PARLIAMENTARY DEBATES
(HANSARD)

FIFTIETH PARLIAMENT
SPRING SESSION 1986

Legislative Council
and
Legislative Council Estimates Committee
[October 14, 1986 to November 14, 1986]

VOL. CCCLXXXV
[From December 3, 1986, to December 5, 1986]

MELBOURNE: F. D. ATKINSON, GOVERNMENT PRINTER
The Governor  
His Excellency the Reverend DR JOHN DAVIS McCaughey  

The Lieutenant-Governor  
The Honourable SIR JOHN MCINTOSH YOUNG, KCMG  

The Ministry  

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Chairman of Committees: **The Hon. G. A. Sgro**


Leader of the Government: **The Hon. E. H. Walker**

Deputy Leader of the Government: **The Hon. D. R. White**

Leader of the Opposition: **The Hon. A. J. Hunt**

(Until 21 October 1986)

**The Hon. B. A. Chamberlain**

(From 21 October 1986)

Deputy Leader of the Opposition: **The Hon. Haddon Storey**

Leader of the National Party: **The Hon. B. P. Dunn**

Deputy Leader of the National Party: **The Hon. W. R. Baxter**
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of the land that could take place. Aborigines, being Australian citizens, desire the same thing. The Opposition should accede to the Aborigines' wishes.

The Opposition is not content with dismissing what the Government proposes—it is also objecting to the mining provisions. Honourable members have listened to a long explanation of why mining should not be a part of the proposed legislation yet the mining provisions are modelled on those in the Pitjantjatjara Land Rights Act 1981.

The Hon. A. J. Hunt—That is what I said.

The Hon. JEAN McLEAN—All right.

The Hon. M. A. BIRRELL (East Yarra Province)—On a point of order, Mr President, Mrs McLean is reading her speech. The Chair would be aware that at page 417 May's Parliamentary Practice says that an honourable member is not permitted to read his or her speech.

It is clear that Mrs McLean is reading her speech. Therefore, I ask you, Mr President, to request her to try to do something spontaneous.

The PRESIDENT—Order! I have been watching Mrs McLean closely and she does appear to be referring too often to her copious notes. Mrs McLean is a good contributor to speeches in this Chamber, but I suggest that she refers to her notes less frequently.

The Hon. JEAN McLEAN (Boronia Province)—As I stated, and as Mr Hunt indicated by interjection that he also stated, the mining provisions in the Bill are modelled on the provisions in the Pitjantjatjara Land Rights Act and the Maralinga Tjarutja Land Rights Act. In the first instance, the provisions were passed by a Liberal Government and, in the latter, they were supported by the Liberal Party in opposition.

I find it difficult to conceive that the Liberal Party in this State, contrary to the actions of its colleagues in South Australia, wants to reject the mining provisions out of hand.

The Hon. A. J. Hunt—I have made that clear, but your speech was written before you heard mine!

The Hon. JEAN McLEAN—The Opposition is refusing to support the mining provisions in this Bill, otherwise it would support the Bill and what I am saying.

The Hon. A. J. Hunt—you did not listen!

The PRESIDENT—Order! I suggest that Mrs McLean ignores interjections. I also suggest that Mr Hunt, who has made his contribution, ceases to interject.

The Hon. JEAN McLEAN—When I was recently in Alice Springs, I heard Pope John Paul II speak out strongly about Aboriginal land rights. He stated:

Aborigines could be reassured they had the church's backing in their battle.

New agreements on land rights had to be implemented ... without causing new injustices.

The mining provisions in this Bill are fair and are fully in accordance with progressive social justice. They place emphasis on the mining applicant and the Aboriginal owner reaching agreement on the terms and conditions on which a mining tenement might be granted. If agreement cannot be reached, the Bill provides for conciliation and, if that fails, the matter will go before the Administrative Appeals Tribunal for determination. In other words, an objective decision will be made separate from the political process. Surely no-one would want it to be any different. The Bill provides fair and clear procedures within firm time lines with no veto, although one could argue a strong case for a veto.

The mining provisions also provide for the protection of sacred and significant sites. This means that sites can be either excluded or have conditions placed on the mining tenement to ensure the proper protection of the sites.
These sites are important to the Aboriginal people as part of their traditions. Does the Opposition believe these sites should be left unprotected and subject to possible destruction by profit-making mining companies? Why should not Aborigines have control over their own sites?

The Hon. W. R. Baxter—There you go again; you want to make them unequal.

The Hon. JEAN McLEAN—Aborigines have been treated unequally for 200 years. It is not the Government or this Bill that is perpetuating that; it is the refusal on the part of the Opposition to support the Bill that is perpetuating the inequalities and injustices that have continued for hundreds of years in this society.

The honourable member for Evelyn in the other place, Mr Plowman, endorsed the principle of self-sufficiency for Aborigines. The Government believes in self-determination and self-management. While the difference needs to be recognised, there is a concession on the part of the Opposition that Aborigines should be able to develop an economic base and conduct their affairs free from Government.

If the Opposition means what it says, it would fully support the Government’s initiative. The only explanation is that it has thrown its principles, if it had any to begin with, out of the window. The Opposition has once again taken the position of supporting mining companies rather than the land rights of Aborigines.

It seems to me to be impossible, on the one hand, to say that Aborigines can have land rights and, on the other hand, to say that they cannot have them on the terms agreed to through consultation with the Minister and the people involved.

It would be in the best interests of the people of Australia and certainly the people of Victoria and our Aboriginal comrades if the Opposition reconsidered and supported the Bill.

The Hon. R. S. de FEGELY (Ballarat Province)—I support my colleagues on this Bill.

The Hon. B. A. Murphy—Are you supporting the Bill or not?

The Hon. R. S. de FEGELY—I do not support the Bill in its present form.

The Hon. Joan Coxsedge—in other words, you are not supporting the Bill.

The Hon. J. E. Kirner—Mr Hunt got it wrong!

The Hon. R. S. de FEGELY—if I had the opportunity of saying what I want to, members of the Government may learn what it is all about and whether I support land rights.

As Mr Hunt and Mr Hallam stated, this is a particularly significant piece of proposed legislation. While it crosses borders of conservation, forests and Aboriginal affairs, it is Aboriginal affairs that is at the heart of the Bill.

I shall quote from a book which I have been reading. It was not written about Victoria but about the Northern Territory and the Aborigines in that area.

The book was written by Mr Frank Stevens and refers to Aborigines in the cattle industry in the Northern Territory. It was written during the time when equal wages were introduced and it gives a history of the research that went into that event taking place.

Mr Stevens had done a lot of research in the United States of America and had been given the task by the Academy of the Social Sciences in Australia to undertake this research. The book states:
government could erect a system of racial administration containing inherent conflict whilst many of the
principals involved continued to adhere to outmoded concepts of organisation and racial inequality.

Hopefully, we have progressed some way down the track since Mr Stevens undertook his
first trip around the northern part of Australia.

I have done a lot of travelling around the Northern Territory and the top end of Western
Australia. What I have seen of the Aboriginal population has saddened me.

What has happened in those areas cannot be held up as a model for what should be
done in Victoria. The Government should adopt a different approach to what is a delicate
situation and one with which I am sure all honourable members have a great deal of
sympathy, namely, that Victorian Aboriginals have a right to part of the land that was
originally theirs.

However, I agree with both Mr Hallam and Mr Hunt that, 150 years after white
settlement in Victoria which is more closely settled than other areas of Australia, Aboriginals
in Victoria are more dispersed but intermingled in the closer settled community and,
therefore, the Government must shed the paternalism that is inherent in all Labor Party
policies.

I am sure the Aborigines themselves do not want the paternalistic approach. The
Aborigines I have spoken to have all said, "We want to be able do our own thing. We are
all Australians. We want to become part of the country and to do exactly the same thing
you do and be able to do them in the same manner in which you do them".

The Hon. J. E. Kirner—Why would they say that when they were here first?

The Hon. R. S. de FEGELY—Of course the Aborigines were here first. The history of
settlement throughout the world reveals that there are many examples of original
inhabitants of countries no longer in possession of their land. One cannot change history
in Victoria. One should look to the future. Like Mr Hallam, I do not believe the community
should have a guilt complex but I believe all honourable members should wish to do
something on behalf of the Aboriginal communities. Honourable members could do
nothing better than to grant those communities freehold title to land under the same
conditions that apply to any other members of the community who own land so that those
Aboriginal communities can do as they wish with the land; run it as they would want;
raise the finance that they may wish to raise and improve their investment without the
restrictions that are being placed on them under the Bill.

I shall support the foreshadowed amendments, which are in the best long-term interests
of the Aboriginal community.

The House heard a speech from Mrs McLean. Obviously the speech had been written
before she entered Parliament. Mrs McLean either did not listen to the debate prior to
giving her speech or she read the speech that was written for her. If she had listened to the
debate and had not read her speech, she would have changed a great deal of what she had
to say. Having visited and examined the settlement at Lake Condah, I can understand
why the Aboriginal community feels that it has an affinity with the land and wants to
return to it. It is indeed a beautiful area.

The Hon. B. W. Mier—Why don’t you tell us about your settlement?

The Hon. R. S. de FEGELY—I am not sure what Mr Mier means by that interjection.
However, I want the Aboriginal community to have the opportunity to utilise their land.
I want the Aboriginal community to have the opportunity to own their land in the same
way that I own mine and to be able to do with it whatever they wish and to develop it as a
successful enterprise, as they have commenced doing.

The Aboriginal community is developing that land through the education of school
groups and other developments that will lead to tourism in the future. The Government
should be helping that community rather than trying to put restrictions in its way so that
Aborigines will need handouts from the rest of the community for the rest of their time in that enterprise.

The Aborigines do not want to rely on handouts for their future. I do not understand why they should need mining rights additional to those I have on my land. Prior to white settlement, Aboriginal communities lived on and from the land; they were not miners. They did not have the tools to mine, and obviously had not discovered some of those things which have produced a lot of wealth for this country.

I commend the work that has been done at Lake Condah under the management of John King. There is no doubt that, given the opportunity, the venture will succeed. The community has the objective of teaching Aboriginal customs and how to live off the land, which is something that everyone should learn. I for one do not know a great deal about those customs, but the limited time I spent visiting the area proved to be extremely educational.

Everyone in this House is an Australian citizen. If special rights are to be given, there must be an essence of responsibility. The Aboriginal community will develop the land because it has an affinity with it. Therefore, that community should have a responsibility to manage and look after the land for the future.

I should hate to think that there would develop in Victoria the sort of antagonism that has developed in Western Australia as a result of Federal Government policies. If the Government adopts the foreshadowed amendments, the Bill will act in the best interests of the Aboriginal community at Lake Condah and will be of benefit to the future of Aboriginal communities throughout Victoria.

The Hon. B. A. Murphy (Gippsland Province)—I begin by quoting George Vogt, the editor of the Bairnsdale Courier in 1920, who said:

> Through the tactics of misrepresentation and unequalled hypocrisy, the human black product of Australia was first defamed and then callously, brutally hunted like a beast by educated white men, and ruthlessly slaughtered, man, women and child.

That was a strong statement. It was a statement of truth of what happened in Victoria in the 1840s, 1850s and 1860s. There were many massacres throughout the Gippsland area and the rest of Victoria. There was an infamous murderer in the Western District, Mr Frederick Taylor. I quote from the report to the Aboriginal Protection Department by the Chief Protector, Mr Robinson, in 1843, which stated:

> Taylor was overseer of a sheep station, in the Western District, and was notorious for killing natives. No legal evidence could be obtained against this nefarious individual. The last transaction in which he was concerned was of such an atrocious a nature, that he thought fit to abscond and he has not been heard of since. No legal evidence was obtainable in this latter case. There is no doubt that the charges preferred were true, for in the course of my enquiries on my late expedition, I found a tribe, a section of the Jarcoots, totally extinct and it was affirmed by the natives that Taylor had destroyed them.

That Mr Taylor ended up in Gippsland. He lived in the Gippsland Lakes area. At one stage he was removed from his position as overseer of a Mr McLeod’s station on the Bairnsdale run. Later, he bought land round the Gippsland Lakes. It can be seen how a white man can get away with murder and pillage and become a respectable and wealthy citizen later in life, all because of what he did to, in some ways, defenceless people.

I should like to say that I had hoped for much better from Mr Hunt and members of the National Party in this debate. Actually, I did not expect that much more from members of the National Party because they are very threatened by any talk of land rights. I remind the House of the remarks of Pope John Paul II when he visited Alice Springs recently. He said:

> Let it not be said that the fair and equitable recognition of Aboriginal rights to land is discrimination. To call for the acknowledgment of the land rights of the people who have never surrendered those rights is not discrimination.
That is a clear statement by a world leader not only to white people of Australia but also to the Aboriginal people of Australia that the Aboriginal people are entitled to land rights and that they should “go for it”.

This Bill is a recognition by the Government that a debt is owed to the Aboriginal people, that they suffered an injustice. The Government is attempting, through discussion and consultation with Aboriginal groups, to, in some way, make up this past by giving them back parcels of land, in this case, the Lake Condah area, so that they can own the land through sharing and proper cooperation, and the land will be under their control forever. It will belong to their own people. The Government’s attitude on this issue is not like the policy of the Liberal Party when it initiated the Aboriginal Land Act 1970, which resulted in Lake Tyers becoming, to a certain extent, a little protected area.

The Hon. A. J. Hunt—It was a very good first step; it was no more than that, a first step.

The Hon. J. H. Kennan—You did not make that freehold.

The Hon. A. J. Hunt—No.

The Hon. J. H. Kennan—Why did you not make it freehold, since you say that freehold is a good idea?

The Hon. Joan Coxsedge—It is inconsistent.

The Hon. B. W. Mier—They want to sell it off at a later stage.

The Hon. B. A. MURPHY—Another objection the Liberal Party has relates to mining tenements. I know that members of the Liberal Party somehow object to miners being controlled by owners of the land. They say that the land should be subject to the same conditions of ownership as in white law, but it must be remembered that the Aboriginal people feel much more strongly about their land. The land is more sacred to them. We shift around all our lives, buying and selling land, and think nothing of it, but to the Aboriginal people this is a tribal concept and the land is their home—the whole land—and that area is sacred to them. They do not want to sell land; they want to retain land.

The Opposition is following what the mining companies are saying. Members of the Opposition should stand up and have a bit of guts and say that they believe Aboriginal people deserve something in recognition of what they lost last century.

Members of the Labor Party have had some discussion with the mining companies. Basically, they understand our situation but, at the same time, they are trying to get the best for themselves. The Opposition is a weak Opposition and it is supporting the mining companies’ greedy aims instead of saying that the Liberal Party will do what the Aboriginal people want done with their land.

I have read the mining provisions of the Bill and they are reasonable and fair to both the Kerrup-Jmara community and the mining companies. In the first instance, the Minister must approve a mining company’s application before the company seeks the approval of the Aboriginal owners. In the last instance, the Minister may approve the mining tenement after the Aboriginal owner has given approval or, in the event of disagreement, conciliation and then arbitration may be sought through the Administrative Appeals Tribunal. What is more fair? If there is an argument, the matter goes before a tribunal where everyone can have adequate Ministerial controls without interference in the rights of the Aboriginal owners and every opportunity is given for the Aboriginal owners and mining companies to reach agreement. I doubt whether the Opposition has a decent argument against the Bill. As I said, the Opposition is simply following what the mining companies want.

The Hon. W. R. Baxter—You should know better than that!

The Hon. B. A. MURPHY—In essence, the arguments of members of the opposition parties against land rights for Aboriginals are simply arguments for the rights of mining
companies. For some reason, mining companies throughout the country want to fight Labor Party policies and Labor Governments in different States on a philosophical basis.

The Hon. W. R. Baxter—They want a fair go.

The Hon. B. A. Murphy—These people believe they are free to walk onto anyone's land and take that land. They do not understand that Aborigines had prior control of that land—that land was their land.

The Hon. A. J. Hunt—I said all that!

The Hon. B. A. Murphy—The Bill proposes to return to the Aborigines part of the land that once belonged to them. It is based on social justice and equity and has nothing to do with discrimination. All honourable members know the history of these areas and that at one stage Aboriginal people were herded from one area to another in different camps—Lake Condah was one of those camps—before 1917 and I believe land was sold off to white soldiers after the end of the first world war. Aborigines were not given the chance to purchase that land.

The Labor Party is giving this land back to Aborigines now. They want to tie it up in their own way. They have had many discussions with the Government, and I pay tribute to those who have negotiated with the Aboriginal people because their discussions resulted in a Bill that is supported by the Aboriginal people.

The Hon. A. J. Hunt—That is not so.

The Hon. B. A. Murphy—The land will be controlled by the Aborigines, not by white people. The Opposition cannot understand. The Opposition wants all people to have clear titles to their properties, so that the properties can be bought or sold, and so on. The Aboriginal people do not want to do that.

I refer the House to the Lake Tyer's trust. It had a major weakness in that only a few Aborigines have control of the trust. I will give some credit to the Opposition—it was a first time, and I suppose that it was a try.

The Hon. A. J. Hunt—That is right. I hope we have all learned from it.

The Hon. B. A. Murphy—Mr B. J. Evans, the honourable member for Gippsland East in the other place, had been critical of events that have occurred at Lake Tyers. The Lake Tyers trust establishment was messy and confusing for the Aboriginal people. The shareholding arrangements simply did not work. They led to some people thinking that they had shares when they did not and there were disputes over who was able to vote. The Liberal Party of the day was unable to come to terms with Aboriginal culture. It was unwilling to come to terms with it. The Aboriginal Land Act 1970 is living testimony to the ineptitude of the Liberal Government. Mr Hunt has not come to terms with Aboriginal culture.

The Hon. A. J. Hunt—It was a leading Bill in its day, but I hope we have learned from it. We would want to improve on it.

The Hon. B. A. Murphy—The Labor Party believes all Aboriginal people should share in that land and have the benefit, rather than a few being given some handouts.

I refer to the issue of road closures. That is another misunderstanding of members of the Opposition. I am not sure whether Mr Hunt has been down there.

The Hon. A. J. Hunt—I have.

The Hon. B. A. Murphy—I am sure he understands about the roads.

The Hon. R. M. Hallam—Have you been down there?

The Hon. B. A. Murphy—Yes.

The Hon. R. M. Hallam—Have you talked to the shire about the roads?
The Hon. B. A. MURPHY—I have been there. I have seen worse. There is a north-south road about which the opposition parties are not arguing.

The Hon. A. J. Hunt—No, but it will need to be reopened in time—the local community will need it.

The Hon. B. A. MURPHY—The other road—the opposition parties have difficulty with the road on the northern boundary.

The Hon. A. J. Hunt—Yes.

The Hon. B. A. MURPHY—I suggest that the road on the northern boundary is not a road at all; rather, it is a track. It has a gate across it and from there on it looks like an open paddock.

Why does the Liberal Party want a road there? The Aboriginal people do not want a road there. The Opposition wants to provide access to that road.

The Hon. R. M. Hallam—There is access there.

The Hon. B. A. MURPHY—There is a gate there.

The Hon. R. M. Hallam—There is access there.

The Hon. B. A. MURPHY—It is a track, and the Aboriginal people living there do not want it to be used as a road.

I invite Mr Hunt and Mr Hallam to visit the area in winter time and see how they go. They will be bogged on that track, just as they will be bogged down with the amendments they propose. At the end of the debate on this measure, the Liberal Party will be sorry for the stand it has taken on the issue, because it will not have the respect of the people if it persists with its amendments. I do not believe one could find the road anyway, because it is not really a clear track.

I should have thought that Liberal Party members in this House would have supported the stand of their counterparts in South Australia. Why is the Victorian Liberal Party so far behind? Its counterparts in South Australia supported that State Government’s legislation. Is it, perhaps, an indication of a shift to the new right in Liberal Party politics in Australia?

It is of real concern to Victoria that there is a strong move by the Opposition against fairness and justice for the Aboriginal people. I understand that out in the community there has always been a feeling of injustice towards the Aborigines; earlier, I gave the House an example of white people prospering as a result of slaughtering and plundering the Aboriginal people.

However, among many white people today there is a feeling of deep shame or a desire to make up past injustices to the Aboriginal people. For others, there is a feeling that we should treat the Aborigines as equals.

The Liberal Party has adopted a policy of self-interest, which favours the wealthy and powerful to the detriment of the weak and disadvantaged. That is the sort of attitude that the Bill seeks to redress. I have listened to the speeches of members of the Opposition, which were vague and did not address the issues of the Bill.

The Bill addresses the three principal issues: recognition of prior occupation and the dispossession and dispersal of the Aboriginal people; it provides secure land tenure in perpetuity for the descendants of the Aboriginal owners in the area; and it contains mining provisions which recognise indigenous rights without detracting from the equity principle.

I find it hard to understand why no honourable member on the other side of the House will support the Bill fully.
The Hon. J. H. KENNAN (Attorney-General)—I suppose one might say that this has been a very depressing session of Parliament for those of us who have wanted to see some progressive legislation; but the depression reaches possibly a record low point when we come to dealing with this important Aboriginal Bill.

By its attitude, the Opposition really betrays a fundamental misunderstanding of the issues and the history of this matter. The history of the matter is such—and when one refers to the history and thinks about it, one notes that the preamble to the Bill does more than state the history fairly and accurately—that it is remarkable that the Aboriginal community in this State has survived at all.

The Government is concerned to address those issues of history and fairness, just as the Social Development Committee, in its unanimous report, was concerned to address issues of compensation for the dispossession and dispersal of the Aboriginal people. That an all-party Parliamentary committee in 1984 had the courage at least to recognise the history that this place is now bucking against when it comes to reading the preamble.

The fact is that, with the European invasion, devastation was wrought upon the Aboriginal people to such an extent that it is true to say that it is remarkable that Aboriginal communities exist in Victoria today which are, in many respects, thriving and looking forward to the future with more confidence than they have had in the past.

Of course, it is an historical and cultural fact that the Aborigines have a special relationship with the land, that is completely different from the Europeans’ relationship with the land and their concept of land.

In relation to the matters raised by the Opposition about freehold, it completely misses the point of the special relationship between the Aboriginal people and the land. Previous speakers from this side of the House have addressed well the mining provisions of the Bill. The fundamental problem with the amendments and the very undermining nature of the amendments proposed by the Opposition is that it wishes to give freehold title and, in doing so, the Opposition indicates that it does not understand issues relating to the Aboriginal people, their culture and the importance and purpose of the Bill.

It is also a great example of double standards because, when one refers to and examines the Act governing Lake Tyers, one notes that freehold title was not given there and that the land title arrangements were not dissimilar from those proposed in this Bill.

It is without doubt the overwhelming wish of the Aboriginal community concerned with this Bill, the Kerrup-Jmara community, that title be given in inalienable form. They do not have a wish for freehold title, and there may be other cases in other areas that the Social Development Committee addressed, such as other forms of compensation and other pieces of land that might be given to the Aboriginal community from time to time, to which the Government has committed itself through its commitment to the implementation of the Social Development Committee’s report relating to the dispossession and dispersal of Aboriginal people, where Aboriginal communities do not have an historical link with the land but where land is given to communities for the general support of those communities, and the title may be looked at differently.

However, in this case, the fact is that the matter falls into the traditional situation and, as has been the case in other places such as in the Northern Territory and in South Australia, it is appropriate that title be given in this form. It is the wish of the Aboriginal community and is absolutely consistent with the whole Aboriginal culture. It fundamentally undermines the purpose of this Bill for the Opposition to come into this Chamber and say, “We are in favour of land rights. We do not like the preamble and we do not want to recognise the history”—I wonder whether they are rewriting the history books, too—“We do not want to know what happened in the past. We do not care about that traditional relationship with the past or about Aboriginal culture or the wishes of the Aboriginal community, but we are in favour of land rights”.

What the Opposition refers to as "land rights" are not land rights in the sense in which those of us who understand these issues would use the phrase. They are not land rights in the sense that the Aboriginal community in this State or this country use the phrase. They are not land rights at all. It is just so much hot air for the Liberal Party to come in here and say that it is in favour of land rights when it wishes to give freehold title, which is quite apart from what it wishes to do to the mining provisions. Freehold title undermines the very concept of traditional land rights and the importance of them to the Aboriginal people.

Is it too much to ask this House, which has not treated the Aboriginal people in this State well in the past 120 or 130 years, that it might pass one Bill with a preamble that accurately reflects the history of the Aboriginal people and gives them what the Kerrup-Jmara people of Lake Condah want, inalienable title? Is it too much to ask? One would not need a big heart, broad vision or to be a person of generosity or imagination to allow this Bill to pass. Do we have that agreement? We do not.

That speaks volumes for the difficulties that this Government faces. If the Commonwealth Government sees fit, on the request of this Government, to exercise its constitutional powers in regard to Aboriginal matters in Victoria, that will occur because the Opposition in this State has taken this utterly insensitive view—and I do not blame Mr Hunt.

Mr Hunt himself is better than the view that has been foisted upon him by his party. If he wants to put his head in the noose, he may, but the fact is that there are repeated calls from the people of this State and this country and from people visiting Australia from other places to do something about land rights and other issues relating to the dispossession and dispersal of the Aboriginal community. If the Government cannot get the Bill through in an acceptable form in this place, it may have to come from another place.

On the motion of the Hon. G. A. SGRO (Melbourne North Province), the debate was adjourned.

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

TRUSTEE (AMENDMENT) BILL

The debate (adjourned from November 19) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Bill deals with the issue of investments that are authorised to trustees. The general law is that a trustee has such powers of investment in a trust fund as are imposed on him or granted to him in the trust instrument, which may be a deed settlement or a will. He is confined to those powers, plus such other powers which are given powers of investment under the Trustee Act.

The Bill proposes to extend those powers in a number of areas. The extensions in one or two areas provide significant changes to the law. Generally, there is the perception that a trustee investment will always preserve the capital, that the capital of the investment, because of the nature of the investment, will always be there for the beneficiary.

Consequently, any trustee investments have tended to be non-speculative so they have taken the form of Government-backed securities and registered first mortgages, where there is a limit to the amount of the security that is lent, and there are a number of other investments that one may generally call gilt-edged securities.

The problem with those sorts of securities is that although the capital is guaranteed and although they generally produce a reasonable amount of income, the capital remains fixed. Therefore, if one has a trust arrangement which continues for a number of years the people who ultimately receive the trust fund will receive devalued dollars.
For example, if a man dies and leaves a life interest to his wife and children and the wife is 40 years of age when he dies, she may live for another 30 or 40 years before the capital of that investment passes to the ultimate beneficiaries, the children. If they are obtaining a fixed amount which is invested over that time the amount will be devalued. For example, if it is $10,000, the amount will be vastly greater today than in 30 or 40 years' time. Consequently, beneficiaries under the trust arrangements may have different expectations of what the investment will bring.

The Hon. H. R. Ward—Mr Deputy President, I direct your attention to the state of the House.

A quorum was formed.

The Hon. B. A. Chamberlain—The Bill introduces a new principle in that, for the first time, investments will be allowed where there will be no guarantee that the capital of the investment will be preserved. This is entering a new area of what is generally called equity investment. I am not saying it is bad, but I am making the point that this is a new principle in this area.

Clause 5 provides new provisions in the principal Act to allow new investments, including mortgage investment certificates; fully-paid ordinary or preference shares; prescribed securities of an approved corporation incorporated in a State or Territory; units or other shares of the investments subject to the trust of a unit trust scheme, if the trustee is a trustee company and, if there is in existence at the time of investment, a trust deed under the Companies (Victoria) Code.

A later provision states that the trustee must obtain advice from an independent expert who holds a prescribed licence under the Securities Industry (Victoria) Code on those matters. In obtaining the advice of the trustee companies and legal and accounting bodies, I have received a range of views.

Generally, the views of the trustee companies are that they should not be required as professionals to have to rely on the reports of outside experts. The Bill provides that they must obtain the advice of independent experts holding a licence under the Securities Industry (Victoria) Code. They point out to me that in Western Australia, where there is a similar provision, an exemption is provided in section 16 (7) of the Trustees Act of that State. It states:

Proper advice is the advice of a person who is reasonably believed by the trustee to be qualified by his ability in and practical experience of financial matters; and that advice may be given notwithstanding that the person gives it in the course of his employment as an officer or servant.

The Western Australian Act provides that although there is the requirement for expert advice it may be an in-house expert. That is not proposed by the Bill.

To give balance to the views expressed by the trustee companies, the Institute of Chartered Accountants in Australia said in a submission to me that although this requirement of the Bill may be onerous in a trust with a large portfolio, it is a responsibility that the trustee must accept if he wishes to invest in such investments. The Opposition has considered this view because the Bill breaks new ground in dealing with equity investments where the mere timing makes all the difference. For instance, this morning Herald and Weekly Times Ltd shares are $8 but tomorrow those shares may be $12 because of a takeover. The reverse situation may apply, something may happen and the shares could drop from $12 to $8. It is the nature of the market.

As I said in my introduction, up to now trustee investments by their very nature have reflected a guarantee that the capital will be there in the end when distribution is made. The proposal to have expert advice is, on balance, not a bad thing and should act in the interests of the beneficiaries.

I wonder whether the Attorney-General is going to take part in the debate or whether the House should close up shop now!
The Hon. J. H. Kennan—It is not all my fault.

The Hon. B. A. Chamberlain—It is a serious piece of proposed legislation which deals with new territory and I ask the Attorney-General to address himself to these issues. The first issue was whether the independent financial expert could be an in-house person and I expressed the view that on balance what the Government proposes is in the interests of the beneficiaries because of the new types of investment. The second issue raised by the trustee companies is that there appears to be no provision which will allow trust company funds to be a source of investment.

As honourable members should know, trust company funds vary in nature depending on the type of investment. Some trust funds are in investments which meet all the requirements of the existing Trustee Act and the companies are saying that in dealing with equity units why not include in that the investments of trustee common funds. The Bar Council has indicated that it considers the Bill to be sensible and practical.

The other issues which have been raised involve the range of investments. The Australian Bankers Association points out that the definition of a bank does not include State banks incorporated in other States. Perhaps the Attorney-General should examine that issue because it is clearly envisaged under the other structures of the Bill that interstate investments will be satisfactory because the Bill has provisions about shares being registered in any State.

A suggested definition is contained in section 14 (1) of the New South Wales Trustee Act which refers to deposits in the Commonwealth Bank of Australia, the Commonwealth Savings Bank of Australia or the State Bank or any bank or corporation prescribed by the Attorney-General by way of notification published in the Government Gazette. Such a proposal would enable the Attorney-General to be selective in those issues.

They are the major issues that are involved in the Bill. The Bill contains safeguards which some trustees will find onerous, but on balance the proposals will be in the long-term interests of the beneficiaries.

The Hon. W. R. Baxter (North Eastern Province)—As Mr Chamberlain indicated, the Bill charts new waters in its amendments to the Trustee Act. I am concerned at the distance the amendments go, because they completely change the concept of trustee investments which, in the past, have always been predicated on the basis that the corpus was being preserved at all costs and that at the expiry of the trust the capital sum would be returned in full.

The Hon. H. R. Ward—Mr Acting President, Mr Baxter’s words are worth hearing and I direct your attention to the state of the House.

A quorum was formed.

The Hon. W. R. Baxter—As I was saying before I was so rudely interrupted by Mr Ward—I do not understand why the honourable member is disruptive when the pressure of time is upon the Chamber—the Bill extends the Trustee Act significantly and trustee investments were previously designed to return the capital fully at the end of the trust. When inflation was not the problem it is at present, that was easy to achieve. Unfortunately, with inflation running at the rate it has over the past decade and the rate at which it appears likely to continue, particularly under the present regime in Canberra, the risk is that at the end of the trust, although the dollar amount will be the same as when the trust commenced, the real value will be significantly diminished.

The amendments address that situation by allowing investments in capital growth projects which would, hopefully, maintain the real value of the corpus. Obviously there are risks with that course of action and, in some cases, losses will be experienced and
beneficiaries will be denied their inheritance, so to speak, in that some investments will be partially or even totally lost.

I sound a warning that trustees will need to be very careful in the placement of investments in the unit trust equities and other investments as allowed by the Bill. The safeguard—if it could be characterised as a safeguard—that those investments could only be made with the approval of a licensed investment adviser under the Securities Industry (Victoria) Code is, in my view, not the safeguard that it is suggested to be.

From my experience in consulting a number of these advisers and from reading the daily newspapers, particularly the section of Monday's *Age* that deals with finance, I find that in fact there are security advisers in this city who will recommend each and every company that is listed in the stock market. It is a matter of opinion and judgment, and those aspects are variable and are subjective judgments. I do not believe the mere fact that a security adviser is given the “okay” is necessarily a tight safeguard. I am extremely concerned that some trusts could well be put at risk if unwise investments are made, whether or not a security adviser has put his imprimatur on the proposal.

The need to obtain the approval of a security adviser will be a bothersome and tiresome requirement for large trustee companies. I believe the Western Australian proposal has merit and ought to be considered, if not now, at least subsequent to the Bill being in operation for a year or two, to ascertain whether it will be a nuisance to the trustee companies who employ these advisers in the normal course of business in the event of it being necessary to go outside to get someone further down the road to give approval.

I am not opposed to the Bill, but I have significant reservations about it. It needs to be carefully handled, not so much by the professional trustee companies, but more by other persons of lesser experience with narrower views of the world who are given trusts to administer and who may not have the experience, foresight and wisdom to do so and at the same time maintain the capital sum.

The motion was agreed to.

The Bill was read a second time.

The Hon. J. H. KENNAN (Attorney-General)—By leave, I move:

That this Bill be now read a third time.

Mr Chamberlain has raised three matters. I thank Mr Chamberlain and Mr Baxter for their comments. I am particularly grateful for the comments made by Mr Baxter and for his competent and expeditious handling of the proposed legislation.

In relation to the matters raised by Mr Chamberlain, I agree with him. I have had those representations about the independents. One does get into the problem of Chinese walls and conflict of interest, which is a huge debate on financial markets these days, particularly the debates regarding the burden of litigation upon financial institutions and the area of trustee companies. On balance I am staying with independent financial advice.

I do realise that this may cause some extra work in some cases, but it is better to err on the side of protection—we can always review it. I shall look at the other matters which Mr Chamberlain has raised.

The motion was agreed to, and the Bill was read a third time.

**CRIMES (CONFOiscATION OF PROFITS) BILL**

The debate (adjourned from November 12) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—This is an important piece of proposed legislation and the Opposition is happy to give its fullest support to the proposals which have been developed on an interstate basis.
The Crimes (Confiscation of Profits) Bill allows courts to make confiscation orders under which the profits of crime and any property used in connection with the commission of the crime may be confiscated. Secondly, it allows courts to make restraining orders freezing suspect property when charges are laid and to issue search warrants for the seizure of suspect property.

It allows registration and enforcement in Victoria of interstate forfeiture and restraining orders. It allows the issue in Victoria of search warrants for the seizure of property which is suspected of being liable for forfeiture under a corresponding law of another State.

The Bill allows for the fact that criminals move throughout Australia and that their assets are owned in different States and that orders that have been made in one State need to be equally enforceable in other States.

The Bill also has other important provisions which allow the police as well as the Director of Public Prosecutions to apply for the destruction of the drugs, and this relieves the officers of the DPP of the burden of having to apply for forfeiture of drugs in all cases. It provides for magistrates to order the destruction of marijuana crops on the spot. In the past, the police have been required to "harvest" crops and bring them before a court before they can be destroyed. This had created considerable practical difficulties.

The Bill amends section 33 of the Summary Offences Act 1966 concerning the offence of possession of property which is reasonably suspected to be stolen or unlawfully obtained. Finally, the Bill provides that a court which convicts a person of the offence of carrying an offensive weapon or of assault with a weapon may order its forfeiture, and this provision was found in a recent case not be included in law. As I said earlier, the Opposition strongly supports these proposals.

Organised crime has been shown by numerous Royal Commissions and other inquiries to be indisputably prevalent and increasingly prosperous in Australia. Further, criminal syndicates do not restrict their profit-making activities to drug trafficking. The problem facing Governments and law enforcement agencies today is clearly one of grave proportions.

Deprivation of the profits of crime, thereby achieving destruction of the prime motivation and inspiration behind illegal activities, is a key element in the fight against organised crime. The sound application of forfeiture provisions will reduce the net take and at the same time reassure citizens that, overall, crime does not pay.

The Opposition trusts that the Bill has a swift passage through both Houses. It hopes also that it will come into operation at an early date. I am unsure whether the Minister's interstate colleagues intend moving swiftly, but they should certainly be urged to do so.

There are a number of technical matters which we believe will cause difficulties with the proposed legislation. However, of its nature, I believe it will be the basis of trial and error and I have no doubt in the New Year we shall be considering some amendments. The Opposition wishes the proposed legislation a speedy passage.

The Hon. W. R. BAXTER (North Eastern Province)—On behalf of the National Party I also commend the Government on the Bill and I wish it a speedy passage. It is certainly a welcome initiative, and I hope it will help to demonstrate that crime does not pay and enable some of the Mr Bigs of the crime world who have been able to make massive rakes-offs from their illegal activities to be denied some of those ill-gotten gains either by way of confiscation or because of the pecuniary orders which the Bill provides for.

I know the Attorney-General in his second-reading speech said Victoria will be the first State to pass the proposed legislation. I am not 100 per cent certain that that is so because I noticed a report in a newspaper recently saying that Mr Justice Yeldham used the New South Wales Act which goes by the same name to confiscate a BMW motor car from a citizen who had been convicted of an offence.

That demonstrates that the courts are ready and willing to use such legislation. There is no doubt that with the passage and proclamation of this Bill many similar examples will be seen in Victoria.
The Bill does not apply only to crimes relating to drugs. The drug scene may have been the impetus for the proposed legislation but the Bill is far wider than that and refers to crimes and convictions more generally. I do not oppose that approach. The Bill will be a useful addition to the armoury of authorities to fight crime in Victoria.

The motion was agreed to.

The Bill was read a second time.

The Hon. J. H. KENNAN (Attorney-General)—By leave, I move:

That this Bill be now read a third time.

In so doing, I thank Mr Chamberlain and Mr Baxter for their particularly speedy and expeditious support.

The motion was agreed to, and the Bill was read a third time.

LISTENING DEVICES (AMENDMENT) BILL

The debate (adjourned from November 20) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition is happy to support the Bill, although it has three concerns about it which I shall later spell out to the House.

The Listening Devices Act 1969 restricts the use of listening devices to record private conversations and permits a magistrate to approve the use of a listening device to record a private conversation by a police officer acting in the course of his duty.

The objects of the Bill are firstly, to remove the power of magistrates to authorise the use of listening devices; secondly, to provide that all approvals to use a listening device are to be by warrant issued by a Supreme Court judge; and, thirdly, to provide that warrants may be granted for all offences and may authorise entry on to private property to install a listening device.

Fourthly, when determining whether to grant a warrant, a judge must take into account evidentiary and privacy considerations. Fifthly, a person to whom a warrant has been issued must report to the Minister for Police and Emergency Services on the use made of the listening device. Sixthly, regulations must be made to permit a County Court judge or a magistrate to grant a warrant in prescribed circumstances.

The concerns that the Opposition has about aspects of the Bill are threefold. The Attorney-General is taking away the power of magistrates to authorise the use of listening devices; secondly, to provide that all approvals to use a listening device are to be by warrant issued by a Supreme Court judge; and, thirdly, to provide that warrants may be granted for all offences and may authorise entry on to private property to install a listening device.

It is obvious that an application for a warrant will not be made in open court or in a practice court because of its very confidential nature. There must be an opportunity of making recourse in appropriate circumstances to a Supreme Court judge on a round the clock basis.

Often the need to install a listening device will occur after normal hours, so honourable members must ensure that judges are available to allow that to take place. It is my view that the warrant should be issued by a magistrate, a Country Court judge or a Supreme Court judge and that to leave it to a Supreme Court judge is too restrictive. I am also uncertain whether a Supreme Court judge will be readily accessible.

The second issue involves clause 7 which inserts a new section 4A in the principal Act. Proposed section 4A (8) states that regulations may provide that the powers of the Supreme Court to grant warrants may be exercised by the County Court or a Magistrates Court.

I would like an assurance from the Attorney-General that the regulations will be flexible in that area and that the police will not be frustrated because of the non-availability of a
judge of the Supreme Court. The authorities must have the ability to provide warrants at short notice, 24-hours of the day, seven days a week.

The next matter is provided for in new section 4A (4), which states that a warrant granted by the Supreme Court shall not be in force for more than 21 days. That is a restrictive provision and I refer the House to a case cited to me by a police officer.

It is possible that when the police wish to install a listening device, the premises are vacant and the person the police wish to bug may not be in those premises for another month. That person might be overseas on a trip, or might be involved in bringing drugs into the country. It is nonsense for a listening device to be approved for only 21 days. There is no reason for that limitation and I invite the Attorney-General to change 21 days to 60 days.

The Hon. J. H. Kennan—Twenty-one to 60?

The Hon. B. A. Chamberlain—Let us assume that premises are suspected of being used by drug couriers. If the police know that the drug couriers are overseas, they can install the listening device, but the persons may not come back for 21 or 30 days and the police would be required to go back to the magistrate or judge for another warrant.

The Hon. J. H. Kennan—They would have to; the quality of these things deteriorate!

The Hon. B. A. Chamberlain—The type of listening devices now available are sophisticated; they do not deteriorate and could be installed indefinitely. The Government has accepted the principle of providing an important power to the Police Force but has decided to hamstring it by imposing a restriction of 21 days, which I do not believe is contained in the Act.

The third concern of the Opposition is that under new section 4A (4) (g) a report is required to be made to the Minister for Police and Emergency Services. What is that meant to achieve? The report should be made to someone who is at arms-length from the Police Force.

I would be happy for the Attorney-General to take that monitoring responsibility, or perhaps he has some other suggestion. The Minister for Police and Emergency Services should not be involved in this issue. Having said that, the Opposition is happy to support the Bill.

The Hon. W. R. Baxter (North Eastern Province)—The National Party supports the Bill to the extent that it overcomes what has been demonstrated to be an anomaly in R v. Biddlestone. Notwithstanding the fact that the police officer had permission in that case to install a listening device, he did not appear to have the right to enter private property to make the installation. It is obvious that one goes with the other and it is clear that that anomaly ought to be corrected.

I place on record the National Party's support for the use of listening devices to assist in the apprehension of criminals. The police and society in general must use every means at their disposal to apprehend wrongdoers. Such people have no qualms about using whatever avenues are open to them to evade the law, disrupt society and cause serious detriment, by way of either injury or financial difficulty, to other citizens.

I have no reservations about the use of listening devices in apprehending criminals, and I believe increased surveillance in general needs to be used with other matters such as workers compensation and motor accident fraud. I know the Government has been a little reluctant to allow the use of surveillance in those instances, and I deplore that.

The matters raised by Mr Chamberlain have validity. One would want to be certain that Supreme Court judges will be reasonably accessible to issue warrants. It has been brought to my attention that magistrates have been notoriously reluctant in the past to issue warrants for listening devices. They perhaps felt that that was not within their scene. That may be the reason for going to the Supreme Court. I would not want police activity
to be constrained by the inability of the police to obtain a warrant at an odd hour of the day.

The matter of the 21-day life of the warrant had not been put to me, but Mr Chamberlain has made out a scenario where 21 days would obviously be insufficient, and I hope the Attorney-General will take on board that comment. Perhaps the Bill can be amended to give effect to a more realistic period. The National Party believes the Bill ought to be passed expeditiously.

The motion was agreed to.

The Bill was read a second time.

The Hon. J. H. KENNAN (Attorney-General)—By leave, I move:

That this Bill be now read a third time.

Mr Chamberlain wants an assurance that the regulations will be flexible. I give that assurance. It would be pointless to have regulations that were not flexible.

Mr Chamberlain asks me to consider extending the 21-day period. That period has operated successfully in New South Wales, but I am prepared to review it.

The Hon. B. A. Chamberlain—Why don’t you make it 45 days?

The Hon. J. H. KENNAN—I am not persuaded that that is necessary. However, I shall consider the matter.

On the question of reporting to the Attorney-General, certainly the report is to the Attorney-General in New South Wales, but, as the Minister for Police and Emergency Services is responsible for the administration of the Police Force, I think the report should be made to him. There may well be matters arising about the effective administration of the Bill in which that Minister will be interested, and there may be problems with it. If there are problems, the report should go to him.

I do not think there is real concern on the matter or any real need for a particularly independent Minister to supervise what happens. It is not an area of any great cause for concern; it is merely a reporting mechanism, and it is sufficient that the reports be provided to the Minister who is responsible for the Police Force. No doubt he will advise me if problems arise with the operation of the Bill.

I thank Mr Baxter and Mr Chamberlain for their expeditious handling of the measure.

The motion was agreed to, and the Bill was read a third time.

**TRANSPORT ACCIDENT BILL**

This Bill was received from the Assembly and, on the motion of the Hon. J. H. KENNAN (Attorney-General), was read a first time.

**EDUCATION (AMENDMENT) BILL**

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

Clauses 2 to 6 were agreed to.

Clause 7

The Hon. HADDON STOREY (East Yarra Province)—Clause 7 deals with the method of appointment of members of the Teachers Registration Board that is established by the Bill. I pointed out in the second-reading debate that the Opposition believes the teacher representatives on that board ought to be elected by teachers rather than being appointed
on the nomination of the Teachers Federation of Victoria. The Opposition believes there ought to be elections at which anyone can be fairly elected. I move:

1. Clause 7, page 2, lines 34 to 35 omit, all words and expressions on these lines and insert—

"(c) six are to be teachers elected from and by teachers or groups of teachers in State schools."

In explanation of why the amendment refers to "teachers or groups of teachers", I point out that there are currently three divisions: the primary, secondary and technical divisions. It is expected that there will continue to be those three divisions for some time, but most people can foresee that the secondary and technical teachers are likely to be merged into one division as the community gets more post-primary schools, whatever they may be called. When that comes about, it will be logical to have teachers appointed from that new division.

I have discussed this matter with the Minister's representative and with Parliamentary Counsel. It is believed that, by adopting this form together with some subsequent amendments, it will be possible for the Government to declare what groups of teachers and what numbers of teachers ought to be elected from each group so that, under the regulation-making power, the actual machinery for the election can be established.

It is anticipated that to start with there will be two teachers from each of the three divisions to be elected. If those divisions are changed subsequently, there will be a change in the composition of the board.

In moving this amendment, I seek assurances from the Minister. However, as they relate to the whole clause rather than the specific amendments I shall refer to them later.

The Hon. B. P. DUNN (North Western Province)—During the second-reading debate, I raised similar issues on this clause. The Teachers Registration Board to be constituted by the Bill will be an exceptionally important body. It will represent the interests of teachers across the three divisions of schools. The National Party expressed concern during the second-reading debate that the six representatives were to be nominated by the Teachers Federation of Victoria. The concern was that a section of the Teaching Service would not get a say in the choice of people that would be representing its interests and that these positions should not be nominated by teacher unions but be elected. That is a consistent principle that the National Party applies, not just to teachers but to all bodies of people who work in particular fields and are entitled to the right to elect representatives in their fields.

The Hon. M. J. Sandon interjected.

The Hon. B. P. DUNN—We are being consistent, Mr Sandon. We do not object to marketing boards and a whole range of representative positions that the Government, the Minister and the departments may have on those boards.

With the Teachers Registration Board, when one gets down to the point of who will appoint the people to represent those in the particular field, be it teachers, farmers or whatever, it is up to them to have an input in that decision.

The Hon. M. J. Sandon interjected.

The Hon. B. P. DUNN—A section of every board is made up of various representatives but, in the case of the selection of representatives for teachers, farmers or whatever people in the field it might be, those people should have the right to elect their representatives.

The election itself is democratic and it gives every teacher the right to have a say. The National Party supports the amendment.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Storey's amendment is not opposed by the Government. It substitutes a new paragraph (c) in the Bill which provides that the six teacher representatives on the registration board are to be elected by teachers or groups of teachers in State schools rather than be nominated by the Teachers Federation of Victoria.
Although the Government does not oppose the amendment, it does not believe the expense that will be incurred by that electoral process will be warranted by the outcome. In the Government's view, it is overwhelmingly probable that the same six persons will be appointed to the board, whether they are nominated by the federation or elected by teachers in State schools on a ticket run by the federation. We do not believe there will be a different result. However, we do believe this procedure will cost a good deal more.

The six members concerned will be two from each of the divisions. If six were to come from the one source, I do not think more than one of the federation nominations in the election would be in that six, if I can put it that way. This is such a case, but in this instance, where it is two teachers from each division and the two nominated by the Teachers Federation of Victoria also must go to election, and anyone else who wishes to, it is our view that the two would be the two who would have been nominated by the federation anyway. Expense will be incurred in holding an election.

Nevertheless, I make the point that the amendment is not opposed by the Government.

The Hon. HADDON STOREY (East Yarra Province)—I do not want to start an argument and cause the Minister to change his mind about not opposing the amendment but I cannot let his comments pass. The Minister's comments are similar to the view expressed by the Government at the last election that the Government would have a majority in this House. It turned out that the Government was wrong. I suggest it might be just as wrong to make the assumption that the six people who would have been nominated by the federation would have been the six people elected. My information is that there is already serving on one of the boards a person who was not nominated by the particular union and who came second in the election. If that is so, there is every possibility that if an election is held to elect two, somebody other than the two nominated by the federation may be elected.

Surely we are talking about democracy. Without this amendment all teachers who are not members of the federation or other elements of unions would be deprived of any opportunity to be elected. We welcome that opportunity.

The amendment was agreed to.

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

2. Clause 7, page 3, line 8, after “Education” insert “or in the case of a member appointed under sub-section (1)(c) if the member ceases to be a teacher in a State school”.

This is a consequential amendment. In the event of a member ceasing to be a teacher at a State school, that member ceases to be a member of the board.

The amendment was agreed to.

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

Clause 7, page 3, line 12, omit all words and expressions on this line and insert “under sub-section (1)(b) or (1)(c) to be a Deputy Chairperson on the recommendation of the Minister after consultation”.

This amendment will allow the deputy chairperson to be appointed by the Governor in Council from either the elected members of the board or the members nominated by the Minister. The Bill currently provides for the deputy chairperson to be selected from only members of the board nominated by the Minister.

Although the selection would occur after consultation with the Teachers Federation of Victoria, the assurances given by the Minister in another place and the assurances I gave earlier about the position of the chairman are equally applicable here.

It will be the Government’s intention to reach agreement with the Teachers Federation of Victoria but the Government will reserve its power to ensure that the best qualified member is appointed as the deputy chairperson.
The Hon. HADDON STOREY (East Yarra Province)—The Opposition supports the amendment and thanks the Minister for the assurance. It also commends the Government on the fact that the amendment drops the statutory requirement to consult with the Teachers Federation of Victoria.

We understand, of course, that the Minister will consult with the federation, as indeed would the Opposition if it were in government. However, it is comforting to know that it is not a statutory requirement.

The amendment was agreed to.

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

3. Clause 7, page 3, line 20, after this line insert—

“(9) The Governor in Council may by Order published in the Government Gazette declare the groups of teachers and the number of teachers to be elected from and by each group for the purposes of sub-section (1)(c).

(10) If, for any reason, a member to be appointed under sub-section (1)(c) is not elected within four months after a request from the Minister to do so, the Governor in Council may appoint any teacher in a State school as a member and that member is to be treated as being properly appointed for all purposes.”.

This is another consequential amendment to my amendment No. 1. It is necessary to make the system work to declare the actual number of groups of teachers and the number of teachers to be elected from each group. This amendment will allow that and will also allow the appointment of somebody by the Minister if for some reason the election does not proceed and no elected person is able to be appointed.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The amendment provides a new subsection 9. It was the Government’s intention to seek initially an order that provided that two of the representatives to be elected be elected by primary teachers, two by high school teachers and two by technical school teachers.

The Government does not wish to enshrine this in legislation as we are hopeful that in the not too distant future high and technical schools will be amalgamated as comprehensive secondary colleges. When this occurs, the balance of representation will be able to be altered by order.

Having made those comments, I should add that the Government supports the amendment.

The amendment was agreed to.

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

4. Clause 7, page 4, line 20, after “nominated” insert “or elected”.

The amendment is purely consequential.

The amendment was agreed to.

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

5. Clause 7, page 4, line 25, after this line insert—

“(5) An election of three deputies is to be held in conjunction with an election for an elected member.

(6) If the deputy of an elected member is not available and capable of acting as a deputy the Governor in Council may appoint a person as deputy even though the person has not been elected.”.

This carries through the same concept to the deputy members as applies to the members of the board.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This amendment is also accepted by the Government as consequential to Mr Storey’s first amendment. The proposed new subsections provide that elections for deputy members will be held simultaneously with elections for full members. There is also provision for
the appointment by the Governor in Council of what may be described as an acting deputy in the event that an elected deputy is not available to act or has not been elected.

The amendment was agreed to.

The Hon. HADDON STOREY (East Yarra Province)—Before the Committee considers clause 8, I seek assurances to which I referred earlier from the Minister. The Minister has covered all of the assurances except two—the position concerning the six members who are to be officers of the Ministry of Education and to be nominated by the Minister. I understand that the Minister in another place gave an assurance that some principals would be included among those six officers and that consideration would be given to appointing a representative from the post-secondary education area. I ask that consideration be given to those points.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—If I remember correctly, during the second-reading debate Mr Dunn also asked for a similar assurance with respect to principals. The first assurance that is requested is that there be a number of school principals included in the six board members to be nominated by the Minister for Education.

The Minister for Education stated in the Legislative Assembly that, although he was not prepared to have the Bill prescribe that principals would be included among his six nominees, principals will be among the six. He gave that assurance and I repeat it in this House. That request was specifically made by Mr Dunn in addition to Mr Storey.

Mr Storey also asks whether the Government will appoint a representative of higher education institutions among the Minister’s six nominees. The Government is aware of the important role that teacher training institutions play in the preparation and training of teachers seeking registration, and I am informed by the Minister in another place that he will give serious consideration to the nomination of a person who can bring to the board the perspective of the State’s teacher training institutions.

The clause, as amended, was agreed to.

Clause 8

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

6. Clause 8, line 41, omit “(pa),”.

7. Clause 8, line 41, after this line insert—

“( ) For section 82 (pa) substitute—

“(pa) the election of teachers to the Teachers Registration Board under Part IIIA.”.

The amendments simply enable regulations to be made to allow the election of teacher representatives as is now required by clause 7.

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

New clause

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

8. Insert the following new clause to follow clause 8:

Saving of existing boards.

“A. Despite anything to the contrary in section 20 of the Education (Amendment) Act 1984 the members of the Registration Boards established under Part IIIA of the Principal Act immediately before the commencement of this section will continue to hold office until 30 June 1987.”.

The purpose of the new clause is to allow time for elections to be held to select the members of the board or the election of teacher representatives. Without the new clause, the existing board would go out of existence until the end of this year but this new clause will enable them to continue in office until June 1987, by which time arrangements should
have been made for the election of teacher representatives for the new board and its
appointment.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The new clause
is a facilitating one. That is remarkably sensible and the Government agrees with it.

The new clause was agreed to.

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

SHOP TRADING (TEMPORARY PROVISIONS) 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.

This is a short and simple Bill which provides for additional shopping hours before
Christmas this year. The Bill provides for trading until 5.00 p.m. on Saturday, 13 December,
and Saturday, 20 December 1986.

The Government has received approaches from major Victorian retailers and from the
Shop, Distributive and Allied Employees Association representing shop workers, proposing
special arrangements in relation to shop trading hours during the Christmas period,
arrangements which in part are dependent on the legislative changes proposed in the Bill.

As a further part of these arrangements, but not covered by this Bill, major retailers
have also advised the Government that they would not
be
opening their shops on Saturday
morning, 27 December, thereby giving their employees a four-day break over the immediate
post-Christmas period.

It should be emphasised that this special purpose measure does not oblige any retailer,
large or small, to open any additional hours on the two Saturdays before Christmas and
nor does the Bill require retailers to close on Saturday morning, 27 December.

The general provisions of the Labour and Industry Act require most Victorian shops to
close at 1.00 p.m. on Saturdays. This Bill will override that requirement on the two days
concerned.

The special provisions will also extend to retail bottled liquor licences under the Liquor
Control Act, allowing bottleshops and supermarket liquor sections to close at 5.00 p.m. on
these two days.

The only area not embraced by the proposed extension of hours is the case of butcher
shops. Honourable members will be aware of the special circumstances of the meat
retailing industry. Its hours are regulated differently from those of other shops, the industry
has different work practices and it is covered mainly by Federal rather than State awards.

In addressing this issue of additional pre-Christmas shopping hours the prime concern
of the Government has been to provide further convenience to the Victorian public during
what is traditionally the year's busiest shopping period as well as providing a further
stimulus to the State's economy. I commend the Bill to the House.

On the motion of the Hon. R. S. de FEGELY (Ballarat Province), the debate was
adjourned.

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

EMERGENCY SERVICES SUPERANNUATION 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.
Early in its first term the Government referred all aspects of public sector superannuation to the Economic and Budget Review Committee. After its inquiry the committee in 1984 made many valuable recommendations on restructuring the very large number of superannuation plans, and improving their management and performance.

The central recommendation was that a single superannuation scheme should be established for all new public sector employees. The Government accepts that significant restructuring of public sector superannuation is necessary. It has, however, decided that, instead of a monolithic scheme, there should be about nine schemes, each covering a public sector "industry" such as electricity, transport or local government.

The Bill introduces the first industry scheme—the Emergency Services Superannuation Scheme—which, as a result of lengthy industrial negotiations preceding this Bill, has already become known by its acronym ESSS. The scheme will cover police, including reservists, officers of the Metropolitan Fire Brigades Board and Country Fire Authority, permanent officers of the Department of Conservation, Forests and Lands who are employed full time in operational fire protection duties, and employees of ambulance services.

At present, police, Country Fire Authority and Department of Conservation, Forests and Lands officers contribute to the State Superannuation Fund. Metropolitan Fire Brigade Board officers are members of a separate fund which was severely criticised by the Economic and Budget Review Committee because it was actuarially insolvent.

About half of all ambulance officers now contribute to the Hospitals Superannuation Fund; the others for one reason or another have not taken the opportunity to join. As the Government believes all its employees have a right to superannuation it is hoped that those officers will find it worthwhile to join ESSS.

ESSS clearly illustrates two of the Government's major reasons for preferring a number of industry schemes. The first is meaningful employee representation on the board directing the scheme. The Emergency Services Superannuation Board will consist of three Government nominees and three elected contributors from the police, firefighters and ambulance officers respectively. At present, because police and ambulance officers are outnumbered by other employee groups in their superannuation schemes they have no direct board representation.

I should add in passing that the provisions of the Bill in relation to board structure and procedure are in line with the new Commonwealth operational standards for private sector occupational superannuation schemes.

The second reason for preferring separate industry schemes is that they will allow benefits to be tailored to reflect variations in employment conditions and practices across industries. Important differences can be recognised without disturbing the basic benefit structure. It will still be possible to transfer benefits when an officer's career path leads from one public sector industry to another.

The special feature of emergency services employment addressed by ESSS is the arduous nature of duties, and the consequent need to provide operational officers with realistic options for early retirement. Under their present schemes, police and Metropolitan Fire Brigade Board firefighters can retire up to five years earlier than other public sector employees but the superannuation benefits then provided are not always sufficient to make early retirement a practical option.

The benefit and contribution structure for ESSS is not set out in the Bill, but will be covered by regulations. This approach has been taken on the advice of Parliamentary Counsel. It will overcome the seemingly continual need for legislation to amend the various superannuation Acts in order to accommodate changes in taxation, social security and other conditions. Contributors will, however, be protected by a specific provision, again consistent with new Commonwealth standards for the private sector, that
amendments to regulations may not detrimentally affect benefits which have accrued in earlier years of service.

An appendix to the explanatory memorandum accompanying the Bill contains a summary of the benefit and contribution options it is proposed to offer emergency services employees. They reflect four basic features of the recommendations of the Parliamentary inquiry:

(1) Most benefits will be lump sums of a multiple of final salary, based on years of contribution;

(2) Disability benefits will be non-commutable pensions, and there will be provisions to prevent "double-dipping" with WorkCare income benefits;

(3) Officers will be offered a choice from a range of contributions, with commensurate benefits, which will enable them to purchase the level of superannuation they consider most appropriate to their own family needs; and

(4) On resignation there will be a graduated scale of vesting of employer contributions, with the employee having the option of preserving an accrued benefit.

The proposals differ somewhat from the recommendations of the Parliamentary inquiry partly because ESSS will incorporate from its commencement the Government's response for emergency services employees to the productivity case. More importantly, however, they embody the fundamental principle of ESSS that an operational staff member of any of the emergency services may elect to pay extra contributions in order to be able to retire early at an age somewhere between 50 and 60 with a maximum retirement benefit.

Emergency services employees who now contribute to existing superannuation funds will have the whole of 1987 to decide whether to remain in those funds or transfer to ESSS. It is expected that most will transfer, because of the greater flexibility of the new early retirement conditions and the preference of the Australian community in general for lump sum rather than pension benefits on retirement.

Proposed terms for transfer have been negotiated so that the present values of liabilities for past years of employment, whether funded or unfunded, will be substantially unchanged.

The substitution of lump sums for pensions will, however, accelerate the payment of retirement benefits. Because some existing liabilities, particularly in the State Superannuation Fund, have not been funded, the Bill authorises the Emergency Services Superannuation Board to borrow funds on terms and conditions approved by the Treasurer. These loans will have to be repaid by the Consolidated Fund over future years. In other words the current commitment of the Consolidated Fund to reimburse a stream of indexed pension payments for retired police will be replaced with an obligation to service and repay precise amounts of debt. Part of the previous unfunded liabilities of the State Superannuation Board will appear as a debt in annual accounts of the Emergency Services Superannuation Board.

The precise costs to employers of funding ESSS benefits which accrue in future years cannot be determined until the number of officers electing to transfer, and their choices between optional levels of contributions are known. Actuarial estimates are that the required employer contributions will lie within a range of 2·5 to three times the contributions by employees. For employers not wholly financed from the Consolidated Fund these future superannuation costs will be funded, with separate accounts being kept for each group of employers.

The Emergency Services Superannuation Scheme represents the first major step by this Government, in consultation with unions and employee organisations, to restructure public sector superannuation on a coordinated basis. 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.

MOTOR CAR TRADERS 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.

Before the commencement of the Motor Car Traders Act in 1973, unethical and dishonest practices were rampant in the retail motor vehicle industry, especially in the used car sector.

Although the Act has successfully curbed the major abuses, neither its licensing powers nor its specific consumer protection provisions are adequate. These shortcomings have been present in the Act since its enactment and it has been left to this Government to introduce these wide ranging reforms.

As a first step administrative changes were introduced last year which had the full support of the Motor Car Traders Committee and the industry. These changes strengthened the licensing and the disciplinary focus of the committee.

The Bill is the outcome of a comprehensive process of consultation with industry organisations and consumer interest groups. The main features of the Bill were canvassed in a discussion paper released last year and a number of valuable submissions were received and considered in its preparation.

The objectives of the Bill are to ensure that people who wish to trade in motor vehicles are fit and proper and that they will deal with the public in ways which are fair and reasonable. Particular attention has been given to putting in place provisions which will ensure that the rights of purchasers are protected and, where necessary, enhanced.

In meeting these objectives, the Government has been conscious of the need to avoid unnecessary or onerous regulation. It has sought to balance the often conflicting and competing requirements of motor car traders and consumers in a way which provides for efficient procedures and optimum protection for all parties.

The licensing provisions have been amended so that they accord with the procedures established under the credit Acts. No longer will there be the potential for a conflict of interest between licensing responsibilities and complaint handling. Under this Bill the Motor Car Traders Licensing Authority will be able to concentrate its attention on licensing matters. This reflects the model successfully established under the credit legislation.

The Ministry of Consumer Affairs will conciliate complaints between licensed traders and consumers and will be responsible for the enforcement of the legislation.

Disciplinary powers under the current Act are totally inadequate. The Bill will significantly expand the authority's powers in this area. There is also provision for the Director of Consumer Affairs or the Chief Commissioner of Police to object in writing to the granting or the holding of a licence stating the reasons for their objection. This will enable the licensing authority, at any time, to take immediate action against a disreputable trader if this is required.

The Bill also introduces major advances in consumer protection by prescribing the terms and conditions to be used in contracts for the sale of second-hand vehicles. The Government intends that this contact will be expressed in plain English.

Another major advance in consumer protection is the introduction of a cooling-off period on the sale of used cars. In general terms, the cooling-off will allow consumers three business days in which to reconsider a purchase. The Bill enables consumers to opt out of the cooling-off provisions in particular circumstances. The Government believes these
provisions will safeguard those consumers who are vulnerable to high pressure sales tactics used by unscrupulous traders and who enter into binding contracts they can ill afford.

The Bill outlaws the sale, by licensed motor car traders, of unregistered and unroadworthy cars except in special circumstances. In this regard the Bill complements the Road Safety Bill introduced by my colleague, the Minister for Transport.

Another practice which causes concern to consumers and the industry is odometer tampering. The Bill prohibits this practice and provides for considerable penalties on conviction. It is, however, extremely difficult to prove this offence because of the number of people—employees of the trader, repairers, panel beaters and so on—who have possession of the vehicle even though it is still under the control of the trader. For this reason clause 38 (2) provides for reverse onus of proof. Honourable members should note that this subclause is the same as section 29 (2) of the Act, which has been of considerable value in mounting successful prosecutions for odometer tampering under the current Act.

The Motor Car Traders Guarantee Fund has been retained; however, to ensure there is no bias in the payment of claims, a separate committee is to be established to administer the fund and to determine claims.

The penalties under the Act are totally inadequate particularly for serious offences such as unlicensed trading and odometer tampering. This has been a matter of community concern and consequently the level of penalties has been significantly increased.

The Bill represents a well considered and balanced piece of reform. It is fully in line with the Government’s social and economic objectives. It will advance the interests of both consumers and honest traders. It marks another important step in achieving the Government’s objective of a fairer market place for Victorians. I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. G. P. CONNARD (Higinbotham Province), the debate was adjourned.

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

SALE OF GOODS (VIENNA CONVENTION) BILL

For the Hon. J. H. KENNAN (Attorney-General), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

PURPOSE

This Bill seeks to enable the Commonwealth to accede to the United Nations Convention on contracts for the international sale of goods, commonly known as the Vienna Convention. It also seeks to make amendments about the requirements under Victorian law that certain contracts and agreements be in writing. These amendments will bring some Victorian laws into line with the relevant provisions of the convention.

BACKGROUND

The Vienna Convention provides a standard set of legal principles which govern certain international contracts for the sale of goods. The convention applies to the sale of certain goods over international boundaries where the place of business of the buyer and seller are in countries which are parties to the convention. The convention, which applies unless the parties to the agreement indicate otherwise, governs such matters as how the contract is formed, how the contract may be terminated and the rights and obligations of both buyer and seller under the contract. In the absence of the convention, the law which would apply would be determined by the application of the complex and uncertain rules of private international law and, in part, by the relative bargaining power of the parties to the contract.
The convention was opened for accession at Vienna in 1980. The terms of the convention were approved by the representatives of 62 countries. By March of this year, eight countries had either acceded to or ratified the convention. A further seventeen, including the United States and a number of European countries, had signed but not ratified the convention. A number of these countries are expected to ratify the convention in the near future.

During 1984 the Standing Committee of Attorneys-General resolved that Australia should become a party to the convention. As most of Australia's major trading partners were expected to become parties to the convention it was believed that accession by Australia would add greater certainty to transactions for the sale of goods involving Australians. The Commonwealth first announced its intention to accede to the convention at the United Nations in November 1984. It has since indicated that it wishes to accede to the convention during 1987, but will not do so until legislation, if any, about the convention is in place. By acceding to the convention at this time, Australia will be giving a lead to other countries in the Asian-Pacific region.

As the convention differs in some respects from the relevant laws in force in Australia, legislation will be necessary. For instance, the convention does not require that the contracts to which it applies be in writing. Under Victorian law, certain contracts can only be enforced if in writing. The convention also only allows a party to a contract to rescind the contract where there has been a fundamental breach of contract which substantially deprives a party of what they were entitled to expect from the contract. Under Victorian law, a party can rescind a contract where the other party is in breach of a condition. Without legislation, there would be some uncertainty about how the convention would apply given these differences from the laws in force in Victoria and in other States.

The Standing Committee of Attorneys-General also decided that the legislation implementing the convention should be State and Territorial legislation. Even though the Commonwealth could legislate to implement the convention under its external affairs power it was felt that the States and Territories should be responsible for implementing the convention, because they have traditionally legislated about the sale of goods. The addition, at the Federal level, of a further tier of laws about the sale of goods would only serve to confuse and complicate.

A draft Bill to implement the convention has been agreed to by all States. A Bill in substantially the same terms as the Bill before the House is being introduced into the Parliaments and the legislatures of each State and Territory with a view to allowing the Commonwealth to accede to the convention during 1987 in accordance with the statements it has made to the United Nations.

**MAIN PROVISIONS**

The Bill declares the convention to be part of the law of Victoria. It states that the provisions of the convention prevail over any inconsistent laws in Victoria to the extent of the inconsistency. The Act is expressed only to come into force once the Commonwealth has acceded to the convention. The Act is also expressed to bind the Crown.

The Bill also seeks to remove requirements in the Instruments Act 1958 and the Goods Act 1958 that certain contracts must be in writing if they are to be enforced. These requirements have been on our statute book in various forms since 1864 and can be traced back to the English Statute of Frauds of 1677. By removing these requirements, Victorian law will be consistent with the convention which, as I have indicated, does not require that the contracts to which it applies be in writing. The Bill, in this regard, takes up recommendations which were first made in 1955 by the Chief Justice's Law Reform Committee.

The requirements under the Instruments Act that certain contracts must be in writing to be enforced no longer serve a useful purpose. They are, on the whole, either superfluous, because they appear elsewhere, or anachronistic. They are also open to abuse by unscrupulous defendants who want to avoid liability by relying on minor technical defects.
These requirements are, therefore, repealed. Similarly, the formal requirements in the Goods Act no longer serve any useful purpose and are repealed.

The Bill expressly retains the requirement in the Instruments Act that contracts of guarantee be in writing. This requirement does serve a useful purpose as it gives guarantors the opportunity to consider and digest the obligations imposed by a guarantee before the guarantee is signed. 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.

JOINT SITTING OF PARLIAMENT

La Trobe University

The PRESIDENT—The time has arrived for the Legislative Council to meet with the Legislative Assembly in the Assembly Chamber for the purpose of choosing members to be recommended for appointment to the Council of the La Trobe University.

The joint sitting will conclude at a time appropriate for the suspension of the sitting for dinner, so I shall resume the chair at 8 p.m.

The sitting was suspended at 6.1 p.m. until 8.5 p.m.

The PRESIDENT—Order! I have to report that this House met the Legislative Assembly this day to recommend members for appointment to the Council of the La Trobe University, and that Mr Carl William Dunn Kirkwood, MP, Mr David John Lea, MP, and Mr Milton Stanley Whiting, MP, were chosen to be recommended for appointment.

SOUTH MELBOURNE LAND BILL (No. 2)

The debate (adjourned from November 18) 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. R. S. de FEGELY (Ballarat Province)—The Bill provides for the redevelopment and beautification of the Southbank area of the Yarra River.

The Bill empowers the Minister for Conservation, Forests and Lands to sell land that is subject to lease and to close roads within the area designated by the Bill, following recommendations from the Governor in Council, and provides for compensation to be paid to those persons or bodies from whom land is acquired.

The area covered by the Bill lies between the Victorian Arts Centre and the Charles Grimes Bridge. It was one of the first industrial areas in Melbourne.

Under the Bill, planning and redevelopment will be strictly under the control of the South Melbourne City Council and, as provided for in the Southbank and Southbank extension area, interim development orders apply.

Under the approval of the Governor in Council, the Minister will be able to sell land and make Crown grants within the designated area. The Bill will also allow the Minister to enter into partnerships or joint ventures with other persons in the development area.

The Opposition supported the original Bill that was passed in the autumn sessional period relating to the Southbank area and, in the main, supports this Bill. Approximately 50 per cent of the land is privately owned, the remainder being Crown land. The Bill interacts with the Land (Amendment and Miscellaneous Matters) Bill, which will be debated later. That Bill will empower the Minister either to dispose of or acquire land.
within the area. Some amendments have been agreed upon between the Minister and the Opposition in relation to these Bills.

The Southbank area is an extremely worthwhile development. This area of the Yarra will be beautified and enhanced.

The Bill purports to protect the existing lessees within this area, as does the Minister's second-reading speech. They will be able to carry on operations under the new landlords, should the land be sold. Under the original drafting of the Bill no provision had been made for the lessees to take part in the development. They could have suffered as a result of increases in values from the development.

As originally drafted, the Bill did not give lessees who may sublet property the power to increase the rental to their tenants, which would have placed them in an unfavourable position and they could have been disastrously out of pocket. Fortunately, that matter will be rectified now it has been brought to the attention of the Minister.

Fruitful discussions have taken place between the Minister and members of the Opposition on these issues and it has been agreed that under the Land (Amendment and Miscellaneous Matters) Bill the Minister will move amendments to ensure the protection of the rights of those lessees.

The National Trust of Australia (Victoria) is concerned that the development that will occur will not take heed of the historic nature of the area. I shall read to the House a letter from the National Trust dated 3 September written by Mr Simon Molesworth, the deputy chairman, which demonstrates the trust's significant and important concerns on this issue.

It reads:

RE: SOUTHBANK

Thank you for your enquiry regarding the National Trust's views on the redevelopment of the Southbank area.

Since February 1984, the National Trust has consistently said that there is no complete or adequate study of the heritage assets of this unique and historically important industrial and maritime area. The need for additional research was also emphasised in the report South Bank Architectural and Historical Study which was commissioned by the Ministry for Planning in September 1982.

Frustrated at Government inaction, the National Trust has itself undertaken further research work. The trust has identified approximately 50 mechanical engineering sites which warrant further investigation. We do not necessarily believe that all should be preserved, but we are firmly of the view that South Melbourne's strong industrial and maritime origins should not be obliterated in the current wave of redevelopment. Outstanding historic sites such as Buchanan & Brock Shiprepair works, Barrett's Malthouse, the Australian Red Cross Society building and the industrial streetscapes of Whiteman Street are all examples of places which deserve thorough research.

In the trust's view, the redevelopment of the Southbank area is not proceeding in an orderly fashion. Prior to redevelopment of the area, the Government has a responsibility to identify and protect significant heritage sites. This has been carried out only very superficially.

The National Trust recommends that the following course of action be implemented as a matter of urgency.

1. WORKING GROUP

The trust proposes that a working group be established with the following purposes and composition.

Purpose

To complete the investigation and documentation of the historic, architectural and cultural importance of buildings, works, objects and sites commenced by Mr Graeme Butler in Volume I of the Southbank Architectural and Historical Study.

To complete the investigation and documentation of the historic, architectural and cultural importance of places identified in the National Trust's 1986 preliminary study of engineering establishments (a summary of the recommendations of this preliminary study is held by the Ministry for Planning and Environment and the Department of Conservation, Forests and Lands).

To identify, investigate and document the historic, architectural and cultural importance of other places in the area which are associated with maritime, industrial and other activities. A study of past land-uses is essential in this context.
To make recommendations for the conservation of important places—by means of nomination to the Register of Historic Buildings or the Register of Government Buildings; by means of protection under a planning instrument, or by any other method.

The working group should also recommend on priorities for conservation and interpretation programs.

**Composition**

Officers of the Department of Conservation, Forests and Lands (Historic Places Branch).

Officers of the Ministry for Planning and Environment (Heritage Branch).

The State Historian.

**Reporting**

The working group should report jointly to the Ministers for Planning and Environment and Conservation, Forests and Lands.

**Resources**

The working group must be adequately resourced. The trust believes that this can be achieved by re-allocating resources within the Ministries and giving top priority to the project. We would recommend a minimum of two full-time research workers for a period of three months to investigate this unique area of State importance. The trust also undertakes to provide the working group with all the assistance it can.

2. **ROUND TABLE CONFERENCE**

To complement the above working group, the trust proposes that a round table conference on the recommendations of the working group be held no later than 1 April 1987.

**Purpose**

To consider the recommendations of the working group and to make final recommendations to the Ministers for Planning and Environment and Conservation, Forests and Lands.

**Composition**

Representatives of the Ministry for Planning and Environment.

Representatives of the Department of Conservation, Forests and Lands.

Representatives of the Department of Property and Services.

Representatives of South Melbourne Council.

Representatives of the National Trust.

The trust's concerns over the process of development in Southbank reflects a general concern of the need for adequate investigation of the heritage importance of publicly owned buildings, works and sites before they are handed over to private owners. As part of the orderly handover of sites from public to private ownership, we recommend that the Commonwealth Government's approach to Charges of Annuity be adopted.

On a related matter, the trust has recently documented the importance of the Flinders Street to Port Melbourne and St Kilda railway lines. The two railway reservations, together with associated structures such as the Sandridge rail bridge; railway stations at South Melbourne, Albert Park and St Kilda; and bluestone bridges at Dorcas, Bank and Park Streets, South Melbourne are all of great importance and must be retained, and where necessary repaired and restored. The trust seeks assurances that evidence of the railway reservation such as the Sandridge rail bridge and embankment through Southbank will be retained and not obliterated. The trust also seeks assurances that the individual structures listed above will not in any way be compromised by conversion to Light Rail Transit.

If you should require further information, please do not hesitate to contact the National Trust.

**The Hon. E. H. Walker—Do you agree with all that?**

**The Hon. R. S. de FEGELY**—In answer to the Leader of the House, this is something that should be considered. The Opposition is suggesting that the Minister should take this matter on board and give it serious consideration because it relates to a significant area of Melbourne's development.

Honourable members are talking about an area where the original railway line in Australia was established. It was one of the earliest developments in Australia, and certainly in Melbourne. It is obviously of historical significance.
There is no doubt that the National Trust would not expect all of the area to be retained as an historical site. Obviously, the trust would like a considerable proportion of it to be retained, but, from my discussions with the trust, I understand that it would be receptive to some sort of compromise in that regard, although it would endeavour to retain areas of significance.

The Bill is worthwhile, and the Opposition is prepared to support it. It supported the Bill relating to the original Southbank development. I am happy to support the Bill on behalf of the Opposition.

The Hon. A. J. Hunt (South Eastern Province)—Too often planning is seen as negative and restrictive. The process culminating in this Bill shows quite clearly that planning can be a very positive force to enable the realisation of potential that could not otherwise be achieved.

The great opportunity exists in this area, through integrated planning, of achieving great results and enhancing the value of a very large area close to the central city and not far from the riverfront.

The Hon. E. H. Walker—And much of it is owned by the Government.

The Hon. A. J. Hunt—That opportunity is enhanced further by the fact that half of the land is owned by the Government. That brings me to the point at issue.

Although the Liberal Party supports the Bill, the way in which it is carried into effect is of prime importance; it is of more importance than the wording of the Bill itself, for the rights of those who own non-Government property in the area and the rights of Government lessees must not be overridden in the process. Those rights need to be respected.

A number of problems are inherent in the Bill because of its interaction with other Acts and measures and because of its interaction with the terms of leases. I should like to run through the problems, because I believe we should not ignore the problems when we are seeking to realise the potential.

The Liberal Party examined the measure and saw that it contained a right of sale of Government land by private treaty. That created some concern. There could be a sweetheart deal with a single developer or a consortium of developers. We have prepared an amendment to ensure that this is brought out into the open and done on a proper basis. However, on reflection, the problems were greater than that.

Not only will it make possible a wholesale sale to a single developer but also there are wide powers of acquisition in the Town and Country Planning Act for the purpose of better planning for an area. When one puts together the power of acquisition and the power of sale by private treaty, one realises the possibility of a much greater danger again. Not only could the Government land be sold, without any recourse, to a single developer but also private land could be acquired under the Town and Country Planning Act powers at the low values that currently exist and could then be resold at the higher values that will be created by the passage of the Bill. Private owners could be frozen out.

Of course, the Bill also interacts with the terms of the leases. The Crown leases provide power for resumption. Crown leases could be resumed and sold on. Tenants in the area came to the Liberal Party—and there were certainly more than one—and directed attention to the interaction of this Bill with the Lands (Amendment and Miscellaneous Matters) Bill and proposed section 151AB, which changes the incidence of land tax and provides that, upon sale of land subject to Crown leasehold, when the time comes for rent renewal, the rent will be at market rates and the Crown lessee must pay the land tax.

The Crown could sell to a developer over the heads of the tenants. The value of the property would have increased as a result of the proclamation of this Bill; fresh rents would be determined based on that higher value; the land tax would increase enormously based on that higher value; and the Crown lessee, who may have many sublessees, would not be able to increase the rents of the subtenants.
Therefore, what happens? The Crown lessee can be frozen out without the compensation envisaged under the Land Act. The lessee could be making enormous losses and could be virtually forced to surrender the lease without compensation.

The position is perhaps much more technical than that, but I have tried to put the effects of the interaction of this Bill and other Acts, provisions and documents in simple terms for the understanding of the House.

I do not believe for a moment that that was the intention of the Government. I should really like the Minister, who appears to be paying attention to the remarks of someone else at the moment, to hear my comments on this matter. I was saying that I do not believe for a moment that that was the intention of the Government.

I believe—and I trust that the Minister believes also—that it is incumbent upon a Government to act with equity to owners in an area and to its own tenants, and to act even-handedly in the employment of contractors to undertake major projects.

I hope it is the intention of the Government that this project should be undertaken predominantly by private enterprise and that the opportunity will be given for private owners in the area to participate in the development and in negotiations with developers, with whom they might like jointly to participate.

I hope the same facility will be afforded to Crown tenants. After all, many of them have substantial investments. One case came to my attention, on which I have supplied the Minister with all the papers, of a Crown lessee in the area who bought a year or so ago a substantial property only after consulting with officers of the Department of Conservation, Forests and Lands and being told that the first refusal to purchase envisaged by section 151AA of the Land Act would certainly be granted.

I also say with confidence that other Crown lessees in the area who have invested substantial sums in buildings have been told the same. They have understood the whole purpose of the enactment of section 151AA was to protect the rights of Crown lessees who would, in due course, be getting first refusals to purchase.

The Crown lessee to whom I have referred became a Crown lessee after express representations to that effect only a year or so ago and he has since outlaid, on the faith of that same understanding, substantial sums for improvement of the property. That Crown lessee has $2 million invested. There are others in the area with as much or even more invested. They are entitled to fair and reasonable protection.

I thank the Minister for her ready ear on this difficult matter. She has listened personally to the problems, has read the documentation which the Opposition has supplied to her and has been most cooperative. I hope she will be able to give clear and definite assurances that the expectations of owners and Crown lessees will be met, that they will be protected and given the opportunity of participating, and that they will not be simply frozen out and in a position where they will lose financially.

The Opposition wants to hear from the Minister that the Crown will act sensitively towards all those persons who have a clear and definite interest that needs to be protected. The Opposition wants to hear that the Crown powers of acquisition or resumption of lease will not be used except in the case of those who perhaps seek to hold others to ransom.

No-one should be demanding the right to hold up a project of this kind. The Opposition would accept that fact but, leaving that aside, it hopes the Minister will make it clear that everybody will get a fair go. The Minister has been good enough to supply the Opposition in advance with a copy of an amendment that she proposes to make and, if the Opposition has some input into the Land (Amendment and Miscellaneous Matters) Bill when it is dealt with, that will relieve some of its concerns.

I trust the Minister will be able to give undertakings in clear terms and to do so not merely on her own behalf but also on the behalf of the Government in a way which will apply to anyone who succeeds her in her position as Minister for Conservation, Forests.
and Lands and the Government itself. The Opposition trusts the Minister's undertakings but it does not know whether it can trust whoever may be her successor. The undertakings must apply on behalf of the Government. If the Minister gives those undertakings, I can satisfy owners and tenants in the area by saying that some undertakings will be honoured on behalf of any subsequent non-Labor Government in this State. It is important for people to know that they have ongoing and genuine protection. Subject to satisfactory assurances and amendments to the further Bill, the Opposition wishes the project every success.

The Hon. D. M. EVANS (North Eastern Province)—The National Party has considered the Bill carefully. What appeared in the initial stages to be a fairly simple and straightforward matter has proved to be a most complex, interesting and absorbing project, with another Bill to follow this one. I shall briefly indicate what my understanding of the proposal is.

The area of land on the south bank of the Yarra River, which stretches, as the plan on page 5 of the Bill indicates, from St Kilda Road down past the World Trade Centre, takes in a substantial area of land which, at the time of white settlement in the 1830s and 1840s, was rising ground or flood plains of a rather unstable nature. The land at that time was prone to occasional flash flooding, and still is. The City of Melbourne and the central business district were planned extremely well by, if I recall correctly, Surveyor-General Hotham, at the time.

The Hon. E. H. Walker—Robert Russell did the plan for Melbourne.

The Hon. D. M. EVANS—I thank the Minister for that information. The central business district area of Melbourne was well planned with wide streets and so forth. It was an admirable design. However, the south bank area of land, because of its flood-prone nature and the fact that it was on the lower bank of the river, which was the wrong end of town and on the wrong side of the tracks, so to speak, was not planned. It grew according to the needs and customs of the time.

There are various different types of holdings in the area, some freehold land and some leasehold land with roads and tracks going in all directions. There are areas of unstable foundations and a conglomeration of land which, although useful and of enormous value to trade and commerce as the backyard of the city, is not exactly well planned; nor is it beautiful. However, the area of land is close to the central business district of the city. In modern terms it has the capacity for major development that will enhance the Melbourne central business district and, overall, it will be able to operate better than it is at present.

I am aware of the plan that has been drawn up and the glossy publication, *Southbank—A Development Strategy*, which makes a number of in-principle commitments as plans on behalf of the Government stretching well into the future. It is an excellent document. It does not set down the final plan, but it sets out a number of major concepts for the future and suggests the direction of planning for this undeveloped or underdeveloped area of Melbourne.

The document suggests that planning should be in the direction of industrial, maritime, commercial, entertainment, retail, residential and, naturally enough, tourism interests, because that is the Government's answer to every economic problem. That is fair enough as there is immense potential in tourism. It is reasonable that development be planned not just for the immediate future but for 50, 100 or 150 years ahead. The plan is seeking to wipe the slate clean in many ways and to begin again on the south bank, to begin again where the north bank and the central business district began 140 or 150 years ago, hopefully with style and good planning.

There are some inhibitions, of course, in that substantial development has already taken place in certain areas: the Arts Centre, the State Theatre, major road links and the entrance to the West Gate Bridge and the freeways that are under construction. Nevertheless, given that there is an opportunity to amalgamate and aggregate some areas of land, both private and leasehold property, and, as the Bill intends, provide the opportunity for resumption
of roads, redirection and replanning of roads, it will be possible in the Southbank area to aggregate major parcels of land suitable for development of a far higher class and value to the city than current developments.

I understand that in the closing and amalgamation of roads and of property, section 16 of the Housing Act 1983 will stipulate that those people who have freehold or leasehold property will be provided and will continue to be provided with legal access. There is also the prospect that, should that legal access be of less value, some form of compensation may be payable. So there is some protection for existing property owners and their investments.

The area does have a good balance of public transport as well as the opportunity to develop that public transport even further. Half of the area is Crown land and that is an important factor.

The City of South Melbourne is concerned about certain aspects of the Bill. A letter sent to Mr Dunn, dated 2 December and signed by Noel Kropp, the Chief Executive Officer and Town Clerk, expresses the council’s concern that the rail bridge across the Yarra River, which has been classified by the National Trust of Australia (Victoria), may be closed and eventually demolished. The council is also concerned that a new system of transport, perhaps a light rail system, may be put in its place.

I understand that Mr Walsh, the Minister for Public Works, has received a letter from the Minister indicating that more consideration will be given to that particular project. The City of South Melbourne is concerned that any plans will take into account the views of local municipalities and be brought to fruition only after proper consultation. The council is also concerned that the Bill may provide the Government, the Minister for Planning and Environment and the Minister for Conservation, Forests and Lands with the opportunity of totally neglecting public opinion. No doubt other honourable members, including Mr Macey, may wish to make some comments in that regard.

The proposed legislation has serious repercussions, because, as my colleague, Mr Hunt, pointed out, there is a clear interaction between the Bill, other statute law currently on the books and the Land (Amendment and Miscellaneous Matters) Bill.

The immediate impression of the National Party, having had discussions with many people who are deeply concerned and who have substantial investments both in private freehold property and in developments on Crown leasehold land and whose investments are at some risk, is that as the Bill is now drafted the National Party would have difficulty in supporting these provisions and allowing their passage. Indeed, the National Party would have had to consider whether it could support the proposed legislation, which does not provide adequate protection for those people.

I thank the Minister for the ready manner in which she, officers of her department and of the Ministry for Planning and Environment have been prepared to give advice to Mr Hunt, Mr Hallam and myself on a number of occasions and to assist us in understanding the proposed legislation and in bringing forward amendments which hopefully will overcome some of the problems. That is still in the future and, as the proposed legislation currently stands, the National Party is concerned about it. However, after discussions with those officials and having been favoured with copies of the amendments that are likely to be presented and other material, I feel sure many of those concerns will be allayed but some issues will need to be addressed.

As Mr Hunt has done, I refer the House to the reasons why the National Party was concerned about aspects of the Bill. When people take out a lease from any owner or lessor, be it Crown or private individual, it is normal to have a signed lease in which certain conditions are expressed, certain guarantees are entered into and certain conditions are expected to be met, and a finite term. A person having obtained such a lease is then entitled to make investment decisions and investments based on a reasonable expectation of quiet enjoyment of that property for the period and term of the lease. If something
happens unilaterally to the conditions under which the lease is granted, that can place in jeopardy the investment that a lessee has made in good faith and with the expectation that it will maintain its value for the continuation of the lease. The National Party believes that may happen as a result of the proposed legislation and it is for that reason amendments have been prepared which it is hoped will overcome some of those concerns.

As Mr Hunt has pointed out, at least one firm in the area, and I know of others, has recently made major investments on the basis and on assurances given verbally—nevertheless assurances that they had every reason to trust—that they would be given the opportunity of first right of purchase of the land under section 151AA of the Land Act, so that the development would remain theirs and the purchase price would take into account the value of the land only and not their subsequent investment in building and developments on that land.

If, as a result of the passage of the Bill, that investment is placed in jeopardy, Parliament would have done a disservice to those people and would not have acted in accordance with natural justice and a fair and reasonable treatment of such people. I understand that, if the Southbank area becomes the subject of a major redevelopment, it is likely that the value of land in that area will increase, not only in the small portion but also in the broad. The concern of those who develop on leasehold land is that, should that leasehold land be sold by the Crown to a private developer and the rent adjusted by that lessor, as the clauses in the lease may provide, and adjusted in accordance with market rents because of the development that has taken place, that market rent will be well above the market rent reasonably expected and on which they may well have made calculations before making their investment.

I suggest, however, that there is a factor that needs to be taken into account, and that is that there is a degree of blight on the area of land concerned simply because of the existence of ongoing leases.

In other words, the land has not got a free market value because for perhaps 10 years, 20 years or 30 years—to the year 2026, which will see the last of the leases expire—the land is not available without encumbrance, and that must have a severely depressing effect on its value.

I trust that this will be taken into account by any tribunal that may make an adjustment to the rent in due course, whether that adjustment be made by the Government as landowner or whether it be a private developer as landowner.

In those circumstances, I understand that the firm that carries out development on such land will be in a position of receiving protection, and will either maintain a right for a reasonable level of rent and not be forced out by unduly high rents which make the property uneconomic—as Mr Hunt has indicated—or alternatively that firm may receive adequate compensation for the development which has been made and for which the firm may be prepared to forgo the development.

In other words, there may be millions of dollars worth of development on the property, and as an equal partner in negotiations the firm will be able to extract fair and reasonable compensation for the property that it is prepared to forgo under the terms of that compensation.

That is fine, provided that it has the right to compensation. It is an important principle. Again, I stress that I believe, because of that, the blight of that existing lease will be an inhibiting factor for too rapid or too great a rise in value as a result of redevelopment in that area.

I trust my assumption of the situation is correct, because if it is it does give protection to those lessors, particularly on Crown land.

Clearly there is concern on the part of the Government with regard to land tax, and that issue has also been raised by Mr Hunt and by the lessors. If the value of land which they
are occupying as lessors, with development and investment on that land, is to increase rapidly, an additional amount of land tax will have to be paid, particularly in the case of the lessee, on that property.

It is important to understand whether the cost of the additional land tax can be economically passed on so that the application of the assessment for land tax—as Mr Hunt has pointed out—does not become again a further lever to force a person with a reasonable and legitimate investment in the land off that land to that person’s economic detriment.

The Hon. A. J. Hunt—Hear, hear!

The Hon. D. M. Evans—The National Party has had concern at all times in these negotiations about the fairness and equity reserved for those people who are already in a situation on that land.

At the same time it recognises—as Mr Hunt has pointed out—that there are immense advantages to the City of Melbourne and to the people of Victoria with a good development in that area, 150 years later than when the central business district had a similar plan of development. Nevertheless, it is of immense value.

The National Party is concerned about those who are already there and who have shown faith in the area by investment, and believes they should have the opportunity to participate in that development also.

The Hon. A. J. Hunt—Hear, hear!

The Hon. D. M. Evans—I am disappointed that the South Melbourne Land Bill (No. 2) does not provide something about this in clause 5. We will discuss the matter further when the clause is being discussed in Committee, that those who already hold leases or property in the area have “as of right” opportunity to purchase the land at a fair and reasonable value to enable them to participate in that development with the proviso that their proposed development be in line with the general concept of the Southbank development, because in that way not only will the aims of the Government in the Bill be preserved but also a degree of fairness and commitment to the present developers will be retained.

These are generally the things I have wanted to say; I understand there will be discussion in the Committee stage and further statements will be made by the Minister. There are other issues to discuss during the Committee stage of the Bill. The National Party has grave reservations about the Bill as it stands but it will listen to the further debate and to the commitments that may be given by the Minister.

We will also watch with extreme interest the manner in which the Land (Amendment and Miscellaneous Matters) Bill is dealt with by the House. Our concern covers both Bills because there is clear interaction between the two.

The Hon. J. V. C. Guest (Monash Province)—The Bill provides the necessary legislative power to allow the redemption of the area adjacent to the south bank of the Yarra River within the City of South Melbourne, being the area that lies between the Victorian Arts Centre and the Charles Grimes bridge.

It is one of the Government’s five key redevelopment areas in the central city. It is part of the Government’s economic strategy to develop such areas, and the Government has already approved the development of the Southbank area.

It is of concern to all citizens of Victoria that the superb possibilities of the Southbank site should be imaginatively and comprehensively realised. There are particular concerns of the freehold owners and lessees within the Southbank area and, of course, their employees, in many cases in which they are owners of businesses. Those concerns have been well dealt with by Mr Hunt, Mr Evans and Mr de Fegely. I am not entirely sure that I agree with all that Mr Evans said about the desirability of allowing people with properties
with 10-foot frontages—if that is what he proposed—to participate in the overall development. How far one goes in that direction is a difficult question. My purpose is rather to deal with the concerns of the municipal councils, the South Melbourne City Council in particular, and other people who are concerned about the heritage and history of Melbourne.

The South Melbourne City Council's first expressed interest related to the Bill in its original form. It was rightly concerned that it was not absolutely clear that the council was entitled to object to any exercise of power under the Bill which might affect interests under the care of the council.

Mr Macey and I, as the local members, as well as others, have had long and intensive conferences with some of the backroom architects of this proposed legislation. I am glad to say we found them entirely cooperative. As a result of doing that I believe it is fair to claim that we achieved two things. Firstly, the Bill now makes it clear that as well as being entitled to receive a notice of certain exercises of power—for example, the closing of roads within the area—the council now has the express power to object.

The other fruitful result of those consultations relating to the way in which the interests of the councils and the owners of properties fronting on roadways which would be closed were to be protected was that we have helped in the cause of advancing plain English in legislation. That is worth noting because the point made has general application as a matter of principle beyond the original form of the Bill.

The rights to receive notice and to be able to object were given in the original Bill by reference to the Housing Act 1983, an Act which is not easy to get hold of, even in this place. As to various subsections and parts of the second schedule of that Act, one is advised by the general Bill to read a reference to street as road, to director as Minister, and other more complicated translations. That was bad enough. However, I referred to the Housing Act and I then found that even when one made use of its provisions to understand what rights were being given one had then to look at Part 44 of the Local Government Act. One must still refer to Part 44 of that Act when the right to compensation resulting from the closing of roads must be discovered.

The Bill is much improved by omitting the confusing references to the Housing Act 1983 from clause 4 and by the inclusion of the provisions for notice and objection in clear and direct form.

An intelligent layman can now get some idea from this Bill of his rights to receive notice and to object, but when he gets to the point where he wants to consider whether he is entitled to compensation, he comes to a further difficulty.

Even if a layman happened to buy a copy of the South Melbourne Land Act and, at the same time, a copy of the Local Government Act or, with a bit of luck, photocopy the relevant few of its hundreds of pages, he would still find that he had to go then to the Lands Compensation Act and the Valuation of Land Act to discover his right to compensation. He would possibly make another trip to buy them because he would not want to spend money on a lawyer and he would then find that those Acts are extremely difficult for a layman to follow. He might even be told that the legislation that was passed during this sessional period—the Land Acquisition and Compensation Act—contained references to the Local Government Act and the Lands Compensation Act which could affect his rights.

I raise this matter not only to suggest that we have achieved something in making the legislation clearer to the people in South Melbourne and those who conduct business in South Melbourne and that it could be clearer still if the other provisions referred to by the Bill itself and by Part 44 of the Local Government Act, to which the Bill refers, were set out in a schedule, but also to make the point that the Minister should ensure that it fits with the new Land Acquisition and Compensation Act and that people seeking to know their rights have no problem with that.
The concerns of the South Melbourne Council about road closures has substantially been met. The other concern is shared with the councils of Port Melbourne and St Kilda.

I make it clear how strongly the City of South Melbourne is concerned about the historical importance of the railways in that area, especially the Sandridge rail bridge which crosses the river obliquely from Flinders Street railway station to Clarendon Street. The letter to which reference has already been made and of which an original was sent to the Leader of the Opposition in this place dated 2 December and signed by Noel Kropp, the chief executive officer and town clerk, states that:

Council at its meeting held last evening resolved to write to you regarding the scheduled debate in the Legislative Council on the South Melbourne Lands Bill today.

Council wishes to alert the Legislative Council that the South Melbourne and Port Melbourne railway lines, including the rail bridge across the Yarra River have been classified by the National Trust.

My council urgently requests the Government to reverse its decision to demolish the rail bridge across the Yarra and give an assurance that the rail link will continue to terminate at Flinders Street station.

I place on record and emphasise the importance of the heritage that the community fears the Government is putting at risk. I have a personal feeling for the area. My family lived in the area for many years from the 1860s. Mr Evans’s reference to the low-lying character of the Southbank area reminded me of the low-lying character of the whole area. Two great uncles of mine who lived in Albert Park died as a result of typhoid from the swamps and drains of the then unsewered area before the networks of the Melbourne and Metropolitan Board of Works were established. My family adopted the obvious solution in those times—they moved to the salubrious lands of Hawthorn.

The Hon. A. J. Hunt—You are lucky that your grandfather did not die!

The Hon. J. V. C. GUEST—If that had happened, the House would not have benefited from my digression.

Many people in this State have families with connections with that part of Melbourne and they have a strong feeling for the historical interest and importance of the area from the Southbank down to Port Melbourne and St Kilda. I shall now make clear the significance of the most recent letter of the South Melbourne council.

As I have stated, the Sandridge rail bridge is the essential link from the Flinders Street railway station to the Port Melbourne and St Kilda railway lines. The South Melbourne railway station was the second station to be built on the St Kilda railway line and was built in 1858. That shows the link of all the municipalities with those classified railway lines.

Australia’s first public steam train commenced service to Port Melbourne in 1854. That was the foundation of Melbourne’s rail network. In 1857, the St Kilda railway line consisted of nothing more than the St Kilda railway station at one end. That railway line was the foundation for the suburban development of Melbourne. This was then one stop approximately from where the South Melbourne railway station is presently situated, but no station was built until the following year.

The National Trust has classified the whole of the rail reservations from Flinders Street to St Kilda station and from Flinders Street to the Port Melbourne station. The classified area, which many people will have had the opportunity of seeing on Sunday with the deputy chairman of the trust as their guide—although, unfortunately, not from the windows of a Tait train, owing to some mismanagement on the part of the Ministry for Transport—is a strip of land extending, for the most part, some 100 metres wide. The width is based upon the original Government grants of 100 yards, as laid down in the Melbourne and Hobsons Bay Railway Company Act 1853 and a later extension to that Act.

The vestiges of the original Government land may be seen in the plantation reserves along the railway between Graham Street and Boundary Street in Port Melbourne. They are extremely attractive and it would be a shame if anything done further up the line were to prejudice some of the more attractive and interesting parts of those reserves.
To put into some context the importance that the South Melbourne City Council places on the railway to Sandridge, while the key physical elements of the classified railways are the reservations themselves, several other works still exist from early times that have also been classified by the trust. I regard that classification as good prima facie evidence of their importance; the trust must maintain its credibility; it does not do these things lightly. For example, the St Kilda railway station has been in existence since 1857 and has been separately classified. As I said, it is the oldest existing railway station in Australia.

The ACTING PRESIDENT (the Hon. K. I. M. Wright)—Order! Does it come within the Bill?

The Hon. J. V. C. GUEST—It does indeed. I am trying to put the importance of maintaining the whole of this railway reserve, which is the absolutely critical point, through the South Melbourne South bank development. It has been classified all as one piece, Sir.

The other separately classified constructions include the stone road over the rail bridge at Dorcas, Park and Bank streets in South Melbourne; the Albert Park and South Melbourne stations, which were built in 1880 and 1883, respectively, the South Melbourne station having been rebuilt since its original 1858 construction. Constructions that are also classified include the skewed bridge that is the Sandridge rail bridge, across the Yarra River. At South Melbourne there is an uncommon and attractive precinct. The station, which is nestled in the cutting, is enclosed by an extremely attractive stone bridge at one end and an iron footbridge at the other end.

There is certainly an active campaign to maintain a fixed heavy rail form of transport, which exists at present, as part of the very strong desire of the people of South Melbourne to maintain their connection with Flinders Street and not a connection simply to the tram lines in Collins Street or Bourke Street.

I note, as I am sure the Minister does, that the present plans for light rail are not opposed as such by the trust; although the trust fears, as others do, that the section of railway between Flinders Street and Clarendon Street will be abandoned. It concerns many people that some form of fixed rail transport be maintained over the whole of the existing railway reservation. I cannot put it any higher than this; the fact is that very many people are concerned that the light rail bridge will inevitably involve substantial destruction of many of the fine existing stations and that when the line closes down, as is planned in April of next year, there will be such a diversion of traffic to other tram routes, other public transport and private transport that an economising Government will simply not restore the service along the rail line between Clarendon Street and St Kilda, or Clarendon Street and Port Melbourne. That is something on which the people in that part of my province need assurance. I hope the Minister can give it.

The ACTING PRESIDENT—Order! Mr Guest, we have shown a great deal of tolerance, and you are talking at length about railway lines that are not mentioned at all in the Bill.

The Hon. J. V. C. GUEST—But they are part of the development, Sir.

The ACTING PRESIDENT—Order! I ask the honourable member to speak specifically to the Bill.

The Hon. J. V. C. GUEST—I want to speak more generally about the heritage values of this area and to emphasise this as a basis for seeking the assurance of the Minister that full consideration will be given to the preservation of the history of Melbourne as embodied in this area.

The Southbank area is used primarily for industry and warehousing. One of the main features is the large area of undeveloped Crown land in the locality and this does, as is readily acknowledged, offer a special chance for the Government to take the planning initiative. In May this year the Government released the Southbank development strategy, which set out the land use and development strategy for the area.
The Minister for Planning and Environment invited public comment on the document and has since received public comment, including a detailed submission on the report by the National Trust. It would seem that the trust's fairly critical submissions, including an earlier one, have been largely ignored by the Ministry. The push of the Government has been to get things done without even counting the costs and without knowing the cost or value of what it was ignoring.

The area was the subject of an architectural and historical study in 1983, but it is reasonable to say that the $4000 allocated to that project was insignificant in terms of the total budget for the project. Despite the trust's earlier submission in February 1984, no additional time or funds were provided to enable a proper heritage study to be continued. Consequently, there is no sufficient conservation study for this unique and historically important maritime industrial area.

To give some examples of the structures that should lead the Government to take further interest in the area and to investigate it more thoroughly, there is, for example, the Buchanan and Brock Ship Repair Pty Ltd at Lorimer Street that was classified by the trust early this year.

Buchanan and Brock shipsmiths is probably one of the only two large ship repair firms still operating in Melbourne and it operates on the site it has occupied since 1885. It is regrettable that the Ministry's architectural and historical studies did not consider that building and its use. The opportunity to integrate an historic working industry into the adjacent maritime precinct has been lost.

The building is of interest and the site has enormous historic interest. It should be preserved, possibly as part of a tourist precinct. I hope the Minister will take that suggestion on board, even if the integration of an industry into the area as part of living history cannot now be achieved.

The Southbank strategy also proposes the construction of a boulevard between Queensbridge Street and Boundary Street, Port Melbourne. This would run along the alignment of Whiteman Street and the classified Port of Melbourne railway line. The boulevard is unnecessary and it represents a threat to the railway and landscape plantations in Port Melbourne. That is why this Bill is of significance to at least three municipalities.

Traffic-free access to the riverfront could be aided without the creation of the boulevard. Its potential to enhance the appearance of the area will be severely limited by the West Gate Freeway extension which would cross the boulevard and dominate much of the study area.

If constructed, the boulevard would create strong pressure for continuation of the road link into Port Melbourne, against which there is a lot of opposition, as the Minister would know. I hope the Minister for Planning and Environment will bear that in mind.

The classification of the Port Melbourne railway line and the findings of the Port Melbourne conservation study, of which I hope the Minister is aware, lead to the inevitable conclusion that the boulevard must not be proceeded with. I hope that in exercising the discretionary powers contained in the Bill and the power this Government already has, the Minister will have regard to that conclusion.

If the Minister were still willing to expand the architectural and historical study to include industrial sites, the significance and potential of Buchanan and Brock shipsmiths would be revealed. Similarly archaeological work on known sites of interest along the river bank would certainly be warranted, sites such as Barrett's malthouse which houses antiquated production procedures would also be identified by a thorough survey of industrial sites in this area.

Unique streetscapes and building structures in the area have significance that can be revealed only by a specialised investigation of the area's remaining heritage of industrial
buildings and streets. The corrugated iron buildings of Whiteman Street deserve investigation on this basis before they are dismissed as simply unattractive and condemned.

A proper assessment of the area's heritage requires the existing buildings and streets to be surveyed in terms of their industrial history. Such a survey might later venture into further archaeological work which might be necessary in a particular instance before planning or demolition were to proceed.

The Minister would do well to pay attention to professional people who have given a large amount of voluntary time to the study of this area—people in the National Trust in particular.

I support the view of the trust that the development strategy lacks historical vision and a credible commitment to conserve important aspects of the area's heritage. This is evidenced by the inadequate survey of buildings, works and activities in the area which may be of heritage value.

It seems that the heritage is considered by this Government only in respect to its potential usefulness in tourism, such as the maritime precinct, and then only superficially. It is right that it should be considered on its value for tourism. However, that is not enough. The area is one of great historical importance to the development of Melbourne and the strategy should adopt a much more sympathetic and positive vision about heritage. It should provide many opportunities for heritage interpretation and development in the area.

The Opposition supports the imaginative and comprehensive redevelopment of the Southbank area. We ask the Minister to give a complete assurance to concerned citizens and to the municipalities in the area that the heritage values that are put at risk by the Government's gung ho approach to development will be fully protected.

The Hon. REG MACEY (Monash Province)—I shall be brief because most of my concerns have been effectively expressed by Mr de Fegely, Mr Evans and Mr Guest.

I thank the Government in another place for agreeing to the amendment which has led to the City of South Melbourne now having more input into the alteration to roads within the area. However, I am not sure that the council has a full appreciation of the extent of the proposals that might emerge.

I fear that some of the proposals might extend so far as to eliminate portion of Normanby Road and divert that traffic into the previously proposed bayside boulevard route which would have the effect of bringing heavy industrial traffic somewhat closer to the residential area of South Melbourne than is presently the case. Another possible inclusion in the proposals is the extension of Lorimer Street to link up with the proposed bayside boulevard.

I hope the Government will indicate its intentions to the council as soon as possible and allow the council adequate time to consider all the implications.

I also refer to the importance of the Port Melbourne and South Melbourne railway line link to Flinders Street station. The assurances sought by the National Trust of Australia (Victoria) about this aspect of the classified rail route through the Southbank study area should be read into the record:

The trust seeks assurances that evidence of the railway reservation such as the Sandridge rail bridge and embankment through Southbank will be retained and not be obliterated. The trust also seeks assurances that the individual structures listed above will not in any way be compromised by the conversion to Light Rail Transit.

That major assurance is being sought. However, the significance of this historic route has been recognised in the past. To its credit, the trust has now joined in the fight to preserve that route.

I concede that an economic case has been made on the viability of the continuation of heavy rail transport to St Kilda and possibly to Port Melbourne on the existing rail routes. However, the Government proposal to connect the light rail route to the Clarendon Street
tram system rather than continuing across the existing rail embankment—the Sandridge rail bridge—to Flinders Street station is of enormous concern to at least three municipalities in the province I represent.

Therefore, I seek an assurance from the Minister along the lines sought by the National Trust of Australia (Victoria).

They are negative aspects of the Bill. As has been indicated by other speakers, there are many positive aspects in the Bill and those positive aspects have the support of the Liberal Party.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. E. Kirner (Minister for Conservation, Forests and Lands)—I thank the Opposition and the National Party for their contributions to the debate; for the fruitful discussions that were conducted in preparation for the debate, and for their support for the Bill consequent to those discussions.

The issues raised by Mr Hunt cover a number of points including his concern about the possibility of a sweetheart deal with single developers, his concern about the impact of the interaction between a number of separate legislative measures including the South Melbourne Land Bill (No. 2), the Town and Country Planning Act and the incoming Land (Amendment and Miscellaneous Matters) Bill—on both private land owners—that is, existing private owners—and lessees.

Mr Hunt made the statement that his party would be concerned if this were to be a predominantly public enterprise activity and he confirmed, as did Mr Evans, the need for private occupiers of Crown tenements to participate in development. He asked particularly that the Crown's power of compulsory acquisition be used as an exception rather than as a rule.

Mr Evans covered most of those issues and expressed particular concern or a desire that I, as the Minister, address those issues in my concluding statement and, of course, in the amendments during the consideration of the forthcoming Land (Amendment and Miscellaneous Matters) Bill. He also emphasised the need to clarify the issue of compensation.

Mr Guest clearly described the fairly unclear processes and Acts that a layperson needs to go through to find out about his or her rights in any land acquisition or purchase. I am pleased to hear that Mr Guest considers, at least for the people of the South Melbourne area, that the Bill might make things a little clearer.

I would have enjoyed his historical tour through the streets of South Melbourne today and yesterday, if honourable members had a little more time to get through all the legislative matters that must be considered over the next two days; however, I found it interesting, as I found Mr de Fegely's reading from a letter of the National Trust of Australia (Victoria), and I will address those issues a little later on.

In responding to the major concerns of both the Opposition and the National Party on the Bill, I shall clarify the Government's intention in relation to the development of the Southbank area. I emphasise that I am making this statement not only as the responsible Minister but also on behalf of the Government.

The Government views the development of the Southbank area as a joint effort between the private sector and the public sector, including local government. The public sector is the facilitator but the private sector will basically undertake the developments and the risk. This was made clear by my colleague, the Minister for Planning and Environment,
in his foreword to *Southbank—A Development Strategy*, which he released in May this year.

Apart from those developments already under way—all of which have been subject to ordinary planning procedures—the Government has made no decision—whether preliminary or final—on possible developers or consortia of developers or developers and owners or tenants, or on precisely which areas of land are to be treated as development sites. Those decisions will be made only at the appropriate time after full consultation with affected parties and with due regard to all their interests and those of the wider community.

The development strategy indicates development sites in broad terms but until planning controls for the area have been amended through the usual public exhibition process, these will remain indicative only.

The South Melbourne Land Bill (No. 2) provides for sale by private treaty to enable sound development of the area, but the Government intends sale by private treaty to be an exception rather than a rule, as requested by Mr. Hunt.

Generally, private sales will occur where a small area of land is being added to larger parcels to form what would be a viable development site. Private sales would be subject to all the usual administrative safeguards and the Government will accept the Opposition's foreshadowed amendment to ensure notification of the details to Parliament and the public.

Approximately half of the land available for development is currently in freehold title. Of the remainder, most is leased under Crown leases. Although some leases extend to the year 2026, nearly half expire before the turn of the century. The existing owners and lessees will be encouraged to join both between themselves and with the Government in proposals for the development of the Southbank area and in the redevelopment itself, where reasonably practicable.

In the technical papers accompanying *Southbank—A Development Strategy*, the Government made it clear that it was committed to cooperation between public and private sectors as a means of realising the potential of under-utilised land. Further, the technical papers make it clear that compulsory acquisition will be used only where market negotiations are not successful or because one occupier seeks to hold ransom others participating in a project or where compulsory acquisition is a fairer process for the owner or lessee.

The provisions in clause 3 of the Land (Amendment and Miscellaneous Matters) Bill to be debated at a later time in this Chamber will apply to land in the Southbank area but will be amended in material respects, after full consultation with the Opposition and the National Party.

The new section 151AB, proposed to be inserted in the Land Act, is intended to facilitate the sale of Crown land while protecting the interests of Crown land lessees. The provisions of the proposed new section, as intended to be amended, will apply to Crown leaseholds, other than those for the purposes of amusement and recreation, including those in the Southbank area designated in the South Melbourne Land Bill (No. 2).

Where the Government has made a prior commitment to sell to a lessee under section 151AA of the Land Act, that commitment will be honoured. Should the Crown sell a Crown leasehold in the Southbank area, the existing lessee will continue to have an opportunity to be involved in any redevelopment project for that land.

In any event, it is envisaged that such lessees will generally be consulted as to the possibility of purchase in accordance with section 151AA of the Land Act unless in the particular case that course would seriously prejudice the overall objectives of comprehensive planning and development.
New owners will not have the power of compulsory acquisition, as does the Minister for Planning and Environment, under the Town and Country Planning Act and, therefore, the relationship between the lessee and the new lessor is one where sale of the lessee’s interest or the participation of the lessee in a proposed development would require negotiation between the new owner and the lessee on mutually fair terms, no less favourable to the tenant than currently exists.

This continues the potential for the lessee to be involved in the Southbank development, or in negotiations for surrender of the tenant’s rights and interests on the basis of proper compensation.

I propose to move amendments to clause 3 of the Land (Amendment and Miscellaneous Matters) Bill to give better protection to existing lessees and to apply the provisions of the clause to Crown leaseholds, other than those for the purposes of amusement and recreation, anywhere in the State. Presently clause 3 applies only to leaseholds in the metropolitan area.

In implementing the development strategy for Southbank, the Government will be concerned to protect the legitimate interests of Crown lessees. The Government is committed to ensure that the operation of neither this Bill nor of the Land (Amendment and Miscellaneous Matters) Bill, nor the combined operation of both, will be at the expense of the rights and reasonable expectation of tenants. In particular the legislation will not be used directly or indirectly to remove or reduce the value of their assets or compensation.

I shall move onto more specific points that were raised by Mr Guest on the question of the boulevard. He expressed a view that a freeway or boulevard leading from Southbank to Port Melbourne would be a disaster. The answer is that there is no intention of having a freeway or boulevard leading from Southbank to Port Melbourne. That was confirmed in an undertaking by the Minister for Planning and Environment and by the previous Minister. There shall be no throughway.

On the same general issue of coping with the heritage of the area and the number of buildings listed by the National Trust of Australia (Victoria) as having significant historical value, as honourable members mentioned, the Government has already considered heritage values in the Southbank area and has identified some buildings and other constructions that are either protected by inclusion in the Historic Buildings Register or have been recommended for consideration by the Historic Buildings Council for inclusion in that register.

The technical paper No. 1 of the Government, which is included in Southbank—A Development Strategy, sets out the heritage considerations for Southbank. They stem from an architectural and historical study undertaken in 1983. As a result of that study, 34 items were identified and fourteen were recommended for inclusion by the Historic Buildings Council in the Historic Buildings Register. A further eight were recommended for planning protection only but warranted encouragement for preservation.

Therefore, we have the list of the important buildings and other structures considered worthy of planning control over demolition and alteration. In the context of the National Trust letter, the trust proposes a fairly complicated and elongated process for further study and perhaps further protection arising from that study.

It is the Government’s view that we have already given comprehensive and careful consideration to heritage values in Southbank. Statutory planning controls for Southbank have not yet been finalised. When the Government’s proposed amendments covering Southbank are placed on exhibition in the first half of 1987 three months will be allowed for submissions on the amendments.

I am sure the National Trust will take full advantage of that. The submissions will be examined then by an independent panel in accordance with the normal statutory procedures and the public will have every opportunity of studying their views which I am sure will
include the view of Mr Macey about the importance of Sandridge bridge. The whole issue will be taken into account in terms of the statutory planning process, which is a fair process and allows proper public participation.

I hope I have covered the more serious concerns of the Opposition and the National Party on the Bills and the two issues of heritage and the boulevard. I intend to accept a new clause proposed by Mr de Fegley for clause 8.

The Hon. R. S. de FEGELY (Ballarat Province)—I thank the Minister for her cooperation and understanding in this matter. I believe it has been of great assistance to the Opposition and I would like to thank her sincerely for the cooperation she has provided. She has allayed a great many of the concerns and fears the Opposition had.

The clause was agreed to, as were clauses 3 and 4.

Clause 5

The Hon. D. M. EVANS (Eastern Province)—This is a very important clause because it effects the concerns of those people who currently own property in the area or those who are Crown lessees at present.

The clause deals with the issue of how land, which is currently owned by the Government, can be sold. Therefore, it impinges and impacts directly on the rights of those persons who are holding Crown leases at this time.

I accept the intent and the subject matter of the guarantees given by the Minister in her response to clause 2. However, there are a couple of questions that I think can reasonably be asked on that particular matter.

For example, I understand that the Minister said, and I quote from the document which she gave me which forms part of the basis of the statement of intent:

Where the Government has made a prior commitment to sell to a lessee under section 151AA of the Land Act, that commitment will be honoured.

It happens that I have a document forwarded to me from a firm of solicitors which indicates that one particular person with a Crown lease, which has sixteen years to run, apparently engaged in considerable additional expenditure and investment on a lease site on the basis that the property would be sold to that person. They believed—I believe honestly—that it guarantees that they would have the offer of purchase at a reasonable price. That lines up correctly with the Minister’s guarantee and I ask the Minister what constitutes “a prior commitment to sell”? Does it have to be a legal document? Is it a promise given in some other fashion? What is the actual definition of “a prior commitment to sell”?

Those who are interested in the debate and have a direct involvement in investments want to know whether they come under the definition of a “prior commitment”. Can the Minister give the Committee a little more information on that point?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The words “prior commitment” need to be taken into account in any definite commitment, which I would expect to be in writing from my department, and clearly held out as expectations by my department. I would not expect a commitment to be made on the basis of a wink or a nod but if a letter or a statement is made on the leasehold of intent to sell to a lessee, that commitment will be honoured.

The Hon. D. M. EVANS (North Eastern Province)—I am still a little concerned as to the area between a wink or a nod and the firm commitment, which I understand. If a contract is in process, obviously the contract will have to be honoured. I am also aware that firm commitments can be given not in formal terms but still with more than a wink or a nod, particularly when correspondence has been entered into between two or three persons who have an investment in this area and who are interested in purchasing. They
believe they have the right and opportunity of purchasing under existing section 151AA of the Land Act and might have entered into correspondence, which I have already indicated.

Perhaps this may follow a wink or a nod but they have proceeded further and have put the matter into writing and hold correspondence of that nature. Does that form some sort of commitment or indicate an intended commitment by the Government? In other words, there are letters in one direction or the other. I repeat it is a bit more than a wink or a nod; it is in between.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am not prepared to make a commitment on a letter from one direction or the other. If I gave commitments on every letter that I had incoming as distinct from every letter that I sent out, I would make a lot of commitments. It is impossible to define this without knowing about whom we are talking and whether that person or group of persons has what Mr Evans wants to call a prior commitment. It would be difficult even if we did know about whom we are talking without having proper advice from my department.

I am prepared to say that I shall consider any situation where it might be said that I or the department have held out reasonable expectations to a lessee that that person or group of persons would be able to purchase.

The Hon. A. J. HUNT (South Eastern Province)—I take it that this would be particularly if the lessee had acted in good faith on the basis of those expectations.

The Hon. D. M. EVANS (North Eastern Province)—I recognise that the Minister faces difficulties in this matter because we are dealing in arrangements that can vary considerably. I thank the Minister and Mr Hunt for spelling out a little more clearly the rights that are set out in the Minister's statement of intent.

I also read in that statement of intent the following:

The existing owners and lessees will be encouraged to join both between themselves and with the Government in proposals for the development of the Southbank area and in the redevelopment itself.

That is very important. I accept the Minister's clear intention which, I am certain, was given in good faith, and I accept that she commits the Government to ensuring that a real opportunity will be given to those persons.

I should also like the possibility of including in clause 5 (1) after subparagraph (c) another paragraph providing the existing lessees with the opportunity of purchasing as is provided currently in section 151AA of the Land Act 1983. This would be with the proviso that the lessee planned to develop the area of land to conform with the proposals for the development of Southbank.

A guarantee or some commitment needs to be given to persons who may well be surrendering an advantage and an investment which they have entered into in good faith with the Crown as lessor. They need to have a reasonable opportunity of continuing to profit from their investments.

They should be prepared to enter into the spirit of the Southbank development. They need the same opportunity that is provided under section 151AA because they may well have had those provisions in their minds at the time of signing the original leases. People should be entitled to expect the same laws to apply while the lease is valid. I ask the Minister to comment on that possibility.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—If Mr Evans re-examines the statement of intent and the combination of the two points I made in it—he mentioned the first about the existing owners and lessees being encouraged to join both between themselves and with the Government in proposals for the development of the Southbank area—he will understand the deliberate statement that the Government wants the existing lessees and owners to be involved. That statement is encouraging.
The second point puts the matter the other way. On the matter of the lessees being consulted, I have stated clearly that they will be consulted on the possibility of purchase in accordance with section 151AA of the Land Act. The only time their existing rights may be challenged is if the overall objective of comprehensive planning and redevelopment is threatened. In his contribution to the debate, Mr Evans acknowledged that that was an important planning strategy for the whole area.

What I have said about encouragement and about the ability to purchase and the protection of the lessee—especially taken into account with the forthcoming amendment—should assure Mr Evans of the Government's good faith with existing leases.

The Hon. D. M. EVANS (North Eastern Province)—I thank the Minister for her further explanation. I recognise that the clause has been debated at some length but it is important to many people and it was important that the time should be spent on it. I thank her again for the way in which she spelled out further guarantees and express the satisfaction of the National Party at the way in which she has done so.

The clause was agreed to, as were the remaining clauses.

New clause

The Hon. R. S. de FEGELY (Ballarat Province)—I move:

Insert the following new clause to follow clause 8:

Reports.

"A. The Minister must cause a report giving details of—

(a) any compulsory acquisition of land in the designated area which is subsequently sold under section 5 (including details of the land, the acquisition and the price); and

(b) any sale made under section 5 (including details of the land, the manner of sale, the price and any terms and conditions to which the sale was made subject); and

(c) any grant, variation or revocation made under section 6 (including details of the land and any conditions, covenants, exceptions or reservations to which the grant is subject, or which have been varied or revoked)—

to be laid before the Legislative Council and the Legislative Assembly before the end of the 14th sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the sale, grant, variation or revocation."

The new clause was agreed to, as was the schedule.

The Bill was reported to the House with an amendment and the report was 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 thank the Opposition and the National Party for their contributions and assistance, not only with the Bill but also with my learning process—even if the debate tonight took too long.

The motion was agreed to, and the Bill was read a third time.

LAND (AMENDMENT AND MISCELLANEOUS MATTERS) BILL

The debate (adjourned from November 18) 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. R. S. de FEGELY (Ballarat Province)—This is a simple Bill which has three Parts. Part 1 deals with preliminary matters. Part 2 deals with amendments to the Land Act 1958 and applies to Crown land in the metropolitan area which is subject to lease and it sets out to safeguard the lessees who may continue their leases with the new purchasers.
This is the Part that has caused the Opposition some concern. I shall not go into detail because those matters have already been dealt with in the debate on the South Melbourne Land Bill (No. 2).

As has already been said, there is interaction between this Bill and the previous Bill. Perhaps if I had been organising the order of Bills I would have dealt with this Bill initially because that would have clarified the situation. However, we have dealt with it the other way round and I suppose it will all be the same in the end.

I appreciate the Minister's cooperation in sorting out the problems the Opposition had in this regard and it has certainly helped us to arrive at the decision we believe will be satisfactory.

Part 3 of the Bill allows for the revocation of certain areas of Crown land, but in the interest of time, as the Minister has already dealt with these pieces of land in the second-reading speech, I shall go through them quickly rather than going into them in detail.

The Daylesford hospital reserve excision involves an area of 2432 square metres. The excision of 289 square metres from the Sorrento public park will regularise the use of a road in the area. An area of 6171 square metres is to be excised from a public recreation reserve at Corio Bay to facilitate the establishment of the Geelong marina.

An area of 6158 square metres of Crown land at Marysville will be excised to provide for the construction of a reservoir to augment the Marysville water supply. So far as the Glastonbury Children's Home site in Geelong is concerned, the Bill will allow the sale of that property with the proceeds of the sale to be retained by the Glastonbury Child and Family Services organisation to be used for the future care of children in that area.

Excision of a small area of land at Bacchus Marsh railway station is provided for in the Bill to correct an oversight. The need for the land was not anticipated when the last Bill of this type was passed during the autumn sessional period.

The next excision involves the Geelong haymarket site and the Bill repeals the Geelong (Market Site) Act 1963 to allow the development on this site of a new 24-hour police complex. Anybody who has read the debate in another place will have seen that the Opposition at that stage opposed the excision of the haymarket site. That was done largely because at that time it believed the Government was not sure where it was going.

The Minister for Police and Emergency Services was reported in an article in the Geelong Advertiser as saying that he had opted for the old Elders site, but I understand that development is no longer available. The Minister is now apparently keen to go ahead with erecting the new 24-hour police complex in Geelong on the haymarket site.

The Geelong City Council has said that if it loses that land, which has been used for a considerable time as a car park, it wants some compensation and some other land made available for that purpose. Apparently, it is a prime site for car parking from the point of view of the business district as it enables people readily to get into the business district. The Geelong City Council is not keen to lose the site.

I understand the Police Force believes it is an excellent site, although it would not be concerned if the complex were placed elsewhere on another suitable site. Apparently other sites have been offered by the South Barwon council, and there is also the old gaol site. Mr Henshaw will probably know more about that, but that is the information I have received.

The Opposition does not oppose the Bill; it believes the purpose behind the Bill is reasonable and it is happy to give the Bill its support.

The Hon. D. M. EVANS (North Eastern Province)—The Bill has two main thrusts, one of which deals with the proposed means of disposal of Crown lands and the rights and responsibilities of lessors of Crown land on existing leases—an issue that was canvassed
at considerable length during the course of debate on the previous Bill, the South Melbourne Land Bill (No. 2).

I do not propose to go through the arguments again because I understand the offending clause, clause 3 of the Bill, is likely to be amended in the Committee stage. I simply say that, although the Bill as it is currently presented to the House would not get the support of the National Party, it will support its passage through the second-reading stage so that it will have the opportunity for further comment during the Committee stage when it will examine the amendments that are moved and make its decision.

Again, I commend and thank the Minister for Conservation, Forests and Lands for the opportunity and privilege of being involved in negotiations with the Minister, Mr Hunt and officers of the Department of Conservation, Forests and Lands and the Ministry for Planning and Environment, which I believe has led to reasonable satisfaction with the Bill.

I reserve my comments on clause 3 but I reiterate that the National Party would not be prepared to accept clause 3 as it stands.

The other issue concerns the revocation of certain areas of Crown land to allow them to be sold. Bills of this type are regularly introduced into Parliament.

The National Party supports those amendments at all times if there is local community demand, local community agreement and if they appear to be in the best interests of the public. I am aware that some concern was expressed about the so-called haymarket site in Geelong. My colleague, the honourable member for Gippsland South in another place, indicated the concern of the National Party at that time. The worries that the National Party had have been allayed. I am certain that the President would be pleased to know that the National Party will not object to the passage of the proposed legislation. However, I keenly await the amendments that may come forward in the Committee stage.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank the Opposition and the National Party for their cooperation and indicate that I will be moving an amendment to omit clause 3 and to insert a new clause which, I hope, will overcome all of the concerns raised by the Opposition.

The clause was agreed to.

Clause 3

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite honourable members to vote against this clause, which will be replaced with a new clause. In so doing, I shall explain the purpose of the amendment. Clause 3 must be omitted to allow the Committee to insert the substituted new clause into the Land Act. The clause will substantially be the same but will have a broader application outside the metropolitan area and will allow additions to be made to the Bill to clarify the terms and rights of the lessee.

The clause was negatived.

The remaining clauses were agreed to.

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

2. Insert the following new clause to follow clause 2:

New section inserted in Land Act 1958.

‘AA. After section 99 of Land Act 1958 insert—

Sale of Crown Land subject to lease.

"100. (1) This section applies to a sale under this Division of Crown land, if the Crown land is subject to a lease granted under sub-division 1 of Division 9 or any corresponding previous enactment (except a lease for amusement or recreational purposes or for the purposes of rifle ranges or roads and tramways, or a lease under section 137s).

(2) Upon a sale to which this section applies any lease referred to in sub-section (1) to which the sale is subject has effect as a lease between the purchaser as lessor and the lessee under the lease as if it had been assigned to the purchaser and as if—

(a) any reference in the lease (except in relation to the exception and reservation of minerals to the Crown) to Her Majesty, the Governor, the Governor in Council, a Minister or any other person having a power or discretion exercisable under the lease for or on behalf of the Crown or lessee were a reference to the lessor for the time being; and

(b) any reference in sub-division 1 of Division 9 or a corresponding previous enactment (except in relation to the exception and reservation of minerals to the Crown) to the powers, discretion or duties of the Minister under that sub-section or enactment in relation to the lease were a reference to powers, discretions or duties of the lessor for the time being; and

(c) subject to paragraph (a), the provisions of the lease and this Act for the re-appraisal of the rent continued to have effect; and

(d) any provision in the lease—

(i) permitting resumption of land for public purposes; or

(ii) requiring contribution by the lessee to the cost of construction of works as if the lessee were liable as owner under the Local Government Act 1958—

were void; and

(e) the lease contained a provision under which the lessee agrees to pay to the lessor the amount of any land tax charged to the owner of the land subject to the lease (other than any amount exceeding the amount payable by an owner owning that land and no other land); and

(f) if this Act or the lease provides for the fixing of re-appraisal rents by the Minister—the lease contained the provisions set out in sub-sections (3), (4), (5) and (6).

(3) If a lease to which this section applies was entered into before the date of commencement of section 10 of the Land (Amendment) Act 1983 and was continued in force by section 26 of that Act, section 134 (4) of this Act as in force before the date of commencement of section 10 of that Act continues to apply to the lease, as if section 134 (4) (a) (vi) and (vii) referred to a certified valuer appointed at the request of the lessor or lessee by the President of the Victorian Division of the Australian Institute of Valuers, instead of to the Minister.

(4) The amount of re-appraisal rent must be determined having regard to the market rental value of the land subject to the lease, disregarding any improvements made by the lessee or sub-lessee during the term of the lease, and the amount of the re-appraisal rent is—

(a) the amount agreed between the lessor and the lessee; or

(b) if, at least one month before the date fixed for re-appraisal of the rent in accordance with this Act or the lease, the lessor and lessee cannot agree as to the amount of the re-appraised amount, such amount as is determined by a certified valuer appointed at the request of the lessor or lessee by the President of the Victorian Division of the Australian Institute of Valuers.

(5) If improvements were made by a lessee under a previous lease and were not taken into account in the assessment of the rent under an existing lease of the land when the existing lease was entered into, those improvements must be disregarded in determining the amount of re-appraised rent under the existing lease.

(6) If a valuer is appointed in accordance with sub-section (3) or (4), the parties to the lease are jointly and severally liable to pay the fee of the valuer.".

The Hon. D. M. EVANS (North Eastern Province)—The Bill that was passed by the other place contained clause 3, which has now been omitted, and was different from the
new clause being considered by the Committee. It must be clearly understood that the clause that the Committee rejected applied only to the metropolitan area. The new clause will apply to the sale of leasehold land throughout Victoria.

The former clause, as I indicated in debate on the South Melbourne Land Bill (No. 2), placed in considerable jeopardy the investment of people who had invested in leasehold Crown land, which was unacceptable. The sale to another person would not have protected the investment of people who had made substantial improvements on a Crown lease in the expectation that they would have the enjoyment of that property for 30 or 40 years.

It must also be recognised that the new clause proposed by the Minister extends to Division 9 and not only to Division 6 of the Act. Therefore, it carries with it rights throughout the State. It does not affect land only in the metropolitan area but also in a substantial number of other areas.

The Government is in the process of selling considerable amounts of Crown properties on which some investment has been made. The Government must address the rights of employees and teachers currently residing in houses and other tenants renting those premises.

Sales of railway land are consistently taking place throughout Victoria. A letter of 20 November from the Minister for Transport, Mr Roper, to me, refers to investments made in facilities by the Victorian Oatgrowers Pool and Marketing Company Ltd on leasehold railway land. Some of that land is under consideration for sale and may well be sold to a private owner. The lessees of that land and the owners of investment, who in many cases have short-term leases but have invested on the understanding that that would facilitate the use of the services of the Victorian Railways, are worried and nervous about the Government's action. The letter states:

Lessees have the opportunity to make an offer for surplus land at the time of sale but they are not given preference. Of course all present lessees are entitled to the rights provided under the terms and conditions of their particular lease.

It is important for honourable members to understand that matters other than the South Melbourne Land Bill (No. 2), which was debated earlier, also come under the ambit of the proposed legislation.

That is the reason why I was so concerned about the previous clause. At that time it did not refer to areas outside the metropolitan area. Certainly, this time it does. As I have indicated, a large number of areas of current Crown land which can be sold in the future come within the ambit of this legislative measure. So far as I can understand, the rights of investment of private individuals are reasonably protected under the current provisions and in that sense particularly I ask that my remarks during the debate on the South Melbourne Land Bill (No. 2) be read in conjunction with my remarks in this debate.

The National Party raises no objection to the legislative measure, but I am concerned about the way in which it will operate because of the considerable nature of the amendments that have been carried. At this stage, I indicate a little nervously that the National Party will raise no objection to the new clause proceeding.

The new clause was agreed to, as were the schedules.

The Bill was reported to the House with amendments, and the report was 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 thank members of the Opposition and National Party for their cooperation and their forbearance in the detailed discussions that we have had on the Bill. I congratulate the former Minister for Conservation, Forests and Lands on the haymarket site and Glastonbury Children's Home Land provisions, as I congratulate the other members for the Geelong Province. I am disappointed that Mr Hunt is not present to hear my thanks.
to him on the Bill but I am delighted that he won the "journos" politician-of-the-year award.

The motion was agreed to, and the Bill was read a third time.

**RACING (MISCELLANEOUS AMENDMENTS) BILL**

The debate (adjourned from November 20) 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. F. J. GRANTER** (Central Highlands Province)—The Bill is of a rather minor nature. Firstly, I declare my interest in the Bill as President of the Bendigo Jockey Club, as a member of the Victoria Racing Club, as a member of the Moonee Valley Racing Club and also as the trustee of the Caulfield Racecourse Reserve.

The provisions increase the stake money for restricted harness racing meetings from $1000 to $5000 for a meeting and for a race from $100 to $500. This is moving with the times on increased stakes and I believe it is a good measure.

Restricted harness racing meetings are held usually on a Sunday, but not necessarily. I also note in the Bill that betting during restricted harness racing meetings can take place. That provision is rather doubtful when the meetings are held on a Sunday and recently, for betting to take place at a Sunday race meeting at Moonee Valley, a Bill was passed by the House.

The towns where the restricted meetings take place are Kyabram, Benalla, Elmore, Mooroopna, Robinvale, Marong, Minyip, Donald and Sebastian. The Opposition, and I understand the National Party has an objection to clause 6, which relates to harness racing in the Mildura area. Under the present legislation there is a guaranteed number of meetings in the north-west of the State, which embraces the City of Mildura, the Shire of Mildura, the Shire of Swan Hill and the Shire of Walpeup. The Mildura club holds seventeen night meetings, the Nyah club holds ten night meetings and the Ouyen club holds eight day meetings, making a total of 35. I understand this is probably the limit, but I do not see why provision should be made to take any of these dates away from this area and grant them to some other area or the metropolitan area.

There is provision in the Act for the metropolitan clubs to hold more dates than they do at present, and I am reinforced in my opinion when I look at the *Australian Trotting Register*, volume 27, No. 3, December 1986 issue, at page 26 where the Secretary-Manager, Mr Ray Hepworth, states:

"Huge TAB handout Mildura Harness Racing Clubs $271 000 distribution from TAB funds in 1985–86 was the highest amount received by any country harness racing club this year."

He states that:

"This is $51 000 higher than last year."

So far as I know, Mr Hepworth is still a member of the Harness Racing Board. I cannot understand the Harness Racing Board putting an amendment to the Government which would take race meetings from the Mildura area. It is a popular area for harness racing and deserves more meetings than it has at present. It makes a pleasant night out to go to the harness racing either at Mildura or at Nyah. They are both very good tracks and in the warm weather, which is mainly the case in that part of Victoria, the meetings are delightful. The meetings should be encouraged and developed and there should be more meetings instead of fewer, as I am sure Mr Evans, who I guess is the spokesman for the National Party, will agree.
The Bill refers to the date of registration of bookmakers and bookmakers' clerks. The Opposition has no objection to the provision to change the date from 31 October to 30 November.

That is a logical move because 31 October falls in the peak of the racing season, and there is confusion both for the registrars of bookmakers and bookmakers' clerks' boards and the bookmakers, who sometimes may forget to register. I am sure that the bookmakers and the bookmakers' clerks' boards do not want such confusion at that time.

When talking about bookmakers, I point out that they are an important part of the racing industry. Mr Alan Cleary, the President of the Victorian Bookmakers Association, is a delightful chap who holds progressive views. Through the association, which is a well-administered organisation, the bookmakers are a very progressive group.

In relation to bookmakers and the totalisator, both oncourse and offcourse, I believe this State has an ideal set-up. People are able to bet either oncourse or offcourse or with the bookmakers. I am quite sure that the bookmakers are appreciated by those in the racing industry, whether they be involved in galloping, harness or greyhound racing.

There are a number of colourful characters among the bookmakers who are interesting to talk to and listen to. One would certainly find that out if one visited the racecourses and heard some of their chatter.

Mr Alan Cleary fielded at the Bendigo Cup carnival. I am sure we would all welcome the likes of Mr Cleary and some of the other leading bookmakers to field at race meetings in areas such as Bendigo because they give the meetings much interest and impetus. I can assure the House that they are men of integrity and, as I said, their association is well administered.

The Bill also contains a provision relating to gaming inspectors. I understand they will be incorporated with the inspectors of the Raffles and Bingo Permits Board and those who inspect the totalisators and that they will all come under the one administration with one name. There is certainly no opposition to that.

The Bill also contains a provision for the Totalizator Agency Board to assume responsibility for the provision of oncourse totalisator operations. I do not know how that provision comes into the Bill. I thought such a provision was previously passed by Parliament. The TAB is operating oncourse at most of the country racecourses in Victoria, although there is perhaps an area in the north-eastern operations of Mr Carmody where that does not apply.

At this stage, I pay tribute to Mr Jim Carroll, the General Manager of the Totalizator Agency Board, for his cooperation with the clubs in bringing the offcourse tote on to the oncourse operations. He has been most helpful.

Another provision of the Bill enables the establishment of a TAB agency in licensed premises. That is a provision about which I have some reservations. If no other suitable premises is available from which a TAB agency can be operated in a country town or some remote area, I believe it is okay to operate it from licensed premises.

However, I raise for the consideration of the House the situation of a small country town that has three hotels. If one hotel is allowed to have a TAB operation in the building or adjacent to it, it will have a great commercial advantage over the other two. Therefore, I should like the Minister for Sport and Recreation and members of the racing section of his department to consider my remarks, especially those relating to the small country town where there is more than one hotel.

The Hon. H. R. Ward—Like Heathcote?

The Hon. F. J. GRANTER—Heathcote is a typical example, as it has three hotels. If one of those hotels obtained a licence to operate a TAB agency, it would have an advantage over the other two hotels.
The Bill also contains a provision limiting the distance between TAB agencies, which is 15 kilometres as the crow flies.

The Hon. H. R. Ward—That is the amendment to section 116M.

The Hon. F. J. GRANTER—I do not know whether it would be better to measure the distance by a direct road route rather than as the crow flies. Nevertheless, the Opposition has no objection to the provision. Perhaps Mr Ward might wish to comment on that matter later.

As honourable members know, some 416 TAB agencies are operating in Victoria and the State is basically well catered for.

The Opposition objects to clause 13, which deals with the promotional powers of the Totalizator Agency Board, and will vote against it during the Committee stage. I have already circulated to the Minister for Conservation, Forests and Lands and to Mr Evans copies of the amendments that I propose to move in Committee. Nevertheless, it is an interesting clause.

Only in recent months, in celebrating its 25th anniversary, the TAB gave an amount of $25,000 to the three metropolitan clubs—namely, the Victoria Racing Club, the Victoria Amateur Turf Club and the Moonee Valley Racing Club—and the Harness Racing Board and the Greyhound Racing Board.

This was a promotional stunt for which I do not believe the TAB had authority. I am not asking the Minister to comment on whether the TAB had that authority, although I doubt very much that it did, under the promotional power.

My main objection to the TAB giving out those amounts is that it gave nothing to the country racing clubs, whether they be thoroughbred, greyhound or harness racing clubs.

Perhaps the board could consider the country clubs in its 26th year of operation and make amounts of money available to them as part of a promotional scheme.

The Harness Racing Board has been well treated under the fixed distribution formula. To support my contention, I should like to quote in a moment from an article that appeared in the *Truth* newspaper, which stated that the Harness Racing Board had made an announcement that it had made a profit of an additional $1 million. I believe that $1 million profit came about as a result of the use of the fixed distribution formula, which is subsidised by the thoroughbred racing industry.

The Harness Racing Board through the Government and the previous Government, has allocated $500,000 for the Sires Stakes program. I shall refer to an article that appeared in the *Truth* of 8 November 1986.

The Hon. B. A. Murphy—Do you read the *Truth*?

The Hon. F. J. GRANTER—Yes, I do now and again.

The Hon. C. J. Kennedy—The back page is getting better, isn’t it?

The Hon. F. J. GRANTER—I do not worry about these sorts of things; I will leave them for Mr Kennedy. On the Jack Dyer page under the heading “Handout behind trots boom”*, the article states:

The Harness Racing Board might have its worries but it claims it has accomplished a massive financial turnabout for the industry.

The board says it will record a profit of more than a million dollars for the past season. But was it a turnabout or was the great recovery brought about by special circumstances?

Galloping experts scoffed at harness racing’s boom.

They said Minister Neil Trezise should ask the chairman of the board if in fact the profit was brought about by the windfall from the fixed distribution of TAB profits where racing men claim the trots get 4 per cent more than justified.
They also claim the board’s financial situation has been greatly aided by the State Government’s handout of hundreds of thousands for special sires stakes racing and the prevailing interest rates.

Without these the racing sceptics say the harness industry would not have made a profit at all.

Notwithstanding how the million came about, at least it gives harness racing a chance to greatly increase prize money.

Still this season won’t be remembered for any great feats by the board.

It will be remembered as the year it destroyed Australia’s greatest pacing race—the A. G. Hunter Cup.

In case you don’t know, the remains of the great race—now a $25 000 A. G. Hunter Memorial—was run and won a couple of weeks ago.

Who won? Who cares?

The article demonstrates that the $1 million that the Harness Racing Board claims it has made in excess of previous years has come from thoroughbred racing. In 1983–84 the turnover for harness racing meetings was $55·5 million; in 1984–85 it was $51·1 million; and in 1985–86 it was $56·7 million. The board may claim that the turnover has increased by 11 per cent, but when one compares the 1983–84 figure of $55·5 million with the 1985–86 figure of $56·7 million, one realises it has increased by only about 2·2 per cent.

The board does not have much to write home about and, in my opinion, the increase comes from the thoroughbred industry. In concluding, I say the measure is not a nerve-shattering Bill, but the Opposition will oppose clauses 6 and 13.

The Hon. D. M. EVANS (North Eastern Province)—If there is one thing Mr Granter does better than anyone in this House, it is to give honourable members a learned dissertation on the racing industry.

The Hon. J. E. Kirner—He also has the best manners.

The Hon. D. M. EVANS—Yes, he has indeed. One can listen with pleasure to the Honourable Jock Granter on any subject, particularly the racing industry, which he knows well.

The National Party generally supports the Bill although it has real objections to clauses 6 and 13 and has comments to make on clause 11. The National Party realises that, because of the nature of the Bill, it should be debated more in the Committee stage. The Bill contains good proposals, such as the increased prize money in harness racing, which is welcomed.

The National Party has a little each-way bet on clause 11 which gives the Totalizator Agency Board increased influence and responsibility. Although the National Party recognises that this is for the benefit of racing in Victoria, as it provides a wider scope to spread bets and allows for a quicker pick up of winnings by the punters and gives wider coverage in the stake than perhaps happened under the old system, my colleagues, particularly the honourable member for Murray Valley in another place, have pointed out that efficient services are currently being given by totalisator agents throughout Victoria.

The honourable member for Murray Valley in the other place, Mr Jasper, pointed particularly to North-East Totalizators, which is based in my home town of Wangaratta. In fact, the place of business is just around the corner from my office. If I took three steps around the corner I would be there. It is an efficient operation providing employment and a somewhat greater return in percentage terms to the local racing club than it does to the totalisator agency. That clearly demonstrates its effectiveness and efficiency, two characteristics that impress me in private enterprise.

Nevertheless, there are advantages in having a Statewide system and, although Victoria needs the excellent service provided at this time and provided for a number of years by North-East Totalizator, the National Party will not object to the passage of the proposed legislation. Clauses 6 and 13 cause concern, but perhaps it may be more appropriate to deal with them in the Committee stage when, I understand, Mr Granter may propose...
amendments. I am always willing to listen to his dissertations, and I shall listen with even keener interest to the case he presents that he claims the National Party will support.

With those reservations, I indicate that the National Party has no objection to the Bill proceeding to the Committee stage.

The Hon. B. A. MURPHY (Gippsland Province)—I support the Bill and shall comment on some of the principal clauses. The Bill lifts restrictions on the number of racing meetings in the Mildura and Swan Hill areas and on the number of harness racing meetings per se. It also increases the prize money for some of the restricted harness racing meetings from $100 to $500 a race and from $1000 to $5000 a meeting.

The Bill changes the date of registration of bookmakers and bookmakers' clerks from 31 October to 30 November. That date coincides with the spring racing carnival which is the busiest period of the racing year, and enables bookmakers to obtain refunds by 30 October.

The Bill creates the position of gaming inspectors which combines the former role of the Totalizator Agency Board inspector and the Raffles and Bingo Permits Board inspectors into one position. It is important to have one gaming inspector, even if the result is merely to save money. The Totalizator Agency Board inspectors in the country areas of Victoria have done a fine job, not only in keeping the Totalizator Agency Board operators on their toes, but also in settling minor arguments between bookmakers and the public. The Gippsland area has a particularly good inspector named Mike Malady who covers the whole of that area.

The Bill also provides for the “takeover” of the Gippsland betting facilities. Mr Ernie Flaherty covered the racetracks around the Gippsland area, but Victoria will now have a uniform Totalizator Agency Board operation.

Clause 12 could be referred to as the “Paynesville” clause because it enables towns like Paynesville, which was excluded from having TAB facilities under the 15-kilometre provision, to be incorporated into the system. I have yet to see anyone measure how a crow flies and I am not sure how that measurement is taken. The provision provides for the distance to be measured by the most direct road route.

Clause 15 increases the penalties for offences under the Racing Act. Income is required to operate the Act and the increase in penalties will play an important part in that process.

I pay credit to the Minister for Sport and Recreation, Mr Trezise, who has the support of the racing industry and the Totalizator Agency Board. The Minister has assisted the racing industry to maintain a high performance.

Finally, for those honourable members who are interested, they should back Riverlea Jack which is racing on Friday night at Harold Park in Sydney. It will be the Phar Lap of the harness racing industry.

The Hon. K. I. M. WRIGHT (North Western Province)—I also congratulate the Minister for Sport and Recreation for the manner in which he has administered his Ministry. I have found him at all times to be sympathetic and helpful when I have referred a problem to him. Having said that, I find it all the more strange that the Minister has been lured into incorporating the provisions included in clause 6.

I commend my colleagues, Mr Evans and Mr Granter, for the way in which they have put this issue forward, because for many years my colleague, Mr Dunn, and I have been fighting to prevent the 35 meetings held in the northern district from being taken away from that area. That provision was placed in the legislation through the foresight of Sir Percy Byrnes because of the area’s isolation and Mr Granter, being a horse owner himself, well knows the cost and difficulty of maintaining horses and racing them at various meetings. Seventeen meetings are held at Mildura, eight at Ouyen and ten at Nyah. One could not get better harness racing meetings than are held at those centres. The weather is excellent and many people enjoy the extra racing that is held there.
I implore the House to omit clause 6 as it is presently framed because it will decimate harness racing in the area.

The Hon. H. R. WARD (South Eastern Province)—I refer to Mr Murphy's comments on the proposal for Totalizator Agency Board facilities to be on licensed premises. The board does not put those facilities on any licensed premises. A publican in Gippsland, in order to have a Totalizator Agency Board facility on his licensed premises, was prepared to pay $6000 to keep the line open for the hotel, because it is not a paying proposition for the board to put facilities on these premises. The managers of the board are not entirely stupid and they know what has to be done and what is required. The economics of the proposal is the first criterion for licensed premises to obtain TAB agencies, even in places like Mildura.

A number of towns in Gippsland could support Totalizator Agency Board agencies but because of the 15-kilometre provision they are excluded. Swifts Creek is within 15 kilometres of Foster, but it could maintain an agency. It is the last stop before one reaches Wilsons Promontory. The same situation applies to Inverloch and Longwarry and in north-eastern Victoria, to Glenrowan, which is too close to Wangaratta. Yarragon and Trafalgar are other examples. People in this situation have to drive 13 or 14 kilometres to place a bet or use the telephone facilities of the board.

Mr Granter and myself have been concerned about this matter for some time. Metropolitan people do not understand about unused roads. If metropolitan people saw a "hell fire jack gate" they would not pay any attention. A person who happens to have an intense dislike for Totalizator Agency Board meetings may do a number of things and claim it is a problem with TAB betting.

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An Honourable Member—For a forest track.

The Hon. H. R. WARD—Yes, a forest track is not really a practical road but is an unused road. I can take honourable members on a tour of some areas in Gippsland where one can travel some distance around the block of the old square mile area. The practical road, for instance, from Corinella to San Remo wanders around the region, but as the seagull flies, one would find that it might not be inside the distance applicable. However, by using the proposal one would find that it would solve the problem of the establishment of an agency in that area.

I suggest in clause 12 that after the words "the most", the words, "practical road route" be inserted so that one will not get anybody claiming that an unused road or a bush track can be used on any measure. It is a practical road route that we are dealing with.

I regret that in the principal Act it is not 10 kilometres and that we are sticking with 15 kilometres. There is a problem about moving an amendment to the principal Act to remove the figure "15" and insert "10". Those are the remarks I have to make at this stage; otherwise there is general agreement on the Bill, with the exception of clauses 6 and 13.

I suggest to the Minister that during the Committee stage we insert the word "practical" in clause 12 to ensure that what the Minister wants to achieve for the people who are interested in the use of the TAB is provided for. I support the Bill with the exception of clauses 6 and 13, to which amendments will be moved in the Committee stage.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 5 were agreed to.

Clause 6

The Hon. F. J. GRANTER (Central Highlands Province)—As I pointed out during my second-reading speech, the Opposition objects to clause 6 of the Bill, which will take away
the right for north-western Victoria—namely, the Mildura, Nyah and Ouyen areas—to have 35 racing dates. There are seventeen racing dates for Mildura, ten for Nyah and eight for Ouyen. As Mr Wright has stated, the late Sir Percy Byrnes was the person who had this matter written into the Act and I believe everything he said then is true today.

It is a wonderful area and one in which harness racing should be encouraged. It is sport that is conducted in that area mainly at night, which gives the people from Mildura, Ouyen, Nyah and surrounding districts somewhere to go and enjoy themselves. I am sure that Mr Dunn and Mr Wright will concur with everything I have said.

The Hon. B. P. Dunn—Hear, hear!

The Hon. K. I. M. Wright—Completely!

The Hon. J. F. GRANTER—I invite the Committee to reject clause 6 and leave the provision as it is in the Act, and in so doing I also pay tribute to the Minister for Sport and Recreation, the Honourable Neil Trezise. We were both elected on 27 June 1964. We are the only two of that vintage year who remain, and I appreciate his friendship and everything he has done for racing.

The Hon. D. M. EVANS (North Eastern Province)—I realise why Mr Granter has mellowed; one does not store old wine in new bottles! The National Party indicated that it would listen to the arguments presented to the Committee with regard to a number of clauses in the Bill.

The National Party supports Mr Granter's proposal, and, indeed, had he not proposed that the clause be omitted it would have taken the opportunity to propose it because Mr Wright has accurately pointed out that one of the most outstanding men ever to serve the old Country Party, which is now the National Party, the late Sir Percy Byrnes, was responsible for protecting the interests of the harness racing fraternity of north-western Victoria by enshrining this particular clause in the Act to enable at least 35 race meetings to be held in the Mildura, Ouyen and Nyah areas during the course of the year.

The Hon. K. I. M. Wright—He showed great foresight.

The Hon. D. M. EVANS—It is incredible when there is a demand for those meetings in those centres that are well patronised—they are long standing—that there should be any move, without justification, to reduce the number of meetings. It seems fair to say they would have hung Ned Kelly for less than that!

The National Party strongly supports the intention of the Opposition to omit the clause. Like Mr Granter I am surprised that the Minister for Sport and Recreation contemplated such a harsh blow to country racing because I, too, have been privileged to be with the Minister on a number of occasions and I have found him most sympathetic to racing throughout the State, particularly in country areas, and if one can drag him away from his beloved Geelong on Saturday one may have a happy day enjoying the fellowship of good country racing and good sport with him. The National Party, too, will vote against clause 6.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Honourable members would be aware that this proposal was put forward by the Minister after he received a recommendation from both the Racecourses Licences Board and the Harness Racing Board with a view to providing greater flexibility in the allocation of meetings in the best interests of the industry.

The Minister was endeavouring to take the best of the total interests of the industry into account rather than sectional interests.

The Hon. K. I. M. Wright—He wanted to give more race meetings to the metropolitan area!
The Hon. J. E. KIRNER—Not necessarily. However, it is not a matter of great principle to the Government, and, as I said in putting the matter forward, the Minister was keeping faith with the statutory boards controlling the industry.

The clause was negatived.

Clauses 7 to 11 were agreed to.

Clause 12

The Hon. H. R. WARD (South Eastern Province)—As I pointed out, I have had discussions with Mr Granter on this matter and have decided that what the Minister and the racing people want is the most direct, practical road route. Concerns have been mentioned about bush tracks or unused roads. Therefore, I move:

Clause 11, line 4, after "direct" insert "practical".

The amendment is a bid to ensure that practical roads are used and not routes dreamt up by looking at a few lines on a map.

The Hon. F. J. GRANTER (Central Highlands Province)—The amendment is good as it satisfies many of the arguments that Mr Murphy put during his contribution. The amendment will help country people in the definition of the most practical direct route.

The Hon. D. M. EVANS (North Eastern Province)—Mr Ward knows the country areas of Victoria extremely well; he is a well travelled man, one who is keen on his sports and one who is well versed on the highways and byways of north-eastern Victoria, especially the area from which I come.

When the restriction was placed in the original Bill, the concern of Parliament and the National Party was that there should not be a Totalizator Agency Board agency every few yards down the street, nor should the TAB agencies be shifted from their current shop premises into hotels. There needed to be a clear differentiation. In order to achieve that, it was necessary for a distance to be specified in the legislation.

The distance was kept a little larger in the initial stages to give the community, especially the racing fraternity, the opportunity of judging how well the provisions were operating and to amend them downwards, if necessary. It is always simpler to ease a restriction than it is to increase one.

The suggestion in the Bill and the amendment proposed by Mr Ward appear to be sensible and reasonable. Certainly, as a bush boy, I understand the difference between crows flying, nearest road routes and nearest practical road routes.

There will not be large numbers of additional TAB outlets springing up in country areas. They are fairly expensive to establish and administer and, in many cases, the profit can be marginal. More than one hotelier in country areas will set up an agency as a service to their patrons and will not make any money. It will just be one of the actions that country publicans take as good citizens of country Victoria. Mr Wards's amendment appears to be reasonable.

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

Clause 13

The Hon. F. J. GRANTER (Central Highlands Province)—I invite the Committee to vote against this clause. As I stated during the second-reading debate, I do not believe it is a necessary provision and I ask the Government to vote against the clause. The Totalizator Agency Board should have no further promotional powers as it already has enough.

The Hon. D. M. EVANS (North Eastern Province)—While the Minister is considering her decision on this matter, it may assist her if she knew that the National Party sees logic in the arguments advanced by Mr Granter and is quite happy to support him and vote against the clause.


The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am at a loss to understand the position of the National Party on this clause. All major operating organisations of which I know are expected to promote their corporate identities. Why the Opposition and the National Party should be so shy about the Totalizator Agency Board doing so is something that I cannot understand. However, as Mr Wright suggested by interjection, solidarity is important and, as the motto of the Labor Party is, “Unity is strength” and as I wish strength to remain on this side of the House, I shall vote against the clause.

The clause was negatived.

The remaining clauses were agreed to.

The Bill was reported to the House with amendments, and the report was 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 thank honourable members for their cooperation and their congratulations to the Minister for Sport and Recreation on the way he carries out his duties.

The Hon. F. J. GRANTER (Central Highlands Province)—I thank the Minister for Conservation, Forests and Lands for her tolerance. Perhaps she does not know a great deal about racing, but she is extremely tolerant and considerate. She has had a pretty happy night and she has been really good.

The motion was agreed to, and the Bill was read a third time.

TRANSPORT (AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. White (Minister for Health), for the Hon. J. H. KENNAN (Attorney-General), was read a first time.

ADJOURNMENT


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

That the House do now adjourn.

The Hon. F. J. GRANTER (Central Highlands Province)—Mr President, I direct your attention to the Victorian Parliamentary Handbook for the 50th Parliament. I have suffered an injustice in that publication because at page 88 it states that I am the Australian Labor Party member for the Central Highlands Province.

After 22 years as a member for the Liberal Party in this place something has gone wrong and I cannot believe this is merely a misprint. Perhaps the Premier is canvassing the proposition that the Labor Party may have a majority in this House through the Central Highlands Province, but that is not so. I am indebted to Mr Baxter for directing my attention to the error. Perhaps, Mr President, you could ensure that an erratum is issued to those to whom the book has been circulated.

The Hon. K. I. M. WRIGHT (North Western Province)—I refer the Minister for Community Services to the Office of Intellectual Disability Services. Some weeks ago I referred the Minister to the residences for the intellectually handicapped in Mildura. I asked whether Mildura is entitled to the appointment of a senior administrative officer for those residences. The Minister responded to the matter by saying that Mildura would be
entitled to the appointment of an administrative officer if there were a third residential unit excluding the two Commonwealth funded units. I ask the Minister to indicate whether she has been able satisfactorily to resolve the situation.

The Hon. G. P. CONNARD (Higinbotham Province)—I direct my matter to the Minister for Community Services. I have been approached by representatives of a number of children’s playhouses in my electorate who are very concerned about the effect the new child-care regulations will have on their organisations.

These playhouses are voluntary parent cooperatives which charge an annual membership fee and provide occasional child-care. Some playhouses are in halls and some are in houses owned by councils and leased out to the playhouse groups for a nominal fee.

The aim of these groups is to provide a basis in the community for families to interact, to give mothers a chance to have a break and for young children to make new friends. In many ways they have filled the void created by the absence of three-year-old kindergarten places.

The houses charge an annual membership fee but this does not cover costs; they make up the difference with fundraising activities. Parents are rostered to do monthly duty. At the Hampton children’s playhouse, for example, a maximum of twelve children can be minded at the one time and there are always three mothers on duty at any one session. Under the existing health regulations that has all been in order.

However, under the new regulations, any situation which brings together more than five children at a time must have a full-time, qualified person in charge. This means that these playhouses will not be able to survive because they will not be able to afford funds to pay such people.

Could the Minister please tell me where these playhouses stand in relation to the new regulations? If they must have this qualified person, will the Government provide the funding for such a person?

It would be a great pity if, because of these new regulations, such self-help ventures were to disappear, as they provide a very important link for children and mothers who would otherwise be isolated in the community.

Can the Minister give me an early response to this question so that I can reassure the playhouses in my area that they can continue to survive?

The Hon. B. A. CHAMBERLAIN (Western Province)—I am sure the Attorney-General, representing the Minister for Transport, would be intrigued to learn that section 22AA of the Motor Car Act imposes a $300 surcharge on the reissue of a motor car licence if a person is convicted of two prescribed offences.

On 1 October 1985 a constituent of mine from Colac lost his licence for twelve months for exceeding the -05 blood alcohol limit. When the twelve months had expired he applied for the reissue of his licence but he was asked to pay the surcharge of $300. Approximately 30 years earlier he had been convicted of driving in a dangerous manner. I know the Government is attracted to the concept that a person’s record should follow him or her forever.

The Hon. J. H. Kennan—Thirty years is a little excessive.

The Hon. B. A. CHAMBERLAIN—That is correct. I ask the Minister to refer his colleague to section 22AA with a view to amending the Act by limiting the period to ten years.

The PRESIDENT—Order! In response to the matter raised by Mr Granter, it appears that he has been inadvertently referred to as a Labor Party member at page 88 of the Victorian Parliamentary Handbook for the 50th Parliament. Due to his rugged appearance and his benign and friendly manner, Mr Granter must have been mistaken as a Labor Party member.
Nevertheless, I shall take up with the Parliamentary Librarian the matter raised to determine whether it can be rectified, although Mr Granter did not indicate whether he wished the entry to be changed or whether he was quite happy to be elevated to this position.

The Hon. HADDON STOREY (East Yarra Province)—I direct a matter to the attention of the Leader of the Government representing the Minister for Education. Within the past week the Curriculum Branch of the Ministry of Education reduced its staff by more than one-quarter. Approximately 125 positions have been axed and, although a number of things could be said about the way this has been done, I want to refer only to one specific matter. Members of the Bouverie Street Theatre in Education Team are among those who have been axed and have been told they have to return to their schools next year.

Over the years this team has done a lot of good work within the education field. Within the past twelve months the team has conducted and produced the only child abuse prevention program that the Ministry of Education has.

The group has expended a tremendous amount of time and energy in producing a play and a booklet and has done a series of performances that are educative in alerting children to the dangers of child abuse and enabling them to learn that they have the right to say no, that they are human beings and do not have to suffer victimisation.

This work was produced with a grant from the Children's Protection Society of $48,500, all of which has been spent with the exception of $12,000.

The problem has received acclamation in Victoria and in other States. In the latest issue of a newsletter published by the Ministry of Education the group has been commended for its work, and the latest Education Gazette has invited schools around Victoria to put in applications for a visit by the group next year. It is estimated that in 1987 at least 20,000 Victorian students would have the advantage of seeing this excellent program that is designed to help combat child abuse.

Not only has the grant money been wasted but the program has also been completely negated by a direction to the members of the team that they must go back to schools as from the beginning of next year.

I do not want to say anything that would give the general concept that I am against reducing the number of people in the Curriculum Branch of the Ministry of Education. However, I ask the Leader of the Government to ascertain from the Minister for Education whether the facts I have stated are correct and, if so, whether he will give consideration to maintaining this program for the next twelve months so that children in this State will be assisted by the program.

The Hon. A. J. HUNT (South Eastern Province)—I raise with the Attorney-General an unintended and unforeseeable by-product of the Associations Incorporation Act. That Act was passed to enable clubs and societies to enjoy the benefits of limited liability through a simple form of incorporation. However, it is currently operating in the opposite manner.

As soon as a club or society is incorporated, there is impressed upon it by insurance agents and others the need for comprehensive third-party or public risk liability insurance. It then finds that large premiums must be paid.

The Hon. J. H. Kennan—If I can use a phrase that I have outlawed—“in terrorem”.

The Hon. A. J. HUNT—I accept that phrase. It applies to and describes the position exactly. The next step is that small organisations such as a ladies’ auxiliary to the committee of a public hall, bushwalking clubs and so on, are told that they need public risk insurance although these bodies have been in existence from time immemorial and have no suggestion of a claim against them.
I produce a letter but I do not intend to identify it, Mr President, because I do not want to name the writer. However, I have shown the letter to the Attorney-General. It is from an insurance agent writing to a bowling club and it states:

We urge clubs who do not have this class of insurance to arrange a policy as soon as possible. In these times, the human race is geared towards claiming compensation for anything they can. This places clubs in a very vulnerable position, with both members and visitors having the right to sue. Incorporation does not alleviate the necessity for public liability insurance.

That suggests that cover is absolutely essential. The letter continues:

The sum insured on public liability has been increased to $2,000,000 with a $200 excess.

All this is doing is drumming up business and I am sure that it will be suggested that more and more insurance will be needed. Other clubs are frightened by what the Attorney-General has described as the in terrorem approach to obtaining insurance.

I do not know the answer to the problem. I would appreciate it if the Attorney-General would consider the matter so that small clubs such as sewing circles, bushwalking clubs, and ladies guilds are not scared into meeting impossible burdens of this kind.

The Hon. ROSEMARY VARTY (Nunawading Province)—I direct a matter to the Attorney-General representing the Minister for Property and Services. During the conduct of the Court of Disputed Returns hearing for the Nunawading Province by-election it became apparent that a number of absent votes for the Upper House had been excluded from the count on the basis that the Lower House votes did not qualify for the Assembly district for which they had been cast. However, they were still valid votes to all intents and purposes for the Legislative Council.

The Commonwealth has amended legislation to ensure that, should the House of Representatives vote be invalid, the Senate vote is then considered separately to establish whether it is a valid vote to be counted.

Can the Minister advise what action has been taken by the Government to provide that at future State elections the same sort of provision will be included in the State legislation to ensure that province votes are not automatically excluded when the Assembly vote fails?

The Hon. N. B. REID (Bendigo Province)—I raise with the Minister for Community Services a matter relating to information and coordination grants. I have received correspondence from the Shire of Bet Bet at Dunolly concerning a publication known as the Dunolly Welcome Record that is produced by the Shire of Bet Bet in cooperation with the local community.

The record is more than a newsletter; it provides a localised directory for the whole community through the north-central area of Victoria and provides valuable information on community affairs and happenings.

The annual operating budget is approximately $6000. In the past, an annual grant of $2000 was received. What the record really applied for in the first place was a one-off grant of $4400 to fund a replacement duplicator to produce the paper.

The concern of the Shire of Bet Bet is that the Dunolly Welcome Record will go out of existence if it does not receive the continuation of its annual grant of $2000 under the information and coordination program.

Would the Minister examine her budget and see whether this grant can be continued to the Dunolly Welcome Record newsletter?

The Hon. REG MACEY (Monash Province)—I raise a matter with the Minister for Planning and Environment relating to the Station Pier development. The local newspaper has directed attention to the development brief that has been made available to some people in Port Melbourne.
Two copies are available in the Port Melbourne Library but because of copyright they cannot be photocopied. I have sought to obtain a copy because of the interest I have in the area covered by the brief. Some 8000 people who live in Port Melbourne are extremely interested in this project, but have no access to this development brief.

I seek an assurance from the Minister for Planning and Environment that additional copies will be made available.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Storey raised with me a matter which is really for the attention of the Minister for Education. I listened carefully to the concern he expressed with regard to a particular program being developed in the Curriculum Branch on the issue of education on child abuse.

He makes a strong case for some review of that program and I will bring it to the notice of the Minister and obtain a response as soon as possible.

The Hon. J. H. KENNAN (Attorney-General)—Mr Hunt raised a matter relating to insurance. I am not sure, off the top of my head, that much can be done about it but certainly the matter will be given consideration. There may be a possibility of competitive pooling, as has been done with community health services in the marketplace; but I shall investigate the matter.

Mr Chamberlain raised the matter of the 30-year old motor car offences under section 22A of the Motor Car Act and I am sympathetic to that cause. In terms of the demerit points register, there is a three-year period but in other areas there may need to be a longer period. The matter could be looked at in the context of expunging the prior convictions.

Mr Macey raised a matter relating to development briefs for bayside projects. I understand that the Minister for Transport has carriage of that matter directly and has placed at least one copy of that document in the Port Melbourne Library and it is available for inspection.

The Hon. Reg Macey—It is copyright. No-one can take copies!

The Hon. J. H. KENNAN—I am sure that the brief is available for inspection between the hours of 9.00 a.m. and 5.00 p.m. for anyone who wants to see it.

Mrs Varty raised a matter relating to my representation of the Minister for Property and Services relating to electoral rolls.

The Hon. Rosemary Varty—It was not about electoral rolls!

The Hon. J. H. KENNAN—Then it must have been about something else. I will certainly do some slow reading of Hansard and refer the matter to the Minister for Property and Services.

The Hon. C. J. HOGG (Minister for Community Services)—The first query I received was from Mr Wright and I am delighted to inform him that a third community residential unit is to be purchased early in 1987. Indeed, the process of purchasing is now under way. As I understand it, the time frame is that when the property is purchased, funds are provided for the management support position of which I spoke when he last raised the matter in the House and, as closely as it can be arranged, the management support position comes on stream as the property is purchased so that all the little details of client selection and the like can be taken up by that person.

The second query was from Mr Connard concerning playhouses for children. I am interested in the fact that he has brought the matter to my attention as he is undoubtedly aware that the child-care regulations do not come into force until 1988.

A number of individual instances need to be examined and I will be directing the attention of my department to the cases that were mentioned and, indeed, he might like, at some stage in the future, to meet with some of the women running those houses, in which case I should be delighted to attend.
In answer to Mr Reid's query about the future of the *Dunolly Welcome Record* newsletter, I should inform him that the information and coordination grants were redirected by Community Services Victoria this year as part of the Budget strategy. We chose to divert those funds into providing money directly for the Citizens Advice Bureau to be used for information networks where they could be picked up in rural Victoria, for Lifeline and for a variety of similar organisations.

For some time, I found it difficult to justify the provision of a $2000 grant to each municipality. It was too loose an arrangement in some respects and I propose to examine, during the next few months, the kind of community services information strategy with which local government may want to work. This may lead the department to institute some financial assistance but I should like to keep it in that context.

I understand that some local councils gave the $2000 grant directly to the Citizens Advice Bureau operating within their municipality. Others have used it, presumably, in the way the Shire of Bet Bet has used the grant, that is, it has made the funds available for a specific publication, such as the *Dunolly Welcome Record* newsletter.

What happened under the information and coordination grants was that the department provided $2000 and that attracted $1000 of council funding for the publication. In most cases, although the $2000 has gone directly to the Citizens Advice Bureau, for example, the council continues to make a contribution.

I am interested in the newsletter that Mr Reid has mentioned and although I should like to receive a submission on it, I should also be interested in seeing a copy of it. I should like to know how often it comes out because sometimes these newsletters can be of terrific community interest.

I note that it is mentioned in the third paragraph of the letter that Mr Reid uses the record frequently. If he will furnish the details, I shall be happy to follow up the matter.

The motion was agreed to.

*The House adjourned at 11.47 p.m.*

**Joint Sitting of the Legislative Council and the Legislative Assembly**

**Wednesday, 3 December 1986**

**La Trobe University Council**

A joint sitting of the Legislative Council and the Legislative Assembly was held this day in the Legislative Assembly Chamber to elect three members to be recommended for appointment to the Council of the La Trobe University to fill three vacancies for a four-year term.

Honourable members of both Houses assembled at 6.4 p.m.

**The Clerk**—Before proceeding with the business of this joint sitting, it will be necessary to appoint a President of the joint sitting.

**Mr Cain** (Premier)—I move:

That the Honourable Cyril Thomas Edmunds, MP, Speaker of the Legislative Assembly, be appointed President of this joint sitting.

**Mr Kennett** (Leader of the Opposition)—I second the motion.

The motion was agreed to.
The PRESIDENT (the Hon. C. T. Edmunds)—I thank honourable members for the privilege of electing me as the President of this joint sitting of Parliament. I direct the attention of honourable members to the extracts from the La Trobe University Act 1964 (No. 7189) which have been circulated. It will be noted that the Act requires that the joint sitting be conducted in accordance with rules adopted for the purpose by members present at the sitting. The first procedure, therefore, will be the adoption of rules.

Mr CAIN (Premier)—Mr President, I desire to submit rules of procedure, which are in the hands of honourable members, and I accordingly move:

That these rules be the rules of procedure for this joint sitting.

Mr KENNETT (Leader of the Opposition)—I second the motion.

The motion was agreed to.

The PRESIDENT (the Hon. C. T. Edmunds)—The rules having been adopted, I am now prepared to receive proposals from honourable members with regard to members to be recommended for appointment to the Council of the La Trobe University.

Mr CAIN (Premier)—I propose:

That Carl William Dunn Kirkwood, Esquire, MP, David John Lea, Esquire, MP, and Milton Stanley Whiting, Esquire, MP, be recommended for appointment to the Council of the La Trobe University.

They are willing to be recommended for appointment if chosen.

Mr KENNETT (Leader of the Opposition)—I second the proposal. In so doing, I understand that the appointments are for four years. Honourable members should remember that that certainly resolves the doubt hanging around the honourable member for Preston, who, in accepting this appointment, has indicated that the seat of Preston is not up for grabs between now and the expiration of the four-year term. The Opposition wishes him well.

The PRESIDENT (the Hon. C. T. Edmunds)—Are there any further proposals?

As there are only three members proposed, I declare that Carl William Dunn Kirkwood, Esquire, MP, David John Lea, Esquire, MP, and Milton Stanley Whiting, Esquire, MP, have been chosen to be recommended for appointment to the Council of the La Trobe University.

I now declare the joint sitting closed.

The proceedings terminated at 6.1 p.m.

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QUESTION ON NOTICE

SPOT AUDIT PROGRAM

(Question No. 137)

The Hon. N. B. REID (Bendigo Province) asked the Minister for Health, for the Treasurer:

(a) Has the Government implemented a “spot audit” program on each department since the Premier’s instruction of 8 August 1985 regarding overdue and unpaid accounts; if so, is the Treasurer responsible for the prompt payment of those accounts?

(b) Which departments are not meeting the Premier’s directive that all outstanding accounts must be paid within 30 days of the end of the month in which the goods or services are received?

Session 1986—
The Hon. D. R. WHITE (Minister for Health)—The answer supplied by the Treasurer is:

(a) The Government has implemented the “spot audit” initiative and has commissioned a Review of Prompt Payment of Accounts. These activities took place between March and July 1986 in a sample of six operating departments. The review was performed by a project team of DMB officers and Coopers and Lybrand W. D. Scott management consultants. The findings of that review contained a range of recommendations which are now being implemented in six sub-projects which will provide lasting benefits in improving agencies' performance in payment of accounts.

Each Minister is responsible for the moneys appropriated to his/her department by the Parliament. The Treasurer is ultimately responsible for the administration of the Consolidated Fund and budgetary performance as well as the monitoring of systems which that responsibility implies. Part of that monitoring progress takes the form of regular reports by the Treasurer to the Cabinet on performance in payment of accounts.

(b) The Treasurer has issued instructions for new systems to be developed following assessment of the results of the “spot audit” program and the review referred to in (a) above. These systems are designed to assist departments in controlling timely payment of accounts and provide them with improved information with which to monitor progress. For example, the backlog of payments which existed in departments has been substantially reduced as a result of these initiatives and concentrated work by the Ministers and their officers.

Timeliness of payment of accounts is improving as was pointed out by the Auditor-General in his first report for the year ended 30 June 1986. Systems for monitoring performance and standardised reporting are now being developed and will provide much-needed information for more efficient resource management.

These longer-term systems improvements have superseded the “spot audit” program and are expected to result in continued improvements in performance in this area.
Thursday, 4 December 1986

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 11.4 a.m. and read the prayer.

TAXATION ACTS (AMENDMENT) BILL

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

LOCAL GOVERNMENT (GENERAL AMENDMENT) 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.

QUESTIONS WITHOUT NOTICE

NURSES' DISPUTE

The Hon. B. A. CHAMBERLAIN (Western Province)—Is the Minister for Health prepared to make any prediction as to when the five-week nurses' strike will conclude? In particular, is he prepared to admit that the existing career structure will have to be substantially rewritten?

The Hon. D. R. WHITE (Minister for Health)—The matter is now being resolved by arbitration before the Full Bench of the Industrial Relations Commission. Ultimately, this is the only place where all outstanding matters can and will be resolved.

The Government is of the view that the matter should not be determined by the commission until after a return to work. Clearly, that is a matter for the commission to reflect on also at an appropriate time.

The career structure that came down in June was based on the seven-month work-value study that considered the evidence of more than 70 witnesses including representatives of the Royal Australian Nursing Federation and the Trades Hall Council. The final document that formed part of that career structure was not only agreed to by the Royal Australian Nursing Federation but also was supported by the Trades Hall Council. The Government then had a formal responsibility to implement the decision of the Full Bench of the Industrial Relations Commission.

The Australian Council of Trade Unions is now putting forward a proposal for a substantially new career structure. The Government wishes to hear evidence relating to the new career structure at some length because it is most important that if substantial changes are made to the career structure that came down in June, one must be satisfied that all sections of the nursing profession know and understand what is being proposed and what is involved in a new career structure and are supportive of the proposals or variations of the proposals before the Government formally responds on its merits.

The Government has an open mind. It is most important to ensure that whatever career structure is put in place is not only known and understood by the RANF leadership and the ACTU but also is widely known and embraced throughout the nursing profession.

REGIONAL SALEYARDS

The Hon. R. M. HALLAM (Western Province)—I refer the Minister for Agriculture and Rural Affairs to the report of the working party investigating the distribution of livestock selling centres throughout Victoria and, in particular, the recommendation that these be rationalised to include only twenty regional centres.
Is the Minister in a position to announce formally the Government's response to those recommendations and so end the speculation that exists throughout rural Victoria?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The time for submissions to the report on the distribution of saleyards in Victoria has expired and the Government is compiling the responses. I expect that in the week or two before Christmas I shall have the result of that compilation. I do not expect to announce a Government response until early in the new year—and I mean early in the new year. I expect to make an announcement in the early part of February.

However, I indicate that the report was prepared by two officers from the Ministry for Planning and Environment and two officers from the Department of Agriculture and Rural Affairs and the proposals and recommendations in that report were made by those officers.

The Government put the document out for public response and it was without comment. One of the recommendations in the report was the nomination of twenty—what might be called—regional centres, purely for the convenience of determining where Government funding should be placed. That includes, of course, whether the Government would support Commonwealth Employment Program funding. As the honourable member knows, Commonwealth Employment Program funding has been useful in the upgrading of certain municipal saleyards. The Government did not make any comment at the time the report was released as to whether it agreed with that approach or not. It has caused a lot of comment.

I have received much representation from areas around Victoria that have been upset about not being named as one of those regional centres. I will ensure that when the composite submissions are returned to me, I will review the whole matter and personally determine whether that recommendation is proceeded with or not, and if it is, whether the twenty regional centres that have been recommended are the proper twenty or whether it should be more or less or different ones included or left out.

Therefore, I assure the honourable member that I will give proper consideration to the whole issue but the Government will not respond until early next year.

SABOTAGE OF LOGGING CONTRACTORS’ MACHINERY

The Hon. C. F. VAN BUREN (Eumemmerring Province)—Is the Minister for Conservation, Forests and Lands aware of the sabotage carried out to logging contractors' machinery and sawlogs in the Otways during the weekend of 29 and 30 November, 1986?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am aware of the sabotage conducted on logging machinery and logs in the Otways over the weekend and I am disappointed that such acts of deliberate vandalism have taken place.

Five bulldozers and loaders had chemical and sand substances tipped into their fuel, which meant that after they had been operating for a short time, the engines seized and the machines are now out of commission.

As well as that, numerous nails were driven into the logs that were already cut; and if those logs had gone to the sawmills and been hit by the chainsaws cutting through them, the effect would have been considerable injury inflicted on innocent workers.

The police at Forrest and Colac have been informed of all the details of the incidents and the Department of Conservation, Forests and Lands and the police are working in close cooperation on the matter. I will be speaking to my colleague, the Minister for Police and Emergency Services, the Honourable Race Mathews, about further cooperation on the matter.

Clearly, it is not possible to police or supervise forests 24 hours a day nor should that need to be done. I hope that over that next few days, a cooperative plan can be worked out.
for the better monitoring of the forests but I would not suggest that complete monitoring could be conducted.

This type of action puts at risk the livelihood of the contractors who are all small business persons relying absolutely on the bulldozers and loaders for their livelihood. Those machines are now out of action for two months unless new engines are installed immediately, at a cost of $25,000 each. These logging contractors do not have that sort of money at their disposal. I will be meeting with the Victorian Sawmillers Association later this afternoon to discuss the possibility of short-term financial assistance. Although I do not see it as the responsibility of the Department of Conservation, Forests and Lands to provide same, I am certainly willing to assist in the matter.

This type of action also puts at risk the conservation cause itself. I hope that the conservation movement will do what it has done in the past when nails have been driven into logs and speak out against the activity in an unequivocal fashion.

At the same time, it is important to remember that these are declared forests land use areas—declared timber harvesting areas—and if we are to have proper land use determinations and proper Government decisions about them, we have to observe both the conservation zones and the timber harvesting zones.

It also puts at risk something that I hold dear in terms of the way forests are managed and that is that the planning of the coupes that are cut is a public planning process. The plans of those coupes are available to anyone at the Colac office and I should like that to remain the case. That is appropriate, particularly in the Otways, which is a sensitive area, as you, Mr President, well know.

I should like it to remain an open process. Not only has this action put the workers, their families and their livelihoods at risk, but also it puts the proper management of forestry, in a conservation sense, at risk.

**NURSES’ DISPUTE**

The Hon. M. A. BIRRELL (East Yarra Province)—Will the Minister for Health advise what specific action he will take to ensure that the delivery of vital food, linen and fuel supplies to hospitals will not be further interrupted by the pickets of the Royal Australian Nursing Federation?

The Hon. D. R. WHITE (Minister for Health)—I wish to give an assurance to the House that the Government will be taking all steps that are necessary to ensure that linen, food, briquettes and other essential goods and services are provided to our public hospital system.

I also wish to make it clear that, in saying that, the management of the picket lines is the responsibility of the Police Force. The force is in daily contact with all picket lines that are in operation and, so far as the Government is concerned—and I make that clear—they have been doing an excellent job with the management of the picket lines. The Police Force will continue to do so in a way that ensures that these goods and services continue to be provided on all occasions.

**PLANNING REGULATIONS**

The Hon. D. M. EVANS (North Eastern Province)—I refer the Minister for Planning and Environment to the very high cost of complying with planning regulations and the effect of additional requirements for planning regulations on businesses and development in Victoria. Is it a fact that the need for environment effects statements in developments, including tourist developments in rural settings, is becoming more rigorous? If so, why? Will the Minister explain those additional requirements?

The Hon. J. H. KENNAN (Minister for Planning and Environment)—I have undertaken a review of all regulations relating to all planning and environmental matters and, as a
result of that, I introduced the Planning and Environment Bill into this place. It would have been of great assistance in streamlining the process and it also had in it a key mechanism related to time, that whenever planning authorities asked for more information, the clock stopped only temporarily; it did not go back to zero and they could not get extended time in the same way as they can at present.

This is a major streamlining measure which has been blocked by the National Party and the Liberal Party. It is regrettable and it will add unacceptably to the cost until this place passes the Bill, if it is prepared to pass it in an acceptable form.

Over and above that we are also proposing in the next sessional period to introduce amendments to the Building Control Act that will speed up these proposals. We are at present making amendments to regulations under the Building Control Act to allow for a system of aggregation so that for certain requirements—surveyors and so on—people can get someone outside local government to provide the appropriate certificate and the council can act on that to speed up the process. I very much regret also that the Legislative Council is so obstructive of my endeavours to streamline some of these proposals. I am very grateful that the matter has been brought up.

The Hon. B. A. CHAMBERLAIN (Western Province)—On a point of order, the Minister for Planning and Environment is not allowed to reflect on the decisions of this House and, in doing so, he is clearly breaching the Standing Orders. I ask you to rule accordingly, Mr President.

The PRESIDENT—Order! I uphold the point of order.

The Hon. J. H. KENNAN (Minister for Planning and Environment)—I shall respect that ruling, Mr President, and reflect on the behaviour of members of this House everywhere but here.

**ECONOMIC VALUE OF ENVIRONMENTAL ASSETS**

The Hon. M. J. SANDON (Chelsea Province)—Will the Minister for Planning and Environment advise what steps he is taking to ensure that the real economic value of Victoria's environmental assets is assessed?

The Hon. J. H. KENNAN (Minister for Planning and Environment)—I am happy to advise honourable members that the Ministry for Planning and Environment has engaged Dr Robert Repetto of the World Resources Institute, Washington DC, as a consultant for a project on resource accounting, otherwise called "environmental accounting". I know it is a matter in which members representing the Geelong Province will be interested. Dr Repetto's central thesis is captured in his statement that:

> A country could exhaust its mineral resources, cut down its forests, erode its soils, pollute its aquifers, and hunt its wildlife and fisheries to extinction, but measured income would rise steadily as these assets disappeared.

Dr Repetto, and other people in the United States of America and in some European countries have been arguing that current national and State accounting procedures should be extended if a suitable basis is to be provided for the planning of sustainable economic development.

The World Bank, the United Nations Environment Program and several overseas Governments have already taken initiatives to develop resource accounting as one step in answering the need for a more complete accounting system.

The consultant has been in Melbourne for the past few days and is meeting officials from the Ministry for Planning and Environment, the Department of the Premier and Cabinet, the Department of Management and Budget and other Government agencies that have responsibilities for natural resources.

Dr Repetto produced a background report following his visit which will include other places in Australia and recommendations regarding the possible development of resource
accounting by Governments in Australia. It will not, of itself, be sufficient to value all natural assets accurately. Some resources, such as coal, oil and non-sensitive timber production, can be relatively simply evaluated using this method but other assets such as pristine wilderness areas are unique and by definition are priceless. Resource accounting is, nevertheless, an important tool in assisting Governments to evaluate better the real worth of a country's natural assets.

I look forward to Dr Repetto's report, which has been an important initiative in this country and to the Ministry for Planning and Environment in Victoria. What Dr Repetto has to say will be a real stimulus to further action on resource accounting in Victoria and to the growing importance of environmental issues in the State.

MATERNAL AND CHILD HEALTH SISTERS

The Hon. R. I. KNOWLES (Ballarat Province)—I ask the Minister for Community Services whether it is a fact that Community Services Victoria has advised municipalities that the Government will continue to meet two-thirds of the salary subsidy for maternal and child health sisters irrespective of whether they are employed at the 4A or 3B classification? If it is a fact, how does the Minister reconcile this with her answer to a question without notice on 20 November in which she indicated that the subsidy would be paid only according to the award?

The Hon. C. J. HOGG (Minister for Community Services)—In the answer I think I said that two-thirds of the award to be determined or the determined award. I am not aware of the fact that Community Services Victoria or anyone from the department has given the advice that Mr Knowles mentioned. If any officer of the department has done that, it was done in error and without my authority. I shall follow that up forthwith.

OUYEN AREA GRAIN HARVEST

The Hon. K. I. M. WRIGHT (North Western Province)—I have a question for the Minister for Agriculture and Rural Affairs concerning the grain harvest in the Ouyen area, which is represented by Mr Dunn and me. The harvest is huge but, unfortunately, a massive flow of grain is transported to South Australia. It is anticipated that 25 000 tonnes of grain will be transported by road from the Millewa line to South Australia that would normally have gone by rail. There are several reasons for this happening: the strict testing provisions in Victoria; the high freight rates on V/Line; the fact that transport can pick up the grain from the farm and transport directly to the bulk handling areas in South Australia; and the holidays. The Government has made 2 January a public holiday and this will mean there will be four consecutive days that will carry extra charges of 70 cents or 40 cents a tonne.

Can the Minister for Agriculture and Rural Affairs examine these factors and take whatever action he can to ensure that as much grain as possible travels on the V/Line system?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I agree with Mr Wright that there is a difficulty and that it is in the interests of all grain growers in that area for the V/Line system to be used to its maximum. I was aware, as was the Minister for Transport, that there was some talk of trucking grain into South Australia this year; some of that occurred last year. However, in determining V/Line freight rates this year, a significant actual reduction was made, and I am aware that that is of concern to farmers. I am also aware that there was a reduction in the public authority dividend payment from the Grain Elevators Board. Nevertheless, the charges are significant.

I believe Mr Wright is correct in stating that other factors are involved in the choice of some farmers to truck their grain out of the State into South Australia. I am indebted to Mr Wright for the estimate of the amount as I have not had any information about that.
Mr Wright referred to the figure of 25,000 tonnes. I shall certainly check that and certain other factors relating to this matter which Mr Wright has briefly discussed with me.

The matter requires investigation on my part. I shall check the facts as Mr Wright offered them, and I shall do what I can to ensure that everyone benefits from the maximum amount of grain being handled by V/Line in Victoria.

**CHILD-CARE CENTRES**

The Hon. J. L. DIXON (Boronia Province)—Will the Minister for Community Services outline to the House what progress has been made in the development of new child-care centres within the State/Commonwealth cooperative arrangements?

The Hon. C. J. HOGG (Minister for Community Services)—In answer to the question, I shall give an update on the child-care centre situation as I know that this is a topic in which Mrs Dixon takes a lot of interest.

In 1985 the State entered into an agreement for a further three-year cooperative arrangement for the capital development of an additional 64 child-care centres—2,250 child-care places—by June 1988.

Local government areas were to be selected according to an agreed planning and consultation procedure and requested to register interest. This required local government to provide the site for the centre and to determine ongoing management arrangements.

The State allocated $6.9 million for capital works and $0.31 million for administration over the three-year period. The Commonwealth allocated $6.7 million for the capital works and the commitment to provide recurrent funding towards the operation of the centres.

The current situation is this: in round one, there are eleven centres each for 35 children. Most of those centres are either being built or at tender. In round two, there are nineteen centres, each for 35 children, and all of those centres are at the design stage. In round three, there are ten centres offered and the responses are being awaited. There are eight centres for 35 children and one centre for 50 children. That is at the Ford Motor Co. of Australia Ltd at Broadmeadows where there are a large number of women and single fathers in the workforce. The tenth of those centres is a replacement for the State day nursery at Ascot Vale, which a number of honourable members have directed to my attention. In round four, there are 24 centres and the allocation of these final 24 centres is currently being determined. It is anticipated that letters requesting registration of interest will be sent by the end of this year.

**STATION PIER DEVELOPMENT**

The Hon. A. J. HUNT (South Eastern Province)—Will the Minister for Planning and Environment do everything in his power as quickly as possible to obtain the reversal of a decision by the Commonwealth Minister for Local Government and Administrative Services to withdraw from sale a large parcel of Commonwealth land which is crucial to the Victorian Government’s $1,000 million Station Pier development? Will the Minister protest against the intervention of Senator Zakharov, which apparently brought about the withdrawal of a sale, by a person who has a direct pecuniary interest as a resident of the immediate vicinity?

The Hon. J. H. KENNAN (Minister for Planning and Environment)—I was happy to hand over my title of “Politician of the Year” to Mr Hunt. I would have liked to win it again, but Mr Hunt is a worthy successor.

The Hon. M. A. Birrell—He handled it better than you did!
The Hon. J. H. KENNAN—He did not. The Opposition has raised a serious matter. I thought the first part of Mr Hunt’s acceptance speech was witty, but he then got a bit maudlin.

The Hon. B. A. CHAMBERLAIN (Western Province)—On a point of order, Mr President, the remarks of the Minister are in no way related to the question.

The PRESIDENT—Order! The Minister should reply to the question.

The Hon. D. R. White—It adds to the sense of drama.

The Hon. J. H. KENNAN (Minister for Planning and Environment)—It does. I have read the report in today’s Age and there will certainly be discussions within the Government about it. It is a matter that primarily is within the province of the Minister for Transport. The Government is concerned about the issue and will be having discussions about it.

CUT FLOWER INDUSTRY

The Hon. D. E. HENSHAW (Geelong Province)—I refer the Minister for Agriculture and Rural Affairs to suggestions that there is a potential in Victoria for extensive development in the horticultural and cut flower industries, and I ask the Minister what support his department is giving to the cut flower industry.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—It may sound like a minor matter to members of the Opposition.

The Hon. B. A. Chamberlain—It is a big industry.

The Hon. E. H. WALKER—It is a big industry. I want to make a few comments about it because some exciting developments are occurring. Honourable members will be aware of the work being done at my department’s Horticultural Research Institute at Knoxfield to develop superior thyptomene and gerbera plants. Some of this work received coverage on television a month or so ago. These plants have subsequently been marketed by Daratech, the company established by the Government, in conjunction with Calgene Pacific, which is an Australian genetic engineering company with major interests in the genetic manipulation of flowers and ornamental plants.

I am pleased to announce that my department, through the Horticultural Research Institute, in association with Calgene Pacific, has just received a grant of $740 000 to study the manipulation of blue flower colour in ornamentals by genetic engineering.

The grant is awarded by the Commonwealth Department of Industry, Technology and Commerce under its national biotechnology program. We are very proud to have won that award.

The initial task of the project will be to produce blue flowers in some of the major flower groups that do not produce blue colour naturally. The genetic blue colour is taken from natural blue colours and then used with plants that are not normally blue, such as the rose, the gerbera, carnation and chrysanthemum. This is all intended to boost what is already a good industry in the export of cut flowers to the northern hemisphere.

If successful the project could have major possibilities for several colour manipulations of flowers and other horticultural crops.

Scientists at Knoxfield will be responsible for research to transform and regenerate the plants that are to be genetically engineered.

The whole project will involve at least nine full-time staff over the next three years and is another example of the Government’s strong commitment to developing the research and scientific resources available to the State.
The program has the potential to create substantial export markets for the flower industry, towards which our major efforts are aimed. I am sure all honourable members would wish the project team every success in its work.

ESTIMATES COMMITTEE

The PRESIDENT—As it seems unlikely that the report of the Estimates Committee will be called on for discussion before the House goes into recess, for reasons which will become apparent, I believe it is proper that I assume the indulgence of the House to make some comment from the chair about the operations of that committee at this stage.

Honourable members will be aware that, as President, I have a residual responsibility as to the operation and servicing of committees, and it is in that capacity that I have taken a keen interest in the Estimates Committee, bearing in mind that its appointment on 8 October broke new ground for this House. In the light of its early operation and its first and second reports, I believe time should now be taken to reflect and, if necessary, to review its operation and to refine its procedures.

The House endowed the committee with wide—and in some instances, unusual—powers. It cannot be said, however, that unbridled licence has been conferred. The House has imposed restrictions on its own operations through its Standing Orders which enable its business to be conducted having regard to a fair balance of rights on the one hand and protections on the other. Similar considerations flow through to its subordinate bodies—the Select Committees—which derive their powers from the House, either by way of resolution or the Standing Orders or both. It is a fundamental and important rule that a committee has no power whatever other than that given by the House.

The House has a right to expect that any committee it establishes operates properly and effectively and my observations and examination of the reports and daily Hansard editions of the Estimates Committee lead me to the conclusion that there is scope for reassessment and improvement in respect of that committee.

I mention two aspects initially to illustrate my concern. First, I note that strangers were present during deliberations of the committee—that is, when witnesses were not being examined—and a Hansard report of those proceedings was published. A deliberative meeting is a vital stage of any committee process, where argument ensues and issues are canvassed in great detail in an endeavour to reach a conclusion which will take account of all views. Standing Order No. 199, wisely in my view, specifically requires those procedures to be carried out while strangers are excluded, and it is at least arguable whether the resolution of the House permitted the Estimates Committee to do otherwise. Apart from that aspect, one might well question the expense and resources involved in producing a verbatim transcript of such meetings.

Second, consideration should be given to the placement and involvement of strangers at committee meetings. Although other members of the Council were enabled by resolution of the House to participate in the committee's proceedings to the extent of attending meetings and questioning witnesses, it should be pointed out that members of another place do not enjoy those rights and are, for all practical purposes, in the same class as other strangers. It is well established that strangers may not interfere in any manner in the proceedings of a committee, and the practice of the Estimates Committee in its early stages at least was patently at variance with that code.

Apart from those two matters, however, I have real uneasiness about the interpretation adopted by committee members of the power given by the House for them to record reservations. There is urgent need for some sensible understanding to be arrived at as to the scope and content of material put before the House under the guise of that authority. It should not be seen as a criticism of a decision of the House if I were to offer my personal hesitation about the necessity for such a provision at all, for I hold that adequate capacity exists by way of amendment to a report paragraph, and the recording of dissent by the division procedure, for views contrary to the mainstream committee decision to be
recorded. If it is to be retained at all, however, the reservation privilege should not be used to circumvent normal restrictions which would be imposed on members in the House itself through its Standing Orders and practice. Bounds and relevance and propriety need to be understood and observed, and an acceptable mechanism needs to be in place to see that they are.

I recognise that the ability to record reservations was an innovation borrowed from the Senate. I have, therefore, taken it upon myself to write to the President of the Senate seeking information as to the way it is administered in that forum, with a view to making that information available to party Leaders in discussions which, I believe, should ensue on matters such as I have raised here.

It is my hope that the House will make every endeavour calmly and reasonably to reassess the operation of the committee in the light of its fledgling experience, to recognise defects, where apparent, and to set about the task of refinement and finetuning to the extent necessary for it to operate sensibly, effectively and efficiently. For my part, I am willing to cooperate in any process directed towards that end.

The Hon. B. A. CHAMBERLAIN (Western Province) (By leave)—I should like to indicate that the Opposition would be prepared to partake in those suggested discussions. I believe such discussions would be fruitful.

The committee was working in uncharted waters in some areas and found difficulties. I believe the course you propose, Mr President, is the only way to go.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—Mr President, I appreciate the comments you have made. I should appreciate receiving a copy of those comments, if I might—and I am sure honourable members opposite would do the same—as you have said a great number of things within those comments which deserve very careful attention.

I appreciate the fact that you have given thought to the whole matter, Mr President, because the function of that committee has been of concern to a number of honourable members in this House.

I indicate the Government’s willingness to take part in the discussions you suggest. No doubt, they will be instigated by you, Mr President, and we will play our part along with other parties in the discussions you have suggested.

The Hon. B. P. DUNN (North Western Province) (By leave)—I indicate that the National Party would, likewise, be happy to take part in those discussions. It is a sensible way to approach and address the future operation of these sorts of committees.

ORDERS OF THE DAY DISCHARGED

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I have had the opportunity of examining the items to which Mr Chamberlain’s motion refers. It is a sensible motion, and I support it.
The motion was agreed to.

BAIL (AMENDMENT) BILL (No. 2)

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to amend the Bail Act 1977 and the Magistrates Courts Act 1971 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

MINISTERIAL STATEMENT

Therapeutic Goods and Cosmetics Bill

The Hon. D. R. WHITE (Minister for Health)—I wish to make a Ministerial statement outlining my response to the Social Development Committee's inquiry into the Therapeutic Goods and Cosmetics Bill 1984.

In introducing the Bill into the Legislative Assembly in May 1984, my predecessor defined the objective of the Bill as being the introduction of comprehensive laws to deal with the manufacture and sale of all therapeutic goods and cosmetics in Victoria. The Bill was designed to replace the proprietary medicines provisions of the Health Act with new legislation covering not only proprietary medicines, but also other therapeutic goods, including therapeutic devices, and cosmetics. Significant aspects of the Bill included the requirements that:

- therapeutic goods be evaluated by a Therapeutic Goods and Cosmetics Advisory Committee, consisting of eighteen members, for the purposes of determining purity, safety and efficacy;
- registered products be re-evaluated at three-yearly rather than ten-yearly intervals, as is currently the case in respect of proprietary medicines; and
- manufacturers and wholesalers of therapeutic goods be licensed in order to ensure compliance with codes of good manufacturing practice.

Honourable members will recall the widespread concern expressed over the Bill resulting in a petition with over 200,000 signatures being lodged at Parliament House. The scheme was depicted by some either as an attempt by big business and orthodox medicine practitioners to muzzle alternative medicine practitioners, or as another example of big bureaucracy and overregulation.

The Bill was referred by the Parliament in early 1985 to the Social Development Committee for its consideration. The result has been a most thorough report reaffirming the Government's original view—a view to which the Government still subscribes—that there is a need for mechanisms to ensure improved standards of therapeutic goods. The committee defined "therapeutic goods" as: proprietary medicines; nutritional supplements, including vitamins and minerals; contraceptives; appliances and devices, such as heart valves; and alternative medicines, including homeopathic and bach flower remedies.

The Social Development Committee noted the growth in recent years of interest in alternative medicines and also the potential hazards in the proliferation of untested claims made in respect of therapeutic goods.

The Social Development Committee also expressed concern at the lack of quality controls on manufacturers and wholesalers of therapeutic goods—a lack which contrasts sharply with controls placed on manufacturers and wholesalers of substances scheduled under the Drugs, Poisons and Controlled Substances Act, all of whom must be licensed. Like the Social Development Committee, I am convinced that without such measures, the
Government will be unable to guarantee the public that therapeutic substances are uncontaminated, batches are stable and consistent, ingredients are not mixed up and labelling errors are minimised.

The Social Development Committee, therefore, supported the substance of the Bill. Specifically, it sought to address public concerns in a number of ways.

Concern had been expressed about the possible use of the Bill as a vehicle to destroy the alternative medicine industry. Three of the committee’s recommendations address this problem in particular.

First, the committee recommended that the Therapeutic Goods and Cosmetics Advisory Committee, which would have major responsibility under the proposed legislation, consist not of eighteen but of eight members, and that it be a broad-based committee, the composition and size of which should be such as to provide the opportunity for a range of skills.

Second, the committee recommended that a dual registration system be introduced for nutritional supplements and alternative medicines. Products for which claims of efficacy cannot be supported would be registered as level 2 products and would be tested for quality and safety only. Level 1 registration would be reserved for those products which have supportable claims. This will have the positive effect of promoting accurate advertising without reducing the availability of the relevant substances.

Third, the committee recommended that therapeutic goods made up, prepared and dispensed for an individual in a specific case by pharmacists, herbalists, naturopaths, homeopaths, optometrists, physiotherapists and other similar health care professionals should not be caught within the ambit of the proposed new legislation. I support the thrust of these recommendations.

Concern had also been expressed about excessive bureaucracy under the proposed scheme. Three of the committee’s recommendations are particularly pertinent in this respect.

First, the committee recommended that manufacturers and wholesalers already licensed under the Drugs, Poisons and Controlled Substances Act not be required to hold a duplicate licence. In this regard, it should be noted that duplicate licences and multi-licence fees are already a major problem in the pharmaceutical and chemical industry.

Second, the committee recommended that in the interests of uniformity, national policies must be adhered to in Victorian legislation. Uniformity of drug controls is desirable and would result in considerable savings for manufacturers of therapeutic goods and for the pharmaceutical and chemical industry in general by reason of the elimination of differing marketing requirements between the States.

Third, the committee recommended that therapeutic goods—excepting contraceptives—be re-evaluated every five years. The current requirement in the Health Act is ten years while the Bill proposed three years.

With the exception of the third recommendation, the Government supports the direction of the committee’s recommendations. The growth in bureaucracy which would be required to administer either a three or a five-yearly re-registration system is not justified in view of the problem we are seeking to address. The current ten-yearly review is not adequate but the proposed legislation should embrace the principle of review as often as is necessary in the light of the changing state of the art. This will mean that, in some cases, products will need to be re-evaluated at regular intervals because of new information about the qualities of some of their ingredients, while in other cases, a ten-yearly review might be all that is needed. The detailed workings of this mechanism are currently under review by the department.

I accept the validity of the great majority of recommendations made by the Social Development Committee. However, there are some areas of disagreement.
The Government's policies on legislative and regulatory review call for a thorough consideration of the potential economic and social costs of proposed regulatory measures. It is because of cost/benefit factors that the Government believes the Social Development Committee's recommendations require some modification. More detailed analysis will be undertaken during the course of developing the legislation which I now foreshadow.

I am not convinced of the need to license manufacturers and wholesalers of all therapeutic devices. The Government may wish to impose quality control on manufacturers of heart valves but not on manufacturers of walking frames or some other such item. My view is that, as in New South Wales, the legislation should apply only to prescribed devices, that is, devices prescribed by regulation. Manufacturers and wholesalers of prescribed devices would then be licensed and thereby bound by codes of good manufacturing practice. For the same reason, evaluation of devices on a product-by-product basis should occur only in respect of prescribed devices. This allows, at the least, for phased introduction of regulation and for its scrutiny by Parliament.

I also do not agree with the approach taken in respect of cosmetics. I have had time to re-evaluate the original approach taken in respect of this area. The Social Development Committee recommended evaluation of potentially dangerous cosmetics and licensing of manufacturers and wholesalers of all cosmetics. I do not believe that some of the problems caused by cosmetics application—problems like contact allergies—are of the same order as some of the problems caused by use of certain therapeutic goods. Nor is there good reason to believe that contact allergy and other problems will be managed satisfactorily by a licensing system. I have, therefore, concluded that registration of cosmetics is not appropriate. In this area, the Government should rely upon new regulations requiring that selected ingredients be listed on labels along with warnings of possible side effects. Similarly, licensing of manufacturers and wholesalers of cosmetics is not justified in view of the bureaucracy required to administer the scheme.

With these minor amendments, the Government supports the Social Development Committee's report.

I intend to introduce legislation into the House to implement the committee's recommendations in either late 1987 or early 1988. This timetable will allow for consideration to be given to recommendations arising from three related major initiatives which are currently underway.

First, the Commonwealth and the States are now actively discussing proposals for a National Therapeutic Goods Bill. Second, Mr Robert Miller, Director of the Regulation Review Unit of the Department of Industry, Technology and Resources, is currently conducting an inquiry into the licensing system operating in the chemical industry. Third, a major review of drugs and poisons legislation and administration is occurring as part of the review of health legislation directed by Mr Alan Rassaby of my department. The latter two initiatives will be completed during 1987 and it is hoped that substantial progress will have been made on the proposal for national legislation by mid-1987.

I conclude by thanking the Social Development Committee for providing the Government and the Parliament with one of its most thorough and carefully considered reports on a topic of great complexity.

On the motion of the Hon. H. R. WARD (South Eastern Province), it was ordered that the Ministerial statement be taken into consideration later this day.

LEGAL AND CONSTITUTIONAL COMMITTEE

Interpretation of Legislation Act

The Hon. JOAN COXSEDGE (Melbourne West Province) presented a report from the Legal and Constitutional Committee on a review of the operation of section 32 of the Interpretation of Legislation Act 1984, together with appendices.
The Hon. JOAN COXEDGE (Melbourne West Province)—I move:

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

In so doing, I point out that the Legal and Constitutional Committee strongly endorses the principle underlying the provisions of section 32 of the Interpretation of Legislation Act. However, since section 32 first came into effect on 1 July 1984, certain problems have been drawn to the committee’s attention. The committee determined that there was a need to consider whether the objectives of this section could be carried out in a more efficient manner. The report is a result of the deliberations of the committee. I congratulate Christine Skourletos, the research officer of the committee, for her excellent work in the preparation of the report.

The motion was agreed to.

MORTUARY INDUSTRY AND CEMETERIES ADMINISTRATION COMMITTEE

Mausoleums

The Hon. J. G. MILES (Templestowe Province) presented the sixth report from the Mortuary Industry and Cemeteries Administration Committee upon mausoleums, 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 thank the other members of the committee, the secretary of the committee, Mr Mark Roberts, and Miss Jamieson, as she was then, for her great assistance in carrying out the research. I also thank Mr Peter Quail and the chairman, Mr Carl Kirkwood.

The report refers to aboveground burials in vaults or mausoleums, which are illegal at this stage in Victoria. They are fairly common in other countries and investigations are ongoing in other States about the possibility of building mausoleums.

The MICA Committee investigated the New South Wales-type mausoleum but considered it to be an ugly hotchpotch and not to be recommended for this State. However, the committee was interested in the community or cathedral-type mausoleum constructed by Milne Construction Company Incorporated, United States of America. These mausoleums require further investigation by the committee.

The committee’s recommendation was that the above-ground mausoleum already constructed in Victoria may be used for interments, but no additional mausoleums should be built at this stage pending further research in the United States. I indicate that there is no truth in the rumor that a multistorey mausoleum will be constructed in the disputed area between Montsalvat and the Eltham Cemetery.

The motion was agreed to.

SOCIAL DEVELOPMENT COMMITTEE

Alternative medicine and health food industry

The Hon. J. L. DIXON (Boronia Province) presented the report from the Social Development Committee on the alternative medicine and health food industry, together with appendices and minutes of evidence.

It was ordered that they be laid on the table, and that the report and appendices be printed.
The following papers, pursuant to the directions of several Acts of Parliament, were laid on the table by the Clerk:

Parliamentary Committees Act 1968—Minister's response to recommendations in Natural Resources and Environment Committee's report upon the use of uPVC Pressure Pipe for Water Supply Purposes.

Statutory Rule under the Public Service Act 1974—No. 306.

Town and Country Planning Act 1961—Melbourne Metropolitan Planning Scheme—Amendments No. 233, Part 3; No. 322, Part 4; No. 369, Part 1 (with two maps); No. 381, Part 1 (with six maps); No. 382, Part 1; No. 420; and No. 422.

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the Minister's response pursuant to the Parliamentary Committees Act 1986 be taken into consideration on the next day of meeting.

STATE ELECTRICITY COMMISSION (FURTHER AMENDMENT) BILL

The debate (adjourned from November 18) 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 Bill further amends the State Electricity Act 1958. There are four main parts which relate, firstly, to the acquisition of land at Morwell; secondly, to matters relating to financial accommodation; thirdly, an adjustment to penalties in the Act; and, fourthly, the clearance of trees from powerlines throughout the State.

The first three matters are not of major concern to the Opposition and it has no objection to them. I shall deal briefly with these three parts and then I shall deal in more detail with the clearance of powerlines.

Clause 4 relates to the acquisition of land at Morwell, and these provisions seem to be a sensible attempt to reduce the delays by providing that when land is acquired by the State Electricity Commission for its purposes, that land does not have first to be vested in the Crown and subsequently revert to the commission, but can be directly vested in the commission. This seems to be a reasonable streamlining provision.

Clause 7 deals with financial accommodation and makes adjustments to the procedures relating to borrowing programs and associated financial matters.

Clause 8 provides that all lenders to the commission have the right to apply to the court to appoint receivers, and although the right is given it does not give any ranking or rights to unsecured creditors. One is tempted to speculate, in view of some of the figures disclosed in the report of the commission, whether someone might take that option and have receivers appointed because of the commission's apparent parlous financial state at present.

With the adjustments to penalties, although we do not oppose the amendments in clause 6, it is a little surprising that Parliament is further amending those penalties in view of the fact that it recently undertook an extensive review of the situation in a Bill that was before the House some months ago.

Clause 5 deals with the clearance of powerlines. This is the most contentious issue to arise as a result of the Ash Wednesday bushfires and the legal liability which attached to the commission for the outbreak of some of those fires. The State Electricity (Clearance of Lines) Act 1983 made the provisions to regulate the clearance of lines to mitigate the contribution powerlines make to natural disasters when weather conditions are conducive to the spread of bush and grassfires.

In other words, it was an attempt to prevent the starting and spread of bushfires. When that Bill came before the House it was clear that the SEC was shifting responsibility for
the clearance of lines to the municipalities. Needless to say, the municipalities were incensed about this and there was a furore when the ramifications of the provisions became clear.

What was the basis of this furore? Firstly, it was that the council could bear the legal responsibility and liability for fires that occurred through the interaction of powerlines with trees in their respective municipalities; secondly, because it was considered unfair that they should have to carry the cost of maintaining SEC assets it was unfair that responsibility should be shifted from the commission, to which that responsibility belonged, to the council.

In reality, that shift in responsibility in the 1983 Act posed more questions than it answered, such as: where did councils' responsibility lie if they failed to clear the powerlines properly, and if powerlines were brought down by trees, shorted or arced out and caused an accident, who would bear the ultimate responsibility for legal liability? It is clear that no-one really knows, although some decisions have been made in relation to some cases.

I shall deal firstly with the provisions relating to the clearance of lines and how that affects municipalities. The first concern was: where were they going to acquire the necessary skills to undertake the task satisfactorily? Were they in fact to do this totally, and what were the problems that may arise in relation to tree lopping in the proximity of live high and low voltage lines? Who was to carry the costs—because that cost clearly was going to be of some consequence?

It is clear that the commission recognises the importance of keeping trees clear of powerlines, but it did legislate to remove liability from itself by declaring areas to be urban areas and thereby transferring that liability to councils.

In an attempt to bring some sanity back into the situation, the Honourable Haddon Storey introduced a private member's Bill to give back to the commission the responsibility for keeping powerlines clear in certain parts of Victoria which were high fire hazard areas.

My colleague in another place, the honourable member for Balwyn, Mr Jim Ramsay, went into some detail on an amendment that was moved in the Committee stage in the Lower House which would pick up the main provisions of that private member's Bill.

However, the Government has seen fit to say that it was not prepared to support that amendment, and the private member's Bill has been sitting on the Notice Paper of the Legislative Assembly ever since it was passed by this House.

The amendment to the Bill moved in Committee in the Lower House put into perspective a situation which allows councils to decide whether they will accept responsibility for clearing trees from powerlines. Many councils believe they can do a better job than the SEC. Again, the Government has declared that it is not prepared to accept that amendment, and rather than delaying the Bill by having the amendment that the Opposition made to the Bill in this House rejected by the Lower House, it will not pursue it.

During the debate on the 1983 Bill, the Government gave the impression that any transfer of responsibility would be done after proper consultation had taken place and agreement had been reached between councils and the commission as to their responsibilities and liabilities.

Although the Bill seeks to clarify some provisions and clearly defines what are urban areas, it also makes clear that urban areas cannot be declared in general rural areas, in high fire danger situations, and that the commission will retain responsibility for those areas and more particularly for the small hamlets there.

What is the cost of tree clearance? It has become abundantly clear that the costs will not be inconsequential. Estimates from various municipalities suggest that a considerable increase in rates will occur as a result of this measure. The City of Croydon has estimated that it will cost $100 000 a year. The City of Camberwell, which has been involved in the
caring and maintenance of trees for many years, has estimated that it will cost $150,000 in
the first year, and it will probably escalate to $500,000 over four or five years. The Shire of
Mornington has estimated that it will cost $118,000 to $120,000 under the new code of
practice which will involve more frequent maintenance programs than what has occurred
in the past.

I now turn to the liabilities of councils, which involve common-law and statutory
liabilities. The main concern of councils has been with common-law liability and the
extent of change to that liability. Clause 51 (d) of the Bill will insert a new subsection (7)
in section 58 of the principal Act which deals with the extent of common-law liability. The
clause sets out the fact that the position has not changed from that which pertained prior
to the enactment of the 1983 legislation. However, it is not exactly clear what that common-
law liability might be and that will not be known until it is tested in court.

Municipalities have always had a common-law liability on a whole range of matters,
not only this one. There is always a duty owed and a potential liability when there is a
breach of that duty of care. A number of statements have been made about common-law
liability. It is true that in general terms the existence of a duty must be based on a
knowledge of the hazard and the ability to foresee the consequences of not checking or
removing that hazard.

I now turn to what occurred in the bushfires of 1977 and 1983. A farmer or grazier
would be well aware of the risks created by live wires clashing. That problem is even worse
if trees are in the vicinity of conductors.

What is the statutory responsibility? The State Electricity Commission Act sets out that
responsibility clearly and requires occupiers of land and other persons to maintain
powerlines, to keep trees clear of them and it includes the responsibility of clearing trees
from surrounding areas.

Councils have a legislative authority to perform certain acts and, in general terms, their
statutory authority is such that no action should be taken against them. However, if a
council performs an act in a negligent manner and damage accrues, a liability for damage
may result. Councils must seriously consider the risks that an action might cause and they
should attempt to prevent the occurrence of any damage that would cause difficulty and
hardship throughout urban Victoria.

In considering the statutory authority of municipalities, it is clear that they have a
responsibility to keep all or any parts of trees clear of powerlines. The 1983 Act clearly
imposed a statutory duty that had not previously existed, but municipalities were prepared
to accept that. They were more concerned about the impact of the status of their common-
law liability that might have changed by the proclamation of the Act. The provision in
this Bill seeks to assure councils that they do not have any greater duty of care than they
had previously.

One other matter that I shall briefly raise because my colleagues will speak to it in more
detail concerns private lines. There has been a significant amount of concern about the
application of the State Electricity Commission’s policy on replacement of powerlines.
The commission should clarify exactly how that will be carried out. There must be a
greater degree of consistency and a more rational and less subjective approach.

I foreshadow that an amendment will be moved in the Committee stage to clarify that
issue. The Opposition supports the general thrust of the Bill and does not oppose it.

The Hon. D. M. EVANS (North Eastern Province)—This is an important measure
because it will further set in place the passing over of responsibility for any damage that
might occur as a result of equipment installed by the State Electricity Commission in
carrying out its responsibility to supply electric power to Victorians on a commercial
basis. That responsibility will now be passed on to other groups of people.
It is not only a financial responsibility to take specific action to prepare for and make safer the delivery of electric power but also it will, to some extent, involve persons who do not carry out that responsibility to be at risk of being sued by third parties.

I accept that the Bill will remove some of those responsibilities but it does not do enough. The 1983 Act assumes that the State Electricity Commission has an overriding prior right to erect lines regardless of existing conditions, and absolves it of responsibility for any problems that might occur or any requirements necessary to carry out maintenance work.

No doubt many other people and organisations would like to have the same responsibilities removed from them. It seems that the State Electricity Commission is in a most privileged position as a result of this Bill. Of course, that privileged position comes about only if an urban area is declared to be one where the council, under the terms and conditions of the Act and the Bill, should take up that responsibility.

When I raised this matter on behalf of a number of municipalities, the Minister for Industry, Technology and Resources indicated in a letter dated 24 June 1986:

The proposed procedure of obtaining Governor in Council approval for the declaration of any further areas and publishing amendments in the Government Gazette would provide adequate safeguards against unilateral State Electricity Commission action by ensuring that I personally must be satisfied with any proposed changes.

It seems that the Minister is ready and willing to ensure that as much as possible of the commission's responsibility for keeping powerlines cleared and in order is passed to other people. The costs of that maintenance must then be borne by those other people.

One should think that a person who was in the business of supplying services or goods or of carrying out a commercial undertaking would be responsible for ensuring that the task was carried out safely and that others should not have to bear responsibility on his behalf, but that does not appear to be the case with the commission. Instead of ensuring that the work of clearing powerlines is properly done, it is passing that responsibility to others.

Many councils, especially those in rural Victoria, have been most concerned at the additional responsibilities that were to be borne by them, and concerned at the legal liability they might incur for damages to a third party or that their officers might incur if those duties and that maintenance were not properly carried out.

That makes this Bill important. It puts immense pressure on the Opposition and the National Party to pass the Bill because it contains clauses removing that liability from third persons. In particular, proposed subsection 58 (7), as set out in clause 5, carries that exoneration from responsibility and if the Bill were not passed many shire engineers and others throughout Victoria would be very nervous, because they believe they may well carry personal responsibility in the event of any dereliction of duty. Once again, the Government has produced a Bill that pins down honourable members to protecting those people.

At the same time it further allows the commission to pass over to other people the cost of its installations. If the commission is to provide a service, it should do so safely; it should pay its way and should not pass on unreasonable costs to someone else, as it is doing.

As Mrs Varty has already indicated, the major thrust of the Bill relates to the clearance of lines. I am interested to note the definition of "plantation", which is quite important. For example, the Road Construction Authority or, indeed, a private person may become responsible for clearing roads where there is a plantation. The Bill provides:

"Plantation" means any part of a road or a reserve of a road which is planted with one or more trees.

I wonder whether the commission will insist on passing over responsibility where trees that grow on a road or a road reserve were not planted but grew there naturally. There will certainly be legal argument about that matter. If the tree was not deliberately planted, it is
not a plantation within the definition; at least I do not see how it can be. If somebody planted one tree and a number of trees grew there naturally, I suppose it would become a plantation because one tree had been planted. I wonder whether the Government understands what it is doing. Perhaps it has not worked out that, in country areas at least, trees sometimes grow of their own volition; it is called natural regeneration.

The National Party is most concerned because the commission is "heaving"—that is the only appropriate word—many private individuals throughout Victoria who, in delivering power to homes, sheds or commercial premises from the last powerline that is under the control of the commission, are being required to undertake additional installations, supposedly to make the installations safe. People are being told, "Your line requires maintenance; a couple of poles need to be fixed; the wires are getting a bit old", but those people are not allowed to replace the poles because there are too many of them. They are being told that they must underground the lines. In many cases people have received a notice saying that the work must be done within 50 days or their power will be cut off. A major amenity of living will be cut off by the commission!

That may be fine if it were not so costly. So far as I can ascertain, the average cost of undergrounding powerlines is in excess of $10 for every metre of line, and that is only a starting point. It may well be higher than that. A person who has 100 or 150 metres of powerline will be up for $1000, $1500, $2000 or perhaps even more and must do the work within 50 days, regardless of whether he can afford to do it; and if he does not comply with that instruction, his power will be cut off. He does not have any reasonable time in which to do the work. The notice comes out of the blue. The Bill reinforces the power of the commission to do just that.

The amendment foreshadowed by Mrs Varty interests the National Party. Natural justice and the usual things that happen in this State normally allow for some appeal procedure to a third person—not to Caesar; not to the organisation, the State Electricity Commission or whatever, which is imposing the responsibility; but to some independent person or body. The amendment foreshadowed by Mrs Varty appears to be sensible.

Regardless of the state of the previous installations supplying power to private premises, the commission is often insisting on the power being undergrounded. That is a higher standard of safety than it applies to its own installations along roadways. Its lines over country roads and between cities are not undergrounded and there is always a risk of their clashing, of storm damage, of falling and so on, but the commission does not underground them. Nevertheless it expects private individuals, at great cost to themselves, to underground powerlines. I agree that it is certainly safer, but it can be and often is far more costly and one does not have much time in which to decide—50 days.

If that provision is to proceed, it is essential that assistance be provided for individuals caught in that position. I understand that the Minister has been considering the possibility of finance being made available, say, through the Rural Finance Commission or the State Electricity Commission itself so that the immediate cost can be met by a borrowing outside the individual's normal sources with a repayment program over, say, five years to assist those who are financially embarrassed, as many people are. People come to my office from time to time asking what they can do about the problem. It would be reasonable if that sort of facility could be provided.

However, as it stands, it is not being provided. The Minister who is allowing this additional responsibility to go to individuals has a responsibility to assist. Also, as Mrs Varty mentioned, additional responsibility is being passed on to municipalities. For instance, the Act proclaimed by the Governor in Council on 21 October 1986 required approximately 88 city, town and shire councils throughout Victoria to accept responsibility for clearance of trees around State Electricity Commission powerlines in the urban areas of their municipalities.

A high cost is involved. The State Electricity Commission has indicated that it will provide a training program for council employees who carry out the work. That training
program is expected to last for approximately two days. Ironically, it takes four years to train a State Electricity Commission linesman but only two days to teach someone how to keep the trees away from the lines. However, at least that much is being done by the commission.

The point is, however, that the responsibility for the clearance of lines is placed directly on the municipalities. It is interesting that a common-law duty of care exists for councils and individuals to ensure that commission lines that are there—as a God given right, it would seem—are kept clear. A council or individual failing in that duty is responsible for somebody else’s actions—the actions of the commission. I find that a fascinating concept.

Other sections of the Bill are important. The manner in which land in the Morwell area can be acquired has changed and I understand that the procedure is a roundabout one. According to the Bill, the commission, with Governor in Council approval, has the right to acquire land. Some protection is given to the individual in that the State Electricity Commission requires an order from the Governor in Council to so acquire land. If the necessity exists for the acquisition of land, that is not an unreasonable provision.

The matter of financial arrangements is interesting because, as Mrs Varty pointed out, the State Electricity Commission does have some financial problems at present. Probably most of those problems have been caused by overseas borrowings and the consequential effect of change in the exchange rate.

This is an important Bill and the National Party is unhappy with many aspects of it. There is an abrogation of responsibility by the commission in the passing over of costs for maintenance of its own facilities to others. No other group in the community has someone else pick up its responsibilities in quite the same way as has the State Electricity Commission.

However, I accept that if the commission were to keep its own house in order and pay for its own maintenance costs, that would be reflected in power rates, and the consumer would then pay. In essence, the general public pays one way or another. It is only a matter of whether it should be through State Electricity Commission power rates or by some other method.

The National Party is concerned about the additional responsibility being passed on to municipalities. We are concerned that the proposed consultation by the Minister prior to proclamation of the Act was cursory, to say the least. Councils suddenly are faced with this responsibility after what would appear to have been a consultation process. In many cases the councils hardly knew that they were being consulted. They were told what was happening and that they were allowed to object but the objections were not normally heeded.

When Parliament originally passed the principal Act, it was the intention of legislators that full consultation should occur and the Minister at that time gave that assurance. I do not believe that assurance was fulfilled by the Minister who is administering the Act at present.

The National Party is not opposing the passage of the Bill because, if it did so, protection that the community, council employees and engineers need would not be given to them.

However, it must be made clear that the responsibility for the Bill rests solely with the Government. If the community is unhappy about the National Party’s support for the Bill, it should recognise that that support is given simply because of the threat being held over the heads of responsible people and municipalities that can be overcome only if the Bill is passed. The National Party does not support the Bill willingly; it supports it under some degree of duress because of the provisions contained therein.

The Hon. ROBERT LAWSON (Higinbotham Province)—I note in clause 4 that the commission, at the direction of the Governor in Council, may purchase, either by agreement or compulsorily, land within the township of Morwell and in the vicinity to a radius of 32
kilometres. According to my perhaps defective arithmetic, that covers an area of approximately 3000 square kilometres of land.

It seems obvious that the commission would purchase such land in connection with the generation of electricity and perhaps for the erection of new power stations. That seems a wise thing to do if we are to continue with the expansion of power generation within the Latrobe Valley.

However, the question arises of financing of such undertakings. I direct attention to the annual report of the State Electricity Commission for 1985-86. According to the ten years of financial statistics listed in that report, an enormous amount of money has been taken from the commission since 1982. In fact, the commission has been looted by the present Government of its money and its reserves.

Since 1982 the State Electricity Commission has paid a brown coal royalty of $30·2 million. I suppose that is acceptable because it is using this raw material in the form of brown coal that is taken out of the ground and used in furnaces to generate electricity and must be paid for as fuel. Next is the energy consumption levy, which is a tax and I do not know what the justification for that is. However, the amount taken off the State Electricity Commission for the energy consumption levy since 1982 has been $16·7 million.

No justification exists for the public authority dividend tax except that the Government wants the money. Since 1982 the Government has taken $395·2 million from the State Electricity Commission. The consequence is that at this time the commission has no reserves. It has the authority to purchase land within the vicinity of Morwell, presumably on which to build power stations, but it has not the money to do so. In fact, according to last year's trading figures, the State Electricity Commission lost $4 million. If the commission wished to go ahead with construction of a power station, every cent of money required would need to be borrowed.

I direct the attention of the House to the State Electricity Commission's report for 1985-86. According to this, the commission has a debt portfolio, at this moment, of more than $7 billion. It has assets worth not quite $7 billion—$6·883 billion. Therefore, it actually owes more money than the value of its assets and this position has been reached because it has been looted by the present Government since it came to office.

In 1985-86, the commission sold electricity worth approximately $1·6 billion and received from the Government, because of the Portland aluminium smelter delay compensation payment, approximately $47 million but then this year, because of the energy consumption levy, an amount of $4 million was deducted. The brown coal royalty was worth $8 million but the commission also had foreign exchange losses and those amortised foreign exchange losses totalled $80 million but the unamortised foreign exchange losses totalled $316 million.

Therefore, after all the putting in and taking out, the commission has a net profit this year of $40 million; but that is not the finish of the story. After it declared its $40 million profit, the Government then took $80 million by way of the public authority dividend contribution. So the commission ended the year with a loss of $39·157 million. This is the same commission that is supposed to buy land within a radius of 32 kilometres of the township of Morwell and, presumably, if Parliament so decides, it will build a power station somewhere within that 3000 square kilometres of land. The overriding point I make is that it has no money. All its reserves have gone.

The commission owes more than it possesses in assets and every cent of possibly $1 billion worth of power station will have to be borrowed from overseas sources because, as I have mentioned before—and it has been mentioned by a number of Opposition members—the total debt of the Victorian Government and its authorities, such as the State Electricity Commission, is about $35 billion. Therefore, if we want a power station, we will probably have to borrow another $1 billion making the possible total debt of Victoria $36 billion, plus interest.
In a report in the *Age* newspaper of 25 November it is mentioned that the State Electricity Commission has had to borrow money to pay its interest bills and that is not surprising, seeing it owes $7 billion. To add to the problems of the commission there is a dispute between Alcoa of Australia Ltd and the State Electricity Commission about whether Alcoa should pay services charges from 1 November. The company claims that because of causes beyond its control and because no aluminium is being produced, it is not bound to pay and the agreement is of no effect. The State Electricity Commission is suing Alcoa and, in effect, it is suing the community because of Victoria's stake in Alcoa; we have shares in the facility at Portland and although the Chinese own part of it, they borrowed the money from the Victorian Government in order to purchase their share.

Therefore, in terms of Alcoa of Australia Ltd and the State Electricity Commission, the Government has got itself into an extraordinary mess. It must wish again and again that it had never interfered with the agreement between the previous Liberal Government and Alcoa because a good deal was going for the people of Victoria. Alcoa of Australia Ltd would have been responsible for its payments to the commission but now the Government will be responsible in part for paying this money in order, more or less, to pay itself.

Therefore, the State Electricity Commission has been looted by the Government since it came into office as the commission now has no financial reserves. It will be virtually bankrupt when faced with the necessity of building new power generating facilities in this State.

The motion was agreed to.

The Bill was read a second time, and it was ordered that it be committed later this day.

**CORRECTIONS BILL**

The debate (adjourned from November 20) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. N. B. Reid (Bendigo Province)—The Bill highlights the lack of attention given by the Government to prisoners and the construction of new prisons in Victoria. One of the provisions in the Bill provides for the continuation of what is known now as police gaols.

I particularly refer to clause 11, which relates to a number of problems occurring throughout the police gaols in Victoria. Firstly, the maximum number of persons who can be detained in a police gaol has been established. That number is established by an order from the Governor in Council.

I shall highlight a couple of issues arising in the Bendigo area, regarding the Bendigo police gaol. The Bendigo police station cells are used for the detention of prisoners, and I quote from an article that appeared in the *Bendigo Advertiser* on 1 September 1986 that was attributed to Senior Constable Scott, who is Bendigo's longest serving watch-house keeper at the Bendigo police station.

I especially refer to comments that Senior Constable Scott made on that date in September. He said that on 24 April, the cells of the Bendigo police station were declared to be a fourteen-day gaol in an attempt to help relieve crowding in the prisons of the Office of Corrections.

The cells at Bendigo have a capacity for three men and two women; however, on one recent weekend, they held, at different times, seventeen prisoners. One should bear in mind that the cells have a capacity for only three men and two women but yet they held seventeen people over a weekend, and that is not unusual.

Foam rubber mattresses were used on the floor to serve as extra mattresses for those prisoners, and in one period of nine days, 43 prisoners passed through those cells. They ate 115 meals while they were there and they drank even more tea and coffee; it is quite a
task for the watch-house keepers. It was a situation where fully qualified and trained police personnel and watch-house keepers were serving as waiters.

Apart from their normal duties of running the watch-house, the police officers are required to serve meals and provide virtually a waiter service to those prisoners.

If one takes the Bendigo crime figures as an indication, at any given time two-thirds of the prisoners can be expected to be drug addicts. They impose additional problems for police officers who have to act virtually as waiters and warders. If drug addicts suddenly suffer serious health problems as a result of drug withdrawal, they need to be transported to hospital for medical attention.

This places additional pressure on the limited police resources in the Bendigo area and means pulling one of the patrol wagons away from its normal patrol duties around the streets of Bendigo.

The Bendigo example is not an isolated case. The overcrowding to which I referred earlier takes place in a number of Victorian gaols because the Government has not constructed any new prisons. I once visited Frankston police headquarters and saw the conditions in which a large number of prisoners were housed in police cells.

Once again rubber mattresses had to be placed on the floor to accommodate the prisoners. The cells were grossly overcrowded and it must be remembered that under the provisions of the Bill, prisoners can be held for fourteen days in such circumstances.

Fully trained and qualified police officers should not be expected to act as waiters and warders. They have a difficult enough task as it is without imposing additional responsibilities on them. Why has the Government been forced into this situation?

It must be remembered that the Cain Labor Government has been in office for approximately five years. During that time no additional facilities have been constructed. The last construction took place under the former Liberal Government.

I refer to the promise of the Cain Labor Government to construct a new country gaol in Castlemaine. On 5 December 1984 the Sun contained an article attributed to the then Minister for Community Welfare Services, the honourable member for Greensborough in another place. The article stated:

A new 250-bed country prison will be built in central Victoria. The Community Welfare Services Minister, Mrs Toner said yesterday the Government has not decided when or where the prison would be built, but it would be built in central Victoria.

That statement was made in 1984. On 17 January 1985 the following article appeared in the Herald:

A new $25 million gaol is to be built at Castlemaine. Preliminary planning for the new 250-inmate jail in the central Victorian town will begin soon with major development spread over the next three financial years.

The sitting was suspended at 12.55 p.m. until 2.3 p.m.

The Hon. N. B. Reid—Before the suspension of the sitting for lunch I was directing the attention of the House to the failure of the Cain Government to provide adequate prison facilities. I listed the sequence of events that led to the Government’s decision to promise to build a new country gaol at Castlemaine.

On numerous occasions the Government has promised to build the new prison, yet in four-and-a-half years in office that has not yet come to fruition and does not appear likely to do so this year. No funds were included in this year’s Budget for the new facility.

I have a joint press release distributed on 17 January 1985 by the former Minister for Community Welfare Services, the honourable member for Greensborough in another place, and the honourable member for Bendigo in another place. The press release stated that the then Minister said:

Community Welfare Services Minister, Mrs Pauline Toner, and Bendigo MLA, Mr David Kennedy, today announced that Castlemaine in central Victoria would be the site for a new $25 million country prison.
The joint press release reported Mr Kennedy as stating that:

...the new prison would provide considerable economic benefit to the region generally and the Castlemaine community in particular with significant employment implications.

I agree with the joint statement but, unfortunately, the Government has not made a commitment to proceed with the construction of the new prison.

Recently I received correspondence from the City of Castlemaine and from the Secretary of the Castlemaine Ratepayers and Residents Association, Joy Ralph. The association and the Castlemaine community were disappointed with the decision of the Government to shelve plans to erect the proposed new prison at Castlemaine.

Under the former Hamer Government the Liberal Party undertook to acquire land at Castlemaine.

The PRESIDENT—Order! Mr Reid has made that point clear. He has been allowed some latitude in the debate but I should be interested to hear his comments on some other aspects of the Bill.

The Hon. N. B. Reid—Mr President, I was attempting to demonstrate that through the Government's failure to construct additional prison facilities, it was forced to introduce the Corrections Bill to establish police gaols. One of the reasons the police gaols are necessary is the failure to build the new gaol. It seems that the new prison would not be built by 1988.

I shall briefly discuss the shortage of police in Bendigo because I have dealt with this matter in earlier debates in the House.

The Hon. D. R. White—What has that got to do with the Corrections Bill? Can't you find your way home at night?

The Hon. N. B. Reid—Clause 11 establishes police gaols, which will place the overworked Bendigo police in a more difficult position. They will have to detain more people in those cells because of the lack of prison facilities.

The Government has proposed to build a low security women's prison at Maldon. The Minister would be aware of community opposition to that proposal.

The Hon. J. H. Kennan—What proposal?

The Hon. N. B. Reid—The proposal to build a low security women's prison at Maldon.

The Hon. J. H. Kennan—It is nonsense!

The Hon. N. B. Reid—It is not nonsense.

The Hon. J. H. Kennan—The Liberal Party is so irresponsible. It goes around attacking everything.

The PRESIDENT—Order! Mr Reid will ignore interjections.

The Hon. N. B. Reid—Obviously, Mr President, I have touched on a sore spot with the Minister. The Maldon Shire Council voted six votes to three votes against the proposal because of the lack of community consultation.

The Attorney-General is shaking his head, but that is correct. If the Attorney-General had gone about it in the correct way and had consulted the public, the community may have accepted the proposal to establish the prison.

The Hon. J. H. Kennan—Are you supporting it?

The Hon. N. B. Reid—The community does not support it. The community's view is reflected by the vote taken by the Maldon Shire Council, which was six votes against the proposal and three votes in favour of it.
The Hon. J. H. KENNAN (Attorney-General)—On a point of order, Mr President, Mr Reid is endeavouring to claim that the majority of the community is against the gaol because six councillors voted against it and three voted in favour of it. The three councillors who voted for the proposal represent more of the residents of Maldon than the six who voted against it, due to the gerrymander that exists, and that fact is well accepted in the town.

The PRESIDENT—Order! The Attorney-General will have ample opportunity of refuting arguments during the Committee stage. There is no point of order.

The Hon. N. B. REID (Bendigo Province)—It is quite obvious that the community of Maldon has not been adequately considered. I understand the need for additional prison facilities in Victoria, but if the present Government had used the same principles of consultation that the Hamer Government used in the proposed establishment of the Castlemaine gaol and gave the community the opportunity of receiving full information and advice about the proposal, it may have received greater support.

When the proposal for a gaol at Castlemaine was first initiated, the then Government conducted wide-scale consultations.

The Hon. J. H. Kennan—You did not build anything!

The Hon. N. B. REID—The then Government acquired the land and it did all the hard work; it designated the area for the establishment of a prison. The then Government went through the consultation process and the community accepted the proposal. However, this Government has not adopted that procedure for the prison in the Maldon area—it has ignored the people of the area.

The Hon. J. H. Kennan—that is rubbish and you know it!

The Hon. N. B. REID—if the Government had done that, it would have been much further advanced than it currently is. The Attorney-General is sensitive about this matter.

The Hon. J. H. Kennan—Because of the reckless and stupid lies you are peddling!

The Hon. N. B. REID—The Attorney-General recognises that he has handled the proposal badly and has not consulted with the community in Maldon.

I am not happy about the use of police cells as gaols, and it is up to the Government to ensure that adequate funds are provided for prisons in Victoria.

The Hon. R. M. HALLAM (Western Province)—The Bill is extensive in content but relatively simple in effect; it consolidates the law relating to correctional administration in this State. The National Party has carefully considered the Bill and is prepared to support it without qualification. The National Party recognises that the role of corrections is an important and key function of Government administration. The National Party supported the concept of corrections being a separate function of Government administration, and it views the Bill as a natural progression of that. The Bill simply codifies the law of administration of corrections.

Honourable members spend a great deal of time considering the laws of the land and the way they effect individuals. It is also important to consider the treatment of those who breach the law and, more particularly, how those breaches can be minimised. The Office of Corrections has an important function and the Bill clearly defines both the responsibilities and the rights of all those involved within the corrections area, whether they be working in the system or held in it or whether they be in the custodial or non-custodial sector. Many of those rights and responsibilities have been taken directly from other legislation, but the Bill contains some important new initiatives, and I shall briefly comment on them.

Firstly, the Bill gives statutory recognition to the concept of official visitors. That is an important issue. The National Party is led to believe that the system is working extremely well and is happy to support it.
Additionally, the Bill sets out a list of basic rights for prisoners. I hope the list contains no new initiatives because that would be an indictment on society as the rights are fundamental.

The Hon. J. H. Kennan—It would be an indictment on the condition the other party left it in.

The Hon. R. M. HALLAM—The Bill lays down the procedure to be followed where there is a breach——

The Hon. J. H. Kennan—They were hopeless!

The PRESIDENT—Order! I shall not tolerate any further disorderly behaviour from the Attorney-General. If there is any repetition, I shall have no other option than to name the honourable gentleman.

The Hon. R. M. HALLAM—The Bill sets out the procedures that apply where there is a breach of prison discipline. That is a practical initiative. The Bill expands the Adult Parole Board by the inclusion of a judge from the County Court. The National Party has no argument with that.

An important new initiative in the Bill is that a court may take into account the remissions to which a prisoner may become entitled when determining the sentence. That is an important and practical initiative. The Bill refers to leave of absence available to prisoners and tightens up the provisions relating to that.

Perhaps the most important initiative in the Bill is that it establishes a framework for community corrections centres. It approaches the basic philosophy of why a prison sentence would be involved in the first instance. I hope all honourable members would agree that it is a sanction of last resort.

The Bill raises the fundamental questions of imprisonment: do we imprison someone who breaches the law of society simply by way of punishment, in other words, vengeance on behalf of society, which used to be the school of thought; do we imprison someone as an indication of the likely fate of someone else who is likely to break the law, in other words, do we use it as an example to potential offenders; or do we simply use imprisonment as a method of correcting the attitude or behaviour of an offender in an effort to restrict the prospect of future offences? I am delighted that the correctional aspect of the penal system is gaining increasing strength. That is precisely the way it should be. The Bill is part of the general shift, and the National Party supports it.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition supports the Bill, which provides for the administration and management of correctional services. It is ironic that there is no reference to the Government's philosophy on the penal system. During the Committee stage I should like the Attorney-General to spell out the penal philosophy of the Government.

The purposes of the Bill are to provide for the establishment, management and security of prisons and the welfare of prisoners; to provide for the administration of services related to community-based corrections and for the welfare of offenders; and to provide for other correctional services.

Clause 7 states:

The Office of Corrections has the functions conferred on it by Order in Council under section 22 of the Public Service Act 1974.

Nowhere in the Bill does the Government spell out its philosophy on the penal system. I should have thought that that was a most curious omission. The functions of the Office of Corrections are not spelt out in the Bill but are contained in regulations that have yet to be made. That is not good enough.
Surely the Bill should refer to the objective of rehabilitating prisoners. The Neilson and Associates report on the master corrections plan states on page 330 that rehabilitation is a "non-issue". I am not quite sure what that means.

The Hon. J. H. Kennan—We never adopted that.

The Hon. B. A. Chamberlain—So that recommendation has no status?

The Hon. J. H. Kennan—No.

The Hon. B. A. Chamberlain—The Minister's predecessor adopted the ten philosophic recommendations for the establishment of new prisons. The present Minister has not spelt out the Government's philosophy on the penal system and the functions of his department. I am not sure whether the Minister will detail the functions referred to in clause 7.

The Law Institute of Victoria has suggested that the Bill should be preceded by a preamble that takes into account some of the issues that have been omitted. The preamble suggested by the Law Institute is:

It is the intention of Parliament that the provisions of this Act are to be interpreted and that every function, power, authority, discretion, jurisdiction and duty conferred or imposed by this Act is to be exercised or performed so that—

(a) in the establishment, management and security of prisons adult prisoners receive the best possible care, management and control in the least restrictive environment possible consistent with good management and adequate security,

(b) in providing for the good management and adequate security of adult prisoners any restriction upon their liberty and any interference with their rights, dignity and self-respect is kept to the minimum necessary in the circumstances.

(c) in providing for community based corrections and for the welfare of adult offenders any restriction upon the liberty of adult offenders and any interference with their rights, dignity and self-respect is kept to the minimum necessary in the circumstances.

There is other support for that. In its submission to the Minister, the institute makes the point that there is a need for those administering prisons to appreciate that offenders are in prison as punishment and not to be punished. In other words, the punishment is imprisonment, and that is a philosophy I know the Minister supports. It is also a philosophy the Opposition supports.

Previously in the House I spelt out the views of Dr Tony Vinson, who examined the Dutch penal system. He said the objective of that system is to ensure that prisoners do not leave prison any worse than they were when they entered prison. To some extent the Dutch authorities have abandoned the philosophy of rehabilitation. Their philosophy is that the system should not degrade or worsen the individual who enters prison as punishment.

What role does rehabilitation play? A submission I received from Mr S. W. Johnston, reader in criminology at the University of Melbourne, points out that in his view, presumably as a result of his study, correctional statistics indicate good levels of rehabilitative success.

In his submission, Mr Johnston states:

Correctional statistics indicate good levels of rehabilitative success. The age distribution of inmates shows that the most serious offending has a half-life of only about five years; and I for one am grateful to prisons for getting criminals back on the rails so capably. But Corrections staff are deaf to figures which do not sustain the religiously held prejudice that their activities are useless. They have been so bluffed by the cynics and anarchists (who try to convince them that their work is counter productive), that they are no longer game to declare any aims.

The Minister should spell out where the Government stands on those issues. Mr Johnston also points out that under the United Nations Covenant on Civil and Political Rights of
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1966, to which Australia is a party, prisoners have a human right to programs which aim at their rehabilitation. Article 10 (3) states:

The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Refusal to acknowledge that aim, and to devise programs accordingly, would suggest "degrading treatment" within the meaning of article 7 of the covenant.

Over the past eighteen months I have had the opportunity of visiting a number of prisons in Australia and to talk to prisoners and prison officers. I thank the Attorney-General for his ready assistance in enabling that program to carry on. Could I say, perhaps not unkindly in comparing him with his colleague in another place, the Minister for Police and Emergency Services, that the Attorney-General does not insist on a Government minder being present when we have those discussions.

The Hon. J. H. Kennan—Nor have I even suggested it.

The Hon. B. A. CHAMBERLAIN—The Attorney-General has never even suggested it. Opposition members have had free access to the State's prisons. The Attorney-General has adopted a view that I share, that a prison system and a criminal law and justice system is so much better if it is approached on a bipartisan basis. I welcome the opportunity to cooperate with the Attorney-General in that regard. I can assure him that after the next State election, when I am Attorney-General, he will receive similar cooperation from me.

I visited the following prisons in Victoria: Pentridge, Fairlie, Beechworth, Bendigo, Ararat and Geelong. I have also visited Canning Vale and Karnet prisons, outside Perth, and Darwin prison.

It is interesting to compare the prison systems between States. One of the major differences is the amount of time prisoners spend outside their cells.

I know that this matter concerns the Attorney-General. Perhaps to some extent it is one of the issues in the background of the current dispute at Pentridge Prison where the costs of running that establishment have gone through the roof.

The costs need to be controlled. How long prisoners are locked in their cells relates to costs. At Pentridge Prison they are locked in their cells from 4.30 p.m. or 5.30 p.m. until the next morning, with some exceptions, whereas in other prisons to which I have referred—Karnet being a prison farm, Canning Vale and Darwin—prisoners are locked in their cells from as late as 10 p.m. or 10.30 p.m. until 6.30 a.m. or 7 a.m. I understand that this depends largely on the resources available and the manpower required to operate that system. However, some prisoners are happier to be by themselves for the recreational period. I am not saying that there is absolute unanimity.

The Hon. J. H. Kennan—There is a choice in those systems.

The Hon. B. A. CHAMBERLAIN—There is a choice in the evening's recreational programs and it is up to the prisoner to choose whether he participates or stays in his cell to listen to music, to watch television, to paint, and so on.

In that regard, it is interesting to note the great development of education programs for prisoners; it is doing very good work. From the statistics contained in the Office of Corrections annual report and other statistics on prisons, it is obvious that the vast majority of prisoners do not have primary education qualifications. When I visited Beechworth prison the point was made clear that only a couple of the prisoners had attended a secondary school.

The education programs that have been developed and are continuing to be developed are important. They involve not only Ministry of Education staff who are permanently attached to prisons, but also technical and further education teachers and teachers from other institutions who provide valuable skills.

It is interesting to see the work being done in computer education. In the Bendigo area, which is represented by my colleague, Mr Reid, a large computer program is under way.
On the day I visited Beechworth prison eleven or twelve prisoners were working at computer work stations developing their own programs. Some of the programs were for the use of the prison itself and some were for use in the Beechworth community. The prisoners were actually doing programs for local business. I understand that there was not a local commercial firm providing that service.

In this age of computers, that is a very important skill. How that skill is used once the prisoners are released is another matter. I know the Attorney-General is always paying tribute to the ingenuity of prisoners when they take their own "early release schemes": therefore, what they do with the skills they have acquired remains to be seen. The education programs that are being developed are important and contribute to restoring an element of dignity to prisoners.

When I visited the Karnet prison farm in Western Australia earlier this year, it was interesting to see other skills being practised. That prison runs an abattoir and the officer in charge is a qualified butcher and slaughterman. He indicated that every one of his graduates, to use his expression, is guaranteed a job. The industry is waiting to take up people with these skills, particularly in the smallgoods area.

In Victoria there is continuing development of the prison industries program. There is a difficulty in ensuring that these industries do not compete unfairly with local commercial enterprises and care has to be exercised.

In Darwin, the unions closely examine every contract carried out by a prison industry because the unions have made it clear that if there is competition with the outside world the unions will involve themselves in industrial action.

The programs are important for a number of reasons. Earlier this year the Attorney-General issued a press release on prison suicides. The Victorian prison system went through a period of record numbers of suicides. In 1983–84 there were twelve suicides. The causes of those suicides were analysed by Dr Sime and Dr Watson-Munro. Several conclusions were made that endeavoured to identify the causes, and recommendations were made of action that might be taken to forestall further suicides.

In the years subsequent to 1983–84 when there were twelve suicides, there were no suicides in 1984–85, one suicide in 1985–86 and one suicide in September of this year. The Attorney-General in a press statement of 30 September 1986 addressed several recommendations made by Dr Sime and Dr Watson-Munro and, hopefully, they will have a beneficial effect.

The Opposition is happy to support the measure. The Bill is lacking in the way that I have suggested and I have a number of questions to ask the Attorney-General when the matter is debated in Committee.

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 (Attorney-General)—I thank Mr Chamberlain and Mr Hallam for their very constructive approaches which are to be distinguished from the contribution of the lead Liberal Party speaker, Mr Reid, and I shall turn to his contribution, if it is to be so characterised, shortly. Mr Chamberlain and Mr Hallam approached the Bill in the spirit with which it is intended and Mr Chamberlain raised a number of important matters on which I shall comment concerning correctional issues.

Certainly, at all times I have endeavoured to give Mr Chamberlain free access to the criminal justice system and I assure him that that will continue. I have been grateful for
the fact that he has taken the opportunity of visiting prisons and talking to correctional administrators both in Victoria and in other places.

Mr Chamberlain said that the Bill was deficient through a lack of philosophy. I believe the philosophy of the Government was clearly spelt out in the Ministerial statement that I made in this place in April this year, which was—excluding attachments—32 pages long. We consider that imprisonment is a sanction of last resort; that the punishment is the loss of liberty; and that prison conditions over and above that loss of liberty should not be over-harsh.

As Mr Chamberlain pointed out, prison conditions are hard and, as my Ministerial statement made clear, we are taking measures to alleviate that by introducing longer out-of-cell hours for prisoners and in various divisions in the Coburg complex there are now longer out-of-cell hours, so there is a choice for prisoners in a considerable number of divisions to be out of their cells on at least some nights after tea time.

We will be able to expand that opportunity when we have fully renovated “D” and “F” divisions and that renovation, which I foreshadowed in April, is proceeding well and will be completed early next year.

Mr Chamberlain also referred to the provision of computers. As he probably knows, the Victorian Association for Care and Rehabilitation of Offenders has generously provided us with some 15 Apple-Macintosh computers. Victoria now has the best computer facilities in its prisons of any State. That was made possible as a result of a generous donation from the trusts and the kind assistance of Mr Vince Kyss. We have had available an additional $15,000, on top of the first $50,000, through VACRO for that purpose, and that project is going well. There are now computer facilities at every gaol and the advantage of having all the computers in bulk is, of course, that they are consistent, so the software can be consistent and prisoners can move from one gaol to another and continue to use them. That program is progressing very well.

There are now 350 prisoners involved in the Pentridge Prison education program where there is extensive use of computers.

Recently I attended at Lara a teachers-in-prison education conference, and I believe the initiatives I outlined in my Ministerial statement in April about education in prisons are progressing well.

Unfortunately, Mr Reid took the easy way out. He is one of those Opposition members who can never resist scoring the cheap point. In matters of law and order, of course, it is always extremely easy to refer to some crime and ask, “What do you intend to do about that?”; and the other end of that situation is that one can, if the Government is looking to build a new prison, as I foreshadowed in my April statement, then easily white ant the process by bagging the building of the new prison.

Mr Reid runs pretty hard and fairly mischievously in Bendigo in relation to law and order. Honourable members have heard him a number of times this session complaining about the law and order issue in Bendigo, and he has focused on it again today in a most peculiar way.

As I have pointed out previously, through the outstanding work done by Mr David Kennedy in Bendigo, so many additional resources have been made available to the police in Bendigo that Mr Reid accused the Government of pork-barrelling in the area. Because Mr Kennedy had enabled the police to have those additional resources, Mr Reid thought an excessive amount of resources were going to Bendigo and he accused Mr Kennedy of pork-barrelling.

When the Liberal Party was in government it did very little for law and order in Bendigo, as did Mr Reid. That Government promised a new police station in election campaign after election campaign, yet it never built one. It kept the Bendigo office understaffed. However, through the efforts of Mr Kennedy, additional resources have
been made available, and the Government has built a new police station at Bendigo and also at Eaglehawk.

I explained in my Ministerial statement of April this year that the Government was looking for a site for a low security women's prison because, as I said, the number of women prisoners was increasing. Mr Reid, of course, is one of the first to call for greater efforts in the detention, prosecution and sentencing to gaol of people, but does he want to cope with the harder issue of building another prison? The answer is that he does not.

In the last year of the Liberal Government, its expenditure on corrections capital works was between $2 million and $3 million. That was the rate at which the former Liberal Government was spending. This year the present Government will spend more than ten times that amount—somewhere in the region of more than $30 million—on capital works for correctional services. So much for the Liberal Government!

Mr Reid said that a wonderful process was undergone in Castlemaine. Of course, the former Liberal Government did everything except build a gaol. It is more difficult to be able to build a gaol. The present Government is building a remand centre and the Barwon gaol is under construction. It is probable that in the next financial year the building of the Castlemaine gaol will be commenced. However, we do have funds for a low security women's prison, about which proposal we called for expressions of interest.

The Shire of Maldon wrote to the Government first—the Government did not approach the shire, it wrote to the Government—expressing interest in having a gaol in that municipality and inviting the Government to visit the area and talk to the council. In response, we went and talked to the shire council and, as a result, some publicity eventuated. I took part in a quick meeting, and six of the nine councillors—who, I might point out, represent a minority of the people—voted against the proposal.

We never intended that that would be the end of the process. We visited the shire in response to the council's invitation. We had discussions and some publicity appeared in the local press. As I was saying the other day during the debate on prostitution, if one asks neighbours whether they would like a gaol to be constructed in their area, it is not difficult to identify the NIMBY—not-in-my-backyard—syndrome.

The HOD B. P. DUDO interjected.

The HOD. J. H. KENNAN—We certainly examined the City of Colac, but there was no site within it. Unfortunately the surrounding shire, where there were available sites, does not have the same attitude. Certainly, there are councils who will put up their hands, but when one actually goes to the area to examine the proposal—and this reflects the really irresponsible attitude of Mr Reid—some publicity is generated and the ratepayers of the ward then become nervous about it—they get the not-in-my-backyard syndrome—and say to their local council, "We do not want you to support the proposal for a gaol in our area". That puts the council under obvious and understandable political pressure and the situation is not eased by the sort of ratbagery that we have seen from Mr Reid.

The HOD. B. P. DUDO—Is this the sort of thing that will be in the headlines of tomorrow's newspapers?

The Hon. J. H. KENNAN—Mr Reid probably has a whole string of good stories for Bendigo, and whether this is one of them is a matter for him to decide.

The fact is that we are in the middle of a public process. We sent an officer from the Office of Corrections, Mr Foley-Jones, to Maldon, to spend two days in a shop front talking to everyone who was interested in the proposal. We have sent out leaflets explaining the proposal to people who live in Maldon, and all of that was done prior to putting the proposal on public exhibition. We have now publicly advertised the proposal. That is the way to go about it, yet Mr Reid is bagging the proposal in this place. He says it is no good.

When Mr Chamberlain made his contribution to the debate on the Appropriation Bill, I asked him whether he supported the proposal for a gaol at Maldon, and he was unable to
answer. Of course, he was unable to answer because the Liberal Party wants to score cheap political points! On the one hand, it wants to wave the flag for law and order but, on the other hand, when it comes to carrying out the more difficult task of finding an appropriate site—the Government has been looking for eighteen months—for such a gaol, the Liberal Party does not stand up and make its views known.

Mr Reid did not understand that we were responding to an expression of interest from the Shire of Maldon. We went firstly to speak to it, which was the proper thing to do. Local councils are the first to become upset if one does not approach them first. I should have thought that no-one in his right mind—I do not know whether that includes Mr Reid—would suggest that it is improper, in response to a request from a shire, to talk to the council first. That is what the Government did.

Following discussions with the shire council, some information was leaked in the press and people then said, "You have not discussed the proposal with the people". Of course, we did not discuss it with the people because we were having our initial exploratory discussions with the council. We have now sent out a comprehensive leaflet; we have sent out an officer from the Office of Corrections to spend two days in the town talking to the residents. The fact is that the proposal is now on public exhibition. It does not help a rational process or a rational consideration for the site of a new gaol to have people trying to make cheap political capital out of it.

The fact is that the proposal is now on public exhibition and discussions are taking place. Ironically, I believe the majority of the residents of the town will, in the end, support it.

I believe many of the adjoining and nearby landowners——

The Hon. N. B. Reid—That is proper, too, if they do.

The Hon. J. H. KENNAN—Yes, but Mr Reid and the Liberal Party will not say what their position is. They say they want it somewhere, but one may spend years and years trying to find somewhere where there is overwhelming support, so that the Liberal Party will support it. In the meantime, it waves the flag on law and order issues and does not do anything constructive.

The National Party has been much more constructive, in a manner that the Government has been finding more often of the National Party recently. The Leader of the National Party in another place, Mr Ross-Edwards, has made his attitude clear. He would like a low security women’s prison outside the metropolitan area, in a country area. Mr Wright has played a straight bat on this issue. He has not endeavoured to make cheap political capital out of the issue. He has behaved responsibly and constructively.

I have had much help from Mr Kennedy, who has been supportive of the proposal. All I get from Mr Reid is bagging. It is difficult enough to find a site for a gaol at any time, and this is probably a good site for the gaol. The Government will go through the public process. Mr Reid’s behaviour says much about his attitude towards his electorate and about his attitude towards the law and order issue.

The Hon. N. B. Reid—Other municipalities have offered sites.

The Hon. J. H. KENNAN—As did the Shire of Maldon. They have all offered sites. It is the initial stage. The Government will see it through and it will get support in the end—and it will have nothing to do with Mr Reid.

The Hon. N. B. Reid—You are not consulting!

The Hon. J. H. KENNAN—The Government is consulting with people. Mr Reid is apparently saying that, in response to a request from a shire, the Government should not contact the shire, but should start doorknocking on people.

The Hon. N. B. Reid—You should do both.
The Hon. J. H. KENNAN—The Government is doing both. It went to see the shire first in response to the request and the proposal is now on public exhibition. The correctional administrator was in the area for two days. Leaflets were sent out. Mr Reid cannot deliver; he cannot act responsibly because he is not interested in finding a proper solution to the matter. All he is doing is seeking cheap political capital.

If the proposal for the gaol goes ahead, I look forward to Mr Reid undermining it. Anything that may go wrong at the Bendigo police station or prison will be a chance for Mr Reid to undermine the project. I look forward to negative comments from Mr Reid on these issues, and I look forward to cheap jibe from Mr Reid.

Mr Reid’s attitude explains why nothing happened in the criminal justice system for 27 years of Liberal Government. As the Committee knows, the Government has enhanced the prison system. Honourable members, such as Mr Evans, who were on the Prisons Service Committee realise that the prison system basically had not been refurbished since the 1870s. The system caters for 1900 people. In a period of five or six years the Government refurbished 800 to 850 prison places under the prison construction program. That was an enormous achievement. There is no other field of Government administration where one could contemplate the refurbishing of half the facilities in five or six years. Imagine refurbishing half the hospitals or half the schools in that period? However, the condition of the prison system was so shocking and utterly neglected by the former Liberal Government that the Labor Government was prepared to take up that commitment.

The National Party and everyone else in this area appreciates that nothing happened during the 27 years of Liberal Government in the prisons systems. It is extraordinary that, in a simple proposal to build a low security women’s prison, this attitude has been adopted by the Opposition. As Mr Chamberlain has pointed out, suicides are occurring in the “B” annexe of Pentridge Prison as the conditions are not suitable for women there. The Government is anxious to close “B” annexe and that is what it will do if it can provide a low security women’s prison.

The Government is building the remand centre, a new prison at Barwon, and the Treasurer has indicated that the Castlemaine facility will probably begin business in the next financial year. The Liberal Party did nothing in that area. The Government is refurbishing almost 50 per cent of the prison system and, in addition, it has 23 community-based corrections centres, including one in Bendigo and a pilot drug treatment centre at Bendigo. The Liberal Party did nothing in country areas towards community-based centres. I opened a centre in Horsham the other week. Wherever I go in the country I notice that community-based corrections centres are receiving good support from the local community and cooperation from everyone involved. However, the Liberal Party did nothing. Let us hear no more of those negative attitudes!

I thank those who have been involved in the preparation of the Bill and those who have been consulted. The Bill has been around, in one form or another, since May last year; it has had about sixteen drafts. I must admit that I am sick and tired of it. The Bill has been substantially revised and I thank all the local bodies who have been associated, such as the Prisoners Action Group, the Victorian Association for the Care and Resettlement of Offenders—VACRO—and other bodies who have commented and given a range of opinions. I shall move the amendments when the Committee deals with the clauses.

The clause was agreed to.

Clause 3

The Hon. B. A. CHAMBERLAIN (Western Province)—I raise with the Attorney-General the definition of “governor”, which is described in the Bill to mean “the Governor of a prison and includes a person nominated by the Director-General to act as the Governor of a prison”. There is also reference to a governor in clauses 9 and 72. Clause 9 refers to a governor of a prison, but clause 72 refers to the Governor of the State. I ask the Attorney-General to consider this matter, not necessarily on this Bill, but generally.
The term is anachronistic, and I suggest a term such as "superintendent" would be much more suitable, particularly as there are 25 governors in Victoria altogether.

The Hon. J. H. KENNAN (Attorney-General)—I am happy to consider the suggestion. It may be anachronistic to use the word "governor". The Government is examining the current management regimes and it has provided new regimes for the Castlemaine prison. It is considering the introduction of an increased number of non-uniformed staff. For instance, it has revamped staff training and will use more people from outside the Office of Corrections and more from other fields of education and training. In that context, the suggestion may be appropriate, in line with the staff training and new management regimes which emphasise more pro-active arrangements between staff and prisoners, with less of the traditional turning key arrangements whereby the prison warder is in the historical role of unlocking doors without any interaction with the prisoner.

The Government is considering more personal interaction between staff and prisoners. In a constructive way prisoners are being placed in units of 24 or 32 people. As Mr Chamberlain indicated, it may be appropriate that the use of the term "governor" is also reviewed.

The clause was agreed to.

Clause 4

The Hon. J. H. KENNAN (Attorney-General)—I move:
1. Clause 4, page 4, line 2, after "court" insert "and who is in the custody of a member of the police force".

The amendment will provide an indication that prisoners are in the custody of the director-general unless they are in police custody.

The clause was amended as a matter of caution because it was thought there might be a gap if that provision were not inserted.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition was going to make the same suggestion. There was a danger under the clause as drafted that different standards of custody would exist in courts; some prisoners being deemed to be in the custody of prison officers; some deemed to be in the custody of police; and some deemed to be in the custody of officers of the court. The amendment clarifies the issue.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 5 and 6.

Clause 7

The Hon. J. H. KENNAN (Attorney-General)—I move:
2. Clause 7, line 16, after "7." insert "(1)"
3. Clause 7, after line 17, insert—

"(2) Nothing in this Act or the regulations is to be construed as conferring or imposing on the Office of Corrections or the Director-General any functions, powers, duties or responsibilities in relation to the administration of hospital, medical, nursing and other health services provided for prisoners or offenders, or in connection with prisons, police gaols or locations."

In relation to "functions", it is probably appropriate to have flexibility because the problems relate to flexibility rather than to the statutes. Honourable members need only think of the changes that have occurred during the past four years in terms of greater emphasis on community-based services, on education and drug taking. Honourable members may also consider the future possibilities that are emerging, such as some form of home detention which has been suggested in other places. These functions can continually evolve and change can occur quite rapidly. That is the reason why the Government has not sought to set out all the provisions in the statute.

Amendment No. 2 is a technical amendment consequential on amendment No. 3, which is inserted to recognise that the administration of health services is not properly a
function of the Office of Corrections. Concern was expressed in some quarters that the office was about to run its own health services but that was never intended.

The Hon. B. A. CHAMBERLAIN (Western Province)—Given the experience that the Minister for Health is having with one union in the health field, I know the Attorney-General does not want problems with another union in that area and the Opposition supports the proposal.

In relation to the functions of the Office of Corrections, the Opposition believes to some extent the proposed legislation is squibbing it by not making any attempt to set out the functions of that office.

The way to get around the problem is to list a number of functions in the Bill and then provide the ability to prescribe additional functions. I am not expecting the Attorney-General to come up with a set of functions today, but it would have been nice for the completion of the debate to at least have the draft regulations and know exactly what the functions are.

I shall take those issues on trust, but I believe this is short changing Parliament.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 8 to 11.

Clause 12

The Hon. J. H. KENNAN (Attorney-General)—I move:

4. Clause 12, at the end of line 22, insert “Division 4 of Part VIII of”.

Prior to amendments Nos 2 and 3 being accepted by the Committee, clause 12 (3) provided for a person holding the position of stipendiary parole officer to be deemed appointed as community corrections officer. As the position operates in both the youth and adult parole areas, the amendment effectively clarifies that point.

The amendment to clause 12 (3) ensures that only adult parole officers are deemed to be community corrections officers pursuant to the Act.

The amendment was agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—I neglected earlier to indicate that a number of the amendments the Opposition proposed in another place were accepted by the Government and I thank the Government for that.

The Opposition did intend to propose an amendment to clause 12 which would have had the effect of amending the words in the penultimate draft of the Bill which gave the director-general the power to hire and fire prison officers. The Opposition believes that, because of the nature of the profession and its peculiar pressures, a much more direct relationship of master and servant between the director-general of the department and prison officers is necessary.

Interestingly, the Opposition sought the views of the Victorian Public Service Association on the Bill and on the issue, and there was stony silence.

Honourable members have spoken to prison officers and have been told not to worry about the association, because it is really not interested in them, but to talk to prison officers themselves. I personally regret that the Government has dropped the proposal it had in its last draft of the Bill. The events of recent weeks have shown the need for that sort of power and it will be interesting to see how the current industrial problems in Pentridge, in particular, fare in the next few weeks. Having said that, as I indicated before, there is a need to ensure that the department has the real ability to run the gaols. That is important and any suggestions to the contrary would lead to chaos and to a greater ballooning of the cost of running the prisons.

The clause, as amended, was agreed to, as were clauses 13 to 18.
Clause 19

The Hon. J. H. KENNAN (Attorney-General)—I move:

5. Clause 19. after line 3, insert—

"( ) The Governor of a prison may give to officers within the meaning of paragraph (f) of the definition of "officer" in section 14 who are working at the prison or with prisoners such directions as the Governor considers necessary for the security of the prison."

The clause as drafted enabled the governor to give persons involved in providing a health service to prisoners a wide range of directions affecting the performance of their duties. Theoretically, it could have interfered with the professional discretion of the health officers concerned. The office really wanted powers of direction over the security of the prison rather than the way health services were provided. The amendment preserves that position.

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

Clause 20

The Hon. J. H. KENNAN (Attorney-General)—I move:

6. Clause 20. after line 17, insert—

"( ) In relation to officers within the meaning of paragraph (f) of the definition of "officer" in section 14—

(a) sub-section (2) applies as if it did not include a reference to welfare; and

(b) sub-sections (4) and (5) apply as if they referred to returns, reports and records concerning prison security only."

Without the amendment, clause 20 (2) imposed a duty upon a person providing a health service to take all reasonable steps for the safe custody and welfare of prisoners. As this responsibility for their welfare extends beyond the correctional perspective, the amendment ensures the duty of health workers is limited to maintaining the security of the prison.

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

Clause 21

The Hon. J. H. KENNAN (Attorney-General)—I move:

7. Clause 21. lines 30 and 31, omit "that officers assigned to the prison comply with this Act, and the regulations" and insert—

"that—

(a) officers within the meaning of paragraph (f) of the definition of "officer" in section 14 assigned to the prison comply with the provisions of this Act and the regulations relating to prison security; and

(b) other officers assigned to the prison comply with this Act, and the regulations."

Under clause 21 as drafted, all officers were required to comply with the Act and the regulations. As these obligations could extend to the manner in which health services are performed, which is outside the functions of the Office of Corrections, the amendments restrict the obligations of persons providing a health service within a prison where the provisions relate to prison security.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 22 to 58.

Clause 59

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition had proposed an amendment to the clause, but after discussions with the Attorney-General it was agreed it was not necessary. However, I ask the Attorney-General to place the assurance on the
record for the purpose of the Interpretation of Legislation Act. The provision relates to
certain persons and states:

This Division does not apply to the following classes of persons:

(a) A person who has been sentenced to death but whose sentence has been commuted to “life without
the benefit of regulations relating to remission”;

(b) A person ordered to be held in custody during the pleasure of the Governor of Victoria;

(c) A person serving a prison sentence which is for 3 days or less.

The provision that we have not covered is that which was inserted in the Crimes
(Amendment) Bill (No. 2) earlier this year. The Attorney-General may recall that I proposed
that amendment which said that the minimum sentence ordered to be served by the judge
who hears the case should be the actual minimum sentence served behind bars.

The preamble to that provision contains the words “Notwithstanding anything to the
contrary in any other Act or law affecting it”, and I should like the Attorney-General to
place on record that the remission provision does not apply to the situation which was
addressed earlier this year in relation to someone sentenced for murder.

The Hon. J. H. KENNAN (Attorney-General)—I thank Mr Chamberlain for raising
this issue. Certainly, we would not, for our part—as Mr Chamberlain would know—have
been especially keen about making this distinction between persons sentenced to a term
of years for murder and another person who has been sentenced for an equally long time.

We accept that what the Upper House has done in relation to that is to say that there is
no remissions of the minimum term for murder. We are not seeking to undermine that,
and, indeed, accepting that position and the realities, there will be no change to that
position.

We have built on that in so far as amendment No. 9 states that a person who has been
convicted of murder is not entitled to any remissions of either the maximum or the
minimum sentence.

There has been a problem, and the judges have been correctly critical, that if there is
only that provision—the non-remission provision relating to the minimum—and a person
gets twelve years with a minimum of ten years, that person gets one-third taken off the
twelve years and the maximum comes down to eight years, but the minimum is not
reduced, so in fact the prisoner serves out his maximum sentence before his minimum
sentence expires. The person would serve the minimum of ten years, but it makes a
nonsense.

It is desirable when people are released that they are placed on parole with some
supervision for four or five years. Also, there is the problem of correctional administration.
That is, if a person has already served out his or her maximum sentence before starting to
finalise the minimum sentence that prisoner can play up a bit in gaol without too many
problems because the prisoner has no more to serve unless he actually commits a separate
offence.

Recently, a judge had a problem when he gave somebody a sentence of approximately
22 years with a minimum of ten years, because when the 22-year sentence was reduced by
one-third it would have brought the sentence down to fifteen or sixteen years, so when the
prisoner came out of gaol after ten years he would have had five years on parole. The
judges had to go through these sorts of gymnastics in setting an unrealistic maximum so
that when one-third of the sentence was taken off there was still a period of parole during
which the person would be under supervision after the expiration of the minimum.

This problem will be addressed by the Government by saying that there is no reduction
in respect of either the maximum or the minimum for people who are convicted of
murder, so they will be released if they are of good behaviour at the expiration of their
minimum sentence, and if they do not behave they can still be kept in for a longer period
up to the level of the maximum sentence. So there is still the incentive for good behaviour,
which is the difference between the maximum and the minimum, but neither will be reduced and the judges will not have to go through an artificial exercise of adding on.

The clause was agreed to.

Clause 60

The Hon. J. H. KENNAN (Attorney-General)—I move:

8. Clause 60, line 7. omit “this section” and insert “sub-sections (3) and (4)”.

9. Clause 60, after line 20 insert—

“( ) Despite anything to the contrary in this section, a person who has been convicted of murder is not entitled to any remission under this section or the regulations, either in respect of any sentence imposed or any minimum term fixed by the court.”

With regard to amendment No. 8, the omission of the words “this section” and the addition of “sub-sections (3) and (4)” clarify the issue that what is stated in clause 60 (1) refers to subclauses (3) and (4) and not to subclause (2), as might have been interpreted as the clause stood. In relation to clause 60, that is clarified, for the reasons that I have previously indicated.

The amendments were agreed to.

The Hon. B. A. CHAMBERLAIN (Western Province)—There is a philosophy of allowing for remissions as soon as a prisoner walks into prison without actually earning them. It is provided that if within a period of 30 days at least three prison offences are recorded in the register of offences the prisoner loses one day of the remission period to which he is entitled for each three offences recorded.

As soon as a prisoner walks into prison he is entitled to remissions, and then he starts to lose that entitlement. That is a curious system. Surely the provision should be that the judge sentences a person to, say, 15 years’ gaol with a minimum of 10 years; a prisoner then earns remissions on a daily or weekly accrual of that maximum amount, rather than saying that when a prisoner walks into prison, straight away that prisoner is entitled to a one-third reduction of his or her sentence.

I know this provision is not of the Minister’s making; it has been there for some time, but I wonder about the continuation of that system.

The Hon. J. H. KENNAN (Attorney-General)—Certainly there has been a lot of discussions about that, and there was discussion at the various seminars we have had on sentencing and how one deals with the problems of administrative erosion of sentences by administrators.

We believe this is a preferable way to go. A prisoner can predict a release date by crediting all the remissions at the start; the prisoner knows when he is to be released if he has been of good behaviour, and if he misbehaves he will lose some of those credits that he has “in the bank”.

The clause, as amended, was agreed to, as were clauses 61 to 73.

Clause 74

The Hon. J. H. KENNAN (Attorney-General)—I move:

10. Clause 74, page 34, after line 6, insert—

“( ) In this and the succeeding sections of this Division “prisoner” includes a person serving a sentence of imprisonment.”

This provision is concerned with the release of prisoners on parole after serving a minimum term. Without the amendment the provision did not extend to persons serving a sentence but not in the custody of the director-general, as, for example, offenders who are transferred as security patients to State mental institutions.
The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 75 to 84.

Clause 85

The Hon. J. H. KENNAN (Attorney-General)—I move:

11. Clause 85, at the end of line 21, insert—

"( ) a member of a prescribed class of persons who works at a location as a psychiatrist, medical practitioner, dentist, nurse or health worker".

Under the clause, the definition of “officer” did not include a person providing a health service, and this omission is rectified by the amendment.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 86 to 88.

Clause 89

The Hon. J. H. KENNAN (Attorney-General)—I move:

12. Clause 89, lines 20 and 21, omit “officer working in a region is subject to the directions of the Regional Manager of the region” and insert—

‘officer—

(a) who is an officer within the meaning of paragraph (e) of the definition of “officer” in section 85 and is working in a region, is subject to the directions relating to the security of locations in the region given by the Regional Manager of the region; and

(b) who is an officer within the meaning of paragraphs (a), (b), (c) or (d) of the definition of “officer” in section 85 is working in a region, is subject to the directions of the Regional Manager of the region.’

Clause 89 enabled the regional manager of a region to give persons involved in providing a health service to offenders a wide range of directions affecting the performance of their duties. The amendment ensures that such directions are limited to the security of the location.

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

Clause 90

The Hon. J. H. KENNAN (Attorney-General)—I move:

13. Clause 90, after line 37, insert—

‘( ) In relation to officers within the meaning of paragraph (e) of the definition of “officer” in section 85—

(a) sub-sections (1) and (2) apply as if they referred to reports, returns and records concerning the security of locations only; and

(b) sub-section (3) applies as if it did not include references to good order’.

Clause 90 (1) and (2) required a person providing a health service to make returns, reports and keep records as required by the director-general. As these obligations could extend to maintaining and/or providing health records to any persons required by the director-general, the amendment limits such obligation to the provision of records and reports concerning the security of locations only.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 91.

Clause 92

The Hon. J. H. KENNAN (Attorney-General)—I move:

14. Clause 92, page 41, lines 4–6, omit “that officers working in the region or assigned to the region comply with this Act, the regulations, and the Penalties and Sentences Act 1985” and insert—

‘that—

(a) officers within the meaning of paragraph (e) of the definition of “officer” in section 85 and who are working in or assigned to the region, comply with the provisions of this Act, and the regulations concerning the security of locations; and
Under the clause, the regional manager is required to give all necessary directions to persons providing a health service to comply with this Act, the regulations, and the **Penalties and Sentences Act 1985**. The amendment ensures health workers will not be required to comply with the Penalties and Sentences Act, which is not applicable to health workers at regional locations.

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

Schedule 1

**The Hon. J. H. KENNAN** (Attorney-General)—I move:

15. Schedule 1, item 2 (3), page 52, after “1970—” insert:

“(a) For the definition of “Adult Parole Board” substitute ‘“Adult Parole Board” means the Adult Parole Board constituted under the **Corrections Act 1986**’.”

16. Schedule 1, item 2 (3), page 52, omit “Part V” and insert “Part 3 of the **Corrections Act 1986**”.

17. Schedule 1, item 2 (3), page 53, omit ‘definitions of “Adult Parole Board” and’ and insert “definition of”.

18. Schedule 1, item 5 (1) (g), page 54, omit “(sa)”.

19. Schedule 1, item 5 (1) (i), page 54, omit “for “parole officers” substitute “community corrections officers”’,

and insert “omit “and parole officers””.

20. Schedule 1, item 5 (1) (j), page 54, before “and” insert “prisons”.

Amendment No. 15 provides for a consequential amendment to the definition of “Adult Parole Board” in the Community Welfare Services Act 1970 and refers to the Adult Parole Board constituted under the Corrections Act 1986.

Amendment No. 16 is a consequential amendment to the definition of “prison” in section 153 of the Community Welfare Services Act.

Amendment No. 17 retains the definition of Adult Parole Board in the Community Welfare Services Act as amended by reference to the Corrections Act.

Amendment No. 18 provides for the repeal of paragraphs (n) (ta) of section 203 of the Community Welfare Services Act and does not extend to paragraph (sa) which is preserved as a power to make regulations relating to youth parole officers.

Amendment No. 19 provides for amendment to section 203 (g) of the Community Welfare Services Act by removing the term “parole officers” as a reference to adult parole officers now contained in the Corrections Act.

Amendment No. 20 provides for amendment to section 203 (w) of the Community Welfare Services Act by removing the reference to prisons and police gaols, which are no longer applicable to this Act.

Those amendments were made after discussions with officers of Community Services Victoria.

The amendments were agreed to, and the schedule, as amended, was adopted, as was Schedule 2.

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

**FRIENDLY SOCIETIES BILL**

The debate (adjourned from November 26) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

**The Hon. REG MACEY** (Monash Province)—The Friendly Societies Bill will replace the Friendly Societies Act 1958, which has been subject to only minor amendments since 1875.
The Bill provides a modern regulatory framework and is intended to provide greater flexibility for friendly societies. The measure increases the protection available to both society members and the general public.

There are 113 friendly societies operating in Victoria, ranging from 280,000 members to fewer than 100 members. This Bill is a response to the expanded role which increasingly friendly societies have come to play as investment managers. Traditionally, their focus was on the medical and hospital benefit areas, but many friendly societies have since become important financial institutions performing a function which, at least in some cases, has become comparable to those performed by building societies, life offices and similar organisations.

The Opposition has consulted with many friendly societies and there is strong support for the thrust of the Bill.

The Bill seeks to provide conditions under which friendly societies can meet the needs of members, their dependants and members of the public, at minimum cost to the members; and to provide a system of prudential regulation to ensure that friendly societies can provide services and benefits on a mutual basis to members and their dependants, at minimum cost to their members.

As I stated earlier, the Friendly Societies Act 1958 will be repealed by the Bill. In addition, the Bill will provide for minor consequential amendments to eleven other Acts. The Bill contains many extremely good points. It is a comprehensive review of existing legislation. Some 142 clauses provide for the incorporation of friendly societies, which the Opposition believes is appropriate in modern business. The Bill provides for management, so that directors must be appointed rather than having a board of trustees; it imposes fiscal powers and obligations on friendly societies; defines membership; and provides clearly for voting rights.

The Bill restricts new registrations to bona fide friendly societies conducted on a mutual basis. The Opposition was concerned that some recent applications were from commercial organisations that lacked a democratically elected management structure and instead were controlled by a small clique. The fraternal and social aspect was certainly missing; they were not friendly societies in any sense of the word. High management fees were payable to the controlling clique. This measure will prevent that sort of abuse from being attempted again.

Areas of activity open to friendly societies are spelt out in the Bill. The existing benefits and areas of activity are explicitly defined. Provision is also made for an expansion of services to members. The Bill provides the means to control the form and level of benefits provided by individual societies and seeks to ensure that the activities undertaken are within the capacity of those societies.

Investments of friendly societies are currently restricted principally to trustee securities. This Bill provides for a broadening of investment powers subject to Ministerial approval.

The Opposition notes that the Government, in its foreshadowed amendments, has included an amendment which the Opposition proposed in the other place. A number of other relatively minor amendments have been incorporated in the Bill and the Opposition thanks the Government for doing so.

The Opposition is also grateful for the cooperation it has received from the Registrar of Friendly Societies and representatives of the Department of Management and Budget.

The safety measures in the Bill provide for similar functioning provisions as were in the former Act. Solvency in the past has been safeguarded by requiring actuarial certification
of contribution rates, and reserves required to be held, to enable the provision of members' benefits while safeguarding the continued solvency of the society.

I note that this approach to the safeguarding of solvency is continued and enhanced by the Bill. Provision is made for the Government Actuary to set actuarial standards for contribution rates, financial reserve requirements and other matters related to benefits. The Opposition believes this will safeguard the continued solvency of friendly societies and ensure that members are treated fairly.

The Opposition has had directed to its attention a letter signed by Mr Tim Dyce, Manager, Public Policy and Liaison, Victorian Credit Co-operative Association Ltd, which states, in part:

Under section 4 of the proposed Act, a large friendly society like I.O.O.F. (assets of $700 million) could decide for example to allocate $10 million in a week (or even $100 million in 10 weeks) for the 'welfare' of their members. Because it would not have to carry the costs of the regulations that govern credit co-operatives (Reserve Board requirements; maintenance of reserves, etc.) nor provide the on-call deposit and other financial services that credit unions provide, it could offer the loans at a significantly lower rate of interest, for example, 14 per cent. This would amount to a massive onslaught on the traditional base of credit co-operatives.

The Opposition has discussed this assertion with the registrar and believes the Bill provides adequate safeguards. However, the Opposition received an assurance from the registrar that, should that prove not to be so, the registrar, with the Treasurer, has adequate powers.

I share the writer's concern:

... that if all protections are removed from non-profit co-operative type societies, then other larger institutions, not restricted, for example, as credit unions are by the common bonds of membership, could destroy the majority of our smaller institutions. Credit co-operatives support minimal protection provisions for friendly societies as much as for ourselves, but it opposes loose provisions in the Friendly Societies Bill which could permit one or two larger commercially minded friendly societies to enjoy an unfair competitive advantage.

The Opposition is satisfied that the Bill safeguards against that, but will look to the Government to ensure that that situation does not occur.

The honourable member for Balwyn in another place, Mr Ramsay, indicated concern that some friendly societies that operate from a number of branches could be caught up in additional difficulties associated with the Bill. I note that the registrar has contacted the societies concerned and has enabled steps to be taken to allow those branches to be incorporated prior to the Bill becoming law; so the Opposition is satisfied that no amendment needs to be moved in this place in relation to that matter.

The Opposition believes the Bill will facilitate the further development of friendly societies in Victoria, while ensuring that the necessary prudential regulation is carried out in an efficient and effective manner. The Opposition will support the Bill.

The Hon. B. P. DUNN (North Western Province)—The growth in friendly societies and their activities in recent years has been amazing. It is a credit to many of the societies that they have been able to achieve the rate of growth and expansion in their activities that was evidenced in the Minister's second-reading speech when he said that at 30 June 1986 the total assets of the friendly societies amounted to $1300 million, the result of a growth of 33 per cent in the 1985–86 year and of more than 40 per cent per annum in previous years.

With these assets, the societies have operated in all of the traditional areas of sickness benefits, funeral benefits, life assurance and hospital, ancillary and dental health benefits and so on and have moved into other wider areas.

The Bill is the first major rewrite of the 1875 Act. It is long overdue and is widely supported by friendly societies in this State.

Since the Bill was introduced in another place, there has been widespread consultation on a cooperative basis. All of those involved have genuinely attempted to make it a better Bill. The National Party had extensive discussions with friendly societies. That led us to
draw up a range of twelve amendments prior to that debate in the Assembly and, through discussions across party lines prior to that debate, many of those amendments were picked up so that the Bill comes to the House in amended form.

The Bill as originally drafted was deficient in some respects and needed to be corrected. We should recognise some of the changes that have been made. Some were made on amendments suggested by the National Party. For instance, the Bill as originally drafted made no provision for a proxy vote. Many members of friendly societies may be elderly persons living in the country who would have difficulty in attending meetings to vote, so that the severe restriction had the potential to disfranchise many members of friendly societies. Consequently, the National Party drew up an amendment to provide for a proxy vote, and that amendment was accepted in another place.

The Bill also contains a clause relating to 72-year-olds. I have always been deeply concerned about the fact that in a society that claims to eliminate all forms of discrimination because of race, colour or sex, we openly discriminate in legislation against the aged. We actually legislate to discriminate against a section of the population because they are over a certain age! That is unbelievable.

I understand that legislation passed by the United States Congress without a dissenting voice last year or earlier this year outlawed discrimination on account of age. In the United States it is now illegal to discriminate against a person in respect of employment because of his age and to say that because a person has reached 65 years of age his working life has finished. A person's worth should be judged on his ability to perform his duties, regardless of his age.

Our society throws relatively young people on the scrap heap. In earlier generations, other civilisations and other countries, many people have been very successful late in life and have made significant contributions when 70 years of age and beyond. Sir Joh Bjelke-Petersen, the Premier of Queensland, is 75 years of age.

The Hon. D. R. White—Are you speaking in favour of age?

The Hon. B. P. DUNN—I hope the Minister for Health will still have his faculties by the time he is 75. Sir Joh still flies helicopters and aeroplanes and is very active.

Why throw people on the scrap heap because they are 72 years of age? That aspect of the Bill was discriminatory. The Bill, as originally drafted, excluded those who had reached the age of 72 from being appointed as directors of friendly societies. The National Party was able to achieve an amendment that will allow such a person, by special resolution, to be appointed or reappointed as a director of a friendly society. They should be able to hold office in those positions if they are capable of fulfilling their duties.

As a result of consultation, the Bill has been further improved. The Bill as originally presented would have allowed any member to go to a friendly society register and, not only inspect the register but also make photostat copies. That person could then have used members' names in the commercial sense or against the interests of that friendly society.

The Government also wanted to establish a situation where a friendly society could be directed to merge with another if the total number of its members was fewer than 100. That clearly was a discriminatory clause. There should be no arbitrary number of members. It should depend on the particular friendly society and the service it can offer. That was amended.

The National Party in another place raised the issue of allowing the industry to appoint its own representatives on the Victorian Friendly Societies Advisory Committee.

The Bill provides that the committee must consist of six members who are appointed by the Minister, of whom one must be the registrar, one must be nominated by the Treasurer and four must be people who are representatives of the friendly society industry and are officers of registered friendly societies.
The National Party believes the industry needs to appoint its own representatives. A similar debate occurred in the House yesterday about the Teachers Registration Board. We made the point that that industry should be able to appoint some of its own representatives, and we suggest a panel of six should be presented to the Minister by the Friendly Societies Association of Victoria and that four representatives be selected from that panel of six.

I understand the Minister will move an amendment with a slight variation to that but the National Party will accept his amendment. It will give the industry the right to appoint two representatives to the board.

Mr Macey mentioned the concern of some branches about their position during the transition period when the Bill is being enacted. We thank the Minister and officers of the Department of Management and Budget for indicating that there has been general agreement on a solution to this difficulty, that branches will have time to register as separate societies prior to the Bill being proclaimed.

Time constraints do not permit me to say more. The National Party welcomes the Bill and is pleased that, in conjunction with the Opposition and the Government, amendments have been agreed to that will make the measure totally satisfactory for the friendly societies in this State.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 65 were agreed to.

Clause 66

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

I. Clause 66. page 35. lines 13 to 17. omit paragraph (f) and insert—

“(f) Subscribing for shares, or purchasing shares, in a corporation approved by the Minister and listed on the official list of a stock exchange in Australia or in a corporation that is a subsidiary of a friendly society the memorandum and articles of association of which have been approved by the Minister;”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 67 to 77.

Clause 78

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

2. Clause 78. page 42. line 2. after “made” insert “and is revoked on the death of the nominee”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 79 to 99.

Clause 100

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

3. Clause 100. line 40. after “societies” insert “and two of whom are selected from a panel of four names submitted to the Minister by the Friendly Societies Association of Victoria”.

The Hon. J. G. MILES (Templestowe Province)—The Opposition supports the amendment but I express the concern of a constituent of mine in the friendly society industry that if six members are nominated to the advisory committee from the friendly society industry, perhaps the smaller societies which are not as strong as some of the larger organisations and are not members of the Friendly Societies Association of Victoria, such as IOOF with funds and assets of $700 million, will be swamped by those larger societies, and their interests may not be represented.

In the composition of the committee, two appointments would be official and four of them would be representatives of the friendly society industry and be officers of registered
friendly societies. I ask the Minister to bring to the attention of the Treasurer that smaller societies which may not be members of the association would want to have a chance to be nominated for membership of the Friendly Societies Advisory Committee. The Treasurer may consider that two of the four appointed members of the committee should be representative of smaller societies.

The Hon. D. R. WHITE (Minister for Health)—I shall take up that matter with the Treasurer and request that he consider that proposition when selecting the representatives.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 101 to 137.

Clause 138

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

4. Clause 138. line 31. omit “as soon as practicable after the end of” and insert “before 30 November in”.

The amendment was 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 passed through its remaining stages.

PROSTITUTION REGULATION BILL

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

Discussion was resumed of clause 76, and of Mr Chamberlain's amendment:

54. Clause 76. page 34. after line 9 insert the following paragraphs:

( ) In sections 61 to 64 for “responsible authority” (wherever occurring) substitute “planning authority”;

( ) In section 61—

(i) for “a planning scheme amending another planning scheme” substitute “an amendment to a planning scheme”;

(ii) for “amending planning scheme” substitute “amendment”;

( ) In sections 62 to 64 for “planning scheme” (wherever occurring) substitute “amendment”;

( ) For sections 65 and 66 substitute—

Approval of amendment.

“65. (1) If the planning authority adopts an amendment under section 64, the planning authority must forward the amendment to the Minister administering the Planning and Environment Act 1986.

(2) That Minister must approve the amendment.”

Some provisions of Planning Act not to apply.

“66. Divisions 1, 2 and 3 (other than sections 33 to 36) of Part 3 of the Planning and Environment Act 1986 do not apply to an amendment to which sections 61 to 65 of this Act Apply”

The Hon. B. A. CHAMBERLAIN (Western Province)—I do not propose to canvass the same issues again as the positions of the parties are quite clear but, during the debate, the Attorney-General indicated that he was concerned that the proposal contained in proposed new clause D (2) which gives a discretion to the Minister, could lead to appeals. The honourable gentleman indicated that he was referring to the possibility of prerogative writs in relation to the discretion that my proposal would give to the Minister.

It was certainly not my intention that that be the case. It is my intention that the decision should rest with the Minister and the responsibility for making that decision should rest with the Minister. I propose, at a later stage—and I am sure you will direct me, Mr Acting Chairman, at the appropriate time—to add a paragraph (3) to new clause D on page 8 to provide that the decision of the Minister shall be final and conclusive and not be subject to judicial review. I understand that covers the point proposed by the
Minister but, otherwise, the Opposition has considered its position, has rediscussed the issues and will support the amendments it has before the Committee, with the addition I have just mentioned.

The Hon. J. H. KENNAN (Attorney-General)—The amendment is certainly a step in the right direction—to provide that the Minister's certificate is not reviewable. One of the difficulties with prerogative clauses is that the courts usually tend to ignore them and it is hard to have an effective prerogative clause and the amendments circulated in my name are certainly much more preferable.

Through the proposed amendments, the Government endeavours to greatly widen the matters that the Minister can take into account. When this measure was last before the Committee, I said I was concerned about consideration of submissions as such, which is what is in the Bill at the moment, that that was terribly vague and was likely to lead to great difficulty.

The Government now sets out six matters to be taken into account, which I have listed in my proposed amendments, and which refer to submissions, community concern, social and environmental effects of allowing or prohibiting brothels, Ministerial guidelines, the availability of suitable locations for brothels in the area to be affected by the planning scheme and the number of brothels that are then permitted to operate in the area. It is a proper planning approach to take into account all of those factors because as the Minister for Agriculture and Rural Affairs and I indicated on the last occasion the measure was before the Committee, a whole range of proper planning factors must be considered and in many cases they extend beyond the responsible authority.

In any event, for that reason the Government will oppose Mr Chamberlain's amendment but support the proposed amendment circulated in my name.

The Hon. ROSEMARY VARTY (Nunawading Province)—I shall make a couple of points about the amendment to be proposed by the Attorney-General. It seems that his amendment only confuses the issue. If one looks at the possible scenarios of how the Minister will be asked to resolve this situation, one finds four possibilities.

They are: whether municipal councils oppose prostitution and brothels or agree to prostitution and brothels in their area; whether communities approve or disapprove of prostitution or having brothels in their area.

The first scenario is that both the council and the community support brothels in their areas and, in that case, they would obviously go ahead and issue a permit for the brothel, so no problem arises.

The second scenario would be when the council supports a brothel but the community does not. Obviously, if there is an application, there will be objections lodged and those objections would probably go to the Planning Appeals Board to have any decision overturned. I would further suggest that if the council were doing something that was against community wishes, it may well be that the next time council elections come up, members of the council might find themselves out of office.

The third possible scenario is that a council and the community opposes brothels. Therefore, it would want to go ahead and amend its planning schemes so there should not be any appeal to the Minister and the Minister would merely have to decide whether that was an acceptable amendment.

The fourth scenario—and this is really the one of relevance to the discussions today—is where councils oppose brothels but the members of the community want brothels in their area. That is really the only possible scenario where the Minister would receive an appeal to change a decision of a council not to make an amendment to its planning scheme. I suggest that it is almost unlikely to ever happen; but that is the scenario that would apply.
The proposed amendment that the Attorney-General has put forward is more in the way of canvassing the general propositions that relate to brothel applications; therefore, the Liberal Party will oppose the proposed amendment.

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

New clauses

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

55. Insert the following New Clause to follow clause 11:

Offence to live on earnings of prostitute.

"(1) A person who knowingly lives wholly or in part on, or derives a material benefit from, the earnings of prostitution is guilty of an indictable offence.

Penalty: Imprisonment for four years.

(2) A person is not guilty of an offence against this section by reason only of the person deriving income from the operation of a brothel if—

(a) there has or have been issued, and is or are in force, such permit or permits as are required under the Town and Country Planning Act 1961 to authorise the use of the land on which the brothel is situated for the purposes of the operation of a brothel; and

(b) there has been granted, and is in force, the licence required under Part 3 of this Act to authorise the person who is carrying on the business of operating the brothel to carry on that business.

(3) If it is proved to a court that—

(a) a person is living with, or is habitually in the company of, a prostitute; or

(b) a person has exercised control, direction or influence over the movements of a prostitute in such manner as to show that the person is aiding, abetting, procuring or compelling the prostitute to prostitute himself or herself with any other person or generally—

that person is to be taken to be knowingly living on the earnings of prostitution unless the court is satisfied to the contrary."

The Hon. JOAN COXSEDGE (Melbourne West Province)—I speak against the Chamberlain proposition because I believe it is obnoxious and quite intrusive. The Neave report emphasises the importance of freeing the private relationship between a prostitute and her partner, whether he be a husband or de facto or family, from this particular offence, an attitude that I fully support.

Apparently the laws against men living off the earnings of prostitutes were originally intended to protect women from being exploited by white slavers, pimps and the hoons that hang around the industry. That is fair enough.

However, circumstances do change, and they have changed quite substantially in this country. Today there is little need for such a law. I wonder whether Mr Chamberlain has given any consideration to the fact that a prostitute may wish to support an invalid or a person out of work or someone in similar circumstances.

An important point in my view is that living off the earnings of a prostitute is a very difficult offence to prove, and that is borne out by figures which show a low rate of prosecutions for this offence. Persons proceeded against in 1983 numbered only 21. In 1984 there were only fifteen. Of that handful of people, we do not know how many were actually convicted.

The man may keep up a front activity to conceal where he is obtaining his income. Therefore, I wonder how Mr Chamberlain is hoping to be able to obtain evidence so that at least charges can be laid. I have always believed that unenforceable laws are very bad laws.

In real life, a woman will often not inform on her pimp because she is afraid of the consequences if she does so. Either he or his mates will be waiting for her after she comes out of prison.
I also wonder whether Mr Chamberlain has taken into consideration the fact that there are varying degrees of pimping. I am not saying that there is first-grade pimping and second-grade pimping, but there are different scales of pimping. It is certainly true that some men run a small group of girls as a business arrangement. However, at the other end of the scale, the prostitute and the pimp are a couple—perhaps even husband and wife—and they may have close emotional links.

That is something we should understand and appreciate. We also know that some prostitutes do not have pimps and reject the very notion of having one, because they are tough, self-reliant women, like some of us in this Chamber! However, others are different. They feel a need to have a man looking after them because of cultural and general conditioning.

There are also practical, apart from emotional, reasons, why a woman may need a pimp. I am speaking about the real world. She may need protection from police and criminals. She may need to pay protection to someone in order to work at all. She may even need an intermediary; someone to hold bail money in case she is arrested. She may need someone to drum up business. In some of these instances, the only reason why a woman needs a pimp is because her business is illegal and she needs assistance so she may be able to work.

I reject the Chamberlain amendment out of hand because I agree with the basic tenet of the Neave report that criminal law should not be involved in non-exploitative adult relationships.

The Hon. B. A. Chamberlain (Western Province)—It is clear that Mrs Coxedge does not understand the proposal. The whole theme of the Bill is that the law of the State is saying in this Bill—whether it is the Government's version or the Opposition's version—that if one goes through a certain process and obtains certain approvals, one can legitimately operate a brothel, and prostitution in that brothel is not subject to criminal law. That is what the Bill is designed to do.

On the other hand, those who thumb their noses at the law should have the full force of the law brought down on them. That is the tenor of the amendments, most of which were not opposed by the Government. There is a corollary.

The Hon. Joan Coxedge—I know what it is about; I do not agree.

The Hon. B. A. Chamberlain—Mrs Coxedge is arguing against the whole basis of the proposed legislation. What she did not tell the Committee was that in subsection (2), which states that if a prostitute is carrying on her business in accordance with the law—in other words, in a brothel—with the two relevant permits; namely, the planning permit and the permit referred to in clause 15, there is no offence of living off the earnings of a prostitute. That is the difference.

In clause 71, (2) we abolish the general offence of living off the earnings of a prostitute. That provision currently exists in section 10 of the Vagrancy Act. We are getting rid of that provision.

The reason for my new provision is to take up what we said about classifying some brothels as legal, and those who want to go that way and those who operate illegally must suffer the consequences flowing from that. That is one of the consequences. If the prostitute for whom Mrs Coxedge is concerned obeys the law, as embodied in the legislation, she will not be committing an offence by supporting other people from the earnings of that prostitution. Mrs Coxedge has ignored that aspect.

The Hon. J. H. Kennan (Attorney-General)—The Neave report stated that interviews with men and women working as prostitutes showed that prostitutes often share their earnings with spouses or lovers. Sometimes the person was working as a prostitute before the relationship began and would be unwilling to give up a lucrative source of income.

In other cases, poverty and family responsibilities are relevant factors. Sometimes a woman becomes involved in prostitution while her husband is unemployed or because
the couple have decided to save for a specific purpose; for example, to pay off a home. Often the partner looks after the prostitute's children or does the housework, as well as providing emotional support.

The Neave report stated that while it was not suggested that it is ever desirable for a person to work as a prostitute, relationships of this kind are certainly less objectionable than cases where a person is forced to work as a prostitute or to hand over his or her earnings. Since prostitution itself has never been a criminal offence, prostitutes should be able to spend their earnings as they choose, without running the risk that their dependent lovers may be guilty of criminal offences. Those points are made in paragraphs 8.37 and 8.38 of the Neave report.

Professor Neave is of the view that the retention of the offence of living off the earnings of a prostitute creates an unjustifiable anomaly. For example, it would be an offence for an invalid who was supported by his wife, who was willingly working as a prostitute, but not for a person to run a brothel employing many women, provided the brothel had a permit.

The arguments for and against the offences are pretty clear. It is more likely that there will be cooperation with the police if they believe they do not run the risk that they can be prosecuted for voluntarily supporting someone living off the earnings.

If prostitution is not an offence—this is the real key to where the Liberal Party argument is wrong—why should it be an offence for a prostitute to earn money and share that money with somebody else? That is the real difficulty with the Liberal Party amendment. That point is not addressed in the amendment and, therefore, the Government opposes it.

The Committee divided on new clause A (the Hon. G. A. Sgro in the chair).

**AYES**

- Mr Baxter
- Mr Birrell
- Mr Chamberlain
- Mr Connard
- Mr de Fegely
- Mr Dunn
- Mr Evans
- Mr Granter
- Mr Guest
- Mr Hallam
- Mr Hunt
- Mr Knowles
- Mr Long
- Mr Macey
- Mr Reid
- Mr Storey
- Mrs Varty
- Mr Ward
- Mr Wright

**NOES**

- Mr Arnold
- Mr Crawford
- Mrs Dixon
- Mr Henshaw
- Mrs Hogg
- Mr Kennan
- Mr Kennedy
- Mrs Kirner
- Mrs Lyster
- Mr McArthur
- Mrs McLean
- Mr Murphy
- Mr Pullen
- Mr Sandon
- Mr Van Buren
- Mr Walker
- Mr White

**Tellers:**

- Mrs Coxedge
- Mr Mier

**PAIR**

- Mr Grimwade
- Mr Landeryou
"B. If a responsible authority other than the Minister administering the Town and Country Planning Act 1961 prepares a planning scheme amending another planning scheme to make a brothel a prohibited use and for no other purpose, the responsible authority must advise that Minister of the preparation of that amending planning scheme."

Minister may direct responsible authority to advertise planning scheme.

"C. (1) The Minister administering the Town and Country Planning Act 1961 within 30 days after receiving the advice of the responsible authority under section 61 may direct the responsible authority to advertise the planning scheme in accordance with sub-section (2).

(2) When directed by that Minister, the responsible authority must cause to be published in the Government Gazette and in a newspaper generally circulating in the neighbourhood of the area to be affected by the planning scheme a notice—

(a) stating that the planning scheme has been prepared by the responsible authority; and

(b) stating that a copy of the planning scheme may be inspected at the office of the responsible authority; and

(c) calling upon all persons affected by the planning scheme to set forth in writing addressed to the Minister administering the Town and Country Planning Act 1961 not later than the date specified in the notice (being a date not earlier than 14 days after the date on which the notice was published in the Government Gazette) any submissions which they may wish to make with respect to the planning scheme.

(3) The responsible authority must keep a copy of the planning scheme open for inspection at its office during office hours by any person free of charge."

Minister to consider submissions.

"D. (1) The Minister administering the Town and Country Planning Act 1961 must consider all submissions made under section 62.

(2) If after considering the submissions, that Minister considers that the planning scheme does not have the support of the local community, he or she may in writing, not later than 45 days after the date of publication of notice of the planning scheme in the Government Gazette under section 62, direct the responsible authority not to adopt the planning scheme.

(3) The decision of the Minister shall be final and conclusive and shall not be subject to judicial review."

Adoption of scheme by responsible authority.

"E. (1) The responsible authority may adopt the planning scheme—

(a) after the expiration of 30 days after the giving of the advice to the Minister administering the Town and Country Planning Act 1961 under section 61 if that Minister has not given a direction under section 62; or

(b) if that Minister has given such a direction and has not given a direction under section 63, after the expiration of 45 days after the date on which the notice of the planning scheme was published in the Government Gazette under section 62."

Approval of planning scheme.

"F. (1) If the responsible authority adopts a planning scheme under section 64, the responsible authority must forward the planning scheme to the Minister administering the Town and Country Planning Act 1961.

(2) That Minister must submit the planning scheme to the Governor in Council.

(3) The Governor in Council must approve a planning scheme submitted under sub-section (2)."

Some provisions of Planning Act not to apply.

"G. Sections 28, 29 and 30 (other than sub-sections (5), (6) and (7)) of the Town and Country Planning Act 1961 do not apply to a planning scheme to which sections 61 to 65 of this Act apply."

The new clauses deal with the local operation of a brothel.

The addendum which has been incorporated in the circulated amendments meets the objections of the Minister. As I outlined yesterday, the Committee should adopt the proposals.
The Hon. J. H. KENNAN (Attorney-General)—The Government is against the proposal for the reasons that I have already indicated. As an amendment to Mr Chamberlain’s proposed new clause D, I move:

1. New Clause D. omit sub-clauses (2) and (3) and insert—

"(2) After considering the submissions that Minister may in writing, not later than 45 days after the date of publication of notice of the planning scheme in the Government Gazette under section 62, direct the responsible authority not to adopt the planning scheme if he or she considers that it is desirable to give that direction having regard to—

(a) the submissions; and
(b) the extent of community concern about the existence of brothels in the area to be affected by the planning scheme; and
(c) the social and environmental effects of allowing or prohibiting brothels in that area; and
(d) the guidelines about the location of brothels issued by that Minister; and
(e) the availability of suitable locations for brothels in the area to be affected by the planning scheme; and
(f) the number of brothels then permitted to operate in that area.

(3) A direction of the Minister under sub-section (2) is not liable to be challenged, appealed against, reviewed, quashed or called in question in any court on any account."

The amendment effectively replaces new clause D of the new clauses proposed by Mr Chamberlain.

It sets out a comprehensive range of planning factors such as: submissions; extensive community concern; social and environmental effects; the Ministerial guidelines; availability of suitable locations for brothels; and the number of brothels to be permitted in an area. That is a comprehensive range of planning factors that Mr Hunt, in his inner self, would recognise as being absolutely correct. I accept the gratitude of the Opposition for my being so even tempered about such an outrageous provision as that which the Opposition has moved.

The Committee divided on the question that the words and expressions proposed by Mr Kennan to be omitted stand part of the proposed new clause D (the Hon. G. A. Sgro in the chair).

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The new clauses 8-G were agreed to, and the new clauses, A-G were adopted, as were the schedules.

The Bill was reported to the House with amendments.

The Hon. J. H. KENNAN (Attorney-General)—Having regard to the fact that the Opposition has made such a mess of the Bill, the Government will carefully consider the situation, and it is with reluctance that I move:

That the report be now adopted.

The motion was agreed to.

The Hon. J. H. KENNAN (Attorney-General)—It is for the same reasons that I have the same reluctance in moving:

That this Bill be now read a third time.

The Hon. B. A. CHAMBERLAIN (Western Province)—The House now has before it a more responsible Bill than the original draft and one that recognises the problems in the real world. During the debate, the Opposition indicated that the legislation proposed by the Government would be unenforceable. Some elements in the community were waiting for the Bill to pass in the form in which it was introduced because of the enormous number of loopholes it had in it.

The Opposition has always taken a responsible attitude by recognising the real problems of child prostitution, drug use in massage parlours and women being forced to work in massage parlours by threats of thuggery. The Opposition does not apologise for its action in improving the Government's proposals.

The Hon. B. P. DUNN (North Western Province)—The Bill has been improved somewhat by the amendments, some of which the National Party supported. Those amendments extend the provisions of the proposed legislation to cover prostitutes whether they work on their own or with other prostitutes. The amendments also relate to the rights of local communities to decide whether brothels should be established in their areas.

However, the National Party believes the Bill that dealt with planning regulations for brothels was wrong and that this Bill is also wrong because it confers a degree of respectability and acceptance that prostitution does not deserve. Parliament is allowing the worst kind of exploitation and misuse of women. The National Party is totally opposed to prostitution and, therefore, will divide on the third reading.

The Hon. G. P. CONNARD (Higinbotham Province)—I have listened carefully to the debate and supported my party on the clauses of the Bill because there is no doubt that if the Bill must be passed it must be amended. The Opposition's amendments have vastly improved the Bill.

However, in my own conscience I have not been persuaded by the arguments of the Attorney-General. The honourable gentleman is reported in Hansard of 2 December this year as stating:

Let us be candid about this; most local councils like to feel that they are absolutely squeaky clean to their electorates. Brothels are not a popular issue and the temptation to prohibit them on parochial considerations is overwhelming.

That one sentence alone supports my conscience and my thoughts on this topic. So I advise the House that I will not vote for the third reading.
The House divided on the motion (the Hon. R. A. Mackenzie in the chair).

Ayes ... ... ... ... ... ... ... ... ... ... 31
Noes ... ... ... ... ... ... ... ... ... ... 6

Majority for the motion ... ... ... ... ... 25

AYES
Mr Arnold
Mr Birrell
Mr Chamberlain
Mrs Coxedge
Mr Crawford
Mrs Dixon
Mr Granter
Mr Guest
Mr Henshaw
Mrs Hogg
Mr Hunt
Mr Kennan
Mr Knowles
Mr Lawson
Mrs Lyster
Mr McArthur
Mrs McLean
Mr Mier
Mr Miles
Mr Murphy
Mr Pullen
Mr Sandon
Mr Sgro
Mr Storey
Mr Van Buren
Mrs Varty
Mr Walker
Mr Ward
Mr White
Tellers:
Mr de Fegely
Mr Kennedy

NOES
Mr Baxter
Mr Dunn
Mr Evans
Mr Hallam
Tellers:
Mr Connard
Mr Wright

The Bill was read a third time.

STATE ELECTRICITY COMMISSION (FURTHER AMENDMENT) BILL

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

Clauses 1 to 4 were agreed to.

Clause 5

The Hon. ROSEMARY VARTY (Nunawading Province)—I move:

1. Clause 5, page 5, after line 10 insert the following sub-clause:

   "( ) Section 61 of the Principal Act is amended as follows:
   (a) For "61. The" substitute "61. (1) The"; and
   (b) At the end of the section insert—

   "(2) Any person who is aggrieved by an order of the Commission under sub-section (1) (b) may apply to the Administrative Appeals Tribunal for a review of the decision of the Commission to make the order.""

The amendment relates to the undergrounding of cables where the State Electricity Commission has issued an order for the installation of underground power lines. The Liberal Party's amendment provides for an appeals mechanism so that appeals can be
made against any order either for a new installation or repair of powerlines where it has been deemed that existing overhead powerlines should be replaced by underground lines.

There have been some draconian examples of the overzealousness of the commission relating to orders for underground powerlines, and an appeals mechanism is needed. It is the Liberal Party's view that undergrounding should occur only where danger exists as a result of fire hazard, for example, with an overhead powerline. Certainly, the commission should not be the final arbiter.

I advised the Minister also that more attention should be paid to the promulgation of regulations and their implementation. At present, the State Electricity Commission operates under a code of practice authorised by section 109 of the Act, but there are no specific regulations to cover these circumstances.

The Hon. D. M. EVANS (North Eastern Province)—The National Party has similar concerns to those expressed by Mrs Varty and espoused in the amendment that she has moved. As I indicated in the second-reading debate, the National Party feels very strongly on this issue. Many people in the community, particularly in rural areas, who have State Electricity Commission installations on their premises, their homes, properties and businesses, have had these installations in place for many years. Suddenly, they are subjected to an inspection by State Electricity Commission inspectors and told that the installations are no longer satisfactory and require major renovation and repair work.

The current practice is that if more than one-third of the installation requires repair, an order is placed on the property owner to put the installation underground or suffer disconnection, usually within a period of 50 days. There would be very few, if any, cases of that undergrounding requirement that would cost an individual less than $1000. Recently, I had a case in the province that I represent of a person being subject to an order that would cost him in excess of $7000.

The Hon. B. A. Chamberlain—You would not get much done for $1000.

The Hon. D. M. EVANS—Not much would be done for $1000. It is almost a maximum of $7000 and commonly $2000 to $3000.

This requirement is placed on the landowner almost without any warning. The normal procedure is that it must be carried out within 50 days. I accept that there may be an extension of a few weeks. I do not believe many private individuals who are faced with a Bill and a requirement to meet that order are able to do so without discomfiture and, in many cases, people suffer severe financial stress and strain. This process is totally without appeal.

There are two standards. The State Electricity Commission in the lines it provides along normal roadways requires overhead wiring. Yet it requires of a private individual a much higher standard of installation, not the same standard; even if the wires that need to be replaced are insulated, they are still required to be placed underground. That is unreasonable.

At present, there is no appeal against that except to the regional or district manager to learn whether he is prepared to allow an alteration to the order. He has some discretion to approve the upgrading of the existing installation or repair of it, but he does not have to agree to do that. One relies on his discretion and almost on his good nature.

It would appear to be little more than natural justice to allow some form of appeal procedure and that is suggested in Mrs Varty's amendment. It is reasonable. On an appeal to the Administrative Appeals Tribunal one would be allowed to put one's case, and the commission would need to show that it was necessary for powerlines to go underground to provide a degree of additional protection. If that was seen to be sensible and reasonable, given all the factors, it should be so; but if the order from the commission was seen to be unreasonable and judged to be so by an independent tribunal and the individual had the
right of recourse to that independent tribunal, it would be seen that natural justice was served.

I also accept that it is better to have powerlines underground and given that the cost is in any way equal, it would be best to do so. I also accept that it is not reasonable for any individual to allow to remain in place an installation that is patently unsafe. However, it will not go from a safe condition to a totally unsafe condition in 40 or 50 days, so longer time should be allowed or a greater degree of discretion.

The third proposition is one that I understand my colleague, Mr Hallam, has raised with the Minister. It is the suggestion that some finance be made available as loans to individuals outside their normal borrowing capacity; in other words, a loan that does not become just an additional part of their bank overdraft or Rural Finance Commission loans that are a normal part of their business, but a specific loan to provide for the additional installation that the State Electricity Commission requires.

I understand the Minister is prepared to accept that proposition in some cases. It is not an unreasonable proposition. In other words, people will not immediately be put under severe financial stress as a result of such orders, they will be assisted by way of loans separate from any other borrowings they may have.

I make a further suggestion on behalf of Mr Hallam, that their rate repayments and interest on such loans—and the interest should be at the most favourable rate—should be paid together with their State Electricity Commission instalments.

If that sort of assistance could be provided, the requirements currently being placed on so many of my constituents—and, no doubt, on the constituents of other members of Parliament who represent country areas—would be less onerous and the proposition to underground powerlines would be more reasonable.

As I said, given that it can be handled economically, undergrounding gives a better installation. It would be better if the commission put all its powerlines underground in country areas. However, it does not do so for the same reason that causes stress to my constituents—it cannot afford to do so.

For that reason, it appears that there is good sense in the Liberal Party's amendment, and the National Party feels disposed to support it today. However, I ask the Minister to indicate whether he is prepared to provide some form of guarantee of financial assistance by way of separate loans, to which I have referred, and to accept the proposition that the loan repayments be made together with payments of State Electricity Commission accounts.

The Hon. R. J. LONG (Gippsland Province)—Mr Acting Chairman, I take it that honourable members are dealing with Mrs Varty's amendment first and that they will have the opportunity at a later stage of making general comments on clause 5?

The ACTING CHAIRMAN (the Hon. D. E. Henshaw)—Yes.

The Hon. R. J. LONG—I strongly support the amendment. It is important to refer to the contents of existing section 61, which enables the commission to exercise certain powers in regard to private electric lines and electric lines. The important provision is contained in paragraph (b), which states:

The power to order that any private electric line or electric line proposed to be constructed or to be substantially reconstructed after the coming into operation of the State Electricity Commission (Clearance of Lines) Act 1983 be placed underground.

Exactly the same problem that Mr Evans has described has been brought to my attention. In fact, Mr Murphy has even put out a press release saying that he has received numerous complaints from farmers about this very question.

However, in my view, the problem is that the State Electricity Commission is not interpreting the legislation correctly. If Parliament had meant to say that all private powerlines should go underground, it would have said so—but it did not. It says, on my
interpretation of it, that if one proposes to construct a private line, it will have to go underground. There is no argument about that; that is what will happen.

I now refer to “substantial reconstruction”. The commission has produced some guidelines, which Mr Evans mentioned, so that if, for instance, one has a private line that has four poles and one needs repair, it is permissible to replace it because it represents less than 30 per cent of the powerline.

However, if the line has only three poles and one is in need of repair, that represents 33.3 per cent and, therefore, the line has to go underground. That is not interpreting the legislation at all; that is just a rule of thumb. The commission is paying no regard to the legislation.

I refer honourable members to a case that occurred in my province of a person who has a private line and whose electrician was on the farm and said to him, “That pole is in need of repair. You had better repair it before the commission sees it”. That person went out, obtained a pole and put it in the ground alongside the existing pole. Just as he was about to change the wires across to the new pole, an officer of the commission came along and said, “Stop. You have to put it underground.”

That is outrageous. I can understand the commission having qualms about fires in high fire danger areas, where the requirement that the powerlines be placed underground might be more understandable; however, the example to which I refer occurred in the Yarram area, which I suggest is not a very high fire danger area. I, therefore, believe some redress ought to be provided to that landowner.

An amendment was proposed in another place to provide that a person who is aggrieved by an order of the commission to put a powerline underground can ask a relevant fire control authority to assign a fire hazard rating to the area concerned. If the fire control authority assigned a rating of high or very high, the order would then proceed; however, if the rating was less than high or very high, the order would not be relevant.

Of course, the Government raced off to the Country Fire Authority and obtained a letter, that the Government suggested, said that this proposition was unacceptable to the authority because it would require the authority to assign ratings to particular farms. The amendment did not require that at all. The amendment referred to assigning fire hazard ratings to “an area”.

Those are the same words that are used in the Government’s Bill. The definition of “urban area” in clause 5 contains the proviso:

but it does not include an area to which a Fire Control Authority has for the time being assigned a fire hazard rating of “high” or “very high” under sub-section (1c).

The amendment was not accepted on that basis.

My view is that if it is good enough for the Government to use the fire control authority for that purpose, what is wrong with the Opposition using exactly the same words in its amendment? That worries me, and I wonder what the Government has to hide.

I am given to understand that the Government will even oppose this amendment, because we have altered it to include recourse to the Administrative Appeals Tribunal. The very purpose of that tribunal is to review decisions made by administrators. If that is not its purpose, I do not know what is; if that is not its purpose, perhaps it should be abolished.

I understand the Government will oppose the amendment, and I keep asking what the Government has to hide. Surely a person in the community who is confronted with a bureaucratic decision ought to have a simple appeal mechanism available to him. He ought to have some form of appeal. Why should he be bound by a decision of the bureaucrats? That is why this amendment is so important to country people.
As I said, if an order to underground a powerline were made in a high or very high fire danger area, there would be sound reason for it. However, I cannot accept such an order being made in areas where such ratings do not apply.

The State Electricity Commission is not interpreting the legislation properly. I cannot understand how it can use a rule of thumb and just say, "If it is less than 30 per cent, one need not put the line underground; if it is more than 30 per cent, one must put the line underground". That is its interpretation of "substantial reconstruction".

I am certain that no court in this land would concur with that view. Therefore, it is important that the citizens of this State are entitled to an appeal mechanism. I can only urge it upon the Government. If it is not prepared to accept it, I want to know what it wants to hide.

The Hon. B. A. CHAMBERLAIN (Western Province)—I shall speak briefly to support the remarks of my colleagues. This important issue has significant financial implications for property owners. I recall about fifteen months ago bringing to the attention of the House the case of a widow in my province who was required to pay $10,000 for an underground extension. She did not have the capacity to service that debt and was placed in a difficult position.

Everyone agrees that it is desirable for lines to be undergrounded, particularly in high risk areas. The point made by my colleague, Mr Long, and others is that there are no consistent principles and that the decision depends on the whims of individual officers. Some of them virtually make the demand that the lines must be placed underground because two of the six poles are a bit loose in the ground, whereas others are prepared to ask for the line to be tightened up with limited difficulty, and they will allow the property owner to do it.

My colleague, Mr Hallam, has raised the issue of financial assistance. He has pointed out that some people need financial assistance. The Minister has said that the Rural Finance Commission will make money available, but the current rate of interest is 13-5 per cent, so it is not cheap. Many of those people have negative incomes. The concept that I put to the Government last year through the State Electricity Commission, which was not accepted at the time, was that the extensions should be funded by the commission itself with the amount being paid with quarterly accounts. The major problem is that there are rigid standards or principles in relation to these issues in various areas.

Too much is left to the whim of individual officers. Most of them in my neck of the woods suggest something reasonable, but there must be a mechanism providing consistent principles whereby people have the right of recourse to another opinion. The Minister may suggest another form that will enable a second view of the initial directions, but there must be a mechanism. I invite the Minister to accept the amendment.

The Hon. D. R. WHITE (Minister for Health)—The Government does not accept the amendment, which is designed to introduce an appeal mechanism against the State Electricity Commission order to underground private lines under proposed new section 61. It is not regarded as an appropriate mechanism to resolve the types of problems referred to by the Opposition and National Party. The Government recognises that under current guidelines too much discriminatory responsibility may be resting with local State Electricity Commission officers in determining the circumstances requiring undergrounding.

Accordingly, the Government is prepared to draw up more detailed regulations to cover such problems so that land-holders will be in no doubt about the appropriateness of such orders when issued. On behalf of my colleague in another place, the Minister for Industry, Technology and Resources, I invite the Opposition or any concerned member of the Opposition or National Party to participate in the preparation of such regulations. In this way honourable members will effectively overcome any practical concerns that currently may be held.
I shall take up the matter raised by Mr Evans concerning financial assistance with my colleague in another place.

The Hon. R. J. LONG (Gippsland Province)—What the Minister has said is completely unacceptable from my point of view. I do not understand why the Government is afraid of an appeal mechanism. The regulation power enables the Government to regulate and prescribe the manner in which the commission may exercise those powers under proposed new section 61 (b) and (c). It does not provide any appeal mechanism, so that people will be forced back to the position where the only appeal is to the commission. It is totally unacceptable that one should have to go to the people who make the decision in order to have it changed. That is not fair under British justice.

A mechanism must be set up so that people can approach independent people for a decision. If the Government is not prepared to adopt that attitude I should like to know what it is afraid of.

The amendment was negatived.

The Hon. ROSEMARY VARTY (Nunawading Province)—I move:

2. Clause 5, page 5, line 27. omit all words and expressions on this line and insert “charge.”.

3. Clause 5, page 5, after line 27 insert:

“(4b) An Order must not be made under sub-section (3) declaring an area that includes public land unless the person responsible for the management of the public land has consented in writing to the making of the Order.

(4c) The person responsible for the management of public land to which an Order made under sub-section (3) before the commencement of the *State Electricity Commission (Further Amendment) Act* 1986 applies, may in writing to the Commission demand the revocation of the Order.

(4d) Upon the Commission receiving a demand under sub-section (4c), the Order to which it applies ceases to have effect under this Part.”.

These amendments together seek to implement the proposals put forward in the private member’s Bill which Mr Haddon Storey introduced in this Chamber last year. That Bill was passed by this Chamber. The essence of its provisions are that the State Electricity Commission should not be able arbitrarily to impose responsibility on the municipality for the clearance of lines.

The passing of responsibility should occur after consultation and agreement. The amendments will provide that there shall be revocation of orders that were made prior to the Bill. They also provide that municipalities can choose whether to accept responsibility for the clearance of trees from powerlines.

The Hon. D. M. EVANS (North Eastern Province)—As I indicated in the second-reading debate, the National Party has considerable concerns about the unilateral nature of declarations that currently take place. When Parliament passed the Bill originally, clear guarantees were given, as I recall, of a full consultation process, and that clearances would be done only after agreement. That has proved to be little more than a sham.

The Hon. R. M. Hallam—Who gave those guarantees?

The Hon. D. M. EVANS—I understand it was the Minister.

The Hon. D. R. White—Which Minister?

The Hon. D. M. EVANS—The Minister who introduced the Bill.

The Hon. M. A. Birrell—He would not do that with the nurses.

The Hon. D. M. EVANS—He must have been in a generous mood. In permitting the passage of the proposed legislation and recognising that some degree of discretion is of value, one needed to take cognisance of those guarantees by the Minister.

There are municipalities that value the opportunity of participating in the control, lopping and trimming of trees under or adjacent to State Electricity Commission powerlines.
For example, the Bright municipality makes a feature of the trees in the streets of Bright and would not want the commission to trim those trees without its permission and concurrence.

It is also true that municipalities plant trees under or adjacent to powerlines, and have some responsibility in that they have created additional management requirements on the State Electricity Commission. Where the trees are already in existence, and that certainly is the case in many of our streets and forests, the commission can, in fulfilling its charter to provide electrical power to the consumer, place powerlines where the trees themselves, in the natural course of events, may grow to the extent that they will become a danger. Surely the commission then does have a prima facie responsibility.

The commission is not necessarily accepting that. Under the mechanism provided by the Act, it can pass over that responsibility. A proclamation was made on 21 October, to which I referred in my second-reading speech, under which approximately 90 municipalities were suddenly faced with these additional responsibilities.

The purpose of the amendment moved by Mrs Varty, for which the National Party has considerable support and sympathy, is that municipalities can say, "No" and no longer become part of a unilaterial declaration.

It is a decision taken by two equal parties and not just a matter of passing on the responsibility for paying the dollars to somebody else. Surely that is a matter of natural justice and I cannot understand why the Government does not accept that. In fact, the Government gave commitments when the original legislation passed through the Chamber. It makes good sense to me and it provides a sense of justice.

The amendments were negatived.

The Hon. R. J. LONG (Gippsland Province)—The Committee's decision has allowed the State Electricity Commission to continue on its bureaucratic way. I raise with the Committee an unusual provision in clause 5 to which Mrs Varty referred in her second-reading speech. The clause proposes to add a new subsection after subsection 6 of section 58, which reads:

(7) It is declared that this Part does not impose any other duty of care upon a municipality than the duty of care which that municipality would have had at law if this Part had not been enacted.

I have yet to find somebody who can tell me what that means. To put the subsection in perspective, honourable members must understand that section 65 (3) of the State Electricity Commission Act, states:

The Governor in Council may by Order in Council . . .

and after the Bill is passed that section will read:

. . . declare an area in an urban area for the purposes of section 60 (3).

Section 60 (3) states:

A person responsible for the management of public land in a declared area which is in an urban area shall be responsible for the keeping of the whole or any part of a tree situated on the land clear of an electric line.

I have no doubt that many municipalities want the Bill because they believe that new subsection (7) will exempt them from liability. That is the basis on which they sought that provision. Only one thing is certain about new subsection (7), and that is that it will enable the State Electricity Commission to shed liability in declared areas. No longer will it be liable for a prescribed area.

As I understand it, there are two types of liability. Firstly, there is the common-law liability that can arise where a powerline is in existence and a responsible authority plants a tree which ultimately grows and interferes with powerlines. I do not believe there is any dispute that the responsible authority has the duty of care to keep that tree away from the powerline. Of course, as I read new subsection (7), the duty of care will be on the municipality. Secondly, in addition to the common-law liability, there is a statutory duty
which does not involve any duty and which means that once it is a declared area it is not a question of duty or care but of whether the responsible authority has carried out its statutory duty regarding the powerline. If it has not, it will be liable.

I know and accept the fact that no municipality will take any notice of what I say about future liability. Municipalities will sit back and wait until a fire does occur in a declared area and, then, when the writs are issued they will find out exactly what new subsection (7) means.

The Hon. D. M. EVANS (North Eastern Province)—I am concerned about clause 5 (1) (b) (1c) which states:

A Fire Control Authority—

(a) may assign a fire hazard rating of “high” or “very high” to any area of land for the purposes of this section.

There is little definition of what constitutes “high” or “very high”. It is a value judgment. I should have thought it would be worthwhile inserting some of the factors that need to be considered in that definition. Perhaps the Minister can indicate what constitutes “high” or “very high” and the criterion that may be used.

The Hon. D. R. WHITE—It is a rating system developed by the Country Fire Authority.

The Hon. D. M. EVANS—That is of value. In my second-reading speech I also raised a concern about the definition of “Plantation”. The definition states:

“Plantation” means any part of a road or a reserve of a road which is planted with one or more trees.

That has particular application to what is required to be carried out by the Road Construction Authority under subclause (2) (c) confined in clause 5. The expression “is planted” means a physical act of planting must be carried out by man, but if the tree grows in the course of natural regeneration it cannot be said to be planted. I see some difficulties if the Road Construction Authority says that the tree has grown there and the responsibility goes back to the State Electricity Commission. It may be that that is what is intended.

The Hon. D. R. WHITE (Minister for Health)—That was a matter that was discussed and resolved with the Road Construction Authority.

The Hon. R. J. LONG (Gippsland Province)—I remind Mr Evans that the Country Fire Authority, under the Act, can assign a rating for fire purposes. I remind honourable members that when the authority was asked to do that for an amendment that was proposed by the Opposition, it could not do it.

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.

EMERGENCY SERVICES SUPERANNUATION BILL

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

The Hon. J. V. C. GUEST (Monash Province)—It is a pity that the Bill has not come before the House earlier in the sessional period. My only reason for saying that is there are some small deficiencies in it, such as the provision that deals with the Minister receiving an annual report from the board until at least such reports are provided for in the Annual Reporting (Amendment) Bill.

There were amendments moved in another place but not all were accepted, and unless the Minister representing the Treasurer has had a word from the Treasurer to suggest that the Opposition’s amendments will be accepted, we do not intend to proceed with them here because we believe it is important that the Bill should be in effect by 1 January when
it was intended, and to give the Police Force, in particular, the superannuation scheme which they have been seeking through years of negotiation with the Government.

The Bill also provides for a scheme for the Metropolitan Fire Brigades Board which has had financial problems attached to its superannuation scheme as it is in a similar position to that of the Police Force as a result of amendments made to the respective Acts last year on superannuation provisions which allowed for retirement at age 50 years, and it also gave similar provisions to the ambulance service because they put forward some analogy similar to the fire brigade. This has been extended to the Country Fire Authority and to some emergency service workers in the Department of Conservation, Forests and Lands. In all those cases the Opposition would be sorry to see the introduction of the scheme held up.

Another reason it is unfortunate that the Bill has come in so late is that it is a significant development in that part of the finances which comprises the public sector superannuation scheme.

Its principal architect, Mr Ron Champion, should be commended for using his professional skills and personal ingenuity—which no-one ever doubted he possessed—to achieve a considerable improvement on the existing superannuation schemes for the people provided for by the Bill.

The only words of regret I express are perhaps that although the Bill picked up a number of the recommendations of the Economic and Budget Review Committee, of which I was an active member on the subcommittee working on the public sector superannuation, it did not take it one step further.

I personally wish that it included the two major steps. A scheme that is not contributory has potential benefit for the finances of Victoria. The preference of Victorians for lump sum cash in hand, not only at retirement, but also at any stage of their careers, is such that more flexible and effective deals could be done on behalf of the State.

The other, perhaps, more personal preference, is that I should have liked to see embodied in the Bill provisions for a fixed contribution scheme rather than a defined benefits scheme. In other words, the end one has the results of the investments unless one has paid the price of uncertainty when one buys a particular pension on index or a particular percentage of salary. The price of certainty is always a positive one and I believe the basic scheme should be one where the beneficiaries receive the results of their savings made on their behalf.

That said, there are a number of major recommendations of the Economic and Budget Review Committee that this proposed legislation gives effect to, including the provision of a 100 per cent lump sum benefit in lieu of pension entitlement, and that avoids the problem of indexation of pensions and the question of what value one should put upon that.

The choice of different contribution levels by members is another step which has been adopted in principle. It seems, although not with the degree of flexibility recommended by the Economic and Budget Review Committee, that there is also provision for greater membership control and, in fact, the Government seems to follow one part of the committee's recommendations in that it proposes nine major schemes to cover the whole public sector, and that will allow for a greater participation in the control of the fund and the dispersal of the benefits by the members concerned.

The basic scheme of the Bill is one to provide the administrative structure under which a new superannuation scheme can be created for various emergency staff by regulation. The detailed outline of the scheme is contained in the explanatory memorandum.

The proposed legislation will extend last year's early retirement measure that allowed for retirement at 55 years for public servants generally and for other members of
superannuation related schemes at 50 years, such as members of the Police Force, the Metropolitan Fire Brigades Board and the Ambulance Service Victoria.

Maximum benefits are available for operational staff after 30 years service, provided they choose to contribute at the highest level of 5 per cent of salary rather than at the base level of 3 per cent. There are a number of significant words in what I have just said.

Only operational staff are to receive the option of contributing at higher levels and of being able to achieve maximum retirement benefits after 30 years service. The real significance is that police officers, after campaigning vigorously for the option to retire with maximum benefits after 30 years, despite what age they joined the service, have achieved a substantial part of their object. The only cost to them will be that they will pay a higher contribution if they want to accelerate their retirement for maximum benefits. The standard 5 per cent contribution is all that can be made by non-operational staff.

Eight other schemes covering ten to twenty times the membership of this scheme are to come. They will be based presumably on this precedent, which means that to achieve a lump sum benefit with the same actuarial value, on the assumptions that have been made in drafting this measure, and as they now have under the State superannuation scheme, the member would have to serve 42 years.

If the member chose to retire at 55 years, the actuarial value of the lump sum that would apply if the member served from the age of twenty years would be substantially less than the value on the assumptions made by those people involved in the planning of this Bill of 6 per cent of the value of the maximum pension obtainable by that person after 30 years under the current scheme.

That is an important area of cost saving and it does perfectly, justly and logically mean that the person who serves and makes contributions for longer will receive a greater benefit on a given retirement salary than a person who serves for a shorter time, regardless of age.

The base 3 per cent contribution also has significance as a potential cost saving. A reference to clause 5 of the appendix in the explanatory memorandum of the Bill shows the annual increment to the retirement benefits from annual contributions of 3 per cent by the employee is at a higher multiple than for contributions of 5, 6, 7, 8 and 9 per cent. Therefore, the employee who is contributing 3 per cent of his salary in actuarial terms will receive a bigger relative contribution from the Government.

The cost to the Consolidated Fund will be substantially more in the case of people who choose to contribute only 3 per cent of salary because the contribution of the Consolidated Fund to people who contribute 5, 6 or 7 per cent, which is probably of the order of 2.5 to 2.8 times the employee's contribution and the contribution of a person who contributes 3 per cent, will be roughly 2.8 to 3.2 times the employee's contribution. Clearly when the figures are transferred into absolute money allowance, the contribution of the taxpayer will be smaller than that of the employee who contributes 3 per cent. By allowing the employee to choose, the State is likely to save money.

The third way in which last year's legislation is extended is that instead of at least a 50 per cent pension entitlement as under the present scheme, the benefit will be 100 per cent on lump sum and the maximum at any age of retirement under the proposed scheme will equal 8.4 times the final salary. That compares with the maximum allowed for the private sector, although that maximum is not often provided, of seven times the average of the final three years' salary at 65 years or at about 5-25 times at the age of 55 years.

In relation to operational emergency service workers who earn the right to retire at 50 years on a lump sum benefit of 8.4 times their final salary, the contrast with the entitlements of a person in the private sector seems quite substantial. At the age of 50 years in the private sector, the multiple would be no more than 4-5 times of the average of the final three years' salary.
However, the cost to the State is expected to be no greater than the cost of the current scheme. When taking all things into consideration, the new scheme may save the State some money.

There are other advantages to the scheme such as the satisfaction that it will give members who will be able to retire early, according to the planning of their career, and the satisfaction it will give to members who will not feel trapped by their superannuation entitlement. Under this scheme the superannuation benefits will be much greater than under the current scheme.

There are other reasons why this scheme should save the Government some money. As this is the first of the schemes to be put into effect, honourable members should take note of some of the principles involved.

In the first place, I mention the 3 per cent contribution rate, which is at the employee's option. Then there is the possibility of early retirement for non-operational staff who make the standard 5 per cent contribution but who will not be able to receive the maximum 8.4 times final salary in lump sum.

Provision is also intended in the proposed scheme that persons retiring on disability grounds will no longer be able to receive up to an additional 80 per cent of their salary at the time of retirement from the accident compensation scheme. The element of double dipping will now be limited if they are receiving presumably the first 80 per cent from the accident compensation scheme and a topping-up 20 per cent out of their potential 70 per cent of final salary, as a disability pension.

I observe that there are problems about retiring on a 100 per cent disability pension, which is what this provision amounts to, although the 100 per cent would not continue beyond the age of 65. There is obviously not a great incentive for people to soldier on. However, it is an improvement on the existing state of affairs.

It has to be said that the incentive of being able to soldier on to the age of 50 or 55 and receive maximum benefits by having made the appropriate level of contribution, and receive those maximum benefits in lump sum form—which is the very distinct preference of everybody, collectively speaking, in the Australian work force—will probably massively cut back the great and well proven tendency in Australia and particularly in Victoria for disability requirements to get out of hand and put a substantial load on superannuation funds and on the treasuries that back them.

The incentive will be there, for somebody who might otherwise be so stressed by his job that he cannot possibly contemplate carrying on to the age of 60 when he is only 45 and who would otherwise be thinking of achieving a disability retirement, to work on to the age of 50 to attempt to maximise final salary by the best possible performance and then take a lump sum.

It is, however, an area where the Economic and Budget Review Committee made a somewhat different recommendation. It pointed to the fact that a disability retirement pension of 70 per cent of final salary was not a sufficient disincentive to contrived disability retirement. When one adds to that any element of double dipping, the point made by the Economic and Budget Review Committee is all the stronger in relation to this scheme.

However, no inevitable long-term commitment to the scheme is proposed to be effective under the Bill, and it is, therefore, possible that improvements will be negotiated in the future.

The fact of lump sums being substituted for pensions is in itself a source of saving. I think I have already implied that by making reference to the 6 per cent real discount rate underlying the design of the scheme. Clearly, 6 per cent in real terms is higher than the long-term earning rate that can be achieved by funds prudently managed by trustees who, historically, have been expected to achieve no more than 4 per cent real return on first mortgage investments. In 1970, nil and even negative returns on fixed interest investments
were the norm. So that the use of a 6 per cent discount rate applied to the stream of indexed pension entitlements will clearly give a lump sum which is good value for the Government, provided that we do not continue as a Government to have to pay borrower interest rates at the existing high levels—namely, 6 per cent real or higher. I would say greater savings could have been achieved because, as I pointed out, the psychological preference for lump sums is so high that a higher discount rate could have been used. There is no doubt that many people who are already retired and on pensions would gladly take a lump sum that discounted their pension by 8, 9 or 10 per cent real.

There are some problems with the Bill, but the Opposition puts the greatest value on the work of the Victoria Police Force, in particular, the fire services and all of the emergency services. The Opposition does not wish to delay the Bill, but hopes the Treasurer will not cause problems for himself by having no annual reporting provision in the Bill.

The Opposition gives notice that, when other schemes following this precedent are brought forward, it will take the time to ensure that those schemes have adequately stringent requirements placed on the trustees and managers to report, and to report equally the investment constraints under which they work, so that their performance can be assessed and so that it can be determined whether the Government is at any stage pursuing a course that the Opposition strongly suspects: that of using the funds under the control or influence of the scheme to repair the straitened finances of this State.

Nevertheless, the Opposition will support the Bill.

The Hon. B. P. DUNN (North Western Province)—The National Party supports the Bill. It needs to be recognised at the outset that Victoria has outstanding emergency services personnel and I mention the Victoria Police Force, the Metropolitan Fire Brigades Board, the Country Fire Authority, the ambulance services, the fire detection and prevention section of the Department of Conservation, Forests and Lands and the State Emergency Service, although the last is not included under the Bill.

It is fair to say that the superannuation scheme being established is fairly generous. One might argue that it is too generous but honourable members must consider the sort of work that is carried out by emergency service personnel and the environment in which the police, fire brigades and ambulance personnel work. When one considers that and the traumas and dangers that they experience in their working life, I do not believe it is too generous that they should have a superannuation scheme such as this to protect them in their retirement. It has been long awaited by the emergency services people who believe this scheme is paramount.

The scheme comes basically from the recommendations of the Economic and Budget Review Committee, of which I was a member at the time when the inquiry into public sector superannuation was carried out. However, I was not a member of the subcommittee. I think Mr Guest was, and he certainly made an important input into that report. He, therefore, speaks today with some knowledge, having been through that process.

The committee recommended one major superannuation scheme for the public sector in Victoria but the Government has not been prepared to accept that. It has now proposed nine schemes instead of one that would have covered all public sector industry groups. That may well be a satisfactory course to follow because it may be difficult for one major scheme to take into account the different occupations and different levels of stress and involvement between one section of the public sector and another, such as might arise between the emergency services and another sector in the Public Service.

Perhaps a whole range of superannuation schemes will now be introduced to achieve the same sort of result that was recommended by the Economic and Budget Review Committee.

A major concern of the community is the liability of the scheme and who will pay for these rather generous superannuation benefits. As was pointed out and is common
knowledge, unfunded liabilities in the Victorian public sector superannuation schemes at 30 June 1986 amounted to $6 billion.

In the initial stages, the implementation of an emergency services superannuation scheme will no doubt see a significant number of retirements. That will cause a short-term drain on funds so that one can anticipate that the fund would not be capable of being fully funded in the early stages. The scheme will allow certain emergency services people to retire early and operational staff members of any services may elect to pay extra contributions to enable them to retire between the ages of 50 and 60 with a maximum retirement benefit.

The National Party is concerned about the long-term commitments of the State's superannuation schemes. The assessed $6 billion unfunded liability works out at a considerable cost to each man, woman and child in this State. I hope we are not committing further generations of Victorians to something they will not be able to meet.

I have always had some doubt about the lump sum aspect of superannuation and the contention that it is cheaper than an ongoing payment. When I was a member of the Economic and Budget Review Committee I thought that the State was arguing one way and the Commonwealth Government was arguing the other. Of course, lump sum superannuation is cheaper for the State Government. An employee can receive a lump sum payment, spend it on a couple of world trips, a nice residential home and a yacht and then, when the funds have run out, fall back on a Commonwealth-funded pension. In that respect, the State is passing on the buck.

The Commonwealth Government seemed to move in a different direction because its legislation basically leans toward fortnightly payments instead of lump sums. The Commonwealth realises that the payment of a lump sum superannuation will not prevent many people from falling back on a Government pension later in life.

Although it is cheaper for the State to make lump sum payments, it is not cheaper for the taxpayer in the long run. Contributors need to be able to make a choice and the scheme should provide them with that option.

The National Party supports the Bill but believes it is deficient in that it does not include State Emergency Service employees. The State Emergency Service is an effective organisation and should have been No. 1 on the list for this scheme. The police, fire brigades, ambulances and conservation, forests and lands employees should have been right at the top of the list in such a scheme. I understand that they wanted to be included.

The Hon. R. I. Knowles—They were in the draft Bill but they were axed.

The Hon. B. P. DUNN—I do not know why that should be so. Some explanation should be given. The State Emergency Service is an effective organisation with only three staff located at State headquarters and 24 staff in twelve regional headquarters. Those people are available for 365 days of the year, yet they are not included in this scheme. We want an answer from the Minister as to why they have been left out in the cold with this scheme and whether they will be lumped in with any other scheme.

It should be put on record that we value the work of the emergency services and we are disgusted that the Government has not included them in this scheme. We shall take that up during the Committee stage.

The Hon. E. H. Walker—Are you expecting the Bill to go into Committee?

The Hon. B. P. DUNN—We want an answer at some time. It does not matter when the Minister gives that answer but we do want to know. However, we would prefer to know before the third-reading stage because we may need to take some other action in that regard.

The National Party supports the Bill. It provides a generous superannuation scheme and we hope it will not be responsible for too many early retirements, especially in the
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Police Force that needs a continuity in its senior structure. We know it will create an initial drain on funds but it is to be hoped it will soon become a fully-funded scheme.

With those comments I indicate the National Party’s support for the Bill although we would have preferred the State Emergency Service to be included.

The Hon. N. B. Reid (Bendigo Province)—The Opposition supports the proposal. The Government has made appropriate moves to support the Victoria Police Force, the firefighting organisations and the ambulance services with this Bill.

However, I support Mr Dunn’s remarks about the State Emergency Service and I also commend those personnel on their fine work throughout the State. As was described, it is a 365 day a year emergency service. It seems inconceivable that this is an emergency service Bill, yet the State Emergency Service is not included.

The State Emergency Service comprises a small number of people who are all dedicated. They have the ability to galvanise the services of a vast number of volunteers to assist them in emergency work. The Minister must give a proper response with the Government’s reasons for not including that service in the Bill.

I have received extensive representations from members of that service to be included in the scheme and I will listen with great interest to what the Minister has to say on that point. I commend the Government for enabling the benefits under the Emergency Services Superannuation Bill to be provided to members of the firefighting service, the Police Force and the Ambulance Service Victoria.

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.

I thank honourable members for their support for this measure. Mr Guest may wish to make a few further comments; and in respect of the matters raised by Mr Dunn I merely indicate that where people in the State Emergency Service are public servants, the Government is considering, in due course, restructuring the benefits for these public servants, on which issue they will be consulted, and the Government looks forward to that matter being addressed at some stage in the future.

The Hon. R. I. Knowles—That is no answer at all!

The Hon. D. R. WHITE—In respect of the matters relating to the Annual Reporting (Amendment) Bill, as a result of discussions with both the Opposition and the National Party, the Government is proposing that when the Bill is resumed for debate tomorrow the clause relating to determinations will be deleted.

The Hon. J. V. C. Guest (Monash Province)—Perhaps it would be helpful to say that, in the other place, an attempt was made to move an amendment giving the Minister power to include, among others, members of the State Emergency Service. It was ruled out of order as, no doubt, it would have been if it had been moved as a suggested amendment in this place because an appropriation message would be required. It was clearly part of the Opposition’s intention that such a provision should have been included in the Bill, if at all possible. I understand that one of the grounds on which the Government has excluded the State Emergency Service is that the service engages in intermittent activity rather than continuous emergency activity.

The other two points I raise with the Minister—and I omitted to mention them before—concern the situation that arises when—

The President—Order! Mr Guest is out of order in raising new matters.

The Hon. J. V. C. Guest—I am speaking by leave.
The PRESIDENT—Order! Mr Guest is speaking on the motion for the third reading, he is not speaking by leave. This matter should have been taken up at an earlier stage.

The Hon. J. V. C. GUEST—I understood that one might, at any stage, say anything by leave, I am seeking leave to make comments and to advise the Minister on matters that I would have otherwise raised in the Committee stage but which I understand—

The PRESIDENT—Order! The honourable member cannot do that at this stage. Mr Guest intimated earlier that he wished to speak on the third reading of the Bill. I understood that he was familiar with what occurred in a third-reading speech but he is not allowed to introduce new matters.

Mr Guest had the opportunity of moving that the Bill be committed and, had he done so, I am sure the Minister would have agreed to that. He cannot introduce new material or raise matters that have not been previously raised. Those are the rules of the House, which I must consistently uphold.

The Hon. J. V. C. GUEST—Mr President, are you ruling that if I were, by leave, to make a personal explanation at any stage, that regardless of the fact that the House indicated its consent to hearing my personal explanation, it could not be done? That is what I understand to be the import of your ruling, and that it is inconvenient if the Leader of the House or the Leader of the Opposition wants to make any explanatory statements.

The PRESIDENT—Order! The honourable member can make a personal explanation when there is not a question before the Chair but there is a question before the Chair at present. I am afraid the honourable member is unable to continue his remarks under the rules of the House.

The Hon. B. P. DUNN (North Western Province)—I should like to clarify one point in relation to the motion for the third reading of the Bill: the Opposition gave the Minister leave to move to the third-reading stage without putting the Bill into the Committee stage because it was under the impression that the Minister would give a satisfactory explanation on the point raised regarding the State Emergency Service.

This situation has developed because a number of Opposition members felt that the Minister's comments were inadequate, and Mr Guest wanted to make a further point to allow the Minister to clarify it otherwise I am sure the Opposition would have moved for the Bill to be committed, and it now appears that that is what should have been done.

The Hon. D. R. WHITE (Minister for Health) (By leave)—By way of explanation regarding the State Emergency Service, the public servants employed in that service will be considered at a future time in respect of their position on superannuation. The Government is concerned that many of those people engaged in the service may well be public servants who, during the normal course of their career, go to places of employment other than the State Emergency Service.

In respect of people from the Department of Conservation, Forests and Lands who have been included in the Bill, many of those have duties almost indistinguishable from officers employed in the Country Fire Authority.

The Government is not ruling out, at some future stage, officers employed in the State Emergency Service also being included in the scheme, but it is saying that it does not want to put them in a situation where their capacity for mobility within the Public Service is constrained by being members of this superannuation scheme.

The issue needs to be examined carefully and with great sensitivity, as was the case with officers of the Department of Conservation, Forests and Lands, whose duties were examined carefully and deemed to be duties indistinguishable from officers employed by the Country Fire Authority.

The Hon. N. B. REID (Bendigo Province)—The Minister has endeavoured to give members of the Opposition an appreciation of the State Emergency Service by providing
an answer on why members of the service were not included in the Bill. However, in doing so, the Minister has added further to the reason for their inclusion. In fact, by making a comparison with officers from the Department of Conservation, Forests and Lands who, I understand, are also public servants and can be transferred to other Government departments or even transferred within that department on other duties, he has made it worse.

I seek an assurance that the Minister will bring the measure back before the House during the next sessional period to enable the inclusion of the State Emergency Service because it is not the wish of the Opposition to delay the progress of the Bill but it seeks an assurance from the Government that it will consider the State Emergency Service and the role that it plays.

The PRESIDENT—Order! I have been listening carefully to remarks made by honourable members and I am afraid I will have to rule the honourable member out of order. Third-reading speeches are confined to the contents of the Bill. The honourable member cannot raise any new material and yet Mr Reid was raising matters that are not in the Bill.

The Minister, on moving the motion for the third reading of the Bill, answered a question put forward during the second-reading debate. It could be argued whether, in fact, he should even have done that but he did it rather than taking the House through the Committee stage.

It should be remembered that it is hard to rule on remarks during debate on the motion for the third reading but my understanding is that the remarks should be confined to the Bill and the contents of the Bill and that no honourable member may introduce new material or discuss matters that are not contained in the Bill. Mr Reid is seeking assurances on matters not in the Bill and, therefore, I rule him out of order.

The Hon. N. B. Reid—It is regrettable that they are not in the Bill!

The Hon. J. V. C. GUEST (Monash Province) (By leave)—Rather than seeking to have the Bill committed, I simply say that the Opposition supports it despite some problems about it being a “fat-cat’s” Bill. The proposed contributions to be made by contributors will run out when the maximum benefits have been achieved.

When additional promotions are achieved, some senior officers will be much greater beneficiaries under the Act and the Opposition also sees problems there, despite the fact that the Government has given an assurance that 3 per cent of the so-called productivity increase gained last year placed this burden onto future generations.

That is a significant point but because of the urgent need for the Bill, the Opposition supports it.

The motion was agreed to, and the Bill was read a third time.

LOCAL GOVERNMENT (GENERAL AMENDMENT) BILL

The message from the Assembly relating to the amendments in this Bill was taken into consideration.

The Hon. C. J. HOGG (Minister for Community Services)—I move:

That the Council do not insist on amendment No. 8 with which the Assembly have disagreed.

The Hon. A. J. HUNT (South Eastern Province)—The Government finds itself in a disgraceful situation. Seven months ago this House passed the Local Government (General Amendment) Bill. For seven months the Government left the Bill sitting on the Notice Paper in another place despite the fact that the Bill contained urgent reforms wanted by local government. The Government’s dilatoriness and failure to deal with the Bill before the House rose and its failure to deal with it until the last week of this sessional period has
left municipalities throughout Victoria in a quandary. It has stopped large-scale developments going into the hundreds of millions of dollars, including a development at Frankston alone worth $120 million. That is what the Government's inaction has done. The Minister for Local Government took his bat and ball home.

Of the many amendments made by the Upper House, he was prepared to accept all but one that he did not like and, therefore, he did not even allow it to be debated. That shows an unconscionable stubbornness that has wronged local government very greatly indeed. It has been totally unfair. It has, as I said, been an utter disgrace. The Minister has been a disgrace to his office in the way he has handled this Bill. He has been absolutely irresponsible. The Minister has been quite inexcusable and shown that he has no concern for the true interests of local government which a local government Minister ought to put first and foremost.

He has shown, really, a failure to appreciate the full effects of his action upon the system which he is obliged to support and protect. He has done none of those things. The Minister has not supported and protected local government, all because of his disagreement with one amendment.

The worst feature is that he did not allow Parliament to even discuss the issue. The reason is that it was a very embarrassing issue for the Government at the time. The question, which was a very simple one, was one of local option in the case of forced amalgamations. "No forced amalgamations" is what this House was saying where amalgamations or external changes of boundaries are concerned. If the local people say "No" at a referendum, that should be final.

That was the principle the Opposition was putting forward. It is not a new principle; it was a principle included in a 1981 Bill that was not passed before the 1982 elections. It was a principle that the Opposition moved for in 1982 as an amendment to this Government's Local Government (Board of Review) Bill. It is a principle the Opposition has argued for a long time.

However, last April and May it was embarrassing for the Minister because the councils throughout Victoria were saying there should be no forced amalgamations and no amalgamations against the will of local people. Therefore, the issue was not debated.

On 3 September this year the Premier capitulated on that very issue. The Premier accepted the validity of that argument and accepted that the Government would not proceed with local government amalgamations except where they were wanted locally.

One would have thought that was the perfect occasion for the Minister for Local Government to go right ahead with the Bill and write that principle into law. All he had to do was accept the Opposition's amendment. The Minister was still unchanged and left the Bill on the Notice Paper. He refused to bring on the Bill and refused to debate the issue.

Now the Minister for Local Government has been putting out the story to local government that the delay has been the fault of the Opposition. That is totally untrue. The delay has been of the Government's choosing and, in particular, of the choosing of the Minister for Local Government, and he must take full responsibility for it.

The Minister has now been saying to the councils who were screaming for this measure, "Tell the Opposition and the National Party to drop their clause". Why should we after this time? We could have gone through the Parliamentary process seven months ago. We could have discussed other possibilities; we could have discussed some rapprochement. Now there is no need to because the Premier has already accepted the principle of local option on amalgamations only where they are locally wanted. What possible objection can a Government which claims that is what it supports have to the Opposition's amendment? How can the Government possibly expect the Opposition to drop this amendment after all these months, after the water that has gone under the bridge and after the Premier's
statement of 3 September and the following day on the radio when he made it plain there would be no forced amalgamations?

The Opposition believes the Premier, but it is asking him to enshrine it into law just to give some backing to the undertaking because the Opposition knows that, unfortunately, undertakings have been broken.

Local government will not tolerate being faced again with the threat it was under for so long and which distracted its attention so greatly from its many other works. There is no way in which the Opposition could creditably withdraw from this position.

There is every reason why the Government can creditably accept it after this time and after the statements of the Premier on 3 September. Yet the Minister has been suggesting to other municipalities that the Bill may be defeated or not dealt with by the Government unless the Opposition withdraws. There is no intention to withdraw because the position the Opposition adopted and advanced is the one the Premier himself subsequently espoused.

The Opposition, and I am certain the National Party also, insists on the amendment which is vital for the long-term future of local government. The Opposition asks the Government—even at this late stage—to accept the amendment and to pass the Bill because it is needed by municipalities throughout the State.

The Bill will honour promises made by the Government and the acceptance of the amendment will honour the promise the Premier made on 3 September.

The Hon. K. I. M. WRIGHT (North Western Province)—The National Party sees no reason to resile from its decision to support the Opposition's amendment because it is evident that the 210 municipalities value their present boundaries. Municipalities are anxious about the Government's proposal to halve the number of municipalities in Victoria.

Although the municipalities and the opposition parties can understand that perhaps some reasons exist for minor restructuring or changes in the boundaries, the manner in which the Government has gone about this process has created grave concern. One of the areas of concern to municipalities was the mechanism by which the decision on whether boundaries should be changed or amalgamations should take place was reached.

That opinion is shared by the Opposition. The mechanism proposed to register the opposition of councils to the proposal was defective. If the amendment is not accepted, the Government is determined to have the last say on amalgamations and will use every means at its disposal to achieve the plans it laid down earlier this year.

The Government has not abandoned its aim to greatly reduce the number of councils. If it had, it would have no qualms about supporting the amendment which binds the Minister to accepting the result of a referendum. What could be fairer and more democratic than the Opposition's amendment?

For some years the National Party was considering an amendment that would have the effect of making the result of a poll legally binding. I shall quote the words of Mr Hunt's amendment:

... where a poll has been held, must not make a recommendation to the Governor in Council to give effect to a proposal unless a majority of the valid votes recorded at the poll are for that proposal.

As I said earlier, what could be fairer?

The previous Bill provided that the Minister should only have regard to any poll. What could be weaker than that? That provision concerned municipalities. The Government has deliberately delayed some $300 million in capital works in an attempt to beat down the opposition parties and the councils into submission on this amendment. That amounts to blackmail, it is starving the adversary into submission. The National Party will not be part of that.
Mr Hunt commented on the Premier’s statement. The Government was endeavouring to enforce compulsory restructuring of the councils and this would have meant that two-thirds to one-half the number of councils would be affected. Only when the Premier visited the country did he realise the vehemence of the opposition expressed by country people to boundary changes. The President would have been aware of that opposition in the province he represents. It was only after the Premier’s visit that he fell back on his original intention.

In part, the Premier’s statement read:

The Government deplores the uncertainty and fear provoked by this inability on the part of a few to allow the process to take its course.

This is what the National Party has been trying to tell the people for months. The Premier continued:

For the future, the commission will be required to direct its energies and resources to assisting councils that wish to restructure.

The following point is the most important:

Any change will proceed only with the support of the councils affected.

If the councils are affected that also means the ratepayers are affected.

The proposition of the Opposition that a poll should be held is supported by the National Party. That would be the most democratic way of handling this issue and would be in keeping with what the people want.

The Hon. C. J. Hogg (Minister for Community Services) (By leave)—The form of the words in amendment No. 8 is not acceptable to the Government because it is not, as Mr Wright has said, democratic. For many months there have been arguments in this place about voluntary mergers of councils and about the need for some kind of voluntary local government restructure. There were bitter exchanges when involuntarily local government amalgamations were uppermost. As Mr Wright and Mr Hunt have said, this is a new climate in which we are now arguing.

The Premier has committed the Government to voluntary mergers of councils and voluntary restructure, and, if there is to be any, at a time the councils choose. This amendment could act as a block or as an impediment to councils merging voluntarily.

That point was directed to my attention by a number of local government areas. Although I do not think many areas of local government are really desperate to merge, some are thinking about it. Some councils are at least beginning to discuss whether it would be a good idea to look at merging in the future.

Agreement could, for example, be reached between councils and with the vast number of residents, people eligible to vote in a municipality. It is unlikely, but there is the potential for a vexatious and mischievous group to block amalgamations.

The Hon. A. J. Hunt—A vexatious majority?

The Hon. C. J. Hogg—But we are not talking about a majority; we are talking about a majority of those who have voted, not a majority of residents.

Every honourable member knows that during annual local government elections the turnout for polls is not very high. The turnout for a referendum at local government level may be small. It would be entirely possible to achieve a 10 per cent or 15 per cent turnout. If that were so, the Minister of the day and, ultimately, the councils would be bound by that result. That is the implication of amendment No. 8 and it is the main reason why it is not acceptable to the Government.

Enormous consultation was undertaken on the Bill and many local councils have been waiting for it. The amendment is regarded as utterly restrictive and it is hypocritical to insist on it now. The Government rejects the form of the words in amendment No. 8.
There is absolutely no suggestion now of forced council restructure or amalgamations. The amendment is unnecessary. Therefore, the Government opposes it.

The sitting was suspended at 6.30 p.m. until 8.3 p.m.

The Hon. D. E. HENSHAW (Geelong Province)—The House has before it a simple matter. The amendment seeks to change a clause which states that the Minister shall have regard to the result of a poll, by adding to that a restriction on how the Minister should have regard to a poll. I shall make some detailed comments on why the restriction inhibits the fair action of the Minister. However, before doing so, I shall make some general comments.

The clause as it currently stands provides that the Minister shall have regard to the result of a poll. That would prevent enforced amalgamations in this State. It is not political reality to believe that a Minister could disregard the result of a poll in a way that would be considered unfair by the people in that vicinity. All the noise about enforced amalgamations was never justified; the statements made were never more than rhetorical. I express disappointment that the resolve on the part of the Government has disappeared.

In having regard to the result of a poll, the Minister is able to take into fair account all factors that are relevant to the local community. It is an oversimplistic view to say that by taking notice of the simple majority, the community's attitude is taken into account. Under the Westminster system, it should be possible for a Minister to take other factors into account thereby generating fair treatment for all people involved.

The clause as it currently stands is more than exists in many other countries. Earlier this year I was in England, which has no provision for a poll of ratepayers when boundaries are modified. I spoke with members of the British Government and they were aghast that there should be provision for a poll. They believe it is the Government's prerogative to act on behalf of its electors and to be judged by its electors.

I shall suggest some possible conditions where a Minister should have regard to factors other than the simple majority. Honourable members should consider a proposal of an amalgamation between a large and a small municipality.

The Hon. A. J. Hunt—Like at Traralgon!

The Hon. D. E. HENSHAW—I refer Mr Hunt to my previous comment about the political reality of there being no enforced amalgamations. No action of the Government suggested that enforced amalgamations would take place.

The Hon. B. A. Chamberlain—You are joking!

The Hon. D. E. HENSHAW—No action was taken in respect of Traralgon, which justifies my conclusion.

Where an amalgamation is to take place between a large and a small municipality, the simple majority may indicate that the amalgamation should proceed, but, on examination of the figures, it may be that a certain area is clearly against it. Under the clause as it presently stands, that would constitute a reason for the Minister to reconsider the situation and modify his views. There is no need to include the simple majority provision in the Bill.

In a complex amalgamation between three or more municipalities, it is only sensible that the Minister examine the electoral voting returns in various areas and modify or change his view accordingly. Under the present clause, that facility is available to him.

If it is clear that the local community believes a poll was conducted in an unfair or misleading manner, the Minister can take that into account. In the case of a small municipality, it may not be proper for the Minister to take into account only the views of those who vote. The Minister must take into account the views of those who do not vote as well as the views of the wider community.
There has never been any reason to suggest that such a facility would be abused. It is not political reality to abuse a power to the extent where it would be considered unfair.

Section 24J (2) (b) of the Local Government Act states:

Where a Division has reported to the Minister on any proposal which may be given effect to under paragraphs (a) to (e) of section 24B the Minister may—

(b) cause to be given notice that a proposal has been made by the Division and that voters in the relevant area to which the proposal relates may request a poll to ascertain the extent of public opposition to that proposal.

I submit that that is not consistent with the proposal that he should then take account of the positive result from a majority of those who voted. It might be even more logical if the Opposition talked about taking into account a negative vote by perhaps a majority of those entitled to vote. I submit to the Opposition that that would have been a more consistent approach.

The Hon. A. J. Hunt—He can, but he cannot enforce the proposal unless a majority is in favour; he can refuse it even if a majority is in favour.

The Hon. D. E. HENSHAW—Mr Hunt must admit that this amendment was proposed for another Act. The Liberal Party brought it in at short notice, with a lack of consideration as to how it would sit in the present Act. There is an inconsistency between the Act and the amendment. The logic of that point should be considered together with the points that I have already made, that the amendment in its simplistic form does not cover the eventuality that might arise in the poll and that the Act as it is currently written allows a Minister to take those variations and possibilities into account. For those reasons I support the Minister and the Government in opposing the amendment.

The Hon. ROSEMARY VARTY (Nunawading Province)—I am compelled to say a few words after Mr Henshaw's lack of understanding of the strength of community feeling about forced amalgamations. He quite obviously was one of the Labor Party Parliamentarians who was not prepared to go to any of the public meetings that were called when the community was discussing the issue. Members of the Labor Party stayed away in droves and would not front up and support the Government's policy.

The Hon. D. E. Henshaw—You are wrong; I was there.

The Hon. A. J. Hunt—I am glad to hear it.

The Hon. ROSEMARY VARTY—I am glad that Mr Henshaw was the exception to the rule. It was surprising to see how alive and powerful was the view of local municipalities when they were really roused and discovered what the Government intended with forced amalgamations. For Mr Henshaw to have the audacity to say that the community's views are not important and that the Minister should not take account of them is completely untenable.

The amendment clearly reflects a strength of community support, which is unacceptable to the Government. The Government is not prepared to face the reality of forced amalgamations. It suddenly discovered that it had a tidal wave on its hands, and it bailed out. The Government is still trying to say that the Minister should not take note of community opinion when, in fact, the Government took note of community opinion and bailed out of local government amalgamations, an issue about which the Government felt strongly.

The Government said that this was what would happen; suddenly, it discovered it was politically damaging, and it backed off. The Government is not prepared to accept that the community should have a say. It is trying to wriggle out of it again because it is scared of the electoral backlash.
It has been a very interesting year in revealing the strength and power of local government. It behoves all honourable members to realise how strong local government is when what it is doing—that is, representing the local community—is threatened by a Government that wants to impose its political will on a level of government that is best delivering community services at a community level. Local government, as Mr Hunt interjects, should be able to make up its own mind. For that reason the Liberal Party supports the original amendment.

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

Ayes: 18
Noes: 20

Majority against the motion: 2

AYES
Mr Arnold
Mrs Coxscedge
Mr Crawford
Mrs Dixon
Mrs Hogg
Mr Kennan
Mr Kennedy
Mrs Kirner
Mr McArthur
Mrs McLean
Mr Mier
Mr Pullen
Mr Sandon
Mr Sgro
Mr Van Buren
Mr White

Tellers:
Mr Henshaw
Mrs Lyster

NOES
Mr Baxter
Mr Birrell
Mr Chamberlain
Mr Condron
Mr de Fegely
Mr Dunn
Mr Evans
Mr Granter
Mr Hallam
Mr Hunt
Mr Lawson
Mr Macey
Mr Miles
Mr Reid
Mr Storey
Mrs Varty

Tellers:
Mr Grimwade
Mr Long

PAIRS
Mr Landeryou
Mr Walker

Mr Grimwade
Mr Knowles

The Hon. C. J. HOGG (Minister for Community Services)—I move:

That the Council agree with the consequential amendments made by the Assembly in the Bill.

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.

TRANSFER OF LAND (CONVERSION) BILL

The debate (adjourned from November 26) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. R. J. LONG (Gippsland Province)—The Opposition supports the Bill. Two systems of private land ownership exist in Victoria. The first is the Torrens system, which was introduced in 1862. Prior to that we had what was commonly termed the general law system.

I am sure most people acknowledge the fact that there are defects in the general law system. Firstly, it is a more costly title to deal with; it usually involves a large number of documents, whereas the Torrens system is a single-title system.
The Bill proposes to enable the people who own general law title properties to be able more easily to apply for and convert to Torrens system titles. At present an area of some 700 000 hectares of land in Victoria is still covered by the general law system. The Opposition agrees that it is about time an attempt was made to speed up the transfer process to the Torrens system.

The Bill sets out three different methods of conversion from the general law system to the Torrens system. The first method is deed registration conversion. One must understand, when one deals with general law titles, that it is necessary to search and examine each document in the chain of title. When that has been done solicitors are readily available to sign certificates as to good chains of title. When it is decided to lodge a deed for registration an application can be made to the Registrar of Titles for conversion to the Torrens system accompanied by the solicitor's certificate.

The second method is the non-survey certificate conversion. The only difference in that method is that one does not try to register a deed at the time of a transaction; one just relies on the solicitors to make application for the issue of the Torrens title.

The third is a certificate conversion method relying entirely on a survey. It is true to say that many of the old general law titles that were issued more than 124 years ago are based on survey information that may not be totally accurate.

Without doubt, most people would agree that the best method of conversion would be on a survey basis. Of course, that is expensive. I point out that, if I wanted to convert from the general law to the Torrens system, I would undoubtedly choose the survey system because I would then know that the title issued to me was completely accurate; the boundaries would be accurate and there would be no problem from there on.

If one converts to the Torrens title in a simpler way, the difficulty is that at some stage one could find that the boundary measurements were wrong or that the boundaries were in the wrong place.

The Bill proposes a system that the Opposition supports, because it believes it is absolutely essential that the process of conversion to the simple Torrens system be speeded up.

It is true that, in addition to those provisions, the Bill contains other features. At present, if one wishes to apply for a Torrens title, it is necessary for one to pay a fee based on the value of the land. That requirement will be abolished by the Bill, which is a good move.

The Bill has much to commend it, and the Opposition supports it and wishes it a speedy passage.

The Hon. K. I. M. WRIGHT (North Western Province)—The National Party also supports the Bill. It agrees with the principle outlined by Mr Long and by the Minister in his second-reading speech. The principle relates to the two forms of land title in Victoria—the common law title, which existed before 1862, and the Torrens system, which was pioneered in South Australia, as I understand it.

I understand some 59 000 titles have been transferred to the Torrens system since 1862. However, there are still a large number of titles that have not been changed and they represent quite a large area of land.

I have discussed this matter with a number of solicitors. In particular, an experienced solicitor in my province has expressed the view that many solicitors are inexperienced in this type of work.

The Hon. A. J. Hunt—They are; that is true.

The Hon. K. I. M. WRIGHT—They are inexperienced in this type of work, and Mr Hunt confirms that view. Therefore, the solicitor is rather surprised that one of the methods of conversion to the Torrens system proposed in the Bill allows for a certificate from a solicitor to be accepted.
I ask the Minister, in those circumstances, whether the Government will bear the cost of any imperfection that arises from that provision or whether, in some way, that cost will be borne by any of the parties involved in the transaction.

The Hon. R. J. Long—Solicitors would be running an awful risk, too.

The Hon. K. I. M. WRIGHT—Yes, they would. That is really the only question I wished to ask.

The National Party believes this is a good measure. To have all the land in the whole State converted to the Torrens system will be a good thing.

I should like also to mention the courteous attention and efficiency that I—as a member of Parliament representing one of Victoria's largest provinces—have received from time to time when I have tried to resolve a difficult problem on behalf of a constituent and have sought assistance from the Titles Office in marking a particular transaction as urgent—because perhaps it has been under way, through no great fault of the Titles Office, for even in excess of twelve months.

I have one of those occurring at the moment. It is a thorn in my side, and I shall be pleased when the matter is completed. I have been in touch with the Titles Office and officers there have agreed to mark the transaction "urgent". With those few words, I indicate that the National Party is strongly supportive of the proposed legislation.

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. J. H. KENNAN (Attorney-General)—I move:

Clause 5. page 4. lines 12 to 23. omit "and the deeds that relate to the title to the land and that are in the applicant's possession".

The amendment seeks to remove words that are superfluous.

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.

ABORIGINAL CULTURAL HERITAGE BILL

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

The Hon. A. J. HUNT (South Eastern Province)—The historical context in which the Bill is set and the considerations to which Parliament ought to give attention in a matter of this kind have been eloquently and sensitively outlined in another place by my colleague in the other place, the honourable member for South Barwon, Mr Dickinson. I commend his remarks, as reported in the Legislative Assembly Hansard of 18 November, to all honourable members. I do not propose to cover the same ground; instead, I propose to ask a number of questions.

What is a heritage policy designed to achieve? What are the elements that such a policy should contain? What are the provisions currently to attain those objectives? How does the Bill measure up against those criteria and the reactions of those affected?

I shall deal with the first question. Surely, a heritage policy is designed to protect for all time the best and the essential elements of the cultural heritage of all those concerned. If
that is a correct statement of the position, clearly a heritage policy needs to be bipartisan, because if it is not it will not protect that heritage for all time. A policy will change from Government to Government. If different rules and different criteria apply, the objective of protection for all time will not and cannot be achieved.

Thus, it is sensible for any Government, any Opposition, and any third party for that matter, to get together and to seek to agree on rules that will continue to apply, regardless of changes of government, to achieve the objective of protection for all time.

I have spent some time preparing what I regard as the essential principles for a bipartisan heritage policy. It consists of 28 principles. I do not intend to weary the House by reading them in detail. I have discussed the matter with you, Mr President, and with representatives of the other parties, and have supplied them with copies of the document, and copies are available for all honourable members. I seek to incorporate the principles for a bipartisan heritage policy in Hansard without reading them.

The PRESIDENT—Order! I have examined the document referred to by the honourable member. It is suitable for inclusion in Hansard.

Leave was granted, and the document was as follows:

**PRINCIPLES FOR A BIPARTISAN HERITAGE POLICY**

1. International trafficking in important items of cultural heritage should be prevented, and carefully controlled in respect of other significant items.

2. A national (or State) inventory of protected cultural property to be established.

3. There should be reasonable protection and supervision of archaeological sites.

4. There should be adequate State support for authorised collecting institutions, including archaeological bodies and museums.

5. Sound curatorial rules must be developed.

6. Heavy emphasis should be placed on measures for education of the public generally and of those likely to deal with cultural property in particular.

7. Adequate controls need to be maintained on dealers in cultural property, together with careful guidelines as to their conduct.

8. The process of protection needs to be selective, emphasising objects that are of particular importance, and the ground rules for selection should be clearly stated.

9. Both the ground rules and the actual selections should be published to provide maximum certainty.

10. Items and areas not considered sufficiently important to justify classification and special protection should be free from controls.

11. There must be ongoing research into the relative importance of new items and areas, and of presently classified items and areas.

12. This may result, from time to time, in additions to the inventory, reclassification of items or areas within it, or release of items or areas no longer considered to be of sufficient importance.

13. Significance to a group or locality must be seen in the context of the importance to the wider community.

14. Consideration of the interests of that wider community, and the various groups within it, should be integrated so far as possible within a single legislative framework, and not fragmented.

15. Archaeological research should be assisted and encouraged, rather than discouraged or—worse—prevented.

16. That research must, nevertheless, be carried out subject to adequate protective conditions.

17. Clear requirements for reporting of discoveries must be laid down.

18. Clear powers are required to give directions or to make orders to safeguard significant items of cultural property or areas containing or believed to contain them, including acquisition if necessary.

19. The powers should be so expressed as to safeguard against arbitrary exercise.

20. There should be provision for fair compensation for those adversely affected by the exercise of powers designed to protect heritage for the community.

21. The obligation of everyone to safeguard and protect the nation's cultural heritage should be heavily emphasised and publicised and reinforced by sanctions.
22. There is a specific duty to identify, restore, maintain and manage the cultural heritage of our Aboriginal people.

23. This is required for all who live in Victoria and, by extension in Australia, now and in the future, whether they are of Aboriginal descent or descendants of other races.

24. This must necessarily involve both Aboriginal and non-Aboriginal people if the objective is to be successfully achieved.

25. For this purpose the most important activity will be to develop, in an ongoing way, an awareness and appreciation in the general community of the nature and value of Aboriginal culture, and its permanent and viable place in Australia's heritage overall.

26. Effective consultation will be required at every stage, with genuine respect and concern for the views of Aboriginal communities and of others affected.

27. Emphasis should be placed on voluntary agreements rather than legal requirements and sanctions, wherever practicable.

28. Further development and implementation of the policy to build on the past, retain and improve the proven, refine the existing and seek to remedy deficiencies in past policies and their administration.

The Hon. A. J. HUNT—Although I do not propose to read the principles, I shall deal with them in broad groups of seven. The Minister and the representative of the National Party have had the document for two days. I wonder whether anyone has any criticisms of any of the items in the first group of seven. I hope not, because the first seven principles all come from the United Nations Educational, Scientific, and Cultural Organisation convention of 1970 on cultural property.

The seven principles I have outlined are drawn directly from that convention, to which Australia is a signatory. Australia is an adopting party, and the UNESCO Convention of 1970 was supported by all four parties in the Commonwealth Parliament. With those first seven principles there is not only bipartisan agreement within Australia but also international agreement.

The Hon. J. H. Kennan—What is the title of that reference?

The Hon. A. J. HUNT—The full title is “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property”. It is normally called the UNESCO Convention on Cultural Property.

The Hon. G. R. Crawford—It is an international convention that deals with a variety of nations.

The Hon. A. J. HUNT—I am happy to make the copy available to the Attorney-General. There is a readable copy appended to an excellent book by Karl Meyer called The Plundered Past which is available in the Parliamentary Library. I commend not only that book but also the convention which is attached to it.

I turn now to the second group of seven items in the paper, “Principles for a Bipartisan Heritage Policy”. Does the Minister or a representative of the National Party or any other member of the House have any challenge to make to those principles? Again, I would hope not, for those principles are drawn directly from an Act of the Commonwealth Parliament called the Protection of Moveable Cultural Heritage Act 1986. I have a copy of that Act which was supported by all four parties in the Commonwealth Parliament. Again, there was bipartisan support.

The Hon. J. H. Kennan—What about the 1984 Aboriginal Act?

The Hon. A. J. HUNT—I will get to that. Again, not only was there bipartisan support but also all-party support for those seven principles. Indeed, there is support at the Victorian level for many of those principles which were incorporated in the Archaeological and Aboriginal Relics Preservation Act.

I turn now to the third set of seven principles in the document, that is, the principles numbered 15 to 21 inclusive. I wonder whether the Attorney-General, representatives of
the National Party or other honourable members have any challenge to those items. Apparently not. The third set of principles are drawn from the principles contained in the Archaeological and Aboriginal Relics Preservation Act 1972, which was again passed with all-party support in Parliament fourteen years ago.

I turn to the fourth set of seven recommendations in the principles numbered 22 to 28. Does the Attorney-General, representatives of the National Party or any honourable member have any challenge to those principles?

The Hon. W. R. Baxter—I have no objection.

The Hon. J. H. Kennan—I have a total objection.

The Hon. A. J. Hunt—The Minister says he has a total objection to the fourth set of principles. The first six of those last seven principles are drawn directly from the discussion paper prepared by the Attorney-General's working party; a good discussion paper on the protection of Aboriginal cultural heritage. In fact, the principles use the words of the discussion paper itself. I would have thought that the Attorney-General and the Opposition could have agreed to the first six of the last seven principles that emerged directly from the discussion paper. What existing protection exists in this country? Australia has two Commonwealth Acts and an international convention.

The Hon. G. R. Crawford—You do not always follow international convention. You destroyed the trade unions and that is against international conventions. You people ought to be the last to talk about international conventions.

The Hon. A. J. Hunt—Australia has three relevant Commonwealth Acts.

Honourable members interjecting.

The President—Order! I ask the honourable member to come to order. Mr Crawford will have ample opportunity of contributing to the debate at a later stage.


Perhaps I should summarise the contents of the Protection of Moveable Cultural Heritage Act passed by the Commonwealth Parliament this year. The Act provides, firstly, for control over export and import of significant items of cultural heritage. It prevents the export, not of all items but of those objects which would constitute an irreplaceable loss. The Act provides for a control list specifying the categories. There are two categories, (a) and (b). Category (a) is a higher category, worthy of protection. In other words, the Bill at that point ensures that there is a selectivity in what is to be preserved. The Act provides for a list to be kept. In the second-reading speech supporting that Bill, it was indicated that the criteria for preservation would include age, verity, quality, value and the extent of existing inclusions in public collections. The Act was based on a Bill to implement an international treaty brought into operation in Canada, which had proved very successful.

I turn to the provisions of the Bill. One finds in what is now section 7 a reference to section 8 and to the moveable cultural heritage of Australia, a reference to objects that are important to Australia or to a particular part of Australia for ethnological, archaeological, scientific or technical reasons, and then sets out a number of categories and properties to which this can occur.

The Commonwealth Bill in section 8 provides a list divided into class A objects, being objects not to be exported in accordance with a certificate, and class B objects, being objects not to be exported otherwise than in accordance with a permit or certificate.

What one sees there is twofold. Firstly, Aboriginal cultural heritage is seen in the context of the cultural heritage of the whole country. Secondly, the principle of selectivity
included because what is protected are objects that are of importance to Australia or to a particular part of Australia for the reasons that I have quoted from the Bill. These include ethnological reasons, among others. The Commonwealth Bill, of course, covers a further ground that is not directly relevant to us today.

I turn to the main Act affecting this State, the Archaeological and Aboriginal Relics Preservation Act 1972, as subsequently amended. Of course the Museums Act is relevant, although less so. The 1972 Act again sees the Aboriginal cultural heritage and the Aboriginal relics as indivisible from the cultural heritage of the whole State. It sees both in the one context.

In the Bill, we find there are fewer than the 28 principles that I have set out that the Bill will enhance in any way. There are in fact a few, but not many. Most of those principles the Bill does nothing for and many of them in fact it screams at.

Initially, the Bill divides Aboriginal cultural heritage from the archaeological heritage of other descriptions.

Honourable members interjecting.

The Hon. A. J. Hunt—Perhaps honourable members will let me continue and I shall explain. The Bill puts the issue of Aboriginal cultural heritage in isolation from all other aspects. I turn to the book to which I referred earlier, The Plundered Past, and in its introduction the author, Karl E. Meyer says:

Though an American may "own" an Indian mound or an Italian may "own" an Etruscan tomb, there is a general interest in what either does with his property. (In Italy this interest is recognized if not enforced by law; in the case of most Indian sites in the United States, it is neither recognized nor enforced.) Every archaeological site is like a time capsule, and each contains in varying degrees unique evidence about our past. When such a time capsule is destroyed, either by a looter or a bulldozer, the loss is total. One cannot grow another Indian mound. And yet, the tempo of destruction is presently so great that by the end of the century most remaining important archaeological sites may well be plundered or paved over. We face a future in which there may be no past beyond that which is already known and excavated. Or equally sad, what is left may be so ruinously mutilated as to afford only a forlorn fragment of a vanished legacy.

The author considers such things as an Indian mound of concern not only to the Indian community of the day but indeed to the whole community, representing as it does an important element of the cultural history of the world.

The Minister has had submissions from the Archaeological and Anthropological Society of Victoria Inc. and the Australian Archaeological Society, which make the same point.

Of course, the interests and the wishes of the Aboriginal people have to be seriously considered. Of course they must have an effective say in the protection, preservation and the guardianship of their own cultural heritage but of course what occurs is not of concern only to the Aboriginal people but also it is of concern to the wider community and to the international community.

Indeed, what has been found by archaeologists on a number of Aboriginal sites in this country has been of profound importance in world studies on the development of man. The Bill puts the two in isolation, and as separate from each other, and that in fact involves grave problems, as archaeologists have pointed out.

The Hon. J. H. Kennan—They are their values and not Aboriginal values; you know that.

The Hon. A. J. Hunt—I believe a number of members of this House have studied the Lake Mungo case in New South Wales.

The Hon. Joan Coxsedge—Intimately!

The Hon. A. J. Hunt—Yes, Mrs Coxsedge would know that the local Aboriginal community expressed no initial interest in the Lake Mungo site. Archaeologists believed
that it was a promising site for study. They went there and they discovered more about
the history of Aboriginal society in this country than they had discovered anywhere else.

It was a site of profound importance to us and to the Aboriginal community also. The
Aboriginal community is proud of what has been found at Lake Mungo.

What would have happened under the Bill? The archaeological studies and the protection
of Aboriginal relics and cultural heritage is divided into two Bills. If one gets a permit to
work at Lake Mungo under the Archaeological and Aboriginal Relics Preservation Act
and then one finds Aboriginal remains or Aboriginal objects, what occurs? Work stops!

The Hon. J. H. Kennan—Why?

The Hon. A. J. Hunt—Because you must change the Acts!

Honourable members interjecting.

The President—Order! I ask the Attorney-General to come to order. I warn him
once more that I shall not tolerate any more interjections. He will have ample opportunity
when the Bill goes to the Committee stage to take up the points raised by Mr Hunt. I ask
him to do so in that form and not in the form that he is now using.

The Hon. J. H. Kennan (Minister for Planning and Environment)—Mr President,
would you be good enough to hear me?

The President—Order! On a point of order?

The Hon. J. H. Kennan (Minister for Planning and Environment)—On a point of
order, I do not believe the Opposition intends to allow the Bill to go into Committee. I
want to know what its intentions are.

The Hon. A. J. Hunt—you cannot do that in the middle of a speech!

The Hon. J. H. Kennan—Do you?

Mr President, you made that ruling on the basis that I would have the opportunity in
the Committee stage to raise these matters. The fact is that the Opposition has foreshadowed
in another place that it will move a reasoned amendment, and I want to know—

The Hon. A. J. Hunt—you will have a second go then.

The Hon. J. H. Kennan—Well, I want that assurance.

The President—Order! The Minister for Planning and Environment cannot ask for
that assurance across the House. He has put the Bill's position and his own position in the
form of his second-reading speech and that precludes him from further contribution.

There are other honourable members from his party in the House who may wish to take
up some of the points that have been raised by Mr Hunt but the Attorney-General cannot
continue debate in the form of interjections as it is disorderly and if he continues to do so
I shall be forced to name him.

The Hon. A. J. Hunt (South Eastern Province)—The Minister for Planning and
Environment by way of interjection asked me, “Why?” I said that when those remains are
found—the remains which really are the purpose of archaeological study—then the study
stops.

Why? The answer is because the archaeologist must then operate under a different Act—
this Bill. Clause 22 states:

(1) A person must not wilfully deface, damage, otherwise interfere with or do any act likely to endanger an
Aboriginal cultural object or Aboriginal place.

Note the provision “interfered with”. If Aboriginal remains or relics, or “Aboriginal
cultural objects” or “cultural property”, which are phrases used in this Bill, are found, the
consent of the local Aboriginal community is required to continue working in that area. If
the archaeological study continued, that would be interference with Aboriginal objects or remains and would be in breach of the Bill. That is the type of problem created when two different Acts are in operation rather than having an integrated Act similar to the one that has existed in Victoria since 1972, or the integrated Act constituted by the Commonwealth Moveable Protection of Cultural Property Act 1986.

The type of studies which took place at Lake Mungo could not have continued uninterrupted in the way that they did if this Bill were in operation there in its current form. Victoria needs a single integrated Act dealing with all these aspects.

I now turn to the question of selectivity. The principles proposed by the Opposition pay regard to the need for preservation of the best and all significant items of cultural heritage for a wide range of reasons. They may be important not just to one segment of the Aboriginal community; they may be important to the wider community and even internationally. There can be many levels at which they are important.

Local heritage will be important to the local Aboriginal people, but, if the findings are significant, they will be of greater importance to Aboriginal people from all over Australia. They will also be of importance to the Australian community and perhaps to a wider scientific world community. They may shed significant light on the development of mankind.

If these issues are considered in isolation by not having them integrated in a single Act and by not placing sufficient emphasis on selectivity, the Bill does the cause of overall protection of cultural heritage a grave disservice.

I now refer to definitions contained in the Bill. “Aboriginal place” means a place to which a cultural, historical or religious significance is attached by Aborigines. It could mean any place under the provisions of the Bill; it could involve any level of significance.

“Aboriginal object” means an object including a natural object whether living or inanimate—

(b) that is or has been made, used or adapted for use for any purpose connected with the life of Aborigines in any part of Australia.

One can imagine what would happen if that definition were applied to European culture. Old cans and household utensils could not be disturbed. It would be a case of preserving or protecting everything and not selecting the best. The Commonwealth Act clearly provides for selection of the best and so does the existing State Archaeological and Aboriginal Relics Preservation Act.

The discussion paper produced by the working party provided different definitions from those that now appear in the Bill. Those definitions indicated a principle of selection, but that principle has been departed from in this Bill.

The Archaeological and Aboriginal Relics Preservation Act 1972 also provides for ongoing archaeological research, which this Bill does not. It is of little wonder that the State and Federal bodies of archaeologists have complained to the Minister about this Bill. Detailed submissions have been made on this issue, but I shall read from a short letter from the President of the Archaeological and Anthropological Society of Victoria Inc. who made six short points. That letter stated:

In assessing the value of Aboriginal objects/places to be protected under the Bill, the interests of the wider community have not been taken into account. These interests include archaeological and scientific considerations.

There is no provision in the Bill for research that leads to education of the wider public. In fact, there is no duty or even encouragement in the Bill to educate the wider community.

The letter continued:

The mechanism for protection by declaration is too limited.

The Bill is uncertain as to the preservation and ownership of skeletal material.
As a result of the consequential amendments to the present Act, the definition of "relic" becomes so wide-ranging as to be unworkable.

The House will have seen that from the examples I gave a moment ago. The letter concluded:

There is no provision within the Bill for the keeping of a register of Aboriginal objects/places, such as exists under the current legislation.

That is a brief summary of the submissions by the archaeological profession and I will not go into them in detail.

The Hon. J. H. Kennan—Read clause 1 (b) out loud!

The Hon. A. J. Hunt—That clause states:

The purposes of this Act are—

(b) to encourage public awareness and appreciation of that heritage, especially through education by Aboriginal people.

An honourable member interjecting from my left asked, "What about Aboriginal people?"

There is no unanimity among Aboriginal people. I have a letter from the Yorta Yorta Aboriginal Heritage Council which is unhappy with the Bill in its present form. It submitted a detailed list of suggested changes that should be made to the Bill and I am certain that those suggestions would have been made available to the Minister.

One of the gentlemen from the group of Aborigines who visited the Chamber yesterday also left with me what amounts to a summary of complaints about the Bill. He is from a group other than the Yorta Yorta tribe. A group of Aborigines saw me at Parliament House a few weeks ago and various members had different complaints about the Bill. I must say that soon after the Government heard that this group representing a number of Aboriginal tribes had made representations to me, it must have taken fright because I subsequently received three telexes on the one sheet withdrawing complaints from the three groups. There is no unanimity among Aboriginal groups.

The environmental law section of the Law Institute of Victoria has provided the Minister with a detailed set of improvements to the proposed legislation.

The Bill in its present form has not been agreed to by the Aboriginal community as a whole. It is not a Bill which is agreed to—because of its deficiencies—by the archaeological profession, which believes that it will have disastrous results. It is not a Bill which complies with the principles that are necessary if we are to have a bipartisan, long-term, lasting policy on this issue which will protect cultural heritage for all time. It is not a Bill that ought to be passed in its present form.

I refer to The Plundered Past by Karl E. Meyer who, at page 208, states:

In the world's cost accounting, the past is a small item; it makes a negligible contribution to the Gross National Product; its preservation is scarcely a central concern of the modern state. But one can manifestly contend that if the remains of the past should disappear, our lives will be poorer in ways that the statistician can never measure—we will live in a drabber world, and will have squandered a resource that enlivens our existence, offers a key to our nature, and, not least, acts as a psychic ballast as we venture into a scary future.

We need a Bill which integrates all aspects of the protection of the cultural heritage of this country, both Aboriginal and other; which does give a measure of real say to the Aboriginal people in the custodianship and protection of their own heritage but which nevertheless recognises the legitimate interests of the community at large; which does so within an overall framework to which all parties can subscribe, not only now but also for all time—that is the objective, protection for all time—and which does so in a way which the community as a whole will accept. I, therefore, move as a reasoned amendment:

That all the words after "That" be omitted with a view of inserting in place thereof "this Bill be withdrawn and redrafted in consultation and agreement with the traditional elders of recognised Aboriginal communities and with the Victorian Archaeological Society, so as to properly take into account the widespread criticisms