers in the pre-WorkCare system, and takes on board further amendments agreed in consultation with the Insurance Council of Australia.

The second set clarifies the intent of the government regarding timing issues in relation to the amendments to the Act that were passed last year.

The Select Committee was set up to report on the transitional proposals contained in clause 72 of the Accident Compensation (Amendment) Bill as introduced into the Parliament last year. In particular the committee was asked to examine the issue of contributions by insurers towards compensation paid by the Accident Compensation Commission.

The committee in this report accepted the principle that insurance companies should make contributions in relation to all types of straddle claims and not merely in relation to gradual process claims. The committee stated that contributions should reflect the degree to which incapacity arose from events prior to the introduction of WorkCare. In other words the insurers should be required to pay neither less nor more than the liabilities which properly arise from the time when they provided insurance cover in the pre-WorkCare years.

These principles were supported by submissions from, among others, the Law Institute of Victoria, the Metal Trades Industry of Australia and Switzerland Insurance, one of the private insurers.

The committee also recommended that there should be an adequate mechanism for ensuring that the appropriate contributions were paid promptly without being held up for lengthly periods in the courts. It therefore supported the thrust of the contribution mechanisms proposed in Division 6A of clause 72 of the 1987 Amendment Bill, but suggested certain modifications.

The committee also suggested modifications to the proposals of Division 6B of clause 72 dealing with conduct of common law hearings for injuries that span pre and post WorkCare. The committee supported the proposals contained in Division 6C of clause 72 of the Accident Compensation (Amendment) Bill.

The Bill accords with the recommendations of the committee. In particular the following key recommendations of the committee are now incorporated in this Bill:

the concept of contributions being based upon the principle of what is "just and equitable" is to be clarified by stating explicitly that this principle is paramount and that the contributions should be no more than the liability the previous insurers would have been liable to pay under the pre WorkCare Workers' Compensation Act;

a formula to calculate these contributions is now to be included in the Bill;

a compulsory exchange of relevant documents is to take place before an assessment is made;

the tribunal in hearing an application for a review of an assessment will be able to take account of any failure to comply with the provisions of the Act;

interest payable on assessments not paid is now to be at a prescribed rate and this same interest rate is to apply where the tribunal increases or reduces an assessment;

the offence provision is now to apply from 18 September 1987 instead of 30 July 1985 and proceedings for offences may be commenced within three years after the day on which the offence occurred; and

a court may now order that the conduct of the defence of a common-law proceeding shall be undertaken by the party with the greatest interest.

I cannot overstate how important it is to the employers of this State that these amendments are passed by Parliament. If they are not passed insurance companies will make a windfall gain and most of that money will leave the State. Victorian employers, however, will be left to pay, again, for the cost of injuries for which they had already paid insurance premiums.

The Bill also contains some provisions which are quite separate from the issues that were before the Select Committee. These provisions are related to the reforms of the WorkCare scheme that were passed by Parliament last year. These reforms involved a range of new provisions including:

a requirement that partially incapacited workers on receipt of a notice from the commission are to provide evidence that they are actively seeking work;

employers are to hold jobs open for injured workers for six months; and

new medical certificates are now mandatory, are to be kept current and are to apply only for a maximum of 28 days.

It was the government's very clear intention that these new measures were to apply in respect of all WorkCare beneficiaries, including those who at the time the amendments came into operation were already in receipt of weekly payments.

The government has legal advice to the effect that the 1987 amendments do apply to all beneficiaries who were in receipt of or who had an entitlement to receive weekly benefits as at the time the amendments came into operation. This is based on the principle that, unlike common-law rights, death or table of maims benefits, entitlement to weekly compensation arises from time to time. That is, this entitlement is dependent upon a range of factors including an incapacity for work, possession of a current medical certificate to provide evidence of that incapacity, not unreasonably refusing suitable jobs offers, and so on. The 1987 reforms have added further requirements such as the requirement to actively seek work in the case of partially incapacitated workers.

However, notwithstanding the government's legal advice there is a need to remove all doubts as to the applicability of the 1987 amendments to workers who were at the time in receipt of weekly payments or who had applied for weekly payments. Any other outcome would clearly not be consistent with the intention of the government in introducing the reforms last year.

The Bill contains provisions to clarify this issue once and for all so as to avoid any possibility of disruption to the implementation of the recent reforms to WorkCare which could arise from protracted legal battles, or could arise from the uncertainty of injured workers and employers as to their rights and obligations following the Work Care reforms.

In order to avoid possible unintended consequences arising in relation to applications lodged with the tribunal before 1 December 1987, a provision has also been included to ensure that these applications will continue to be heard under the Act as it stood at the time of application. However, in all other respects the amendments which commenced on 1 December 1987 will apply to the workers concerned.

I commend the Bill to the House.

The Hon. H. R. WARD (South Eastern Province)—On behalf of Mr Guest, I move:

That the debate be now adjourned.

I suggest that the debate be adjourned until later this day. Instructions must be obtained with regard to the Bill, and I hope it will be possible to proceed as soon as possible after the suspension of the sitting for dinner.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until later this day.

The sitting was suspended at 6.21 *p.m. until* 8.3 *p.m.*

CRIMES (FINGERPRINTING) BILL

The debate (adjourned from earlier this day) 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. HADDON STOREY (East Yarra Province)—The Bill is designed to introduce a code under which the Police Force will have the power, in certain circumstances, to fingerprint people who are suspected of committing a crime. The Bill has been a long time in coming. The government has shown enormous reluctance to take reasonable steps to give the police the powers they need. Even now, the Bill is totally unsatisfactory, but at least it is a start. The Opposition has consistently and persistently asked the government to give police the power to fingerprint suspects to assist them in carrying out their duties. Every other police force in this country and overseas have those powers.

The Opposition was forced to introduce a private member's Bill to give effect to those powers. Mr Chamberlain introduced the Bill in 1986 and introduced a further Bill when Parliament was prorogued. The Bill was finally passed in this place and was supported by the National Party. However, to its eternal shame, the government did not take action to bring the Bill into law.

The Police Force is hampered in carrying out its duties, and the public has been calling for this Bill. Members of the Opposition know of cases where the police would have been asked to solve crimes many years ago had they had proper fingerprinting arrangements. The Victoria Police Force has modern fingerprinting techniques and can utilise modern technology with maximum benefit to all Victorians. However, the police have not been able to use them fully because they lack the necessary powers.

Police officers have had to operate through bluff; they have had to persuade people to offer their fingerprints. They have had to rely on the goodwill of people and, I regret to say, the ignorance of people to obtain fingerprints. The Victoria Police Force does not have the powers any proper police force should have.

The government was shamed into taking action. It referred the matter to a committee and has finally got around to introducing the Bill. I shall contrast this measure to the Bill the House considered so long ago. Mr Chamberlain's Bill provided that a person reasonably suspected of committing an offence and in custody for committing an offence could have his fingerprints taken by the police if they believed on reasonable grounds that it was necessary for the purpose of identifying the person. If such a person were not charged with an offence or if the charges were dismissed, the fingerprints would be destroyed. The Bill gave clear powers to the Police Force. Those powers were constrained by sensible and appropriate conditions, the final safeguard being that the fingerprints would be destroyed if a charge was not laid or if it was dismissed. The Bill was reasonable, but, regrettably, the government did not support it.

If the government had introduced a Bill along the lines of the Bill introduced by Mr Chamberlain, the Opposition would have been happy to support it. We now have this Bill, which is at least a start. It sets out to give some powers to the Police Force. It contains conditions upon which police can obtain fingerprints. The Opposition does not believe

the Bill is as effective as it could be. It would be much better if it were along the lines of the Bill introduced by Mr Chamberlain.

The Bill provides that members of the Police Force may take the fingerprints of a suspect if the suspect gives consent or, if he does not, if a magistrate makes an order for fingerprints to be taken. The reference to suspects giving consent is quite appropriate, but the requirement for a magistrate to make an order before fingerprints can be taken places a very heavy burden upon the members of the Police Force. It introduces a lot of impracticalities into the operation of the law.

It may be all right in the metropolitan area where, no doubt, many magistrates reside, and it is possible to find a magistrate when one is needed, although not always easily. In country areas one can see it will be very difficult to carry out the provisions of the Bill. We certainly do not have a magistrate resident in every country town in Victoria—far from it. There are hundreds of places in Victoria that do not have resident magistrates where members of the Police Force will have difficulty in obtaining an order from a magistrate to take fingerprints.

Therefore, the Bill creates these difficulties. The police will have to travel great distances to find a magistrate to obtain an order for fingerprinting. This will not only cause a good deal of wasted time on the part of members of the Police Force, but will also involve expense; it will distract police from other duties; they will be less available for investigation or prevention of other crimes; and, this power will be severely restricted in the way in which it can be enforced.

As an example, the town of Swan Hill has a visiting magistrate who sits on the bench on two consecutive days over four weeks. Apart from those two days each four weeks, police would have to go either to Mildura or to Bendigo to find a magistrate to obtain an order under the Bill. It is clear that there are very substantial practical and logistical problems created by the provisions of the Bill.

The Opposition position is simply this: the law should be along the line of the original Bill introduced by Mr Chamberlain. That covers the areas where the police ought to have power to fingerprint suspects, and it fixes very sensible and practical criteria which have to be observed before those fingerprints can be obtained.

Upon a change of government, the incoming Liberal government will certainly introduce measures along those lines, because that would be the most practical way of dealing with the matter and the way which offers the greatest protection to Victorians. In the meantime, the government has made it perfectly clear that it is not prepared to negotiate on the necessity for obtaining a magistrate's order. Therefore, honourable members are confronted with the alternative of passing the Bill or losing even the small gain for Victorians that will be obtained by passing the Bill.

Therefore, with reluctance, the Opposition has concluded that it must allow the Bill to pass through Parliament. In doing so, I make it very clear that the Opposition will be campaigning for proper powers for members of the Police Force, and for proper laws like those which exist in other States which enable police to take fingerprints. The Opposition will persist with that and, come the election and the change of government, it will introduce measures along the lines it has indicated, which it believes is what Victorians need and want. The Opposition gives warning to the government that, whenever the Police Force is frustrated because of the limitations of the Bill, the government will have to take the blame.

The government will have to bear the odium of the fact that the police are not able to identify people in cases where they should be able to; and, as a result, people will commit crimes in this State who will not be able to be prosecuted and dealt with as they should be for those crimes. The people of this State will suffer. Therefore, the Opposition will certainly continue to tell the public about the gross deficiencies of the proposed legislation,

which is the very minimum that the government can introduce to maintain any pretence of trying to help police in their difficult job.

The incidence of violent and serious crime is increasing all the time. We have massive difficulty in being able to prosecute and convict people for crimes. The police estimate is that the clearance rate for major crime is only 23 per cent. It is alarming for members of the public to think that, of all the crimes committed in the community, the police can manage to clear from the books only 23 per cent of them. If the police had proper powers they would have a much higher clearance rate and they would be able to provide more protection to the community, which is sick and tired of being exposed to criminal acts by a government that is not prepared to stand up for their rights.

The Opposition will not oppose the Bill, but it is a puny effort on the part of the government. The Opposition makes it clear that it will introduce better laws when it regains government.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party will not oppose the Bill but will attempt to amend it considerably to strengthen it. The National Party believes the police ought to have strong fingerprinting powers, bearing in mind that they have none at present while every other Police Force in Australia has those powers.

The National Party finds it extraordinary that the Victoria Police have not had the power in the past; and the fingerprinting powers provided in the Bill are severely limited in their application. One cannot help but be absolutely astounded at the hypocrisy of the Cain Labor government on fingerprinting when one recalls that only several months ago the Premier was advocating vehemently that he would introduce proposed legislation that would require 400 000 law-abiding persons who held shooters' licences to be fingerprinted. On the one hand the Premier wanted to fingerprint 400 000 law-abiding citizens who had not committed any offence and who were not posing any threat to the citizens of the State—the Premier said, "I am going to fingerprint the lot"—and, on the other hand, he will not allow police to fingerprint criminals and people charged with serious offences.

That is a hypocritical stand and one that I find difficult to accept. I am pleased the Premier saw the error of his ways and realised that his attitude on the gun laws was not popular and practical and, as with a lot of other moves in the past six months, backed right away from his initial stand. However, that does not derogate from the Premier's hypocrisy. On the one hand, he wanted to fingerprint 400 000 innocent citizens and, on the other hand, he refused the police the power to fingerprint suspects and persons charged with criminal offences.

By the same token, my amazement at the government's attitude is matched by my amazement at the Opposition's attitude because, as Mr Storey has already said, Mr Chamberlain introduced and had passed through this House—with the support of the National Party—a Bill that went a long way towards giving the police extensive powers. The National Party had some reservations about the distance Mr Chamberlain was going, especially in the power given to the police to take body samples. Nevertheless, the National Party recognised Mr Chamberlain's initiative as useful and was prepared to support it. It is to the government's shame that it did not allow the Bill to be debated in another place where it still lies on the Notice Paper.

I find it difficult to understand the Opposition's attitude tonight in accepting the Bill—albeit with criticism, but making no attempt to strengthen it. I was somewhat amazed by the attitude of the honourable member for Bendigo East in another place, who approached the National Party when the National Party first circulated its amendment and asked whether the National Party was prepared to give the police power to fingerprint for every offence. He said that provision was far too wide and that a person caught up in a minor offence such as a traffic infringement would be fingerprinted. To accommodate the honourable member for Bendigo East's objection, my colleague in another place, the honourable member for Benalla, amended the provision so that the power applied only to indictable offences.

It was hoped that that would satisfy the honourable member for Bendigo East. However, it appears that the honourable member for Bendigo East then for the first time read Mr Chamberlain's Bill on police powers and discovered that Mr Chamberlain wanted the fingerprinting power to apply to every offence, not simply indictable offences. The honourable member for Bendigo East then attacked the National Party for not going far enough. What inconsistency! The National Party goes down the track to accommodate his objection and he turns around and says that it does not go far enough! This makes it difficult to come up with a consensus view in Parliament.

The importance of giving the police improved powers, especially fingerprinting powers, is illustrated in an article in a journal that the House probably has not yet had the benefit of studying. The May 1988 edition of the *Law Institute Journal* contains an article by Mr J. K. Bowen, Prosecutor for the Queen, entitled "Victoria's Crime Problem. The need for crime control stategy". As today is 6 May, the article is extremely current. Under the heading "Police Powers" the article states:

> Many of the powers relied upon by Australian police forces to protect us from criminals and to investigate crime are redolent of England in the early nineteenth century. While criminals are able to organise themselves and to use all of the technology provided by modern society, such as telephones, paging devices and police radio band scanners, to protect the illegal activities from police intrusion, Australian police forces have long been denied basic investigative powers routinely used by police forces in England and the United States.
>
> On a visit to Australia in 1986, the Commissioner of the London Metropolitan Police, Sir Kenneth Newman, was astonished to learn that police in Victoria were limited to an initial period of 6 hours for questioning crime suspects . . .

Fortunately, we fixed that up earlier this evening, albeit with a few deficiencies—

> . . . could not tap telephones even in a very serious crime investigation . . .

We fixed that up last night, albeit again with a few limitations—

> . . . and had no power to take fingerprints, photographs or body samples from suspects, even where police had reasonable grounds for suspecting that these investigative procedures would afford evidence of the commission of a serious crime. The English commissioner stated that these restrictions placed upon the investigative powers of Victorian police would severely hinder his own force in its fight against crime.

In other words, he was astounded that the Victoria Police was still in the era of Queen Victoria in terms of its investigative powers and had not been able to keep up with modern technology despite the fact that the people police were attempting to apprehend for various activities had access to all the modern devices to hide and protect their schemes.

The article continued:

> Sir Kenneth also drew attention to the need for Victorian police to have, like their English counterparts, power to demand the name and address of a crime suspect and the power to search a crime suspect for offensive weapons and illicit drugs without warrant.

In press releases from the Premier we have been led to believe that the government package—"package" and "strategy" are two of the government's favourite words—would include the power to demand the name and address of a suspect. However, at the Labor Party conference, the civil libertarians, the socialist left of the Labor Party says, "We are not going to allow any policeman to demand the name and address of a suspect."

An Honourable Member—Hear, hear!

The Hon. W. R. BAXTER—Mrs Coxsedge is the power in the Labor Party!

The Hon. Joan Coxsedge—I didn't say a word!

The Hon. W. R. BAXTER—Mrs Coxsedge has way-out ideas and Mrs Coxsedge has the numbers at the Labor Party conference so society cannot be protected from the criminals in our community. She is the protector of criminals.

The article continued:

One of the more extravagant arguments raised against granting Victorian police these investigative powers, which are already possessed by the London Metropolitan Police and most State police forces in the United States, is that it would move Victoria towards becoming a police state.

One can imagine Mrs Coxsedge at the Labor Party conference saying that she supports the totalitarian states of the world but she criticises any move in Victoria on the basis that it might make Victoria a police state. That is another contradiction in Labor Party philosophy. The article goes on to say:

The fact that both England and the United States are recognised bastions of democracy is a sufficient answer to such a claim!

The argument against police being given adequate powers to protect us from criminals, and to bring them to justice, does not grapple with the fact that the rights of victims are grossly violated by criminal behaviour.

I can only say to that, Mr President, "Hear, hear!" I am representing in this Parliament honest, law-abiding everyday citizens of this community who are crying out for the police of this State to be given adequate powers to deal with the crime epidemic and to be given powers that every other police force in this nation has had for years.

We have been presented with a trio of Bills: the Telecommunications (Interception) (State Provisions) Bill, the Crimes (Custody and Investigation) Bill, which has just been dealt with, and the Crimes (Fingerprinting) Bill, which is part way down the track. At the same time, we hinder the police with even more bureaucratic restrictions. This Bill does the same thing and I shall attempt to amend it in the Committee stage.

I now deal with the awareness of rights in this community because people are becoming aware of their rights. I do not dispute that, even though I disagree with the activities of the Fitzroy Legal Service, especially the fact that it is using taxpayers' money to produce booklets to be circulated in schools——

The Hon. Jean McLean—To let people know their rights.

The Hon. W. R. BAXTER—Which encourage school students to defy legitimate authority in this community. That is certainly what some of the publications circulated by the legal service do. Mr Dunn interjects that the booklet is entitled *Where You Stand.* That is not the sort of document that should be circulated in the community. Prior to that sort of document being circulated, in 1977, 80 percent of suspects, when asked to give their fingerprints, consented to that procedure.

Ten years later, that figure had dropped to 36 per cent, simply because people have become aware that the police do not have the power to demand fingerprints. It is high time the police were given that power. In 1986–87, of those who were fingerprinted with consent and voluntarily, only 17 per cent had previous convictions. In other words, those who had been through the mill before knew they did not have to consent to being fingerprinted and they stood on their dignity and said, "No". They were the people who were able to go out and commit offences with little fear of detection.

There must be a databank of fingerprints for the police to be able to identify people who offend consistently in the community.

The Hon. B. W. Mier interjected.

The Hon. W. R. BAXTER—Mr Mier asks why I opposed the introduction of the Australia Card. Here is the old furphy being rolled out again, that fingerprints are like the Australia Card. There is no connection between the two. I opposed the introduction of the Australia Card because it could be used to interfere in a person's private life in a whole range of aspects.

The Hon. B. W. Mier interjected.

The PRESIDENT—Order! I remind Mr Mier that he is being disorderly and is out of his place.

The Hon. W. R. BAXTER—The proposed Australia Card could have been used to interfere in a person's private life in a range of aspects, including access to information of a financial, family, and business nature. The Australia Card was objectionable also in that it was to become virtually a passport, with people having to carry it. That was why I opposed the introduction of the Australia Card; I object to carrying an identification with me in case some State authority might demand of me that I identify myself with a card.

Fingerprints are an entirely different kettle of fish. They go simply towards identification; they are not able to be used in any other circumstance because they have no application in any other circumstance. I would not be opposed to having my fingerprints recorded in a databank because, if an unfortunate incident befell me in the future, it might be useful if I could be identified by my fingerprints. No law-abiding citizen has anything to fear from the police having wider fingerprinting powers.

I am disappointed that the government has not gone further with fingerprinting powers. The government is involved in a cover-up. It is trying to convince the people that it is giving the police greater powers when it is giving them powers under a restricted charter.

If the Bill is passed unamended, fingerprinting powers in the State will take a step backward. For example, currently 17 000 people a year voluntarily consent to being fingerprinted. Those fingerprints are on record at the central fingerprint bureau in Sydney. There are 560 000 sets of fingerprints of Victorians in that central fingerprint bureau in Sydney, which has a total number of fingerprints nationwide of 1·6 million.

If the Bill were to pass unamended, the fingerprints of those people who are subsequently not charged or not convicted will have to be destroyed. That does not happen at present; the fingerprints of anyone who has been fingerprinted by consent remain on the central registry. The Bill will require 30 or 40 per cent of those fingerprints taken each year to be destroyed.

It is a step backward and I shall be moving an amendment to remedy the defect. I shall not vote against the second-reading because the Bill is a step—albeit a small one—towards fingerprinting powers being given to the police. I take on board what Mr Storey has said about what his party will do when they come to government and I look forward to that undertaking being honoured.

The Hon. G. A. Sgro interjected.

The Hon. W. R. BAXTER—In that event, we will probably go even further. In the meantime, it is not a responsible attitude to support the Bill in its present form.

The Hon. JOAN COXSEDGE (Melbourne West Province)—Mr Baxter, I speak tonight as a representative of honest, decent, law-abiding citizens of Victoria.

I suppose it would be fair to say that one of the most contentious issues that was considered by the Coldrey committee was the issue of non-consensual fingerprinting. The Coldrey committee was composed of a range of people with differing views and could be called an expert committee. It was set up in 1984 to look at diverse areas of police powers.

The examination of the issue of non-consensual fingerprinting is contentious because it represents a shift away from the traditional balance of power between an individual and the State in the area of criminal investigation and prosecution. That is, it is a shift away from the fundamental common-law right against self incrimination, the traditional position that a person is not obliged to provide potentially self-incriminating evidence—that it is up to the State to gather its evidence and to establish the guilt of an accused person. This position has been held for hundreds of years and is the cornerstone of our democratic system.

The Coldrey committee was certainly well aware of this balance of conflicting interests. That is the reason the committee recommended certain safeguards against potential abuse. The proposition before the House is unthinkable without such safeguards. The reality is that the police are not the keepers of the law. Our laws are primarily kept by a highly

intricate network of community controls and balances. Once that delicate balance is upset a society is in deep trouble.

If one believed everything one read and saw in the media and listened to Mr Baxter, one would swear that Victoria was in the middle of a crime wave.

The Hon. W. R. Baxter—We are!

The Hon. JOAN COXSEDGE—This is tied up with the campaign by police for greater powers, which I shall examine shortly.

All honourable members want to live in a safe environment; there is no question about that. We want to create the same environment for our families. However, this is an enormous question and in order to deal with it properly we need to look at the whole of our society and not just one aspect of it. If there are serious problems with the way our society is functioning, we should look at where those problems are and consider ways of solving them with proper sensitivity and balance.

I shall consider the ways that the increase in crime is being controlled in our society. Honourable members have heard a number of speeches on the matter and some statistics have been cited. Sections of the media are off and running and the issue becomes emotional, especially among the elderly. Many of them are too frightened to venture beyond their front gates, which is an absolute tragedy.

The issue then becomes mixed up in people's minds with police powers. They believe that granting more powers to the police will result in an automatic reduction in the crime rate. The point has to be made firstly that there is no logical correlation between the extension of police powers of investigation and the rate of crime.

By definition, these powers are used by the police after a crime is committed, not beforehand, so they can hardly be effective in reducing the number of criminal acts. It is interesting that the Chief Commissioner of Police, Mr Kel Glare, said so himself during a direct debate with David Allen, the assistant secretary of the Victorian Council for Civil Liberties on 8 March. That was also confirmed in an article in the *Age* on 11 March 1988 by the Assistant Commissioner for Crime, Mr Vaughan Werner. What is really being offered is the possibility of an improved clear-up rate or solution—in other words, detection rather than prevention.

I do not deny that it is an important claim but it is a lesser one. The critical question to be asked in that case is whether the police, employing their existing powers, are as effective as they should be, and if they are not, will increasing these powers heighten that effectiveness? It is an important question that needs an answer.

I now want to address the question of crime statistics. The superficial impression created in certain sections of the media and in particular, I suppose, by the National Party tonight, is that our Police Force is being overwhelmed and cannot cope. The House has heard much about the 20 per cent decrease in clear-up rates over the period 1977–78 to 1986–87, but in reality for that period the effective clear-up rate has actually increased quite substantially. Figures given by the Australian Institute of Criminology show that for violent crimes and property offences the Victoria Police clear-up rates increased by 23 per cent and 31 per cent respectively. The rate of crimes cleared up by individual Victoria Police officers showed a total improvement of 30 per cent. Those figures give no credence to the claim that more powers are justified because of declining efficiency in investigations.

We should also make comparisons where jurisdictions already have the powers being sought by our police. That is quite a revealing exercise. Reference to the latest published edition of *The Size of the Crime Problem in Australia* shows that for the year 1984–85 clear-up rates in Victoria for both violent crime and property offences were either comparable to or better than the rates in South Australia, where police have the power to demand the name and address of any citizen, or in New South Wales, where police have the right to take fingerprints. Therefore, an examination of the clear-up rates in other

States does not lead to the conclusion that our police need those powers so as to be more effective.

In addition, the vast majority of convictions in Victoria are obtained through visual identification by police and witnesses, through evidence of co-offenders and primarily, of course, by admissions made to the police by suspects.

As far as fingerprints are concerned, the Coldrey committee found, as is stated at page 18, paragraph 2.17 of the report:

> The percentage of cases constituting the major crime index in which fingerprints is found is very small indeed . . .
>
> On an analysis of all the figures it is certainly arguable that on any quantitative basis there is little warrant for the enactment of a power permitting compulsory fingerprinting.

Therefore, the possible gains to the police are fractional.

The Hon. W. R. Baxter—What is the objection?

The Hon. JOAN COXSEDGE—As a matter of interest, I shall read to Mr Baxter in particular—because I know he is worried about the issue—information that was released on 30 March 1988, through a freedom of information request providing rather an interesting insight into the amount of information held by Victoria Police on Victorian citizens. The number of fingerprints held by Victoria Police as of 30 June 1987 was 564 874.

The Hon. W. R Baxter—Many of those people are dead.

The Hon. JOAN COXSEDGE—I am told the figures are culled from time to time. The prints are growing at a rate of 17 000 a year, and that is a hell of a lot of fingerprints!

The Hon. W. R. Baxter—If this Bill is passed unamended, it will cut that back to 10 000.

The Hon. JOAN COXSEDGE—Many of those fingerprints are taken for non-criminal purposes, including employment, visa clearance applications to the United States of America, applications for membership of pistol clubs—we do not disagree on that! The large number of fingerprint statistics sits oddly with the argument that our criminals are going through the system without being fingerprinted. If they are not criminals, why are their fingerprints retained?

There is no doubt that we all want to live in a safe environment, and wish to create the same conditions for our families. However, as I have said, one needs to examine a whole range of concerns before one comes down heavily on one side of the issue.

Therefore, I wish to talk about the delicate balance between the needs of the Police Force and the protection of our civil liberties. I know they are words Mr Baxter does not like: he obviously hopes that civil libertarians are a dying race because he does not have anything positive to say about civil liberties or civil libertarians.

The Hon. B. W. Mier—That is why he goes to South Africa!

The Hon. JOAN COXSEDGE—That is right. We all know where Mr Baxter stands.

I am apprehensive about the granting of any power that will erode fundamental common-law rights against self-incrimination. That is a view I am sure would be shared by Mr Storey. The onus of proof is with the State, without coercion or threats and without transgressing against the tenet of common law. The latter must prevail as a matter of principle. If it were considered that the former should take precedence it must be on the basis of very strong empirical evidence.

I return to what the Coldrey report states, in paragraph 2.15 on page 17:

> On the basis of the figures presented in the total number of major crimes which could have been solved in 1986–87 through fingerprint identification was 5+% of all major crime in this State. It should be understood that this figure could not be improved, since it constitutes the maximum of prints detected, even if every person who entered a police station was fingerprinted or whether fingerprinting was a universal requirement.

Furthermore, the fingerprints comprising the figure of 5 plus per cent have no great value in that they relate to all fingerprints and are not necessarily connected to an offender. A person's presence at the scene of a crime does not constitute proof that that person committed a crime.

While the figure of 5-plus per cent is small, the actual percentage of cases where fingerprint evidence resulted in or contributed to proof of guilt is a very much smaller figure again. As a consequence, the Coldrey committee which examined the question for quite a few years concluded, as is stated in paragraph 2.17 at page 18:

> Fingerprint evidence does not play a significant quantitative role in the conviction of offenders.

The question of over-increasing police powers has been around for many years, but a solution does not necessarily lie with having more powerful police. What we do need is a more visible presence of police on the beat. What we do need is more community policing and more interaction between police and the general public.

If we, as a Parliament, are serious about wanting to reduce violence and crime in our society then we need to look at the root causes of crime, which are social. We should also remember that freedom does not necessarily vanish overnight but can be slowly whittled away, bit by bit. And once a society has lost its freedom it can be extraordinarily difficult to get it back.

I do not know precisely what the amendment foreshadowed by the National Party will be—however, I shall oppose it in advance because I suspect that the National Party wants to remove the safeguards in the Bill which were based on the recommendations of the Coldrey committee. If the National Party has that intention it will be taking Victoria down a very dangerous pathway indeed.

The Hon. N. B. REID (Bendigo Province)—The Victoria Police Force have been wanting the power to fingerprint people suspected of committing crimes for a number of years. I support this provision because, for the first time in Victoria, the Police Force will have the power in appropriate cases to take fingerprints without the consent of suspects.

The safeguards which the government has indicated are provided in the Bill leave something to be desired. I shall comment more about this in the Committee stage.

To illustrate to the House how important it is that the Victoria Police Force have the power to fingerprint suspects, I refer honourable members to a book that I have taken the opportunity to read written by Andrew Rule entitled *Cuckoo*. The book describes the investigation and follow-up of the murders of Abina Madill and Gary Heywood in Shepparton approximately twenty years ago.

The Hon. B. M. Evans—In 1966.

The Hon. N. B. REID—That is correct. The book chronicles the exploits and apprehension of a person known as Raymond Edmunds, who was ultimately charged and convicted of the Madill and Heywood murders.

It was only by chance that this man was apprehended because his fingerprints were able to be matched to a set of two fingerprints on a FJ Holden motor car that belonged to one of the victims. That set of two prints was one of the major clues in the successful detection, apprehension and conviction of Raymond Edmunds for those two murders.

Raymond Edmunds's fingerprints were collected by the New South Wales Police Force, which had the power to take fingerprints of suspects long before Victoria. As a result of the perseverence of officers of the Victoria Police Force and the assistance of the police in New South Wales the jigsaw of the Victorian murders was pieced together approximately twenty years after the event. Because of that identification it was proven that Raymond Edmunds was responsible not only for the murders of Abina Madill and Gary Heywood but also for numerous other rapes and attacks on women.

This case demonstrates how important it is that the Victoria Police Force should have the power to take the fingerprints of suspects so as to be able to prove the crimes committed by people which would otherwise not have been proven and have the perpetrators convicted of those crimes.

I reiterate that it was by sheer chance that Raymond Edmunds was fingerprinted in New South Wales and that because of the diligence of the Victoria Police Force and the cooperation of the New South Wales police he was brought before the courts to be tried and convicted.

The Hon. G. P. CONNARD (Higinbotham Province)—The package of Bills that the government has introduced, the Crimes (Custody and Investigation) Bill, the Telecommunications (Interception) (States Provision) Bill—with which the House has already dealt—and this Bill are inter-related.

Since the advent of the Cain government there has been questioning of the issue of law and order. It was Mr Baxter who said that Mrs Coxsedge was one of the main players within the Labor Party in diluting the government's law and order issues which are based on her civil libertarian views. Mrs Coxsedge's view are well known. The data that Mrs Coxsedge produced is unlike any other data produced.

There is no doubt that members of the community in the suburban areas, including the people in the rural areas are nervous even about walking from a train to their suburban homes. Honourable members will have noticed that most suburban homes have security locks on their windows and doors not for petty reasons but because people are fearful of someone breaking in and entering for the purpose of robbery or crime where with the use of weapons and so forth.

One could well reflect on the fact that the public interest in the firearms legislation was due to the lack of security that people feel in these suburban and rural areas, to the lack of police numbers to adequately protect citizens, and to the tendency of the judiciary to inadequately punish criminals.

The majority of citizens are law-abiding. They deserve and require Parliament to provide appropriate mechanisms so that they can live in peace and harmony. The government has virtually reduced the ability of law officers to protect the community and to bring criminals to justice. It is a farce that the Victoria Police Force has so little support in its objective of obtaining crime control.

Victoria has one of the finest police forces in the world—a body of men and women of the highest integrity—and it is attempting to do a job without the necessary tools. The police forces in other States of Australia obviously have their problems, as shown by the Fitzgerald inquiry in Queensland and the coming inquiry in New South Wales. That situation does not exist in Victoria, but the mechanisms by which the Police Force can investigate crime and provide protection to the suburban and rural communities to allow us to live in our homes without fear, are not available to the Police Force.

The Cain government introduced the Crimes (Fingerprinting) Bill and the two other Bills to which I referred earlier, as an act of cynicism. It will not succeed. The government is driven by the popular acceptance of the Police (Powers of Investigation) Bill, commonly known as the Chamberlain Bill, which recognises the contribution of law officers and the judiciary to the State.

The Police (Powers of Investigation) Bill initiated by the Liberal Opposition passed through the Legislative Council, but is yet to be read a second time in the Legislative Assembly. Knowing the strength of the Coxsedge faction within the Labor Party, that Bill will not be read a second time.

Let me remind the House of the significant provision of the Liberal Party Bill. It required a person to state his or her full name and address if a member of the Police Force has reasonable cause to request those details. The government has not picked up that

provision in the Crimes (Fingerprinting) Bill. That provision is of primary importance to law officers.

The Police (Powers of Investigation) Bill contains provisions on medical examination. The provision allows a police officer, through a medical practitioner, to make an examination of a person and take such samples as are reasonable in order to ascertain the facts which may afford such evidence as to assist in the conviction of a person who has been charged with committing an offence. The Police (Powers of Investigation) Bill provides for the search of accused persons in custody. The weak Cain government did not include that provision in the Crimes (Fingerprinting) Bill, yet that provision is essential for police officers in combating crime.

The Telecommunications (Interception) (State Provisions) Bill attempts to include provisions on the interception of telecommunications, and other honourable members have referred to those provisions. The Police (Powers of Investigation) Bill includes provisions for fingerprinting. Clause 4 of that Bill provides:

> 4. (1) If a person is reasonably suspected by a member of the police force of committing an offence or is in lawful custody on a charge of committing an offence, a member of the police force may, if he or she believes on reasonable grounds that it is necessary to do so for the purpose of identifying that person or identifying that person as the person who committed the offence—
>
> (*a*) take or cause to be taken, photographs of that person and prints of the hands, fingers, feet or toes of that person and may use, or cause to be used, such reasonable force as is necessary for that purpose; and
>
> (*b*) cause impressions of the teeth of that person to be taken by a registered dentist; and
>
> (*c*) make or cause to be made a recording of the voice of that person; and
>
> (*d*) make that person to supply a sample of his or her handwriting.

Police require that provision to assist in detecting criminals involved in serious crime. The Crimes (Fingerprinting) Bill contains proposed sections 464K and 464L regarding fingerprints and informed consent. Proposed section 464L (1) provides that a suspect may give informed consent to a request for his or her fingerprints. That sounds great! A criminal knows his rights. Informed consent does not mean a thing to him because a criminal will offer informed consent. It is forcing a police officer to apply to a magistrate for proper authorisation. There are practical difficulties with this. I have been told of those difficulties by my local Criminal Investigation Branch personnel. Most offenders are picked up outside the normal working hours and the Magistrates Court is closed. Honourable members will recall debating the 6 hour rule, which was a provision in other legislation, when the difficulties associated with the application of that rule were amply illustrated by Mr Baxter and Mr Storey.

This weak government is saying to the police, "Yes, you may take fingerprints, but in having that provision you must search for a magistrate generally outside of hours". The number of magistrates is restricted. Mr Baxter rightly pointed out the difficulties of finding a magistrate in rural areas. It is difficult to find a magistrate on a Saturday afternoon when he may be at football match. The provision imposes unnecessary difficulties on law officers and is of no real benefit to them.

I was tempted to propose to my party: if this authority is required, why not apply to a justice of the peace? I might have said there was some sense in the Bill if it contained that provision. The previous Attorney-General, now the Minister for Transport, hated the position of justice of the peace and the enormous amount of voluntary work that those people did, and did well.

Honourable members can discount the provision relating to informed consent. It will not apply to a criminal who knows his rights.

The PRESIDENT—Order! Is Mr Connard aware that the Bill will go into Committee?

The Hon. G. P. CONNARD—Yes, Mr President; thank you for your guidance. Proposed section 464R is a farce. It provides for the destruction of fingerprints after a period of six

months, where appropriate. Any efficient Police Force will go through that process automatically.

The Bill is worthy of support only because it is a tiny step forward towards assisting the community. I support the Bill, but reluctantly, because this lazy government has not accepted its responsibilities and included in it the provision contained in the Liberal Party's Police (Powers of Investigation) Bill. The government lacks the will and determination to do anything about the increasing rate of crime in our community. There is no doubt the government's attitude is controlled by the Coxsedge faction. The Police Force is a group of fine men and women who are at the battlefront. I commend those excellent officers who serve the communities of East Bentleigh, Sandringham and Brighton.

I have previously mentioned the friendships that I have developed with members of the Police Force stationed at East Bentleigh. They at the battlefront, particularly in regard to drug detection. The police are facing difficulties in regard to the 6-hour rule and their ability either to accumulate fingerprints from another source or to take fingerprints of suspects, which is a restraint on their capacity to carry out their jobs properly.

The Bill is a farce. It is an election stunt and political cynicism at it worst.

The Hon. G. R. CRAWFORD (Jika Jika Province)—I did not intend to speak on the Bill, but after listening to the hypocritical comments from honourable members opposite, particularly Mr Connard, I just could not let the opportunity go by without making a few comments. I understand the time constraints at this late stage, and I shall try to be as brief as possible. My contribution will certainly not be as comprehensive as I would like to make it.

Mr Connard just made the comment about this Bill being an election stunt; this debate is certainly an election stunt for the opposition parties. What concerns me is that, throughout the whole debate, discussion has taken place on the basis of the situation of criminals who are being charged and so on; it has been about criminals, criminals, criminals—the word has been constantly used during the debate.

The Hon. W. R. Baxter—I referred to suspects.

The Hon. G. R. CRAWFORD—Mr Baxter is now trying to clarify what he said.

When listening to the remarks of members of the opposition parties, one may gain the impression that everybody who is charged finishes up being convicted of the offence. That is certainly not the case. It is my understanding that the authorities have always had the power to fingerprint people who have been charged with and convicted of crimes when they go to gaol. It seems that some people want to stop criminals being fingerprinted.

Honourable members have witnessed the hypocrisy of people in this place saying, "We stand for the ordinary, decent, law-abiding citizens".

The Hon. W. R. Baxter—And so we do.

The Hon. G. R. CRAWFORD—No, you do not. Members of the opposition parties have been throwing muck at the so-called civil libertarians and so on, yet they are not prepared to stand up and defend the civil rights of innocent people. It has always been my understanding of the system of justice that people are innocent until proven guilty. However, so far as the opposition parties are concerned, anybody charged with an offence is guilty until proved innocent.

They have been belly-aching in this place about the 6-hour limit on the interrogation of suspects. I know of people who have been locked up by the police all night, such as kids whose parents have never been notified. The 6-hour limit did not apply in those situations. One knows, therefore, that the police do not carry out the provisions that Parliament attempts to include in legislation to protect people's civil rights. The only time when civil rights are recognised is when they are exercised by people. In fact, Mr Baxter admitted that more and more people are beginning to understand, claim and exercise their civil

rights. However, every day the police are exercising authority in areas where they have not had that power, and because people do not raise the question of their rights, those rights are overridden.

The Hon. R. J. Long—Give us an example.

The Hon. G. R. CRAWFORD—I cite as an example the case of a young apprentice who was grabbed by two policemen when he walked out of a hotel. The police told him to get into the car, which he did. At the same time, a couple of other people staggered out of the pub, and the police said to them, "We don't want you. We already have somebody." They took this young man back to the police station and charged him with drunkenness—not with being drunk and disorderly, because there had been no incident. He had not talked to anybody; the police just told him to get in the car and then took him to the lockup.

On the way there, they asked him what he did for a living, and he told them he was an apprentice. The police said, "We can make your life very difficult for you. We can ring up your employer", and so they went on. The young man kept quiet and when they got there, they put him in the boob. He was in the boob all night. He was not able to telephone his parents or anyone. They released him at about 8 o'clock the next morning.

The young man then hopped on the train and travelled to the Royal Melbourne Institute of Technology to attend his trade course. He was late, so he had to tell his instructor, "I am sorry I am late. I have been locked up all night". He told the instructor the story and was advised to ring up his parents and let them know where he was. He did so and told his mother where he was; nobody had notified his parents. This is what actually occurred, and I can provide Mr Long with all the names and details.

The opposition parties have been bleating about the 6-hour limitation.

The Hon. R. J. Long—That is one example.

The Hon. G. R. CRAWFORD—Yes, it is one example, and there can be hundreds and thousands of such examples. This sort of thing occurs every day of the week. These are simple little incidents; one does not hear about them because it would mean that people would have to go through all the processes.

The result of the case to which I referred was that the young apprentice had to go to court, where he was found guilty—on the say-so of the police, on the evidence that they thought he looked a bit glazed in the eyes and his speech was a bit slurred—of being drunk. He gave his evidence. He said he was not drinking in a school, but that he just went to the pub and talked to some people, and so forth. There was no incident; he just walked out of the hotel and was picked up by the police. Thousands of similar examples can be provided.

There is a view that if police spent more time investigating and working on the really serious crimes they would have a better record rather than being known for picking on innocent people, standing over them and exercising their authority in that way. Therefore, I say on that question, as I do on the issue of fingerprinting and many other issues, that the police have a role to play, but safeguards need to be provided. It is of some concern to me that, unless the suspect who is picked up by the police knows about the safeguards and is prepared and able to exercise them, the police simply ride over that position and exercise the widest powers in the world.

Of course, crime is on the increase, particularly drug-related crimes, such as housebreakings, burglaries and hold-ups, which are committed in many cases by people seeking to obtain money to satisfy their addiction to drugs. I have been a little more heartened recently to note some of the work that has been put in by the police on detection in that area. The sources of crime should be tackled; those elements in society that are causing crime should be addressed. I believe Mrs Coxsedge was right when she said that the mere fact of increasing police powers is not an answer on its own. The basic causes of crime must be tackled. I would support the use of all the powers necessary to do that, provided there is a proper emphasis on the matter.

It sickens me to hear the hypocritical remarks of people who believe that everybody who is charged is a guilty person and, therefore, should have no civil rights. So far as I am concerned, the House should not support any of the amendments that the opposition parties will propose to water down the Bill.

I believe the Bill goes far enough. It has safeguards to protect the civil rights of the ordinary, honest, law-abiding citizen. That is the person this government is interested in defending. The government will defend the civil rights of those persons as well as giving police adequate powers to investigate crimes.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 3 were agreed to.

Clause 4

The Hon. W. R. BAXTER (North Eastern Province)—I move:

1. Clause 4, lines 7–10, omit all words and expressions on these lines and insert—

"person of or above the age of 17 years who—

(*a*) has been charged with an indictable offence; or

(*b*) has been summonsed to answer to an information for an indictable offence; or

(*c*) is suspected of having committed an offence and—

(i) the person gives his or her informed consent; or

(ii) a Magistrates' Court makes an order under section 464M (3)."

The National Party firmly believes a person, having been charged with an indictable offence, ought to be compelled to provide fingerprints if the police so require. There is no reason for either informed consent or the Magistrates Court procedure being applicable in that case. It is clear that a professional criminal would not give informed consent. He would resist, so the matter would have to be taken to a Magistrates Court, which is a time-consuming business. The police would have to produce much of the evidence before the magistrate for no purpose other than to obtain permission to undertake fingerprints. It may not be in the interests of the police to disclose all the evidence at that early stage, bearing in mind that it is not the committal or the trial but only the fingerprinting aspect.

The clause is really two-barrelled. It provides for suspects or persons who have not been charged, if the police believe it is desirable, for all the reasons given in the second-reading debate, either to inculpate or exculpate a person's connection with a crime to have fingerprints taken. The provisions of the Bill can be put into train through informed consent or through the Magistrates Court procedure.

The National Party believes that is a more practical way of doing things rather than having the police on every occasion, including those cases where people are charged with serious indictable offences, of going to the Magistrates Court in the absence of obtaining consent by the person concerned.

Might I also add two other matters? The first is that my amendment in no way goes towards altering the provision in the Bill in terms of how children will be treated. The provisions of the Bill will stand unamended in the sense that the consent, parent, guardian and magistrates' procedures remain unaffected. That is an appropriate mechanism for non-adults.

The second matter concerns the issue raised by Mr Connard in the second-reading debate. The National Party believes the ability to give authority should reside not only in Magistrates Courts but also within the capacity and jurisdiction of justices of the peace. It seems extraordinary to me that in country areas in particular—although I am certain similar difficulties can arise in the metropolitan area—the Bill will make it more difficult to obtain the services of a magistrate, particularly after hours and at weekends. In the

North Eastern Province, the magistrate might live more than 100 miles from where the suspect is questioned. It seems impractical to take a person to a Magistrates Court for permission to have fingerprints taken.

I have not prepared an amendment along those lines, but I support the remarks made by Mr Connard. It is essential that the authority to give the order must extend to justices of the peace as well as to magistrates. I moved the amendment because I believe the powers contained in the Bill are too restrictive and should be expanded to the extent of those included in my amendment.

I advise the Committee that my view is that fingerprinting powers should be extended more widely, and even to the extent included by Mr Chamberlain in his private member's Bill. In other words, the police should have the power to obtain fingerprints of a suspect for an offence. However, I am moving gradually in that direction. I thought a half-way house to cover those people who are charged might be the way to go in the first instance, and, later, we can then consider extending the powers after seeing how it works in practice.

The Hon. N. B. REID (Bendigo Province)—I shall raise a couple of additional points about access to Magistrates Courts. This is another example of the centralised thinking of the government. The government has failed to take into account the problems involving access to Magistrates Courts in country Victoria. The police should have the ability to obtain an order from Magistrates Courts, but how can they be assured of having access to those courts?

The Hon. J. H. Kennan—This does not relate to Mr Baxter's amendment.

The Hon. N. B. REID—It is on clause 4, and it is my only opportunity of raising it.

The Hon. E. H. Walker—I think your comments might be better made after the amendment is handled.

The CHAIRMAN (the Hon. G. A. Sgro)—Order! The Committee will first deal with the amendment.

The Hon. N. B. REID—Yes, but I reserve the right to speak on clause 4.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I have listened to Mr Baxter's contribution, but the government does not accept his amendment. That is probably no surprise to Mr Baxter since we discussed the matter earlier. The amendment really relates to the issue of compulsory restoration on acquittal. Where a fingerprint has been obtained and no conviction ensues—and I recognise that this is different from the current provision, which point was also made by Mr Baxter—it is the duty of the State to restore that person to the position of all other members of the community. In other words, if no conviction ensues, people should be able to be reinstated to the position that they held before.

The Hon. W. R. Baxter—You are on the wrong amendment.

The Hon. E. H. WALKER—I thought this was the one you were talking about.

The Hon. W. R. Baxter—No, you are talking about amendment No. 2.

The Hon. E. H. WALKER—It is dealing with the age of the person.

The Hon. W. R. Baxter—No, that one should be able to take the fingerprints of the person who is charged.

The Hon. J. H. KENNAN (Minister for Transport)—As I understand amendment No. 1, it means fingerprinting on a charge for an indictable offence, or a summons for an indictable offence. The government agrees that it is a fundamental amendment because it removes the court supervision. The whole structure of the Coldrey report was about court supervision. There has been an increasing move towards court supervision in a number of areas, and court supervision is a primary part of the Coldrey report. Amendment No. 1

gets rid of that, enabling the police to fingerprint people without having to go to court and to satisfy that court that there is a case for taking fingerprints. That is what is at issue. That is a fundamental matter and, for that reason, the government opposes the amendment.

The Hon. HADDON STOREY (East Yarra Province)—I should like to hear the government's reaction to this amendment because it is important in determining the attitude of the Opposition. The Minister for Transport has made it clear that the government is not prepared to accept this amendment, therefore, the amendment raises the question of whether the Bill can proceed.

As I said in the second-reading debate, the Opposition does not believe the Bill deals adequately with the question of fingerprinting, but is of the view that it is better to at least have this step than no step, because the present position is intolerable. If the government's attitude is as expressed by the Minister for Transport, and it is not prepared to consider the amendment and a number of other amendments dependent upon this amendment, that creates the situation where the Opposition has to consider whether it will support the amendment.

Because the Opposition wants to have some improvement to the law, it is difficult to support the amendment. There are other reasons why the Opposition does not support the amendment. Mr Baxter in his second-reading remarks made some critical comments about the honourable member for Bendigo East in another place. The honourable member for Bendigo East was entitled to be concerned about the National Party's approach because he was presented with at least three versions of amendments by the National Party to this Bill. In this Chamber we have a different set of amendments from the ones that were moved by the National Party in another place. I have not had an opportunity of examining the differences, but it indicates the National Party is endeavouring to amend the Bill on the run. The National Party has not sat down to think about what is a coherent approach to the question of fingerprinting. That is why the Opposition prefers Mr Chamberlain's approach; his private member's Bill is a complete package that deals in a proper and responsible manner with the question of fingerprinting. It has aspects to it that will not be picked up by Mr Baxter's amendment, which means that the Bill will not be as effective as it should be.

The amendment will fragment the law even more, because there will be one set of criteria where a person is suspected of an offence and another set of criteria where a person is charged with an offence. There will be a requirement for access to Magistrates Courts in some cases and not in others. The amendment does not take account of reasonable suspicion of an offence, which is an essential ingredient of Mr Chamberlain's Bill. When one examines how the amendment will operate in this Bill, one finds that there will be no power to enforce the requirement for the taking of fingerprints, which was an essential ingredient of Mr Chamberlain's Bill.

The amendment moved by Mr Baxter, although the motivation is good and the desire is to come to a position closer to Mr Chamberlain's Bill, will not be effective in achieving that; it will create complications in the law. The Opposition has reservations about accepting the amendment because it will not be practical or the most appropriate way of achieving what the Opposition wants. We must ensure that we are able to improve the Bill, bearing in mind that the Opposition will legislate, upon a change of government, to have a proper and coherent approach that will give the police what they need and deserve. In the interests of the community, the Opposition is not able to support the amendment.

The Hon. W. R. BAXTER (North Eastern Province)—I say to the Minister for Transport that this is a fundamental amendment to the Bill and I believe it is one that is justified for the reasons I have outlined. The Magistrates Court, as well as the Supreme Court and the County Court, is already snowed under with business and the jurisdiction of the Magistrates Court is about to increase by $40 000, with certain other responsibilities. This Bill will further add to the backlog of the Magistrates Court, and in light of the issues Mr Reid was raising—and I hope he has the opportunity to follow them up—as well as the problems of access to the Magistrates Court, I should have thought that my amendment at least

provided for those circumstances where the court is almost without doubt on every occasion likely to give authority for the fingerprints to be taken. We should provide for those circumstances and it would lead to a lessening of the backlog that is currently in the court system in Victoria.

I appreciate the predicament in which Mr Storey finds himself. I only wish that the Opposition was moving as an amendment to this Bill that part of Mr Chamberlain's private member's Bill that goes to the fingerprinting issue, because I should be delighted to support it and we would make some progress. There are three editions of the National Party's amendment and that is so simply because of the need to accommodate the comments and sugestions made by a number of members of Parliament, including the honourable member for Bendigo East in another place, who put to the National Party certain propositions that the National Party sought to accommodate. The National Party was taken aback when the honourable member for Bendigo East became critical, but the amendments were not being made on the run; it is a matter of coming up with a consensus view that will give the State the best possible law.

The Committee divided on the question that the words and expressions proposed by Mr Baxter 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 Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Connard	Mr Wright
Mrs Coxsedge	
Mr Crawford	*Tellers:*
Mrs Dixon	Mr Evans
Mr Granter	Mr Hallam
Mrs Hogg	
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Lawson	
Mrs Lyster	
Mr McArthur	
Mrs McLean	
Mr Mier	
Mr Miles	
Mr Murphy	
Mr Reid	
Mr Sandon	
Mr Storey	
Mrs Tehan	
Mr Van Buren	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mr Henshaw	
Mr Pullen	

The Hon. N. B. REID (Bendigo Province)—Proposed section 464K provides that a member of the Victoria Police Force may take the fingerprints of a suspect if the individual consents or if an order of the Magistrates Court is obtained. The issue I want to raise with the Minister for Agriculture and Rural Affairs, who is handling the Bill, and the former

Attorney-General, the Minister for Transport, concerns the access of country police to the Magistrates Court and their ability to obtain a court order. I understand that a justice of the peace can issue court orders.

In many areas police work is not a 9 a.m. to 5 p.m. job. Honourable members will appreciate that the amount of time spent travelling to the Magistrates Court for the police to obtain the order could exceed 1 hour. I put to the Minister the proposition that, in many parts of country Victoria, justices of the peace should be in a position to issue a court order, enabling the police to obtain the fingerprints of a suspect. I should like a response from the Minister on that proposal.

The Hon. J. H. KENNAN (Minister for Transport)—Honourable members are no doubt aware that the Magistrates Courts are functioning extremely well. Mr Baxter indicated the strong support of the National Party for an increase in the jurisdiction of the Magistrates Court, which would enhance its role in regional Victoria. I welcome Mr Baxter's enthusiastic support for the proposition that the jurisdiction of the Magistrates Courts be increased in country and regional Victoria. Mr Baxter is no doubt aware that those courts are operating extremely well.

The point Mr Reid makes relates to those occasions outside ordinary business hours when it may be difficult for a magistrate to be found at a particular town or place in circumstances where the town or place is some distance from the nearest town where a magistrate lives.

The Hon. N. B. Reid—There are many of them.

The Hon. J. H. KENNAN—I realise there are many such towns, but there are not all that many cases where police would necessarily want to fingerprint a person outside business hours a long way away from a town where a magistrate resides.

The Bill provides that, if the police have grounds for having a person placed on remand, a subsequent court order can be made for the person to be taken out of custody and fingerprinted or, if the person has been released on bail, a court order can be executed under proposed section 464O (6) enabling the person to be arrested and fingerprinted. There may be other reasons why the police later find that they want to fingerprint a person, even though it did not seem relevant to do so when they interviewed the person.

When the police require it, they can arrest a person on a court order and then fingerprint him or her. Therefore, in the rare case that was referred to by Mr Reid, either the person is remanded in custody after being charged, in which case the person can be kept in custody and fingerprinted, or, if the police cannot get to a magistrate at a time of convenience, or a person is bailed, there is the court order and the person can be arrested and brought back and fingerprinted.

The Hon. N. B. REID (Bendigo Province)—I take up the comments of the Minister for Transport who indicated that if someone was on bail, the police must go through the whole process again of apprehending that person and arresting him to obtain fingerprints. That situation is incredible when there may be a justice of the peace in the area who is able—as I understand it, and correct me if I am wrong—and who could issue a court order. Why not give a justice of the peace the power to issue the order giving the police the power to obtain fingerprints?

The Hon. J. H. KENNAN (Minister for Transport)—Mr Reid is aware of the position of the government in relation to justices of the peace; it is not in favour of extending the judicial powers of the justices of the peace. It took those powers from them. The government is expanding the powers of the Magistrates Court in country areas; it has professionalised the magistracy. Victoria has a strong magistracy recruited from the ranks of practitioners. This is an important power because it gives the police the right to forcibly take fingerprints. It is appropriate that a magistrate issue that order.

If a person is released on bail, that person has conditions placed on him to report back to the court. This is not a big problem. If the police want to take the fingerprints urgently, they can arrest that person at any time or they can do it at their convenience if they have a court order.

The Hon. W. R. BAXTER (North Eastern Province)—I am pleased Mr Reid raised the matter of justices of the peace because I agree with his remarks. Earlier this week I set out to include amendments that provided for justices of the peace, except the task became too difficult within the context of the Bill—bearing in mind the government's attitude to justices of the peace.

The Hon. E. H. Walker—Let's not get onto that!

The Hon. W. R. BAXTER—I wish to place on the record that I agree with Mr Reid and also sought to move in that direction but, as I said, the task proved to be insurmountably difficult in this field. However, when there is a change of government we will do so.

I shall speak to my amendment No. 7. Amendments Nos 2 to 6 are consequential on amendment No. 1 that has already been tested by the Committee. I shall indicate why I am not proceeding with my amendment No. 7 which goes to the matter of tape-recording.

I intend to delete from the Bill all references to tape-recording on the basis that I would have been successful doing the same in the Crimes (Custody and Investigation) Bill, with which the Committee dealt earlier in the day, on the grounds that the provision is premature and police do not have the facilities for the tape-recording of interviews. Bearing in mind that I failed in that exercise, it would be pointless to attempt to do so in this Bill. If the police are to be equipped with tape-recording gear so that the Crimes (Custody and Investigation) Bill can be brought into operation, naturally my amendment becomes less crucial.

The Hon. G. P. CONNARD (Higinbotham Province)—I have been following the debate with a reasonable amount of attention. Clause 4 deals with the availability of magistrates outside working hours in the metropolitan area. I re-emphasise, as I am informed by Mr Reid, Mr Baxter and others, the lack of availability of magistrates in rural Victoria because of both hours and distance.

I seek an assurance from the Minister that provision will be made for out-of-hours service of magistrates to the Police Force.

The Hon. W. R. BAXTER (North Eastern Province)—The next amendment with which I wish to deal is the only other one of the 49 on my list that is not consequential. I move:

42. Clause 4, page 8, line 23, omit "subject to sub-section (3)" and insert "on application of the person".

The amendment goes to the heart of the matter of destruction of fingerprint records. Proposed section 464R of the Crimes (Fingerprinting) Bill provides that where a person whose fingerprints have been taken either by consent or by court order is not charged within a period of six months after the taking of the fingerprints or, subsequently, is not convicted of the offence or any other relevant offence, the chief commissioner must destroy those fingerprints subject to a couple of exceptions, qualifications or modifications, one of which is to seek an extension of time in the Magistrates Court.

If the Committee were not to accept amendment No. 42, it would be going backwards on what currently pertains in the State.

The Hon. J. H. Kennan—Except this bit of the Bill.

The Hon. W. R. BAXTER—Yes. The government is proclaiming loudly that it is increasing police powers and that it is doing so through this Bill, albeit in a modest and insufficient fashion, yet the proposed change would be a backward step because it would require the destruction of all fingerprints when a charge is not subsequently made or a conviction is not recorded. That is not the situation that currently pertains.

At present, approximately 17 000 sets of fingerprints are accumulated each year by consent and they are kept on file at the central registry in Sydney; Victoria is building up a database of fingerprints. Mrs Coxsedge would not agree with that, but she is no longer present; having made her contribution, no doubt she has whizzed off to North Balwyn.

It is essential that a databank of fingerprints be built up. If the clause is carried in its present form, presumably approximately 35 or 40 per cent of the 17 000 sets of fingerprints will be of persons who are not subsequently charged or convicted and they will need to be destroyed. That valuable information will be lost. My proposal means that the fingerprints can be destroyed when a person has not been charged or subsequently convicted but only upon the application of the person concerned. In other words, the fingerprints remain in the databank until their destruction is requested upon application to the chief commissioner, who will be obliged to destroy them and advise the person that they have been so destroyed according to the provisions contained in proposed section 464R (5). My proposal is reasonable.

I do not believe anyone has anything to fear from having his or her fingerprints recorded. For example, in some cases they could be of assistance to the individual or the family for use in identification. If the person who has had his or her fingerprints taken has reservations about them being kept on the record, the person can ask for them to be destroyed. There is nothing fairer than that.

The Hon. J. H. KENNAN (Minister for Transport)—I should have hoped the Committee would have accepted that a person charged with an offence and aquitted should not bear any stain or stigma as a result. The mere charging, trial and acquittal of a person involves inconvenience to that person and to the State through the resources of the Police Force and so on. The Bill does no more than recognise that principle.

If a person has been ordered to give his fingerprints and does so, and then is subsequently acquitted, he should revert to the same position as he occupied prior to the charge being laid. There is still a presumption of innocence in the community. I know some people would challege that point, but there is widespread community support for the proposition that one is not guilty; one is innocent until a court finds one guilty and this is no more or less than an exposition of that principle.

Of course, it does extend the power of the police to obtaining fingerprints forcibly against a person's consent, subject to a court order and in that case the government is saying that in the context of that happening and where a person is subsequently acquitted, they are to be put back in the position before charged and their fingerprints are to be destroyed. Again, that is consistent with the government's adherence to the presumption of innocence and consistent with the ordinary notion of justice.

The Hon. HADDON STOREY (East Yarra Province)—This is another example of the National Party's flexibility in its attempt to amend the Bill because we have yet another version of an amendment to the clause moved in another place. The Liberal Party does not believe that where a person has been charged but the charge does not proceed or when, indeed, the person is not charged after all or is acquitted, the fingerprints should be kept.

The Liberal Party believes we do not live in a State that tries to obtain particulars of people. We opposed the proposals for an identity card and we oppose the proposal to maintain those records in the case of people who have not been convicted of an offence.

In the case of the Bill introduced by Mr Chamberlain, which the National Party supported, it provided not only that fingerprints would be destroyed in those circumstances but also made it an offence not to destroy them. To introduce a provision that the person who has been reasonably suspected or has been suspected of committing an offence but who is not even charged has to go to the trouble and burden of making an application to require the fingerprints to be destroyed is placing an entirely unreasonable burden on that person. Therefore, the Liberal Party certainly does not support the amendment.

The Hon. W. R. BAXTER (North Eastern Province)—In reply to Mr Storey, Parliament is surely designed to be a forum of debate where ideas expressed by various members can be taken on board and modifications can be made to people's opinions and ideas.

That is exactly what has happened in the case of the National Party being flexible, not for some ulterior motive. The change in the wording of the amendment between what was submitted to the other place last evening and the version tonight is simply to take account of the views expressed by Mr Storey's own Leader in another place last night and to take account of the views of some members of the Liberal Party who put forward an improved wording, which the National Party was pleased to accept as being an improvement version. That is the reason for the modification.

The Committee divided on the question that the words and expressions proposed by Mr Baxter to be omitted stand part of the clause (the Hon. G. A. Sgro in the chair).

Ayes	32
Noes	5
Majority against the amendment	27

AYES	NOES
Mr Arnold	Mr Baxter
Mr Birrell	Mr Dunn
Mr Connard	Mr Evans
Mr Crawford	
Mrs Dixon	*Tellers:*
Mr Granter	Mr Hallam
Mr Henshaw	Mr Wright
Mrs Hogg	
Mr Hunt	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mrs Knowles	
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 Walker	
Mr Ward	
Mr White	
Tellers:	
Mrs Coxsedge	
Mrs McLean	

The Hon. R. J. LONG (Gippsland Province)—I shall ask the Minister a simple question in relation to the drafting of the clause, concerning proposed section 464L (2).

As the move to the use of plain English in the drafting of Bills is attributed to the Minister, and to him alone, I ask the Minister to tell me how a member of the Police Force who informs a suspect of the matters contained in proposed section 464L (1) can comply with the requirements to, firstly, tape-record or, secondly, record in writing signed by the suspect, the giving of that information and the suspect's responses, if any, if the suspect refuses to sign? What does the police officer do then? If he has to record the consent in

writing and have that signed by the suspect, what happens if the suspect does not or will not sign it?

The Hon. J. H. KENNAN (Minister for Transport)—The point of the Bill is that if it is not a signed confession, it must be tape-recorded. That is what the Bill is about.

The Hon. R. J. LONG (Gippsland Province)—Following on from the Minister's response: what happens if the police officer is in an area where he does not have a tape-recorder, goes to the trouble of informing the suspect of the conditions in proposed subsection (1), proceeds to record in writing that he has informed the suspect, and the suspect will not sign that record? Does that mean that the police officer has committed an offence under the Act or is guilty of improper behaviour because the suspect has not signed the record?

The Hon. J. H. KENNAN (Minister for Transport)—It is difficult to see how the suspect is consenting if he refuses to sign. In that case there would have to be a court order. Consent is proved in two ways: tape-recording consent, which is hard for anyone to challenge; and a signed document. Those things cut both ways. The police are often the subject of allegations at a trial that what they are saying about an admission or a confession is untrue. Many of those false allegations are easily dealt with where a tape-recorder is used, as happens in many cases; and Mr Long would know that that practice solves a lot of disputes because accused persons rarely contest tape-recordings of their admissions or confessions. If there is a record in writing, and if that is adopted by signature, that gets rid of the argument.

The clause was agreed to, as were the remaining clauses.

The Bill was reported to the House without amendment, and passed through its remaining stages.

CARAVAN PARKS AND MOVABLE DWELLINGS 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.

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

That this Bill be now read a second time.

The Caravan Parks and Movable Dwellings Bill is the first legislation of its kind to deal broadly with the circumstances of people living in caravan parks to be introduced to an Australian Parliament.

In Victoria there are now an estimated 20 000 people living in many of the 650 parks which are spread throughout the State. There is general acceptance that, as a matter of social justice, people choosing to live in caravan parks, whether by preference or through economic necessity, should be entitled to expect similar rights to enjoy their living accommodation as persons who rent housing in the private community.

There is also an understanding that caravan parks remain different from suburban housing in some respects. Unlike the situation in most residential developments, park residents will continue to share their home with tourists and campers. Only relatively few parks will be developed primarily for residential use. Caravan parks are a spatially dispersed form of high-density communal living. In them occupants need to respect each other's privacy and enjoyment of their own and communal living spaces. From a tenancy perspective, residents have a duty of care which relates to the whole park and not just to their sites.

The Bill has two main purposes: to confer tenancy rights and to ensure that the design and layout of caravan parks and the provision and availability of facilities and services meets desirable community standards. Parts 1 to 5 of the Bill address the issue of tenancy.

Part 6 establishes a basis for locational controls, licensing and regulations to apply and enforce standards.

Parts 1 to 5 of the Bill are framed to deal with the wide variety of existing parks. They take account of a wide range of accommodation units such as cabins which may be rented to residents as well as on-site vans or mobile homes. As a consequence all residents within a park will be treated equally in terms of tenancy. The Bill does not, however, regulate tenancy arrangements which apply to campers and tourists.

Part 6 establishes a licensing system requiring park-owners of existing and new parks to obtain licences. The aim of the system is to enable better standards to be introduced in new parks and progressively, through upgrading, into existing parks. A consequence of these proposals will be to provide more amenities for residents than for casual occupants. The same general standards will apply to all parks. However, some exemptions may be given to parks which have only a few residents. To minimise hardship to occupiers and owners of existing parks, it is proposed that a system of exemptions should allow implementation to be staged over a period of 20 years.

The Bill proposes that a caravan parks committee should be established to advise the Minister for Local Government on implementation and any proposed changes. Members will form a panel from which caravan parks referees boards can be constituted to consider particular licensing cases. In planning for new caravan parks, the Bill proposes that planning approval should be a prior step to licensing approval. It establishes general location guidelines to ensure that future parks intended for residency should be provided within or on the developing fringe of residential areas.

Part 6 shall be administered by the Minister for Local Government. With respect to parks on Crown land directly operated by government departments or local councils, the Minister will be the authority responsible for licensing. In all other cases, parks will be licensed by local councils. Parts 1 to 5 of the Bill, which parallel the provisions of the Residential Tenancies Act, shall be administered by the Minister for Consumer Affairs. It is intended that the staffing of the Residential Tenancies Tribunal should be expanded, particularly in suburban and country locations, to allow the tribunal to operate an accessible service for caravan park residents and owners.

The key provision of the Bill is proposed section 5, which confers a right of residency on persons who enter caravan parks with the agreement of owners and use the parks as their sole or main place of residence. No distinction is made between the rights of persons who own their own caravans and those who may hire a site and van or who may use a hired van to occupy a site.

The Bill provides for rights to be terminated by notice given between the parties, varying between two weeks by a resident up to six months where the owner proposes to change the use of the park. Where a resident is causing serious damage or disturbance to the peace and enjoyment of other residents, owners may issue an immediate termination notice. If residents do not then vacate, owners may obtain possession orders and the assistance of police and the sheriff to remove people and property from parks.

The Bill also requires notice to be given of variations in rent or hiring charges and establishes a means of adjudicating whether increases are reasonable or excessive. The Bill sets out the duties and responsibilities of owners and residents and provides a low-cost and accessible machinery for settling disputes between these parties.

The Bill signals to the community a significant change in the way in which caravan parks should be regarded in the future. While they will continue to be developed for tourist and recreational uses, they will also be seen as homes for some members of the community who choose to live there.

As an initiative of social justice, I commend the Bill to the House.

On the motion of the Hon. A. J. Hunt, for the Hon. J. G. MILES (Templestowe Province), the debate was adjourned.

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

TRANSPORT ACCIDENT (AMENDMENT) BILL

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

That this Bill be now read a second time.

I will not burden honourable members with a detailed exposition of each amendment. The explanatory memorandum describes each of the clauses of the Bill and I leave it to honourable members to acquaint themselves with the details.

Provision is also made for the amounts of transport accident charges to be prescribed by regulations. This will enable the level of the charges to be adjusted from time to time in accordance with appropriate funds management.

Honourable members will recall the circumstances that led to the reforms to the transport accident compensation scheme that are embodied in the Transport Accident Act.

Under the Act the administration of the new benefits structure and outstanding no-fault and common-law claims, previously administered by the Motor Accidents Board and the State Insurance Office repectively, has been successfully consolidated in the Transport Accident Commission. Although it is early days in the commission's history, the indications are that this measure is working, with claims received being well down on the Motor Accidents Board experience.

In the last year the number of claims associated with injuries resulting from whiplash has dropped markedly both in absolute terms and as a proportion of all claims made. The commission has had some noteworthy successes in the Administrative Appeals Tribunal and the courts. These and the publicity they have attracted are having a deterrent effect.

Throughout the commission's first twelve months, the average costs of settlements were contained to the extent that estimates of outstanding common-law liability has been reduced from $2165 million to $1785 million.

These initiatives by the commission are practical examples of the Cain government's *Victoria. The Next Decade* strategy at work representing innovative and efficient management and enhancing the standing of Melbourne as a financial centre. Importantly, it uses the private sector to enhance the performance of the public sector's fiscal assets.

The commission's investment portfolio performed among the best in the country during the worst stock market crash in Australia's history.

The general community will benefit from the helicopter ambulances and the trauma centre project as these international standard facilities will be available to all Victorians seriously injured regardless of the form of accident.

The commission has made a promising beginning. To date it has met the high expectations set it. By way of summary, the commission has approached its task as one of integrated liability management through:

reducing the probability and severity of injuries in transport accidents through road safety funding;

improving medical and rehabilitation facilities to reduce the severity of injuries and return accident victims to a meaningful role in society;

paying appropriate, equitable compensation to the injured quickly and efficiently;

reducing the incidence of fraudulent compensation claims; and

responsible investment of premiums until compensation is paid.

Its success so far is indicated by an actuarial assessment that it is well ahead in striving to meet its target of being fully funded within ten years.

I commend the Bill to the House.

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

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

STATE BANK BILL

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of clause 46 and of Mr White's amendment:

1. Clause 46, line 29, after "appropriate" insert "including, unless the Treasurer otherwise directs, the information required under section 270 of the *Companies (Victoria) Code* to be included in the report of a company within the meaning of that Code".

The Hon. D. R. WHITE (Minister for Health)—Since the amendment was last discussed, discussions have been held with the three parties. When the Committee last met, the government was proposing two amendments to clause 46, to which Mr Guest was also proposing two amendments. From discussions that have occurred, I understand that two undertakings have been sought by Mr Guest in respect of the clause: firstly, that the Treasurer will require the State Bank to comply with provisions of Commonwealth legislation which relate to the supervision of annuities and life policies issued by the bank. The Treasurer will not, however, require the bank to comply with Commonwealth life insurance legislation which would regulate the banking activities of the State Bank or the bank itself.

The second undertaking is that the bank, when issuing annuities, will not have the benefit of any preferential arrangements with public sector employees which will give it advantage over its normal banking activities.

A third undertaking relates to the amendment moved to clause 46 (2) (*a*), that when giving the bank exemptions from compliance with section 270 of the Companies (Victoria) Code the exemptions will be given only to the extent that the Commissioner for Corporate Affairs has granted similar exemptions to private banks.

With those undertakings being provided, it is my understanding that the Committee will proceed with the government's two amendments and that the Opposition will not proceed with amendment No. 1 but will proceed with amendment No. 2 in Mr Guest's name.

The Hon. J. V. C. GUEST (Monash Province)—That is the understanding of the Opposition. The amendment before the Committee does not need further explanation. It will go as far as practicable to ensuring that the State Bank will report in a comparably frank manner as most of the banks.

The undertaking given by the Treasurer will ensure that the exemptions which may be given will be only those which apply also to private banks, and that is what the Opposition has been seeking. The Opposition's original amendment will equally apply to financial statements of the bank.

A further investigation has shown that there seems to be little in the way of legal requirements on private banks to submit financial statements. They do so in returns to the Reserve Bank, to the best of the information the Opposition had been able to obtain late on Friday. The reason that private banks largely conform to requirements of the Companies (Victoria) Code is that they, like the State Bank, desire to maintain a reputation in the commercial world.

The Opposition was also informed that the bank gives itself the benefit of a number of exemptions or exceptions which it chooses; but, equally, those exceptions have to take account of commercial realities in a market where there are sixteen leading private banks as well as the State banks. This will equally apply to the State Bank, so the Opposition is less concerned that the State Bank is receiving preferential treatment.

The amendment was agreed to.

The Hon. J. V. C. GUEST (Monash Province)—I move:

2. Clause 46, page 21, lines 40 to 42, omit sub-clause (9).

The amendment is to ensure reasonably satisfactory provisions for the State Bank so that reporting by the bank cannot be replaced at the whim of the Treasurer with the requirements of the Annual Reporting Act under which the Treasurer has much wider discretion to allow variations on standard commercial practice than there would be under the expressed provisions of the State Bank Bill. It is the approach of this amendment to exclude the possibility of the Treasurer exercising any such discretion.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 47 to 53.

Clause 54

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

3. Clause 54, page 24, after line 41 insert—

"( ) Sub-section (4) of section 28 of the *State Bank Act* 1958 continues, despite its repeal, to apply to guarantees given by or under that section and, for that purpose, the reference in that sub-section to the Commissioners shall be deemed to be a reference to the Bank.".

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 passed through its remaining stages.

ACCIDENT COMPENSATION (FURTHER 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. HADDON STOREY (East Yarra Province)—The Bill is yet another instalment in the saga of the WorkCare scheme. When this House passed the original WorkCare legislation while the government had a temporary majority, the Opposition warned that it would not work, that there were enormous problems with it, that it should have been properly considered and should not have been able to pass through this House.

Since that time the scheme has been a disaster. It now has unfunded liabilities of $3 billion, is losing $18 million a week, and is criticised by everyone from workers to employers to the insurance industry, as well as by anyone who has any knowledge of the way in which it works.

At the insistence of the Opposition, a committee was established to examine the provisions of the Act with a view to improving them. The Bill has two purposes: first to try to get funds from insurers in relation to claims for injuries which occurred before the Act came into operation; and, secondly, to clarify the timing of some amendments which were brought into this Parliament in 1987.

It is a large and complicated Bill, and I shall not go through all the provisions. To its credit, the government was prepared to listen to the Opposition spokesman in another place, the honourable member for Hawthorn, and was persuaded to introduce numerous amendments to the Bill while it was in that place. Now that those amendments have been

made, the Opposition believes the Bill is more appropriate and, indeed, it is what should have been the case originally. Therefore, it will enable a reserve to be created to relate to injuries that span the pre and post-WorkCare era. That is appropriate.

It will also, as I said before, clarify the timing of the coming into operation of the 1987 amendments. This will not be the last time we will see amendments to the Act. Indeed, the amendments are only minor. I believe it is a hopeful sign that there has been so much cooperation in the final form of the proposed legislation so that it will be just and effective.

For that reason I do not think it is necessary for me to go into any more detail on the Bill. I urge the government to assist the WorkCare Committee when it is examining the whole Act to ensure that we have a better scheme which is not so expensive to the State of Victoria and yet provides assistance to persons who are injured in the course of their work.

The Hon. W. R. BAXTER (North Eastern Province)—This is an important Bill and it goes without saying that it is disappointing that we are debating it at this rather odd hour on a Friday evening because the WorkCare situation in this State is the most crucial financial crisis facing the government and the people of Victoria. Unless WorkCare can be brought back to a firmer and more efficient footing, the State will be quickly bankrupt, even without taking into account any other extraordinary spending that this government engages in from time to time.

Mr Storey has indicated that the Bill is significantly altered from the Bill that was introduced in another place a fortnight or so ago. I am glad that agreement was reached to make those changes. I applauded the move made in the last sessional period to set up a joint Parliamentary committee to examine clause 72 of the amending Bill before the Parliament at that time. That measure was clearly designed by the government to extract as much money as possible from insurance companies without taking into account arrangements that might have been agreed upon previously and without taking into account the liabilities that those companies would have incurred had WorkCare not been introduced. It seemed to me that it was an attempt to grab as much as possible. Various figures ranging from $100 million to $900 million were bandied around during contributions to the debate. That indicates to honourable members the vast sums at stake and how wide the various estimates were.

I was, and still am, a member of the committee that examined the WorkCare system. I do not propose to launch into a long debate tonight on the workings of the committee nor on the detail of the Bill because honourable members are now here in Parliament on the fourth day of 18-hour days. It would not be fair to honourable members to take up time in that way. However, I cannot let the matter pass without placing on record my disappointment at some of the operations of the WorkCare Committee.

I do not believe the committee in its terms of reference and inquiry conducted itself as a Parliamentary committee should and certainly did not in the experience I have had on other Parliamentary committees. Little discussion took place among the members at formal committee meetings about the merit of the evidence put before the committee. There was little cut and thrust and little examination of propositions. It was more a rush to bring in a report on matters in the original Act and to give some imprimatur to the original Act.

I was especially disappointed that the chairman of the committee, the honourable member for Essendon in another place, took the opportunity of using his prerogative to write a foreword to the report. It was an extensive foreword but I believe it was a misleading treatise of the evidence given to the committee and it did not truly reflect the workings of the committee. To the casual reader, he gave the impression that the committee was unanimous in its decision when in truth the major decisions were made on an even vote carried with the casting vote of the chairman. I refer to chapters 5 and 6 of the report. It was no service to Parliament that the chairman took that course of action.

I also think some deficiency in committee procedures occurred because the foreword was attached to the report without any consultation or discussion with the other committee

members. It behoves the chairman of any committee to be careful in what he or she says in a foreword. It should not convey an impression that would upset other committee members or mislead the public. I place on record that I was exceedingly disappointed with the nature of the foreword and the actions of the chairman.

I have no doubt that in 1985, when the government was making plans for WorkCare and designing the scheme, that discussions were had with insurance companies with a view to getting their cooperation to continue insurance for two months beyond the target date because the government could not meet that target date. Clearly discussions were held. However, it is not clear what agreements, arrangements, undertakings or understandings were reached at that time. That is an indictment not only of the Department of Management and Budget's record-keeping ability but also of the Insurance Council of Australia, because it, as the major player in the negotiations, also failed to record what I should have thought were fairly serious decisions and events. The committee had difficulty, therefore, in determining exactly what had been agreed upon at that stage. The committee made a decision—by no means a unanimous decision—that some arrangements had been entered into but there was insufficient evidence to point to the exact nature of those arrangements.

It became clear to me during the inquiry that the Accident Compensation Commission of the one part and the government of the other part were intent on extending the contribution responsibilities of previous insurers to cover all injuries, whereas the original Accident Compensation Act clearly related to gradual process injuries. It was a serious matter that, two years after the event, the Accident Compensation Commission attempted—clearly for financial reasons because of the deficit it was running up—to extract more money out of the insurance companies than they were obliged to pay or what they would have been paying for workers compensation if WorkCare had not been introduced. It was a fairly clever attempt to extend the definition of "contribution" to include all injuries, not just gradual process injuries.

Had this debate been conducted at a more reasonable hour, I should have launched into some examples for the benefit of the House on exactly what I mean, but I take into account the lateness of the hour and the fact that honourable members have been here for a long time. I shall not take that opportunity other than to repeat my disappointment with the attitude displayed by the commission; whether it was prodded along by the government, I do not know.

I am glad that the government, despite the majority report on the casting vote of the chairman of the committee to virtually endorse the clauses that were contained in the first amending Bill, has seen fit not to take those recommendations at face value but to make certain modifications. I suppose that is taking into account the numbers and being realistic, because surely the government realises that neither the Opposition nor the National Party in this House would allow the government to go beyond what the Treasurer has often stated was his intention—that is, that the previous insurers should pay no more or no less then they would have paid if WorkCare had not been introduced.

No-one would quibble or argue with that principle. Certainly the first amending Bill went well beyond that, as stated in the minority report of the WorkCare Committee. I am glad that agreement has been reached between the parties to bring the matter back to reality. The disappointment is that what has been agreed to now is virtually the situation that applied eighteen months ago when the Insurance Council of Australia and the Accident Compensation Commission were negotiating on the contribution levels. A whole eighteen months was wasted. That caused a lot of heartburn and a lot of additional expenditure, all for nought, and we are back to square one. I am disappointed that all that time has been wasted.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

MEDICAL TREATMENT BILL (No. 2)

This Bill was returned from the Assembly with a message relating to amendments.

It was ordered that the message be taken into consideration later this day.

TRANSPORT ACCIDENT (AMENDMENT) BILL

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

The Hon. ROBERT LAWSON (Higinbotham Province)—The Transport Accident (Amendment) Bill which has come to this House from the Legislative Assembly is a grab bag of a Bill, and will make a number of different amendments to the Transport Accident Act and the Transport Act.

I direct the attention of honourable members to various items of interest. I have a letter from the Law Institute of Victoria commenting, in some respects critically, on various sections of the Bill.

I refer to clause 5 (3) (*ba*) and explain the concerns of the Law Institute. The clause deals with the compensation paid to persons injured in transport accidents and provides:

> if the normal number of hours per week is fixed in any industrial award applicable to an earner, the earner's normal number of hours per week in that work shall be deemed to be the number so fixed;

It sounds complicated but it means that the ordinary hours worked and the ordinary payment to the worker shall be the yardstick by which the compensation is measured. Many workers receive overtime payments which would not be calculated in assessing the compensation to be received. As many people have to rely on overtime payments to survive in these hard times, it is a defect in the Bill.

In respect of clause 5 (5), the Law Institute points out that the assessment of compensation due to injuries involves assessing the average earnings of the injured worker over three years, but does not take into account that a person whose income has been assessed or averaged over the three years may have received a rise in income, perhaps just a few months before. Failure to take that into account would disadvantage the person.

A number of clauses in the Bill are of interest. The Bill has received much attention from the Law Institute of Victoria, the Liberal Party and the National Party, as well as the government. It represents an honest and helpful attempt to tidy up some of the anomalies in the Transport Accident Act.

I shall move some amendments in the Committee stage.

The Hon. W. R. BAXTER (North Eastern Province)—As Mr Lawson has described it, the Bill is a grab bag of various amendments to the Transport Accident Act. To that extent, the National Party considers it appropriate to support the Bill, with the amendments proposed in another place and those to be moved by Mr Lawson, all of which will provide a finetuning for the legislation.

One of the lessons to be learnt is that it never pays to do things in haste. If honourable members compare the transport accident legislation, which was negotiated between the three parties at length and resulted in a common position being arrived at—which has proved to be successful—with the legislation relating to WorkCare, they would see a vivid illustration of evidence that consultation between the government and the other parties results in better legislation. The WorkCare legislation was rushed through in that hiatus when the government had a majority for a brief period in this place, without any consultation with the other parties and without any willingness to take advice from anyone who might have had a reasonable input into the legislation. Look at the mess WorkCare is in.

However the government may crow—as it did following the bringing down of its Budget last year about a reduction, albeit minor, in motor registration fees—there was a saving on the one hand and increases in insurance charges on the other. It was a bit of a sham because the people did not get anything out of it. When the registration renewal fees were considered, it was found that with the third-party increases people were paying more than they had been.

As someone who had a significant input into the preparation of the original legislation, I indicate my pleasure that, since the legislation has been in operation, I have not been contacted by any constituents, either individually or in a professional capacity on behalf of a client, with a complaint about the legislation. That would seen to indicate that the legislation is operating reasonably well and the amendments proposed to be moved will go towards improving that efficiency even further.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

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

Clause 2, line 10, omit "(2)" and insert "(3)".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 3 to 8.

Clause 9

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

1. Clause 9, page 5, lines 19 to 23, omit all words and expressions on these lines.

This amendment means that a person who has entered the country illegally would have compensation paid if injured in a transport accident. We are erring on the side of generosity, to ensure that such a person is actually able to receive compensation.

The Hon. J. H. KENNAN (Minister for Transport)—For the benefit of honourable members opposite, I point out that the government knows what it is talking about. The amendment proposes the deletion of a provision excluding from compensation entitlement a person who is an illegal immigrant. This is not the case at the moment. If a person is an illegal immigrant he should not be entitled to the benefits of the scheme. The Opposition amendment deletes that provision.

Persons whose entry into and continued presence in the country is illegal should be excluded. A person who eventually regularises his status in accordance with the immigration laws would become eligible for benefits. The only people affected by the government's proposal would be those who had contravened and continued to contravene the immigation laws.

I am a little surprised that the opposition parties are supporting a proposition that people who have illegally entered the country and remain here without their status being regularised are entitled to participate in the scheme for as long as they remain in Australia.

The Hon. ROBERT LAWSON (Higinbotham Province)—I understand what the Minister is saying. The people who are here illegally are under double jeopardy. They are not only liable to deportation and are required to obtain a demeaning kind of job in order to stay here, but also if they suffer accidents and are injured, they receive no benefits. The Opposition has no objection to illegal immigrants being deported from the country, but while here they should have some kind of protection in case of an accident.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 10.

Clause 11

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

2. Clause 11, line 4, after "46A." insert "Subject to section 47,".

I must plead ignorance; I am not sure what the amendment means. I have instructions to move the amendment.

The Hon. J. H. KENNAN (Minister for Transport)—The amendment qualifies clause 46A with the words "subject to section 47". Clause 46A would merely clarify the original intent that the commission must determine the degree of impairment of a person injured in a transport accident eighteen months after the injury. Clause 47 provides a determination to be the basis of calculation for common-law purposes of payment of a lump sum benefit determination to be made earlier than eighteen months after the accident if the injury has substantially stabilised.

I do not see the purpose in making clause 46A subject to clause 47. It would be strange to provide that effect because the provisions sit with each other and have no different purposes. I do not understand the amendment.

The amendment was negatived, and the clause was agreed to, as were clauses 12 to 14.

Clause 15

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

3. Clause 15, line 36, after this line insert:

"(4) If a person would have been entitled to compensation under sub-section (1) had the services duties or care been provided or the costs been incurred in Australia, the person is entitled to compensation under sub-section (1), to the extent that the costs incurred were reasonable, if the Commission is satisfied that the services, duties, care or costs were—

(*a*) required or incurred as a result of an injury directly arising out of a transport accident; and

(*b*) necessary."

This amendment is in line with the Opposition's previous generosity. I understand that someone who has been injured while living in Australia and who has perhaps then emigrated would be still entitled to benefits as though he were living in Australia.

The Hon. J. H. KENNAN (Minister for Transport)—Part of the difficulty with the provisions of the Bill is that the government is endeavouring effectively to restrict compensation to services received in Australia. Potentially there are enormous costs for the commission if it has to pay for services provided overseas; that would provide practical problems. People would be covered while they are in Australia. Unless the proposal of the government in the Bill is accepted, the commission would remain liable to pay for services rendered in another country to a foreign tourist who had returned to live overseas.

The government believes that provision is over generous. I believe Mr Lawson said that it is aptly generous. Again, the government would be interested to know what the National Party is doing.

The Hon. HADDON STOREY (East Yarra Province)—I would have thought that the points raised by the Minister for Transport do not take account of the qualifications of the amendment to the extent that it was found that the costs were reasonable and they did arrive out of an accident. If this amendment is not to pass someone may be deprived of his or her rights because that person was overseas.

If the accident occurred in Victoria that person would be entitled to payment for the necessary services under the provisions of the Bill but a person who is overseas will lose that right. The Opposition believes the provision is inequitable.

A person should be entitled to the same sort of service that he or she would receive in Victoria provided the commission was satisfied with the situation.

The Hon. ROBERT LAWSON (Higinbotham Province)—As Mr Storey has informed the Committee, if a person of foreign birth is injured in Victoria and wishes to return to his or her native land that person would be unable to do so. That person would be locked within Victoria because if he or she did return to his or her native country that person would no longer be eligible to receive payment.

It is the commission that decides whether the injuries occurred as a result of a transport accident and whether the payment is reasonable.

The Hon. J. H. KENNAN (Minister for Transport)—The amendment goes to services, duties and care and not to other forms of payment such as weekly or fortnightly payments. That is the difficulty that the government has with the amendments.

The government is concerned about people who may come to Victoria but then leave to live overseas. Under the scheme there is a liability for the commission to pay for services and care and such things as the modification of a house. The government believes that situation is too expensive but it is not denying all benefits.

I take the point made by Mr Storey that the Opposition's amendment limits the existing provision. It is a compromise and we understand that but it is also difficult to judge how the commission can make an assessment, for example, in Switzerland or Nebraska of what is a reasonable cost in either of those places.

A person could not get a weekly payment but how could the commission determine what was reasonable or necessary so far as services are concerned? Persons could be flying out here and calling evidence. The provision would be difficult to police even with the qualification.

The question of what entitlements a person would have when that person returned home would be dependent on the no-fault part of the scheme where an accident has been caused and where there are substantial injuries.

This sort of case is likely to meet the threshhold in any event and that person can sue because it is someone else's fault. That ability is unaffected.

The Hon. W. R. BAXTER (North Eastern Province)—The Minister has identified the major defect with the amendment because that could be construed far too widely, requiring the commission to pay a large sum of money to a person who has left the country for whatever reason and who then wanted modifications made to his or her house overseas, and the commission is not able to supervise or control that extension.

I do not know whether there is a provision that will provide an ex gratia payment that would cover that situation. Perhaps Parliament should examine whether some mechanism should be put in place.

That might be done despite the qualification Mr Storey referred to. It potentially exposes the commission to an expenditure over which it will have little or no control and, on those grounds, I oppose the amendment.

The amendment was negatived, and the clause was agreed to, as were clauses 16 to 18.

Clause 19

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

4. Clause 19, lines 34 to 36, omit all words and expressions on these lines.

I ask Mr Storey to speak to this amendment.

The Hon. HADDON STOREY (East Yarra Province)—As I understand, section 77 (1) of the Act enables an application to be made for a review of a decision by a tribunal. The effect of section 93 (4) of the Act enables the commission to issue a certificate to a person to take proceedings.

The effect of the subclause is to take away the right of a person to apply for a review of a decision of the commission, refusing a person the opportunity of taking proceedings.

The Opposition believes that right of review should not be taken away. The applicant should have his or her right to seek to go to the tribunal on the commission's failure to grant a certificate. The Opposition is surprised that the government should remove that right from an applicant.

The Hon. J. H. KENNAN (Minister for Transport)—The justification for supporting the provision and opposing the amendment is that section 93 (4) (*d*) in the Transport Accident Act provides that a person may not bring common-law proceedings until the commission issues a certificate consenting to those proceedings or a court on the application of a person gives leave to bring the proceedings.

It is clearly the intention of the legislation that there be an alternative avenue to common law if the commission fails to provide a certificate by leave of the court. The government is concerned that a person could go to the Administrative Appeals Tribunal as well as the court.

I shall reiterate to make sure that I have got that right. No doubt Mr Storey will say if that is not the case. I understand that section 94 (*d*) of the Transport Accident Act provides that a person may not bring common-law proceedings unless the commission issues a certificate consenting to those proceedings. Section 93 (1) (4) (*d*) states:

> a court, on the application of the person, gives leave to bring the proceedings.

The person can do so, if the commission does not issue a certificate consenting to the proceedings being issued at common law. It is a matter for the court. The government says that the intention of the legislation is to leave the alternative avenue to common law if the commission did not agree to the leave of the court.

Section 77 (1) provides a general power of review by the Administrative Appeals Tribunal. The government says that there is a double-barrel situation because a person can go to a court and obtain leave. The section provides that a person can go to a tribunal to review the decision of the commission in failing to issue a certificate.

The section relating to the failure to issue the certificate already provides a provision in section 93 (4) (*d*) for application to a court. The government is saying that, in the circumstance, it is not as unreasonable as it might have seemed at first glance.

The Hon. HADDON STOREY (East Yarra Province)—The amendment may not seem at first glance to be reasonable. However, it is still unreasonable because it takes away the right that an applicant has. It is much more convenient and less costly to apply to the Administrative Appeals Tribunal, with its procedures and informalities, than it is to apply to a court for leave. The Administrative Appeals Tribunal was established to enable it to review decisions in matters coming before it. No-one knows what factors the court will apply when leave is sought to issue a certificate. They would not be the same as the criteria applied by the Administrative Appeals Tribunal.

The Administrative Appeals Tribunal develops its own principles and administrative review. The government has an onus to explain why this right to apply to the Administrative Appeals Tribunal should be removed: for instance, problems may have arisen because of the existence of this provision. It is not good enough just to look at the Act and, because there may be the possibility of a double-barrelled opportunity, take one of the provisions out. If the government said that problems were occurring as a result of the provision, that it added to the expense of the bureacracy of the system, the Opposition would examine the matter; but the government has failed to show why this right should be removed.

The amendment was agreed to.

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

5. Clause 19, line 37, omit "(2)" (where first occurring) and insert "19. (1)".

Amendment No. 5 is consequential on the success of amendment No. 4.

The amendment was agreed to, and the clause, as amended, was adopted, as were the remaining clauses.

The Hon. J. V. C. GUEST (Monash Province)—I move:

That clause 4 be recommitted.

The motion was agreed to.

Recommitted clause 4

The Hon. J. V. C. GUEST (Monash Province)—I move:

Clause 4, lines 37–42, omit sub-clause (5).

I am obliged to the Minister for the recommittal of this clause. An unfortunate misunderstanding arose concerning what happened in the other place. Mr Lawson and I did our best, in the circumstances, but the minutes of the proceedings in the other place have not yet been printed.

The Hon. J. H. KENNAN (Minister for Transport)—On a point of order, Mr Chairman, it would help me if Mr Guest referred to the amendment number. My notes refer to the amendment numbers that the honourable member for Brighton, Mr Stockdale, had in the Committee stage in the other place.

The Hon. J. V. C. GUEST (Monash Province)—It was Mr Stockdale's amendment No. 4 in the other place. A large number of amendments were agreed to between the parties. The impression of the honourable member for Brighton is that amendment No. 4 had been agreed to. It is remarkable how difficult it is to be absolutely sure, but it appears from the print of the Bill that Mr Stockdale's amendment to clause 4 was agreed to.

The amendment to the definition of "rehabilitation service" proposed by the government is an inhumane and unjust and penny-pinching attempt to save money for the scheme and would impinge harshly on people who might only need to move into a house which was their own and have it modified so that it was suitable for them to live in.

A young person aged from sixteen to eighteen years may require a specially modified home or motor vehicle. The effect of the amendment proposed by the government would be to deny that person the assistance of that modification. The Opposition regards the definition of "rehabilitation service" in subclause (5) as unjust.

The amendment was agreed to, and the recommitted clause, as amended, was adopted.

The Bill was reported to the House with amendments, and the amendments were adopted.

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

That this Bill be now read a third time.

In so doing I congratulate the Chairman of Committees for his expedition in handling many amendments, including an amendment to a recommitted clause. It was only through his expeditious chairing that the Committee was able to move through the Bill with such speed.

The motion was agreed to, and the Bill was read a third time.

MEDICAL TREATMENT BILL (No. 2)

The message from the Assembly relating to the amendments in this Bill was taken into consideration.

Assembly's amendments:

1. Insert the following new clauses to follow clause 8:

Agents and guardians.

"AA. (1) An agent or guardian may only refuse medical treatment on behalf of a person if—

(*a*) the medical treatment would cause unreasonable distress to the person; or

(*b*) there are reasonable grounds for believing that the person, if competent, would consider that the medical treatment was unwarranted.

(2) 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.

(3) The appointment may be by way of—

(*a*) an enduring power of attorney (medical treatment); or

(*b*) a provision in an enduring power of attorney given under the *Instruments Act* 1958 to the same effect as Schedule 2.

(4) An appropriate order may be made under the *Guardianship and Administration Board Act* 1986 providing for decisions about medical treatment of a represented person to be made by the person's guardian.

(5) If the appointment takes the form of an enduring power of attorney (medical treatment) under sub-section (3) (*a*)—

(*a*) it must be in the form of Schedule 2 and witnessed by two persons other than the agent to be appointed; and

(*b*) it takes effect if and only if the person giving the power becomes incompetent.

(6) If a person gives a power of attorney in relation to medical treatment, the power revokes any earlier power given in relation to medical treatment.

(7) The person who makes an appointment under sub-section (3) (*a*) or (*b*) may revoke it in the manner provided in section 116 of the *Instruments Act* 1958.

(8) If a medical practitioner and another person are each satisfied that a person's agent or guardian has been informed about the nature of the person's current condition to an extent that would be reasonably sufficient to enable the person, if he or she were competent, to make a decision about whether or not to refuse medical treatment generally or of a particular kind for that condition and that the agent or guardian has appeared to understand that information, the agent or guardian may on behalf of that person—

(*a*) refuse medical treatment generally; or

(*b*) refuse medical treatment of a particular kind—

for that condition.

(9) Where a refusal is made by an agent or guardian, a refusal of treatment certificate must be completed in the form of Schedule 3.

(10) If an agent or guardian completes a refusal of treatment certificate and his or her appointment as agent or guardian is later revoked, that refusal of treatment certificate is also revoked."

Guardianship and Administration Board may revoke authority.

"BB. The Guardianship and Administration Board may revoke an enduring power of attorney (medical treatment) in the manner provided in section 118 of the *Instruments Act* 1958.".

2. *Insert the following new Schedule to follow Schedule* 2:

SCHEDULE 3 Sections 3, 7 (1), 9 (8)

REFUSAL OF TREATMENT CERTIFICATE

AGENT OR GUARDIAN OF INCOMPETENT PERSON

I [name] certify that I am empowered to act in relation to decisions about medical treatment of

[name of patient]

I have been *appointed* to act by—

* an enduring power of attorney (medical treatment) issued under the *Medical Treatment Act* 1988.

* a provision in an enduring power of attorney issued under the *Instruments Act* 1958.

* an order of the Guardianship and Administration Board under the *Guardianship and Administration Board Act* 1986.

I certify that—

(*a*) the patient has attained the age of 18 years;

(*b*) I have been informed about the nature of the patient's current condition to an extent that would be reasonably sufficient to enable the patient, if he or she were competent, to make a decision about whether or not to refuse medical treatment generally or of a particular kind for that condition. I now believe that [name of patient] would request that no medical treatment, or no medical treatment of the particular kind mentioned below, be administered to him/her.

On behalf of .....(name of patient),

in relation to his/her current condition, I refuse—

* medical treatment generally.

or

* medical treatment, being .....

(specify particular kind of medical treatment).

Dated:

Signed..... Agent/Guardian for.....
(Name of patient)

Verification

We certify that we are satisfied that .....

(name of agent or guardian) has been informed about the nature of the patient's current condition to an extent that would be reasonably sufficient, if the patient were competent to enable him/her to make a decision about whether or not to refuse medical treatment generally or of a particular kind (as the case requires) for that condition and that the agent/guardian appeared to understand that information.

Signed .....(Medical Practitioner)

Signed.....(Another person)

* Delete whichever is not applicable.

Note: "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.

"Palliative care" includes—

(*a*) the provision of reasonable medical procedures for the relief of pain, suffering and discomfort; or

(*b*) the reasonable provision of food and water.

The refusal of palliative care is not covered by the *Medical Treatment Act* 1988.".

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

That amendment No. 1 be agreed to.

The Hon. HADDON STOREY (East Yarra Province)—The amendment seeks to reinsert a proposed new clause which was omitted when the matter was debated in the Council. The Opposition stands firm on the view that it took on that occasion, and it will oppose the amendment.

The motion was negatived.

The Hon. D. R. WHITE (Minister for Health)—In view of the decision that has just been made by the House, I propose to move one substantive amendment and three consequential amendments, and I wish to move them in globo.

The Hon. Haddon Storey—I want to know where they are. I know nothing about them. I did not hear about them.

The Hon. D. R. WHITE—They were originally suggested by Mr Hunt, but I ask Mr Storey to let me just explain their purpose. The first amendment I move is:

1. Clause 1, lines 9 to 11, omit paragraph (*c*).

I shall take the House through this slowly. The purpose of the amendment is to remove a paragraph from the purpose clause as a result of the omission of clause 9.

The second amendment I move is:

2. Clause 3, line 28, omit "or of Schedule 3".

The purpose of removing those words is quite obvious, because Schedule 3 no longer exists in the Bill.

The third amendment that I move—and this is also consequential—is:

3. Clause 7, page 3, lines 36 and 37, and page 4, lines 1 and 2, omit all words and expressions on these lines and insert "by the patient to whom the certificate applies.".

Therefore, clause 7 (1) will read, "A refusal of treatment certificate may be cancelled or modified by the patient to whom the certificate applies". The amendment is consequential and its effect is to remove paragraphs (*a*) and (*b*).

The fourth amendment that I move is:

4. Schedule 2, omit this Schedule.

As everyone knows, the necessity for this amendment has come about as a result of Mr Macey's conscientious objection vote.

Essentially, three of the four amendments are consequential. The first one is substantive, as it will remove one of the purposes of the Bill for the reason that I explained a moment ago.

The amendments were agreed to.

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

That amendment No. 2 be agreed to.

This amendment reinserts Schedule 3.

The motion was negatived.

It was ordered that the Bill be returned to the Assembly with a message intimating the decision of the House.

ORDER OF BUSINESS

The PRESIDENT—Order! As difficulties are being experienced at the moment with proposed legislation flowing from the other place, I shall resume the chair at 12.15 a.m.

The sitting was suspended at 11.44 *p.m. until* 12.19 *a.m. (Saturday).*

NATIONAL PARKS (AMENDMENT) BILL (No. 2)

The debate (adjourned from May 4) on the motion of the Hon. J. E. Kirner (Minister for Conservation, Forests and Lands) for the second reading of this Bill was resumed.

The Hon. M. T. TEHAN (Central Highlands Province)—This is a relatively small Bill consisting of eight clauses, but it refers to a large area of land. The Bill has engendered a great many words in debate up until now and, I am sure, it will again during the debate this evening. It will certainly engender a good deal of comment in the future.

The Bill will extend parks in the east Gippsland area, and will be a valuable addition to the parks system in Victoria. The Bill refers specifically to parks in east Gippsland: the Alfred, Lind, Cobberas–Tingaringy national parks will be extended; the Snowy River National Park will be elaborately extended; Coopracambra park will be extended and changed from a State to a national park; and the Errinundra National Park will be created.

When the Bill is passed, as I hope it will be, it will provide, as I said, valuable additions to the parks system. It will be a major move towards the creation of a representative and ecologically viable sample of all of Victoria's diverse natural ecosystems, a system begun in 1889 with the reservation of a site at Wilsons Promontory and continuing for nearly 100 years.

There seems to have been in some circles a certain aura of surprise at the Liberal Party's endorsement of the National Parks (Amendment) Bill (No. 2), but that is only because people do not understand the history and the tradition of support for conservation issues that have been part of the Liberal Party tradition. It is only carrying on that tradition and consistent with Liberal Party philosophy that we support the Bill.

I refer to some landmark legislation during the 1970s, to which this Bill will be added as a piece of landmark legislation for environmental and conservation values in Victoria.

In 1970, the Environment Protection Act was passed in this State; it was the first of its kind in Australia. The Department of Conservation and Planning was established in 1972. The Land Conservation, Council was set up in 1971 and the second-reading speech in that Bill that set up that council has been quoted on many occasions. It is a memorial to Mr Borthwick, the then Minister for Conservation, and his contribution to conservation values in this Parliament.

The Victoria Conservation Trust and the Arthur Rylah Institute for Environmental Research were set up. In 1975 the Wildlife Act was passed and it is now the Fisheries and Wildlife Act. The wildlife protection Acts protected flora and fauna in this State until the Wildlife Protection Act was replaced, again by legislation passed last night with the support of the Liberal Party—the Flora and Fauna Guarantee Bill.

The Minister in her second-reading speech acknowledged the contribution of the then Premier, Mr Hamer, in 1978 in establishing the Croajingolong National Park and the Snowy River National Park. The support that the Liberal Party brings to the Bill is logical and consistent with its philosophy.

The Bill can be seen to fall into two parts. As I draw the distinction, the first part accepts the recommendations of the Land Conservation Council. These recommendations were made after consideration of the ecological and environmental values over a long process. They add an additional 126 000-odd hectares to the east Gippsland area which is protected for its values.

I was fortunate on at least two occasions to spend time in east Gippsland, so I speak with some feeling and some sense of knowing the values in that area because I have had the opportunity of experiencing them. I suggest that anyone who has similarly had the opportunity and privilege of being in that area will recognise that it is different, special, and has values which should be preserved and which balance, to a large degree, the pressures of an urban society. For that reason alone, the area must be considered and preserved.

Anyone who has had the privilege of flying low over the Snowy River, the Rodger River, the Bowen Range and Errinundra plateau, through the rainforest area and up the escarpment knows exactly the sense of wildness, space and nature uninterfered with that one gets from that experience. Coming down from that area, as one can, to the banks of the Brodribb River in the middle of the forest areas, one gets the sense of being in a special place; of being with nature and being forced back to looking at oneself.

Honourable members may have had the opportunity, as I did earlier this year, of walking along the Coastal Range, along the Curley Creek track and of seeing again the range of environmental values, the trees, the undergrowth, the wildness of the area; and then there is the challenge of climbing Mount Ellery, the highest peak in east Gippsland. As one climbs to the top, one wonders what one is doing; one reaches the rockface and the climber and nature are literally face to face. One looks at the view and wonders how in the world one will get down again. It is an exciting experience and the area should be protected so that it can be shared. I have had the chance of taking my children there and they have seen it. I hope their children and their children's children will have that opportunity.

The values of the land covered by the Land Conservation Council's recommendations, being 126 000 hectares, have been well advanced and I shall briefly summarise them. In the additions to the Snowy River National Park, the Rodger River, Mountain Creek and Bowen Range area, there are areas of national botanical significance: mixed forests; areas of diverse mature eucalypt forests; stands of rare mixed-age mountain ash, which is unique to the area and, I suggest, to the world; and species including the rare monkey mint bush and the long-footed potoroo. It is also home to undescribed species of bat.

It is the last extensive wilderness forest in Victoria, encompassing two of the largest pristine catchments in east Gippsland, and can be described as having outstanding scenic qualities. The value of the additions to the Snowy River National Park through the Rodger River wilderness cannot be downplayed.

Similarly, the Land Conservation Council recommended that there should be a new Errinundra National Park. The word "Errinundra" has been synonymous with forest and timber values but predominantly it has been the high-water mark of conservation over the past ten years. It has been described by the Land Conservation Council as being of international botanical significance. It has unique rainforests, spectacular waterfalls and a pristine catchment area.

I refer finally to the Coopracambra National Park which will now be increased in status from a State park. It has been described as having high geographical significance and, because it overlaps with the east Gippsland and Tasmanian east coasts, it is the last remnant of that area along the east coast of Australia.

It has more than 62 rare or significant species of plants in its forests, heaths and rocky outcrops. It is an area of superb scenery. There is no doubt that the Land Conservation Council, in recommending that those areas be incorporated in national parks, was extremely impressed with those values and considered they were worth preserving in that system. In addition, the 126 hectares recommended by the council and incorporated in the Bill is a further area to the three parks and additional to the recommendations by the council. These have been enunciated by the Minster in her second-reading speech.

I shall briefly refer to her speech again so that honourable members know exactly what values and what areas are referred to, and what brought about those additions to national parks. The Liberal Party will support the whole of the Bill, so it will support those so-called Cabinet extensions because the Opposition similarly recognises the values for which they are incorporated, although it has some reservations about the manner in which they have been incorporated.

In the second-reading speech, the Minister stated:

> The government generally accepts the LCC recommendations as the basis for future land use in the region, and it recognises the LCC's very difficult task in finding a balance between competing land use demands in an area with such high conservation and timber values.

Nevertheless, the government believes it is essential for the long-term integrity of these world-class national parks to add several highly significant areas to those parks recommended by the LCC. These additions are:

The government believes it is essential to add several highly significant areas to the park, and the additions are:

To Errinundra National Park—

the south coast range, with its very beautiful mature wet eucalypt forests and cool temperate rainforest and exceptionally rich forest-dependent wildlife, including by far the highest population density of greater gliders recorded in Victoria;

That refers only to the south of the Coast Range. The extra piece added is:

additional parts of the undisturbed upper Brodribb River, which with the LCC recommended Brodribb River south branch, form a large basin which is the largest essentially pristine area in the Errinundra region, with very high catchment, wilderness and landscape values; the area contains a wide range of vegetation types and has faunal values;

the mature forest between the Errinundra Road and the attractive upper section of the Bonang River south branch, which will ensure the inclusion in the park of scenic values and an undisturbed mature forest corridor along part of one of the main access roads to the Errinundra Plateau.

and as a critical addition to the Snowy River National Park—

the Warbisco and Home Creek catchments, which are an integral component of the Mount Bowen-Monkey Top area of the Snowy River National Park extensions, having very high landscape, catchment and botanical values, and being vital to protecting and maintaining the very high wilderness qualities of Victoria's largest forest wilderness.

The second-reading speech indicates how those three areas were selected over and above any other areas that may have been considered and over and above the LCC recommendations. The Minister also stated:

It is important to realise that at various times the LCC has recognised the high significance of the majority of these areas, either by recommending the delay of timber harvesting for as long as possible, in the case of south coast range and the Brodribb River north branch, or, in the case of Warbisco and Home Creeks, by recommending in its proposed recommendations their inclusion in the Snowy River National Park.

This concerns the colloquially termed government extensions. Honourable members have seen the values that have been illustrated, on which the decision of the government was no doubt based, certainly to some extent, and the justification of going beyond the LCC recommendations on the basis that the LCC has recognised that they were of high environmental significance and that a delay in timber harvesting had been proposed in earlier recommendations. As I said, the Opposition recognised the values of each and every one of those areas and, by the decision of the LCC and the government in incorporating the areas in this Bill, the government has included 70 per cent of what is called the interim listing of the National Estate.

The Minister has suggested in a number of press statements, certainly after her announcement in November, that there was some confusion as to the difference between the National Estate and national parks. I should like the Minister to understand that the Opposition had realised the difference in the two sets of values, although the difference is more in their status and land use rather than in their values. The Opposition has examined those areas in considering the whole situation in east Gippsland, including the need to ensure certainty and that the viable representative system this Bill is attempting to encompass is sufficiently wide to ensure that those values are properly preserved.

The Liberal Party has looked outside that area to the area currently on the interim listing of the National Estate. It is an area of 34 000 hectares and it represents 30 per cent of the interim National Estate area, in that 70 per cent has been included already in the parks system. The government should re-examine those areas and take them back to the LCC to consider whether they will add to the parks system. The Opposition suggests that that be done on the basis that environmental values in those areas, just outside the park area, are of equal significance, and that they have values of their own which should be

considered and which, in the opinion of the LCC ought to be evaluated, protected and preserved.

The Liberal Party considers this recommendation to the government indicates that, if it takes political decisions, which it did, and includes areas over and above the LCC recommendations, it is setting a precedent. The government has arbitrarily added those areas so, similarly, it is not unreasonable for the Liberal Party to say there are other areas that have been recognised as having significant environmental features that are worth conserving. If the government can arbitrarily add 11 000 hectares, the Opposition should be allowed to propose that extra area of 34 000 hectares, which I shall prove to have the same values as the areas included, be they further representative values, different values or values that the area within the park included. The Liberal Party should have that opportunity to make the parks in east Gippsland the best it can offer.

The third reason why the Opposition suggests the government should consider this course of action is that the areas are on the interim National Estate listing. They are being examined currently by the Australian Heritage Commission. A decision will be made in July as to whether they will go onto the National Estate listing. That situation creates uncertainty in the east Gippsland situation because the status of the National Estate area, including where it begins, where it finishes and whether it is within the scope of the State government or the Federal government, is uncertain. It creates possible conflicting constitutional problems, which I shall refer to later; and it indicates that, until that situation is properly assessed, there will not be certainty either for conservation interests or the timber industry in east Gippsland.

I shall briefly refer to the values in the nine areas that we have suggested are on the interim listing. The Opposition knows they are on the interim listing and has suggested that the LCC should be in a position to consider them for inclusion in the park.

I refer briefly to the north of the Coast Range. The south part of the Coast Range was one of the Cabinet or government extensions. A political decision was made, no doubt for good environmental reasons.

The Hon. J. E. Kirner—Everything is for a political reason.

The Hon. M. T. TEHAN—Some were based on Land Conservation Council considerations and some on the Minister's own environmental considerations. There are values within the areas that I will enumerate. It is for the government's consideration and it should return recommendations to the Land Conservation Council because it should be, it has been and it is the best arbiter of these considerations. The Land Conservation Council should make the recommendation on which the government will then make its decision.

The whole of the Coast Range is described as an area of outstanding scenic beauty with biological values. It lies north-east of the Errinundra plateau, and is the southernmost extension of the Monaro tablelands.

Since the Monaro tableland system has been largely cleared in NSW, the Coast Range offers a unique opportunity to protect a range of Monaro tableland communities. Coast Range has a great diversity of environments as it lies along a steep environmental gradient: within 30 kilometres the vegetation changes from dry montane woodlands, receiving 700 millimetres of rain, to the wet sclerophyll forests and rainforests of the Errinundra plateau where rainfall is in the order of 2000 millimetres.

The Coast Range has an outstanding and diverse range of biological values and would be a magnificent addition to the Victorian national parks system, created by a national parks recommendation. If the Coast Range does have those environment values and if it is worthy of recognition as a Victorian national park, and if the government saw fit to include half of that—the southern end—it does not seem unreasonable that similar consideration should be given to vital Land Conservation Council recommendations on the north part of the Coast Range.

I could quote further from a letter from the Department of Conservation, Forests and Lands, Fisheries and Wildlife Service, to Mr Lumb of the Land Conservation Council dated 20 June 1986, in which significant features as to details were recorded. The letter stated that the ecological gradient ranges from wet sclerophyll forests through other forest types to dry woodland and heathlands. The area is strongly recommended to be designated as a national park.

I then refer to the Northern Falls area, slightly to the west of the Coast Range on the northern part of the Errinundra park. The Northern Falls area contains excellent examples of wet sclerophyll forest type which is largely unprotected on or adjacent to the plateau.

This wet sclerophyll forest represents a major vegetation type in the vegetation continuum between montane woodlands in the northern Coast Range to mixed forest and cool temperate rainforest in the Goonmirk Rocks range. Most of the area is unlogged.

The Black Creek catchment is noted for containing an A-rated wet sclerophyll forest quadrat, which is the highest quality rating for a vegetation community. It includes good examples of the unique shining gum and undescribed peppermint species forest association.

In the Bonang River area, the inclusion of the north branch and the delicate area which lies similarly on the north-west side of the Errinundra River would link "The Gap" scenic reserve and Bidwell education area with the Nelson Creek catchment, which is in the park. Further, it would protect this pristine catchment and its riparian vegetation. Upstream of Result Creek, the catchment is free of roading.

An unusual grass species has been recorded in this area by the Department of Conservation, Forests and Lands ecological survey team. It incorporates a density of feather tail glider greater than any recorded in the Brodribb forest block.

I then move to Misery Spur, on the southern end of the Errinundra Park. This has been described when being accepted into the interim listing of the National Estate as having spectacular landscape values. It can be seen from the Errinundra road and the views from the Misery Spur across the Errinundra valley and from the Errinundra road give significant landscape values to the main approach to the park from the south-east side. It is a continuation of the escarpment on the south-west from Hensleigh Creek.

Hensleigh Creek comes somewhat within the same area as the additions of the Warbisco Creek, which were justified on the basis that they were part of the proposed Land Conservation Council recommendations. In the original proposals the council similarly suggested that the Hensleigh Creek area should be incorporated. It is part of the escarpment of the Errinundra plateau, and the unusual branching system of tributaries has marvellous V-shaped rainforest gullies in its headwaters.

There are panoramic views from Coast Range Road, a major tourist road, out over Hensleigh Creek and across to Mount Kaye which the government has included in the new Coopracambra National Park. Outside the Errinundra plateau and across the Rodger and Bowen rivers are two areas that again should be considered because of their unique environmental features. I refer to the Yalmy Valley, and the Victorian National Parks Association has said that the park should be extended in the Yalmy catchment area. The association is concerned about the protection of values within that catchment and its role as part of a wider land unit.

It is appropriate to include as much as possible of the remaining unlogged forest on the western side of the valley in the proposed national park. The boundary in that part of the Snowy River park runs along the ridge and the unlogged western part of the valley going down to the Yalmy River is pristine, has not been logged and has values that are worth representing in the park area.

The catchment area represents an interesting contact zone between exposures of Snowy River volcanics and silurian sediments to the south-east. The ridge separating the Yalmy

River from the Rodger River is asymmetrical in shape along its peak. That landform is a feature of significance.

Finally, I refer to the West Thurra area in the Coopracambra National Park. Certainly this area was suggested to be included by the submission made by the Minister for Planning and Environment. Its values are significant and is an area of rare plants. In the submission by the Victorian National Parks Association it was suggested that unless the West Thurra catchment is protected in a reserve the location of the rare plants may be prejudiced. The populations are small in size and could occur on highly erodable grey skeletal soils.

It may be that those plants could be protected under the recent Flora and Fauna Guarantee Bill, but it would seem that they fall much more naturally into the park system to be set up on the basis of the Bill. The West Thurra River is a major aquatic attraction. It is part of the whole system and is described as the least modified entire river system in Victoria.

Having described the values it seems to indicate they they are equal to and in some cases different from but nonetheless are worthy of the same considerations as the values that the Land Conservation Council introduced and recommended, and similarly, that the government decided to recognise when it added the Cabinet extensions.

The wilderness areas have not been included in the park, especially the Swamp and Good Hope creeks, which is a wilderness and leads into the Warbisco and Home creeks catchment areas, and which would set up a buffer zone. It would be important to the Yalmy area. If that area were included in the park; it could create a buffer zone in the Rodger-Bowen area.

The landscape areas at Mount Bowen have been recognised, but not those of Mount Ellery or Mount Kaye. They are of equal significance, with variations to the areas in which they are involved, and warrant further consideration. The protection of the escarpment is necessary as there are areas of the escarpment, indicated on a map drawn on a 1000-metre contour, that fall outside the park. The general public believes the area of the plateau and the escarpment have been incorporated and protected in the Errinundra National Park, but that is not the case. Some of these areas are outside the national park area.

Additional information may be of use to the Land Conservation Council. The Opposition refers to a recent report that was requested and financed by the Ministry for Planning and Environment, *A Survey of Wilderness Quality in Victoria* written by Kathy Preece and Rob Leslie. Any areas that are referred to as high wilderness quality are worthy of consideration. The publication entitled, *Australia's Eucalypt Forests—World Heritage Values* by Margaret Blakers, was published subsequent to the Land Conservation Council's recommendations in 1983. I do not know whether that was one of the considerations of the government when it made its decision to incorporate further areas. The government should further examine the value of the area for final evaluation.

I refer now to the second part of the argument which is the significance of the National Estate. The Opposition recognises that national parks have an entirely different status and an entirely different land use than the National Estate areas. The Opposition recognises that the Australian Heritage Commission can limit the activities that may be carried out within the National Estate.

The Opposition suggests there is and will be an ongoing opportunity and an ongoing situation where there will be conflict. The Australian Heritage Commission in a recently published pamphlet, *Australia's disappearing native forests*, made these comments about the timber industry within the National Estate area:

> Clear felling, or intensive forestry harvesting, and subsequent management practices, such as "control" burning and thinning, are compatible with the protection of National Estate forests.

The Opposition is examining the possibility of logging. Once the park boundaries have been established the forest reserve will be an area from which the sawmilling industry will

take its reserves. It has potential conflict over which the State of Victoria will not have control. The Minister has said that she has reached an agreement with the Federal government.

The Hon. J. E. Kirner—I have it in writing.

The Hon. M. T. TEHAN—I shall quote the *Hansard* report where the Minister says that she has that agreement. The Opposition is grateful that the Minister has been able to achieve agreement so that the Federal government accepts the land use designated by the Victorian government. I am concerned about what will happen with that agreement and the National Estate area if there were a change of government to a Liberal government, as the Minister suggested.

The Hon. J. E. Kirner—I share that concern.

The Hon. M. T. TEHAN—Precisely that situation exists in Tasmania and Western Australia.

When examining the question of east Gippsland as a timber resource area or a conservation area, it is imperative that there is certainty about the land use in that area. That is one of the most convincing and compelling reasons why the Victorian government should seek the authority of the Land Conservation Council to ensure what values should be used and, if they cannot be accommodated in a national park, Victoria will be able to at least argue convincingly that those areas should be put aside for forest reserves.

The Opposition suggests that the Land Conservation Council should keep control of the land use and that that not be abrogated to the Federal government through legislation relating to the Australian Heritage Commission.

This is the time and the place for the purpose of certainty and security to have this question answered. The Minister has agreed to this matter, but I shall refer to the *Hansard* report of 11 November 1987 when the Minister, in answer to a question on the east Gippsland development, said:

> It is important to note that the government's decision on National Estate areas is that we will be including two-thirds of the interim National Estate's classification in national parks area; the remaining one-third not so included in national parks will be available for timber harvesting with the protection of the code of forest practice and the protection of the flora and fauna survey.
>
> . . . . .
>
> The Federal government has considered the process whereby Victoria assesses its National Parks and decides its land use and has said that the Federal government will not intervene in any decision by the Victorian government on national estates or national parks.

That might well be the case for the time being, but there is no certainty that that will continue to be the situation in Victoria.

In order to clarify the situation for the people of east Gippsland about the timber industry and conservation, the Opposition wants 30 per cent of the National Estate area to be referred back to the Land Conservation Council for evaluation so that there will be some certainty and that it can be argued that the LCC has considered the matter and the land will be incorporated or not incorporated. That will be the basis upon which the timber industry and the conservation movement will know whether the areas should be included in the national park.

There has been considerable debate on the amount of timber in east Gippsland, the effect of these parks and, of course, the effect any additional area of parks will have on the timber industry. I suggest that the debate becomes difficult at this stage because no-one knows how much area of forest reserves can be utilized. The LCC, in its recommendations, suggests that to offset the loss of employment and the loss of resources in east Gippsland areas in reserve forests be provided to the value-added utilization scheme. The government

has indicated that that is the direction in which it is moving, and the Liberal Party supports that use of forest residue.

It has taken a long time to implement the environment effects statement, which is the first prop in the process. The Minister for Conservation, Forests and Lands has said that the environment effects statement would be available for the past two years.

The Hon. J. E. Kirner—Not quite two years.

The Hon. M. T. TEHAN—Give or take a month or two. The Timber Industry Strategy of August 1986 said that the value-added utilisation scheme was unique in Australia and had the potential to provide significant improvements in the sawmilling industry. The strategy said that the government would commission an environment effects statement to assess the impact of the value-added utilisation system in the central Gippsland and east Gippsland management areas.

The final recommendations of the east Gippsland review by the Land Conservation Council said that it seems clear that a decision on integrated harvesting is a more important strain on the timber industry in east Gippsland. Integrated harvesting from normal sawlog-only harvesting would help, but would not be nearly as successful as fully integrated harvesting. The council suggests that decision has to be made and made quickly to underpin the loss of jobs as a result of a number of factors, of which one is the national park.

On 12 November 1987, in questions without notice, the Minister for Conservation, Forests and Lands was asked about the value-added utilisation system. The Minister said:

> By May next year, the government will have made its decision on whether an environmentally sensitive value added utilisation system is possible, and will then proceed with a 300 000 cubic metre trial for the next three years.

That environment effects statement has not been completed. The timber industry is uncertain, and until the environment effects statement is available the government is unable to give that security to the people of east Gippsland.

In the glossy brochure that was issued with the announcement on logging in east Gippsland, mention was made of new jobs for east Gippsland and changes in the timber industry. The brochure referred to the introduction of the value-added utilisation system, and the environment effects statement currently being conducted will ensure that the value-added utilisation system is environmentally sensitive and economical. The brochure goes on to say that, if all residual roundwood were available for processing, it would be possible to create several hundred new jobs.

When one asks what will happen to the people of east Gippsland and what will the effect be on the timber industry, my answer is that it is uncertain, and that until the government makes a decision it is impossible to indicate what will happen.

The Land Conservation Council's recommendation for the taking up of the employment opportunities that would come with a value-added utilisation system has been set out, but that cannot be done until there is an environment effects statement; and the people of east Gippsland have been waiting for almost two years to see that statement.

The Opposition asks the government: when will the statement be available? When can the uncertainty in the timber industry in east Gippsland be considered? When can the National Estate status be effected? It is necessary to know those things to indicate precisely what will be offered to the people of east Gippsland.

The Liberal Party is conscious of the people of east Gippsland and the recommendation that it will make to the government in relation to jobs in that region. The employment situation in east Gippsland is in difficult straits, and has been since long before the implementation of the legislation and before any further addition to the park area. The unemployment figures for the eastern collection area reflect precisely the unemployment problem currently faced in east Gippsland. The unemployment figures were 6·1 per cent

in March 1985; 7·1 per cent in March 1986; 7·4 per cent in March 1987 when the State average was 6·9 per cent; and 8·2 per cent in March 1988 while the State average was 6·1 per cent. The creation of further national parks will impinge on these unemployment figures.

I do not think I could go to anyone more likely to have the interests of the timber workers at heart than Mr M. J. Lynch, the State Secretary and Federal President of the Australia Timber Workers Union No. 2 (Victorian) Branch. Mr Lynch's explanation for the reduction in employment in east Gippsland is as follows:

> The present rate of sawlog cutting is 320 000 tonnes per year. In order to maintain continuous employment over the next 45 years until the regrowth becomes available in the year 2030, the annual sawlog cutting rate will have to be reduced to 138 000 tonnes per year.
>
> This reduction will result in 60 per cent of the current workforce, and those dependent upon them, being without employement in the region.

Those figures are based on the sustainable yield harvesting—

> If integrated harvesting is permitted the government estimates that an additional 90 000 tonnes per year of uncertain quality sawlog and 750 000 tonnes per year of pulpwood will be available over the next 45 years.
>
> In employment terms this would mean the retention of 150 (or 25 per cent) direct jobs in sawmilling and 200 (or 30 per cent) direct jobs in pulpwood harvesting and processing.

Mr Lynch refers to the reduction in employment because of the need to maintain continuous employment over the next four to five years until the regrowth becomes available, which means a reduction in the sawlog cutting rate from 320 000 tonnes to 138 000 tonnes. That excerpt is from the publication *A Trade Union Position: The Facts About East Gippsland,* by Jim Lynch of the Australian Timber Workers Union and Chris Northover of the Pulp and Paper Workers Federation of Australia.

In the debate in the Legislative Assembly, one of the speakers for the government, Dr Ken Coghill, the honourable member for Werribee, raised a number of rhetorical questions to which he sought a Liberal Party response. Those questions have been answered in a document that I have before me. The four main questions raised by Dr Coghill were: first, should logging in national parks in the area be suspended? Secondly, how would timber workers be affected? Thirdly, how would the National Estate listing be referred? Fourthly, over what period and with what additional information should the Land Conservation Council carry out this review?

The answers have been written in a form that can be examined by the government and have been given to the Leader of the National Party in this place. They refer to the need for suspension of the timber industry during the review; but, as the timber harvesting season is nearly complete, there will be minimal dislocation, and the conservation values in areas presently being harvested at the instigation of the government must be protected until the position concerning the seven areas referred to in the National Estate listing have been clarified.

The Opposition suggests that the Land Conservation Council takes into account the socioeconomic input, as it has in the recent east Gippsland study area. The Opposition would expect the council to reconsider the review and the employment and economic impact in the area. If the government accepts the call for a review and suspends logging while the review takes place, the Liberal Party would expect alternative coups in reserve forests to be opened to meet the timber requirements and provide continuity of employment for timber workers.

I have canvassed most of the material put to the Minister for Conservation, Forests and Lands when, on a radio program, she asked the four different questions referred to. I have also dealt with the questions the honourable member for Werribee in the other place said required answering when the matter was debated in this Chamber.

Before I conclude, I am anxious to clear up one matter. I have been quoted as making certain comments on national parks. What I said and to whom seems to have been the cause of great interest and confusion.

I refer to the Premier's answer to a question in the other place when he quoted me as having certain views which he said I had expressed when addressing the Toyota Landcruiser Club of Australia. I have never been to that club, and that was made clear when I made a personal explanation on this matter. The Premier got it wrong.

The following day, Mr Landeryou referred to a remark I had made and which he said was quoted in *Trackwatch*, which is the news and views of the Association of Four Wheel Drive Clubs. Mr Landeryou could not get it right either. Any subscription to *Trackwatch* does not mention anything I said, nor does it mention my name.

In the jurisdiction in which I am more accustomed to speak, if one does not get the facts right, the arguments one is attempting to give credit to would have no credence. If one cannot get the name of an organisation or a magazine right, one has no credibility and would be laughed out of court and ordered to pay costs.

What has been relied upon is an unnamed association delegate's report that is recorded in a magazine called *Overland Cruising* and dated March 1988. The piece referred to is entitled "Association delegate reports". The piece indicates that I was the guest speaker. No name is given; there is nothing other than the report. The report is abridged and is imprecise. The last question in the piece was not asked in the context in which it is printed. The answer is so convoluted that there is no way, with due modesty, that I would have been able to answer a question in those terms.

The PRESIDENT—Order! I am having difficulty relating these comments to the Bill.

The Hon. M. T. TEHAN—The matter was raised through a number of questions asked in the debate in the other place. It indicates my position on the Bill because there have been allegations made of comments said at this time. I want it on the record that I addressed the Four Wheel Association of Victoria, and that has not been reported in *Trackwatch*. The questioning proceeded along these lines:

> Under a Liberal government, will there be any new national parks?

I replied, albeit glibly:

> Not in the first twelve months of government.

That was a tongue in cheek reply to a question about whether there would be national parks under a Liberal government. I went on to speak of the need for maintenance of existing national parks. My comment was not a question of policy; it was in answer to a question phrased in the terms I have described.

The Opposition has referred to the reasons why it will support the Bill. It has considered the intrinsic value of the Bill in toto. It has commended the Land Conservation Council and, with considerable reservations because of the political implications of the extension, the Opposition is anxious not to set that as a precedent for further political decisions arising from land use and delicate environmental decisions. For those reasons, the Opposition has suggested that the areas the government has decided not to include through its arbitrary discretion to include some areas and not others, be referred back to the Land Conservation Council for due process. The Opposition will abide by that decision.

In accepting the Bill as it is, I could not do better than quote Sir Garfield Barwick, the first President of the Australian Conservation Foundation, who said that there is room for a strong sense of trusteeship or guardianship of the environment, a sense of obligation or duty which, in his view, each generation should feel. If that sense of trusteeship is present, the requirement of conservation itself will constantly be kept in mind. The Liberal Party is exercising that trusteeship by supporting the Bill.

The Hon. D. M. EVANS (North Eastern Province)—Normally when issues of this nature are debated, I try to dress for the occasion. Tonight I am wearing a Hoo Hoo club tie. Usually the Minister for Conservation, Forests and Lands is in green, and I am disappointed that she is not tonight.

When Mrs Tehan began her speech, she said that it is a small Bill. Indeed it is. It is like a bullet: small and deadly and aimed straight at the hearts of the people and industries of east Gippsland. Once again, it has been left to the National Party to protect the people of east Gippsland and their needs and wishes that are so often forgotten.

Once again it is left to the National Party to protect the house builders, consumers and people of Victoria and their needs for raw materials used in every day life. Once again it has been left to the National Party to protect the balance of trade of this nation, which is currently $1·6 million in deficit as a result of the importation of timber and timber products and which is decreased very little by the time some woodchips and a small amount of processed timber is exported overseas.

The net effect is still well in excess of $1 million or something like 15 per cent of our total overseas trade deficit. It has been left to the National Party to protect the unionists of east Gippsland and, progressively, in other areas deserted by the Australian Labor Party, and, tonight, by the Liberal Party. Nobody cares about the jobs of people in east Gippsland. All they say is, "Let us simply have some more parks; let us make sure we do not have a timber industry in Victoria; let us turn the whole State into a zoo and then we will have perfect protection and no conservation problems".

The concept I have outlined is not true. I shall try to demonstrate why. Soon we shall have so many national parks, they will no longer be unique. Already something like 8 per cent of the State or nearly 20 per cent of the total public land of the State is devoted to national and State parks.

There may be some value in all this if we did, indeed, have a real problem in protecting conservation values in this State and if we were unable to do so except by locking areas up into national parks.

The National Party is of the view that conservation values in this State are already substantially protected. It accepts that, apart from some early moves towards conservation in the Wilsons Promontory and afterwards at Mount Buffalo in the heart of the province I represent, the push towards conservation came from a sense of shame and embarrassment on the part of the Liberal government in the 1960s with the Little Desert.

The Hon. M. A. Birrell—Henry Bolte was a wimp, was he?

The Hon. D. M. EVANS—In that case, yes! Conservation values are already very substantially protected. Almost 20 per cent of the public land is in national and State parks. In the east Gippsland region, about which we are speaking, almost 20 per cent of the area is already in the parks—and that is 20 per cent of the total area of the Shire of Orbost. Even more of that 800 000 hectares or thereabouts in east Gippsland in preserved and protected by a series of logging prescriptions and many other devices.

When referring to logging prescriptions, it is useful sometimes to remind those people who cannot remember, or who conveniently forget, that logging is not permitted within certain distances of up to 100 metres from streamside areas, and that is particularly not referred to by the conservation movement or the dishonest East Gippsland Coalition. The rainforests of east Gippsland are fully protected. They are not logged and never have been. That is an issue with which the National Party agrees. Yet, constantly, in progressing its case, the conservation movement says, "We must protect the rainforest in east Gippsland". What rubbish! The forests are protected and we should remember that.

Further, as I have said, some 20 per cent of east Gippsland is already protected through national and State parks. This proposal will bring that figure up to 30 per cent. It assumes that forest activity means perpetual disruption and that once having been taken and used

never again will there be a forest in that place. It ignores, as does the conservation movement—that dishonest conservation movement—regeneration of our forests and the dynamic nature of the forests; it ignores the fact that trees get old and die; it ignores the fact that if one has an older tree, one will not get a young tree to regenerate; it ignores the conservation values of regeneration; it ignores how regeneration occurs and the fact that so many of our magnificent trees are fire climax and light sensitive.

Let us spell out what that means. If a tree is fire climax and light sensitive, there will be no regeneration until the total destruction of the overstorey takes place. When that occurs there is nothing left alive and the hot burn enables the ash seed pod to regenerate. This can be done in two ways. A massive bushfire makes a mess in the forest. In the past few days, the Minister referred in the House to a visit she made to burnt-out areas after the fires in the Kosciusko area. She commented on the fact that there would be erosion dangers for at least the next two years. That is nature's way; that has gone on for 40 000 or 50 000 years.

The conservation movement ignores the fact that many trees are fire climax and light sensitive. Regeneration will not take place until there is a hot fire and a total clearing. As I said, that can come about because of two factors: bushfire, or fire in a much more controlled manner, which allows better recolonisation, and regeneration following timber logging operations. Honourable members can understand that perhaps there is not a necessity to lock all areas in national parks to preserve the conservation value. I hope that message sinks in.

Many people do not understand the dynamic nature of forests and the fact that they live, grow up, age and die just as we all do. It is better to use the dynamic forests because they can be regenerated. One can have an alternative to forests. In the past few days I have heard people say, "Why not use steel and aluminium instead of timber?" Mrs Tehan made that comment in the House. It is very difficult to drive nails into steel. Production of those materials makes smoke in the Latrobe Valley and affects the ozone layers, which assists in bringing on the greenhouse effect. The extraction of ore, leaves enormous holes in the ground. However, steel and aluminium are alternatives, and they are good alternatives.

There is a preservation mentality in many people in this State. They want to keep things exactly as they are. As I said, they do not understand the dynamics of the forest.

My colleague in another place, the honourable member for Gippsland East, Mr Bruce Evans, is often inclined to remember that an ancestor of his was one of the first white men to go into east Gippsland. Part of his family history involves the fact that his ancestor drove bullock waggons through open parkland forests. I suggest that if one tried to drive a waggon through those same forests today, they would be totally different. The forests are now very much overgrown and the trees are more densely packed. Maybe the forest is just as interesting as it was in those days, but it is different—the forest is a dynamic thing.

I wonder why the government and the National Party's Liberal friends and colleagues do not understand that these areas do not have to be locked up to preserve and maintain them; it could be detrimental to them. I wonder when they will come around to understand that the National Party policy on multiple use which I have tried to thump into some thick heads around this State is a far more sensible and responsible policy and more in tune with nature.

Not only that, it provides resources and a mixed-age forest with a wider range of habitat and the sort of quick growing forest which uses carbon dioxide quickly. At a recent conference in Albury it was suggested that if we allow all forests to grow old and do not have young, growing forests, the amount of carbon dioxide in the air will increase. The greenhouse effect will be accelerated.

Some of us do not want to face those facts as they are inconvenient and take away the psychological prop we have. The Aborigines have used fire for 25 000 years. I know that some might say it was 30 000 years, but I am sure they have not been there for that long

because the change from Neanderthal man to modern man took place 25 000 years ago and the Aborigines have not been there for 30 000 years.

The National Party's multiple-use policy of specific areas of interest allows for preservation. It allows for more sensitive management and for a mosiac-type development and management according to the actual needs and qualities of the area concerned. Certain areas of timber can be set aside if they are of unique value. One does not need to lock up 1000 hectares to look after 20 or 30 hectares. In a multiple-use management scheme one can look after the area that needs to be looked after. That can reasonably be done.

Surely the Flora and Fauna Guarantee Bill which was passed by the House last evening gives the government an additional strong tool for action.

The Hon. J. E. Kirner—You are not going to vote against it and claim it, too!

The Hon. D. M. EVANS—You have been out in the sun too much getting your photograph taken!

The Hon. J. E. Kirner—I have been in here listening to you.

The Hon. D. M. EVANS—The Flora and Fauna Guarantee Bill had a number of worthwhile features in it which the National Party supported, and certain features which the National Party did not support. Regretfully, the House did not agree with the suggestions of the National Party to make it a better Bill. The Bill gives the government additional power to deal with the environment and flora and fauna in Victoria.

The word "unique" is often used. It might be instructive to quote from Dr Bren, who is a senior lecturer in forestry harvesting at the University of Melbourne, a specialist in hydrology and a technical adviser to the Department of Conservation, Forests and Lands. In respect of the code of forest practice, he says a number of things about the word "unique":

> It does not take many levels of classification before virtually every item becomes "unique", and streams are no exception.

If one puts ten or fifteen different factors together, a western slope above 2000 metres with a rainfall of 1600 millimetres per annum, a dry rocky soil with a certain type of forest inhabited by the tiger quoll and by the three-toed green skink—a mythical species—and some other additional features, then one has another unique area. That is the point I am making. The word "unique" is totally and grossly over-used to bedazzle and bemuse. Dr Bren is not bedazzled. He says, as I have already said:

> It does not take many levels of classification before virtually every item becomes "unique", and streams are no exception.

I remind honourable members that Dr Bren is a senior lecturer in forestry harvesting at the University of Melbourne and technical adviser to the Department of Conservation, Forests and Lands. I am quoting from a document prepared by the Australian Council of Trade Unions and the Victorian Sawmillers Association. Dr Bren says:

> . . . forestry effects in the Australian environment are normally only detectable in first or possible second order streams and, in general, are eclipsed by natural variation by factors such as drought, flood, or fires.

It is worth noting that stream flow at the confluence of the Rodger and Snowy rivers—which are right in the area about which we are talking—shows an enormous variation. The daily minimum recorded stream flow was 9 cusecs, in the old term, on 6 March 1968, which was certainly, I acknowledge, after the scheme in the Snowy Mountain was installed. The maximum flow was 127 500 cusecs, on 8 January 1934. That is an enormous variation in the stream flow.

Dr Bren quite correctly makes the observation that variations of that nature, with natural stream flow and rain, are an enormously important component force in dealing with the environment and causes problems for the operations of forestry.

It is also worth noting that a Department of Conservation, Forests and Lands flora and fauna study identified in the Rodger River catchment forest stands relating to fires in 1952, 1939, 1926, 1890, and so forth. The same study points out that, if fire is absent for long enough, the eucalypt forest will disappear. Again there is the dilemma that if there are bushfires—often called by the American term, "wildfires"—which destroy the forests in a willy-nilly fashion, we have the problem of soil erosion lasting for two or more years, which the Minister described when referring to the fires which extended into Victoria from the Kosciusko National Park earlier this year. There are only two options: destroy with such a bushfire to obtain regeneration, or allow the more sensitive, controlled regeneration following timber harvesting. The study to which I refer indicates that if the fire is absent the eucalypt forests will disappear, as I have said.

The high conservation movement will never be satisfied until all of the public land in Victoria is protected in national and State parks.

It is interesting to note that the former shadow Minister, the honourable member for Evelyn, in another place, Mr Plowman, said on 7 May 1986:

> The alternative to the Avon wilderness is considerable pressure from the conservation lobby to find a wilderness elsewhere. The alternative areas, in east Gippsland especially, could well be Rodger River, where there are 1 million cubic metres of high quality timber resource—a vast and important resource to Victoria and the sawmilling industry—or the Bowen/Gelantipy area where there are 200 000 cubic metres of high quality resource or other areas in east Gippsland . . .
>
> It is of utmost importance that a maximum amount of east Gippsland timber resources be reserved for the timber industry and not locked up in a further series of non-producing parks. Obviously a sensible balance needs to be struck between conservation and utilization. The Opposition believes this balance has been tipped fairly heavily in favour of conservation. Careful consideration must be given before locking up of further resources, particularly timber resources in east Gippsland.

That did not last very long. No wonder the timber industry is confused and concerned.

The people of east Gipplsand, following the decision announced by the Liberal Party of a change in direction of policy, were absolutely devastated. Mr Long, I understand, is also devastated. On 26 April 1988 in the *Sun*, Mr Long is quoted as saying that he could not in all conscience vote for legislation that would mean job losses for timber workers. I respect that view. He understands the problems of the people he represents. He also said that the Liberal Party's support for the Bill was a gift to the National Party, and that is true.

The Hon. R. J. Long—I did not say that, the reporter did.

The Hon. D. M. EVANS—If that is true, perhaps one should be grateful for it, but, to be honest and fair, I would wish that the people of east Gippsland were protected and there was less advantage to the National Party.

Mr Bob Humphreys, a well-known sawmiller in east Gippsland, spoke with me twelve months ago and said, "David, you're going to hate me, I'm standing for Parliament", and I said, "Good luck to you, Bob". He said, "I am standing for Gippsland East", and I said, "That's good because you won't win, Bruce Evans will win again". Mr Bob Humphreys has seen the light. He said that it would be an utter waste of time and money standing for the Liberal Party. He said, "The Liberals have abandoned my community and have fallen into the same trap as Labor, they believe, in the face of all the evidence to the contrary, that they could do deals with the conservation movement. You can't deal with people who won't take "Yes" for an answer. The conservationists have run a campaign in east Gippsland which has been characterised by distortion and deceit. They got more than they originally asked for and then complained it wasn't enough".

Mr Norman Huon, of the Victorian Sawmillers Association, was concerned at the prospect of even more areas being locked up. He said:

> The decision will send shock waves throughout Victorian rural areas dependent on the timber industry.

And so it will. What did the Liberal Party say that will send shock waves throughout the east Gippsland community and what so upset the former candidate for Gippsland East, Mr Bob Humphreys?

The Hon. B. W. Mier—You said Bob Humphreys is a sawmiller!

The Hon. D. M. EVANS—Indeed, he is a sawmiller and it is an honourable occupation. I guess your house has wood in it, and is a little like your head—it has a bit, too.

The PRESIDENT—Order! I suggest that Mr Evans ignore the interjection. Mr Mier will have an opportunity to contribute to the debate a little later.

The Hon. D. M. EVANS—What the Liberal Party said in its policy, which was enunciated by Mrs Tehan and I am sure it is Liberal Party policy, was that the Liberals are concerned about the failure of the government to recognise those areas listed on the interim National Estate which serve the area covered in the Bill. The Liberal Party feels that those areas in the National Estate and on the interim list should be referred back to the Land Conservation Council for consideration of their inclusion into the east Gippsland park system and calls on the government to take this further step to give protection to this outstanding area.

The Liberal Party is entitled to its view, and Mrs Tehan has repeated that policy in the House tonight; but, at the same time, the people of Victoria are entitled to make a judgment as to whether that is a good policy and the people whom it most affects are entitled to put forward a view contrary to that of the members of the Liberal Party in seeking to get it to change its mind. It must be recognised that that policy was not only a policy for east Gippsland but also a devastating precedent for the rest of Victoria.

That fact was recognised by the Victorian Timber Towns organisation, which wrote a letter, I understand, to all members of the Liberal Party, saying, in part:

> The announcement by the Liberal Party was received with complete amazement as it represents a complete reversal of your party's previous attitudes to extensions of national parks in east Gippsland . . .
>
> Mrs Tehan has publicly stated that she opposes an extension of national parks in the alpine, central highlands and Otway areas.
>
> Having set a dangerous precedent in east Gippsland, it will be most difficult for the Liberal Party to refuse to support further Bills for the establishment of national parks if other areas are proposed on the same ecological and environmental grounds as in east Gippsland.

The Hon. J. E. Kirner—Don't you worry about that; we shall put that to the test.

The Hon. D. M. EVANS—It is indeed a dangerous precedent, it is one that concerns the National Party as a responsible body. It concerns many people in Victoria whose jobs are on the line, and it concerns those persons who recognise that we need the renewable resources from our forests. It concerns people who have an interest in those areas in the alpine regions that are not within national park areas—people like the mountain cattlemen; friends of Mrs Varty.

It concerns people in the central area of Victoria that is currently being investigated and reported upon in recommendations being prepared by the Land Conservation Council. As sure as night follows day, those recommendations will include substantial additional recommendations for national and State parks because the Land Conservation Council frequently says that it is important to ensure a balance between competing demands. Indeed, in the very report on which this Bill was largely based, the Land Conservation Council says that we must try to achieve a balance between the competing forces. Each time the Land Conservation Council is asked to report and recommend an area, one can be assured that the council will give away some of the land and some of the land will go to national and State parks. At the current rate of increase of national and State parks, within about 60 or 70 years, the whole of the public land in Victoria will be within those categories.

It is of concern in the Otway and Colac areas. The Colac area is close to the area represented by Mr de Fegely, and is certainly represented by Mr Chamberlain. People are concerned that further incursions will be made in the resource availability to industry following National Estate listing and interim listing if this is not changed. I urge the government to consider changing that policy for its own benefit and for the benefit of the people of Victoria. It will be of concern in the north-east and in the area around Mansfield, Yea and Alexandra, an area which the North Eastern Province used to cover but which is now in the area now represented by Mrs Tehan.

It should be understood that most timber in Victoria is on public land. What we are planning concerns the source of almost all the timber resource in the State, at least the hardwood resource. Most of it is on public land. It is self-evident and often forgotten that we are looking at a slow starvation and retraction of the timber industry—one might call it the death from a thousand cuts. According to the timber industry strategy—which was produced by the government in August 1986 and which referred to employment and other statistics—five years ago 8 per cent of Victorian employment in the manufacturing industry was in the timber and further processing industry. There were 6500 people employed in the primary area and 21 000 people employed in the further processing area. The total direct and indirect employment in the timber industry was 42 000.

Even five years ago, annual turnover was $2·3 billion. I have referred to the fact that already the trade deficit is $1·6 billion per annum because of timber industry imports. It would appear that we are now doing everything possible—or at least this government is—to discourage the export value-adding industries and even the timber industry strategy of value-adding, at least in the Gippsland area, is under severe threat. One cannot have a value-adding industry without the most valuable resource of all, the timber itself.

I refer honourable members to the Land Conservation Council report at page 47 where it states that 484 000 cubic metres of ash species are currently available and under the proposal only 26 000 cubic metres will be available. That is about 5 per cent. Mountain ash is one of the main value-adding species in east Gippsland. Shining gum is another major value-adding species and it will be reduced from 321 000 cubic metres to 143 000 cubic metres. If the value-adding timber industry must rely on east Gippsland to fulfil the requirement of the timber industry strategy, this proposal will almost destroy the basis on which it could do so.

What does this mean to east Gippsland? According to the Land Conservation Council report, employment in the area will be reduced by 30 per cent. With sustainable yield it will drop to 50 per cent. "Sustainable yield" is a bit of a con job in the sense that it is sustainable yield on a district specific basis. Honourable members, however, should recognise that because of the different maturing ages of various areas of forest in Victoria, it would be more efficient to divide the timber industry on a State sustainable yield basis rather than a district specific sustainable yield basis because, over a period, there will be some movement from one district to another. Then that 50 per cent would be reduced to approximately 35 or 40 per cent. The timber industry is constantly moving.

In recent times there have been movements from Porepunkah, Tatura and Violet Town; shortly, there will be movement of the industry out of the Mansfield area because of the change in resource availability. It is nonsense to talk about sustainable yield on a district specific basis.

Further, on the effect on east Gippsland, the National Estate component in the Bill—that is, in excess of the Land Conservation Council resources—constitutes a further 10 000 cubic metres per annum reduction in timber resource availability. That is approximately 4 to 5 per cent. The proposal of the Liberal Party, if it were adopted by the government, is to include all the National Estate and the interim listings. This would mean a further reduction of 55 000 cubic metres a year or 28 per cent plus an estimated 100 000 tonnes of pulpwood.

I shall refer to the National Estate itself, which is little more than a shopping basket of the conservation movement. In his press release of Armistice Day, 11 November 1987, the Premier stated:

> This government does not equate National Estate with national parks. There are important distinctions between the two and groups trying to argue that they are one and the same are trying to mislead the public.

The Premier was right and the Minister for Conservation, Forests and Lands repeated that statement in similar words in her second-reading speech. She also is correct.

I said that the National Estate is little more than a shopping basket. In fact, it is a list of areas of interest drawn up by the conservation movement, generally a seconded officer from the Land Conservation Council of Victoria, and presented to the Australian Heritage Commission in Canberra. The process does not involve much public consultation.

I have some criticisms to make of the Land Conservation Council and its processes but at least it accepts a wide-ranging number of submissions. It issues a substantial document for discussion and opportunity is provided for making further submissions. The National Party would retain a body that carried out the functions of the Land Conservation Council but it would change its structure to something more like the Ferguson committee. It would be a smaller tribunal that is not so representative of interest groups but capable of making a decision with the necessary expertise. It would have the opportunity of questioning witnesses orally as well as accepting written submissions. That would be a better and more efficient process. However, we currently have this other process.

The Bill will cost east Gippsland about 400 jobs, that is 15 per cent of local employment on top of the 7, 8 or 9 per cent currently in the district. It will cost the government at least $3 million in royalties in current values; $10 million will be lost in revenue because we are not using the timber residues on the floor of the forests of east Gippsland. Apparently $10 million does not matter to some people. Who cares! It will cost at least $20 million annually in exports right now!

The Hon. J. E. Kirner—What?

The Hon. D. M. EVANS—I am quoting an Australian Council of Trade Unions submission to the government. The council may not know what it is talking about. I hope the Minister for Conservation, Forests and Lands is telling it what to do and not me.

The Bill also means that approximately 2000 people who want to build houses this year will have to pay an extra $2000 each because that resource is not available. I bet they will be pleased about that! It is easy to ignore the effect the proposal will have on job opportunities in east Gippsland when one has a comfortable job, when one works in Parliament and is paid a salary, or if one has a job in the City of Melbourne, and to whom conservation is an emotional crutch. It is easy to say how wonderfully one is trying to look after the people who live in east Gippsland but it is different if one's job is on the line, if one has a wife and children, and if one does not have an income. At least the National Party cares about the people in east Gippsland who are in that position now.

What about tourism? Perhaps people could get jobs in that field. According to the National Institute of Economic and Industry Research that industry should provide approximately 50 or 60 jobs but that will not make up for the 400 that will be lost in that area. East Gippsland has mainly a coastal attraction. The Rodger River area and the Errinundra Plateau are not prime tourist destinations. People want to be able to get to an area easily. They want to be able to drive their families to it and to have and pay for the facilities.

The ACTU submission to the Minister said that visitors to the wilderness areas such as Coopracambra and Tingaringy have 600 visitor days per annum and 800 visitor days per annum respectively. That is not a terribly strong tourist interest. That tourism is largely dependent on the infrastructure provided by the timber industry.

If one wants tourism in east Gippsland, one needs an infrastructure to support tourism, and the timber industry provides it. The tourists who will spend money need easy access,

shops, accommodation and camping facilities. Also, timber workers make lousy waiters. They do not even want to be waiters!

The result of the Bill and the further pressure that it will put on employment in east Gippsland and the pressure that will inevitably follow in other areas of the State will be devastating. Why did not the government accept the Victorian Sawmillers Association—ACTU package? It gave additional parks. It upgraded the value-adding industries in east Gippsland and left them with enough high quality resource to have a value-adding industry.

It used the residues that are currently being wasted at a disbenefit to the State of $10 million or $20 million directly each year. It maintained employment and it did all of that without even worrying about a pulp mill. The document has been available to the government for some time.

What is the government's response to all of this? It knows all of these facts and figures as well as I do. Perhaps it knows them even better! A document was released by the Premier on 11 November entitled, Cain Government meets east Gippsland challenge. It seems to have three key issues.

The Hon. J. H. Kennan—What about the road damage that the timber industry is doing in the north eastern province? Tell us about that?

The Hon. D. M. EVANS—As Puffing Jimmy is the Minister for Transport, I am looking to him to do a great deal for it. The Premier's document recommended that value-adding and tourism and the pulp mill would provide the jobs and the additional economic activity that the declaration of additional parks would destroy. Indeed, the Premier waxed somewhat lyrically on 11 November because he said:

> The Government has seen the way through the 'eye of the needle'.
>
> 'Victoria is set to become the first State to resolve the extremely difficult conflict between protection of exceptional heritage areas and the needs of the timber industry.

That sounds great, but the National Party challenges the government and its friends and colleagues in the Liberal Party to state whether that can be achieved. At this stage it might be reasonable to suggest a reasoned amendment to the House. Accordingly, I move:

> That all the words after "That" be omitted with the view to inserting in place thereof "this House refuses to read this Bill a second time until the government prepares a total package to provide protection for the legitimate interests of east Gippsland residents affected by the provisions of the Bill, ensures long-term availability of resource for the timber industry, particularly the value adding industry, and adequate resource for the establishment and operation of the proposed pulp mill".

The Hon. J. H. Kennan—What a waste of a good tree!

The Hon. D. M. EVANS—If the government really thinks these things can be done, let us make them into a package. The National Party doubts that the government's proposals for east Gippsland can be achieved. The reasoned amendment is no surprise because on 30 March honourable members may recall that I moved a motion couched in similar terms and during the debate a number of these issues were canvassed and a perusal of the record of that debate, for those who were not fortunate enough to hear it delivered in person, would enlighten them substantially.

The National Party would also see it as reasonable that, while the package is being prepared, there be further activity in the areas proposed to be included in the national parks. It is not intended as a last-minute effort to allow the timber industry another twelve or eighteen months' access to the timber in the area and it may well be, at the end of the package, that some changes will need to be made to the boundary, but that is not the current purpose. Nor will the amendment create additional uncertainty in the timber industry. In fact, it will allay the current uncertainty by recognising that these things have to be delivered as a package.

The government must ensure, at the very least, that all elements in the Premier's package this morning are secure and that all the goodies can be delivered. One cannot have a timber industry without trees and one cannot have a pulp mill without pulpwood.

I should like to examine the proposal for a pulp mill put forward by the Premier and the Minister for Conservation, Forests and Lands as the answer to the problems in east Gippsland. I know of at least two propositions. The National Party understands that a number of ecological issues must be dealt with—they are environmental issues. They include adequate supply of water without affecting the supply to other people and, in particular, the waste disposal issue. But given that the proposal for a pulp mill such as the one for which the Minister herself called for expressions of interest will involve an expenditure of an estimated $800 million, it can be reasonably expected that in drawing up such a proposal those two issues will be properly addressed and with that sort of investment; if it is possible to achieve a proper control over the two issues, that it will be done.

It will employ 800 people directly in the mill and forests and ancillary areas. More than 2000 people will be employed as a result of the industry, which is not bad given that we have 8 or 9 per cent unemployment. However, it will require approximately 1·4 million tonnes of pulpwood a year, which will earn approximately $30 million each year for the government. It will add about $330 million a year to the value of pulpwood.

The mill will make fine computer paper—that which is churned out from our computers every day, sometimes to our own distress because eucalypt, it now appears, is the best timber in the world for making that high quality computer paper.

The mill itself will not be started without resources, certainly, and already the conservation movement, faced with the possibility that a timber pulp mill may be established in the east Gippsland area, has started to fire its shots. In the *Australian* newspaper of 18 February 1988, Lim Say Boon, as reported, states:

> A showdown is expected over the $1 million paper mill.

The article is extensive but it certainly states that the conservation movement is zeroing in on the project, so that there is the danger of having substantial pressure put on the government to cancel that proposal too.

The major section of the Premier's package to the people of east Gippsland is under threat. If, however, the package is presented in such a way that, "You do not get your parks unless you give us the pulp mill"—and I sure the Minister is concerned about this; in fact I know she is, I will give her that much credit—then one does the job a little better.

I believe I have covered the issues I want to cover because many of the arguments I could canvass in favour of the reasoned amendment were canvassed in the debate of 30 March on the motion to which I referred. I invite the House to support the National Party and the people of east Gippsland and bring some rationale into this discussion.

On the motion of the Hon. B. T. PULLEN (Melbourne Province) the debate was adjourned.

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

CARAVAN PARKS AND MOVABLE DWELLINGS BILL

The debate (adjourned from earlier this day) 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. J. G. MILES (Templestowe Province)—The Bill is a complex one. Because of the lateness of the hour there was some doubt that the Bill would be dealt with, but, as a result of negotiations conducted between the three parties, the Bill was able to be proceeded with.

The Bill refers to standards and regulations—particularly regulations—affecting long-term residents of caravan parks. It does not refer to tourists and holidaymakers who may use caravan parks for short periods but addresses the need for standards and regulations to ensure the security of tenure of long-term residents of caravan parks.

I have good news and bad news for the government. The bad news is that the Liberal Party believes the Bill is a rushed one; and it has required an enormous effort from all parties in the House to bring it to this stage. The Bill demonstrates the comparative failure of the housing policies of the government. There has been a significant increase—upwards of 20 000—in the number of permanent residents in caravan parks. Some of the long-term residents of caravan parks live in those parks because they choose to do so; but others live in caravan parks for interim periods because they want to save money to buy their own homes. Many people have no choice but to live in a decent caravan park because of the lack of Ministry of Housing and Construction accommodation.

The Liberal Party does not see the need for increased regulation to the degree provided for in the Bill. The Bill may deter capital investment in caravan parks. If that occurs, there will be a decrease in available accommodation for potential caravan park residents, which will lead to a weakening of security of tenure of the very people the government is attempting to help. The regulations provided for in the Bill may lead to increased costs for those who live in caravan parks. The need for such regulations is one instance of the failure of the government's social justice policies.

The good news is that the Liberal Party accepts that there is a need for some form of security of tenure for long-term residents of caravan parks. Also, there is a need for clearer regulations to assist both caravan park owners and the residents of those parks. The Liberal Party has consulted many organisations in the industry, including owners and tenants. As a result of those consultations, the Liberal Party believes there is a need to regulate the industry to some degree and is prepared to cooperate with the government at this stage of the sessional period rather than let the Bill lie over until the next session.

I was impressed with the way in which members of the government, the National Party and the Liberal Party, both in this House and in another place, worked together under a great deal of pressure, together with government advisers and Parliamentary staff, to bring the Bill to this stage. I refer particularly to the Minister for Housing and Construction, the honourable member for Warrnambool and the honourable member for Prahran in another place, and Mr Sandon and Mr Dunn. The efforts of those members of Parliament, in particular, made me realise that honourable members are in Parliament to represent people rather than to always fight party political battles. Their efforts tonight are a good example of what can be achieved in a non-partisan fashion.

All honourable members, whether they are members of this House or members in another place, become heated during debates, which is unfortunate. Mr President, with your firm and humorous manner you always do your best to prevent honourable members from getting out of hand. If I have become too heated in debate at times, I apologise for that.

The Liberal Party does not oppose the Bill. It will move some amendments in the Committee stage, amendments that I am sure reflect the spirit of the Bill and will be acceptable to the government. I thank honourable members from all parties for the way in which they have cooperated to resolve what could have been a difficult Bill. The Bill has been reduced to simple terms and I hope it has a speedy passage through the Parliament.

The Hon. B. P. DUNN (North Western Province)—The Bill deals largely with the interests of long-term residents of caravan parks. From what the Minister said in his second-reading speech and from the remarks made by Mr Miles, the major effect of the Bill concerns the tenancy rights of long-term residents. The Bill will have a significant impact on the industry and will place greater burdens and responsibilities on those who operate caravan parks.

There has been a lack of consultation between the government and the people who are involved in the industry. I congratulate Mr Sandon on the work he has done on the subject, and I am not critical of his contribution to the report that has been produced. If honourable members consider the membership of the Caravan Parks Task Force, they will discover that the task force was comprised of representatives from the Ministry for Planning and Environment, the Department of Industry, Technology and Resources, the Ministry of Consumer Affairs, Health Department Victoria, Community Services Victoria, the Ministry of Housing and Construction, the Department of Management and Budget, the Department of Conservation, Forests and Lands, and the Local Government Department.

Those representatives were members of a committee inquiring into the operations of private enterprise caravan parks. Yet the owners of caravan parks, who will be affected by the Bill, were not represented on the task force. I do not know whether their exclusion was an oversight on the government's part, or whether it was deliberate. A place should have been found on the task force for a representative of caravan park owners.

The report of the Caravan Parks Task Force proposes all sorts of things, including many of the future regulations. I suppose the regulations will be based on the guidelines contained in the report which are printed on yellow paper. They are guidelines for proposed caravan parks and movable dwellings regulations; however, in the drawing up of those regulations, although the industry may have been consulted in some way, it was not even involved in the task force that prepared the report.

In my opinion and in the opinion of the National Party, that is a great deficiency in the Bill and the build-up to its introduction. That was well recognised by the Caravan Parks Association Victoria Inc., which made the point quite clear in its response to the Bill and in representations to the National Party. It stated:

> Although the task force has recommended that the government legitimise permanent residency in caravan parks, the question of tenants rights etc. was not raised . . .
>
> Apart from one brief meeting with representatives of the Ministry of Housing, in April, 1987, this was the first opportunity . . .

The association referred also to a meeting in February—

> . . . for the Caravan Parks Association to provide input into a matter which will have a real and lasting impact on our member's businesses . . .
>
> Clearly the preparation of the legislation has been in haste . . .
>
> The Caravan Parks Association of Victoria recognises the need for appropriate legislation to enable permanent residency in caravan parks and to establish certain rights for tenants. However, we expect those rights to be fair and in line with existing rights for tenants and occupiers of other forms of accommodation.

That was not an attitude of resistance by the Caravan Parks Association Victoria Inc.; it was prepared to cooperate, but it was not adequately consulted.

Since the Bill was introduced, the association has had the opportunity of making some representations to the National Party and it has expressed concerns about the costs that will no doubt accrue to caravan park owners because of some of the requirements that will be placed on them. The Bill deals with improving the standards of many parks; many of the caravan park owners will have to undertake that work at considerable cost to themselves. Those costs will have to be passed on to the consumers the users of the caravan parks—in this case, the long-term residents of the parks. Therefore, the effect will be an increased cost to those people; there is no doubt that will occur eventually.

Of course, many people choose to live in caravan parks. It has become a popular and economical form of residency either on a temporary or long-term basis. I believe it was Mr Miles who said that one of the reasons for this popularity is the desperate housing shortage in this State. Some 32 000 are on the waiting list for public housing in Victoria, yet the government claims to have a fine record in public housing. The fact is that a desperate shortage exists and people have turned to caravan parks to fulfil their need for

accommodation. Most of the caravan parks are of a high standard. Some leave a bit to be desired and there should be certain standards, but there is a need for a degree of reasonableness in that regard.

We have to ensure that we do not restrict investment in caravan parks and that we do not make it so hot that the people who are involved in building and operating these parks leave the industry or scale down their investment in it. I am sure Mr Sandon would agree that that would be a disastrous effect of the Bill.

Therefore, we must consider the rights of the operators as well as the tenants, and that is what the National Party will try to do with the Bill. It is prepared to accept rights for tenants in long-term residency in caravan parks and basically agrees with most of the Bill.

However, a major concern in the Bill—and the National Party will address this by way of amendment—is in the membership of the proposed Caravan Parks Committee and the need to ensure that the industry itself is represented and that the operators are not left in a minority.

The Bill provides that in the proposed Caravan Parks Committee, which will have very extensive rights, the industry itself will be grossly under-represented, just as it was in regard to the task force report. It was not represented in that report and, as I understand the Bill, it will be grossly under-represented on the membership of the committee.

Another area of concern is the cost to bodies such as municipal councils. It was only on Wednesday that an article in the Mildura *Sunraysia Daily* reported that the Shire of Mildura, which has in it a large number of caravan parks, many of which contain a significant number of long-term residents, expressed concern about its administrative load; because, under the Bill, the council will have a significant role.

I should like to quote one provision in the Bill which relates to upgrading of caravan parks. Clause 66 states:

(1) Within one year after the commencement of this section, a licensing authority must inspect . . .

(2) after the inspection a licensing authority may give the caravan park owner . . .

The licensing authority to which the Bill refers is obviously the local council. Under clause 66 councils will have to inspect the caravan park, after which it can give the caravan park owner a works specification notice; the caravan park owner must submit a program of works to the licensing authority and the licensing authority has a wide range of responsibilities. The Mildura Shire Secretary, Mr McMillan stated in the article to which I referred in the *Sunraysia Daily* of 4 May that the administrative workload on the council would increase significantly because of the number of caravan parks in the district.

The Bill then basically outlines the responsibilities that will fall back on local councils as a result of the measure. I want to make that point because I believe local government is under significant pressure as it is, and this is an added responsibility which, in the case of the Shire of Mildura, may even require an increase in the employment of council staff.

Finally, I should like to just touch on——

The Hon. M. A. Lyster—Yes, finally!

The Hon. B. P. DUNN—I am in no hurry. This Bill is vital for the industry, and it must be addressed effectively and thoroughly. I pay tribute and commend my colleague, the honourable member for Warrnambool in another place, Mr John McGrath, for the work he has put into this measure and the efforts he has made to draw up amendments that will improve the Bill. Through the discussions that the National Party has had with the government and the Opposition, that honourable member has been successful in ensuring that the amendments that the National Party will move in Committee will be accepted.

Basically, the National Party will try to achieve a change in the structure of the membership of the Caravan Parks Committee to reduce the number of user and

management groups that are represented on it. There will still be twelve members on the committee, but the National Party proposes to alter the mix significantly, and there will now be what one could call five bureaucrats or departmental officers and seven representatives of those other groups. I am sure the industry will find that a much more workable, effective committee that is in tune with it. I shall detail that matter when the amendments are moved in Committee.

The other amendment will be proposed to clause 28, which will provide that if a resident abandons a site or caravan without any intention of returning, that person may be regarded as having no intention of returning if he or she has not occupied the caravan for a period of at least 30 days. The National Party believes a 30-day period is completely unreasonable.

We felt that a 30-day period was completely unreasonable and we reduced it to fourteen days. That has been agreed to through discussion across party lines. I shall detail those two amendments during the Committee stage. With the inclusion of those two amendments, the National Party finds the Bill satisfactory and trusts that it will be accepted in the industry.

The Hon. M. J. SANDON (Chelsea Province)—I support the Bill. It is important and the need for it has been obvious for some considerable time. A plethora of studies were done at the national level and a number of reports were commissioned in Victoria by successive governments. A former Minister for Community Services, Mr Jona, and the then Liberal government commissioned a survey study on long-term residency in caravan parks, referred to as the Bateman report. That report was presented in 1983 and was one of the first reports to demonstrate and highlight the fact that many people were living permanently in caravan parks. Since that time, a number of other studies were done but, for various reasons, they were unsuccessful.

Last year the government asked me to become involved in bringing together the twelve government departments that had an interest in this area. My role was to bring those departments together and reach a common view under the terms of reference given to me by Cabinet. Representatives of residents, traders, manufacturers and park managers were not included because the essential thrust of the operation was to bring the government departments' positions together so that the government could negotiate with respective interest groups to formulate tenancy and standards requirements. It has been a difficult task because of the number of departments and people involved.

The Bill is a step in the right direction. It will not solve all the problems in the industry. Not every aspect has been covered. However, a number of important points have been resolved. The Bill will establish a steering committee that will implement the provisions of the Bill. In running, no doubt we will find that some finetuning is required. That has been provided for in the Bill.

Much has been said about caravan park residency and its importance. Community attitudes have changed and many people are now living permanently in caravan parks. The first step in formulating the Bill was to get away from the idea that thieves, vagabonds and drifters lived in caravan parks and to realise that many ordinary people choose to live in caravan parks because of lifestyle changes, economic considerations or lack of availability of public or private housing. It must be understood that it is not only because public and private housing stock is not available but also because people are choosing that form of accommodation for a wide range of reasons.

It is incumbent on governments, where a gap exists in a legislative framework, to take that on board. In terms of the existing legislative framework, the current camping regulations devised in 1965 expire in June of this year. It was important to bring the Bill before the House before the end of this sessional period, otherwise no legislative framework would have covered the industry.

The industry has strongly supported the Bill. I pay tribute to the Caravan Parks Association Victoria Incorporated, the traders and the manufacturers for the assistance

they have given the government in drafting the Bill. Without that assistance, the Bill would have been a poorer document. I looked forward to their contribution to formulating standards in the draft report and I look forward to those standards being enhanced by the role those interested groups will continue to play.

I also give thanks to Mrs Margaret Daws, the Chairman of the Parks Residents Action Team. Margaret is the honorary presiding officer of that organisation and she has made a wonderful contribution and put herself out time and again to assist the government and to assist residents.

The Bill is far reaching in that it provides for a licensing authority that hitherto has not been developed. The government felt a licensing authority would be appropriate because of the wide-ranging mechanisms adopted by local government. Indeed, one tends to find that in some areas councils refuse to accept mobile homes. Standardisation was needed and the government felt it appropriate to give Statewide directions. Local government is closest to the people and closest to services. That is why a licensing authority was given to local councils and because of the work of building and health surveyors and their knowledge of parks in their specific areas. It was appropriate that they operate in that role.

The Bill covers not only private caravan parks but also State government parks. Approximately one-third of parks in Victoria are on Crown land and they have approximately 1000 long-term residents. It was appropriate that the same rules should apply to government parks. If it is good enough for private parks to be asked to lift their standards to provide a whole range of services, it is only right and proper that government parks should do the same.

It is important that the industry has supported the government because it understands the difficulties experienced in parks. It understands that with more people living permanently in parks, the nature of the dwellings has changed and the rights of individuals to privacy and so on have become more of a concern. The Bill takes into account for the first time location controls. Planning ordinances are necessary and local government has been supportive in that respect.

From the very beginning of the exercise, I have experienced the support of public servants, traders, manufacturers, park managers, residents and, in more recent times, the members of this House, who have all made a contribution to this important first step. I commend the Bill to the House.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. G. MILES (Templestowe Province)—I move:

1. Clause 2, line 14, omit "or days".

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

Clause 3

The Hon. J. G. MILES (Templestowe Province)— I move:

2. Clause 3, line 2, after "3." insert "(1)".

This is purely a machinery matter.

The amendment was agreed to.

The Hon. J. G. MILES (Templestowe Province)—I move:

Clause 3, page 3, lines 11 to 15, omit the definition of "Resident" and insert—

'"Resident" means a person who is resident of a caravan park pursuant to sub-section (2), (3) or (4).'.

The amendment was agreed to.

The Hon. J. G. MILES (Templestowe Province)—I move:

4. Clause 3, page 3, after line 22 insert—

"(2) A person is a resident of a caravan park if the person, immediately before the commencement of this section, occupies a site in the caravan park as his or her or main residence.

(3) A person is a resident of a caravan park if the person—

(*a*) occupies a site in the caravan park as his or her only main residence; and

(*b*) has, after the commencement of this section, obtained the prior written consent of the caravan park owner to do so (whether that consent was given in respect of that site or another in the caravan park).

(4) A person is a resident of a caravan park if the person—

(*a*) occupies a site in the caravan park as his or her own main residence; and

(*b*) has so occupied that site, or that site and another site or other sites in the caravan park, for at least 90 days consecutively since the commencement of this section.".

The amendment defines "resident" in clearer terms and indicates that a person is deemed to be a resident of a caravan park if he or she has been resident before the Bill was introduced, and after the Bill is operative he or she will require prior written consent of the owner to become a resident.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 4.

Clause 5

The Hon. J. G. MILES (Templestowe Province)—I move:

5. Clause 5, lines 39 and 40, omit "39 or 40" and insert "40 or 41".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 6 to 19.

Clause 20

The Hon. J. G. MILES (Templestowe Province)—I move:

6. Clause 20, line 24 omit "52" and insert "53".

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

Clause 21

The Hon. J. G. MILES (Templestowe Province)—I move:

7. Clause 21, line 34, omit "52" and insert "53".

8. Clause 21, line 36, omit "52" and insert "53".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 22 to 27.

Clause 28

The Hon. B. P. DUNN (North Western Province)—I move:

1. Clause 28, line 25, omit "30" and insert "14".

I referred to this amendment in the second-reading debate. Under the Bill a resident could abandon a caravan without any intention of returning, and could be regarded as having no intention of returning if he or she had not occupied the caravan for at least 30 days and had not paid any rent or hiring charges for that period. The National Party believed that was an excessive period for caravan park owner to wait. Therefore, the National Party wants 14 days to be substituted for 30 days.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 29 and 30.

Clause 31

The Hon. J. G. MILES (Templestowe Province)—I move:

9. Clause 31, line 27, omit "47" and insert "48".

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

Clause 32

The Hon. J. G. MILES (Templestowe Province)—I move:

10. Clause 32, page 16, line 3, omit "48" and insert "49".

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

Clause 33

The Hon. J. G. MILES (Templestowe Province)—I move:

11. Clause 33, line 11, omit "48" and insert "49".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 34 to 38.

Clause 39

The Hon. J. G. MILES (Templestowe Province)—I move:

12. Clause 39, page 18, line 17, omit "47" and insert "48".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 40 and 41.

Clause 42

The Hon. J. G. MILES (Templestowe Province)—I move:

13. Clause 42, line 33, omit "43" and insert "44".

14. Clause 42, page 20, line 6, omit "44" and insert "45".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 43 to 46.

Clause 47

The Hon. J. G. MILES (Templestowe Province)—I move:

15. Clause 47, page 23, line 34, omit "53 (3)" and insert "54 (3)".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 48 to 54.

Clause 55

The Hon. J. G. MILES (Templestowe Province)—I move:

16. Clause 55 (1), omit this sub-clause.

17. Clause 55, line 10, omit "(12).

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

Clause 56

The Hon. J. G. MILES (Templestowe Province)—I move:

18. Clause 56, line 18, after "43", insert "44".

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

Clause 57

The Hon. J. G. MILES (Templestowe Province)—I move:

19. Clause 57, after line 38 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 under sub-section (3) is deemed 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 58 to 74.

Clause 75

The Hon. B. P. DUNN (North Western Province)—All these amendments relate to the composition of the Caravan Parks Committee. Therefore, I move:

2. Clause 75, lines 10 to 12, omit all words and expressions on these lines.

3. Clause 75, line 19, omit "one is to be a person" and insert "two are to be persons".

4. Clause 75, line 21, omit "three" and insert "five".

5. Clause 75, line 23, after "Minister" insert ", one of whom is or has been a municipal health surveyor or health surveyor".

6. Clause 75, line 24, omit "two are to be persons" and insert "one is to be a person".

7. Clause 75, line 29, omit "three" and insert "five".

8. Clause 75, line 31, omit "and the Residential Parks Group".

9. Clause 75, lines 33 to 37, omit all words and expressions on these lines and insert:

"( ) one is to be a person nominated by the Minister for the time being administering the *Local Government Act* 1958 selected from a panel of three names provided by the Caravan Trade and Industries Association of Victoria; and

( ) one is to be a person nominated by the Minister for the time being administering the *Local Government Act* 1958 selected from a panel of three names provided by the Recreational Vehicles Manufacturers Association of Australia; and".

10. Clause 75, line 42, omit "tourist park users" and insert "residents in tourist parks".

11. Clause 75, page 36, line 12, omit "(*f*)" and insert "(*e*)".

I commend my colleage, the honourable member for Warrnambool in another place, who had discussions with caravan park owners and people involved in the industry on the need to alter the composition of this important committee. The National Party's view is that the future of the proposed legislation rests heavily on the success or failure of the Caravan Parks Committee. It was previously weighted heavily in favour of departmental-type representatives so that the industry was under-represented. I could outline the details of changes being made, but I shall not do so at this late hour, except to say that the balance has been altered by increasing the number of municipal representatives.

The residents themselves have a part on the committee, and persons are nominated from a panel submitted by the Caravan Parks Association. There is also provision for representatives of the Caravan Trade and Industries Association of Victoria and the Recreational Vehicles Manufacturers Association of Australia. We believe this will make for a much more effective committee. I invite the Committee to support the amendments.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 76.

Clause 77

The Hon. J. G. MILES (Templestowe Province)—I move:

20. Clause 77, line 30, omit "as is".

21. Clause 77, line 31, after "Minister" insert "of whom—

(*a*) one must be a person appointed under section 75 (*e*) or (*j*); and

(*b*) one must be a person appointed under section 75 (*a*), (*b*), (*c*), (*d*) or (*i*); and

(*c*) one must be a person appointed under section 75 (*f*), (*g*) or (*h*)".

22. Clause 77, line 32, omit all words and expressions on this line.

23. Clause 77, line 33, omit "member, the" and insert "(3) The".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 78 to 81.

Clause 82

The Hon. J. G. MILES (Templestowe Province)—I move:

24. Clause 84, page 41, after line 24 insert—

"(5) 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.

(6) Disallowance under sub-section (5) is deemed 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.

New clause

The Hon. J. G. MILES (Templestowe Province)—I move:

25. *Insert the following New Clause to follow clause 35:*

Termination notice for no cause.

"A. (1) A caravan park owner may give a resident a termination notice taking effect on the day specified in the notice (being a day not less than six months after the notice is given).

(2) A caravan park owner may give a resident notice taking effect on the day specified in the notice (being a day not less than six months after the notice is given).

(3) A termination notice cannot specify as its effective day a day that is earlier than—

(*a*) the day specified in an agreement under section 49 as the day on which the term of occupancy is to end; or

(*b*) the day specified in an agreement under section 49 as the day on which the term of occupancy may be ended by a termination notice under this section; or

(*c*) the end of the period of notice required by an agreement under section 49 for a termination notice under this section.

(4) A termination notice is of no effect if given in response to the exercise, or purported exercise, by the resident of a right under this Act.

(5) A person is not entitled to apply to the Tribunal challenging the validity of a termination notice under this section after the expiration of 56 days after the notice was given.".

I stress that this is a completely new clause that could be termed controversial. It is the same as a provision in the Residential Tenancies Act that allows a caravan park owner, notwithstanding any other regulations under which the resident can be removed, to give a no-fault eviction notice to residents of the caravan park. It will allow caravan park owners to give six months' notice without having to give any cause for doing so. The Opposition considers it is important to bring the proposed legislation into line with tenancy agreements.

The new clause was agreed to.

Schedule 1

The Hon. J. G. MILES (Templestowe Province)—I move:

26. Schedule 1, omit "Section 43" and insert "Section 44".

The amendment was agreed to, and the schedule, as amended, was adopted.

Schedule 2

The Hon. J. G. MILES (Templestowe Province)—I move:

27. Schedule 2, omit "Section 45" and insert "Section 46".

The amendment was agreed to, and the schedule, as amended, was adopted.

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

STAMPS (AMENDMENT) BILL

This Bill was returned from the Assembly with a message intimating that they had made the amendments suggested by the Council on the consideration of the Bill in Committee.

The message was referred to the Committee on the Bill.

Postponed clause 7, including the amendments suggested by the Council as made by the Assembly, were agreed to.

The Bill, including the amendments suggested by the Council as made by the Assembly, was reported to the House without amendment, and passed through its remaining stages.

THE CONSTITUTION ACT AMENDMENT (ELECTORAL PROCEDURES) BILL

This Bill was returned from the Assembly with a message relating to an amendment.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The Assembly has agreed with the Council's amendment and has proposed a further amendment:

Omit "July 1988" and insert "January 1989".

I move:

That the Council agree to the amendment made by the Assembly to the amendment made by the Council.

The Hon. HADDON STOREY (East Yarra Province)—The amendment proposed by the Assembly requires some study. In the circumstances, I seek an adjournment of the debate until later this day.

On the motion of the Hon. HADDON STOREY (East Yarra Province), the debate was adjourned.

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

TELECOMMUNICATIONS (INTERCEPTION) (STATE PROVISIONS) BILL

This Bill was returned from the Assembly with a message relating to amendments.

It was ordered that the message be taken into consideration later this day.

PRINCE HENRY'S INSTITUTE OF MEDICAL RESEARCH BILL

This Bill was returned from the Assembly with a message relating to amendments.

It was ordered that the message be taken into consideration later this day.

NATIONAL PARKS (AMENDMENT) BILL (No. 2)

The debate (adjourned from earlier this day) was resumed on the motion of the Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands):

That this Bill be now read a second time.

and on the Hon. D. M. Evans's amendment:

That all the words after "That" be omitted with the view to inserting in place thereof "this House refuses to read this Bill a second time until the government prepares a total package to provide protection for the legitimate interests of east Gippsland residents affected by the provisions of the Bill, ensures long-term availability of resource for the timber industry, particularly the value adding industry, and adequate resource for the establishment and operation of the proposed paper pulp mill".

The Hon. B. T. PULLEN (Melbourne Province)—In supporting the Bill, the first thing that must be said is that it is pleasing that the Bill will pass and that the culmination of the efforts of so many people in a desire to see creation of the national parks in east Gippsland will finally take effect. It is the culmination of much work and balancing of concerns in terms of social factors, and examination by people who have done their best to consider the importance of the area and the importance to people who live there, as well as the long-term future of the timber industry. It is an historic step in terms of those who believe we should preserve our heritage in the way it can be preserved through the institution of national parks.

I shall not detain the House by covering ground that has already been explained. The Bill creates three new national parks—the Errinundra National Park, a major extension to the Snowy River National Park, including the Rodger River—which you, Mr President, had a hand in preserving so that these processes could take place, when you had the responsibility as the Minister for Conservation, Forests and Lands—and extensions to Cobberas–Tingaringy, Croajingolong, Alfred and Lind national parks. That is an excellent collection of areas embraced in the Bill. They have come forward through the balanced work of the Land Conservation Council.

As has been mentioned, there have been some additions which have been given the name Cabinet extensions, and which have extended some of those areas beyond the recommendations of the Land Conservation Council. They are also included in the Bill. The indication is that they will also be supported by the Opposition and will pass through the House.

I wish to spend a short time on the suggestion made by the Opposition through Mrs Tehan that another action should be taken. The suggestion made was that some additional areas which form part of the areas included in the interim National Estate list should be referred to the Land Conservation Council. In putting forward that suggestion I take it at its face value as suggestions of principle based on consideration of the evidence. I am not taking the view that it is a matter of expediency, but it has come from discussions in the Liberal Party and from examination of what is regarded as the substance of the matter. Considerable confusion was evident in the address of Mrs Tehan when she supported that proposition.

The first confusion is to confuse the role of the Land Conservation Council with the process leading to the areas being placed on the National Estate list. That list results from a process which determines, by nomination and then examination by people competent to look at those areas, whether certain areas can be deemed to be important enough in the national interest to be treated with respect and special care by all those who have responsibilities or management interests for development in those areas.

It is saying to the people of Australia that these areas must be treated in a particular way. It applies to whether it is part of a built or a natural environment. If the people who make the assessment perform their jobs in a totally professional and proper manner, then according to the intent of the National Estate list, they should not be impeded in making that decision by considerations of economics or social impact.

In the same way, there should be no impediment to people listing what species may be at risk. Scientists should make the decision. The process of nomination to the National Estate should be objective.

The Land Conservation Council process is much more complex because, not only does it involve similar scientific objectives, but also it must take into account other factors of economic and social importance before deciding to restrict the use of areas and to recommend inclusion in national parks. An area would not necessarily be rejected simply because it was on an interim list.

The Opposition's proposal would ask the Land Conservation Council to repeat exactly the same job it has just completed. The Opposition has not put forward any arguments on why the Land Conservation Council would find differently. It is still a matter of balancing competing interests and making a recommendation to the government.

If this matter were referred to the Land Conservation Council, it would be necessary to show that the council would find other reasons in addition to the National Estate reasons to vary its decisions. It is a matter of balance.

An Honourable Member—What would happen if it were referred back?

The Hon. B. T. PULLEN—That would not bring about a different result. The government has chosen, by Cabinet decision, that there be an extension beyond the recommendation of the Land Conservation Council. It is difficult to understand how the Opposition can argue that the council should be brought into the matter.

The assertion was made that the government's action was arbitrary. Mrs Tehan went through her arguments for those extension areas and explained the reasoning as well as I could or as well as could any other person who had bothered to study the subject why the government should examine those three additional areas. Mrs Tehan also pointed out that the Land Conservation Council made reference to those areas and their need for protection and pointed out that logging should be delayed. The government, for those reasons, considered an extension; it was not arbitrary action.

If the Opposition were fair dinkum it would have to take the same position that Cabinet did and say, "We have got a result from the Land Conservation Council; there is a balanced result, but our judgment is that we will take it on our heads to go further".

If the Opposition were serious, it would not suggest a referral of the matter back to the Land Conservation Council; it would make a suggestion as to action. That appears to be why the suggestion of the Opposition related to the process that we have been discussing is not founded in logic. In contrast to the National Party, the Opposition is on record as supporting the council. In fact, to so soon reject the advice of the council is really to exercise a vote of no confidence in the council so shortly after the council has handed down its decision to the government.

The Hon. J. E. Kirner—And add to it.

The Hon. B. T. PULLEN—There are two reasons why the suggestion of the Opposition does not make sense. That is not to say that the government should not pay attention to the areas the Opposition referred to as being on the interim list of the National Estate because the list has significance.

Those who care about the area will know that such areas require special attention and if, shortly, there is a modification of the list, some areas might be added to it. That must be taken into account in all the processes that the government and the management agencies may have to bring to bear in this area.

It may be that there is a case for holding back on actions that may limit the possibility of a decision at a later stage in order to examine whether conditions may have changed. Nevertheless, the government will have to treat those areas with respect, whether they are being logged or whatever other option is in place. In that sense I believe there may be a

better proposal for handling the areas that have been noted as being important than simply referring them to the Land Conservation Council.

The Liberal Party has had a dramatic change of position. The National Party says that this change is not one of principle or policy but a matter of expediency. I prefer to accept it on face value as a change of principle by the Liberal Party. I look forward to an even wider interest in the efforts to preserve areas of Victoria and to support for the processes which the government adopts.

I do not condemn the Opposition because it has made a bid for the conservation vote. The test is yet to come because it is extraordinarily difficult to actually proceed in these areas. The government has had to work through a lot of processes and deal with issues with its own constituency in order to arrive at a decision, without achieving total acceptance. At least there is a degree of understanding of the way the decision has been reached. Any party that attempts to adopt a high moral ground on such an issue has to go through that process. It is better that it is understood that balancing is required.

If the Liberal Party position is one of expediency, that will emerge and the government will test it in the spring sittings of Parliament, because the support of the Bill, which is welcome, is part of the enbracement of principles that can applied to many areas and actions relating to conservation. If the Opposition is true to the position it takes tonight, it will have to exercise consistency in other areas. I signal now that the government will test the Opposition on that consistency. The public and the people concerned with conservation will have the opportunity to see whether the Opposition acts on principle or expediency.

However, there is an impeccable logic in the Liberal and National parties' position. It is this: if the opposition parties want to maximise their votes in an election, the ideal position would be for the city-based party, the Liberal Party, to push hard for the conservation vote and for the rural-based party, the National Party, to consolidate the country vote. That is exactly the position that the opposition parties are in. The coalition government presumably would have Mr Evans as the Minister for Conservation, Forests and Lands. That would let the Liberal Party off the hook, because they would be part of a coalition and their principle position could be swept aside. The test will be in the lead-up to the election when the community can gauge the consistency of the Opposition in other matters relating to conservation.

I close on the note on which I began. The Bill represents the culmination of efforts by the government to create these national parks. The process included the timber industry strategy, which handles the needs of the industry and, to some degree, the social questions of employment. It has strategies to assist east Gippsland through a challenging period by improving employment opportunities, and it does that in the context of an overall conservation strategy.

All that is not easy and can easily be knocked by people who do not want to make the effort to bring all those complex things together. Unless people attempt to consider those matters together, they will be in the midst of ad hockery. The debate tonight is a culmination of considerabe effort in many areas. The government's approach is consistent and it can argue in any quarter—with the union movement, industry or the conservation groups. It says the same to everybody and sometimes people say that it is not saying enough because it does not suit the particular group concerned. The government is consistent and the public recognise that consistency. It takes a balanced approach on conservation, and tonight the community can see the preferred and marvellous result in the creation of these east Gippsland parks.

The Hon. R. J. LONG (Gippsland Province)—This is legislation by ordeal. It is 3.25 on Saturday morning and members of this House have been here since Tuesday. There must come a time when patience runs out. I, in conscience, cannot accept the Bill. The government has not made one reference, in the second-reading speech by the Minister, to the unemployment issue in east Gippsland. Unfortunately, until tonight the shadow

Minister for Conservation, Forests and Lands had made only a passing reference to that problem. Honourable members can judge for themselves Mrs Tehan's concern about the unemployment issue on what she said tonight.

If the government wants to play politics with the timber workers of east Gippsland, I will go in to bat for those timber workers and I make no apology for that. If the government wants to play politics, it has problems. The government is dangling a carrot in front of the community of east Gippsland and has done so since it came to power, but the unemployment problem is still there. The government is trying to suck those people in.

The Hon. J. E. Kirner—Your colleagues have just written them off.

The Hon. R. J. LONG—The Minister should not say that I have written them off. To understand what is occurring, honourable members must examine the timber industry strategy, which was required partly because of the need to create national parks. I agree with the strategy in some respects. I agree with reduced logging to a sustainable yield. It has to happen. The rainforests of east Gippsland are excluded from logging, and everybody agrees that they should be protected.

Recently, a company in east Gippsland tried to reopen a marble mine that had operated before the turn of the century. I will not go into the reasons why the mine was not reopened and why the application was rejected by the government, but I direct honourable members to a government press release of 29 August 1984, which said:

> The rejection of the application entails some loss of potential jobs in an area of Victoria where jobs are needed.
>
> For that reason the government will sponsor a comprehensive survey into job opportunities in east Gippsland.

The statement went on to say that a considerable amount of work had already been done in conjunction with the east Gippsland regional task force. Honourable members can see the carrot dangling before the people of east Gippsland. The reopening of that mine would have meant an estimated employment, at that stage, of 60 people. That is like the Ford Motor Company of Australia Limited to Broadmeadows.

The Hon. B. W. Mier—You really know nothing about it.

The R. J. LONG—I am tired of Mr Mier's whingeing and grizzling interjections. The government would not allow that mine to open, but it allowed prospecting for mining to continue in 38 000 unproclaimed hectares in the Cobberas–Tingaringy National Park. It is difficult to understand how the government can draw a line on the ground in east Gippsland and say that someone can mine on that side of the line, but not on the other side.

The only thing the government did not say in the press release to which I have just referred was that tourism will take up the slack, but I shall come to that in a moment because that crops up all the time.

Clause 8 of the Bill will ensure that the Department of Conservation, Forests and Lands has the power to proclaim the 38 000 hectares of land about which I have been arguing for some time. We can kiss that goodbye.

In case some honourable members believe I am anti-conservation, I shall refer to my history on this issue. In 1976 the Liberal Party adopted a policy of 5 per cent of public lands in Victoria being turned into parks. I agreed with it and supported it. In 1981 Bills were passed through Parliament as part of that policy, and I supported them. In 1987 the Minister introduced another Bill enlarging some parks in east Gippsland but dealing more particularly with the Grampians National Park. I supported that Bill. Therefore, honourable members cannot say that I am anti-parks or anti-conservation.

The question must be asked at some stage: where is the cut-off point? Neither the government nor the Liberal Party has indicated that all the national parks to be created have been proclaimed. If this cosy arrangement continues, another Bill will be introduced next year and it will be agreed to. If that is the case, the Minister should say so.

When the government knocked back the marble mine proposition, the people of east Gippsland were promised a comprehensive survey into job opportunities. When the timber industry strategy was released, the people of Gippsland were told that a regional employment task force would be established to develop an overall employment and economic development strategy to retain and create jobs.

The Minister is on record in the *Snowy River Mail* of 25 November, 1987 as stating:

At the same time, the government will ensure local employment for tourism and a sustainable value-added timber industry.

At that time, sawmillers claimed that the government had turned its back on the community of east Gippsland by sacrificing approximately 400 current and potential jobs. It was claimed that the decision flew in the face of the government's economic strategy, its social justice commitment—not much has been heard about that recently—and the Premier's commitment to jobs in rural Victoria. I think that figure is closer to 500.

I shall now refer to the report of the Land Conservation Council. It is interesting that, to date, no-one has said much about it. Honourable members must remember that the Bill deals with an area larger than in the report. The opinions of the Land Conservation Council are predicated on the view that integrated harvesting will be introduced into east Gippsland. That is the basis of the report. However, honourable members have not heard one word about when integrated harvesting will be introduced. An environmental effects statement must be done, and we must then wait two years before integrated harvesting can be introduced. In recommending the establishment of additional parks in east Gippsland, the Land Conservation Council obviously believed integrated harvesting would be introduced at an early date.

At page 40 of the Land Conservation Council's final recommendations for east Gippsland, it is stated:

For reasons outlined earlier in these recommendations, the council has proposed extensive additions to the existing national and State parks in east Gippsland. It recognises that this will cause substantial timber resources to be withdrawn from availability and this will, unless alternative employment opportunities are created, add to the already significant decline in employment opportunities associated with a lowering of the annual cut to a sustainable level and the expected increases in labour production.

In its final report, the Land Conservation Council predicted an increase in employment. It continues:

The council is aware of the serious concern with which pulpwood harvesting is regarded by some sections of the community. It believes, however, that—although the employment base of the region could be broadened in the future by expansion in the tourism sector and eventually by the further processing of wood products to a produce value-added goods—over the next few years the best prospects for creation of substantial employment are associated with the utilisation of the wood residues left and burnt after the completion of a sawlog harvest.

The council is making it clear that the salvation of east Gippsland is associatied with integrated harvesting.

Huge logs are lying on the forest floors. They cannot be used for chips, but one can get a permit to use the logs for firewood or fence posts. The wood is lying on the forest floor and it is costing the State government a lot of money. Some of the logs are so large that when the forests are regenerating, when one wants to carry out further forest operations, one will be unable to get to the forest because of the waste wood. The government is closing its eyes to this problem.

The Land Conservation Council is not bound by economic factors. However, to the credit of the council, for the first time it actually commissioned a report. The council engaged the National Institute of Economic and Industry Research to carry out an assessment of the economic and employment aspects of the proposals.

At page 41 of the Land Conservation Council report, the summary of the report of the National Institute of Economic and Industry Research—NIEIR—states:

The report indicated that the major reason for a decline in timber employment levels was the need to reduce the annual cut to a sustainable yield. With saw-log only operations, the 580 people currently directly employed

in the east Gippsland timber industry would fall to 220 by the year 2001 with the ten-year phase down. A further 60 jobs would be lost over this time due to productivity gains . . . while the loss of timber in new parks would reduce potential employment opportunities by a further 70.

Some 70 timber works in east Gippsland will lose their jobs because of the Bill. It is worse than that. The area in the Bill is larger than those areas dealt with in the report of the Land Conservation Council. That is what the economic report carried out by the Land Conservation Council discovered. It goes even further than that, and at the bottom of page 41, according to the NIEIR report, the best prospect for the creation of employment is the introduction of integrated harvesting. There it is again! It is noted all the way through the report which further states:

. . . using a 2 per cent productivity increase and taking account of the proposed parks, the institute estimated some 360 people could be directly employed in the timber industry by the year 2000, with potential employment of more than 500 when allowing for further processing and the possibility of a chipmill being established.

It is pretty clear that if one lived in east Gippsland and was about to lose one's job one would read that thoughtfully and say, "Wonderful stuff—if we have integrated harvesting I might keep my job". However, this government does not do that sort of thing. There are no alternative employment opportunities such as those in Melbourne where one can go elsewhere to obtain a job. This is a narrow economic base.

The Hon. D. R. White—Is Mr Long going to exercise his conscience vote by lying on the floor?

The Hon. R. J. LONG—I take the debate seriously. The Minister for Health should go to east Gippsland and speak to the workers who are losing their jobs!

The PRESIDENT—Order! I remind honourable members that Mr Long represents the Gippsland area and I suggest he be heard in silence.

The Hon. R. J. LONG—When the Premier announced the parks proposals on 11 November last year, he stated:

At the same time the government will ensure local employment through tourism and a sustainable, value-added timber industry. Measures include . . .

Here are some of the carrots dangled in front of the poor unfortunate timber workers in east Gippsland—

. . . funds to develop the parks and encourage tourism over the next three years.

That remains to be seen.

. . . call for expressions of interest and a feasibility study on new facilities for pulp and paper manufacture with use of residual roundwood, which could result in a $1 billion investment and more than 800 new jobs in east Gippsland. Such proposals would depend on the results of the environment effects statement and interim report on value-adding utilisation as detailed in the timber industry strategy.

What a promise! What a futuristic thing! That is what the government expects the people of east Gippsland to swallow. Any talk about a pulp and paper manufacturing process in east Gippsland is fraught with a whole lot of unanswered questions. Where is the timber resource? From where will the water come? Where will the waste go? How does one transport the resulting commodity? They are the sorts of carrots that are dangled in front of the poor unfortunate east Gippsland workers. If honourable members want any proof of what I am saying, I refer them to the government's own publications. That is how serious it is.

When the government established the timber industry strategy, it also established the east Gippsland regional employment and economic development committee. Honourable members will remember that I said it was established to find jobs.

What does the first draft report dated March 1988 of the East Gippsland Regional Economic Strategy Plan have to say? It quotes extensively from the timber industry strategy and points out that 660 people are directly employed at present in east Gippsland,

less 200 jobs which will be taken care of by going to sustainable yield, and less 100 jobs—the Land Conservation Council report said 70 jobs; this report says 100 jobs—by commitment to the establishment of additional national parks in line with the Land Conservation Council recommendations.

It also quotes the NIEIR report, the report obtained by the Land Conservation Council. It points out that between 1986 and 1991—that is not that far away—with sawlog timber only and with a five-year phase-down to new sawlog allocations and the adoption of the Land Conservation Council proposals, 455 jobs in east Gippsland will be lost.

The Hon. J. E. Kirner—Three hundred are sustainable yield, which you said you agreed to.

The Hon. R. J. LONG—I accept that. Surely the Minister has some feeling for the other workers who will not have jobs?

The Hon. J. E. Kirner—Why do you think I have spent half my term of office in Gippsland?

The Hon. R. J. LONG—I realise that, but the timber industry strategy is chopping them down and now the proposed legislation is chopping them down. The Minister is crying crocodile tears when she talks to the people of east Gippsland.

If there is a five-year phase-down of the timber industry proposals, there will be only 284 jobs lost. Why does the government not do something about integrated harvesting if it wants to help these unfortunate people? The Minister for Conservation, Forests and Lands will not introduce integrated harvesting, which is the solution, because she is more interested in getting a few votes from some people in Melbourne than in the welfare of the people in east Gippsland.

The Hon. J. E. Kirner—Are you talking to me?

The Hon. R. J. LONG—Yes, I am talking to you because you are the Minister in charge of it.

The Hon. J. E. Kirner—Why do you not talk to your own party for a while—except that most of them are asleep?

The Hon. R. J. LONG—Even in the second-reading notes, the Minister said:

> The government has also established the East Gippsland Regional Employment and Economic Development Committee to examine opportunities to generate additional employment in all sectors of the east Gippsland economy.

With great respect to the people who comprise the committee, when one reads the report one realises how hopeless is the position for east Gippsland workers.

The Minister went on to say in the second-reading speech:

> One increasingly important sector is tourism, for which the government is currently developing an east Gippsland tourist strategy.

We are in 1988 and the government has not even got through a strategy for tourism.

If nothing is done for the Gippsland Lakes soon, another tourism possibility will be ruined. The main point about a tourism strategy is that somebody has to provide a new resource. True, the government is providing something out of government money at Cape Conran, but a lot more must be done if there is to be a contribution to tourism. I agree with Mr Evans's comment about a timber worker serving meals in a restaurant. Finally——

The Hon. B. W. Mier—About time!

The Hon. R. J. LONG—I am sick of your niggling and your whining, whingeing voice.

The Hon. B. W. Mier—Tell us about tourism!

The Hon. R. J. LONG—I am old enough to have lived through some bushfires. I can remember clearly the Ash Wednesday fires. I can remember January 1939, when I was a child. I have read that the government wants to provide parks for future generations. People have no idea what a fire is like until they have seen or heard or been around something like the 1939 bushfires.

The Hon. H. R. Ward—And heard the squeals of people being burnt to death.

The Hon. R. J. LONG—There were 70 people burnt to death. If there had been 10 000 people in the bush fighting fires when the 1939 fires were burning, all those firefighters would have perished as well as all of their equipment. Sooner or later there will be a fire that will burn everything. The national parks that the government is referring to and concerned about creating will be extinguished just like that; they will just disappear! The government believes it is doing a wonderful job. There is talk of the 50-year flood and the 100-year flood. There will be fires rated in the same way.

The Hon. B. W. Mier—Let us chop the forests down!

The Hon. R. J. LONG—I shall be interested to hear what Mr Mier has to say. The government cannot guarantee the parks for future generations.

The Hon. B. W. Mier—Let us chop them all down and turn them into a bowling green!

The Hon. R. J. LONG—Neither Mr Mier nor the Labor Party is concerned about the timber workers of east Gippsland. Somebody has to say something for them. I am glad I have had the opportunity of saying something for the people who are the salt of the earth and people I believe in.

The Hon. B. A. MURPHY (Gippsland Province)—Despite what Mr Evans has said, the east Gippsland forests are unique. I have been through the forests many times. I have seen the big trees, the shining gum trees. I have looked at the unique waratah bloom that comes out at certain times of the year.

The Hon. D. M. Evans—Chased the birds and the bees.

The Hon. B. A. MURPHY—Chased the birds and bees and climbed the trees. The National Parks (Amendment) Bill (No. 2) is an important part of a chain of events that started when the Liberal Party was in office and was taken up with great zest and zeal by our President, Mr Mackenzie, who was the first Minister for Conservation, Forests and Lands. He played a major role in the process of declaring the Errinundra National Park. He declared a flora and fauna protection area in that park and called for the cessation of timber felling in some parts of it. He asked the Land Conservation Council to investigate the plateau area. There was later a dramatic conflict, as a result of the declaration, between the loggers and conservationists, which put Errinundra on the national scene.

The Bill will enshrine the national park as a memorial to the eucalypts that have existed since the last ice age. The park is an important part of a chain of national parks in east Gippsland that are unique. The forest areas of Victoria are there because 100 years ago the farmers did not cut down the trees. The forests should be preserved as a living memorial to the forests that were there for millions of years. There were warm temperature rain forests, mixed forests, closed forests, great stands of shiny gum and the particularly unique mountain plum pine. Dr Bren, to whom Mr Evans referred, is like accountants who say things are unique or not unique. The only word for the forests in east Gippsland is "unique".

I refer to the other extensions: to the Cobberas–Tingaringy National Park, which makes a link to the parks in southern New South Wales; the Croajingolong National Park, and the Alfred and Lind national parks, which are all part of the extension. Another major extension is that made to the Snowy River National Park which will join up both sides of the Snowy River area. It is a unique part of eastern Australia and provides a wonderful experience for those people who want to travel down the river or just view it. The confluence of the Snowy River and the Buchan River is of interest. During the last century,

Eugene von Guerard, who was a unique painter, travelled around Victoria. Eugene von Guerard travelled around Victoria painting its unique countryside. Paintings of his hang in the National Gallery.

I know Mr Long is sincere and would be upset if I did not say something about the contradictions of the Liberal Party's policy. Tourism will play a major part in the future of east Gippsland, and the government has appointed Destination Australian Marketing to examine the possibilities of tourism in east Gippsland. Bill King is a specialist in exploring tourist areas in outback Australia. He was one of the first persons who went to Ayers Rock and the Kakudu National Park area to set up the idea of camping in the wilderness. I am convinced that camping in the wilderness will be unique for overseas travellers and for Australians.

The East Gippsland Regional Economic Strategy Plan outlines a number of problems in east Gippsland, unemployment being one of them. There are some positives in the plan with the possibility of a copper mine being set up in an area. There are other developments in east Gippsland, and with the present unemployment rate of 8 per cent, which is better than the unemployment rate of 12 per cent in Queensland. With further developments in east Gippsland, that rate could be reduced. We need better educational facilities for people to be returned to enable them to seek alternative employment.

I take issue with the National Party, but it is a fact that unemployment in the timber industry has been growing in a slow process over the past 30 or 40 years. That has been largely brought about by modernisation in the industry and lack of resources. Towns like Bruthen, which once had three of four sawmills, today has only one. This process will continue, but eventually a sustainable yield in the timber industry will be reached and unemployment will cease.

The National Party should encourage farmers to grow trees on their properties. Every farmer should be encouraged to plant a small clump of trees because 40 years later those trees will be money in the bank, and that could be the farmer's superannuation scheme. We should encourage farmers not only to grow trees around the boundaries and through the water courses, but also on a percentage of their land.

The Opposition is divided on its present policy; it has changed emphasis from criticising the government for having too many national parks to saying that there should be more. The timber strategy is working and people are beginning to understand that there are alternatives other than just sending logs to Melbourne. A number of processes can be carried out; for instance, at Swifts Creek, where veneer timber is produced. Small businesses involving woodcraft are starting to utilise the timber for products such as picket fencing and fine furniture.

There is a future in the timber industry, although some anxiety exists about what is happening. People need to be assured that the process of logging in national parks must be abandoned, and the Opposition should not support the National Party's reasoned amendment. The Opposition should support the government's stand and declare these parks and get on with the job of developing the timber and tourist industry.

The Hon. W. R. BAXTER (North Eastern Province)—I intervene briefly; naturally I feel deeply about this subject. If it were not 4 a.m. I would be making a substantial contribution to this debate. Clearly at this time on a Saturday morning, after the riduculous timetable the governent set this week, I could not do the Bill justice. It is appalling, to put it mildly, that Parliament is deciding the economic future of a substantial part of the State at an unearthly hour when honourable members are dead on their feet and the health of honourable members is being put at risk by what, if it were not serious, I would call a charade. That is what it is with Parliament sitting at this time of the morning and having to make such an important decision. We have been told that we might go through to deal with the third tier of government, and debate the local government measures, and therefore sit to an even more ridiculous hour.

I fully support the reasoned amendment moved by Mr Evans in his usual fine style. No-one can doubt Mr Evans's sincerity on this issue, and no-one can doubt his knowledge. He has a profound knowledge of the issues and of the future management that should be put in place for a timber industry and national parks in Victoria. I commend Mr Evans for the good job he has done tonight.

I also congratulate Mr Long. We do not hear a great deal from him, but tonight we heard an excellent contribution. Mr Long represents the area and has a feel for it and was prepared to put on record in the strongest terms the truth about east Gippsland and to expose the hypocrisy of the government with the false promises and pledges it has made to the people of east Gippsland, which have progressively one by one been dishonoured and not come to fruition.

Mr Long asked where the massive extension to the national parks, which cuts back timber availability and resource availability, will stop. The Bill goes further and the Land Conservation Council and the Liberal Opposition want to go even further than the government. Mr Long justifiably asked where it would all end, because this issue may well be presented in Parliament next year. Mr Long and I live in fear of what will be necessary next year. I put it on record that I am proud to represent the timber industry, and I will defend it to the end because the nation desperately needs the wealth producers, the people who turn out a product that is exportable or is import replacing. Among the wealth producers I include not only those who are the investors and the sawmill owners and entrepreneurs, but also the people who work in the industry. I also include those who run the businesses and the small shops in the country towns in that area.

They are the bread and butter of the economy of this nation who produce the wealth that enables the metropolitan areas and the City of Melbourne to enjoy a high standard of living. It is high time Melburnians woke up to the fact that their high standard of living is underpinned by the wealth production of rural Victoria and that includes the timber industry as well as the agricultural industry. If they continue to undermine the wealth producers of the country, their standard of living will decline very rapidly—in fact, it will come crashing down around them as the nation progressively heads towards a third world economy because we stymie our wealth producers.

I do not question the desire of the government to ensure that unique areas of the State are protected in the future. There is no argument about that, but also there can be no argument that we have gone well beyond that concept and there appears to be pressure to go ever further. I want Melburnians to consider this for a while until they realise that if they continue on this course they will detrimentally affect their lifestyles, which they would not want to do.

I firmly support Mr Evans's reasoned amendment.

The Hon. F. J. GRANTER (Central Highlands Province)—I join with Mr Baxter in congratulating Mr Long on his fine contribution and the real feeling he showed for the province he represents. It is ridiculous that the House is debating this important Bill at this hour of the morning after commencing the day at 10.30 a.m. Even Mr Crawford would agree that if we were a union, we would quickly be on strike and the place would be closed down.

When the Labor government was in opposition one often heard them saying, "You are in government; you are forcing these late hours on us". I thought when the Labor Party came to power and when the Minister for Agriculture and Rural Affairs was Leader of the House, he would manage the business of the House better, but unfortunately it is the same old story. It does not matter which party is in power, we are still here until 3, 4 or 5 o'clock in the morning on the last few nights of the sessional period.

I congratulate Mrs Tehan on making a fine speech. I did not agree with everything she said but I was impressed with her appraisal of the area and her research. She presented her case well.

Like those who have already spoken, I agree with the establishment of national parks and the recommendations of the Land Conservation Council over the years. Honourable members should cast their minds back to the Bolte era because he established the council. More or less all the recommendations of the Land Conservation Council have been accepted by the government and they have led to a Bill with a Cabinet extension.

The Hon. B. W. Mier—Your party recommends more.

The Hon. F. J. GRANTER—In the party room the Opposition discussed this Bill and agreed with the government. It also recommended extensions. As I said, I do not agree with that decision. However, I am a party man, as I guess Mr Mier is. He would agree with his party's recommendations.

The Hon. B. W. Mier—I appreciate that, but it does appear to be a delaying tactic.

The Hon. F. J. GRANTER—It is not a delaying tactic. The government's Bill will be passed and the recommendations made by Mrs Tehan may or may not be adopted.

As I remember the area concerned—I have not seen it for some years now—it has never been logged extensively and is in a natural state. I thought Mr Murphy would have placed greater emphasis on the concern expressed by the sawmilling industry in the area. Five of the sawmillers that do not work entirely in that area contacted me. I shall name them: Graeme Smith of Ezzard Timber Enterprises; Lloyd Gould, who is not quite in that area but is in the electorate that I represent, of Gould Timbers of Marysville and Alexandra; Ian Ladner of Ladners Timbers; Dr Peter Grose with the Richard Neville Smith group; and Deanne Ross of Smith Brothers, Orbost.

Those firms said that they have invested $100 million in capital expenditure in the industry and they employ approximately 2000 people. All their employees have wives or children and they shop in the area. They represent a real asset to east Gippsland or any other area in the country. The sawmilling industry employs approximately 10 000 people. It is a decentralised industry, as well as a small industry. It should be encouraged.

I should like the Minister to inform the House how many people use the parks. I hope many do. I heard the Minister say that the Dandenong National Park has been visited by approximately 2 million people. That is impressive.

I am also concerned about the maintenance of national parks. I hope the Minister will announce the government's maintenance program for national parks. They cannot be allowed to grow wild; some maintenance must be carried out on them otherwise a wildfire could spread rapidly through them. If that happened, the officers of the Department of Conservation, Forests and Lands and the rural fire brigade would be called to put the fires out and to maintain the parks. Controlled burns are necessary in national parks as well as in any other parts of the State.

Mr Pullen's remarks interested me. Some were perhaps unnoticed. He said that the government will test the Opposition during the spring sessional period. What does he mean by that? Does the government intend introducing another national parks Bill? What type of proposed legislation will it use to test the Opposition?

I do not wish to delay the House any longer at this late hour. I hope the government will note the concerns expressed by Mr Long about the area he represents.

The Hon. R. S. de FEGELY (Ballarat Province)—Even given the lateness of the hour, I wish to contribute to the debate because a number of points need to be answered. The House is debating an extraordinarily beautiful area in Gippsland. The paticular area concerned is in the Snowy River, Rodger River and Errinundra areas.

The Hon. B. A. Murphy—Have you been there?

The Hon. R. S. de FEGELY—I have visited the area on several occasions, Mr Murphy. The area is beautiful and I enjoy it immensely. I shall return there when the opportunity presents itself.

The main area of contention in the proposed legislation revolves around the Cabinet extensions. There is no doubt that that is the problem people who live in the area are concerned about.

The industry and the Australian Council of Trade Unions accepted that parks were needed in both the Rodger River area and the Errinundra area. It was less than the Land Conservation Council recommended but it still agreed that there were areas of significance that needed to be preserved in these areas. Over the years they have preserved much of those areas.

It took time for the Opposition to conclude that those extra areas enhanced the park. I have been there and seen them and there is no doubt in my mind that those areas are worthy of inclusion. The government has done the right thing in this instance.

No matter what the Opposition believes about the Gippsland area, it has been well proven that with normal logging practices having taken place over the past years in the sawlogging industry there is no way that that industry will sustain continued employment in the Gippsland area. Mr Long clearly pointed that out.

All the reports show that there is only one way that employment can be sustained in east Gippsland, and that is with a thoroughly integrated harvesting operation. Whether that is initiated is a matter for the government.

The government, on many occasions, has said that that is what it would do and the people of Gippsland expect that that will occur. The National Institute of Economic and Industry Research prepared a report on which the Land Conservation Council based its report. At page 58 of the institute's report under the heading "Overview on integrated harvesting and its employment consequences", the report states in part:

> The LCC proposals make no significant difference to this general conclusion. These proposals are only of minor importance alongside the major choice that needs to be made about whether or not integrated harvesting should be allowed to proceed on a large scale in east Gippsland . . .
>
> The potential employment gains from carefully managed integrated harvesting are high and they can play a vital role in the long term economic development of east Gippsland, provided adequate environmental management measures can be implemented.

That is the crux of the matter. If we are to talk about employment we must also talk about environment.

Recently, on a two-day trip to East Gippsland we were accompanied by the east Gippsland Coalition and Ms Linda Parlane. That was a good exercise because we learned a lot about the area. Up to that stage I was under the impression that the Gippsland Coalition was a radical bunch of people. Ms Linda Parlane put her message across; she convinced me that that group were true conservationists who wanted to ensure that the heritage of this country was preserved. The group was not opposed to logging in east Gippsland provided the best utilisation was made of the resource. I believe they are true conservationists and I support that view to the full.

I regret I cannot support the reasoned amendment moved by the National Party. It is a mechanism to defeat the proposed legislation. As I support the measure, I cannot support the reasoned amendment.

The Hon. H. R. WARD (South Eastern Province)—This important measure follows on another important Bill that the House dealt with earlier this week. I shall put on the record the names of a few conservationists and refer to the area of this State that was set aside for national parks approximately 25 years ago.

Those conservationists include Sir Henry Bolte and the Honourable Ray Meagher, who took over the job as Minister of Forests in 1967. He initiated the concept of 5 per cent of the State being set aside as national parks. Until there was a more enlightened approach to a greater expansion of the national parks through the next twenty years no credit was given to those people who were pioneers in this area.

There are also three or four other great conservationists in this State: Dr Geoffrey Downes: Mr Alf Dunbavin Butcher; and the sacked conservationist, Dr Grose. Those people had a different approach. They were strong public servants who believed in national parks and conservation.

When the Minister took over this portfolio I made a suggestion to her it would be worth her while to refer to the problems that the Countryside Commission of England faced when it took a radical approach. Mr John Cripps the chairman of that commission for a number of years told me of the problems the commission had faced and how it had to backtrack to approach the whole situation again. It was a good lesson. I suggested to the Minister that she take time to examine the background of the countryside commission.

The other part of the proposed legislation in some ways has been dealt with in an emotional manner. The shadow Minister is also a lady from the country. The Minister is a lady whom I know likes sleeping out in those areas and knows about the subject. We have two country women confined to this beautiful place rather than being out enjoying the morning dew.

I was surprised that the Minister did not put forward an outline of the management program for the area with the costs outlined. However, we have heard nothing about that. There is a fine picture of a flower on the front of a brochure about east Gippsland. God forbid that the conservationists know that it is ragwort.

In that area—and it is a vast area—there is certainly a need for an outline of that program because in that area one needs a large number of trained rangers, and their wages have to be met. There has to be a supply of vehicles and maintenance costs; there has to be through the area more and better layout of survey of mapping undertaken and a layout of tracks put through the area. There is also the problem of weed and pest control. Fire patrol is important and, as Mr Long has mentioned, we would hate to face again the tremendous problems of the bushfires in 1939, or even another Ash Wednesday.

We also need to know the cost and programs of trained guides and information centres to go along with the whole area. Fire shelters and other shelters need to be built in those areas to assist with the whole program and the importance of the area for which legislation is now proposed is not to be underrated. It requires an important program to be put in place. I did not see any notes proposed in the Budget programs for the future because it was not included in last year's program.

I understand that once the treaty has been agreed between the States and the Commonwealth, the Land Conservation Council no longer has any application. Therefore it would mean for the National Estate that there would be requests for Federal funding because the Federal government and the whole of the Commonwealth—and we are talking about the whole of the State—has an obligation to meet some of the costs involved in the management of that area; so, Federal funding is an issue I would be interested to hear about. It is all very well blaming the Federal Minister but the State will be assisted through the National Estate. I know it belongs to all of us, but the question is: what is to be done? I know it is part of the operation, and I seek some information on that point.

Mr Pullen waxed eloquent about what he knew about the area but, lo and behold, he could not even save Flinders Park. We handed that over without one sound. We gave away a bit of the parkland in the metropolitan area and nothing was done about it. Even the Conservation Council of Victoria must have been paid off because they did not say anything about it.

The Hon. B. A. Murphy—What did you do about it?

The Hon. H. R. WARD—We spoke plenty about it to get something done. We did not hear from Mr Murphy because he was then part of the operation that was paying off people.

The Bill ought to be consistent, and the consistency ought to apply throughout the State. My main contribution to the debate is on the plan of management for that area and for all areas. Some of this is being done but, more importantly, in that area we must have a plan of management. We should not be overtaken by weeds or have areas destroyed in some other manner. The parks must be properly managed, and I hope that will be done.

The Hon. M. A. BIRRELL (East Yarra Province)—It is 4.34 a.m. on a Saturday morning and therefore we are all trying to be briefer than we would like to be on an important Bill. The part of east Gippsland which is to be preserved for the benefit of future generations is regarded by all visitors as being both beautiful and special. It has qualities not echoed in any other parks. It is hard to imagine an area where one can look from snow-gum woodlands across rainforests, but that is the nature of this part of Victoria, and I am pleased to be part of a political party that wants to save it for the future.

All speakers in the debate have seen the need to balance conservation versus the economic benefits to be gained from a forestry. As the shadow Minister for Conservation, Forests and Lands, Mrs Tehan has pointed out the issue is very much in the minds of the Liberal Party members.

On this occasion, as in the past, given that we are the party that pioneered national parks in this State we have, once again, thrown our weight behind conservation of an important part of the public lands of this State. I strongly support that move and put on record the Liberal Party's view that any other decision would have been clearly wrong and against the public interest.

I also want to record my appreciation for the leadership shown by Marie Tehan. It is unfortunate that some people, in criticising the Liberal Party's stance on this issue, have sought to turn it into an attack upon one individual who represents this party's view on the conservation portfolio. It is an easy trick and a pretty cheap trick and certainly no one person in the Liberal Party decided its view. It was the overwhelming view of the Liberal Party and to criticise one individual is unfortunate.

Mrs Tehan has done an outstanding job in the portfolio. She has won credit, deservedly, because of her heartfelt views and her support for the qualities of the areas that have to be protected. I regard those individuals who have criticised Mrs Tehan with contempt.

The new Errinundra National Park and Coopracambra National Park and the extension to the Snowy River National Park—these and other achievements are ones that future generations will look back on and thank the Victorian Parliament.

There will need to be a balance. There is a necessity for a strong forestry industry in this State, and I have said in previous debates that many Victorians will find just as pleasing scenery in the forests that have been planted and which are being made available for economic utilisation in areas like the Ovens Valley as they will in the natural forests in areas of east Gippsland.

For a number of Victorians the economic benefits to be accrued from parks in our State are more important than environmental use. The challenge to any government is to mix these together and preserve areas that fit within the national park definition. These areas certainly do.

I am proud of the Liberal Party's background and history in national parks. It created the National Parks Service, the Land Conservation Council and all but a handful of the State's existing national parks. Some of out detractors are quick to forget that history; others would like to rewrite it, but the Liberal Party just reminds them of it and our support for the Bill is a further demonstration of the values we have held for many years.

I take the view that the great challenge for national parks and for protecting environmental values in the State in the future is a far more subtle debate than it has been over the past twenty years. That debate was mentioned by Mr Ward and by other speakers

in this debate. We must ensure that areas declared as national parks are maintained as national parks.

In a real sense the greatest threat to a national park can be the fact that its increased promotion will increase public awareness of it, and can result in tourists trampling a park. It is the logical contradiction of national parks. The community champions the fact that the national park should be protected and made available for future generations, and then fears that future generations will visit the park in such number that it will lose many of its qualities; but we live with that.

I am concerned, therefore, to see proper management of national parks in the future. In answer to a question on notice on 8 March this year, the Minister for Conservation, Forest and Lands indicated that the status of the management of parks can be measured by the number of rangers in parks. I was concerned by that answer because it reflects on the fact that there are many new national parks, but we are not seeing an increase in staffing of those parks. The Minister's answer indicated that in 1985 there were 110 rangers employed in the National Parks Service. In 1986 the figure had fallen to 103; and in 1987 it had fallen to 101. That is, despite the increase in the area of national parks over that period, the number of rangers had fallen from 110 to 101. Over the same period, the number of ranger vacancies had increased from eight in 1985 to eighteen in 1986 and to 24 in 1987. Those trends are both in the wrong direction and they militate against the aim that many of us would hold, which is the proper management of national parks so they are there not just in terms of legality, but in terms of reality.

The proposed legislation will create a large extension to the national parks network—perhaps the largest extension for many years to come. My plea to the government in its remaining months in office is to take some action with regard to the number of rangers and other staff required to keep the parks in order. As Mrs Tehan has correctly outlined, it will be a major priority of the incoming Liberal government. I indicate my support for the proposal and appreciation for the fact the debate, even though it is in the late hours, has been fairly moderate.

The Hon. G. P. CONNARD (Higinbotham Province)—I appreciate following my colleague, Mr Birrell, in this debate, because he has basically expressed a metropolitan viewpoint on the important issue of national parks. My colleagues in the National Party must know of the general ethos that people in metropolitan Melbourne have on conservation issues, particularly associated with national parks in the State.

I have said before in another debate, that, although Australia is a very young country in terms of Western civilisation, it must ensure that appropriate reservations are made, particularly in this State, which will be available for future generations. There is no question that European conservation methods have been applied to Australia during the past 150 years, but they have been applied inappropriately.

The proposed national parks are in a special part of the State. I am grateful to the Minister, and I pay her due credit for arranging a visit to that area for myself and several of my colleagues. We visited areas that are not open to general access. Members of the East Gippsland Coalition, together with officers of the Department of Conservation, Forests and Lands and representatives of the timber industries, whose presence I have noticed in the House this morning, were extremely competent in showing us these special areas. I particularly refer to the Errinundra National Park, because that is a special area of temperate rainforest. This park must be properly and competently managed.

I encourage the Minister to examine the Liberal Party's attitude to national parks. I would divide the national parks into four main categories. The unique parts of the State are not just for the next generation, but for generations to come. I should like special areas like the Errinundra National Park to be locked up. My observation was that the park was very fragile and would not tolerate major pedestrian traffic. I do not say it should be locked up in its entirety, because a portion of it—10 to 15 hectares—could be made available for people to appreciate its beauty.

The Hon. B. A. Murphy—Is this a second or third policy?

The Hon. G. P. CONNARD—These are my thoughts. This particular part of the world is so fragile that the impact of people, apart from the scientific community, would damage the environment, an environment that has taken thousands of years to develop. The Errinundra National Park almost comes into that category.

My second category of national park would have restricted access to walkers only. The third category of national park should have moderate access for cars or trucks. The fourth category would be open to the tourist and would be available to as many people as possible.

The Minister would have observed the management methods at the Kosciusko National Park and she should adopt some of those measures. I am concerned that the government will not provide the resources to maintain these national parks adequately. I know that the Minister will attempt to obtain sufficient resources to manage these parks in a proper and orderly fashion.

The National Party has adopted a redneck approach. The Liberal Party can balance the interests of the timber industry with conservation interests. Most honourable members have an interest in the proper development and management of the parks. Honourable members should take note of the American experience, because, in my view, the management of some of their parks is a disaster. The Everglades National Parks in Florida is one of the most outstanding parks in the world, but it has been spoiled by allowing too many people to visit it and by the construction of major roads across its drainage areas. It is a most fragile environment. The Yellowstone National Park is being ruined by allowing too many people to visit it. We are only temporary residents on this earth, and must take care to protect this world not just for our children, but for their children, and succeeding generations. The existing flora and fauna have developed over aeons and must be protected.

All Australians, as members of a relatively new civilisation in this country, have a duty to perform in this area. The Bill is a step towards the performance of that duty. I hope the Bill will succeed and that the government will manage the parks successfully. That can be done only if sufficient resources are provided for the management of the parks.

The Hon. B. W. MIER (Waverley Province)—I shall respond to some of the comments made by Mr Birrell.

The Hon. M. A. Birrell—I'll withdraw them all!

The Hon. B. W. MIER—Mr Birrell commended Mrs Tehan for the work she has done in this area. I congratulate the Minister for Conservation, Forests and Lands for the great work she has done in her portfolio. It is all very well for Mr Birrell to express his appreciation for both Mrs Tehan's efforts and his own within the Liberal Party room! Obviously Mr Birrell has experienced some difficulty about provisions of the Bill in the party room because it is apparent that the Liberal Party has been unable to reach a clear and precise conclusion about its attitude to the Bill. Its approach to the Bill has been both vague and defensive; it has decided to put the issue on the back burner in order to reconsider its position on the Bill.

The government's approach to the Bill has been quite clear. If the Minister had not some time ago developed a strategy for national parks there would have been no national parks in Gippsland. Earlier this week, a Bill was passed which reflected the government's attitude to the preservation of flora and fauna in this State. I am pleased to say that at this late hour the government is on the verge of achieving what I consider to be a treble, which is to be completed by the passing of the Bill to guarantee the establishment of national parks in Gippsland.

As a member of the Minister's policy committee, I am proud of the achievements that have been made in this area. The government's record of achievement in conservation is a proud one. Over the past three years, the government has introduced a timber industry strategy, the Flora and Fauna Guarantee Bill and the Bill now before the House, the

National Parks (Amendment) Bill (No. 2), which will ensure the preservation of the wonderful areas of east Gippsland with which the Bill is concerned.

The House divided on the question that the words proposed by Mr Evans to be omitted stand part of the motion (the hon. R. A. Mackenzie in the chair).

Ayes	33
Noes	6
Majority against the amendment	27

AYES	NOES
Mr Arnold	Mr Dunn
Mr Connard	Mr Hallam
Mrs Coxsedge	Mr Long
Mr Crawford	Mr Wright
Mr de Fegely	
Mrs Dixon	*Tellers:*
Mr Granter	Mr Baxter
Mr Guest	Mr Evans
Mr Henshaw	
Mrs Hogg	
Mr Kennan	
Mr Kennedy	
Mrs Kirner	
Mr Knowles	
Mr Lawson	
Mr McArthur	
Mrs McLean	
Mr Macey	
Mr Mier	
Mr Miles	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mr Sgro	
Mr Storey	
Mrs Tehan	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mr Birrell	
Mrs Lyster	

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Mr Knowles	
Mr Lawson	
Mrs Lyster	
Mrs McLean	
Mr Macey	
Mr Mier	
Mr Miles	
Mr Murphy	
Mr Pullen	
Mr Reid	
Mr Sandon	
Mr Sgro	
Mr Storey	
Mrs Tehan	
Mrs Varty	
Mr Walker	
Mr Ward	
Mr White	
Tellers:	
Mr Connard	
Mr McArthur	

The Bill was committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The words "Errinundra", "Rodger River" and "Coopracambra" have been mentioned often in the debate and it is true that they sound like magic. I take this opportunity of congratulating all honourable members on their contributions to the debate and the Liberal Party for supporting the Bill.

Fiona McLeod, in an introduction on a book about the wonderful Lake Pedder wrote that:

> Beauty is the most unforgettable thing in the world and therefore, he who adds to the beauty of the world is the son of God.

Today, Parliament, on behalf of the people of Victoria, past, present and future, has a rare opportunity of preserving and adding to the beauty of the world.

Even at this early hour of a Saturday morning, we have all been involved. Even those people who have stayed outside the House feel that it is a privilege to have been part of this debate.

I must say how delighted I am that the Liberal Party has chosen to support the Bill and has changed its position on the matter. It was only late last year that I feared from the comments of both the Leader of the Opposition and the honourable member for Evelyn in another place that the government would not succeed in having this Bill passed through Parliament, particularly in view of the Leader of the Opposition's statement that the past decade had revealed more about the militancy of conservation than the rationale of conservation and that the government had bowed to the pressure of the few. In fact, I thought the Liberal Party ethics of conservation so well developed by the Honourable Bill Borthwick and others had well gone out the door. Tonight's debate from the Liberal Party Opposition was music to the ears of those who were conservationists—and I do not mean just the active members of the conservation movement.

I have been asked to respond to the Opposition's proposal to refer to the Land Conservation Council the 30 per cent of the area of Gippsland that is not in the national parks but is in the interim list of the National Estate. This has been a tortuous process for all of us who have worked from the beginning through the many issues that have been outlined in the debate tonight.

I believe Mr Long's contribution illustrated how very careful one has to be to ensure one does not take a position that puts a very important element of the debate right off side. Through our process, we have not gained consensus, of course, but we have gained a set of directions, which I believe the community has taken forward, and we have done so by not ignoring the issues of the east Gippsland community; by not ignoring the timber industry and the unions; by not ignoring the conservation movement, but by having a very thorough process.

That process started with the Labor Party election platform in 1982 and with Mr Evan Walker, the first Labor Minister for Conservation, about the kind of Victoria that he and the Labor Party would like to have. The vision continued during the time that Mr Rod Mackenzie was the Minister for Conservation, when he called a moratorium on logging in the Errinundra and Rodger River areas set in 1983–84 in the face of very unpleasant confrontation between the Forests Commission of the day and the conservation activists' groups. Mr Mackenzie knew that in order to work through the issue two things had to be done. The first thing was to declare as a government that we believed there should be a viable timber industry in east Gippsland, but one that used the wood resource properly. The second point was to ensure that those most important areas in terms of ecological importance were, firstly, identified and, secondly, protected.

Therefore, Mr Mackenzie moved to ask Professor Ferguson from the University of Melbourne to set up an inquiry, and a referral was made to the Land Conservation Council for the east Gippsland area. That process took 28 months of careful data collection, public consultation, and economic study, which was referred to here tonight, before the issue of the final recommendations.

I pay tribute to David Scott and the workers on the Land Conservation Council for their very careful handling of that process, which I believe contributed greatly to the agreement between the Opposition and the government tonight. The final recommendations were presented to the government in 1986 and the government made its announcement on 11 November 1987. As was the case with the Opposition, coming to that decision was fraught with many arguments. Five major Ministers were involved in the process in terms of making sure that all the areas were covered: the Minister for Labour, the Minister for Planning and Environment, the Minister for Water Resources, the Treasurer, and me as Minister for Conservation, Forests and Lands.

I should like particularly to place on record the debt that the conservation movement and this government owes to Mr Kennan, the former Minister for Planning and Environment, for his view of what ought to be the boundaries of the national parks. At the same time, I place on record a tribute to the officers of my department, both in the forests and national parks areas, and officers of the Ministry for Planning and Environment, particularly those in the environment section, who did the work to ensure that all the details were understood. Finally, the government produced the State conservation strategy in June 1987, which acted as a framework for its decision later that year.

Therefore, nothing that the government has taken as a decision has been a one-off decision or a knee-jerk reaction. It has been a long process based on a clear policy and a careful analysis that balances all the interests of the groups within an environmental framework. That is the framework of the government's decisions, and it accepted the recommendations of the Land Conservation Council. It then examined further the initial recommendations and the final ones to determine whether all areas of clearly outstanding ecological importance had been included and whether all the values that needed to be protected had been protected.

The government then decided that the additional areas ought to be included in the parks. I do not intend to canvass those reasons in detail. That was done effectively by Mr Pullen in this place and members in another place. However, the government added the Warbisco and Home Creek catchments to the Snowy River National Park. That was one of the council's proposed recommendations, and it is part of a most important wilderness area. To the Errinundra National Park the government added the south coast range, which was also in the council's recommendations for the delay of harvesting for as long as possible.

The recommendation to delay harvesting for as long as possible is as unhelpful as previous recommendations of once-only logging. If it is an important enough area to delay logging for as long as possible, it is important enough not to be logged at all. There have also been additions of the Brodribb River area to the Errinundra National Park, part of which was recommended also in the council's final recommendations for the delay of harvesting for as long as possible; and the south branch of the Bonang River, which clearly has landscape values and value in terms of the entrance along the Errinundra Road. That was also one of the council's recommendations for protection.

I believe those additions, which were very well described by Mrs Tehan, do not have to be further justified by me. I do not believe there is any question that they are areas that needed to be added. In making that decision the government carefully weighed up the areas of ecological importance that need to be protected forever—that is what putting them in national parks means in Victoria, forever—in the national parks schedule.

The Hon. D. M. Evans—It can be changed by legislation.

The Hon. J. E. KIRNER—Only if Mr Evans gets into government and, for the sake of the national parks, may that never happen!

In terms of the impact on the logging resources, the government made an important decision previously to go to sustainable yield.

I am glad to hear that Mr Long supports the position of sustainable yield, as does the National Party, because everyone in this House would know that, if we had not moved to sustainable yield, we would have finished the timber industry in east Gippsland by the year 2000.

We also had to examine the interim National Estate recommendations again carefully and the future of the east Gippsland community. I should like to assure Mr Long that I firmly believe—and my record shows—that I have spent more time in east Gippsland trying to work through the social justice, environmental and management issues than any other Minister ever has. That is what they told me, and I have been dubbed the thirteenth councillor.

The position we arrived at was welcomed and, in order to show that is not a political statement, I refer to an *Age* editorial opinion dated 14 November 1987 which stated:

> The Cain government has resolved the long-running dispute over the east Gippsland forests in a bold and courageous way. . . . The new areas to be set aside as national parks will include the Errinundra plateau and Coopracambra Ranges, as well as a big extension to the Snowy River National Park. In moving to have this made a world heritage area, the government has put itself firmly on the side of the conservationists. It has an eye not just to present economic gain but to the future, too. Would that the Gray and Bjelke-Petersen governments had the same foresight and resolution.

At the same time, I received a letter from the East Gippsland Coalition which stated:

> Dear Joan,
>
> The East Gippsland Coalition and our supporters would like to thank you for all your efforts towards east Gippsland's new national parks.
>
> We recognise the difficulties that you had in reaching a decision. Your support for the parks is appreciated.
>
> It is a wonderful thought that we can now visit the forests of Errinundra and the Rodger River and not have to worry about their future (the Upper House notwithstanding).

I am looking forward to the day when a visit to the forests of east Gippsland will have lost its political overtones, leaving it a time just to appreciate the forest's beauty and importance. We are not quite at that stage yet, but your government's decision was the major step that was needed.

With David Bellamy and the conservation movement challenge to the Liberal Opposition, the stage was firmly set for tonight's historical agreement.

Before I respond to the request about the reference to those areas of the interim National Estate which are not in the parks, I shall answer a few questions that were asked by honourable members in the debate.

There were a number of questions on whether we are managing and resourcing our parks properly. Honourable members would know that we as a government take that issue very seriously and, in particular, my Director of National Parks and his team take the issue seriously.

In terms of existing resources and new resources for east Gippsland, the staff positions directly involved in management of the east Gippsland parks total ten rangers and two other staff, and the resources to manage these parks total approximately $400 000.

In preparation for the new east Gippsland national parks—I think Mr Ward asked that question—four additional rangers are to be appointed with back-up vehicles. The four new rangers will be located as follows: two at Bendoc; one at Orbost and one at Cann River. An Aboriginal trainee ranger has been appointed to Orbost, and an Aboriginal liaison officer to Cann River. A planning officer has been appointed to prepare the Errinundra management plan. We are developing the Mallacoota information centre, Errinundra national park visitor facilities, the Errinundra National Park management plan, and the Point Hicks road project as well as the Orbost tourist centre.

Management plans are crucial to the proper management of the parks, and we have a number of management plans being developed, including the Snowy River, the Errinundra plateau and the Croajingolong National Park.

I will not go into the fire issue. Honourable members raised that matter, but most know the answers as well as I do. The answers to employment, as Mr Long correctly said, are still being developed for the future. The government has not been idle. There has not been a decline in timber industry employment as yet, because we are carefully balancing the sustainable yield and D-grade logs at the Ladner and Humphries mill, and this has marginally increased employment.

I should expect that, as value-added comes on line—if approved by the environment effects statement and alternative ways of adding value to our products like the Ezard's mill, employment in the timber industry will increase and employment in the tourism industry will, in fact, go up by some 70 over the next five years.

In the Lower House, two arguments were advanced as reasons why I was being asked to refer the remainder of the interim National Estate back to the Land Conservation Council. The first argument was that people were not sure whether we included the best areas of the interim National Estate or all the appropriate areas in the parks. I believe we have.

The second argument—and I was glad it was not raised here tonight—was the argument put by the honourable member for Doncaster in another place that the reason for taking this action in east Gippsland by the Liberal Opposition was the need to get the votes of the conservation movement in the eastern suburbs. I am not joining in the politics of ecosystem opportunism that are practised in various parts of Australia, nor in environmental one-upmanship, and I do not think that was the intention of Mrs Tehan. I am sure she wished the honourable member for Doncaster in another place had not made that statement in the debate.

We have made good decisions for all groups with all the possible information and an extensive consultation process. I asked Mrs Tehan to provide me with answers to questions

I thought were important in order to assist me to decide whether I should agree to the proposal to refer the reference back to the Land Conservation Council.

There were questions like: should logging be suspended in the interim National Estate areas until the Land Conservation Council decision is made? A recommendation was made and the answer to that was, "Yes". A further question was: how will timber workers be paid? The answer was that they could be found coupes in another area. A further question was: are National Estate new listings to be referred to the Land Conservation Council? It is only interim National Estate. A further question was: does National Estate equal a national park? The answer is, "No".

A further question was whether the Land Conservation Council should be the recommender, not the arbitrator, and how long the process will take. The answer to that is most interesting because it states that the reference back to the Land Conservation Council for this area will lead to a technical evaluation to allow a future State government to decide if it should be protected in the Victorian park system or if timber harvesting can continue under strict forestry supervision. There is no intention to make a decision on the east Gippsland park reference back to the Land Conservation Council until after the election.

It seems to me that that would be, given that this government can go for another six to nine months, a very long time; and it would be a very inappropriate action to take seeing that people are very tired of not having a secure base in east Gippsland or in the timber industry and, indeed, the conservation movement itself—although it does not want the security of no advance—certainly does not want a decision where we are looking backwards.

I believe it would be irresponsible of me to destroy the position we have now, which is generally accepted by the community, by going backwards in this process. The Land Conservation Council has done its work. There is no substantial new evidence available for it to examine. The Kathy Preece material was available in unpublished form to the Land Conservation Council, and Margaret Blakers's report on eucalypts does not contain new information other than on Stony Creek, but it is a re-presentation—and an important one for the importance of eucalypt forests.

I did not get an answer from the shadow Minister opposite whether Stony Creek was also to be included in the LCC reference. Stony Creek is not in the National Estate area and this would have introduced a new principle. It is important for me to say that, although I reject the suggestion for a reference back to the LCC, I accept the thrust of what the Liberal Opposition is saying. That is, I think, that when one is working towards a conservation aim, the issue of what is the best decision is ongoing.

There is no better example of that than the Little Desert debate. The first decision on the Little Desert was made with much more pain, trauma and suffering than this one—on the floor, at least—and that was made in 1968. The second decision, which added a good deal more area to the park, was made in 1969 and the third decision has just been made, in 1988. In fact, twenty years after the first decision, the area in the park that was the area requested in the first place by those people who one might have said had the greatest understanding and the broadest commitment was included.

I do not regard this debate tonight—and I am sure honourable members and other interested persons do not—as the end of the east Gippsland debate in terms of management of future parks and the future of the timber industry. The same process as happened on the Little Desert might well happen in east Gippsland. Nor am I prepared to concede that all National Estate areas should be in national parks. This is not the Commonwealth or the State government's position and that is clearly stated in writing by both the Premier and the Prime Minister.

I have a little difficulty understanding the logic of the argument that a final decision should be made on east Gippsland now before there is a change of government because if there is a change of government it is possible that the Federal government might intervene

despite its commitment to the Premier and me. It seems a little strange because the only reason the Federal government would intervene would be for the same reason it intervened in Tasmania and in Queensland—that is, to ensure that all high-class areas of ecological status were included in parks. That is exactly what the Liberal Opposition is asking for. So what is the worry? I do not agree, any more than the Liberal Opposition does, with that kind of intervention unless it is absolutely necessary. The powers have always been there. If we are proceeding to a proper system of national parks in east Gippsland there should really be no worry.

What I should like to do, in rejecting the reference back to the LCC, is to move forward and put on record in Parliament tonight how my government wishes to move forward on this issue. The government, through the Ministry for Planning and Environment and my department, is preparing a world heritage nomination for these wonderful areas in east Gippsland. We are currently preparing a submission to the world heritage section of UNESCO, which must be submitted by the end of December. That is an important submission. The decision will be made by UNESCO in the next eighteen months. Jim Thorsell has already been here for a preliminary investigation.

I assure honourable members opposite that if that decision on world heritage adds new areas outside our existing park boundaries, they will be added to the parks. Further, the government will refer the issue of wilderness, which really picks up the Swamp Creek and Good Hope Creek areas and the west Thurra area, to the LCC to be examined. That is not just to examine the issue of wilderness in the east Gippsland area, of course, but to seek from the LCC a recommendation back to the government for inclusion in a separate section of the National Parks Act those areas of Victoria which should be preserved as wilderness areas.

I expect the areas to be tackled to be the west of Victoria, the Alps, and east Gippsland. However, there are still concerns left that while the Land Conservation Council will be looking at wilderness and UNESCO will be looking at world heritage, some areas that are not currently logged—or not currently heavily logged—should be preserved from logging until those decisions are made. There are obviously concerns by some people that they should be preserved from logging forever, but at least for that interim period. That is a position Mrs Tehan took on the reference back to the LCC.

The government will not be logging the areas of Good Hope and Swamp creeks, Ellery Creek and west Thurra and Misery during the period when those decisions are being made, which will mean that these areas will not be scheduled for logging until the 1990–91 logging season, by which time we should know the decisions on both world heritage and wilderness.

When the National Estate boundaries are settled in the next few months, which, I believe, will result in some changes to areas and boundaries, I shall ensure that, through the already established public consultation process, National Estate values are in fact protected through proper codes of practice that relate to those National Estate areas. The issues of world heritage and wilderness are ways of moving forward on this matter.

I am not prepared to put the east Gippsland community or the general Victorian community into an insecure situation by referral back to the Land Conservation Council, which has the same people on it and has no more information. However, I am certainly prepared—and I hope interested parties are—to move further down the track of the protection and development of the east Gippsland area in the interests of all people who live in the area and who live in Victoria.

The framework for the decisions we make in the future is clearly spelt out in the government's conservation and economic strategies. I look forward to the forthcoming debate on conservation in this Chamber, especially when the debate can be in the context of the eagerly awaited Liberal conservation and timber policies. The debate will include again the creation of our alpine park and the creation of new wilderness areas in the west, the Alps, and east Gippsland.

Shortly we will have taken two large steps forward for conservation in this Parliament with the passage this week of the Flora and Fauna Guarantee Bill and the east Gippsland parks legislation. I thank the Liberal Opposition for its support and I congratulate the conservation movement for its contribution to that issue, as I do my own department, both in the forestry and national parks sections.

I am proud to be part of this process. I thank my caucus and my policy committee and I ask honourable members to support the Bill.

The clause was agreed to, as were the remaining clauses.

The Bill was reported to the House without amendment, and passed through its remaining stages.

LAND (MISCELLANEOUS MATTERS) BILL (No. 2)

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.

THE CONSTITUTION ACT AMENDMENT (ELECTORAL PROCEDURES) BILL

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

On the motion of the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), the amendment was agreed to.

TELECOMMUNICATIONS (INTERCEPTION) (STATE PROVISIONS) BILL

The message from the Assembly relating to the amendments in this Bill was taken into consideration.

Assembly's amendments:

1. Clause 4, line 8, omit "(1)".

2. Clause 4, lines 11 to 14, omit sub-clause (2)

and the following amendment in the Bills:

Clause 5, line 30, after "Act" insert "; and

(*f*) particulars of any telephone application for a Part VI warrant made by the Police Force.".

Clause 7, page 6, lines 7 and 8, omit "issue or revocation of the warrant" and insert "warrant ceases to be in force".

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

That this House do not insist on amendments Nos. 2 and 3 with which the Assembly have disagreed, and agree to amendments made by the Assembly.

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

That this House do not insist on amendments Nos. 4, 6, 7, 8, 10, 11, 12, 13, 14, 15 and 16 with which the Assembly have disagreed.

The motion was agreed to.

PRINCE HENRY'S INSTITUTE OF MEDICAL RESEARCH BILL

The message from the Assembly relating to the amendments in this Bill was taken into consideration.

Assembly's amendments:

1. Clause 20, line 18, omit "the unincorporated body known as the Medical Research Centre, Prince Henry's Hospital or the Medical Research Centre, Prince Henry's Campus, Monash Medical Centre, in existence at any time" and insert "the Medical Research Centre conducted at Prince Henry's Hospital Campus, Monash Medical Centre immediately".

2. Schedule, after "Grant Sinclair Lawry" insert "Gabriele Medley".

3. Schedule, omit "Alexander Wills Ogilvy
Thomas Ramsay".

On the motion of the Hon. D. R. WHITE (Minister for Health), the amendments were agreed to.

LOCAL GOVERNMENT BILL, LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS) BILL AND CONSTITUTION (LOCAL GOVERNMENT) BILL

The motions (last debated on April 22) of the Hon. C. J. HOGG (Minister for Education) for the second reading of these Bills were agreed to.

The Bills were read a second time.

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

That these Bills be committed on the next day of meeting.

I shall comment briefly with regard to the motion so that honourable members understand why I have moved it. The first and most important reason is that it is now 10 to 6 in the morning. Secondly, it is quite clear that, even though there were significant negotiations today between the parties, it would take somewhere between two and a half and three and a half hours to complete the work. It is not fair to ask the House to undertake that task at this hour of the morning. We have had a heavy day after a heavy week. That is particularly true for the officers and staff of the Local Government Department. It would not be acceptable for me to put everyone, including the officers, through such an ordeal.

I am sorry to have to do this because the government had hoped to have the Bill passed by the end of today's sitting. As all honourable members know, there was a proposal that the House sit on Saturday to handle the Local Government Bill.

In either case, it was necessary for both Houses to sit for the Bill to go through totally. There was some value in having the Bill pass through this House and await completion until it will be possible to achieve that when Parliament sits as two Houses in August. I am disappointed because a great deal of work by the Municipal Association of Victoria and others has gone into the Bill. All parties have seen great value in it. Negotiations took place between the parties today and I particularly thank Mr Macey, Mr Wright, Mrs Hogg, Mr Henshaw and Mr Simmonds, the Minister for Local Government, all of whom worked hard to see if we could come to agreement so that the Bill could be passed.

The time has come when it would be improper for me to suggest we proceed. As I say, I am disappointed but on balance I believe the right decision has been made.

I thank all honourable members who have been so patient on the last day of the sitting. There has been an immense amount of work with much goodwill and much positive legislation having been passed. I thank all honourable members very much. I think that you all deserve to get a little sleep now!

As I said at the outset, I wanted to indicate on the record why I am proceeding in a different manner from the one I had proposed previously.

The Hon. HADDON STOREY (East Yarra Province)—On behalf of the Opposition, I should like to say that we are disappointed at this decision and that we are in this situation. Over the course of the years, the Leader of the House has been very good in ensuring that we do not have late nights during the session, but every session we have had we have done worse in terms of the last week. This is by far the worst performance that we have had.

It is a reflection upon the government and the way in which it introduces legislation, as well as its determination to force Parliament to pass certain of its legislation before the end of the session and its refusal to consider sitting an additional week or an additional day in the next week. I realise that the situation is as it is now and we cannot do anything about, but it reflects upon the way Parliamentary sessions are run.

It is a pity, in particular, that the staff have been exposed to this. I agree with the comments of the Minister for Agriculture and Rural Affairs comments on the work that has been done on the Bill by all those concerned. I place on record the work done by Mr Delzoppo, the honourable member for Narracan in another place, whom the Minister did not mention.

The Hon. B. P. DUNN (North Western Province)—This has been an extraordinary week of sitting in the House. It is one of the most rigorous weeks as far as hours of sitting are concerned since I have been here. I know that the Leader of the House has genuinely attempted during the time he has been Leader to sit for reasonable hours. What has happened in this last week of the sitting, and particularly tonight, has pushed Parliament beyond all reason. I am concerned about the effect of such sittings on the staff of Parliament and the services they must provide, and also on our colleagues. We have been pushed beyond all reason tonight.

To start another Bill as important as the Local Government Bill at this time would be beyond all reason. As the Minister has said, it would take a minimum of two and a half hours and it should take longer because this is a vital piece of legislation concerning the third arm of government in this State. I commend the Leader of the House for taking a wise and balanced decision on the matter.

The Legislative Assembly has adjourned and, even if the proposed legislation were to be dealt by this House this morning, it could not be dealt with by the Assembly until August. Therefore, the decision that has been made is correct. The Bill can be debated rationally and sensibly, as it should be, when the House resumes later this year.

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:

Alpine Resorts Commission—Report and statement of accounts for the year ended 31 October 1987.

Border Groundwater Agreement Review Committee—Report for the year 1986–87.

Parliamentary Committees Act 1968—Minister's response to recommendations in the Natural Resources and Environment Committee's report upon Access to Victoria's Parks.

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the papers tabled by the Clerk be taken into consideration on the next day of meeting.

ADJOURNMENT

Netting of fish—Imported milk—Chadstone High School

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

That the Council, at its rising, adjourn until a day and hour to be fixed by the President, which time of meeting shall be notified to each honourable member by telegram or letter.

Before I move that the House adjourn, I indicate that the most likely time of reconvening is the first or second week of August; it is not yet fully determined.

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. R. J. LONG (Gippsland Province)—I direct a matter to the attention of the Minister for Conservation, Forests and Lands. In my hand I have a petition that has been signed by 1547 people. Unfortunately, it is not in a form that can be accepted by this House. Therefore, I bring it to the Minister's notice and hope that she will take some action on it. The petition reads in part:

. . . requesting that commercial netting of fish in the Bancroft-Metung region between Nungurner and Shaving Point be disallowed as it is widely believed that this is having a most detrimental effect on the availability of fish to amateur anglers.

This is a matter that is close to my heart. Commercial fishing in the Gippsland Lakes should be banned. I shall not take any more time and I thank the House for the opportunity of raising the matter.

The Hon. B. A. MURPHY (Gippsland Province)—I have been waiting all week to raise a matter on the adjournment. I direct a matter to the attention of the Minister for Agriculture and Rural Affairs. UHT milk from New Zealand has been sold at the Flemington racecourse. Will the Minister, over the next few weeks, ensure that Victorian milk sales are better promoted so that New Zealand milk is not sold in Victoria?

The Hon. J. V. C. GUEST (Monash Province)—I direct a matter to the attention of the Minister for Education and ask what is to be the fate of the Chadstone High School. Failure to make a decision about the future of the school is affecting the pupils, parents and teachers who are in a state of complete uncertainty as to whether they will have a school. Why will the Minister for Education not make a decision about the school? I have to accuse the Minister of being concerned only for the electoral safety of the honourble member for Oakleigh on this matter.

By leave, may I present a petition?

The Hon. D. R. WHITE (Minister for Health)—On a point of order, Mr President, Mr Guest has raised one issue and he is allowed to raise only one issue during the adjournment debate. He is now trying to raise a second issue.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—On behalf of my colleagues, I will take the matters into consideration.

The PRESIDENT (the Hon. R. A. Mackenzie)—I wish all honourable members well during the break and thank them for their tolerance and cooperation. I pay tribute to the staff and I mention that there will be no breakfast served. Arrangements were made for meals tomorrow, but as the sitting tomorrow has been cancelled, that will not take place. It has created a deal of disruption among the staff, for which I apologise. It never should have occurred and I hope it never occurs again. The staff have been totally disrupted and have cancelled their weekend arrangements. Any decision in the future with regard to sittings of this nature must take staff into consideration. I wish everybody well during the break.

The motion was agreed to.

The House adjourned at 6.2 *a.m. (Saturday).*

QUESTION ON NOTICE

CRIME IN METROPOLITAN POLICE DISTRICT

(Question No. 138)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Minister for Conservation, Forests and Lands, for the Minister for Police and Emergency Services:

What was the extent of crime carried out in each metropolitan police district in each of the years 1983 to 1987 under the following headings, indicating whether cases have been solved or not: (i) burglary—general; (ii) burglary—house; (iii) burglary—shop; (iv) burglary—factory; (v) burglary—aggravated; (iv) theft—from vehicle; (vii) theft—from shop; (viii) theft—bicycles; (ix) theft—cars; (x) theft—other; (xi) handle stolen goods; (xii) deception; (xiii) forge; (xiv) utter; (xv) robbery and attempts; (xvi) assaults; (xvii) assaults—cause injury; (xviii) rape, attempted rape; (xix) murder; (xx) abductions, kidnaps; (xxi) sex offences—other; (xxii) drugs—possess; (xxiii) drugs—grow, make, traffic; (xxiv) drugs—use; (xxv) arson; (xxvi) criminal damage, not arson; (xxvii) other indictable offences; and (xxvii) summary offences—all other?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The answer supplied by the Minister for Police and Emergency Services is:

The answer is that the information requested is contained in the following Victoria Police publications which are publicly available—

Victoria Police Statistical review	1986–87
Victoria Police Statistical review of Crime	1985–86
Victoria Police Statistical review of Crime	1984
Victoria Police Statistical review of Crime	1983