Wednesday, 13 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 2.3 p.m. and read the prayer.

ACCIDENT COMPENSATION (DISCLOSURE OF INFORMATION) 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.

QUESTIONS WITHOUT NOTICE

DIELDRIN RESIDUES IN YARRA RIVER

The Hon. ROSEMARY VARTY (Nunawading Province)—I address my question to the Minister for Agriculture and Rural Affairs. Is the Yarra River tested for dieldrin residues; if so, how frequently is it done, at what locations and by whom?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The question does not fall totally within my area of responsibility although, of course, it is of concern to me.

I know that, in doing certain tests in the Upper Yarra Valley catchment area some years ago, the Environment Protection Authority detected traces of dieldrin. That suggests that there has been over the years, perhaps from some of the horticultural areas in the Upper Yarra area, some dieldrin run-off into the Yarra River. I am not aware of the present circumstance, but I should be happy to contact the Environment Protection Authority—because it is really the source of that information—to ascertain what the situation is now.

MINISTERIAL REVIEW OF DENTAL SERVICES

The Hon. B. P. DUNN (North Western Province)—The question that I direct to the Minister for Health relates to the extreme shortage of public dentists in Victoria. I understand there are 150 such dentists serving the State who are operating on about 1-2 per cent of the State health budget.

Is the Minister aware, for instance, that in the Wimmera area covered by the Wimmera District Health Council, eight of the fourteen municipalities have no dentist, and that there are ten dentists serving 54 000 people in those areas? What action is being taken to implement the recommendations of the Ministerial Review of Dental Services which, among other things, recommended significantly increasing and decentralising public dental services throughout Victoria?

The Hon. D. R. WHITE (Minister for Health)—It is correct to say that the Ministerial Review of Dental Services has been carried out. It is also correct to say that public comment on the review has been sought. I am not aware whether the National Party has responded to the review, but I should be pleased to hear from its members.

The government has already taken a number of steps prior to preparing a formal response to the review. The steps include: the commencement of work to make appropriate regulations for the introduction of dental hygienists; negotiations regarding a new role in the training of dental practitioners other than dentists; and a curriculum review to ensure clinical expertise of graduates will be at a premium.

The government has also taken steps that include: an examination of services required at Parkville to determine potential resources for decentralisation, which begins to meet
one of the points raised by Mr Dunn; discussion with educational and industrial bodies regarding improvements to training and accreditation of dental personnel; reorganisation of service delivery into a general practice model, thereby decreasing waiting times for conservative dentistry; collaboration with dental health services regarding information and evaluation systems development; and an ongoing analysis of all other recommendations prior to further change to ensure maximum cost effectiveness and quality of service to clients.

The government has also undertaken an analysis of all recommendations to ensure effectiveness of implementation prior to those recommendations being discussed at Cabinet level. There has been liaison with the Royal Dental Hospital regarding the potential for colocation of support services, maintenance, medical records, purchasing and stores. There have been negotiations with locally based health service providers to investigate options for shared use of facilities. That includes consideration after discussion with the Australian Dental Association about the extent to which we can share facilities with private dentists and/or contract with them for the provision of public services; and negotiations to improve the training and ensure accreditation of dental therapists.

Those are steps that the government saw fit to commence to undertake during the course of receiving responses from the public on the dental review and prior to preparing a formal government response to the dental review, some of which, as Mr Dunn would appreciate, do have Budget implications.

The government is aware from the dental review of some of the matters Mr Dunn has raised. It would like to hear further from the National Party before it formally produces its policy, which it hopes to do in the near future. I shall take on board the comments of Mr Dunn.

**STANDARDISED TESTING IN SCHOOLS**

The Hon. D. E. HENSHAW (Geelong Province)—In view of recent press and community speculation, can the Minister for Education guarantee that there will continue to be external assessment in Year 12 for the new Victorian certificate of education?

The Hon. C. J. HOGG (Minister for Education)—A lot of speculation has occurred and misinformation has been given in respect of external assessment for the new Victorian certificate of education.

I reiterate what the government has said all along: namely, all Victorian certificate of education students will be required to take at least three sequences of studies with a substantial component of external assessment.

The Victorian Curriculum and Assessment Board recently sent to schools a document entitled “Assessment for the Victorian Certificate of Education” which outlines proposals for new assessment procedures, and I commend it to honourable members.

The board has begun trials of these new procedures and they will be subject to an independent evaluation. Final decisions on assessment policies for the new Victorian certificate of education are subject to Ministerial approval.

The proposed new arrangements involve students taking a limited number of common assessment tasks in each of their Year 12 subjects. Both the tasks and the criteria for the award of grades will be set externally. Some tasks will be done under test conditions while for others there will be mechanisms for verifying that grades have been awarded fairly and consistently.

It is my firm expectation that for all studies—and certainly for all those subjects in which there is currently external assessment—at least one of the common assessment tasks will be done under test conditions with appropriate external controls. The government is committed to ensuring that standards are upheld and that procedures are in place which
ensure that assessments are fair and comparable and provide an equitable and credible basis for selection into work and higher and further education.

**AERIAL BAITING WITH 1080 POISON**

The Hon. M. T. TEHAN (Central Highlands Province)—Last year an agreement was entered into between the Department of Conservation, Forests and Lands and the Australian Conservation Foundation phasing in a one-year moratorium on aerial baiting with 1080 poison in the Strzelecki Ranges. A committee was to be established to investigate alternative methods of pest control in pine plantations, and two research officers were to be appointed at Yarram to carry out those tests. Will the Minister advise whether those officers have been appointed? How far have the trials proceeded, and when will the committee report?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The use of aerial baiting for 1080 poison in the Strzelecki Ranges is an important issue that had never been properly addressed until I took the initiative of getting all the groups interested in production and conservation together. Aerial baiting was being conducted by Australian Paper Manufacturers and the department.

The appointment of research officers to assist the committee, which comprises representatives from the Australian Conservation Foundation, Australian Paper Manufacturers, the Commonwealth Scientific and Industrial Research Organisation and the department, was held up because of the freeze placed on the department by the government in connection with the 4 per cent second-tier wage increase.

The freeze has now been lifted and the department is proceeding to employ the research officers. This has put the research program a little behind. However, I am confident that the work done by the committee and the goodwill that still exists will enable us to make a successful decision on the matter.

**WONNANGATTA STATION**

The Hon. D. M. EVANS (North Eastern Province)—I again refer to the Minister for Conservation, Forests and Lands the $500 000 or thereabouts of public money spent on the purchase of Wonnangatta station. From which Budget allocation did that finance come? What other priority will be set aside to provide the money? Why was similar consideration not given to the purchase of Greens Bush, which is an important wetlands area?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am absolutely delighted with the question and that the National Party has finally discovered the need to put money into Greens Bush after the Liberal Party and the government have been working on the project for the past three years. That is a revelation of the first order! However, as a late conversion, it will not wash with the Mornington Peninsula people, I am sure. The community and the government have already contributed $1.3 million to Greens Bush. The appeal is still open, and I should hope Mr Evans would have encouraged continuing community donations to the appeal rather than asking the government for more.

However, priorities have to be set on where one spends one’s money, and I should have thought that a commitment from the government of $1.3 million over a three-year period to Greens Bush is a considerable commitment.

The Hon. D.M. Evans—Do you have all the land?

The Hon. J. E. KIRNER—There are no problems with the commitment of that money to the most important pieces of land. For the Wonnangatta station, money was allocated from the acquisition of land budget, and it will be spent over the next two years. I am pleased to say that the Victorian Association of Four Wheel Drive Clubs and the Victorian...
National Parks Association are absolutely delighted with the purchase and I shall refer now to the telegram from the Victorian National Parks Association which I received yesterday. It states:

Dear Joan,

Warmest congratulations on purchase of Wonnangatta station and retirement of all grazing associated with this property. The Victorian National Parks Association sees this as a key element in the protection of the Alpine area.

The Hon. W. R. Baxter—What did you expect them to say? Surely you didn’t think they would criticise you?

The Hon. J. E. Kirner—Of course one might well have expected and hoped for support from the association on this matter and even some members of the National Party are members of the Victorian National Parks Association, but one might not have expected the second message I received today from the President of the Victorian Association of Four Wheel Drive Clubs, who says that he applauds the actions of the Minister for Conservation, Forests and Lands in purchasing the area. He says:

It is unfortunate that the mountain cattlemen are losing part of their heritage in this State in the transfer of this former cattle grazing property to the State government. It is however a commitment by the government to the multiple use of the alpine areas, and it will now remain as a centre for mountain touring for the many thousands of Victorian families who seek out the serenity of the area each year.

The Victorian Association of Four Wheel Drive Clubs will give its support through voluntary work for the maintenance of Wonnangatta station as a public land use area. It deserves preservation for future generations of recreational users.

GOVERNMENT DRUG AND ALCOHOL CAMPAIGN

The Hon. B. W. Mier (Waverley Province)—Will the Minister for Health advise the House of the government’s relationship with the non-government sector in the planning and delivery of drug and alcohol services?

The Hon. D. R. White (Minister for Health)—I make it clear at the outset that services provided by the non-government sector in drug and alcohol are complementary both geographically and in program type to the specialist programs offered through government agencies. Also, prior to the National Campaign against Drug Abuse, funding to the non-government sector was by a system of annual grants and subsidies totalling approximately $2.6 million.

Since the introduction of the National Campaign against Drug Abuse, known as NCADA, total funding to the non-government sector has been increased to approximately $6 million in 1987-88, representing a commitment of more than 60 per cent of the NCADA funding to the non-government sector and an overall increase of 230 per cent in funding of non-government agencies.

A total of 63 non-government agencies are funded in this fashion. In recent months the government has appointed a Statewide consultative committee involving the Victorian Association of Alcohol and Drug Agencies, the Alcohol and Drug Foundation and the Youth Affairs Council. Planning has been undertaken with these groups over the past two years and the government will continue to be involved with them.

The government is concerned about recent statements by the Leader of the Opposition with respect to his policy, which was announced yesterday on the Schildberger radio program because the government is providing services through the non-government sector and it is concerned about the implications of the statement the Leader of the Opposition made in which he said, in part:

If we decide that drug education, prevention, treatment, is a priority of a Liberal government, which it would be, and for instance, we allocated ten million dollars to that project, what we would be doing, or looking towards doing, is putting it up to tender so that those groups that are involved in drug rehabilitation out in the community,
like the Brotherhood of St Laurence, the Salvation Army, Odyssey, could tender for that work knowing what the objectives were.

We are concerned about the implications of such a policy because it would essentially result in a cost-cutting exercise. The government of the day, under a tender process, would be attracted to the lowest tender, which may not provide the best quality service. The service would not be provided according to need, nor would it be adequately distributed across the State. Ensuring a basic standard would be costly and would place the government in a policing role.

What the government is further concerned to hear——

The PRESIDENT—Order! Either a miracle has occurred and my hearing has suddenly recovered, or the level of conversation in the House has been too high. I ask honourable members to lower their voices.

The Hon. D. R. WHITE—in respect of the announcement by the Leader of the Opposition, Mr Kennett, the Victorian Council of Social Service contacted his office yesterday to ask for a copy of the proposals and was told, “There is nothing that exists on paper”.

The questions the government wants to ask of the Opposition—and the community is entitled to ask them—are: does the policy exist? Is it on paper? Did the Leader of the Opposition take it to the shadow Cabinet? Does Mr Birrell have a copy of it? If so, where is it? Most important of all: did the Leader of the Opposition discuss it with the non-government sector? Quite clearly, the answer is that he did not.

The PRESIDENT—Order! The Minister for Health has more than covered the answer to the question.

CLARENDON STREET RAILWAY BRIDGE

The Hon. J. V. C. GUEST (Monash Province)—The Minister for Transport has stated that the Clarendon Street railway bridge is a traffic hazard and must be demolished.

The Hon. E. H. Walker—So are you!

The Hon. J. V. C. GUEST—The Leader of the House and I have many things in common!

Since 1983, as the National Trust has made public, the Road Traffic Authority has recorded only three accidents involving a vehicle hitting the bridge. In view of that fact, as well as the strong local sentiment against the demolition of the bridge and the strong feelings of relevant unions against its destruction, will the Minister for Transport reconsider his decision?

The Hon. J. H. KENNAN (Minister for Transport)—The answer to the question is, “No.” There have been some cases that are yet to be legally reported, but there have been a number of other cases of accidents. One needs only to drive along Clarendon Street to understand that the bridge is a traffic hazard.

What Mr Guest says about strong local opposition is a lot of nonsense. He knows very well that the St Kilda council has come out and supported my stand. Mr Guest and some of his political mates are attempting to rev up the issue. As with the rest of the Opposition’s public transport policy, it is a ratbag position. In reality it has no worth, either in economic or social terms.

IMMUNISATION OF SCHOOLCHILDREN

The Hon. K. I. M. WRIGHT (North Western Province)—I refer to the Minister for Health evidence of complacency with respect to infectious diseases in children. Some 20 per cent of schoolchildren are not immunised against some infectious diseases. That
situation is not good enough—although I do not blame the government for it. Will the
government make the immunisation of schoolchildren a compulsory prerequisite for
enrolment?

The Hon. D. R. WHITE (Minister for Health)—The government has gone to some
lengths to explain to the House its policies in regard to the delivery of child and specialist
services. The government has explained to the House on more than one occasion that it
has established a group headed by my colleague, Mrs Lyster, to examine the provision of
services to children.

In respect of the immunisation program, the government has gone on record in this
House—I hope Mr Wright is listening on this occasion—publicly proposing a universal
health check scheme for children entering State schools during 1988 to ensure adequate
immunisation of those children. The government is doing that in the context of ensuring
that there is no reduction in the provision of services to preschool children and children
in the first year at school when, as I indicated to the House on previous occasions, a
compulsory check of school children will occur during 1988. That team will be headed by
Mrs Maureen Lyster.

The government is endeavouring to ensure that the immunisation program becomes
more effective by insisting that parents demonstrate that their children have been properly
immunised before entering the first year of school. The immunisation records disclose
that, although the level of immunisation may be more than 90 per cent in some cases, it is
still not adequate for a society such as ours. The only two points when a universal check
can be made is when a child is born and when a child enters the first year at school. Hence,
Mrs Lyster has been appointed to head the team that will put that proposal into effect.

The government will also maintain the current level of services for preschools to ensure
that any medical conditions that arise during the early years of a child’s life are appropriately
attended to, well before the child enters school. The comments I have made today are
already well documented and have been placed on the record in this House during this
sessional period.

ABORIGINAL EMPLOYMENT STRATEGY

The Hon. JEAN McLEAN (Boronia Province)—As the success of the Aboriginal
employment strategy introduced in 1987 by the Public Service Board is dependent on the
support of all administrative units, will the Minister for Conservation, Forests and Lands
inform the House of the current level of Aboriginal employment in her department, and
indicate what action has been taken towards implementing that strategy?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mrs
McLean for her question and her participation in these issues. In December 1987 my
department launched the Aboriginal ranger training program, which involves ten Aboriginal
people, increasing the number of Aborigines permanently employed in the department
from 11 to 22. Although that is a high proportion of Aboriginal employment compared
with most other departments, it is a sad record rather than one for which the government
can be congratulated. However, it is at least an area on which the Public Service Board
and my department are working.

The Aboriginal ranger training program is a cooperative program between my department
and the Commonwealth. I emphasise that it is not just an employment program. Is is a
two-year training program. At the end of the two years the Aboriginal trainee rangers will
have made significant progress towards completing the Associate Diploma of Applied
Science (Resource Management) offered through TAFE colleges.

Many of those young people have not completed secondary schooling, so the program
is quite an achievement and challenge. At the same time, my department is providing
training for members of staff who are not rangers and is training Aboriginal members of
staff.
A planning and cultural resource management seminar for Aboriginal rangers was held in May, and a career development seminar for Aboriginal people employed in my department will be held later this year. In introducing a new training program in the department, it is important to ensure that officers who are not of Aboriginal descent understand and appreciate what is being done. For that reason, Lois Peeler, the Aboriginal liaison officer in my department, who is from the Healesville Aboriginal community, will introduce Aboriginal cultural awareness programs for management and staff throughout all regions.

At present I suppose the jewel in the crown for Aboriginal training is Eddie Kneebone—whom Mr Baxter would know from the Dharnya area—who is an Aboriginal ranger. He has just been accepted into a three-year course to undertake an Associate Diploma in Park Management at the Riverina-Murray Institute of Higher Education in Albury/Wodonga.

As well as that, the department adopts the view that we ought to be working with the Ministry for Planning and Environment in its Aboriginal section to ensure greater awareness of the cultural heritage of the Aborigines in our parks. Recently we have been successful in obtaining Commonwealth funds to employ an Aboriginal research officer on the Hall's Gap Aboriginal Cultural Centre project, "Brambuk", which will mean greater awareness of Aboriginal culture in our interpretation centres.

Honourable members interjecting.

The PRESIDENT—Order! I ask the House to come to order. The Chamber is becoming very disorderly on both sides and I will not tolerate it any longer.

WONNANGATTA STATION

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct a question without notice to the Minister for Conservation, Forests and Lands—

The Hon. E. H. Walker—About Wonnangatta?

The Hon. ROBERT LAWSON—Yes. The Minister will be delighted to learn that I was at Wonnangatta at Easter time. I can assure the Minister that she has the most magnificent area of blackberries under cultivation that I have ever seen in my life. If she goes with a billy in a few months, she can collect what she likes.

About two years ago I was in the same area and at that time the blackberries had been sprayed and appeared to be dead, but they have totally recovered now. The area infested is even larger than it was two years ago. Has the department the money and the expertise to deal with the serious problem of blackberry infestation? It is a beautiful area that deserves the very best the department can do.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am absolutely delighted that Mr Lawson enjoyed staying in the Wonnangatta area over the Easter period. I am sorry that he did not let me know that he was there because I would have dropped in during my trip around the parks. The issue he raised is of concern. Most of the blackberries are on Bob Gilder's property, which is private land and not the responsibility of my department, so this bit of nonsense being talked about—

The Hon. R. J. Long interjected.

The Hon. J. E. KIRNER—Mr Long has woken up and is actually in Parliament! The blackberries that Mr Lawson saw were on private land. It is nonsense to say that the blackberries will take over because we are declaring the area public land. There is a real problem with blackberries.

I am delighted to say that the Commonwealth government has clarified its legislation so that we, in Victoria, through the offices of the Department of Agriculture and Rural Affairs, will be able to proceed after approximately seven years of trying to control the blackberries.
biologically. The only way to control the blackberries is through rust. I should have thought we might be able to take some of the rust culture from Mr Long.

**PRIVATISATION OF PUBLIC TRANSPORT**

The Hon. G. R. CRAWFORD (Jika Jika Province)—Will the Minister for Transport advise what impact the Liberal Party’s policy on privatisation of public transport will have on the public transport deficit in Victoria?

The PRESIDENT—Order! The question is similar to one asked of the Minister yesterday, and I am not certain whether he should canvass this issue again.

The Hon. J. H. KENNAN (Minister for Transport)—Mr President, this question relates to the public transport deficit. Yesterday I answered a question on the impact of privatisation on fares. I submit that today’s question on the impact of privatisation on the deficit is a different issue.

The PRESIDENT—Order! I accept that there is a slight difference, but I warn the Minister not to debate the question.

The Hon. J. H. KENNAN—Mr President, I am grateful for your guidance. One can understand why the Liberal Party does not want to examine the relevant public transport deficits. Between 1978-79 and 1981-82 the rate of increase in the public transport subsidy under the then Liberal government was 34 per cent. In contrast, under the Cain government, the rate of government subsidy to public transport has decreased by 11.3 per cent. More importantly, the level of government subsidy for the current financial year will be lower than it was in the last year of the Liberal government in real terms, and that is why the Opposition did not want to hear my response. In fact, the real deficit has decreased; the amount of government subsidy, which was rapidly increasing in the declining years of the former Liberal administration, has decreased since the Cain government came to office.

This is an impressive result in public sector operations when one takes into account the major expansions and improvements the government has made to public transport over that period. It is even more impressive when one recognises that increases in fares and freight rates have been kept below increases in the consumer price index over those years. The government has in fact contained the deficit, expanded and improved the transport system and kept fares and freight rates below the consumer price index. That demonstrates the capacity of this government to manage the public sector. Of course, because of earlier failures, the Liberal Party is now proposing to privatise public transport.

What will be the impact of the Opposition’s proposal on the deficit? The government subsidy to public transport for 1987-88 is $500 million. If the Liberal privatisation proposal of “the mouth” is implemented—

The PRESIDENT—Order! I ask the Minister to rephrase his statement.

The Hon. J. H. KENNAN—If the proposal of the Leader of the Opposition, Mr Kennett, is implemented, the subsidy to public transport will increase to $1 billion. From $500 000 million it will increase to $1 billion. The Cain government has a six-year success record and it has improved the administration of the public transport sector. That record far outweighs the last few years, and indeed the whole 27 years, of the former Liberal government. The Liberal Party proposes to abandon public transport altogether and to simply hand it over to the private sector.

**CONDUCT OF MEMBERS**

The PRESIDENT—Order! It has become a matter of concern to me that there has been a tendency in recent months for honourable members to stand around the Chamber conversing with their colleagues during the conduct of business of the House. Although it is in order for honourable members to converse with their colleagues from both sides of
the House, it is preferable for them to sit beside the person to whom they are speaking because the Standing Orders provide that only one person should be on his or her feet at a time. I ask honourable members to cooperate in complying with that provision.

DIVISION BELLS

The Hon. W. A. LANDERYOU (Doutta Galla Province) (By leave)—Mr President, I wish to raise a matter with you concerning the running of the House. From some parts of the Parliamentary building and grounds, it is not possible to hear bells that summon honourable members to this Chamber. I wonder whether it would be possible for you to investigate this matter and to direct to the attention of members of the Legislative Council what areas have had the bells turned off or silenced so that it will then be the responsibility of honourable members to cope with this matter.

Further, I ask whether it is possible, Mr President, for you at a convenient time to investigate whether there is an alternative method that could be used to summon members into this Chamber other than the twelfth century system that we now have.

The PRESIDENT—I thank Mr Landeryou for raising this matter. I assure him I shall investigate it. I, of course, realise that in some private offices of members of the other place the Legislative Council bells are turned off, and members of the Legislative Council have the Assembly bells turned off. I shall ask the engineer to report on what areas the Legislative Council bells cannot be heard so that honourable members may be made aware of those. I shall also take up the other matter to which Mr Landeryou referred.

NOTICE OF MOTION

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—I desire to give notice that, on the next day of meeting, I shall move:

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

I shall give the usual guarantees that when a matter does come up for passage in the House, the government will, of course, as usual, negotiate in terms of General Business on Wednesday and any other matters that the opposition parties believe the government should understand before it is put into effect.

PETITION

School Medical Service

The Hon. C. J. KENNEDY (Waverley Province) presented a petition from certain citizens of Victoria praying that the government continue to provide and fund school medical service facilities for preschool children. He stated that the petition was respectfully worded, in order, and bore 52 signatures.

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

MINISTERIAL STATEMENT

Road toll

The Hon. J. H. KENNAN (Minister for Transport)—I wish to make a Ministerial statement on the government’s strategy on measures to reduce the road toll.

Last year 705 people died and more than 8000 people were hospitalised as a result of crashes on Victoria’s roads. However, these figures alone cannot convey the full impact of road accidents on the community, particularly in human terms. One or two incidents,
tragic in their outcome, can sometimes show the reality more clearly than a compilation of statistics.

On Christmas Eve, at 5.30 a.m., five people were travelling in a station wagon towards Melbourne on the Hume Freeway; at Broadford, under the overpass bridge, the vehicle left the carriageway and struck the back of a parked truck; in an instant four people died; they were aged 21, 22, 26 and 27.

On Christmas day, at 6.50 p.m., two cars collided head on on the Calder Highway at Yelta; the parents of three children aged 6 and 3 years and 6 months died; the oldest child suffered spinal injuries.

The devastating impact of these two events on relatives and friends, and over 600 other fatal accidents in 1987, is almost impossible to conceive. While media attention is often focused on road fatalities, we should recognise that for every person who dies on Victoria's roads about thirteen people require hospitalisation. In fact, the cost to the community of severe injuries resulting from road accidents is estimated to be about three times that of road fatalities.

The stark reality of death, serious injury and damage to property is one that government, and society, must acknowledge and confront if the road toll in the future is to be reduced. To do so, one must of necessity broaden the view from individual incidents to an overall analysis of statistics and trends.

ANALYSIS OF TRENDS

Road deaths in Victoria rose throughout the 1960s and peaked at 1061 in 1970. Compulsory seat belt wearing was introduced in 1970 with immediate results; deaths in 1971 fell to 923. From the mid 1970s, a series of major road safety measures was progressively introduced and the annual number of fatalities fell consistently until around 1982. Despite the continual increase in the number of vehicles and people using the roads the number of deaths was brought down to the level of the late 1950s. However, for six years now the total has stayed almost stationary at that level—around 650 to 700.

In 1987, 705 people died in 626 fatal accidents on Victoria's roads—36 more fatalities and 15 more fatal accidents than in 1986. The increase in fatalities is partly explained by more multiple-fatality accidents occurring—a factor which is difficult to control. Of special tragedy was the high number of deaths over Christmas. In the last week of December, 23 people died compared with 7 the previous year. In contrast, 47 fatalities occurred in the first month of this year compared with 62 in January 1987—a result which highlights the variability in short-term statistics.

Of every 100 persons who die on Victoria's roads, 44 are drivers, 24 are passengers, 20 pedestrians, 9 motorcyclists and 3 are bicyclists. At special risk are:

- young drivers—18-25 years—who account for 40 per cent of driver fatalities and yet hold only about 20 per cent of licences;
- elderly pedestrians—70 years or over—who comprise 30 per cent of pedestrians killed while constituting only about 8 per cent of Victoria's population;
- deaths resulting from truck-involved crashes; about 1 in 7 road deaths occurs as a result of this type of crash; and
- motorcyclists, who comprise 9 per cent of fatalities while motorcycles represent only 3 per cent of vehicles registered.

Road safety performance has to be assessed not only in terms of absolute numbers but also in terms of rates. This is because each year the numbers of vehicles and road users and the amount of travel undertaken increases. In 1987, numbers killed were 34 per cent lower than the peak of 1970—1061 compared with 705 even though the number of vehicles on the road was 92 per cent higher and distances travelled were 60 per cent
greater. As a result, the death rate per 10 000 vehicles for Victoria has dropped markedly from 8·1 in 1970 to 2·8 in 1987.

In 1987, Western Australia was the only State to have a lower death rate than Victoria. Our rate of 2·8 per 10 000 vehicles was considerably lower than the figure of 3·1 in New South Wales, the most comparable State. Internationally, our death rate per million vehicle-kilometres of travel is comparable with those of countries such as the United States of America, Canada, the United Kingdom and Sweden. The levelling out in the absolute number of deaths in Victoria largely reflects the fact that Victoria's road death rate—at about 1·6 deaths per 100 million vehicle-kilometres of travel—is now close to the lowest levels achieved elsewhere.

Although impressive road safety gains have been achieved over the past two decades, road trauma still represents an immense social and economic cost to the community. The current cost of road crashes in Victoria is estimated to be $1000 million annually and this figure excludes the intangible social costs associated with suffering and grief. About 125 000 hospital bed-days are devoted annually to road trauma victims and substantial demands placed upon after-care facilities such as rehabilitation units, counselling services and convalescent homes—an immense load on the health care services of the State.

CURRENT APPROACHES

We must, and we will, continue to make inroads but it will not be easy. There are no magic wands. The problem cannot be tackled from only one direction, nor with a few isolated measures. The strategy must link together elements of a total system which comprises road users, vehicles and the road environment.

Victoria's record of achievement, as illustrated, stands up well in comparison with those of other States and comparable motorised countries. The basis of this achievement has been action on a broad front encompassing road, traffic, vehicle and behavioural measures and directed at specific road user and vehicle groups.

Some recent measures which have been implemented by this government with particularly high benefits include accident black spot treatments—benefit-cost ratio referred to as BCR of approximately 10 to 1; bicycle helmet wearing promotion and rebate scheme—BCR 10 to 1; revised motorcycle learner permit system—BCR 35 to 1; high levels of random breath testing—BCR 14 to 1.

Let me illustrate the range of fronts on which the government is fighting the road toll. One aim is to achieve universal road safety education in schools so that the right attitudes are adopted from a very early age and lead into adult years. We have made significant progress but much more remains to be done. We are currently investigating how best to achieve more road safety education in Victoria's schools.

To combat drink driving we have adopted a series of measures at the centre of which is the random breath-testing program which Victoria pioneered in 1976. Penalties have been strengthened, limits placed on technical defences to blood alcohol control provisions so the guilty do not escape and we recently introduced immediate licence suspension for those found with a blood alcohol content reading of .15 or more. The amount spent on mass media publicity to support police enforcement and to promote better attitudes has increased to nearly $500 000 this year.

We led the world, as the House knows, with the introduction of seat belt wearing legislation in 1970. Then, to protect our infants, the innovative safety bassinet loan scheme was introduced in 1985 and has been a remarkable success. All Victoria's municipalities have joined in the scheme and some 13 000 bassinets are available for loan, sufficient for 40 per cent of Victoria's annual birth rate.

Innovative technology has been applied to combat the serious problem of drivers ignoring red light signals at intersections, by the use of "red light" cameras. A speed management strategy has been adopted which forms the basis of a major attack on the
speeding driver. The system of speed zones will be revised and rationalised. We will ensure that enforcement is targeted where the returns in safety are greatest.

Promotion of bicycle helmet usage has been a major goal and has now risen to high levels. In addition to public education, rebate schemes have refunded $10 to helmet purchasers for at least one month in each of the past three years. Motorcycle rider training and testing systems have been revised with outstanding results with reductions in motorcycle fatalities over the past five years. We have adopted the best techniques available in traffic management, such as signal coordination, and these have produced major returns. We have undertaken major road improvements and have also put remedial engineering measures in place at over 600 accident black spots throughout the State. We have introduced a random on-road vehicle inspection system to ensure that heavy vehicles are kept in safe condition as well as annually inspecting all buses and taxis.

NEW INITIATIVES

The challenge we now face is to build upon the road safety achievements of recent years and to strengthen the current extensive program. Further reductions in the extent of road trauma are achievable but they are likely to be more difficult to obtain. They will come from improving the effectiveness of existing measures to ensure their full potential is realised and by introducing new specific measures which target specific road safety problems.

To this end the government will introduce a number of initiatives for implementation in the short term, with benefits far exceeding costs. They are as follows:

Drink-driving: random breath testing is one of the most effective weapons we have against drink-driving. We are determined to realise its full safety potential and this will come from making sure that drink-drivers face the highest possible chance of detection. We will therefore significantly increase the level of random breath tests from the present level of 400,000 per annum.

Traffic infringement notices for drink-driving offences up to -15 will be introduced covering not only fines but periods of licence suspension to free up police and court resources. The introduction of traffic infringement notices for these offences will increase the deterrent effect of existing penalties. As with all traffic infringement notices, the individual's rights remain protected, and the right to be heard in court remains.

An intensive public education campaign to hasten the process of attitude and behaviour change toward drinking and driving has already commenced. There is evidence that the government's existing measures on drink-driving have begun a process of attitude change among Victorians. To strengthen this positive trend a major new public education campaign costing $1 million will be undertaken. The sports sponsorship component has already been announced and intensive media advertising will start in May. These measures signify a further stepping up of our attack on the drink-driver. We are determined to get the greatest safety benefits out of the existing law. However, if experience shows this is not enough, change in the law will be considered.

Traffic management: a significant increase will be provided in funds allocated to the accident black spot program. An acceleration in the program will enable more sites to be treated, many before serious accident records develop. Some $9 million is already being expended on the program this year but the benefits are so high that we must try to do more. The additional funds to be provided for 1988-89 will enable as many further locations to be treated as possible.

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A special program of safety treatments at unprotected bridge abutments, culverts and embankments will be introduced. Collisions with fixed roadside objects account for some 27 per cent of fatalities and approximately 12 per cent of reported casualties. Embankments, bridges and culverts represent a substantial area at which to apply safety treatments. An allocation of $1 million will be provided for 1988-89 to enable some 80 to 100 locations to be treated.
Parliamentary inquiry into vehicle occupant protection: to achieve more rapid progress in developing new approaches for vehicle occupant protection, terms of reference will be given to the Social Development Committee to inquire into improved methods of protection. Some two-thirds of the persons killed and injured in road crashes are vehicle occupants. The level of protection offered by seat belt systems and other design requirements, such as safety glass, collapsible steering columns and the like require re-examination. New technology also requires specific investigation so that we can achieve the maximum possible gains from this particular area.

These measures, taken together, represent an integrated approach and provide additional support and resources for the broad program already in place.

FUTURE DEVELOPMENTS

While the measures which I have announced today can be expected to have an impact in the short term, further initiatives will be developed during the course of the year. Major problem areas for priority attention will include: safety at intersections; young driver accident involvement; protection for pedestrians and bicyclists; speed control; and motorcycle safety.

The emphasis frequently given to fatalities must be balanced by greater attention to reducing injuries. By focusing not only on casualties but also on specific types of casualty, the targeting of safety programs to ensure that resource priority is given to the major problem areas will be improved. While this has been a feature of past road safety planning, a new degree of precision will be required.

Other initiatives will emerge from the government’s consideration of the recently completed report of the Social Development Committee inquiry into child pedestrian and bicycle safety and the report to be issued following the committee’s inquiry into the management of convicted drink-drivers.

CONCLUSION

Governments in Victoria have frequently led the way in the manner in which road safety improvements have been pursued. The initiatives I have announced today, which have in many cases already been seen on television, taken together with the current program of action and research, will clearly enhance our vigorous pursuit of tangible road safety gains.

The Hon. ROBERT LAWSON (Higinbotham Province)—I believe the three parties in the House have a common interest in reducing the terrible trauma of injury, death and grief which flow from the road toll in Victoria. We have reason to be proud as members of Parliament that we have played our part in reducing road trauma but there is still much to be done. Members of my party will be pleased to debate the question with the Minister for Transport at a later time.

I move:

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

The motion was agreed to.

PERSONAL EXPLANATION

The Hon. REG MACEY (Monash Province) (By leave)—I wish to make a personal explanation relating to a misunderstanding that occurred between the Minister for Transport and me last evening and which led him to misrepresent my motives.

The Minister and I had a conversation prior to the motion for the adjournment of the sitting last night and I mentioned that I intended to raise with him the matter of an accident which had occurred in Canterbury Road and which I believed was relevant to the
danger faced by pedestrians in crossing Canterbury Road in the South Melbourne-St Kilda area.

I then sought to contact the police constable in South Melbourne who was preparing a brief for the coroner. Because that brief was uncompleted and the police constable was unavailable, I decided to ask another question of the Minister. When I asked the alternative question, the Minister said that the accident was a figment of my imagination.

For the public record—and it gives me no pleasure to have this on record as I am sure honourable members will join me in wishing that this accident had not occurred—I obtained the following information this morning from a traffic accident coordinator of the Victoria Police:

On the morning of 7 February 1988 two pedestrians were struck by a car in Canterbury Road and one pedestrian, Daniel James Cashmore, 32, of Box Hill was killed. They were seeking to cross the road between the rail reservation and the residential side of Canterbury Road.

That is all I need to say, Mr President.

The Hon. R. I. Knowles—I hope the Minister has the decency to apologise.

**ALGAL BLOOM IN GIPPSLAND LAKES**

The Hon. A. J. HUNT (South Eastern Province)—I move:

That this House acknowledges the widespread and increasing community concern about the growing problem of algal bloom in the Gippsland Lakes and calls upon the government to immediately set up a committee with suitable scientific qualifications to assess—

(a) the present and probable effects of the bloom upon the lakes and their ecology and its implications for all sections of the community;

(b) all the available information as to the cause of the algal bloom;

(c) the effect of the Thomson dam on algal bloom;

(d) whether the release of further water would remove the bloom;

(e) what other steps could be taken to halt and remove the bloom and to eliminate or mitigate its adverse effects and implications; and

(f) the steps necessary to ensure a properly coordinated approach to the resolution of the problem—and requests that the report of such committee be presented to Parliament as soon as is practicable.

This will not be a partisan debate. The issues raised are too important. The Opposition's case is simple. The Gippsland Lakes represent a priceless asset that is today under the worst threat in its history. Measures currently being taken are inadequate to avert that threat and the best and most expert minds on the subject must be brought together to prepare an action plan with alternative options for the government. After the government has decided upon an option, it must be implemented effectively to protect the Gippsland Lakes for all times. That is the simple case for the Opposition.

What I said first needs little demonstration. The Gippsland Lakes form the largest coastal lake system in Australia. It is an area of great beauty with winding waterways and islands fringed by farmlands, bushlands and rainforests. It is classified as of international significance under the International Wetlands Convention, known as theRAMSAR convention. It is part of Victoria's heritage and is of enormous significance for its general beauty, for passive enjoyment, for walks along the shoreline, for quiet boating, for houseboat holidays, for active recreation, including water skiing, and for fishing.

Due to the activities of man, the threat to the lakes has been progressively increasing for many years. A major change in the ecological environment of the lakes was created when they were exposed to the sea with a permanent opening. That has given rise to gradually increasing salinity. The damming of rivers has meant less flushing out of the lakes, which has contributed further to the progressive increase in salinity; Erosion has occurred around the shorelines and, with urban and industrial development in the Latrobe Valley and the
Gippsland Lakes area, nutrients in increasing quantities have flowed into the Gippsland Lakes.

Eutrophication has occurred. In many areas of the lakes the oxygen content is progressively decreasing year by year. More recently, partly because of the nutrients, partly because of lower water flows, partly because of stratification of the water with heavily salted water underneath and fresher water on top, partly because of inadequate movement in the waterways, and partly because of long, warm summers, the eutrophication has given rise to increasing frequency of algal bloom. This year the longest period and largest areas of algal bloom on record have occurred.

In recent years, more than 60 reports on environmental matters affecting the lakes have been presented to government. An overview report of the Gippsland regional environmental study dated 1984 summarises reports on all aspects to which I have directed attention. I had thought of reviewing a considerable number of those reports, but that would distract attention from the main thrust of the argument.

The reports clearly indicate that the lakes are facing threat from the various sources I have mentioned and governments have known that the threat exists. There is nothing new about the threat; it was acknowledged in April 1986 by the government in its volume entitled *Victoria: State of the Environment*. On the last page of the text the government stated:

Western Port and the Gippsland Lakes are both considered to be under threat.

That report was in 1986. The threat was known. Yet no action was taken to avert it and to protect the recreational and tourist values of the lakes and their value for fishing. At least, no positive and effective action was taken.

Reports have continued since the date of the two documents to which I have referred. A major 1986 report—which may be referred to by another speaker—from the Save the Lakes Committee is quoted regularly in government circles. One of the most prolific non-government writers on the geography and other features of the lakes is Dr Eric Bird, Reader in Geography at the University of Melbourne, who over many years has been a student of the lakes and the changes wrought by mankind. He has written comparative articles almost every year. His latest article, as yet unpublished, is dated this month. I have obtained a copy and I desire to read from four paragraphs in his summary:

7. Algal blooms have become increasingly common in the Gippsland Lakes in recent warm summer periods, when calm conditions have permitted the development of stratification of warm fresh over cooler brackish water in the Gippsland Lakes. Such algae flourish where nutrient levels have risen (eutrophication) in the lake water, and it is likely that the inflow of urban and industrial effluent, especially domestic sewage, has increased phosphate and other nutrient levels in the lakes, thereby aiding the outbreak of algal blooms. Further research is needed into the origin of such blooms and the means of preventing or dispersing them.

8. It is suggested that a scientific council be set up to coordinate the research that has been, and is being, carried out on the Gippsland Lakes, and to organise further work on problems, notably the algal bloom, where additional scientific data is needed for management purposes.

I propose later to indicate how badly that further research is needed. I will demonstrate that the research at this stage is sorely deficient despite the plethora of reports to which I have referred.

In paragraph 9 of his summary Dr Bird continues:

9. It is further suggested that routine monitoring of feature changes in the Gippsland Lakes, such as the onset of algal blooms, could be facilitated by the appointment of local rangers to carry out surveys, and receive news of phenomena observed by local people on and around the lakes.

10. The Gippsland Lakes are a large, complex, dynamic system, which requires an integrated approach to resource planning and management. Existing management, with divided and overlapping responsibilities held by numerous agencies and local authorities, is inadequate for this task.
The article deals in considerable detail with the history of human settlement in the area and with the various factors that have led to the progressive degradation of the Gippsland Lakes system. I need not go over those in any detail.

At page 8 a long segment on algal blooms commences. Dr Bird points out that there were no records of algal blooms in the Gippsland Lakes prior to the 1920s. He says that, subsequently, blooms have occurred in 1937, 1971 and 1974 and, on a small scale, are now an almost annual occurrence. Earlier blooms were of a different variety from those of more recent times. The 1974 bloom was of the salt tolerant species *nodularia spumigena*. The precise species is important for reasons that will be given. That has been the basic component of subsequent algal blooms, including the current blooms.

Dr Bird says this:

Because their occurrence has become more frequent, it is very likely that they are assisted by the eutrophication (enrichment of dissolved nutrients) of the lakes’ water resulting from the inflow of urban and industrial effluents, and in particular domestic sewage. There are of course natural nutrients in the lakes’ water, and in the sediments that have been deposited on the lakes’ floor, but the increasing frequency of the algal blooms is likely here, as in other lakes and lagoons, to result from increasing concentrations of dissolved materials, notably phosphates, derived from waste water discharged into the rivers and thence to the lakes.

Indeed, that has been the experience in many other parts of the world and in other parts of Australia. It was the experience in the Peel Harvey Inlet in Western Australia, where the problem has been successfully dealt with. It has been dealt with there and can and should be dealt with here.

Speaking of the current situation, Dr Bird says:

The dense clouds of blue-green algae in the lake water have had an adverse effect on seagrass growth, on the fishery, and on amenity, severely damaging the summer tourist trade.

In his conclusion, the learned doctor says:

The bloom of blue-green algae is the most recent, and one of the most dramatic, expressions of the impacts of human activities on the Gippsland Lakes. There is a strong local demand for management of the lakes to prevent such occurrences, and an acknowledgement that this will require a more integrated approach to the management of the resources of the Gippsland Lakes than has so far been achieved.

Later he says:

Integrated management of the Gippsland Lakes system requires an integrated approach of the gaining and circulating of scientific knowledge, and there seems to be a need for some kind of scientific council to organise and collate what has been, and is being, done, and to develop research on aspects, such as the recurrent algal blooms, which are not yet fully understood.

That is exactly what the Opposition is asking in the motion, here supported by the latest learned article by a well-known authority on the lakes system, as yet unpublished. I propose to make a copy of the article available to the Minister for Conservation, Forests and Lands for her information because it is an important article of which she would want to be appraised.

I have a series of photographs before me taken on 27 March 1988 by Mr Charles Heath, a well-known identity in the area. It is a pity that they cannot be incorporated in *Hansard* because they show the enormous extent of the algal bloom in Duck Bay, Newlands Arm and Eagle Point during the vital period just before Easter, a condition which I am told still exists. I ask the Housekeeper to pass the photographs to the Minister who may, in turn, wish to pass them on to other members to see for themselves the shocking extent of the algal bloom in the lakes.

Yesterday the Minister was good enough to provide us with a briefing by officers of her department, and I thank the officers concerned, Dr Collett and Mr Pooley, for their frankness and readiness to cooperate. The remarks were informative.

Blue-green algae, which is known as cyanobacteria, contrary to popular belief, is not a plant but a bacteria chain. I asked the officers which variety it was and they said it was
nodularia. I asked them what tests has been undertaken on the toxicity of the strain. I was told, in the presence of Mr Long and Mrs Tehan, that none had been taken and that nodularia is non-toxic.

That answer, of all given, concerned me greatly. In my reading, I had found references to say that often poisonous and non-poisonous blooms of different strains appeared in the one bloom. If there were an assumption that the entire bloom was non-toxic without a test being taken, the assumption might be based on inadequate facts. I had also discovered from my reading that nodularia, although frequently non-toxic, can often be toxic too.

I checked on the references that I had previously studied. I turned to the Medical Journal of Australia of 28 May 1983—and again I propose to make a copy of this reference available to the Minister—in which the leading article dealt with cyanobacteria or blue-green algae. That article referred to the many varieties of these bacteria, only some of which had so far been shown to be toxic. Some of those bacteria were toxic and some could be toxic on one occasion and not on another. The article made it clear that both poisonous and non-poisonous strains have been recovered from the same bloom. The article also made it clear that nutrients, light and temperature not only influence the production of the bloom, but may enhance its toxicity. Blooms that had been of no or minor toxicity could, under those circumstances, become toxic or severely so.

That leading article in the Medical Journal of Australia went on to say that the appearance of toxicity was unpredictable. It further stated that testing was required to determine the toxicity of each bloom. Nothing has been done to determine the toxicity of each bloom in the Gippsland Lakes. It has simply been assumed that nodularia is non-toxic.

In the preparation of this case I had cause to ascertain who was the leading expert in this country on toxic bloom in blue-green algae. I found that Australia has a clear expert who is also a world expert in this field. I was referred to Professor Ian Falconer, Professor of Biochemistry at the University of New England in Armidale, New South Wales. He is Australia’s leading expert, and in fact a world expert in this field. Professor Falconer conducts a laboratory to which blue-green algal bloom from around Australia is sent for analysis to determine its toxicity or otherwise.

It was to Professor Falconer that the bloom from Peel Harvey Inlet in Western Australia was sent. It was to Professor Falconer that the bloom from the Gippsland Lakes was not sent, despite the fact that he is an expert of world-class standing.

The Hon. B. A. Murphy—Why didn’t you send him some?

The Hon. A. J. Hunt—I shall ask the government to do so. Following the interview with officers from the Minister’s department yesterday, I telephoned Professor Falconer at his home last night. I told him specifically that it had been alleged that nodularia is non-toxic. He said, “Nonsense; it may be and it may not be.” The first reported toxic algae in the world was nodularia. It was reported here in Australia at Lake Alexandrina in South Australia in about 1885, where it caused widespread stock losses from the drinking of infected water.

The professor also told me that this form of blue-green algae grows in reservoirs, lakes and slow moving rivers; that it represents around the world a new and often toxic problem that society has brought on itself through phosphate and sewage pollution.

Members of the House may have heard the environmental program on 3LO last Wednesday evening. Professor Falconer spoke on that program on this very subject, and told the story of a family in Sweden who went swimming in nodularia infected waters with two dogs. They came out of the water quite safely, but the dogs licked themselves clean and both were dead within 20 minutes.

Professor Falconer told me that the problem was costing a considerable amount to overcome in America; and that he had received one public sector estimate that the cost of
dealing with blue-green algae in Australia—and I emphasise that this was not nodularia alone—was likely to be $3 billion by the end of the century.

Nodularia can produce a liver poison which attacks fish, birds, sheep, cattle and people when it is toxic. The professor also referred me to an article he had written which appeared in the *Toxicon*, Volume 26, No. 2 of 1988 that was published in Great Britain under the heading of “Toxicity of the Cyanobacterium Nodularia Spumigena Mertens”. The article was written by himself in collaboration with Maria Runnegar from the Department of Biochemistry, Microbiology and Nutrition at the University of New England, and Alan Jackson from the regional veterinary laboratory, Department of Agriculture, Armidale. The article was accepted for publication on 2 September 1987.

The extract states that nodularia spumigena produced a peptide hepatotoxin, which is a liver poison. The introduction to the article states:

The most common bloom-forming cyanobacteria, microcystis, anabaena, nodularia and aphanizomenon are sometimes toxic, causing deaths of wildlife and domestic animals. Nodularia spumigena blooms occur in estuaries and in farm dams with most significant occurrences of toxicity in Australia and in the Baltic region.

What is obvious is that there has been a defect in the research in Victoria, a defect that needs to be remedied urgently. There has been an assumption that, because nodularia is not always toxic, it is not toxic; that because the toxicity is the exception rather than the rule, it is not toxic.

The Hon. B. A. Murphy—It is not toxic at different stages.

The Hon. A. J. Hunt—That may be so; I am not a chemist and I do not know the answer to that, but it is well worth the government’s while to contact Professor Falconer as a matter of urgency and to send him reasonably sized samples of the blue-green algae from various places in the Gippsland Lakes, because the blooms could differ from place to place. That would enable his laboratory, which is the most experienced in this field, to test the samples for toxicity. Let us hope that the Gippsland Lakes bloom is non-toxic, but at the very least there is an obligation to find out, and to find out very quickly, whether it is toxic or not, because it represents an enormous blight on the Gippsland Lakes.

The facts I have shown indicate a need for further action and make clear that what we have not been doing has been getting solutions. What we have not been doing is reducing the problem. What we must do is undertake further research, find the answers and implement them unless this priceless asset is to be destroyed or degraded very substantially indeed.

This is an issue of enormous importance to the people of the Gippsland region, but it is an issue of equal importance to the people of Victoria as a whole who use the Gippsland Lakes as a wonderful recreational area. I doubt if there is a member of this House who has not been to and enjoyed the lakes. I have done so on many occasions. I have walked about; I have swum in them—although I would not do that today. I have caught fish in them.

The Hon. L. A. McArthur—You are lucky!

The Hon. A. J. Hunt—Indeed. My friend the honourable member for Narracan in another place is a much better fisherman than I, and he can always guarantee a catch. In passing, I might say that there are a few fishermen who do not believe that the bloom so far has been entirely a blight. What it has done is to force many fish further upriver, and fishing in those rivers has been better this year than ever before. However, that would hardly be an excuse for inaction.

I want to make it clear that this debate is not intended to be an attack upon the government. Indeed, the problems have arisen over a much longer period than the life of this government alone. I wish to make it clear that the Opposition will cooperate with the government in every way in an attempt to overcome the problem. I wish to make it clear also that any information available to me will be made freely available to the Minister, just as she has been prepared to make information available to the Opposition.
What we are saying is that there is a problem—a problem that is very real; a problem that needs to be tackled and must be tackled forthwith; a problem to be recognised as one that is likely to be costly, but a problem that will be far more costly again if it is not tackled without delay.

I commend the motion to the Minister and to the House.

The Hon. C. F. VAN BUREN (Eumemmerring Province)—I oppose the motion moved by Mr Hunt, although I sympathise with and understand what he is trying to say about the problems in the Gippsland Lakes. The government and the Minister understand the problems.

I do not envisage the establishment of another committee as being of any assistance in solving the problem. Mr Hunt referred to Mr Charles Heath, who is obviously a well-known identity in the area and whom I know, and to various other experts who say that the dumping of toxic waste over a number of years has caused the continuing problem.

Mr Hunt also referred to Professor Falconer of the University of New England. Rather than establishing a committee, that information should be given to the Minister and her department to enable a study to be made of the problem. A committee would consist of politicians who would travel all over the place but get nowhere towards solving the problem.

I am well acquainted with the Gippsland Lakes area. I first spent a holiday there in 1962 on a Bulls cruiser which was based at Metung. I used to cruise the lakes regularly and on later holidays base myself in Paynesville with a number of other people to go boating and fishing on the lakes from that point. During that period I became acquainted with the professional fishermen. I learned and gained an understanding of the lakes from them, particularly the environmental problems on the lakes and the effects of the dumping of waste over a number of years.

As Mr Hunt stated, this has been happening for some time. The Gippsland Lakes area is one of the most attractive in Victoria. One of the gentlemen with whom I became acquainted was a businessman who had spent a lot of time in the Mediterranean region. He said that the Gippsland Lakes region was a good location by comparison with the Mediterranean, and that people holidaying in the Mediterranean region at a huge cost could have a similar holiday on the Gippsland Lakes at a lesser cost.

The Gippsland Lakes form the estuary of two major and three minor rivers. The main catchment system is from the Latrobe and Mitchell rivers, and has an area of approximately 20 000 square kilometres, which is approximately 9 per cent of the area of Victoria, which is large in anybody’s language.

Most honourable members at some time would have appreciated the beauty of the area. The opening of the entrance in 1889 was the commencement of one of the problems.

The Hon. A. J. Hunt—Undoubtedly!

The Hon. C. F. VAN BUREN—That is one of the main problems. When the lakes are low they do not flush properly. I am not being critical, but the problem existed while the Liberal Party was in power—in fact, for 27 years. The problem at the lakes commenced, as Mr Hunt stated, in the last century, but recurred, to my knowledge, in about 1970 and 1973, and has again occurred.

I have had experience of the algal problem as I was there at the time. The smell is nauseating and obviously turns tourists away. People do not seem to catch many fish, although the algae do not kill the fish because they seem to survive. The fish move up most rivers and if a person is standing in a river mouth he will catch more fish than ever.

Boats tend to run aground because the channels are blocked with weeds that have grown around the area during that period, causing problems particularly for those who are not good sailors. The main effect, as has happened previously, is that the tourist trade declines
because people will not visit places like Paynesville, Raymond Island and other centres. Every summer business in the area is based on attracting tourists, having them camp on the shores of the lakes and buying beer from the hotels. It is all good business.

I refer to a letter from Mr Waye of Lake Street, Loch Sport that appeared in the Herald on 30 May 1980. The letter states:

Seven and half years ago, on November 13, 1973, the Herald published an editorial headed “Act now to save the lakes”.

Points made in this editorial were the dangers the Gippsland Lakes faced from pollution, neglect and unwise subdivision. The lakes, the writer said, were on the receiving end of the Latrobe Valley’s industrial filth.

That problem has been occurring for many years, and has created almost a dumping ground.

The letter continues:

The editorial concluded by saying that what was needed was a single authority to preserve and save the lakes for our children.

Well, the years have passed. Millions of words have been written in reports by this department and that body, the single authority idea has come to nothing, and the lakes system is today in even greater danger than in 1973.

At a time when tourism throughout east Gippsland is being actively promoted, the chief drawcard, the lakes system, faced the twin threats of lessening fresh water flow from rivers diverted upstream and the burgeoning development in the Latrobe Valley. During the past weeks, we have heard that Australian Paper Mills plan a massive expansion program.

One of the problems is that Amcor Ltd, which was then known as Australian Paper Mills Ltd, is dumping waste and other materials into the waterways, which causes serious problems.

Many articles have been written about the Gippsland Lakes, and I do not intend to quote from them. However, I see no need to establish a committee to inquire into the problem of algal bloom in the Gippsland Lakes, because I believe the Minister for Conservation, Forests and Lands and other Ministers and members of the government are already addressing the matter.

Mr Hunt said that, in moving the motion, he was not criticising this or any previous government. I am sure even the Ministers of the previous Liberal government were concerned to get to the crux of the problem and to find out why the problem re-emerges from time to time. It seems to re-emerge every five or six years.

The Minister and the government have realised that there is no simple solution to the problem. It is not a matter of just walking in and finding a solution. It may be that one professor has one idea and another professor from somewhere else has a different idea. Those thoughts need to be put together.

It has been suggested that somehow the Thomson River dam flow has caused the problems in the Gippsland Lakes. It is my understanding that it has played no part in creating that problem; so that theory is dispelled. The flow is at the same level as it was in 1976. Some people have suggested that the level of the flow should be increased now. The Thomson dam was built under the previous Liberal government.

This government is concerned about the matter. Any government and any decent human being would be concerned about it, and the government has taken some measures to find a solution to the problem. A number of possible solutions are under consideration. Mr Hunt was correct when he said that no-one has yet found the right solution.

One of the solutions being considered by the government is the mechanical harvesting of the bloom from the water; but again, because of the large areas involved, this is not considered feasible. Localised removal of the algal scum that accumulates near the shore using oil spill control equipment has also been suggested as a solution.
Another suggestion is the mechanical removal of scum from popular beaches. This method has, I understand, proved to be successful interstate and overseas—for example, at Peel Harvey Inlet in Western Australia. Approximately 3700 cubic metres of algae has accumulated at Paynesville, Eagle Point, Raymond Island, Metung and Nungurner. Those are tourist areas. The government has considered the possible solutions, and I am sure the Minister will outline a number of other measures that the government intends to take.

There is a possibility for the development of a better environment protection program, but the government has a good record in looking after the environment and addressing problems of erosion and so on. The government has implemented a State environment protection policy for the Latrobe River and its tributaries and the waters of Victoria. These policies have specific water quality objectives for the rivers and lakes and are used for control of discharges; they provide the basis for managing water quality.

In some of the highly industrialised areas of Victoria problems are caused by the State Electricity Commission and companies such as Amcor Ltd dumping all their rubbish into the lakes system. The government is taking steps to ensure this will not occur in future.

I understand that, in conjunction with other agencies, the Department of Conservation, Forests and Lands is preparing a management plan for Lake Wellington which should be available soon. That is a good way of increasing public awareness of the problems. One should bear in mind that the lakes system extends from Sale to Lakes Entrance; that is a vast area. The Department of Water Resources and the Department of Conservation, Forests and Lands are working with river improvement trusts to reduce river bed and bank erosion.

With the implementation of the government's policies on environment protection, the problems could be addressed far more adequately than by the establishment of a committee. With all due respect, in recent times an increasing number of committees have been formed in this place. Whenever anything happens there seems to be a tendency to establish yet another committee to inquire into the matter. By the time such a committee meets and gets the experts together, by the time the politicians have a talkathon about it to find out what is what, and by the time a report is written and presented to the House and to the Minister, twelve months could go by.

It would be better to ensure that action is taken more quickly than by the establishment of a committee. Mr Hunt seems to have much information on this subject. As usual, he presented his case well. If he has that sort of information and is able to assist the government, it would be better for him to do so more directly than through the establishment of a committee. For that reason, I oppose Mr Hunt's motion.

The Hon. D. M. Evans (North Eastern Province)—Mr Hunt has brought a very important issue before the House today. The fact that impressed me most in listening to the points he made in support of his motion was that he was criticising the issue itself and doing so in a constructive fashion. He did not criticise the government, but simply suggested that there was a problem on which action needed to be taken. In those circumstances, given the depth of the problem—and I intend to go into more detail about some of those problem areas in a minute—there is no way the House can afford not to support Mr Hunt's motion.

I was surprised that Mr Van Buren was so defensive of the government in his contribution to the debate and that he said in his final statement that he could not support the motion. The government itself was not under criticism at any stage. One wonders, because of the immediate reaction of Mr Van Buren in springing to the government's defence, whether some degree of mea culpa was involved in his statements to the House.

The general tenor of his remarks recognised that there was a problem; that solutions to the problem needed to be found; and that it was the responsibility of the government of this State to take action. With the very best of intentions, Mr Hunt directed the problem
to the attention of the House so that that action could be taken. That is what Mr Hunt has done today, and I commend him for it.

My colleague, the honourable member for Gippsland South in another place, represents an electorate which covers the major areas of the Gippsland Lakes. He has an intimate knowledge of the day-to-day issues and problems in the area which have been directed to the attention of the House by Mr Hunt. The honourable member for Gippsland South has briefed me in considerable detail on the issues involved. I understand it is a complex problem and is as Mr Hunt sketched out, but things have changed in the past 150 years since settlement of the Gippsland area and the development of industrialisation both in primary and secondary industries.

There have been divergences and changes in the flow patterns not only of the streams that feed the Gippsland Lakes, but also, indeed, of the lakes themselves. Further, I am told by Mr Wallace, the honourable member for Gippsland South in another place, that in eight of the past ten years the algal bloom has become increasingly apparent in the Gippsland Lakes area.

I remind the House that Mr Hunt mentioned in his comments that in the past 50 years or so—since the middle 1930s and prior to the late 1970s and early 1980s—on only about three occasions had the algal bloom become very apparent or, indeed, caused a real problem. It would appear that something has changed in the environment of that area to severely exacerbate the problem. Perhaps we need to look, as Mr Hunt suggested, to the reasons for that. Most certainly there have been substantial discharges of water from surrounding industries, which is a matter of concern not only in this area but also in other areas in Gippsland.

One could cite the example of the papermill at Maryvale, which often receives the blame. However, there are major power installations operated by the State Electricity Commission in the Latrobe Valley to be considered, and the considerable urbanisation that has taken place with the development of major industries in the area could also contribute to the problem.

There are three reasons for the issue of pollution into the Latrobe River, which discharges first of all into Lake Wellington and later on into the most affected lakes, lakes King and Victoria.

It is interesting to note that Lake Wellington itself does not at this stage seem to have a similar algal problem. It would appear that the reason for this may be that the turbulence in Lake Wellington is such that the stratification that is apparently occurring in lakes King and Victoria does not occur and the narrow band of affected water that is occurring in the top of lakes King and Victoria may not be forming or may be more rapidly broken up by water movement in Lake Wellington.

It is important to recognise that it would appear likely that the amount of available oxygen in the water has a substantial effect on the manner in which algae bloom. Where there is a rich stew of nutrients and a lack of oxygen, more likelihood exists of algal development, which causes the problem.

I understand that at this stage the algae are so thick that they form a substantial and easily visible crust on the lake. Mr Hunt distributed graphic photographs to honourable members earlier which showed vividly the extent of the algal bloom and the disruption of the lake surface.

It would seem that, because the problem appears to be aligned to eight of the past ten years, which have been drier than average and have resulted in the least water flow into the lake, one solution may be to make an additional flow of water available to the lake itself. I am aware that the opening out of the lakes to the sea has led to a further incursion of salt into the lakes area, and this could also be a causative factor—if perhaps a minor one. Even the increasing salinisation in the smaller lakes could be ameliorated to some extent by an additional flow of water into the lakes.
The Hon. J. E. Kirner—No, that is just not right.

The Hon. D. M. EVANS—The Minister will have a chance to reply in a minute.

It is worth noting that the Thomson dam, which has blocked off the Thomson River, is one of the two major streams that flow into the Gippsland Lakes area. It is holding back enormous amounts of water which would not be needed in the City of Melbourne for up to ten or fifteen years—or, indeed, a longer period—if better education in the proper use of water were to be carried out in the city. We must recognise that, if we are to block off streams, ecological effects will follow. We accept that this happens throughout Victoria, and it would appear to be happening in the Gippsland Lakes at this time.

I am told a measure of water quality, which I understand is the degree of available oxygen, shows that a reading of 8 on the scale means that the water itself is regarded as pure, clean and top quality. Fish can live in water with a reading of 6 on the same scale. The Gippsland Lakes, where the algal bloom is currently a problem, register in the region of 2 to 2·5 on that scale. Therefore it has a quarter of the quality of freshness it should have if it were to be regarded as first-quality water.

It appears that there is considerable stratification of the water in lakes Wellington, King and Victoria. It has not assisted the dispersion and the dissolution of oxygen in the water. The lack of oxygen is, in part, probably the cause of the algal bloom. One might say that it is unfortunate that the algae are a symptom of a problem, but there are no side effects.

However, Mr Hunt pointed out that other effects are being experienced by not only the unpleasant visible impact on the environment of large amounts of algae, but also the algae may well be dying. Apparently, in the past few days the algae have turned red. Far more importantly—and this has not been reported to the House today—large numbers of fish are dying in the Gippsland Lakes area, particularly between Loch Sport and Marine Jetty, a distance of about 2 kilometres.

Fish are being washed up on the banks, and I understand a strip of dead fish 1 to 2 metres wide has formed in the past few days. Some of the fish in the lake itself are ill. Since they are still alive, they are being caught and, in some cases, eaten. Dr Sawyer, who is a practitioner in the area, has reported a number of cases of patients with vomiting and diarrhoea. I believe it is a matter of great urgency that the public in this area be warned not to eat fish from the lakes because people have become ill from doing so.

Mr Hunt referred to the findings of Professor Falconer who is a world expert on nodularia. Professor Falconer said that under some circumstances the algae can become poisonous or cause a poisonous effect in water.

It may be that the stew of nutrients, including phosphates, together with a lack of oxygen creates conditions that cause the algae themselves to develop poisonous properties. Associated algal bacteria may cause the algae to form substances which are poisonous to both fish and human beings.

I pointed out earlier that the supply of oxygen in the water could well be a problem. Those honourable members who are aware of the methods of sewage treatment will understand that sewage can be diluted by aeration and the solids broken down in such a way that what was once raw sewage can become potable water at the completion of treatment.

The Carrum treatment plant, which treats a substantial amount of the effluent from Melbourne, is a clear indication of that process in operation and a number of sewerage plants around Victoria, where there has been a problem with other unpleasant side effects, have used the process of aeration to reduce the problem, so clearly the ability of water to deal with nutrients or algae or other unpleasant substances that may be mixed with water is substantially affected by the water's ability to take up oxygen.

Tests have been undertaken by a Mr John Strong to find out why the natural water turbulence in this area and the oxygen mix is not occurring. It would appear to be critical
to further examine those issues and allow Mr Strong to continue his research and reach a conclusion, and I believe that particular process is adequately dealt with in the motion.

The general effects on the area of south Gippsland no doubt recently extended into the Gippsland Lakes area, which is so well represented by my colleague in another place, the honourable member for Gippsland East, Mr Bruce Evans. This area is of real concern because tourism is a major industry.

It is worth noting that tourism is one of the government’s designated growth industry areas. In many parts of Victoria it has top priority. Indeed, if any area of the State has a problem tourism is seen as the saviour industry for it and the Gippsland area, and east Gippsland in particular, does have a substantial unemployment problem but, at the same time, has the capacity for a substantial increase in the tourism industry. The Gippsland Lakes are a major tourist attraction and the quality of the water is severely under threat, which could rob east Gippsland and south Gippsland of one of its major tourist attractions.

The honourable member for Gippsland South in another place, Mr Tom Wallace, is the National Party spokesman on tourism, and he has received, as a good spokesman should, numerous calls and expressions of concern from business people in the Gippsland area concerned that their tourism business is being substantially affected by the algae problem in the Gippsland Lakes.

It is clear that a problem exists, and Mr Hunt has identified it. Mr Van Buren identified the problem also and this House should now ensure that those who have a responsibility in this State take some action. I was concerned when Mr Hunt indicated that already there had been approximately 60 reports on the region to the government which clearly show the developing trends in the Gippsland Lakes region.

I am concerned that a further report called for in the motion should not just go the way of the other 60 reports, which have been put on the shelf somewhere. There is a need for a following up of information that is available, and perhaps I should say that it is a pity that Mr Hunt did not include in his motion a stronger point than simply asking that the result of the report be brought back to Parliament and presented as soon as possible.

However, given that this is now becoming an increasingly serious problem, given the fact that substantial research has been done by a number of expert people and given the fact that Parliament is to have a report presented to it at the earliest possible date should the motion be carried—and it should be—perhaps that will throw the ball back at the feet of the department.

I should add that the next government of the State will be a conservative government involving the National Party and I hope the somewhat negative approach adopted by Mr Van Buren and his total defensiveness in the face of a problem will not be a feature of the next government when dealing with these issues.

Honourable members such as the honourable member for Gippsland South in another place will have an even greater influence on the course of events and I am sure that all National Party members and also our colleagues and friends in the Liberal Party will be more than happy with the return of a proper and responsible conservative government, which will take clear action on the report Mr Hunt has called for on the issue of algal bloom in the Gippsland Lakes. It is necessary for the protection of the water in the region, the protection of the fish, the environment, and for the good order and health of the tourist industry.

The motion is worthwhile. It deserves the support of the House and I have much pleasure in indicating that the National Party will support Mr Hunt’s motion.

The Hon. B. A. MURPHY (Gippsland Province)—Mr Hunt’s motion is an important one but I cannot support it because already there have been enough committees and studies of the Gippsland Lakes region over the years for people to make up their minds as to what should be done now.
I have lived near the Gippsland Lakes for many years. Last weekend I had the misfortune, or the good fortune—depending upon which way one looks at it—of travelling on the lakes, which are among the most beautiful parts of Australia, if not the world. The algal bloom present at the moment is a foul, nauseous substance that is disgusting and it certainly turns tourists away.

Last Monday I discussed the problem in Bairnsdale with the Small Business Development Corporation, which was in the town considering various projects for the Gippsland area. The algal bloom is of concern to all councils, politicians, political parties and tourist operators in the area. I was warned of the beginnings of the algal bloom problem in October of last year and I was asked to look at the Gippsland Lakes. I must admit that I did not believe the problem would become as bad as it has. I thought it would go away earlier in the year but it did not; it worsened.

One can trace the very beginning of the algal bloom problem back to 1974 when an important environmentalist, Cliff Wolfe, warned people about what would happen on the lakes in years to come. I remember attending a seminar at which Cliff Wolfe spoke in Bairnsdale, where he exhibited types of water throughout the lakes. He put the problem down to pollution of the lakes by various industries at the time including the State Electricity Commission, the Gas and Fuel Corporation and APM Ltd.

I do not believe that is the problem. My opinion is that it concerns the entrance at Lakes Entrance and the salt entering the lakes at that point. The problem is the stratification of the water where the salt lies on the bottom, with the fresh water on top. There is a stratification of the waters and, with the unusually dry summers over the past couple of years, a type of virus or fungus has been created which can be stopped by treatment at the right time.

The Minister for Conservation, Forests and Lands knows the Gippsland Lakes area, as do Mr Van Buren and Mr Hunt and other honourable members in the other place. We are all aware of the beauty of the lakes and the danger to the lakes but, by forming another committee, we will in no way stop algal bloom.

It has been mentioned that 60 reports have been submitted over the years and one of the most important inquiries into the Gippsland Lakes was the Gippsland Lakes Environmental Study carried out between 1974 and 1982. It provided a lot of data about the Gippsland Lakes. People are aware of the problems. The main problem is the salting of the lakes. Until 1890 when the opening was made at Lakes Entrance, the lakes were fresh water. Also, since that time more people are living around the lakes in the areas of Paynesville, Metung, Lakes Entrance and Bairnsdale.

I should also add that farmers have a lot to do with the pollution of the lakes. For example, the vegetable crops around the Bairnsdale river flats require intensive cropping, using large amounts of superphosphate and other phosphates. Eventually, these substances end up in the lakes. People will continue to live in the area, and the cropping of vegetables will continue. Those problems will have to be lived with.

The Department of Conservation, Forests and Lands has also worked on the problem. I refer to an article in the Age of Thursday, 10 September 1987, which is headed “More Fish are Jumping from Bubbling Lake Bullen Merri”. Lake Bullen Merri is near Camperdown, and Mr Arnold will recall opening a display in that area. The article refers to the use of a new type of compressor pump that pumps water into the lake and assists with the growth of fish. I shall not read from the article, but I refer honourable members to the process involved. It was a forerunner of what is taking place in the Gippsland Lakes area.

The Bairnsdale Shire Council is about to install a compressor pump. That installation is a pilot program that may help to stop the spread of algal bloom. A company in Clayton, Cash Engineering Co. Pty Ltd, has been trying to solve the problem of algal bloom. It has been involved in work at Lake Bullen Merri and at the Tarago dam near Warragul.
Compressor pumps have been installed on the dam to assist in breaking up the stratification of the water. That process stops weed growth and the growth of algal bloom.

Governments over the years have conducted research into the Gippsland Lakes area, which has changed because what was formerly fresh water is now partly salty. Mr Evans comments, by interjection, that Lake Wellington is free of algal bloom. It is important to note that Lake Wellington is the freshest part of the lakes system—and that is a key to the control of the algal bloom problem.

The Environment Protection Authority regularly monitors the chemistry of the lakes area. The Department of Conservation, Forests and Lands is preparing a strategy for the management of the lakes area and the surrounding catchments and a strategy for Lake Wellington, which is being developed by the Department of Conservation, Forests and Lands in conjunction with other agencies, should be available by June of this year.

That strategy is being developed as a result of proposals put forward at a seminar on the Gippsland Lakes which I attended in 1986. More than 100 people attended that seminar and it was a watershed—if I may use that pun—for the future of the lakes.

Most people understand that the basic problem is one of salinity: the level of salt in the lakes has killed off a lot of growth and has changed the character of the water. For example, that situation has enabled bream to flourish in the lakes. It has also led to the growth of algal bloom, which may be a toxic substance.

The greenhouse effect must be taken into account. A few weeks ago, honourable members had the opportunity of listening to Professor Cole talk about the dangers involved in the warming of the planet. The effect of photosynthesis on the lakes is exaggerated by such a process because the lakes are very shallow. These problems were not thought of ten years ago—or if they were thought of, they were not discussed. The Department of Conservation, Forests and Lands is now attacking the problem.

The Environment Protection Authority, together with the Department of Water Resources, is examining the effect of new sewage treatment plants in such towns as Metung and Paynesville; it is a large problem because of the number of people who live in the lakes area.

The Department of Water Resources and the Department of Conservation, Forests and Lands are cooperating in studies intended to reduce river bed erosion. The Department of Agriculture and Rural Affairs and the Department of Conservation, Forests and Lands are examining ways of conserving soil on agricultural land by reducing the run-off of nutrients. It is to be hoped that those acts will ensure that such problems have as little effect on the lakes areas as possible. The Rural Water Commission is cooperating with other agencies in a review of the use of water resources in the south-eastern region of Victoria.

I recently attended a meeting in Sale. The people who attended that meeting were all interested in such problems. Mr Hunt is concerned about the quantity of water that is taken away from the Gippsland Lakes. That is not the biggest problem facing the area. If more water is provided for the lakes area at the moment, that may have the effect of flooding the lakes. Such a suggestion may be beneficial, but it would not solve the problem of algal bloom.

It is important that the Department of Conservation, Forests and Lands monitor the shores of the lakes area as well as the beds of the rivers. There are many individuals, government bodies and agencies, and councils that are concerned with the control of the lakes area. Only one agency or department should be responsible for such a task. Mr Hunt did not allude to that in his speech; his speech would have had more impact if he had called for only one agency or department to be responsible for the Gippsland Lakes. The Department of Conservation, Forests and Lands is the most active department concerned with the control of the area. A group of competent people should be established within that department to administer the lakes area.
The Minister for Conservation, Forests and Lands appointed a Cunninghame Arm consultative group, of which I was chairman, to examine the problems of that area. The group achieved excellent results in identifying the need for a clean-up of Cunninghame Arm. More than $60,000 was spent immediately; and over the next year or two $1.5 million will be provided to clean up the beaches of Cunninghame Arm.

An application is currently being processed for the development of tourist facilities on Bullock Island; that development is part of the Cunninghame Arm strategy plan. Departments and councils have cooperated in a plan for the restoration of Cunninghame Arm. It is a pilot program that serves as an example of what could be done with the Gippsland Lakes. A single government body should be given the responsibility for the Gippsland Lakes, and no government department is more attuned to the needs of the Gippsland Lakes area than the Department of Conservation, Forests and Lands.

I do not support the motion. I do not believe another committee should be established. Sufficient research has been conducted into the problems of the Gippsland Lakes area. Honourable members must decide how to tackle the problems, which is what the Bairnsdale Shire Council is doing at the moment. The council is installing a compressor pump. I hope the Department of Conservation, Forests and Lands will look at the results achieved by the installation of the pump, particularly the effect it has on the growth of algal bloom.

The growth of algal bloom is a worldwide problem, not one merely confined to the Gippsland Lakes area. The cause of the problem is evident. Solutions must be found so that the lakes area can be restored to its former beauty. I was there last Monday and noticed how beautiful the lakes were, but at the back of Paynesville there was a terrible stench from algal bloom. It is far worse than most honourable members could imagine. I know the Minister for Health was at Metung at Christmas and was horrified at the stench. One could not swim at the lakes because of the major problem.

Although it may be an unusual occurrence that would occur only one year out of ten years, we do not want it to happen again. The government must pull out all stops to ensure that it does not continue to be a problem. The Opposition has indicated that it will support any moves the government takes to clear up the problem. Setting up a committee will not solve the problem.

The Hon. B. T. PULLEN (Melbourne Province)—In entering this debate I acknowledge the positive way Mr Hunt has addressed himself to the subject and the fact that he has portrayed it as a bipartisan problem that should be addressed by all honourable members with concern for the Gippsland Lakes area, the environment and the need to remedy a serious emerging problem. I also compliment him on the depth of research that he has obviously done in preparing for this debate. It is quite interesting and heartening to note that, when honourable members have researched matters in a debate, they show considerable commonality of understanding of the complexity of the problem faced, realising that there is not a simple, quick fix.

The motion is trying to address problems that have had a long history. The problem can be remedied only by sustained and cooperative effort. I shall single out Mr Evans for some degree of criticism later because, unlike Mr Hunt and others, Mr Evans overemphasised the role of the Thomson dam. Mr Hunt mentions the Thomson dam in the motion but placed it in context in the debate, rather than attempting to resurrect the old chestnut of laying blame for a complex problem on one impoundment. I shall take the trouble of trying to show that that should not be necessary for anyone who has read the appropriate reports and to indicate why one must keep the contribution of Thomson dam in perspective; rather than in the way Mr Evans portrayed it.

Other honourable members demonstrated the history of this problem. I do not intend to go over that ground in detail, but it is important at least to acknowledge some of that history. One point worth mentioning is that much of the clearing for agriculture and goldmining in this area occurred between 1840 and 1870. At that time the land was more cleared than it is now. Areas such as the lakes were to be repositories of large deposits over
a period of time. It is the nature of the silt brought into the lake by rivers and deposited in the comparatively still lake waters. Chemicals were contained in those silt deposits. A period of land clearance is a serious event in those circumstances, and we may be reaping some of the harvest of the events of the latter part of the last century.

As early as 1874, visitors to the district commented on the extent of soil erosion occurring at that time, so it is quite an old phenomenon; and some people in those days were clearly sensitive to the problems of that catchment as some are today.

As has been mentioned, probably one of the most significant changes, if not the most significant change, that occurred was the opening of Lakes Entrance in 1889, which changed the basically freshwater lake—it was not entirely freshwater because it contained a certain amount of salt as most of those lakes did in a natural state, even in east Gippsland—to a fairly saline estuary environment. As most scientific commentators have stated in their papers, the lakes system has been doing its best to adjust to that traumatic change ever since. The regime changed from a near freshwater environment, having slowly to adapt to a basically saline environment. There are still problems relating to that change, relating to the survival of plant species and the stability of the emerging saline ecology.

Two factors from that change bear closely on the problem of algal bloom. First, in a more saline environment, there is clearly a greater propensity for the deposit of chemicals. A more ionised water environment would clearly have accelerated the deposit of chemicals, such as phosphorus in that intervening period of nearly 100 years. The second point other people have mentioned, which I think is rightly acknowledged, is that the presence of salt leads to the process of stratification in the lack of wind and waves.

Stratification of water in the lakes is a key factor which, with a combination of the availability of phosphorus, provides conditions for algae growth to flourish. Hence, by the opening of the lakes, a situation has basically been set up to permit algae growth whenever other factors are present. Those other factors have been present during this last summer season, namely, fairly constant high summer temperatures combined with a lack of wind and waves to break up the stratification, and low river flows have produced the situation where phosphorus is available to be released and to feed the growth of the algae.

Some algae require nitrogen for fixing phosphorus but others, such as blue-green algae, are able to fix phosphorus without the presence of nitrogen. Basically, the situation allows for a quite spectacular growth of algae.

The factors influencing the presence of phosphorus and its release needs further research. That is acknowledged, but it ought to be recognised—and I think it comes through from the literature I have perused and the useful briefing that I, like Mr Hunt, have had from the Department of Conservation, Forests and Lands—that non-urban areas and areas under agriculture seem to account for some 85 per cent of the phosphorus deposition, and urban and industrial sources account for the balance. Those percentages may be modified with the benefit of further research, but the point I am making is that the bulk of the phosphorus appears to be leaching out from the more natural areas of catchment, and agriculture could be a major contributor, as against contributions from the urban and industrial areas of the catchment.

Another factor that needs to be considered is the reduction in water flows. This seems to arise from at least two causes. One is that there seems to have been a reduction in overall average annual rainfalls. Whether this is just some part of the normal cycle or whether it is some sort of early greenhouse effect or change in the climate that relates to yet another human intervention, I cannot say, and I do not know that anyone else is able to pronounce on that, but reduced rainfall is an underlying factor. The other factor is human intervention to reduce the actual amount of water reaching the lakes, but to relate this solely to the construction of the Thomson dam is totally to ignore other basic factors in regard to the catchment.

I shall describe in some detail these catchments. Basically, three lakes are involved. From west to east, they are Lake Wellington, Lake Victoria and Lake King, which are
interconnected. The rivers and their tributaries that flow into Lake Wellington are the Thomson, Macalister, Latrobe and Avon. The Mitchell and the Tambo rivers flow into Lake King.

As figures vary, one should consider them seasonally but for the purposes of this description I will use the raw statistics of annual average flow. This provides a measure of the total quantity of flow into those lakes. The Thomson River contributes approximately 452 gigalitres, on average; the Macalister, approximately 535 gigalitres; the Latrobe, approximately 965 gigalitres; the Avon, approximately 198 gigalitres; the Mitchell, approximately 1000 gigalitres; and the Tambo, approximately 242 gigalitres. The potential average annual flow into the lakes is approximately 3400 gigalitres. The total contribution of the Thomson River represents 13 per cent and the catchment of the Thomson River, above the site of the dam with a capacity of approximately 253 gigalitres, represents some 7 per cent.

Currently, each year approximately 350 gigalitres of water is diverted from that total possible catchment contribution. Of that, 100 gigalitres of water is diverted to Melbourne. The amount diverted for use in the catchment is the balance of 250 gigalitres, of which 80 per cent is used for agricultural purposes. If one wishes to put that information in perspective, one is considering 100 gigalitres of water diverted to Melbourne from the impoundment of the total catchment of approximately 3400 gigalitres.

This represents less than 3 per cent of the total inflow. Hence, to overemphasise the role played by the Thomson dam is really to plead a case without examining the facts. Mr Evans has placed himself at variance with most other speakers in the debate who have tried to sum up a complicated situation in a balanced way. That leads on to whether the additional release of water from that impoundment could provide a solution to the problem of algae growth in the lakes. A perusal of the literature shows that the quantities of water are just not available.

If all the water were released at the crucial times—apart from the economic problems and the resultant impact on the purposes for which the Thomson and other dams were built—it would not solve the problem. It is clear from the information from people who have examined the situation and from the work that I have read, that the impact on Lake King, which has a considerable algae problem, would be negligible.

In any account, the volumes of water available would not be sufficient to solve the problems in Lake Wellington. One must consider the additional factor of stratification. As fresh water is lighter than salt water, any additional flows would tend to stream across the stratification and not break up the water, which is necessary if improvement is to occur. By the time the water that is released from the Thomson catchment reaches Lake Wellington, the flow is extremely weak. The image of running a mountain stream into the lake system to stir it up or somehow cleanse it does not fit the facts. It is unfortunate that honourable members continue to lend credence to a solution that does not exist.

I acknowledge that Mr Hunt’s motion has been extremely useful in directing everyone’s attention to a serious problem. I should like to turn to the basic question of what we should do about that problem. What action can concerned people take and what can we do in terms of our powers and responsibilities? Already many programs are in place and many people are putting in a tremendous effort to address this problem.

The Ministry for Planning and Environment is preparing a strategy for the Gippsland Lakes. The target date set for the draft strategy release is October 1988. The Department of Water Resources is working on a south-east regional water management strategy, which is due in June 1989. People who are responsible for developing water strategies must base them on an examination of catchments if they are to be done properly. Members of the Natural Resources and Environment Committee would be aware of the work carried out in the Western District and in the Geelong area on water strategies. They require a considerable amount of effort, which is not unreasonable.
The Department of Water Resources has set June 1988 for the release of its draft document on sediment discharges into Lake Wellington. The Environment Protection Authority is working on a State environment protection policy, entitled “Waters of Victoria”, that is almost ready. The Environment Protection Authority and the Department of Conservation, Forests and Lands are working jointly on a water quality monitoring task for the Gippsland Lakes and this is due in June 1988. The Department of Conservation, Forests and Lands is also working on the Lake Wellington management plan, which is due in July 1988. Considerable work is already in train and it is important that we do not initiate action that takes everyone back to square one.

I understand the sentiments behind Mr Hunt’s motion but I disagree in that it is too simple a solution for this kind of problem. By that I mean the suggestion probably appeals to honourable members and those involved in the general structure of Parliament, because it is appealing to form a committee. However, it behoves honourable members to consider the problem more carefully and to ascertain what is happening. We should support the work that is being done in a bipartisan way and try to produce a result that focuses on implementation.

The worrying aspect of establishing a committee, which will work for a year and then produce a report, instead of employing a number of other departments to undertake this kind of work is that the work currently being carried out by the departments will be finalised shortly. The main task is to have that information assessed in a coordinated manner. I suggest that we should focus on coordination and implementation of the information which the different tasks already under way will produce.

That coordination should involve a healthy local component. It is interesting that the reports in local newspapers, which no doubt all honourable members have read, suggest considerable local knowledge on this subject. These reports have been produced in the Bairnsdale Advertiser and other local newspapers. The reports of the health officer to the Bairnsdale council and those of various local and regional officers have covered similar ground to that canvassed in the debate today. Local people are not ignorant of the complexities of the problem.

A good case exists for establishing an implementation committee to pick up the local concern and assist the local community to address problems in the region. It is not just a scientific problem. The long-term answers involve severe conflicts of interest between economic and environmental concerns with which local people must come to grips. The tourism industry is fearful of the implications of algae growth for this and future seasons.

However, without prejudging the issue, but taking up the point made by Mr Murphy about the growing of vegetables, it is clear that some of the sediment has been contributed by people growing vegetables and engaged in other agricultural activities involving the use of superphosphate. These people are not relying on the tourism industry, and the simple solution of telling them to stop production and to do something else will not bring about a cooperative result.

Some industries have by their activities made a contribution to this problem. Developments in the Gippsland Lakes area and in the Latrobe Valley have contributed. The demand on the State for power has brought about the building of more power stations by the State Electricity Commission and a further need to take away additional water. All these problems must be addressed; they cannot be sorted out by a scientific committee. They are issues that ultimately must come down to community discussion, political judgments and trade-offs made in a proper and informed atmosphere.

I suggest to Mr Hunt that the emphasis should be placed on providing a climate in which people can make mature and sensible judgments. That would be a much better path than the implication of a scientific committee. The government already has scientific committees working in this area. That arrangement might not be the ideal, and if we could start again, it might be made better. However, the existing work will produce answers that will be able to fit into the total process.
For those reasons, I cannot support the motion. I shall vote against it. Even if this motion were discussed by a joint all-party Parliamentary committee, I would still argue against Mr Hunt's proposal because it is not appropriate at this time. I would attempt to persuade him to channel his energies into a slightly different area to pick up his concern about the need for further research and an effective process for implementation of the results.

I shall conclude my contribution by referring to some of the avenues that might be taken to address this significant problem. There are clearly some underlying reasons why it is beyond our ability to remedy the problem at this stage. We cannot simply close off the Gippsland Lakes and go back to a freshwater system. For various practical and ecological reasons, we have moved too far down that path. It would be marvellous if we could turn back the clock.

The Hon. A. J. Hunt—It is still nearly possible, you know!

The Hon. B. T. PULLEN—In my reading, I have not discovered anyone proposing that in a scientific context. If that were possible, I would seriously consider it because I would be much happier if the problem could be resolved in a natural manner. However, I believe that is not practicable, given the permanence of the opening to the sea. There is the lingering problem of the sea water entering the lakes, usually in excess of any fresh water that flows downstream. The tidal waters usually overwhelm the freshening water that flows downstream, except in extreme circumstances.

The shape of the Gippsland Lakes assists stratification and that is something we can do little about. Many of the processes involved are natural processes that have got out of hand. It is not that they are totally unusual but that they can get out of step or balance. There are other seasonal problems involving rainfall and run-off. When this occurred in 1974 we had a very warm summer and dry season. In 1974 the algae persisted until June. It may not have been as severe as in the past summer, but it was certainly persistent.

The Hon. A. J. Hunt—It was very substantial but nowhere as severe as this time. I was there myself in 1974.

The Hon. B. T. PULLEN—Fishing?

The Hon. A. J. Hunt—Yes.

The Hon. B. T. PULLEN—There is perhaps some value in trying to focus on one of the real solutions and not heading up blind alleys. I do not want to be totally proscriptive, but the use of algal poison is not worth supporting. It would add to the problem, and it would not be the answer for the Gippsland Lakes because of their size.

Mechanical harvesting has been used in some areas but it would not provide the solution in this case. The removal of scum from beaches is a remedial measure which may alleviate the problems for locals. I would support local councils carrying out that measure in the short term because it might avoid economic penalties and assist in continuing to attract tourists to their areas. There is certainly potential for a lessening of the problem.

It has been suggested that an injection of compressed air might break up the stratification. The total problem will probably not be resolved by a technological breakthrough, but this proposal should be encouraged by further research. It at least tackles one of the basic physical features of the problem—the stratification of the lakes—and although it is a bandaid measure, it might be effective.

I have no problem about people further researching the release of stored water into the lakes, particularly at critical times. However, they should go beyond making assertions, as made by Mr Evans, and so some quantification work to demonstrate what would be involved in employing that measure as a strategy. What amount of water could be released, what would it cost and what results could be expected? It is misleading to encourage people to do something such as that when one does not know what the end result will be.
The long-term aim is to reduce the phosphorous discharges, and much work must be undertaken to address the conflict of interests involved in that procedure. The mechanical removal of the phosphorous by dredging has also been suggested, but that is likely to be disruptive to plant life on the beds of the lakes and, in itself, could create a host of other problems. As in many cases where one tries to remove a toxic or disturbing material, the attempts to remove might create more problems than actually leaving it alone. I doubt whether the dredging up of the phosphorous silt is a suitable solution.

I agree with Mr Hunt that there are specific areas where research is required, but we have the capacity to build them into the existing processes. On one point, I take issue with Mr Hunt, and perhaps it was not intentional: he appeared to overemphasise the toxicity of the algal bloom. I hope he was not intending that as a scare tactic. I do not pretend to have scientific knowledge of that complex area, but so far it has not been suggested that there is that level of toxicity in the lakes.

The Hon. A. J. Hunt—There has been an assumption.

The Hon. B. T. Pullen—I would not be unduly worried about that. We should first undertake the research to satisfy ourselves but we should not hype up the issue to a point where people could be unnecessarily alarmed. A balance is required. However, if, in pursuing his research, Mr Hunt discovers that it is important to bring that issue to the attention of the House, he should do so, but it must be put in the context of the other issues.

In summary, the government is paying attention to this complex issue. Further research and effort is required before it implements any measure. I recommend that we should move into the implementation phase with a coordinated approach involving the local community, and that would be the stage at which some coordinating committee could be established to oversee that implementation.

For those reasons, I prefer that to the suggestion made by Mr Hunt to set up a scientific committee which would lead to implications that are little out of time, given the dates we have for the presentation of the work already in train.

The Hon. R. J. Long (Gippsland Province)—I strongly support the motion. I congratulate my colleague, Mr Hunt, on the research he has done which has enabled him to present such a forceful argument in favour of his motion.

Mr Pullen, who has just concluded, spent some time endeavouring to reduce the force of the argument on the Thomson dam. Despite what he has read and said, he overlooked the fact that this year eastern Victoria has had one of its driest years on record. The Avon River has ceased to flow; the Mitchell River has almost ceased to flow. Lake Glenmaggie is out of water, and the lakes rely upon the western sector rivers for their flows.

Bearing in mind that prior to last year, when the government introduced its Budget trick and handed over control of the Thomson dam to the Melbourne and Metropolitan Board of Works, the Gippsland people were entitled to 149 000 acre feet of water at Cowwarr weir. Under the existing famous formula the water entitlement has been more than halved to 70 000 megalitres. That matter must be taken into account when one considers the effect of the Thomson dam on the flows to the Gippsland Lakes.

I have been involved in arguments, debates, discussions and so forth for the past 30 or 40 years about the Gippsland Lakes. I have spent hours on the lakes and I have reached the conclusion, contrary to what Mr Pullen has said, that we ought to move the fishing fleet out to an ocean site and fill in the entrance to the lakes.

The Hon. W. A. Landeryou—Is that Liberal Party policy?

The Hon. R. J. Long—that is my personal opinion; that would be a drastic action. That is an opinion I have formed over many years. Before the entrance was constructed the Gippsland Lakes overflowed to the sea via Bunga Arm and they would silt up and be cut off and the lakes would become a single system.
Many problems exist with the lakes but there are currently two main problems. One is salinity and the other—which is increasing in intensity—is the algae. The salinity problem must be faced; it reaches well up into the rivers that supply the lakes.

A suggestion has been made that a barrier should be built at Metung or at the McLennan Strait. It will cost a lot of money. A barrier would prevent the salt water from flowing into the lakes and it would allow fresh water to flow out. A barrier would raise the water level about a metre to the west of the barrier, which would create many problems. For instance, it would flood large areas of swamps west of Lake Wellington. It would also flood the Sale common. It would raise the water level of the Sale boat harbour and if that level were raised by a metre that would create tremendous problems. It is not a simple matter at all. Those matters must be faced if the entrance is to be left open.

The blue-green algae is increasing and that is caused and exacerbated by the stratification of the sea water and its cooling effect. I do not profess to be an expert in this field but it is apparent to everybody that it has an effect, particularly when it is linked with the quantities of phosphorus in the lakes and which also appears to be reaching the lakes in greater proportion.

We have been told that the phosphorus comes from farming pursuits, forest pursuits and all sorts of pursuits, including sewerage works. The sewerage works at Dutson Downs, the Bairnsdale sewerage, Moe sewerage, Morwell sewerage and Warragul sewerage all carry phosphorus into the lake system. What troubles me is that we do not appear to learn. Now I hear that there will be sewerage works at Metung—this must be done—but I am staggered to learn that the effluent will be treated with a spray irrigation system and the works will be sited on the corner of the Tambo River and Lake King.

I should have thought that that would be the last thing that would be dreamed up with the problems we have already. That proposal must be stopped. The treated effluent must be taken away because there is not a shadow of doubt that the people in the area would want an iron-clad guarantee that no treated effluent would get into the lakes. Honourable members know what happens; there will be a breakdown resulting in an outflow to the lakes.

The oxygen reading has also been referred to this afternoon. I am told that down 5 feet or 6 feet in many parts of the lakes there is a nil oxygen reading. The fish are being driven upriver. Carp have been driven out of the lakes up the Mitchell River. I understand truckloads of carp have been carted away from the Mitchell River.

There is widespread concern among Gippslanders about the problem of algal bloom. It is known that a number of government agencies are looking into the problem. I agree with Mr Hunt that we have 60 reports already, in addition to all the other reports that we expect to receive, have received or are about to receive.

In a letter of 25 February 1988 to the Executive Director of the Victorian Eastern Development Association—known as VEDA—the Premier said:

Thank you for your letters of 6 January and 4 February on the question of the current algal bloom on the Gippsland Lakes. A number of agencies are examining this matter to determine what options are available to deal with the situation.

I am advised that algal blooms have occurred sporadically over a considerable period. They apparently occur as a result of a combination of environmental factors, including the change in the lakes from a brackish to saline system following the creation of the entrance in 1889.

The recent succession of dry years in the region, and the fact that this summer has been the hottest and sunniest for many years, appear also to have been contributing factors . . .

A study by the departments of water resources and conservation, forests and lands into the sources of sediment entering Lake Wellington and measures that could be taken to reduce the sediment input is now nearly completed.

The Environment Protection Authority is sponsoring a study of nutrients and algae in Lake King and additional detailed monitoring of the current algal bloom is also being carried out. The authority is also working with the
Department of Agriculture and Rural Affairs to develop policies, strategies and codes of practice to minimise nutrient inputs into streams and rivers from catchment lands.

I make the point that all of this work being carried out has to be brought together. Nobody from the government has suggested that that be done. There is no doubt that Gippslanders do not want more reports; they have had enough of them. Gippslanders believe we should all look at the problems with a properly qualified group that would come to a decision on the evidence available, yet we do not seem to be making any decisions.

I disagree with the government's priorities in the way it spends its money. The government has told us over the past few days that it has spent half a million dollars on Wonnangatta station. I disagree with that expenditure. There are more important areas in which to spend that money, such as the Gippsland Lakes.

According to a recent press release, the Minister for Conservation, Forests and Lands, in conjunction with the Minister for Planning and Environment, made available $30 000 to the shires of Tambo and Bairnsdale to clean up some of the algal blooms before Easter. The shires did not spend all of that money. It was a political gimmick of the government, which was trying to show that it was concerned—it was a waste of money.

A press release mentions a new committee that I have not heard about, the government's interdepartmental Gippsland Lakes steering committee. That committee will examine longer term solutions to algal bloom. The question is: when will the government examine them? The government has frequently used such words in trying to placate electors, and I refer in particular to the words the government constantly uses in its economic strategy when it talks about tourism as one of its economic strengths. Unless something is done about the Gippsland Lakes, and done promptly, there will be no tourism.

The Hon. G. P. Connard—And promptly.

The Hon. R. J. LONG—Yes, promptly, and not on tourism but on the Gippsland Lakes. Somebody has to face up to it, and it is the government that has to face up to it immediately.

When the Shire of Rosedale heard about the proposed motion, it wrote a letter to me dated 29 March 1988:

The Shire of Rosedale would support the motion as it is believed that many of the questions relating to the causes of the algal bloom have yet to be answered.

The Environment Protection Authority was fairly quick to avoid blame being attributed to discharges from Dutson Downs....

The Shire of Rosedale has, for a long time, held the view that the Government's decision in handing over the Thomson River dam to the Melbourne and Metropolitan Board of Works would result in a reduction of environmental flows in the Thomson River and subsequently to the Gippsland Lakes. These representations have continued to fall upon deaf ears: however, whether it be by dam or upstream land use, any reduction of flows in the rivers feeding the Gippsland Lakes must impact upon the environment of those lakes. If you consider that most of the "natural" flow of the Latrobe river comprises discharge from APM and the SEC, in a year like this these natural flows are not really contributing fresh water to the lakes system, but in fact, more concentrated pollution.

Departmental officers can carry out investigations forever, but the public will not accept those recommendations because they do not believe departments will admit they make mistakes. Scientific people of some standing must be engaged who will convince Gippslanders that there is a solution to the problem. That has to be made clear to Gippslanders, otherwise we will get nowhere.

The motion suggests a simple answer of bringing all the information together, and because of the criticism being offered, the Opposition does not want another committee. I shall move that the words "a small working party" be substituted for the word "Committee" in line 5 of the motion. It would then be possible to proceed immediately to set up a small working party involving people with suitable scientific qualifications.

The Hon. G. P. Connard—That is an important change.
The Hon. R. J. LONG—It is a small change, but we do not want another committee.

The DEPUTY PRESIDENT (the Hon. G. A. Sgro)—Order! Is Mr Long formally moving an amendment?

The Hon. R. J. LONG—I move, as an amendment to the motion:

That "Committee" (where first occurring) be omitted with the view of inserting in place thereof "small working party" and that "Committee" (where second occurring) be omitted with the view of inserting in place thereof "working party".

The motion covers all the aspects which should be dealt with by the proposed working party. The working party will be comprised of suitably qualified scientists so that the people of Gippsland will be assured of being told the truth about whether there is a future for tourism on the Gippsland Lakes. Unless a solution is proposed by a committee comprised of people of suitable scientific standard, the people of Gippsland have no hope. It is for that reason I commend the amendment to the House.

The Hon. ROBERT LAWSON (Higinbotham Province)—I commend Mr Hunt for moving this reasoned and reasonable and most important motion. I regret that the government members who have spoken so far have indicated that they will not support the motion, but I was heartened by the manner in which they approached the question. All honourable members have a common interest in the Gippsland Lakes and we want to leave them in no worse condition than they were in when we knew them. All of us are fellow travellers on this earth and we have a common interest in its welfare.

Mr Hunt's motion approaches the nub of the problem more than has been indicated by the government members who have spoken. I congratulate Mr Hunt for his clear and concise motion. I shall endeavour to support him as best I can. The Gippsland Lakes play an important role as a recreational area, including fishing. They are also important for farming and as bird and animal sanctuaries. These matters must be considered in any discussion of the motion.

I direct the attention of honourable members to a book published by the Save the Gippsland Lakes Committee entitled The Past Present and Future of the Gippsland Lakes. I read from an article by Professor Bird, who has been referred to by Mr Hunt as an authority on the Gippsland Lakes. He has spent many years studying the lakes and has high scientific attainments. He is a lecturer at the University of Melbourne on ecology and similar disciplines. Professor Bird is quoted as having said:

The present controversy over the possible reduction in flow from the Thomson into the Latrobe and thence to Lake Wellington, underlines the need for accurate information, and for an integrated approach to the management of land and water resources in this region. If salinity continues to increase in Lake Wellington, this lake will become more like Lake Victoria is now.

The subject of the water flow from the Thomson dam into the lakes system has been mentioned in the debate by previous speakers, particularly Mr Evans. The argument against this, as put by both the Minister for Conservation, Forests and Lands and Mr Pullen, is that stratification will take place; the saline water in the lakes, which is of heavier density than fresh water, will stay on the bottom while the fresh water will cover the top of the lakes, and never the twain shall meet.

It is natural that fresh water flows into the Gippsland Lakes. Presently there is a problem with the flow of fresh water. During the Easter break, I was in the alps beyond the Gippsland Lakes and, as I mentioned to the Minister for Conservation, Forests and Lands earlier today, I observed that some of the mountain streams are on the point of running dry. Mr Long mentioned the Tambo River which has almost ceased flowing during the present season. There is a serious problem in the area.

Lake Glenmaggie is in desperate straits, as the present shoreline has receded about 1 kilometre from the normal shoreline. There is a severe lack of fresh water flowing into that lake. Whether fresh water will mix with the salt water, I do not know. The Minister for
Conservation, Forests and Lands and other government speakers claim that there will be stratification.

I repeat: what is wrong with fresh water? The plants and the birds around the lake need fresh water. If there are not proper fresh-water flows, it is possible that the bird population will disappear—the birds will no longer mate and feed their young by the lakes.

A committee composed of people with scientific backgrounds, such as that suggested by Mr Hunt's motion, would be able to consider all of the problems. I do not suggest that the formation of a committee will provide a solution. The Minister has said that it will not, as has Mr Pullen. However, it would be a good thing if the problems were looked at in toto, including the flow of fresh water into the Gippsland Lakes from the various waterways and the Thomson dam, even though it may not alleviate the problem of the algal bloom.

Some 71 000 megalitres of water is denied the lakes system by the government. When the Thomson dam was built, agreement was reached between the users and the cities downstream that the water would be released into the Latrobe River and thence into Lake Wellington. However, last year the government decided that the flow would be reduced by 71 000 megalitres. I point out that that is the equivalent of the contents of the Yan Yean and Sylvan reservoirs, which have a capacity of 40 000 and 30 000 megalitres respectively. That will give honourable members a mental picture of the amount of water denied every year to the lakes system. An agreement was made to release the water. That should not be altered without a rigorous scientific examination of the end results of altering the original agreement.

Professor Bird continued:

Possible solutions include maintaining or increasing fresh water discharge into Lake Wellington; closing the artificial entrance; building barrages at Metung or McLennan Strait to prevent salt water incursion (in a similar way to the barrages built to keep the sea out of the Murray-mouth lakes in South Australia).

Mr Long mentioned barrages. He proposed that the entrance to the sea at Lakes Entrance could be sealed or, alternatively, that barrages could be built, causing the lake surface to rise.

That is no doubt true, because Professor Bird is further quoted as saying that:

... it was reported that the opening of the artificial entrance in 1889 led to a general lowering of lake level by about 2 feet.

As Mr Long said, the lakes would be flooded if the barrages were built; that is obviously so if there was a 2-foot rise in the level of the lakes previously.

A difficulty is also presented by the saline water flowing in from the sea entrance. As I understand the story of the matter, the present entrance was cut through by a storm or a flood in the 1890s. It was very convenient for the contractor who intended to build an opening at that point. All he had to do once the break had occurred was to put down the retaining wall to keep the sea from reclosing the entrance. Since that time, the ocean has been trying again and again to close the entrance. Presumably in prehistoric times, before white people arrived, there were incursions of floodwaters which created the entrance and then the sea would repair the sandwall again until another flood occurred. The sea has been trying to reseal that entrance ever since.

The government has had an active dredging program at Lakes Entrance to keep the entrance open for fishing boats. I appreciate that there was some value in what Mr Long had to say, but I am not technically competent to know whether his idea would work. It is worth thinking about and I commend to the government that it gives consideration to Mr Long's idea.

The subject of the motion was algal bloom. During his contribution to the debate, Mr Pullen said that Mr Hunt should not cause panic on that subject. Mr Hunt did not say anything about taking precipitate action nor did he spread alarm or despondency about the algal bloom. What he did say was that samples of algal bloom should be sent to
Professor Falconer, a lecturer at the University of New England, who is an expert on algae. Even if the House were to vote against this motion, that course of action should be taken immediately.

The *Medical Journal of Australia* of 28 May 1983 states:

In 1878, algal intoxication of livestock caused by drinking infested water was first described by Francis in South Australia. Similar poisonings have since been documented throughout Australia, and in many parts of the world. Domestic, farm, and wild animals have been numbered among the victims who develop gastrointestinal, neuromuscular, respiratory, and cardiovascular manifestations. . . .

Some strains of known noxious species are harmless, and both poisonous and non-poisonous strains can be recovered from the same bloom.

It is a complex substance being discussed when the *Medical Journal of Australia* states that poisonous and non-poisonous strains can be found in the same bloom. The article continues:

The first recorded water-borne outbreak of acute gastroenteritis . . . occurred in Washington DC during the North American drought of 1930.

That outbreak occurred during a drought. Perhaps the present drought in Victoria may have had some effect on the growth of algal bloom in the lakes. That must be considered, as must the releasing of more water from the Thomson dam. The article continues:

. . . a gastrointestinal “upset” in a person who swam in a lake. *Aphanizomenon* was associated for the first time in 1960 with gastroenteritis in a child who had fallen into a lake. *Microcystis* and *Anuebuena* together were considered to have caused diarrhoea in four students who had swum in the water. . . .

This is something that is nasty to the senses and potentially lethal. I urge the government and the Minister to wait no longer before investigating the nature of this algae and sending samples to the University of New England to find out whether it is poisonous.

Perhaps no-one has fallen into the lakes with his or her mouth open; perhaps no one has gone near the water since it started to stink, as it does now, but it is possible that stock or animals may drink from the lakes and be poisoned.

The mutagenic properties of water in a reservoir, suspected of being associated with a high human birth defect rate, have recently been demonstrated and temporarily matched with a bloom of cyanobacteria. Russian workers have also shown that mutagenesis was one of the long-term after-effects of administering sublethal doses of toxic *M. aeruginosa* to laboratory rats.

I think I have made my point about the nature of this algae and that it must be investigated without delay to ascertain whether it is toxic.

In the course of his remarks, Mr Murphy said that the Department of Conservation, Forests and Lands should be responsible for the upkeep or the welfare of these lakes. However, I notice that the Environment Protection Authority is taking a definite interest in the lakes, so perhaps this should be discussed with the Minister for Planning and Environment.

The *EPA News*, No. 19, December 1987, contains an article on the protection of the Gippsland Lakes. It states:

The lakes are not under pressure during peak season . . . they are constantly threatened by industrial and sewage discharges and non-point source pollution such as sediment. EPA is carrying out studies to identify issues and develop a multi-disciplinary approach to solving them . . . .

Excessive algae in the lakes, resulting from high nutrient levels, can be caused by run-off from farmland. The run-off carries fertilisers into the lakes or into streams and rivers flowing into the lakes.

I doubt there is much argument with the Environment Protection Authority about that conclusion. The article continues:

Erosion caused by land clearing or disturbance especially near river banks, forestry operations, and stock grazing too close to stream banks, allows sediment to enter and pollute the lakes.

These are difficult problems to solve and will require a multi-agency approach to reduce sediment load . . . .
EPA monitors for trace metals such as mercury, zinc and lead and nutrients such as phosphorus and nitrogen, input rivers and streams are sampled fortnightly at seven sites and the lakes monthly at five sites as part of the fixed site monitoring program.

Biological monitoring has indicated that the “health” of the lakes is generally good.

That was in 1987. I fear that a sudden deterioration has occurred because of the algal bloom that has appeared on the lakes. No mention of algal bloom is made in that article.

Mr Long referred to a press release issued by the Minister for Conservation, Forests and Lands and the Minister for Planning and Environment stating that a total of $30 000 would be granted to two local councils to subsidise beach cleaning.

The Hon. J. E. Kirner—They were very pleased to get it, too, and it worked well.

The Hon. ROBERT LAWSON—But Mr Long said that they did not disburse the money well. For a problem of this magnitude, it seems an unreasonable amount with which to combat the algal infestation in a number of areas of the lakes shown on the photographs produced by Mr Hunt. It would be impossible to clean up that infestation for $30 000.

The Hon. J. E. Kirner—That was not being proposed.

The Hon. ROBERT LAWSON—The same press release by the Minister for Conservation, Forests and Lands and the Minister for Planning and Environment states:

They said the government’s interdepartmental Gippsland Lakes steering committee will look at longer term solutions to algal bloom and other issues concerning the area’s important environmental and tourist assets.

I have the feeling that the Minister for Conservation, Forests and Lands objects to the setting up of committees but this is one that perhaps could be turned into a scientific committee, as suggested in the motion. I suggest the Minister should closely consider an interdepartmental committee and fund it so that it can employ experts and scientists to help in hunting down the cause of the algal bloom, which is increasing at a rapid rate.

No-one really knows the cause of the algal bloom or what can be done about it, although it is possible that it was caused by the dryness of the season. The only approach that can be taken is to pull together all of the research that has been done and the numerous papers that have been produced about the Gippsland Lakes and to form an expert committee, complete with scientists. Perhaps Professor Falconer from the University of New England could be seconded onto the committee to study the problem.

The Snowy, Tambo, Mitchell, Thomson and Latrobe rivers have catchment areas totalling 20 000 square kilometres. According to a State government publication entitled Better Rivers and Catchments, Victoria, Australia it would cost at least $2 million to clean up those catchment areas, especially the catchment areas on private land.

The problem is serious. The Minister is aware of it and I do not have to emphasise the point. I am sure she will approach the problem with her usual energy and goodwill. The Opposition has no quarrel with the work that has been done so far, except that it believes the work on the Gippsland Lakes system and the question of algal blooms should be stepped up.

None of us wants to degrade the lakes, yet our activities have done so and the damage must be repaired. We came to this country as strangers; our ancestors did not know what they were doing when they cleared the land, irrigated areas and put into practice many things they had done in the old country. They did not realise they had come to a new land that required new approaches.

In 1988 we are beginning to realise that those practices were wrong. We have seriously damaged a fragile ecosystem and it is up to us, from 1988 onwards, to ensure that an effort is made to restore the balance and repair the damage. I commend the Minister for her work in doing so. I hope she will agree to Mr Hunt’s motion that a scientific committee be established to investigate algal blooms in the Gippsland Lakes.
The Hon. M. T. TEHAN (Central Highlands Province)—Mr Hunt's motion has been couched in broad terms to encompass the breadth of the problem in this area. Most of the points of concern have been covered adequately by the speakers who have preceded me. I shall simply direct the attention of the House to an overview of the problem.

Paragraph (a) of the motion refers to the present and probable effects of the algal bloom upon the Gippsland Lakes and their ecology and its implications for all sections of the community, the region and of those visitors who attend and enjoy the Gippsland Lakes. Any natural ecological area of such unique quality and value as the Gippsland Lakes must be considered by the people of Victoria as something to be valued and protected.

It is imperative—and I do not need to emphasise this because it is recognised by both sides of the House—that every possible effort be made to solve the problems, be they salinity, algae or any other problems that affect the intrinsic ecological value of the lakes themselves and the purposes for which people can use them. The debate is important for the people of Victoria, and it is imperative that honourable members direct their minds toward finding a solution to the problem.

In addition to the people of Victoria generally, the Gippsland Lakes are vital for the people of Gippsland, primarily because 15 per cent of the region's capital is derived from tourism. A major reason people visit the area is the presence of the Gippsland Lakes and the opportunity of pursuing recreational activities, boating, swimming—although Mr Hunt would have some reservations about swimming in the lakes at this time—and fishing, both commercial and, more importantly, amateur.

I shall refer to an article entitled "Recreational Fishing in Lake Wellington" by D. N. Hall of the Fisheries and Wildlife Service at the Arthur Rylah Institute, contained in the publication The Past Present and Future of the Gippsland Lakes. The article indicates that 74 per cent of the holiday-makers who visit the Gippsland region participate in recreational fishing and that initial estimates of angler use indicated that up to 150 000 people fished the lakes system during the year ended February 1977, 56 per cent of whom were tourists. I do not have up-to-date statistics on the fishing use of the lakes, but I am sure the figures would have increased rather than decreased, provided that the fish are still available to be taken from the lakes.

The Hon. J. E. Kirner—They are.

The Hon. M. T. TEHAN—The Minister is right; I have seen that the fish population is increasing. For the people of Victoria and Gippsland and those who enjoy the Gippsland Lakes, it is imperative that some solution be found to the problem that is taking from the value of the lakes. A series of proposals has been put to the House about causes of the problem. They are probably best encapsulated by the well-known authority on the Gippsland Lakes referred to by Mr Hunt, Dr Eric Bird, Professor of Geography at Melbourne University.

In an essay entitled "The Past, Present and Future of the Gippsland Lakes", included in the publication The Past Present and Future of the Gippsland Lakes, Dr Bird considers the need for an evaluation of the causes of the problems of the lakes. He refers to the historic reasons, which were mentioned by Mr Pullen, and to man's activities, especially the opening before the turn of the century of the artificial entrance. He then says:

Often the consequences of such activities were unforeseen and unexpected. There are obvious risks of further man-induced changes as development intensifies in and around the lakes, and within their river catchments. The present controversy over the possible reduction in flow from the Thomson into the Latrobe thence to Lake Wellington, underlines the need for accurate information, and for an integrated approach to the management of land and water resources in this region.

Dr Bird then refers to salinity and says:

If salinity continues to increase in Lake Wellington, this lake will become more like Lake Victoria is now, and there will be risks of further, more widespread ecological damage in bordering wetlands.
Dr Bird then looks to a series of causes of the problems. The scientific cause could not have been put more succinctly than it was by Mr Hunt after the remarkable research he brought to the debate this afternoon. No doubt exists that scientists have grave concerns about and do not have easy solutions to the problem of the build-up of algae in the lakes. That problem must be identified, further research performed and data gathered for a proper analysis of the scientific material.

The natural causes were effectively put to some honourable members yesterday by two representatives of the Department of Conservation, Forests and Lands. They submitted that the problems were caused by the stratifications, the warm water on the cold water, the nutrients in the system and the phosphorous effect. Those reasons were legitimately put and accepted by those honourable members who listened to them.

The question of water flow has been expounded today. Without going into the precise figures and the reasons for the decline in the water flow, I shall refer to the Report of the Desk Study of the Gippsland Regional Environmental Study 1977. The report indicates that there will be a reduction in the flow of rivers into the east Gippsland area. It shows a percentage drop by the year 2000 of 25 per cent in the Latrobe River, 44 per cent in the Thomson River and 20·2 per cent in the Avon River.

At page 161 the report of the desk study states:

Clearly, if there is any cause for concern it is for Lake Wellington, since the three rivers with the largest projected drop in flow are all tributaries to it.

There are three major dangers arising from a decrease in flow to Lake Wellington. These are:

1. the risk of increased salinities leading to a less diverse and less stable ecosystem,

2. insufficient inundation of the wetlands resulting in a significant decrease in the bird population, and possibly an increase in nutrient and suspended solid loads entering Lake Wellington,

3. increased concentrations of nutrients and other pollutants.

There is no doubt that for one reason or another a decrease in river flow will cause or exacerbate the existing problem.

Mr Pullen referred to the build-up of phosphorus. Again the deputation from the Department of Conservation, Forests and Lands similarly expanded on the problem of phosphorus coming into the lakes from agriculture, urban development along the perimeter of the lakes and so on.

The debate this afternoon has established a need for something to be done and for a solution to be obtained. The debate has ranged over a variety of causes and the strengths and weaknesses of many of these causes; nonetheless, most of those matters can be sustained as part of or contributing to the problem.

The major reason for Mr Hunt's motion is to seek some form of solution to these problems. There is no question that there is an attempt to find a solution through a variety of mechanisms, and that a number of departments have conducted a number of scientific investigations, but the motion attempts to bring together all those initiatives and, through the combined operation of all of them, to find a solution.

Mr Pullen expounded on the number of organisations examining the problem and when they will report on the way the problem is being approached. There is no value in reinventing the wheel and in undoing that work, but a working party or a scientific committee could bring together all of that material, analyse it and make recommendations to an implementation committee along the lines referred to by Mr Pullen. That committee could be constituted more widely than merely comprising a scientific group, and could examine technical and scientific aspects, planning and even human involvement in implementing a solution.

A satisfactory solution will not be arrived at until the evaluated data are analysed by the scientific community, comprising all the groups of specialties that need to address the variety of causes of the problem.
I have no doubt that the value of the motion is that it calls on the government to bring together those groups of specialties with their reports, documents, analyses and data, into one group that can examine the findings, suggest a number of solutions and implement them. There is no other way of approaching the problem satisfactorily, with all the skills needed to be brought to bear on the problem, other than to adopt the motion. I commend that approach in the interests of the Gippsland Lakes, the people of Victoria and those people who use the lakes for their great recreational value; and I urge the government to seriously consider the motion and I commend it to the House.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank honourable members for their excellent contributions to the debate and I thank Mr Hunt, in particular, for the initiative that he has taken in moving the motion.

I will move that the debate be adjourned to allow me time to examine the most appropriate structure or process for taking into account what I agree is needed—a close examination of whether all the database is available and of the appropriate mechanisms and solutions for addressing the issue.

All speakers to the motion have covered the issues that should be addressed. Mr Hunt and Mr Pullen, in particular, outlined the causes and the challenges that face the community. I take on board Mr Hunt's point, that toxicity of algal bloom should be examined by Professor Falconer and by my department's marine scientists and similar bodies. I will ensure that that happens and report back to honourable members.

I appreciate the point taken by Mr Long, which really picked up the point Mr Pullen made: that, because we have moved from the planning stage to the implementation stage—although not as quickly as one might like in some cases—it may be inappropriate to establish a scientific committee. It may be better to establish an implementation committee or working party which could examine the database and ascertain whether the range of issues is being covered and whether the implementation plans of various departments are appropriate for meeting that need.

Clearly, some things are being done at the moment and one action that will contribute significantly to obtaining a clearer technical view of the issue is my proposal to spend $12,000 to hold a technical conference at either Sale or Bairnsdale to discuss the scientific issues. I propose to hold that conference by July of this year. The conference will bring together not only departmental scientific expertise, but all leading people in the field, as well as experts at the local level who may not have the scientific qualifications as such, but who have a commitment and a great interest in the issue.

I also look forward to the release of the algae draft management plan for Lake Wellington. I intend to establish a draft management plan and a consultative committee, involving the various groups and interested parties.

Mr Lawson is quite right in saying that it is not just an issue for the Department of Conservation, Forests and Lands; it is an issue for all sections of the government. The interdepartmental committee that has been established to coordinate action on the Gippsland Lakes will assist, but the point is well made by Mr Hunt, Mr Pullen and others, that it may not be sufficient to ensure that the best minds, the appropriate commitment and answers are available. I therefore move:

That the debate be now adjourned.

I suggest that the debate be adjourned until the next day of meeting. The adjournment of the debate will allow me to work further through those issues and to come back to the House with a clear statement of the process, which might include a working party, to ensure that this important issue that affects Parliament and the Gippsland and Victorian community is addressed in the most effective way.

The Hon. A. J. HUNT (South Eastern Province)—On the question of the adjournment of the debate, the course proposed by the Minister is suitable to the Opposition. As I
indicated in my first sentence of the debate, this was not a partisan exercise. It is not intended to be point scoring, but is intended to get results.

The Minister has asked for time to ascertain the best method of obtaining results. She has also indicated that there will be an urgent examination of the database to see whether it is adequate. I take it that, in doing so, the Minister will examine the database in relation to the various terms of reference that I have suggested, in addition to others. The Minister also suggested that she will have toxicity analyses undertaken forthwith. That is a glaring gap and needs to be remedied immediately.

Certainly I trust and hope that the bloom will be shown to be non-toxic, but we need the information in any event. I accept the argument that the Minister has put, that she needs time to see the course that could be taken thereafter, so long as a course is taken, and taken urgently, because it cannot be left.

I accept the arguments of the Minister for Conservation, Forests and Lands and of Mr Pullen that the important thing is the implementation of whatever action plan is decided upon. We agree that what we are looking for is not a debate but results. In the expectation of getting results, we agree to the adjournment.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until the next day of meeting.

**HOSPITAL EMPLOYEES' WAGE INCREASE**

_The Hon. K. I. M. WRIGHT (North Western Province)—I move:_

That this House condemns the Minister for Health for granting the 4 per cent second tier productivity wage increase to hospital employees without first negotiating the productivity savings with the relevant unions, and deplores the subsequent decision to deduct the 4 per cent from payments to hospitals, thereby reducing their efficiency and placing lives at risk.

The Minister for Health is not present in the House; I do not like to make disparaging remarks about him until he is able to hear them and to answer for himself.

The 4 per cent second-tier productivity wage increase without the relative productivity savings is causing hospitals throughout Victoria a significant degree of difficulty and suffering. Only today I received advice in a confidential memorandum from the Western General Hospital indicating that it will need to save $150,000 a month from now until the end of the financial year in order to make ends meet, and that a number of its beds will need to be closed.

I am pleased that the Minister for Health is now in the House. He prides himself on his efficiency and qualifications. However, he has blundered badly with reference to the 4 per cent productivity wage increase. It seems to be part of the theme of peace at any price. The Minister does not want any trouble with the unions prior to the next State election.

Without agreement being reached with the unions, the 4 per cent increase was paid from 1 October 1987. The government immediately decreased payments to hospitals by a similar amount. The hospitals are being forced to pay for the Minister's mistake. It was a tactical blunder on his part. The Minister for Health may tell us in reply that he is not responsible for this matter. I contend that it is no mistake; that the decision was political and made in the full knowledge of the facts.

From 1 April 1988 a reduction in government payments to hospitals of 0.25 per cent per month for sixteen months will be effected. Therefore, the additional 4 per cent paid to employees covered by the hospital unions will eventually be paid in full by the hospitals. Any fat on the hospitals' budgets has long since gone. A number of percentage expenditure reductions have occurred; to my knowledge at least two reductions of approximately 2 per cent have been made.
Recoupment in full by the hospitals will have drastic effects. No doubt a loss of staff will eventuate, with a consequent closure of beds and a loss of morale in the hospitals. Some regional directors have said that part of the amount could be recouped from revenue, but if that is to occur surely patients will need to pay more for their stays in hospital, or, if they do not directly pay more by way of fees, health insurance premiums will need to be increased; that has already occurred.

The Minister for Health is closing the door after the horse has bolted. He initiated a pilot scheme involving ten hospitals, but now there is a pilot scheme with 30 hospitals. I understand that his proposal is for 2·1 per cent of the cost to be made up from the recent increase in fees, and 0·3 per cent to made up from improved sick leave claims. Some hospitals are operating most efficiently on sick leave claims, and in many institutions or organisations in which there is good morale, miraculously, sick leave is almost non-existent, while employees in other organisations religiously take their 14 or 21 days of sick leave a year. Unfortunately, small hospitals do not have the flexibility to allow that to happen.

A number of hospitals have brought to my attention the problem of internal review committees. The committees were to comprise six union representatives and six representatives from management; the six union representatives were to come to Melbourne from time to time for a week's training while six management representatives were to have three days' training. The stipulation was made that if requested—although I am not sure if it is to be "requested" or is to happen regardless—the six union representatives were to be replaced by other representatives while they were in Melbourne. The cost to regional hospitals would be $50 000; that charge is the first to the hospitals because of the productivity factors. Hospital executives have said that the system will not work and is part of the blunder that has occurred.

Chief executive officers from a number of hospitals have forwarded to me a very detailed, comprehensive and complicated release entitled Health Industry Second Tier Work Change and Establishment Reviews. That publication covers the various forms that the hospitals need to use. Another is entitled Health Industry Second Tier Reviews Information Kit for Hospitals and Health Agencies and is the revised edition, dated February 1988.

The information kit is detailed and includes the following questions:

- What was the second-tier decision?
- To whom will second-tier reviews apply?
- When will second-tier reviews apply? . . .
- What is the Royal Women’s model?

Obviously this question is directed to the Royal Women’s Hospital.

The kit asks eighteen questions and contains four appendices. Page 2 of the kit is headed “What was the second-tier decision?” and refers to the Industrial Relations Commission granting public health institution employees a 4 per cent pay increase. That is passing the buck because it was a political decision made by the Minister for Health.

At page 3 of the information kit under the heading “What are Second Tier Work Change and Establishment Reviews?”, it states:

Changes will be:
- identified at the local level
- negotiated at the central level
- implemented at the local level

Therefore the local level will be affected.
In regard to the first stage of the reviews, the Austin Hospital and the Bendigo and Northern District Base Hospital, which is in the North Western Province, will be included. The information kit further asks:

What is the Royal Women's model?
What is the Co-ordinating committee?

The terms of reference of the committee include:
1. Develop the review process, including review order of hospitals and timelines.
2. Coordinate and oversee review processes in hospitals, including agreed trial reviews.
3. Develop and implement appropriate training.
4. Evaluate outcomes and applicability of the review processes.
5. Assist in the resolution of any problems of principle encountered in the review process.

That is all very well, but it should have been done before the 4 per cent increase was actually granted to the unions, because the unions are now negotiating from a position of strength.

At page 7, paragraph 9, the publication states:

WHAT WILL STEERING COMMITTEES DO?
(i) The initial meeting will address the following issues:
(a) An election of chairperson
(b) Regular meeting time each week
(c) Provision by management of a list of all cost centres/departments.

Item 13 states:

WILL STAFF BE REPLACED?

Agreement has been reached that staff will be replaced while attending approved training courses or conducting reviews. Where a hospital believes that replacement is not required (in full or part) they should contact the central union office.

The publication then states, in appendix 1:

Negotiations will have the following pre-conditions attached to any agreement reached between the parties:
1. No HEF member will lose their job or have their current hours reduced.
2. No HEF member will suffer a reduction in current overtime or penalty rates.
3. No HEF member will be transferred or moved to another job or department without consultation or agreement.
4. No HEF member will have a reduction from their current job classification/description/responsibilities/duties without consultation and agreement.

Therefore, it is obvious that the Hospital Employees Federation members are in a very plush condition in the whole exercise. As my colleague, Mr Evans, rightly says, they are certainly on a good wicket.

As I said, the small hospitals—and most of the hospitals in my area are small—have been very suspicious of the whole exercise because they have been under the hammer and it was the original policy of the government to eliminate them altogether. Recently developments have allayed those suspicions somewhat. The Minister has been prepared to discuss the matter, meet deputations, and so on.

If the budgets of the small hospitals are reduced, they cannot operate economically. The level of services can be reduced to such an extent that it is not practical to operate the hospitals. Perhaps that may have been an aim of the government: to make sure that the small hospitals reach that stage.
I have written to every hospital in this State. It is not possible in a debate of this nature to convey fully the views that have been expressed in the replies I have received. However, I shall refer to a cross-section of hospitals to illustrate the general view.

A representative of one of the larger hospitals, the Latrobe Valley Hospital in Gippsland, wrote to me on 14 February and stated:

In relation to the 4 per cent second tier productivity wage increase, I advise that our hospital is not in a financial position . . .

Mr Murphy should appreciate that comment, as he is one of the local members for the area. The letter stated that the hospital:

... is not in a financial position to absorb this additional wage increase (approximately $550,000.00 per annum) within existing resources. Our approved budget allocation for 1987-88 is already overstretched in meeting current service and activity levels provided by the hospitals. We believe the 4 per cent wage increase should be fully funded by the government as a normal cost of award increase.

I look forward to Mr Murphy joining the debate and supporting the National Party because, by doing so, he will demonstrate his support for the hospitals and constituents that he represents.

Mr Neville Foyster of the Victorian Bush Nursing Association wrote a letter to me on 17 February 1988, in which he referred to my correspondence and also stated:

The situation of the centralised payroll service provided by this office is that the 4 per cent productivity wage increase has now been paid for some weeks. We see no real way in which we can recoup the whole increase and any savings that have been made would be minimal. I assume that those agencies which pay staff locally have also passed on the increase.

Mr Foyster estimated that the annual cost of the increase to all bush nursing agencies, based on 1986–87 payroll figures, would be of the order of $1·107 million. That is the cost that Victorian bush nursing hospitals will have to meet because of the actions of the Minister.

The Acting Chief Executive Officer of the Ballarat Hospital, which is also a large hospital, wrote to me and stated:

The main concerns of the hospital are:—

(a) To ensure the hospital receives the funding of 4 per cent as promised, and it is not left to find any shortfall when a reduction of 0·25 per cent per month for 16 months takes effect from April, 1988.

(b) The hospital is yet to be told of any plans to implement savings programs towards meeting this cost.

Honourable members should bear in mind that I received this letter well into 1988—

(c) As the consultation process could take some time it would be unreasonable for 0·25 per cent monthly reductions to take effect before any clear understanding between the unions, the Health Department and the hospital has been reached.

I received a letter from the Kilmore Hospital dated 2 February which advised me:

Being a small hospital with 20 beds and a staffing EFT of 29·81, we do not have the scope or staff turnover of the larger hospitals, but nonetheless, provide a very important service to our community and passers through. It should be noted that continual budget and productivity reviews have been undertaken and information has been requested on how cost savings can be achieved to cover this increase especially in light of the Royal Women’s Hospital model.

I also received a letter from the Numurkah and District War Memorial Hospital, which I am sure is of much interest to my colleague, Mr Baxter. The letter of 1 March states:

If the expectation of the government is for a full 4 per cent recoupment, I believe that this would further hamper the ability of many hospitals, particularly those in the country, to provide a full range of patient services. This of course then contributes to the vicious circle which supports government claims for closure of many of these hospitals.

Therefore, yet another hospital refers to the closure of small hospitals. I am sure other honourable members as well as Mr Baxter are most concerned about the matter.
The Private Hospitals Association of Victoria Inc. is also drawn into this web. In a letter dated 11 March 1988, it informed me that:

The nursing union is currently pursuing a further pay increase for nurses ranging from 6 per cent to 23 per cent and averaging 15 per cent. The ACTU is supporting this professional rates claim. The additional dollar cost of the claim in the public sector alone will be about $102 million.

The letter continues:

Nurses doing comparable work now to that performed prior to June 1986 are generally earning between 20 per cent and 40 per cent more even before the orchestrated 4 per cent second tier granted in October 1987 (public) and December 1987 (private) and the recent $6 national wage rise.

Therefore, in two short years, those hospitals are paying an additional 40 per cent for nurses’ wages. The letter continues:

Yet a further increase will occur of up to 13 per cent with the introduction of occupational superannuation in the public sector which will be backdated to 1/1/88.

The Executive Director of the Private Hospitals Association, Mr Neville Hughes, informed me in that letter that:

There will be serious flow-on effects. The consequent increase in fees for private patients will require higher health insurance benefits which can only be funded out of substantial increases in premiums. Health funds are gravely concerned about the size of this increase. Any growth of out-of-pocket contributions will lead to increasing numbers of privately insured patients being treated in public hospitals where they will get priority access because it means more money for the public hospitals.

The letter further states:

Sadly the waiting lists will “mushroom” with indigent and uninsured patients.

Therefore, to sum up, the Private Hospitals Association of Victoria Inc. states:

The aggregate impact in the public health sector of the 4 per cent second tier, $54 million, Nurses Professional Rates, $102 million, and Occupational Superannuation, up to $298 million, amounts to an additional demand on the public purse of the order of $454 million in 1988. Where will this money come from?

This is the result of the impetuous action on the part of the Minister for Health in granting the 4 per cent second-tier wage increase at that stage. The operating cost of the hospital has increased by up to 40 per cent in three years.

Only today a memorandum dated 18 March 1988 and addressed to all medical staff, wards, and departments from the medical director of the Western General Hospital came into my possession. The memorandum should be of enormous concern to the honourable members who represent the province in which the hospital is located. It states:

The hospital is facing a significant budget over-run and needs to “save” about $150 000 a month from now until the end of the financial year. If the money is not saved, the deficit will be carried over until next year and in effect doubled so the situation will be worse.

As from Monday 21-3-88 the following will occur:

2W—close 4 beds—30 beds
3W—close 6 beds—20 beds
    (no general patients to be admitted)
1W—close 4 beds—30 beds
    (existing admission policies apply)
Children’s Ward—15 beds staffed
    (already implemented)

No “specials” on the wards.

Intensive Care

Foreseeable staff shortfalls will not be covered by agency staff or existing staff working extra shifts and if necessary a bed will be closed.

The community should be made aware of this. It is a matter of record—and I have no doubt of it—that the Minister for Health has blundered with respect to the payment of the
4 per cent second-tier wage increase. It is part of his “peace at any price” deal with the unions. The Minister does not want any trouble with the unions until after the next election. Obviously the Minister has blundered.

Mr Connard, who is not in the Chamber at present, is the president of another hospital. He would realise only too readily that this policy is having an effect on waiting lists. I have been informed that employees at the Western General Hospital have been instructed to exclude certain categories so that an impression will be given that waiting lists have been reduced. By way of example, employees have been instructed to exclude all cystoscopy patients from the urology waiting list to make it appear that the urology waiting list is lower for that particular month.

I commend the motion to the House, and urge honourable members to condemn the Minister for Health for caving in to the unions in granting the 4 per cent second-tier wage increase prior to negotiating productivity savings with the relevant unions and thus escalating a flow-on to other unions.

The Hon. D. R. WHITE (Minister for Health)—Before responding to Mr Wright I wish to point out that the government is implementing a decision of the State Industrial Relations Commission. I am interested in what Mr Wright had to say and I should like to move to adjourn the debate until later this day and respond on another occasion. Therefore I move:

That the debate be now adjourned.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until later this day.

LEGAL PROFESSION PRACTICE (INCORPORATION) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. White (Minister for Health), for the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), was read a first time.

WATER AND SEWERAGE AUTHORITIES (RESTRUCTURING) (POSTPONEMENT OF EXPIRY) BILL

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.

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

That this Bill be now read a second time.

The Bill postpones a sunset clause in the Water and Sewerage Authorities (Restructuring) Act of 1983, and so continues the existing structure of Victoria’s water industry.

The sunset clause was put in the 1983 Act in anticipation of new water legislation replacing the Act, and was extended in 1986 and 1987 while the legislation was planned. However, the proposed comprehensive water legislation which will replace the 1983 Act will not become operative before 7 June 1988 when the sunset clause is now due to operate. Thus, a further postponement of the sunset clause is needed.

If the Bill to postpone the sunset clause is not passed, all water boards in Victoria will cease to be legally constituted from 7 June 1988. It is most important to avoid this situation.

Since the review of Victoria’s water legislation was announced, much painstaking work has been undertaken to develop carefully framed proposals. A series of discussion papers have been circulated widely throughout the community. The last discussion paper was issued in September last year. The papers canvassed the many issues which needed to be addressed in the review and consolidation of Victoria’s water law. Last year, public
meetings were held throughout Victoria, and the comments from these and over 400 written submissions from interested parties have been carefully analysed. Many of the proposals made in the discussion papers have been refined and revised as a result.

The government intends to introduce draft water legislation later in this sitting. The proposed legislation will lie over between the autumn and spring sittings to allow time for all interested parties to consider and comment on the Bill. Following the input made during the consultation phase, it is intended that the Bill will be passed in the spring sittings.

The Bill before the House postpones the sunset clause in the 1983 Act and so allows time to complete the final stages of the exemplary consultative process undertaken in reviewing Victoria’s water law.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. R. J. LONG (Gippsland Province), the debate was adjourned.

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

**ACCIDENT COMPENSATION (DISCLOSURE OF INFORMATION) BILL**

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

That this Bill be now read a second time.

The purpose of the Bill is to amend the Accident Compensation Act to clarify the provisions pertaining to the disclosure of documents and information relating to WorkCare.

Honourable members may recall that at the time of the initial hearings in December 1987 of the Parliament’s joint Select Committee on WorkCare, questions were raised about potential difficulties faced by directors and staff of the compensation and rehabilitation arms of WorkCare in giving evidence before the inquiry. These difficulties arose from the particular wording of the secrecy provisions of the Accident Compensation Act.

In response to these concerns, the Treasurer gave an undertaking that amending legislation would be introduced so that it would be absolutely clear that directors and staff of the WorkCare agencies can provide information to Parliamentary committees.

On the basis of a range of legal advice, the Bill contains the following amendments to the Accident Compensation Act. Firstly, the powers of both the Accident Compensation Commission and the Victorian Accident Rehabilitation Council are proposed to be expanded. The new proposals include the powers to publish statistics and explanatory information relating to the WorkCare scheme provided that this does not enable the identification of an individual person.

Secondly, amendments to the secrecy provisions of the Act are proposed. These proposals will provide that those organisations to whom documents may be produced or to whom information may be divulged or communicated will also include committees of Parliament or any person or body approved by the Governor in Council.

Thirdly, consistent with the Treasurer’s earlier undertaking it is proposed that these amendments apply retrospectively from 1 December 1987, so as to cover the hearings of the joint Select Committee on WorkCare held from December 1987 to date.

I commend the Bill to the House.

On the motion of the Hon. H. R. WARD (South Eastern Province), the debate was adjourned.
It was ordered that the debate be adjourned until later this day.

The sitting was suspended at 6.23 p.m. until 8.7 p.m.

BUSINESS OF THE HOUSE

The Hon. EVAN WALKER (Minister for Agriculture and Rural Affairs)—The government had hoped to proceed with the next item, Order of the Day, Government Business, No. 2, which is the Committee stage of the Firearms (Amendment) Bill (No. 2).

Honourable members will be aware that a great deal of work has been done by the Leaders of the three parties on the proposed amendments. The parties are close to an agreement on the amendments to be proposed, and at this stage they are being prepared for presentation to the Chamber. I am aware that all honourable members are keen to proceed with the Committee stage of the Bill.

The government does not have an item of business to introduce to the Chamber immediately. Mr President, I ask that you grant a 1-hour suspension of the sitting. After that time I hope the proposed amendments to the Bill will be ready for presentation to the Chamber this evening.

If it is not possible for the Committee stage of the Bill to proceed after the suspension of the sitting, I shall move for an adjournment of the House until tomorrow. A 1-hour suspension of the sitting is necessary because the people who are preparing the proposed amendments will need time to have them typed and made ready for presentation to the Chamber.

The Hon. H.R. WARD (South Eastern Province)—The Opposition is agreeable to the suspension of the sitting of the House on this occasion. All honourable members want the proposed legislation to be dealt with by tomorrow. I agree with the suggestion made by the Minister.

The sitting was suspended at 8.9 p.m. until 9.12 p.m.

LAND (TRANSACTION INFORMATION) 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 (Minister for Transport), was read a first time.

BUILDING CONTROL (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.

NATIONAL PARKS AND WILDLIFE (AMENDMENT) BILL

This Bill was returned from the Assembly with a message intimating that they have agreed to one of the amendments made by the Council, and have agreed to the remaining amendment with amendments.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Amendment No. 1 as sent to the Legislative Assembly was:

No. 1 Clause 8, page 4, lines 33 to 39, omit all words and expressions on these lines and insert—

"(3) A notice under sub-section (1) prevails over any inconsistent—

(a) regulation made under this Act; or

(b) licence, permit or other authority to take destroy or hunt any particular kind or species of wildlife issued under this Act."
(4) At least 72 hours before publishing a notice under sub-section (1), the Minister must publish a notice in a newspaper circulating generally in the area likely to be affected by the notice under sub-section (1) stating that he or she intends to publish that notice.

(5) A notice under sub-section (1) is a statutory rule within the meaning of the *Subordinate Legislation Act* 1962.

(6) A notice under sub-section (1) may be disallowed in whole or in part by a resolution of either House of Parliament made in accordance with section 6 (2) of the *Subordinate Legislation Act* 1962.

(7) Disallowance of a notice under sub-section (5) is deemed to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act* 1962."

When the amendment was dealt with by the other place it agreed to it with the following amendments:

1. Omit proposed sub-clause (5) and insert—

"(5) Sections 5, 6 and 6a of the *Subordinate Legislation Act* 1962 apply to a notice under sub-section (1) as if that notice were a statutory rule within the meaning of that Act.

(6) A reference in section 5 (1) of the *Subordinate Legislation Act* 1962 to the publication of notice of the making of a statutory rule must be read for the purposes of this section as a reference to the publication of the notice under sub-section (1)."

2. Omit "(6)" and insert "(7)".

3. Omit "(7)" and insert "(8)".

I move:

That the Council agree to the amendments made by the Assembly on amendment No. 1 made by the Council in this Bill.

The motion was agreed to.

**LAND (GOONAWARRA GOLF COURSE) BILL**

This Bill was received from the Assembly and, on the motion of the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), was read a first time.

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

That this Bill be now read a second time.

The Bill is being introduced to put into place a management system for the Goonawarra Golf Course which is more equitable than that which has existed under agreements governing the establishment and ongoing development and use of the Goonawarra housing estate.

Chief amongst those agreements was a parent development agreement executed in July 1978 by the Shire of Bulla and the then Housing Commission. That agreement provided for the development, over time, of 400 hectares of commission land, and for the estate to be populated with a mix of public and private tenure households.

The development agreement addressed such matters as residential development and engineering standards and establishment of community facilities, and it provided for the construction of a golf course to add to the general amenity and marketability of the developed residential allotments.

The golf course, which was built with public money, was to have a dual, private–public character. The private interest was to be catered for by the construction of a clubhouse and its lease to a private golf club.

In accordance with the terms of a tripartite agreement executed by the then Housing Commission, the Shire of Bulla and the golf club, the shire took a five-year lease of the entire golf course. During the term, which expired on 31 December 1986, the shire was responsible for golf course maintenance; the club was conferred with exclusive playing
time rights and an option to renew these rights and its sublease of the clubhouse for successive periods of five years up to a maximum period of 75 years.

At the end of its five-year lease the shire had an option to purchase the golf course. However, limited golf course access for public, green-fee paying players meant that the shire was unable to cover the costs it was incurring in maintaining the course and carrying out its other management obligations under the sublease to the golf club. As a consequence the shire was unable to exercise its option to purchase.

The reason for the limited revenue generated by the golf course is the core of the problem. Clearly, that reason is the entrenched playing time entitlements of the golf club. Those entitlements, as recommended to the government of the day by its commercial developer and agent, have been inappropriate and unchangeable.

Energetic efforts by previous Ministers to encourage the parties to bring about a voluntary resolution of the matter have failed. In July–August last year the then Minister told the shire and the club separately and face to face that if they could not find a mutually acceptable solution he would find it necessary to bring about a resolution through legislation.

The Bill addresses the matter of inappropriate playing time entitlements and replaces the existing provisions with an approach which is far more equitable. The revised approach brings the playing-times under regular review by the Minister if the parties themselves are unable to agree, and thus caters for such things as numerical changes to club membership. At the same time, an ample entitlement for public players is provided for.

In obliging the shire and subsequent owners of the golf course to use the golf course site only as a golf course, the Bill will not preclude ancillary uses. For example, the shire might want to establish on the site other sporting facilities such as bowling greens or squash courts. This will be permitted so long as the existing eighteen-hole golf course remains intact.

The Bill also reaffirms and re-establishes the option to purchase by the shire under the original conditions, a process which was always the intention of the then government and the shire. It is appropriate that this facility now passes into the hands of the local municipality in circumstances where its management on behalf of the entire local community can take place under a set of more equitable, more flexible and more sensible controls.

I commend the Bill to the House.

On the motion of the Hon. J. G. MILES (Templestowe Province), the debate was adjourned.

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

**BUILDING CONTROL (GENERAL AMENDMENT) BILL**

This Bill was returned from the Assembly with a message relating to amendments.

**Assembly’s amendments:**

Council’s amendment No. 1 agreed to, with the following amendment:
Omit “9, 10, 13, 16, 22, 28 and 29” and insert “8, 9, 15, 21, 27 and 28”.

Council’s amendment No. 2 agreed to, with the following amendment:
Omit “8, 9, 10, 16 and 22” and insert “8, 9, 15 and 21”.

Council’s amendment No. 3 agreed to, with the following amendment:
Omit “28 and 29” and insert “27 and 28”.
Council's amendment No. 4 agreed to, with the following amendment:

In proposed sub-clause (6c), omit "of a relevant authority other than a discretion declared by the building regulations to be a discretion exercisable by a person holding a current certificate under section 118A" and insert "which the building regulations state is only to be exercised by a relevant authority".

Council's amendment No. 10 disagreed with.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I understand my counterpart on the other side of the House understands the issue. Therefore, I move:

That the Council agree to the amendments made by the Assembly to amendments Nos 1 to 3.

The motion was agreed to.

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

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

The Hon. A. J. HUNT (South Eastern Province)—I sincerely regret that the Opposition must oppose this particular amendment made by the Assembly. I do so with great regret because this is a good Bill, and I am sorry that another place is now putting it at risk.

The amendment in question deals with the vexed subject of private certifiers exercising discretions vested under the legislation in statutory authorities. That was the sticking point that almost brought the Bill undone. The majority of people at the conference, which the previous Minister for Planning and Environment called, believed that as the proposals relating to private certifiers of buildings were still comparatively underdeveloped—

The Hon. W. R. Baxter—I did not hear about them.

The Hon. A. J. HUNT—I did not hear about them either until a few minutes ago. I did not know about this change.


The Hon. A. J. HUNT—I am prepared to deal with it and explain it.

The majority of those at the conference convened by the previous Minister believed that the provisions on private certifiers, which had not been worked through, ought to be left until the next Bill. The present Minister took the view that a framework ought to be provided for private certifiers to act in place of building surveyors so far as was practicable, and I agreed with him to provide a framework on the clear understanding that the details would be worked out later.

The sticky point came, however, on the discretions that were to be exercised by private certifiers. Honourable members will recall that in this House I argued and explained that it was quite wrong for private certifiers to exercise discretions vested in statutory authorities on behalf of their clients. This was rather like a lawyer certifying that his client was going to win a case. That, with respect, is a nonsense.

I must say that negotiations on that issue took almost a month to resolve. What was ultimately agreed to was the amendment that I moved in this House; an amendment which preserved for statutory authorities the right to exercise the discretion on all major issues—on ceiling heights, on the strength required, for example, for foundations, and on other major matters of that kind.

What we said, however, in the amendment which this House passed, was that the regulations could provide for the private certifier to exercise discretion on minor matters, provided this was set out in the regulation, well knowing that if the government went too far and, in fact, conferred a major matter on private certifiers by the regulations, this House would have a remedy in seeking to disallow the regulations.

That was agreed between the Minister's representatives and the Opposition. I conveyed that agreement to this House and the House passed the clause on the faith of that. The government welshed on that agreement in the Legislative Assembly; and what it has done
instead is to provide that a private certifier can exercise the discretion unless the regulations state it is to be exercised only by a relevant authority.

That completely changes the emphasis and it leaves the House without a remedy. If the regulation fails to state that it can only be exercised by a statutory authority, no matter how major, the role of the statutory authority is usurped by the private certifier acting on behalf of his client and made for his client.

We would all like to have our own paid professional officer exercising the discretions that we command he should exercise without any check in the public interest, and that is what this means; but it is worse than that. It also means that if the government fails to have a regulation vesting the discretion in the statutory authority, the House has no remedy because it cannot disallow a regulation that does not exist.

Put the other way, there was always a double check but the dispensation had to be granted by regulation and if it went too far the House could disallow it. Now we have no say. The discretion is vested not in the State statutory authority but in the private certifier, unless the regulations state otherwise, and there is nothing to disallow.

For those reasons and for the equally important reason that the clause has been amended by the Legislative Assembly in defiance of an agreement and without any prior notification to the Liberal Party at all, the Liberal Party must oppose the amendment.

If this simple but important addition by the government means that it has prejudiced its own Bill, that is upon its own head. The government ought not lightly disregard agreements it has entered into. If there is reason for it to do so, it should at least consult those with whom it has made the agreement and tell them why it cannot honour it.

That has not happened in this case and the Liberal Party therefore opposes the amendment made by the Legislative Assembly.

The Hon. W. R. BAXTER (North Eastern Province) - I move:

That the debate be now adjourned.

I suggest that the debate be adjourned until later this day. I do so on the basis that this is the first I have heard of the amendment and I need to take advice on the matter particularly in light of the remarks made by Mr Hunt.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until later this day.

**LAND (GOONAWARRA GOLF COURSE) BILL**

The debate (adjourned from earlier this day) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. J. G. MILES (Templestowe Province) - The Liberal Party does not oppose the Bill. However, there are some interesting complications and sidelines to it. It involves a dispute that has been ongoing between the Shire of Bulla and the Goonawarra Golf Club Ltd committee in relation to who should control the golf course land.

The Ministry of Housing and Construction—in other words the government—is the controlling operator and a lease that had been signed and which should have been executed at the end of 1986 states that the Shire of Bulla has the option to purchase the golf course at a price of $800 000.

The shire did not purchase by the time the option had expired, which has led to considerable controversy in the area because, on the one hand, the Shire of Bulla representing the ratepayers states that the ratepayers should have reasonable access to the golf course because it has been built with public money but, on the other hand, the Goonawarra Golf Club Ltd says it should have control of golf playing times especially for
its own club members, particularly in the busy period, and it should decide who should play.

It would have been an ideal situation if the Shire of Bulla and the golf club had reached an amicable arrangement regarding playing rights of both the members of the club and the public on that golf course. Unfortunately, despite the best efforts of good-hearted people on both sides, no agreement has been reached and it is a virtual stand-off situation.

On the one hand, the golf club could say that the Shire of Bulla had the option to purchase the golf course. That option was made available to it and it declined to take up the offer and, as the option has lapsed, the golf club asks why should the Shire of Bulla again have the opportunity of purchasing the golf course.

On the other hand, the government, through the Ministry of Housing and Construction, controls the land and is really the owner of the land and, if the government feels it is appropriate to resolve the problem by the shire again being offered the option to purchase the golf club land, and that the option should be revived or renewed, the Liberal Party has no objection to that stand, although in some people's minds it is rather unusual that a commercial deal that has been done and perhaps, one would say, undone—because the commercial offer lapsed—is now to be reinstituted.

Perhaps it is unusual for Parliament to reinstate a commercial deal that has lapsed; however it would appear to members of the Liberal Party, after some discussion, that this is the only way out of the impasse. One would hope that if the Shire of Bulla takes up the option to purchase the golf course, which is on public land, somehow the golf club and the shire council can still manage to reach a reasonable agreement about the rights of golf club members and the rights of the public to play on the course.

The effect of the Bill is to vary the original lease so that the exclusive playing time for the golf club must be negotiated between the Shire of Bulla and the golf club. If there is still a disagreement, the Minister for Housing and Construction will be the arbitrator.

Having explained the problems and the interesting background of the issue, the Liberal Party offers no opposition to the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party offers no opposition to the Bill either. It is almost in the nature of a private Bill. It seems to be solving an argument in a particular locality and it is an unfortunate argument but I understand that, despite long negotiations, this seems to be the only method of clarifying the issue. As I have had no representations to the contrary, the National Party supports the Bill.

The Hon. W. A. LANDERYOU (Doutta Galla Province)—I also support the Bill but in so doing I indicate my personal interest in the matter. I am a considerably hefty ratepayer in the Shire of Bulla and I am also a member of the golf club involved.

I congratulate the government and, in particular, the present Minister for Housing and Construction and his predecessor, and the spokesmen for the other parties in both Chambers, for the way they have approached the solution, which is the only solution the government could find to the problem.

However, I reiterate the points made so far. The municipality was faced with the proposition put to it by an earlier government and it entered into the arrangement to use the golf course land as a facility for the people who lived in the area. Unfortunately, also written into the arrangement was the creation of a private golf club which was, over a period, used to develop the shire's needs and rights and, unfortunately for the golf club, it feels it was poorly treated by the shire.

In that context, and bearing in mind that this problem comes back to haunt Parliament from time to time, I point out that the whole of the Goonawarra land development has been on land that was purchased by a previous government and was involved in the Gowans inquiry and the Frost Royal Commission. The residents of Goonawarra were
assured when they purchased their land that they would have access to a public golf course. The Parliament is acknowledging that obligation tonight—indeed, the shire has been endeavouring to acknowledge that as, with some difficulty, have some people associated with the club.

The reason for the complicated and detailed schedules to the Bill, as explained to me by Parliamentary Counsel, is that to express it in any other way—or not to express it—may or may not add to or subtract from the rights of the parties. As the Minister for Agriculture and Rural Affairs and the spokesmen for the other parties have said, the Bill is designed to redress a wrong by reasserting the rights of people as they were believed to exist in 1981 when the agreement was entered into.

I am certain that the responsible Minister in the 1981 government did not intend to grant the sorts of rights that could be construed to exist to some parties to the agreement in the way in which they were construed at that time. To state that more simply, I underscore the point that the Bill seeks to reassert the understanding of the three parties—the government, the shire and the golf club—as at the time of entering into the agreement. To the credit of the Treasurer, the purchase price—and I only whisper this—that was agreed in 1981 remains the purchase price for the golf course.

I conclude in the way in which I began, by congratulating the Minister and his immediate predecessor for the patience they demonstrated over a long period in negotiating this arrangement to finality. I thank the representatives of the Liberal and National parties for the tripartite approach to a problem that should never have arisen.

The Hon. A. J. HUNT (South Eastern Province)—Mr Landeryou was all too modest. Honourable members in this Chamber know, even though the public may not, that he was largely responsible for the negotiations that brought about the Bill. That was done in a fair-minded way and Mr Landeryou deserves congratulations.

I accept Mr Landeryou's comment that the Bill restores the original intention of everyone who purchased land in the area.

The motion was agreed to.

The Bill was read a second time.

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

That this Bill be now read a third time.

I thank Mr Miles, Mr Baxter, Mr Landeryou and Mr Hunt for their contributions to the debate. I also thank the opposition parties for their support on a matter that has waited a long time to be rectified. I am pleased that all parties could agree on the manner in which it could be done.

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

LAND (TRANSACTION INFORMATION) BILL

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

That this Bill be now read a second time.

The purpose of the Bill is to facilitate the development of an integrated, computerised land information system for the State of Victoria that will reduce the regulation, cost and time spent by the public in land transactions.

As honourable members may be aware—and Mr Hunt is aware because he has been performing better tonight—work has been under way for some time in the Department of Property and Services to establish an automated land information system. Known as LANDATA, this project aims to provide efficient and prompt access to information relating to any block of land in Victoria. The diligent Mr Hunt has inspected most blocks
of land in Victoria. He inspected some near Cape Conran over Easter, and at another time I shall take up with him a matter relating to Cape Conran.

The Bill is concerned with the next stage of the implementation of the LANDATA system. This stage has two aspects.

Take no notice of the Opposition members, Mal, they are disorderly!

The first is to provide for the future introduction of a single lodgment point at the Land Titles Office for all notices relating to the acquisition or disposal of land.

Come on, Bob, don’t be disorderly! You have been okay tonight!

Currently, persons disposing of land—

The PRESIDENT—Order! The Minister is being entirely disorderly. I expect him to read a second-reading speech with the degree of decorum expected of his office. I ask him to read the second-reading speech in the proper manner. Everyone enjoys a joke, but the Minister is carrying it a bit too far.

The Hon. J. H. KENNAN—Currently, persons disposing of land are required by the relevant legislation to give notice in writing to the relevant municipality, the Melbourne and Metropolitan Board of Works or any other relevant water board or sewerage district authority, and the Commissioner of Land Tax. In addition to these notifications, a transfer document has to be lodged at the Titles Office under the Transfer of Land Act. It is proposed to simplify the procedures so that a future single notification at the Titles Office would be sufficient.

Obviously, a future single lodgment-point system will eliminate unnecessary regulations and avoid expensive duplications in notification requirements. Information on change of ownership lodged at the Titles Office will be provided, in bulk, to the necessary rating authorities and utilities without the present cost and inconvenience to buyer and seller. It has been estimated by the Law Reform Commission that the general community will save approximately $8 million a year on costs once such a system is in place.

The second aspect of the Bill is to facilitate the implementation of the LANDATA inquiry service. Once fully operational, this service will be able to quickly provide details about specific properties, such as location and address, title particulars and ownership information. At present, there is no centralised land information service in Victoria. Persons requiring information about a property must consult many differing sources to assemble the information they require. More readily accessible information will be of great use to all those dealing in land, particularly estate agents, solicitors and valuers, as well as the conveyancing public in general. LANDATA provides an important breakthrough in service to the public by making it possible for buyers and lenders to conduct a variety of land inquiries at a single point.

The information to be available through the inquiry service is derived from property identification data obtained from the existing public register at the Land Titles Office, sale data from the Valuer-General’s Office and land address and ownership details from the State Taxation Office. The amendments to the Valuation of Land Act 1960 and the Land Tax Act 1958 will allow property details including ownership and sale price to be brought together from various sources.

The present system requires multiple attendances at the Titles Office and other agencies to access information which is already publicly available, but which is both expensive and time consuming to obtain by these methods. The new system will simplify land conveyancing and planning processes by providing quick access to relevant land information from one point. It is intended that this information service will be available from Titles Office branches in Melbourne and regional centres.

A similar system has operated successfully in South Australia and the Northern Territory for several years, and in other countries for many years. LANDATA will provide a long
overdue reform of land-related services in this State. The measures proposed in this Bill to further its development deserve support to ensure that its benefits are realised as quickly as possible.

I commend the Bill to the House.

The Hon. R. J. LONG (Gippsland Province)—I move:

That the debate be now adjourned.

In view of the jocular fashion in which the Minister for Transport read the second-reading speech, it is obvious that the government does not consider the Bill to be an important measure. Therefore, I suggest that debate be adjourned for three weeks.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I did not hear all the comments Mr Long made, but I indicate that it is normal at this stage in a sessional period to adjourn debate until the next day of meeting on the basis that representatives of the parties will discuss the matter before resuming the debate.

The Hon. R. J. LONG (Gippsland Province) (By leave)—In view of the plea by the Leader of the House, I am happy to agree to his suggestion, but I point out that somebody should bear in mind the comment I made.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until the next day of meeting.

ADJOURNMENT

Frankston rail services—Concessions for senior citizens—Imported cement dumping—Port Melbourne Bayside Development—Overloading of livestock carriers—Anti-theft devices for cars—Castlemaine and district water supply—Classification of psychiatric patients—School bus transport—Garfield—Warragul bus services—Moorleigh High School

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

That the Council, at its rising, adjourn until Tuesday, April 19.

The motion was agreed to.

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

That the House do now adjourn.

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct a matter to the attention of the Minister for Transport and point out that I have received information from the Public Transport Users Association Inc. on the the Frankston railway line. A third track was installed on the line at a cost of more than $20 million. According to the information collected from the timetables and from personal observation, the passage of trains between Frankston and the city has been speeded up by about 2 minutes. Prior to the installation of the third track the trains ran from Frankston to Melbourne in 61 minutes; now they take 59 minutes. That is an extraordinary expenditure for such a small result.

The people who use the line between Moorabbin and Caulfield have further cause for complaint—I am one of those—inasmuch as fewer trains stop at the stations between Moorabbin and Caulfield than before the line was installed. A large number of express trains use the line but not as many trains stop at those intermediate stations as previously.

The position is even worse for railway stations between Caulfield and Richmond. It is extremely difficult for people to catch a train from the city to any one of the intermediate stations between Richmond and Caulfield because most trains do not stop at those stations any more. Sometimes trains from Frankston stop at Malvern, but more often than not, they run express from Caulfield to Richmond, causing much difficulty for the people who
wish to use any of those intermediate stations. The situation could be overcome if the trains were to leapfrog from time to time to stop at alternative stations, or if the train controllers were to take a little care with the train timetable. I suggest that the Minister instruct his staff to examine the timetable of trains on the Frankston line to overcome those problems.

The Hon. K. I. M. WRIGHT (North Western Province)—I direct to the attention of the Minister for Transport, as the representative of the Minister for Community Services, an anomaly affecting senior citizens in Victoria that was brought to my notice by the Mildura Senior Citizens' Club. The House will be aware that many senior citizens do not receive any concessions, such as municipal rate rebates, telephone rental reductions, medical concessions, half-price concessions on tours and rail concessions. Many people have worked extremely hard, particularly during the war years, to be independent, and the concessions that pensioners receive are of such value that they place them in a more favourable position than those who are not receiving pensions at all.

New South Wales has apparently recognised the plight of those people and has granted concessions for persons aged over 60 years similar to those that pensioners receive. I ask the Minister whether he can make similar arrangements or negotiate such arrangements for Victorian senior citizens, not just those in receipt of pensions.

The Hon. B. A. MURPHY (Gippsland Province)—I raise a matter for the attention of the Minister for Health, who is the representative in this House of the Minister for Industry, Technology and Resources. Concerns have been expressed in the Latrobe Valley at the possible closure of the Traralgon cement factory as a result of the importation of cement from somewhere in Asia.

The Hon. J. H. Kennan—Japan, actually.

The Hon. B. A. MURPHY—I am not sure whether the cement is imported from Japan or manufactured there; the cement may have been manufactured in Japan, Taiwan or Korea. However, I believe the Australian company was considering an attempt to import the cement, which may be bought cheaply overseas and brought to Australia to replace the cement made to Australian standards where wages are higher than those in most Asian countries.

The problem is that, if the factory at Traralgon closes, at least 100 jobs may be directly lost and the ongoing effect may be that 200 jobs in the Latrobe Valley will be lost, which would have a significant impact on industry in the area. The State government could take action in several areas, one of which is when the cement arrives on the ships at Port Melbourne. I should like the Minister to consider what the Victorian government can do to make it harder for the company to import the cement. At least if the cement is imported, it should not be dumped. Will the Minister inform me of what the government intends to do?

The Hon. J. V. C. GUEST (Monash Province)—I direct a matter to the attention of the Leader of the House as the Minister responsible for major projects. I refer to the Port Melbourne Bayside Development. Some Port Melbourne residents have received advice about various matters relating to the canal project. Included in that advice is the suggestion that it is extremely unusual to use good land, in the sense that the land could be readily built on as it is, for a canal project. It is usual, sensible and economically viable to use swampland or something similar for canal developments and to use good land for construction purposes. The canal project will add approximately $100 000 to the cost of each dwelling unit in the residential project. The development of the canal project will amount to approximately $70 million.

There are serious reasons for reservations about the project as it is now proposed, such as the effect on Port Melbourne, and the threat to traffic flows. I ask the Minister to
confirm or deny the correctness of the estimates and ask for his observation about the use of that land for the canal project.

I ask the Minister whether these considerations do not add further weight to the case against the project in its present form.

The Hon. R. M. HALLAM (Western Province)—The matter I direct to the attention of the Minister for Transport concerns five Victorian livestock carriers who on 1 December 1987 were booked for overloading on the Henty Highway near Heywood. I understand that the Road Traffic Authority conducted a blitz on that day and that it was the only blitz for the whole of 1987. I further understand that in each case the excess weight for which those operators were booked was between 2 and 3 tonnes. That particular day was an extremely inappropriate day on which to conduct a blitz against livestock transport operators because it also happened to be the wettest December day on record.

The point is that a grown sheep with approximately six weeks' wool can absorb up to 1 gallon of water and this could mean that a triple deck sheep transport containing approximately 360 grown sheep could weigh approximately 1·5 tonnes more simply because of the weather.

Honourable members interjecting.

The PRESIDENT—Order! Honourable members will come to order. Mr Hallam is raising a matter of serious concern to his constituents and I ask Ministers and members of the government party to treat it as such.

The Hon. R. M. HALLAM—Thank you, Mr President. Given the practice of the RTA of allowing a tolerance of approximately 1 tonne, had that blitz been conducted on another day obviously many of those bookings would not have occurred. This highlights the impracticalities of the current system of imposing load limits based upon weights.

I ask the Minister to consider the alternative of volumetric loading, a system that has been proposed by farmers and livestock carriers for a considerable period. The problem is extremely vexing.

The Hon. D. R. White—Did you say volumetric?

The Hon. R. M. HALLAM—Yes, volumetric loading. The problem is serious, especially when one considers that the operator has no way of knowing or accurately assessing the weight of the load. Will the Minister seriously consider amending the regulations to allow the limits to be imposed on a volumetric basis? This would overcome many of the current problems confronting transport operators.

The Hon. C. J. KENNEDY (Waverley Province)—I direct the attention of the Minister for Transport to car stealing and the necessity for people who buy cars—which are possibly their second most important investments after buying their houses—to safeguard their purchases by installing anti-theft devices in their vehicles at substantial costs when these devices should be already installed in cars.

An article published in the Age of 2 April 1988 by Christopher de Fraga stated that Jaguars and Mazdas and the top line Calais, which is made in Australia, have anti-theft devices and alarms installed in them. The article states:

Mazda has developed a new steering lock protection device which can be added to the car as a dealer-fitted option.

Called a Lockshield, the $41.97 device consists of a hardened steel shield which protects the existing lock from interference.

What action does the government propose to take to compel or pressure other manufacturers into making their cars almost theft proof without forcing people to go to the added expense of installing these devices themselves—bearing in mind that other manufacturers are already doing so?
The matter I raise with the Minister for Health, who is the representative in this place of the Minister for Water Resources, concerns a letter I received from the City of Castlemaine. On 3 March 1988 at a general meeting of the City of Castlemaine Ratepayers and Residents Association the introduction of chlorine into the Castlemaine and district water supply was discussed.

The association was advised by the Rural Water Commission of Victoria that it was necessary to introduce chlorine into the water supply system. The reason given for this was the contamination of the water in an open flume or pipeline which ran from the Malmsbury reservoir to the McCay reservoir. The two points where the contamination occurs are at the open flumes or pipelines. The association asked whether a viable operation would be to cover the pipelines and the open flumes, or whether adequate fencing of the reservoirs could be accomplished to prevent contamination of the water in the Castlemaine reservoir supply.

Finally, will the Minister for Health ask the Minister for Water Resources in another place what is the long-term proposal for upgrading the Coliban system with the open flume that runs from the Coliban system direct water supply into both Castlemaine and Bendigo?

The matter I direct to the attention of the Minister for Health concerns the tragic case of an involuntary patient at the Lakeside Hospital. The Minister is aware of this case because I discussed the matter with him privately last week.

Apparently the patient has been an involuntary patient at the hospital since the 1950s and now there is doubt about whether he was properly diagnosed when he entered the facility and whether he was given the opportunity of speaking in his native language to the health authorities during his stay at the psychiatric hospital. The gentleman concerned was a migrant to Australia in the 1940s. His case has now been directed to my attention because of a possible flaw in the Mental Health Act.

It appears that the gentleman has been improperly reclassified as a voluntary patient to avoid the mandatory scrutiny requirements that now apply to all involuntary patients after the passage of the Mental Health Act. The value of the new legislation is that involuntary patients now undergo a mandatory assessment regularly to ensure that they should remain in a mental health facility or receive certain types of care.

The improper reclassification of the man concerned has highlighted a loophole in the Act or at least in its administration. I should welcome the response of the Minister both to this tragic case of one individual and also to the broader situation of whether this could occur at any other psychiatric facility in the State.

The matter I refer the Minister for Transport to an issue of school bus transport. It may appear to be a matter for the Minister for Education, but the specific issue I raise is that of safety on school buses.

A continuing concern has existed in Victorian schools about children travelling on school buses over long distances, particularly about buses being overcrowded, and in relation to the policy of allowing additional younger students to sit three to a seat designed for two adults. Of concern is the further policy, details of which are confirmed in a letter to me from the Minister for Transport, dated 23 March, indicating that as many as twelve students can stand for as long as 10 kilometres on buses in country areas.

I am particularly concerned that buses in those conditions could be travelling at speeds of 80 to 100 kilometres an hour. They could be on narrow roads that do not necessarily have good shoulders, and hazards could be posed to the safety of students.

Despite the fact that there is a good safety record for buses in Victoria I am particularly concerned at a sentence in the Minister's letter of 23 March, which states that if children need to stand, luggage racks can be used for support by older children, while younger children can hold arm rests fitted to the seats.
That sentence is intended to indicate the sort of support that can be given to children to stop them overbalancing on buses which could be travelling at up to 100 kilometres an hour on narrow country roads, many of which have poorly constructed shoulders and dangerous bumps.

I ask the Minister whether that policy can be reviewed because of the safety factor and the need to take action before a serious accident involving schoolchildren takes place. It is an entirely appropriate time for the Minister for Transport to investigate this question, given that the House has this afternoon heard a Ministerial statement on the issue of road safety in Victoria. I ask the Minister for Transport to take action on this matter.

The Hon. H. R. WARD (South Eastern Province)—The matter I raise is for the attention of the Minister for Transport. I refer to page 53 of Hansard of 8 March 1988. On that occasion I raised with the Minister a question regarding the bus service from Garfield to Warragul. It is a matter on which approximately 200 people petitioned Parliament.

I was contacted by the Shire of Buln Buln in the first instance, and the problem was raised with me again yesterday. I was asked what had been done to overcome it. I told the shire that the Minister had said, as reported at page 58 of Hansard of 8 March 1988:

I shall write to him in the fullness of time about that.

It is approximately five weeks since that reply was given, and I ask the Minister for Transport whether he has been able to examine the matter relating to the bus service and the problems created, and whether he has an answer. I am expected to reply by next Friday, and the Minister should be able to supply an answer.

The Hon. G. P. CONNARD (Higinbotham Province)—I address a matter to the attention of the Minister for Education. On 22 March I spoke about another matter associated with the Moorabbin City Technical High School. At that time I mentioned that in 1982 an amalgamation of schools occurred creating the Moorabbin City Technical High School, supporting Cheltenham High School and McKinnon High School, but leaving Moorleigh High School out on a limb, either to be reduced in size or closed down. That was to be considered within an eight or ten-year period.

The decision by the Ministry of Education has been a little precipitate; the Ministry has suggested to the Moorabbin City Technical High School that it is difficult for the other schools to handle the burden and is instructing it to amalgamate with Moorleigh High School.

I shall be happy to show the Minister for Education a letter from Dr Jean Russell which includes the following definition of a “merger”:

A merger is a form of amalgamation—it is distinguished because one school has an on-going existence, normally itself the outcome of a previous amalgamation.

The difficulty is that the Moorabbin City Technical High School experienced an amalgamation more than two years ago. Mrs Margaret Mitchell, the excellent principal of the school, has experienced enormous difficulties in establishing that new school. It is now an excellent school and I thoroughly recommend that the Minister for Education visit it.

There is not only the difficulty of creating new curricula but also of bringing the two schools together. The two unions involved—the Victorian Teachers Union and the Victorian Secondary Teachers Association—have been brought together in the Moorabbin City Technical High School by Mrs Mitchell and the school council. It has been a long exercise, but if the school is now expected to merge with another, those industrial and curricular problems will re-emerge to the extent that Mrs Mitchell and the school council of Moorabbin City Technical High School suggest that it will not work. They have asked me to bring this issue to the attention of the Minister for Education.

The Minister should consider a recommendation that if it is determined by her Ministry that Moorleigh High School must close, let it be that decision because there are three high
schools into which the students could be absorbed. If an amalgamation is to occur, the industrial and curricular issues will destroy an excellent school.

I ask the Minister for Education to consider the closure of Moorleigh High School and to be definite about it, and not to allow that threat to become a grey area for another two years, which would result in disaster.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—In response to the matter raised by Mr Guest, I can neither deny nor confirm the figures that he uses as to the cost of the canal, as he puts it, when he divides that cost into the number of units. I need to examine that matter in the natural analysis.

The best way I can respond to the issue is to say it is of interest that the five finalists of the development consortia that produced schemes for the development of the bayside area all included in their plans inland waterways of one kind or another. I think three could be called canal schemes, and the other two had significant inland water.

That is the best evidence I can offer in terms of quite different development groups, different designs and different analyses, clearly indicating that even though the schemes were different, there was some design merit and some financial worth of inland waterways in respect of that piece of land.

Mr Guest submits an interesting point and I respond in this manner: I think it indicates that there must have been some merit to that approach. I shall examine the costings to ascertain whether his figures are anywhere near the mark.

The Hon. D. R. WHITE (Minister for Health)—Mr Murphy directed a matter to the attention of the Minister for Industry, Technology and Resources. I have been provided with a response on behalf of the Minister.

The Victorian government has been concerned about the impact that cheap imported cement could have on local industry and employment in Victoria, particularly in the Geelong and Traralgon regions. Cement manufacturers have indicated they believe the imported cement is being dumped in Victoria. The government has supported local producers in making representations to the Federal government for an anti-dumping inquiry. The inquiry is at present under way.

In February this year the Minister for Labour, Mr Crabb, held a meeting of all trade unions involved, the Victorian Trades Hall Council, independent cement and lime producers, the Department of the Premier and Cabinet, the Federal Department of Industry, Technology and Commerce and the Department of Industry, Technology and Resources. The outcome of the meeting was that a tripartite working party was established to monitor activity and to ensure the speedy resolution of environmental, dumping, and occupational health and safety issues. The Minister for Labour chaired the first meeting and has appointed the honourable member for Monbulk in another place to chair the working party.

The government is aware of the importance of employment at the cement works in Traralgon. However, because of the strong economic performance of industry in Victoria it is unlikely that there will be any major downturn for demand in cement in the immediate future. It has also been indicated that Traralgon produces a type of cement which is resistant to corrosion and which enhances the plant's economic viability.

Recently, the Federal Minister for Industry, Technology and Commerce, Senator Button, announced the establishment of a tripartite committee made up of the industry, the Australian Council of Trade Unions and a government representative, to examine the problems of the cement industry, including dumping and the need for an industry plan. The Victorian government welcomes the move and it would be happy to assist the committee in its investigations.

Mr Reid raised the matter of the chlorination of the water supply of the City of Castlemaine. Given the current quality of water that is provided to the city, it will be most unwise for anyone—I do not believe Mr Reid is suggesting this—to suggest that the water
should not be chlorinated. I shall be happy to take up the matter with the Minister for Water Resources and obtain a response from him in due course.

Mr Birrell directed to my attention a Bulgarian immigrant, who is residing at Lakeside Hospital and the circumstances under which that person came to take up residence there. More recently that person's classification was changed from that of an involuntary to a voluntary patient with the respective implications that that has under the Mental Health Act. This matter has received some press coverage in recent days and I look forward to taking up the matter with the head of the Office of Psychiatric Services, Mr Tim Daly, and with the head of the new review unit. I shall provide Mr Birrell with their responses in due course.

The Hon. J. H. KENNAN (Minister for Transport)—Mr Ward raised a matter relating to a bus service from Garfield and I shall give him a telephone number which he may ring tomorrow. He may then be able to get an answer by Friday as he wants that information by that time.

Mr Hallam raised a matter about the Road Traffic Authority but he did not make it clear whether the majority of trucks were carrying sheep or grain. I am not sure of the issue but I shall look into the matter.

Mr Lawson referred to the Frankston line and I am happy to examine that matter.

Mr Wright referred to a matter concerning community services relating to travel concessions that are obtained in Victoria compared with those obtained by people in similar circumstances when travelling on public transport in New South Wales. I am happy to take up that matter and I shall have some discussion with the Minister for Community Services on it.

Mr Kennedy raised an important matter relating to the Cobra car security devices which have been installed on Jaguar motor cars, on the top line model of the Calais Commodores and also in Nissan vehicles.

The Hon. C. J. Kennedy—Mazda vehicles.

The Hon. J. H. KENNAN—Mr Kennedy has corrected me and I am grateful for his wisdom, constant guidance and support in these technical matters.

I treat seriously the problem of car theft, which Mr Kennedy raised. It is a real community issue and, as Mr Kennedy so eloquently argued, prevention is the key and we should treat the cause rather than the symptom. That was part of Mr Kennedy's sophisticated approach to the matter. I assure him that I shall be glad to examine the matter to find out what can be done in this area.

Mr Evans raised a matter of school buses, which a number of people in different parts of Victoria have also raised with me. That issue will be addressed on a case-by-case basis. There has been some discussion within the Ministry of Education and the Ministry of Transport on this issue to resolve the matter.

The Hon. C. J. HOGG (Minister for Education)—I thank Mr Connard for raising the matter which was the subject of discussions that I have had with the honourable member for Bentleigh in another place, Mr Gordon Hockley, who has a similar interest in the future of the Moorleigh High School and who is equally laudatory about the success of the Moorabbin City Technical High School.

Only today I spoke with Dr Jean Russell, the General Manager of the Southern Region, who is an excellent and extremely diligent worker for education, about the concerns that have been raised by Mr Connard, which are ones that are currently under review—and I do not use the word in a cliché sense but in an active sense.

Forced mergers where a degree of disaffection has built up are the last thing that should be enforced. The most successful school amalgamations are those achieved by consensus...
when school councils, although they might have a few misgivings, realise that there are advantages in two or three schools getting together. Generally there is no need for schools to be forced into that position. I shall take Mr Connard's points on board as I am working on the matter now.

The motion was agreed to.

*The House adjourned at 10.27 p.m. until Tuesday, April 19.*
Tuesday, 19 April 1988

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

SUPPLY (1988–89, No. 1) BILL

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

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

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

QUESTIONS WITHOUT NOTICE

“HERALD” CARD

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

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

DEPARTMENT OF AGRICULTURE AND RURAL AFFAIRS

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

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

TRANSPORT ACCESSIBILITY FOR DISABLED PEOPLE

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

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

The purpose of the accessible transport and people with disabilities study, which is one of the most far-reaching studies done in this area in Australia, is to develop recommendations that efficiently and equitably address the transport needs of people with
disabilities. The study by the Ministry of Transport does not focus just on public transport
but also includes private transport, community transport and voluntary sector transport.

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

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

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

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

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

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

EMERALD POST-PRIMARY SCHOOL

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

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

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

HOSPITAL FUNDING

The Hon. R. M. HALLAM (Western Province)—I direct to the Minister for Health a
matter concerning a facet of hospital funding which intrigues me. Will the Minister explain
to the House why hospitals are being forced to restrict patient intake when there is
increasing demand for medical services and when a large proportion of hospital costs are
fixed costs, which by all accounting rules suggests that efficiency would be improved by
increasing patient throughput rather than by reducing it?
The Hon. D. R. WHITE (Minister for Health)—During the course of the 1987-88 financial year, when the level of funding for the public hospital system was not only maintained in real terms but also increased because of the nurse career structure decision, the arrangement that the government entered into with public hospitals for Budget purposes was to expect, for the same dollar yield, an increased level of activity—that is, an increased number of patients treated for the same dollar in yield terms—and that is the basis on which budgets were negotiated.

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

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

**DIELDRIN AND DDT CONTAMINATION**

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

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

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

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

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

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

**CONTRACT CLEANING OF SCHOOLS**

The Hon. R. S. de FEGELY (Ballarat Province)—I refer the Minister for Education to her refusal to consider contract cleaning of schools on the ground that cleaners do odd jobs around the school and also keep an eye on the premises. Does the Minister value
these services at $35 million, the saving the Auditor-General found could be obtained by using contract cleaning?

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

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

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

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

PLANNING AND ENVIRONMENT ACT

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

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

POINT NEPEAN DISCOVERY

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

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

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

Excavation of sand from part of the Point Nepean complex to provide for underground public access to that wonderful fort complex has revealed the carriage of an 1887 disappearing gun. Honourable members may well wish that it were a mechanism for most guns, but this is a most important historic find. It is a 101-year-old disappearing gun, and I am advised that the gun carriage at Point Nepean is the most complete example in the
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world of a 6-inch disappearing gun carriage still mounted in its original position. The mechanism at Point Nepean is the only such example located in its original position.

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

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

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

EDUCATION ALLOWANCES

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

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

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

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

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

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

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

TAXATION CONCESSIONS FOR TREE PLANTING

The Hon. B. A. MURPHY (Gippsland Province)—Has the Minister for Conservation, Forests and Lands considered applying to the Federal Government for taxation incentives for farmers and landowners who are prepared to restore trees and native vegetation? Is the Minister aware that the South Australian government has applied to further extend the
allowance made under section 75D of the Income Tax Assessment Act to cover capital and maintenance expenditure for farm trees used for soil, water or nature conservation purposes?

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

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

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

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

The Hon. B. A. Murphy—Has Joh joined?

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

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

VICTORIAN CERTIFICATE OF EDUCATION

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

The Hon. C. J. HOGG (Minister for Education)—I reassure Mr Arnold and the House that the Government remains firmly committed to the development of the new Victorian certificate of education and to its phased introduction in all schools. The VCE reforms are central to the government’s policies aimed at increasing the proportion of students completing a full secondary education, ensuring that schools are delivering an up-to-date quality curriculum which is in tune with modern society, and meeting demands for higher educational standards. I am confident that the new courses being developed for the VCE will be a big improvement on existing courses and will cat more efficiently and effectively for the increasing proportion of students choosing to stay on and complete a full secondary education.
The courses will be up to date; they will have a much clearer focus on standards of achievement. They will achieve a better balance between academic and vocational learning; they will challenge students and offer them something worthwhile and of enduring value.

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

PETITIONS

**Flora and Fauna Guarantee Bill**

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

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

**Clarendon Street railway bridge**

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

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

**GROCERY PRICES BILL (No. 2)**

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

The motion was agreed to.

The Bill was brought in and read a first time.

**PAPERS**

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

- Parliamentary Committees Act 1968—Minister's responses to recommendations in Economic and Budget Review Committee's reports upon the Method of Remuneration for Visiting Medical Staff at Public Hospitals and a Labour Market Study for Radiologists (two papers).
- Planning and Environment Act 1987—Notices of approval of the following amendments to planning schemes:
  - Bacchus Marsh Planning Scheme—Amendment L3.
  - Bairnsdale (Town) Planning Scheme—Amendments L3 and L6.
  - Bass Planning Scheme—Amendment L1.
  - Bright Planning Scheme—Amendment L1.
  - Cranbourne Planning Scheme—Amendments L3 and L4.
  - Geelong Regional Planning Scheme—Amendment R3.
  - Gisborne Planning Scheme—Amendment L1.
  - Kilmore Planning Scheme—Amendment L2.
  - Latrobe Region Planning Schemes—Amendment R2.
  - Maffra Planning Scheme—Amendment L1.
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Marong Planning Scheme—Amendment L1.
Melbourne Planning Scheme—Amendment L1.
Metropolitan Region Planning Schemes—Amendments R1, RL2, RL3, RL4 and RL14.
Mildura (City) Planning Scheme—Amendment L1.
Mildura (Shire) Planning Scheme—Amendment L2.
Minhamite Planning Scheme—Amendment L1.
Rochester Planning Scheme—Amendment L1.
Strathfieldsaye Planning Scheme—Amendment L3.
Traralgon (City) Planning Scheme—Amendment L13.
Wycheproof Planning Scheme—Amendment L1.


Statutory Rules under the following Acts of Parliament:
- Fisheries Act 1968—Nos 110 to 112.

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

SESSIONAL ORDERS

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

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

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

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

The motion was agreed to.

LEGAL PROFESSION PRACTICE (INCORPORATION) BILL

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

That this Bill be now read a second time.

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

PRESENT POSITION

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

The Law Institute has pointed to a number of advantages for practitioners flowing from incorporation, including the relative ease with which changes in senior personnel can be effected in a company in contrast to a partnership. A partnership must be dissolved and
reconstituted every time a partner leaves or dies, or a new partner enters the firm. This necessitates cumbersome changes to deeds and leases when partners join and leave the practice. Incorporation will remove some of the administrative problems inherent in a partnership structure. The legal entity will remain unaffected as partners join the practice, leave or die. There will be simply a change of shareholding and directors. The constant ownership of assets will in turn facilitate borrowing and giving of charges.

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

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

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

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

PROPOSED NEW ARRANGEMENTS

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

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

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

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

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

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

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

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

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

CONCLUSION

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

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

I commend the Bill to the House.

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

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

MARINE BILL

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

That this Bill now be read a second time.

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

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

- to re-enact with amendments the law relating to the registration of vessels and the pollution of State waters;
- to implement certain international conventions; and
- to provide for the efficient and safe operation of vessels on State waters.

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

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

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

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

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

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

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

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

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

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

An important aspect of the Bill is that it consolidates the legislative requirements in relation to all types of vessels regardless of size, into the one enactment. At present the Motor Boating Act provides for recreational vessels up to 20 metres in length. The
provisions of the present Marine Act are, in general terms, adapted to meeting the requirements of commercial fishing boats and commercial vessels, although it also contains provisions of general application to vessels of all sizes.

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

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

Part 4 of the Bill creates a number of offences relating to alcohol, including the offence of being in charge of a vessel while having a blood alcohol content of more than 0.05 per cent. This Part has been introduced to cover the problems of alcohol consumption in conjunction with the rapidly increasing use of recreational boating.

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

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

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

- upgrading of the launching ramp at Laanecoorie, on the Loddon River;
- improving access to the ramp facilities adjacent to the Bonnie Doon bridge at Eildon;
- extension of the launching ramp and improved access to Lake Mokoan; and
- various treatments of metropolitan boating facilities, for example, ramp construction and improvement at Mount Martha, Sunnyside Beach, Hastings and Frankston, and improving access to the Patterson River.

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

The membership of the new Marine Board of Victoria has been varied as a result of comments received. It now includes a representative of the Insurance Council of Australia, together with a representative of recreational boating and a representative of professional fishermen. Provision is made in the Bill for the sea pilots' representative to continue to be elected by licensed pilots, as at present provided for in the Marine Act 1958. In the interests of keeping the new Marine Board to a workable size, it has not been possible to agree to all the requests for representation that were received. However, I am confident that the new structure of the Marine Board will result in the board being sensitive to community needs in the areas in which it will be required to make decisions.
A number of submissions expressed concern that the blood alcohol provisions could cause difficulties where people are living on vessels. The provisions have been amended to make it clear that the blood alcohol provisions apply only while a vessel is under way and then only to the person actually having charge of the vessel. On this basis, an off-duty master will not be liable although, for other purposes, the master is regarded as being at all times in charge of the vessel.

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

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

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

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

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

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

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

While the Bill is largely a consolidation and updating of existing legislation, it has not been possible to provide in it for all outstanding issues, some of which are still under consideration. For example, a number of submissions suggested that the Bill implement in Victoria the international convention relating to the limitation of the liability of owners of seagoing ships. While it is agreed that this is a significant issue, the matter of adoption of this convention, or alternatively the 1976 convention on liability for maritime claims, is currently under consideration by the Australian Transport Advisory Council. The
advice of the Standing Committee of Attorneys-General has also been sought on some related issues. Pending a decision by the Australian Transport Advisory Council, it would be premature for Victoria to proceed unilaterally to enact legislation for the implementation of the convention.

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

I commend the Bill to the House.

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

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

SUPPLY (1988–89, No. 1) BILL

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

That this Bill be now read a second time.

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

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

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

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

With respect to recurrent expenditure, the amounts have been calculated on the basis of existing operating cost levels, including subsidies and salary and wage rate levels at 22 February 1988. These are the amounts estimated to be required to meet payments for these services during the period 1 July to 31 October 1988. The amounts are set out in the relevant column in the table to clause 4 of the Bill. It should be noted that it has not been possible to incorporate in the Bill the impact of the national wage decision of 5 February 1988. The implementation of the 5 February 1988 national wage decision through the appropriate wage fixing tribunals, and any other wage awards handed down after 22 February 1988 which affect expenditure during the Supply period, will be met through the
provisions contained in clause 4 (2) under well-established arrangements. This clause provides the necessary appropriation authority to allow Supply amounts for recurrent expenditure to be adjusted to meet the cost of such wage awards.

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

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

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

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

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

I commend the Bill to the House.

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

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

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

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

That this Bill be now read a second time.

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

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

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

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

COGNATE DEBATE ON BILLS

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

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

The motion was agreed to.

MEDICAL TREATMENT BILL (No. 2)

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

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

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

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

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

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

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

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

(2b) what is an acceptable definition of “death”.

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

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

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

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

The first recommendation of the Social Development Committee was that it was neither desirable nor practicable for any legislative action to be taken establishing the right to die; and the second recommendation was that there should be legislative action clarifying and protecting the existing common-law right to refuse medical treatment, and that legislation should be introduced to establish the offence of medical trespass. There are two elements: firstly, that there should be no legislative action to establish the right to die and, secondly, that there should be legislative action clarifying the existing common law.
The current law provides that individuals have the right to refuse medical treatment—a clear right—and the consequence of that action is an obligation on doctors to adhere to the wishes of the patient. That law is clear and is acted on every day by hospitals and doctors throughout Victoria without the assistance of an Act of Parliament. However, there is a need to articulate that law because the committee found that there was confusion about the operation of the law.

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

The McEwan case highlighted the fact that there is confusion about the application of the common law with regard to a competent patient's refusal of medical treatment. McEwan had access to legal counsel and if that counsel had been properly given he could have sought and obtained an injunction from the Supreme Court to restrain his doctors from treating him.

The difficulties with his case arose, it would seem, from the fact that his doctors and perhaps his lawyers were afraid that the common law might allow an action based on negligence had treatment been withdrawn. In fact the common law with regard to trespass makes it very clear that the law of trespass overrides the doctor's duty of care and thus would not leave grounds for an action based on negligence provided that the patient had competently, freely and informedly refused treatment.

The common law already provides for the right of a competent patient to refuse treatment and remedies should that right be violated.

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

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

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

Under our system of governance, we have the rich twin heritage of statute law and case law. Each can contribute notably to societal progress. Case law is a kind of societal safety valve. If something appears to someone to be wrong, but no statute clearly prohibits it, case law and the appellate system will sooner or later shine a light on the issues, and, if necessary, new legislation through the political system will be triggered. In Australia, the paucity of landmark cases on the “right to die” issue seems to reflect that fact that the untidy, polyvalent, inchoate and unwritten methods of a diversified, free and humane society are working reasonably well.

Laws, once enacted, are difficult to change. Medical technology and society's reactions to it, on the other hand, change constantly and with surprising speed. There are so many checks and balances already at work, as illustrated by our three examples. Laws or no laws, the question of how hard to try to prolong life will always be a medical decision, subtly different in each particular case. In an imperfect world, it is sometimes better to permit the shades of grey.

Since the committee made its report substantial changes have occurred in the law and in medical services available in Victoria. When the committee made its report it considered the fact that Parliament had passed an Act called the Guardianship and Administration Board Act. That board was not in operation at the time the committee was established in
1985 and has become operational only relatively recently. Part of the charter of that board is to care for the interests of people who are incompetent, including the making of medical decisions. That was partly adverted to by the committee.

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

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

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

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

(a) to clarify the law relating to the right of patients to refuse medical treatment;
(b) to establish a procedure for clearly indicating a decision to refuse medical treatment;
(c) to confirm a patient's right to appoint another person to make decisions about medical treatment if the patient becomes incompetent.

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

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

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

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

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

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

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

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

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

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

A few days later, on 9 November 1987, I was handed a set of proposed amendments, again with the assurance that the Bill was made perfect by them and that it would satisfy all reasonable objections.
Lo and behold, on 13 November I was given another more extensive set of twenty proposed amendments. It was days after honourable members had been assured that the Bill—first in its original form and then in its second and third forms—was right and that the Liberal Party should debate the Bill.

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

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

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

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

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

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

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

Honourable members interjecting.

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

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


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

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

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

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

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

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

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

The Hon. J. E. Kirner—What you had to do was a deal, but you did the wrong one!
The Hon. B. A. CHAMBERLAIN—As I have said, the Liberal Party consulted widely on this issue.

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

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

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

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

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

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

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

Of particular concern is the problem of any legislation being able to comprehend the nuances of medical treatment, particularly in the areas of high technology and intensive care. In such circumstances the patient’s condition can change many times in a single day, and in that context a certificate issued in relation to the “current condition” could become quite meaningless.

For example, a patient may have indicated that he did not wish to be resuscitated, should a problem be found during a cancer operation. But if that problem was unexpected, say a heart attack, should resuscitation be not performed?

The Hon. J. L. Dixon—Read our report!

The Hon. B. A. CHAMBERLAIN—It is not a question of reading the report; it is a question of reading the Bill.
The Hon. M. J. Arnold—Is Ken Sleeman now advising you on legal matters?

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

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

The difficulties it may cause relate to the definition of changed circumstances. Some people dying from chronic illness pursue a regular downhill course with no dramatic changes from day to day. Other illnesses, however—and metastatic cancer is one of them—frequently become complicated by a catastrophic event e.g. bowel perforation, pathological fracture. That is, a sudden sharp deterioration which may be amenable to treatment (surgical treatment in the two examples above) to restore the patient to the situation prior to the sharp deterioration. Will such complications of the underlying condition be a 'changed circumstance'?

In practice what will happen is, if there is any doubt as to whether an event is a changed circumstance, the patient will be consulted. That is perfectly proper and reasonable, but if the patient is going to be consulted at every turn, then essentially the purpose of the refusal of treatment certificate is undermined.

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

(a) an operation; or
(b) the administration of a drug or other like substance; or
(c) any other medical procedure—
but does not include palliative care.

Clause 3 provides that palliative care means:

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

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

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

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

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

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

Other people have raised concerns about that matter.

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

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

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

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

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

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

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

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

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

Mr David Westmore, a urologist, said:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The letter states:

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

The letter also deals with other issues. Psychiatrists, who will be central to the operation of the Bill, together with physicians and surgeons, are saying, firstly, that the Bill does not
attempt a definition of "incompetence" and, secondly, that in relation to other key issues and definitions, the Bill is seriously deficient in such a way that it is incurable.

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

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

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

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

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

We are consultant physicians who have recently read the Medical Treatment Bill which has only recently become available.

We are deeply concerned about the implications of the Bill for practising doctors and these are set out in the accompanying document. The Bill has fundamentally departed from our original understanding of its purpose and consequently raises very real problems for the practice of medicine.

We would be happy to discuss this matter further with you.

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

The letter also states:

The Bill is fundamentally concerned with ANY patient who may present to a medical practitioner.

The Bill will create a wide community awareness that it is possible to refuse even reasonable medical treatment for any condition. Whilst it may already exist under the common law, the legislation makes it much more EXPLICIT and consequently patients may be more readily subjected to quite strong pressures not to accept continuing treatment for chronic diseases, e.g.

* chronic respiratory diseases with treatable exacerbations;
* diabetes;
* asthma;
* ulcerative colitis;
* hypertension;
* chronic leukaemias;
* thalassaemia and aplastic anaemia etc.

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

3. Professional Duty

At present, few patients refuse reasonable treatment or short term distressful treatment when a proportionate benefit is likely to occur in the long term. This is because a doctor has a duty to act in the patient's best interests,
to provide treatment that is proportionately reasonable. Whilst a doctor could be charged with trespass under
the common law should his treatment be disproportionately distressful, the number of instances in which this
occurs is small and could be reduced by appropriate education and training.

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

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

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

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

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

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

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

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

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

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

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

I would have thought that information is either sufficient to enable a patient to make a decision or not sufficient
to enable a patient to make a decision. To introduce the concept of "reasonably sufficient" is to suggest that
something less than sufficient information is required. If the intention is to provide that the information be
sufficient to the reasonable informed observer, then something to that effect should be stated ...
It would be possible to sign a certificate saying that a person appeared to understand the information while having the gravest of reservations about whether the person did in fact understand the information.

I am not just nitpicking. These comments are made by eminent people, in this case a Queen’s Counsel who is so highly regarded by the Victorian Bar that it uses his opinion to respond to the the Opposition’s request for comments on the Bill. He states that there are serious deficiencies with the central concept of the Bill. The issue of the consent of the patient is also raised in statements by Drs Green and Santamaria and by Professor Tiller.

I want to ensure that the House understands the Opposition’s position on the Bill. I point out that there is in fact a common-law right of individuals in Victoria to refuse medical treatment. That right is exercised every day of the week and acted upon by doctors every day of the week. Some doctors, of course, do not do so and clearly, under existing law, they are guilty of assault and battery. The government argues that one would have to take them to court to enforce one’s rights.

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

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

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

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

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

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

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

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

The third option considered by the Liberal Party was to limit the application of the Bill to patients with terminal conditions. I have already indicated that the Bill applies to all
refusal of medical treatment, and that is clearly beyond the scope of the recommendations of the Parliamentary committee.

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

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

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

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

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

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

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

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

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

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

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

However, with regard to the right to refuse treatment, there is scope for better communication between patients, their relatives, the treatment teams and others concerned with the care of patients.
That was a submission made by the St Vincent's Bioethics Centre to the Parliamentary inquiry and that is exactly the position of the Parliamentary Liberal Party.

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

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

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

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

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

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

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

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

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

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

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

Nevertheless, Mr Hallam appreciates the diverse views of the various parties on this matter. He was tireless in his efforts to reach a solution in the Bill that was acceptable to all. It is fair to say that he was largely responsible for the amendments that have been produced more recently to clarify the Bill.
I shall quote from the terms of reference of the Social Development Committee, which will shed some light on the subject now being debated. The terms of reference were to invite public submissions with respect to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The subject of dying is difficult to talk about. There are virtually no guidelines on that difficult matter. If a patient expresses a desire not to be the subject of continued medical
treatment and if that treatment may involve invasive and painful procedures, of course, the law can speak on that subject.

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

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

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

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

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

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

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

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

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

The reality is that you’ve got so many law-making bodies who have legislative powers and vastly wider administrative powers than they had 40 years ago.

For example, I once knew the 200 parts of the Police Offences Act. That’s all changed now.

The government has wiped out a whole system of law. It means that a case which once took seven days, now is adjourned for months.

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

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

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

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

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

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

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

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

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

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

However, I read Mr Guest’s comments in the Age this morning and in his final paragraph he said that legislation always leads to litigation. It makes one wonder why we waste our time in this place if resolving problems leads to litigation! Why do we bother? Why do we sit here day after day passing Bills if it will always lead to litigation?
I should like to refer back to where it all began, as Mr Chamberlain said. It began in December 1985—a long time ago, and for members of the Social Development Committee it seems like forever. The committee went through an incredible process of learning together. Mr Chamberlain quoted Sir Gustav Nossal and the early submission from the St Vincent’s Bioethics Centre. All members of the committee and the community were learning at that stage and gathering material and thinking about the problem. Even people involved in the debate were just beginning to articulate the problem. They were finally beginning to see something that the Minister for Health had the courage and the strength to see much earlier—that there was a problem and that somehow or other the Victorian government had to face up to a problem that may not have been on the party platform, but was an important issue. So we all began to learn.

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

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

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

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

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

Just over 12 months ago an aunt was terminally ill with cancer. She attended Peter MacCallum and received radiation treatment and chemotherapy but the cancer spread everywhere in the finish. By the time she could no longer look after herself it was clear to anyone she was dying. She could only be admitted to Peter McCallum if she consented to more treatment—a callous, absurd suggestion, considering her condition. She did not receive treatment after that time.

Example No. 23 states:

I saw my sister who was practically paralysed with arthritis and in constant pain brought back from obvious near death from an infection (her face was grey) by being sent from a nursing home to Fairfield and brought back to a year of pointless suffering and paralysis for another year.

How pointless to protract a life of suffering by artificial means—oxygen and the ‘drip’.

My other sister was brought out of a coma of several days—at the age of 91—to live in a state of almost helplessness—by the same means—artificial means. Why not let nature decide and leave people to go naturally?

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

Ailing old people are not afraid of dying but we are afraid of not being allowed to die.
That is what I discovered most during the lengthy inquiry—that this was really the situation in our hospitals and was more serious than I had imagined. Example No. 55 further states:

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

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

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

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

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

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

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

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

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

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

During the inquest Dr Toscano said:

Again he told me his strong wish to die.

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

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

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

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

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

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

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

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

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

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

Mr X was a 78-year old gentleman who was admitted to our ward area as an emergency admission via casualty. Then follows a description of the illness of Mr X. He had serious cancer throughout his body. On page 112 the report states:

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

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

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

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

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

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

It was to be the decision of the medical officers; it was not to be Mr X's decision and it was not his relatives' decision but it was the doctors' decision. Why? Because of the common law situation the doctor was terrified. I do not blame the doctors or the health carers.
Honourable members can all guess what happened; unfortunately Mr X could not wait until Monday morning and he suffered an arrest and died. He was immediately given twenty minutes of active resuscitation but eventually it was agreed that he was dead. His relatives were distraught about what had happened and more so about the fact that an attempt had been made to resuscitate him against his, and his relatives' wishes. Mr X did not die with dignity as a consequence of this resuscitation attempt.

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

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

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

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

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

Which one of you wants to be a martyr?

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

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

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

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

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

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

The Hon. J. L. DIXON—Certainly there may be some people who will be able to exercise that right. I suppose all honourable members will be able to exercise that right as we are all fairly well educated and articulate, but many people are unable to exercise that right.
It is cynical to expect that situation to occur with the operation of common law. Would a dying patient make a phone call to find a suitable solicitor or barrister to arrange for the matter to be heard in court in two years' time? It is cynical in the extreme to suggest that dying people have recourse to common law. It has been suggested that if a doctor does not respect a patient's rights, the patient can change doctors. It is cynical in the extreme to suggest that a dying patient can change doctors.

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

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

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

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

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

Dr Toscano replied:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

We would have been abrogating our rights and responsibilities as legislators if we passed over making some attempt to allow incompetent patients to have some say. We do not know who makes the decisions at present. People always make decisions about incompetent
patients; they are not left without anyone making decisions, are they? Someone has to make those decisions.

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

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

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

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

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

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

Frankly, if I were in that situation, my greatest fear would be whether they were going to bump me off early.

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

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

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

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

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

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

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

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

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

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

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

The Bill seeks to clarify a legislative right to refuse medical treatment. But it has also been introduced because the Minister for Health was sufficiently concerned to institute an
inquiry into such matters and because the government is concerned about both the rights and the dignity of the terminally ill. Recommendations made by the committee dealt with the not-for-resuscitation procedures, as well as many other issues.

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

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

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

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

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

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

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

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

I thank those staff members who worked with the committee and did a great deal of work on the Bill. I especially mention Mr Kevin O'Connor, who did so much painstaking and dedicated work over a long period. He was always prepared to consult with both people in the community and members of Parliament. I also thank my colleagues on the Social Development Committee. The recommendations made by the committee represent an outstanding achievement.
I assure those colleagues who are members of the Opposition that the provisions contained in the Bill accurately reflect the recommendations that were made. I believe the Bill will introduce a new era for patients, because it will ensure that ethical and moral considerations are to the forefront in the treatment of patients.

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

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

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

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

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

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

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

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

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

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

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

The Hon. M. J. Arnold interjected.

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

The Hon. J. V. C. GUEST—The House has heard Mr Arnold leading the chorus of cheap interjectors in a way which was quite incomprehensible while dealing with such an
important and sensitive matter. Mr Arnold has accused members of the Liberal Party in
general and Mr Chamberlain in particular of opportunism and giving in to the Right to
Life Association. Mr Chamberlain is now owed an apology by Mrs Dixon and Mr Arnold,
because it is clear that he has conscientiously sought to develop a well-researched position
for the Liberal Party and for the Parliament so that this House can act as the safeguard it
should be.

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

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

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

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

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

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

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

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

The Hon. J. V. C. GUEST—Yes.

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

The Hon. J. V. C. GUEST—The Bill is evidence of the problem of attempting to find a
solution to the hard case. It has obviously been hard for the government to make good
law. There have been eight versions of the Bill and honourable members are to be presented
with more amendments. Yet the government asks the House to have confidence that it is
going the Bill right now. How many more sets of amendments are honourable members
to expect? I should have a great deal more confidence in the proposition that now, in April
1988, after many changes to this relatively simple legislation, we were going to get it right
and that the balance of convenience was in passing the proposed legislation, if the
government had shown that it had taken all the practical steps disclosed as necessary by
the report of the Social Development Committee and by reflection on the problem itself.
Can the Minister for Health or Mrs Dixon say whether public hospitals, private hospitals, medical practitioners, nurses, and social workers are now all in possession of suitable guidelines to allow them to ensure that the common law as it is works as well as it can? Do they have forms for powers of attorney to give to people to sign and to give to relatives? If the government has not done that, I wonder how it envisages that the Bill will work?

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

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

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

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

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

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

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

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

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

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

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

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

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

Mrs Dixon referred to the need for a power of attorney or the appointment of an agent relating just to medical treatment, and there is no problem with that as the law stands now. An enduring power of attorney can be given to a solicitor, say, in relation to one’s financial affairs to a spouse, brother or sister in relation to one’s medical treatment. That
is quite clear under statute law as it currently stands. If that were not so, why would the Bill refer to the existing legislation? The Bill presupposes that provisions in the Instruments Act relating to enduring powers of attorney are sufficient to allow an agent given that power the ability to consent to or refuse medical treatment.

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

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

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

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

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

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

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

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

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

Honourable members must get back to the cases of John McEwan and Mr X for any kind of relevant evidence in the report. Mr X did not give a power of attorney, and because of that, his relatives could not take any effective action. Presumably, they were overawed by the strong mind of a doctor, which is fairly probable and will occur regardless of the law. If the relatives had a power of attorney for Mr X, they could have rejected the resuscitation procedure on his behalf. Resuscitation involves the physical dealing by hands and instruments with a human body. Without consent to those manipulations, the
resuscitation can amount to battery. If the relatives had the power of attorney, they could have said, "We have a clear statement from Mr X that we are his attorneys and his wishes are that no such procedures are to be carried out".

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

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

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

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

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

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

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

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

I turn now briefly to what will be the ninth version of the Bill. Mrs Dixon referred to the care taken, and the amendments made or proposed, to ensure that a patient cannot refuse
food and drink. At least two further questions arise from that: one is whether that means that the food will be forced into the mouth of a patient. Is it yet another case of the government not having thought the matter through? Does this really mean that the patient cannot refuse any food and drink?

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

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

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

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

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

The Hon. Jean McLean—The person involved.

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

Honourable members know the history of this measure. The Bill follows the Mackenzie private member's Bill introduced in this House in 1980, the Refusal of Medical Treatment Bill, and the report of the Social Development Committee. I know the work that committee undertook, from discussions with the National Party's member on that committee, Mr Roger Hallam from this place, and I appreciate the work and the dedication of the committee members in compiling that report; I do not fault it in any particular way. It is possible to quote extreme cases in which the House could be led to legislate. On almost every piece of proposed legislation that is introduced the House could zero in on extreme
cases to justify an argument that the measure is necessary and vital and should become law in this State. However, as legislators we must consider the wider effects and the total implications of proposed legislation.

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

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

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

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

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

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

The Hon. Robert Lawson—Did your child recover?

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

I sought information on this matter and was furnished with a submission from the Surgeon-General of the United States of America, Dr Everett Koop, who has had considerable experience in dealing with terminally ill patients. He detailed the way in
which he would manage the situation of dealing with a terminally ill patient and deciding whether treatment should continue. I am not talking about agents making the decision in this case, but a guided decision by a person who understands the medical aspects, the treatment, what is involved and the likely prognosis. He gave the following case, which I shall quote only in part:

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

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

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

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

Further, he states:

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

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

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

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

On most occasions where an agent would be appointed, it would be someone closely related, certainly next of kin or a close family member, who would be appointed to serve in that way. It would not only be a very difficult decision for that person but also he or she may be ill-equipped to handle it, firstly, because of a lack of knowledge of medical
treatment and, secondly, because of the person's inability to put up with viewing his or her mother or father suffering in that way.

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

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

It is fraught with danger and I am deeply concerned about its implications.

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

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

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

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

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

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

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

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

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

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

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

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

The Hon. J. L. Dixon—Not a problem.

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

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

The Hon. M. A. Lyster—Mr President, I shall ignore that ridiculous interjection as Mrs Dixon bravely ignored the interjections made while she was speaking. Those interjections accused her of presenting a "bleeding-heart" story. I found that most objectionable. If any person on this inquiry gave as much as any human being could give
it was Mrs Judith Dixon. To hear her accused by members of the Opposition of presenting a bleeding-heart story is most objectionable. I did not want to interrupt my colleague by taking exception to that interjection at the time, but I found it despicable. I know that is a side issue but, again, it is something that is confusing me.

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

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

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

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

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

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

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

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

The Hon. B. W. Mier interjected.

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

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

“Medical treatment”...
This is what we are talking about—people having the right to refuse:

... means the carrying out of—

(a) an operation; or

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

(c) any other medical procedure—

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

... but does not include palliative care.

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

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

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

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

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

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

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

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

Palliative care has been extremely important to this government. In 1986 the government initiated the State palliative care program. It funded eight home-based palliative care services for the terminally ill because of its belief in security and dignity for the aged.
Unfortunately, Mr Knowles is not in the House. He is often very quick to comment whenever I use the phrase “social justice strategy”. It is real so far as this government is concerned, and I consider the palliative care program and the money that has been spent on it to be a very real example of this government’s seriousness about addressing the needs of, particularly, the aged in our community. Palliative care is not just tokenism. It is very real to this government.

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

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

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

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

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

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

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

Education is an important part of the government’s principles in this area, not only for the community but also for the medical profession and beginning in the medical schools.
One of the recommendations of the Social Development Committee relates to encouragement of Health Department Victoria to initiate discussions with the medical schools of the University of Melbourne and Monash University—and I believe this has already started—to focus attention on encouragement and understanding in the medical education courses of the difference between curative care and palliative care. That change in focus is important. A move must be made away from the unnecessarily heavy emphasis on the curative aspect, which has, in turn, led to doctors feeling that they are failing their patients in some way when they move out of the curative focus.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On behalf of the people of Chelsea Province, and, indeed, of the whole community, I regard it as a tragedy that the government has not been able to expedite the proposed legislation which certainly has been presented to Parliament as a result of goodwill and with a bipartisan approach, as referred to specifically by the Minister for Health in his
November statement. He commended the approach and said that it was particularly pleasing to see that a genuinely bipartisan approach to the reference of the committee had been adopted, and that the members of the committee undertook the task in hand with deep compassion and seriousness. He said they should be commended for their work. I commend members of the committee for their work, which has resulted in the community becoming far more conscious of the issue. Certainly it is true that more families are now aware of their rights.

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

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

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

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

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

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

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

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

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

The only issue that must be addressed is the difference between the parties on the way in which that right is exercised when people wish to refuse medical treatment. If the debate is on the legitimate decision-making process of a patient saying, “No, I don’t want any more medical treatment”, then perhaps the debate will not be in vain. People will realise
that they have a fundamental right and they will then exercise that right at the appropriate
time. A person can then say, “No more, thank you; I do not want any more medical
treatment; I do not want my life artificially prolonged; I want to be able to die in a dignified
way without medical interference”.

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

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

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

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

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

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

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

During debate we have heard of the grey areas between medical treatment and palliative
care. Mrs Lyster spoke strongly of the difference between treatment and palliative care,
but there is always that middle ground that creates a problem, and the proposed legislation
could not and has not taken that out of the grey area by means of the definitions.
We similarly have problems of the type of illness, be it a terminal illness or an illness that is open to another form of treatment. The Bill cannot be clear, cannot be precise and cannot be conclusive on all the circumstances because the printed word has such limitations. We also have the problem of incompetence, and Mr Chamberlain quoted a psychiatrist who saw the problem of deciding whether a patient was competent or incompetent—one word, but it covers the huge area of maybe; yes; perhaps; to some degree; and, will it or won’t it.

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

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

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

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

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

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

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

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

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

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

The Hon. J. L. Dixon interjected.

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

Honourable members interjecting.

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

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

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

The Hon. M. T. TEHAN—There is a problem, but the proposed legislation does not affect it or solve it at this time. In the meantime, while we wait for the community to catch up, find the perfect legislation and test the common-law situation, let us educate people to know and exercise their rights and to be able to communicate that their judgment is as valuable as that of a doctor—hopefully, in conjunction with the medical profession; if not, on their own. If we do that, the debate will have been worthwhile.
In conclusion, all proposed legislation should be examined on the basis of whether it is necessary. I think we are overlegislated and overregulated. In an area as sensitive, fundamental and important as this, let us hasten slowly and wait for the community to tell us that is what it wants rather than imposing legislation over and above the complete and adequate protection that the common law offers.

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

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

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

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

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

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

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

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

In the earlier in-vitro fertilisation debates I adopted that fundamental, ethical view. I believe that the word “freedom” would have been more appropriate in the Bill than the word “right”. Perhaps we should not be speaking about a right. At this point, I shall throw in the analogy of the debate on the gun legislation a few weeks ago when many honourable
members were speaking about rights. I do not believe people have rights in that context; I believe those rights should be considered to be freedoms.

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

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

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

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

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

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

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

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

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

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

The Parliament recognises that it is desirable to encourage community and professional understanding of the changing focus of treatment from cure to pain relief for terminally-ill patients.
The committee has already dealt with that agenda throughout Victoria and, indeed, throughout Australia. Members of Parliament have discussed such issues, and I hope that debate will continue.

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

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

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

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

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

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

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

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

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

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

Mrs Chamberlain said earlier that, in the main, common law addresses most of the issues raised by the Bill. Indeed, some of my colleagues on the Social Development Committee stated that the Bill codified existing law, and I understand that is true. I also
understand that by far the greatest majority of cases that come before medical practitioners, hospitals and nurses are handed delicately and appropriately.

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

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

On the motion of the Hon. D. R. WHITE (Minister for Health), the debate was adjourned. It was ordered that the debate be adjourned until the next day of meeting.

ENERGY CONSUMPTION LEVY (AMENDMENT) BILL

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

STAMPS (AMENDMENT) BILL

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

RETAIL TENANCIES (AMENDMENT) BILL

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

PIPELINES (AMENDMENT) BILL

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

STATE ELECTRICITY COMMISSION (AMENDMENT) BILL

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

HEALTH (GENERAL AMENDMENT) BILL

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

BUILDING CONTROL (GENERAL AMENDMENT) BILL

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

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

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

The Hon. W. R. BAXTER (North Eastern Province)—I thank the House for the courtesy extended to me last week in adjourning the debate on the amendment made by another place to enable me to take some advice. The matter came upon me quite suddenly as I was certainly under the impression—as I think the Leader of the Government was—that
there would be no contest about the matter. I was somewhat taken aback by Mr Hunt's indication that he proposed to insist on the amendment made by the Legislative Council in respect of the additional words appended to proposed new subsection (6c) which had been inserted by the Legislative Council during the Committee stage of the Bill.

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

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

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

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

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

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

In discussions I have been able to have with the Minister for Planning and Environment today, I have asked that the Ministry for Planning and Environment identify for me those areas where discretion will not be exercisable by the certifier.
I list the different provisions and I seek an undertaking that those regulations will be among those where the discretion will be reserved for exercise by the relevant authority only and not the certifiers:

6.2 Classification in doubtful cases;
12.1 Protection works for adjoining property;
12.2 Formwork and falsework for ceilings;
13.3 Exemption for minor demolition;
17.1 (4) Ground level determination in doubtful cases;
17.3 (3) (d) Concession for use of lightweight construction in certain shops;
27.9 (3) (c) Point of discharge of carpark drainage;
31.3 Retaining walls protecting adjoining property;
44.1 (4) Point of discharge of drainage system; and
44.3 Drainage requirement to protect adjoining property.

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

The last regulation is:

55.4 Plumbing materials in unsewered areas.

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

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

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

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

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

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—The regulations Mr Baxter has numbered and the descriptions he has given are regulations that the government believes should have discretions restricted to the municipal building surveyor. That is the assurance for which Mr Baxter asked. I wholeheartedly agree with the terms of the building survey. I agree with Mr Baxter's addition to the matter of ceiling heights. I was considering that inclusion myself, although I am not the Minister responsible for the Bill. I offer the assurance that Mr Baxter asked for, and I thank him for his support on this issue and for the Bill in general.
The Hon. H. R. WARD (South Eastern Province)—I would like Mr Hunt to have the opportunity of reading the remarks of Mr Baxter and the assurance provided by the Minister for Agriculture and Rural Affairs. I suggest that the debate be adjourned until later this day so that Mr Hunt can study the remarks.

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

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

ACCIDENT COMPENSATION (DISCLOSURE OF INFORMATION) BILL

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

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

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

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

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

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

There is no reason why the request for information should not be made public. Why should the community not have access to the way in which the availability of information is handled by the Accident Compensation Commission? For that reason, the Opposition believes the Bill should be amended to provide for the publication of details of requests made, granted and refused showing a number of details about those requests. I shall give more information about the type of details that should be disclosed during the Committee stage of the Bill. Subject to that, which is simply an amplification of the provisions of the Bill and the ability of the public to obtain information about the scheme and its operation, the Opposition supports the Bill.
The Hon. W. R. BAXTER (North Eastern Province)—The National Party supports the Bill. Although it is necessary now, it should not have been necessary in the first instance if the Accident Compensation Commission had not taken such a literal interpretation of section 243 of the principal Act. Although the Bill was passed during the hiatus when the government had a temporary majority in this House and was hell-bent on rushing through as much proposed legislation as it could while the majority lasted and did not scrutinise the proposed legislation as it might otherwise have done, Parliament never intended that section 243 should be interpreted as prohibiting officers of the Accident Compensation Commission appearing before a Parliamentary committee and informing the committee of the activities and standing, financial or otherwise, of the commission. However, that is the interpretation that Mr Markley, the Managing Director of the Accident Compensation Commission, and his board sought to place on section 243.

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

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

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

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 5 were agreed to.

Clause 6

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

1. Clause 6, after line 10 insert:

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

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

    (a) the name of the person sought to be approved; and
    (b) the reason for the request; and
    (c) the date the request was made; and
    (d) whether the request was approved or refused—

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

2. Clause 6, after line 14 insert:

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

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

    (a) the name of the person sought to be approved; and
The amendments provided that the Minister must call for annual reports setting out details of requests for approval of persons or bodies under various sections of the Act.

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

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

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

ENERGY CONSUMPTION LEVY (AMENDMENT) BILL

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

That this Bill be now read a second time.

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

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

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

To facilitate its implementation a small number of customers who previously paid an energy consumption levy will no longer be required to pay an equivalent amount after 1 July 1988. These are Gas and Fuel Corporation customers who consume between 10 000 and 10 550 gigajoules of gas per annum and customers—other than the SECV—supplied directly by the Bass Strait producers.
The government will be foregoing revenue relating to those customers of the Gas and Fuel Corporation that I have just mentioned and from Esso/BHP customers. This amount is estimated at $1.56 million in constant dollars in future years.

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

I commend the Bill to the House.

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

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

STAMPS (AMENDMENT) BILL

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

That this Bill be now read a second time.

The main purposes of the Bill are:

1. to remove a potentially costly loophole from the Stamps Act;
2. to facilitate stamp duty relief in respect of corporate reconstructions; and
3. to remove duty from the transfer for full market value of call options on unissued debentures.

The Bill also includes technical provisions to clarify in relation to pro rata stamp duty on mortgages imposed under an anti-avoidance provision, section 137DA (2) (a) and to make various technical amendments following the introduction of the Road Safety Act 1986 and the Transport Accident Act 1986 including the reference to motor vehicle instead of motor car.

The loophole to be closed by the Bill was exposed by a recent High Court decision on a scheme which exploits a longstanding but little used exemption applying to transfers of shares consequent on the reduction of capital of a company.

I shall outline the scheme because it illustrates the sort of contrived arrangement now being touted by the tax avoidance industry and being adopted, even, it seems by some of our leading companies, to defeat the intentions of Parliament.

Company A wishes to sell an interest in property to company B without paying stamp duty on the transaction. The steps are as follows:

1. company A sets up another company—no duty is payable;
2. the other company is issued with redeemable preference shares in company A for cash paid to company A—no duty is payable;
3. the redeemable preference shares in company A are redeemed not for cash but by the transfer of property from company A to the other company. The High Court has held this amount to a reduction of capital. Accordingly the transfer of the property attracts the exemption for property transferred in pursuance of a reduction of capital and no duty is payable; and
4. company B subscribes for cash for shares in the other company which now has the property as an asset—no duty is payable.

Company B has successfully escaped the payment of stamp duty on a transfer of property which clearly is intended to attract stamp duty.
The scheme is so contrived as to be properly labelled a blatant rort. It also has very serious implications for revenue. It could be used to avoid duty on any otherwise dutiable transfer of property involving companies. Accordingly it could lead to a revenue loss in the order of $200 million a year. In addition it could lead to further inequities between those who pay tax and those in similar circumstances who do not pay. A few days after the adverse High Court decision, the Treasurer in another place announced the loophole from the date of announcement, 15 December 1987.

I should mention that the government has taken note of a concern expressed by the property law section of the Law Institute of Victoria that, notwithstanding the contrived nature of this scheme, the complete removal of the exemption in relation to reductions of capital could adversely affect genuine cases.

Historically there has been very little use made of the exemption but the government is proposing, in response to the property law section's representatives, that the exemption should be removed only where redeemable preference shares are involved and that the comptroller should have a discretion to apply the exemption in genuine cases.

The amendments to facilitate stamp duty relief for corporate reconstructions enable the Treasurer to exempt from stamp duty transactions arising from corporate reconstructions and require the Treasurer to report annually to Parliament, naming the firms assisted and specifying the assistance given in each case.

In 1984, as part of its economic strategy, the government announced that it would refund stamp duty—generally land transfer duty and share transfer duty—incurred by firms as a result of corporate reconstructions which do not involve a change of ownership. The policy intention is to remove stamp duty constraints from corporate reconstructions which meet certain guidelines because they generally tend to improve economic efficiency.

Guidelines governing these ex gratia payments have been published and decisions are made by the Treasurer on a case-by-case basis after examination and report by the Stamp Duties Office and the Department of Management and Budget.

Since 1984 ex gratia refunds totally $19.9 million have been made to 23 firms in respect of corporate reconstructions. Budgetary provisions must be made for these refunds, notwithstanding that there is no net effect on the Budget. However, there is no way of accurately estimating the funds required with the result that these transactions which have no net effect on a Budget can limit the availability of Treasurer's Advance for other purposes. This problem will be avoided by the use of the exemption mechanism, safeguarded by the requirement for a report to Parliament.

The proposed removal of duty on the transfer for full market value of call options on unissued debentures removes an anomaly by treating the transfer of call options on debentures in the same way as the transfer of the debentures themselves. The anomaly has not been a practical problem in the market but has come to notice in the context of a proposal by VivFin. It is proposed to make this new concession operative from 18 September 1986 when transfer of the debentures themselves was freed from duty.

Other technical amendments are also proposed in order to remove difficulties for taxpayers and to ensure consistency of wording in legislation.

I commend the Bill to the House.

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

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

Lake Weeroona, Bendigo—Mentone Girls Secondary College—Television and the Family report—National conference on reforestation program

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
That the House do now adjourn.

The Hon. N. B. REID (Bendigo Province)—I raise a matter for the attention of the Leader of the Government, as the representative of the Minister for Planning and Environment, concerning Lake Weeroona in Bendigo. Lake Weeroona is approximately 7.1 hectares in area and has an average depth of only 1.15 metres, which means the lake is, in effect, only a shallow pond.

Lake Weeroona has regional significance because it is used for many family reunions and is a popular picnic area in Bendigo. It is a well-known tourist stop for buses and private vehicles. The facility has been developed by the Bendigo City Council over a number of years and it is one of the most picturesque spots in Bendigo. During the summer, as the Minister will be aware, the prolonged warm conditions combined with other factors, such as the lack of regular water inflow into the lake, the low water level, relatively high water temperatures, little wind, the considerable slope on the bottom of the lake and the subsequent injection of nutrients, have given rise to optimum conditions for excessive algae growth.

The Bendigo City Council is concerned about the algae growth in Lake Weeroona, and is prepared to take action and to play its part to improve the conditions of the lake. It is determined that it will pay for the maintenance of a comprehensive water monitoring program to ascertain the water quality of the lake. It is also suggested that it will pay for a redesign of the stormwater system on the western side of Charleston Road, opposite the Bendigo saleyards, in case any effluent discharged from the saleyards flows into the lake.

The council has asked that the State government be approached. I refer this matter to the Minister, requesting funding for the desludging and deepening of Lake Weeroona, which is a facility of regional significance. The Bendigo City Council is prepared to do its part. It is prepared to put its dollars where its mouth is.

If the Minister could make available funding to the Bendigo City Council, it could improve the facilities in the area and make the lake an improved tourist destination.

The Hon. G. P. CONNARD (Higinbotham Province)—I direct a matter to the attention of the Minister for Education. I have recently had correspondence with the Mentone Girls Secondary College, which is a busy and highly successful girls college in the southern suburbs. The principal, Mr Michael Constable, who is an excellent principal like many in my area, has written to me indicating that several items were approved for the school out of the maintenance or minor works budget for 1987–88, specifically, three items: carpet, $8000; hall lighting, $7000; and kiln repairs, $2000.

The school has made a number of general inquiries to the Ministry without receiving adequate response. The first question is: when will the administrative details be completed to provide this promised expenditure? The school has not yet seen sight of this approved amount. It has received no definite response to this matter.

The school council has asked me to inquire from the Minister why there has been such a delay in fulfilling a normal budgetary item subject to administrative procedures. If perchance the answer to that question is that the region has insufficient funds to honour this approved expenditure, what alternative way was this budget sum spent?

The Minister will appreciate that, without answers being provided to these questions, the school council is unable to plan or implement its expenditure for 1988–89 because future budgeting is dependent on the Ministry's response to the previously budgeted and allocated funds for on the maintenance and minor works budget of the school. It is an important matter for this excellent school, and I ask the Minister to respond.
The Hon. ROSEMARY VARTY (Nunawading Province)—I raise a matter for the attention of the Minister for Education and ask whether she is aware of a letter and report which is being circulated in the eastern suburbs by the Federal member for Chisholm, Doctor Michael Wooldridge. The letter accompanies a report prepared by the National Health and Medical Research Council on Television and the Family, and makes some rather startling claims about the amount of time that children watch television each day. Is the Minister undertaking any initiatives at State level to ascertain what impact television viewing is having on school children?

The Hon. D. M. EVANS (North Eastern Province)—I raise with the Minister for Conservation, Forests and Lands a letter that I received from the Executive Director of the Forest Industries Campaign Association referring to its desire to make Australians aware of the need to plant an additional number of trees in Australia. In a letter of 8 March 1988 the association suggested that a priority objective could be for Australians to plant another 16 million trees—one for every Australian—by the end of 1988.

The letter also states that industry and State forestry services already undertake massive forest planting operations, which are supplemented by beautification works and other programs such as project Greenleaf, Greening Australia, the National Tree Program and Arbor Week, which already encourage Australians to plant more trees. This program is one the National Party has backed over many years, suggesting on many occasions that Australians should plant more trees, particularly trees indigenous to specific areas, and to replace trees in landscapes changed by farming practices where no natural regeneration takes place. This is specially important where existing trees are dying out for reasons other than salinisation.

The main objective of the association is that a national conference should be called to bring together all the programs for planting additional trees and for encouraging people from all around Australia to become involved. I ask the Minister whether she and her colleagues in other States of Australia are prepared to back a major conference on reforestation and to draw together all the groups interested in such a program as a bicentenary project.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—In debate on the motion for the adjournment of the sitting last week, Mrs Varty raised with me some errors in the Shire of Lillydale planning scheme. I considered the matter seriously enough to take it up myself and I now respond to the matter.

I raised the issue with the Minister for Planning and Environment and he has written to the shire on the matter. The errors in the planning scheme are the result of the Lillydale planning scheme base material being in poor shape at the time of the introduction of the new planning scheme under the new Planning and Environment Act on 16 February.

At the time the shire was offered the opportunity—as were all councils—of preparing its own planning scheme for 16 February. The Lillydale shire refused to assist in the process, so the Ministry of Planning and Environment spent about $16,000 on the task on its behalf.

Council officers were involved in the checking process but, clearly, there are some anomalies—Mrs Varty called them errors—still to be cleared up. The Ministry and the Minister have indicated their willingness to me to help the shire correct those anomalies. All it needs is the cooperation of the Shire of Lillydale. I ask Mrs Varty to take the matter back to the shire to indicate that willingness.

Mr Reid raised with me a matter to be transferred to my colleague, the Minister for Planning and Environment, and he asked for some assistance in the Lake Weeroona issue which was brought to his attention by the Bendigo City Council. I shall take up the matter with the Minister to see whether there is any capacity—

The Hon. N. B. Reid—The Herald, had an involvement in desludging one lake in the gardens.
The Hon. E. H. Walker—The President, in his former career, had something to do with that project. I shall have the matter brought to the attention of the Minister to see whether some assistance can be provided.

The Hon. C. J. Hogg (Minister for Education)—Mr Connard raised with me questions about Mentone Girls Secondary College and maintenance and minor works projects to be undertaken. I shall make inquiries and ask for advice from Dr Jean Russell, the general manager of that region, or from Judith Clements, who does wonderful work and is an able assistant to Dr Russell. I shall obtain a speedy reply and shall inform Mr Connard of the result.

In response to the matter raised by Mrs Varty, I do not believe Dr Wooldridge's report has been drawn to my attention, and I should be grateful for a copy if she has one. I am aware perhaps not of the details but of the large number of hours that many children spend watching television. Indeed, before they go to school, many children watch television for a number of hours that would surprise honourable members.

I shall endeavour to discover whether some special work has been done in the Ministry of Education on the question of children and television viewing but, obviously—and I have been saying this for some time—the number of hours of television watched by children these days, either with their families or alone, is a factor that must be taken into consideration by today's educationalists and teachers. I believe the number of hours watched by children, or even the fact that there is a television in the home, means that the way in which reading is taught to children in grades prep and 1 is different from the way that it was taught 10, 20 and 40 years ago. Sometimes there is a misunderstanding about the need for a variety of methods to be used for teaching some of the basic subjects, but some methods are a response to the changing world. I shall respond further to Mrs Varty if I have any information available, and I shall be interested in obtaining that report.

The Hon. J. E. Kirner (Minister for Conservation, Forests and Lands)—Mr Evans asked whether I supported the newly formed Forest Industries Campaign Association's request for planting 16 million trees and for the backing of a national conference. I support the tree planting program, as I support any tree planting program which will increase the number of trees in Victoria, as that addresses two crucial issues.

The first issue is land degradation. Trees are important in combating salinity, soil erosion and other land degradation problems. The second issue is the need for plantations to ensure sufficient resources to guarantee a continuing source of supply for the important timber industry. However, as Mr Evans knows, the Forest Industry Association is a fairly Johnny—or Julie—come-lately into this area. The conference may be of more use to the FIA than to the participants, who are already agreed on the importance of reforestation and tree growing and do not need to meet again to talk about it. What is needed is a well-funded State, Federal and voluntary sector and an industry program of reforestation.

The Hon. D. M. Evans—that is what they are aiming at, Minister.

The Hon. J. E. Kirner—I know. However, we do not need to talk about it, we need to do it. I am pleased that the Commonwealth has begun that program and has offered some millions of dollars over three years. As Mr Evans knows, the State government has already tripled its target for reforestation.

The Hon. D. M. Evans—that was first begun under Mr Granter's Ministry.

The Hon. J. E. Kirner—Yes, but it was a very low amount. That is not sufficient if the two targets of ameliorating land degradation and moving towards a proper base for plantation resources are to be met.
Although I do not think a conference is necessary, it is important to have continuing discussions and interchange of ideas and to put continuing pressure on the Federal government to ensure a proper reforestation program for eucalypts, as was achieved with the development of the pine industry after the second world war.

The motion was agreed to.

*The House adjourned at 11.22 p.m.*
QUESTIONS ON NOTICE

ESSO–BHP'S DEVELOPMENT PROGRAMS IN BASS STRAIT
(Question No. 27)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Minister for Health, for the Minister for Industry, Technology and Resources:

(a) In view of Esso–BHP's announcement that it will defer development programs in Bass Strait to the value of $1 billion as a result of low oil prices, what loss of income to the government is expected?

(b) Has an assessment been made of the effect of this decision on employment in Victoria and of its impact on Victorian suppliers to the oil exploration industry; if so, with what result?

The Hon. D. R. WHITE (Minister for Health)—The answer supplied by the Minister for Industry, Technology and Resources is:

(a) Although Esso-BHP did initially announce deferral of its Bass Strait development program, it subsequently announced in June of last year that investment in petroleum exploration and development in Australia would, in fact, be substantially increased.

On the exploration side, this is expected to guarantee $600 million in new offshore and onshore exploration over the next five years, thereby boosting the chances of significant new Australian oil reserves being discovered.

On the development side, the decision is expected to lead, over the next few years, to new investment worth between $400 million and $600 million in Bass Strait, including the development of production facilities at six new fields.

There has also been an undertaking to reassess the Tuna B development which, if implemented, could see further expenditure of up to $800 million.

These new developments are expected to increase the average level of oil production in 1987–88. Whereas Victorian royalty receipts had been projected to decline in 1987–88 by as much as $30 million compared to the previous year, it now appears receipts for 1987–88 will only be marginally short of the 1986–87 level.

(b) A detailed study has not been made on the employment effects of reductions or increases in capital expenditure in Bass Strait. Given the capital-intensive nature of these operations the employment impact would be relatively small, once the initial construction phase was completed. Although the impact on suppliers to the oil exploration industry will be minimal, suppliers of services and materials to the oil development and production industry who would have been adversely affected by the deferral of these subsequent projects will now benefit from the increased activity.

PUBLIC WORKS EXPENDITURE ON GRAFFITI AND VANDALISM
(Question No. 77)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Minister for Agriculture and Rural Affairs, for the Minister for Public Works:

(a) What amount is spent by the Public Works Department on behalf of each of its agencies on—(i) the removal of graffiti; and (ii) repairs resulting from vandalism?

(b) What procedures does the Department employ to effect a reduction in the incidence of graffiti and vandalism?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The answer supplied by the Minister for Public Works is:

(a) Information on maintenance works expenditure has not been recorded separately by the former Public Works Department in categories which indicate expenditure on the removal of graffiti and repairs resulting from vandalism.

(b) With regard to procedures which the department employs to reduce the incidence of graffiti and vandalism, consideration is given at design level to the location of certain surfaces on buildings. Use of graffiti resistant
solutions may be employed in certain instances but each case is considered individually and in consultation with the client.

The Ministry of Housing and Construction (former PWD) has designed for the Ministry of Education electronic security systems which are being installed in selected schools. These systems detect the unlawful presence of persons in school buildings and have resulted in a reduced rate of arson and vandalism.

The Ministry of Housing and Construction technically overviews the systems which are maintained by the Security Section of the Ministry of Education.

EMPLOYEES OF DEPARTMENT OF CONSERVATION, FORESTS AND LANDS

(Question No. 105)

The Hon. N. B. REID (Bendigo Province) asked the Minister for Conservation, Forests and Lands:

(a) With respect to employees engaged by the Department of Conservation, Forests and Lands since the 1985 State Election—(i) how many have been engaged; (ii) what is the job title of each new employee; and (iii) how many are male and female, respectively?

(b) How many retirements, retrenchments and transfers occurred during that period, indicating the job title and sex of each employee?

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

Statistics on the number and gender of staff employed by the department are readily available in the department's annual reports.

The cost in terms of time and resources involved in providing the remainder of the information sought by the honourable member cannot be justified. To illustrate the amount of work involved, the department engages approximately 400-600 staff each summer, mainly for fire protection duties. In addition, the normal staff turnover is 7-10 per cent, that is up to 400 staff a year. This means that up to 3000 job titles would need to be manually identified and listed, involving up to 50 pages of Hansard.
Wednesday, 20 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 2.3 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

EDUCATION ALLOWANCES

The Hon. ROSEMARY VARTY (Nunawading Province)—I refer the Minister for Education to the answer to my question yesterday in which she justified the expense of advertising the education expense allowance. I now ask the Minister: how does she justify the expense of printing a separate glossy brochure solely on the education expense allowance which, according to information released under the Freedom of Information Act, cost $65 000?

The Hon. C. J. HOGG (Minister for Education)—Yesterday I explained that the government had initiated fresh allowances in the education area. It is most important that people understand the type of allowances that they are getting or the types of allowances to which they are entitled.

I explained yesterday that the advertisement inserted in the two daily morning newspapers referred to both the education maintenance allowance, which must be applied for, and the education expense allowance, which is paid through the Federal Department of Social Security.

In the interests of community education, the advertisements were placed to ensure that people know what they are entitled to receive and also to ensure that they communicate with each other about it.

Advertising the facts about both those allowances in the newspapers and producing a brochure—which was not particularly glossy—about the education expense allowance was absolutely essential and justified.

PLANNING AND ENVIRONMENT ACT

The Hon. W. R. BAXTER (North Eastern Province)—I ask the Minister for Conservation, Forests and Lands, in view of the lengths that Parliament went to ensure that Crown land be bound by the Planning and Environment Act, why the government totally exempted her department from the provisions of that Act.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—This was the question that Mr Baxter meant to ask yesterday; I have pleasure in responding to it.

It is important that in some areas of government activity, for example, that of national parks, there is an ability for the persons responsible, who are naturally the Director of the National Parks and Wildlife Division and myself in this case, to ensure that the planning for those parks is appropriate and that the conditions applying to most of the national parks are reasonably tight and not difficult for the community to understand.

In all other areas I am able to submit to exactly the same planning requirements as required of anyone else. In most cases the department will have no trouble doing that.

The Hon. W. R. Baxter—But your department is exempt.

The Hon. J. E. KIRNER—But I can choose to submit.
ONCE-ONLY LOGGING IN NATIONAL PARKS

The Hon. JEAN McLEAN (Boronia Province)—As successive governments have approved once-only logging operations in some national parks, which have caused serious concerns, particularly in the Lyrebird Creek area of Wonnangatta-Moroka National Park, will the Minister for Conservation, Forests and Lands advise the House what approach she is taking to deal with this concern?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mrs McLean for her question and for her interest in the area. Once-only logging operations in some national parks were approved following the recommendations of the Land Conservation Council. It is a mechanism about which some honourable members, and certainly a number of conservationists, have expressed concern; I share their concern. If an area is important enough to be made a national park, there is little point in logging that area.

Once-only logging in the Otways National Park was terminated in 1985 and the areas designated for logging in the Cobberas-Tingaringy, Bogong and Snowy national parks have now been completed.

Recently there was considerable concern about logging in Lyrebird Creek in the Wonnangatta-Moroka National Park, which was approved for once-only logging in 1983 in order to sustain supplies of sawlogs to Heyfield sawmilling groups.

Once the department began to log those areas it became apparent that the terrain was too steep and it was extremely difficult to conform with the special prescriptions which had been carefully worked out by the former Soil Conservation Authority and the then National Parks Service.

The Forests Commission set those prescriptions and, although the loggers tried to follow them—that matter was the subject of the 7.30 Report a couple of nights ago—it was difficult indeed, particularly in terms of knocking down trees.

It became obvious that it was no longer appropriate to log the Lyrebird Creek area because of those site conditions. Therefore, I have approved the scaling down of that planned logging. All logging will cease in the Wonnangatta-Moroka park by 1 July 1988. That will mean that, except for the Grampians National Park, where a small amount of logging is still to be completed, no once-only logging will occur in Victoria by the end of the next couple of years.

TIMBER INDUSTRY STRATEGY

The Hon. M. T. TEHAN (Central Highlands Province)—The timber industry strategy of 1986 refers to the establishment by the government of a value-adding processing task force to examine and develop strategies for processing and seeking markets for Victoria’s high-grade timber products. Will the Minister for Conservation, Forests and Lands advise whether this committee has been set up, how regularly it meets and when a report of its findings can be expected?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Yes, the committee has been set up. It comprises members of my department, the Department of Industry, Technology and Resources and the Department of Management and Budget. I do not check up on how often the committee meets and I certainly do not mean it to be a committee that writes a report and goes away. The committee’s task is to continue to support one of the major aims of the timber industry strategy which is, of course, to obtain the best use of wood.

I must say in answer to the shadow Minister that I am delighted with the way the value-adding system is starting to work in Victoria. Some millers who were saying to me two or three years ago that they could not possibly use mountain ash or alpine ash for anything other than green scantling are now moving into integrated mills and using the best ash in
the way it should be used, that is, for veneer and furniture making. The Ezzard mill creek is a brilliant example of that. It is well on the way down the track to exporting alpine ash, which is known as Australian oak—a term with which I have a little trouble. Proposals have also been made by the Neville Smith industry for more value-adding work and there have been proposals from Gunnersons in the Otways.

Blackwood is also being sold. It is being harvested as part of the timber extraction on tender and demand is seven times as great as it was when the millers used to pull it out without knowing what they wanted to use it for. A number of other things are happening and I expect even more will happen as we consolidate long-term licences over the next two weeks or so.

One of the problems with logging in the timber industry in Victoria is that under a Liberal government loggers had no security because they had annual licences. No-one can do anything about future planning for value adding, for best use of wood, and for installing machinery that is needed to make the best use of wood with one-year licences. I look forward to fifteen-year licences being signed over the next couple of weeks and I look forward to responding to Mrs Tehan's next question on value adding.

GOLD OASIS FRUIT-PACKING COMPANY

The Hon. K. I. M. WRIGHT (North Western Province)—I commend the Minister for Agriculture and Rural Affairs for his decision to support the twelve-month extension of the Wine Grape Price Negotiating Committee. My question involves two matters.

Firstly, I refer to the loan by the Victorian Economic Development Corporation of $1 million to the collapsed Gold Oasis fresh-fruit packing complex and the $160 000 interest a year that that loan attracts, and, secondly, to Mr Barrie Beattie, the General Manager of the VEDC and the media announcement that he has been elected as President of the Footscray Football Club, and that he was until recently General Manager of the VEDC.

I ask the Minister, firstly, whether Mr Beattie's departure is connected with the adventurous lending policies of the corporation, and, secondly, what is the future, as he knows it, of the future operations of the Gold Oasis packing company?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Wright asked me a question a few weeks ago in regard to the Gold Oasis fruit-packing company. I responded to him on that occasion. I do not know whether I can add anything to that answer.

The Hon. K. I. M. Wright—There have been developments since then.

The Hon. E. H. WALKER—We were conscious that a Victorian Economic Development Corporation loan was involved, and I believe Mr Wright and I agreed on that occasion that the sooner the Gold Oasis company could get working on packing table grapes for Europe, the better.

In regard to Barrie Beattie, I was not aware that he had left the job that Mr Wright mentioned, but I am not the Minister for Industry, Technology and Resources. I shall convey Mr Wright's question to that Minister and obtain an answer as soon as possible.

PUNT ROAD WIDENING

The Hon. B. T. PULLEN (Melbourne Province)—I ask the Minister for Transport to indicate to the House the status of proposals to widen Punt Road between the Yarra River and Bridge Road. Some concerns have been expressed about the difficulties being experienced in saving some of the mature trees by both the Melbourne City Council and the residents of Punt Road. I ask the Minister to indicate the current status of planning for the widening of Punt Road and, in particular, to explain the situation in respect to the mature elm trees that will be affected by the proposal.
The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Pullen for his question and his keen interest in this issue.

As a result of representations made to me by Mr Pullen, Mr Sidiropoulos—the honourable member for Richmond in another place—and other interested groups, I have recently directed the Road Construction Authority to reconsider its plans to widen Punt Road between the Yarra River and Bridge Road.

As the House would be aware, the plans originally involved the widening of Punt Road to a 6-lane 2-way capacity between Bridge Road and the river, and the proposal would have affected some 38 trees, 23 of which are European elm trees.

The Road Construction Authority has now prepared alternative plans which will form the basis of future road-widening work. The plans involve retaining Punt Road from the river to the Swan Street intersection in its current form. Minor works will be proposed for the Swan Street intersection to facilitate traffic flow, and no trees along the section of the road between the river and Swan Street will now be affected. The existing stand of elms will be preserved. The revised plans involve saving eleven elms south of Swan Street that would have been adversely affected by the original proposal.

Works along Swan Street and at the Swan Street and Punt Road intersection will proceed as proposed, and that will ensure that there will be safe and improved access for train and tram commuters and traffic to the National Tennis Centre. Those works will affect three elm trees on the western side of Punt Road.

Works to improve traffic flow at the Brunton Avenue and Punt Road intersection have been redesigned so that the same effect can be achieved without disturbing four of the five trees affected by the original proposal. Only one tree will be affected by the revised proposal.

The works between Brunton Avenue and Bridge Road will proceed as proposed. The revised proposal affects 21 of the 38 trees; that is 17 fewer trees than was envisaged by the original proposal. Of those 21 trees, only 9 are elms.

Together with the Department of Conservation, Forests and Lands and officers of the Melbourne City Council, the Road Construction Authority has investigated the possibility of relocating all trees that are affected by the proposal. I understand eight of the nine elms affected by the proposal can be relocated.

Works on Punt Road are expected to commence in May 1988 and to be completed within three years. I am satisfied, as a result of discussions that I have had with Mr Pullen, Mr Sidiropoulos and other persons concerned about the proposal, that substantially fewer trees will be affected, but the government’s stated objective of improving traffic flows along Punt Road will be achieved, and the proposed widening will assist thousands of Melbourne motorists in their day-to-day travel, while protecting the environment and quality of trees.

POULTRY INDUSTRY

The Hon. F. J. GRANTER (Central Highlands Province)—It is my custom to ask the Minister for Agriculture and Rural Affairs a question about the poultry industry once in every sessional period, and I do so today because, as I understand it, the poultry industry in Victoria is in dire straits, especially in the Bendigo area.

Some poultry farmers are going broke, and if the price reduction for eggs of 5 cents a dozen as recommended by Professor Fels is upheld by the Minister for Agriculture and Rural Affairs, many other poultry farmers in the Bendigo area will find it difficult to make a living and will probably have to go on to social services.

What is the position with the poultry industry at this stage, and will the government accept the recommendations of Professor Fels?
The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—A number of the representatives of the Bendigo poultry industry came to see me last night and had the opportunity of speaking to the policy committee of Parliamentarians from the Labor Party. The poultry farmers were introduced by the honourable member for Bendigo West in another place, Mr David Kennedy.

A number of matters were discussed with the deputation last night, and the people left reassured that their concerns are being met. The comments I made to them will be made again in two weeks’ time in a statement I will make to Parliament in response to the Public Bodies Review Committee report on eggs.

It is not my job to determine the price of eggs. I am aware that the Prices Commissioner has recommended a reduction in the price of eggs. I am also aware that the Victorian Egg Marketing Board, whose job it is to determine the price of eggs, has read the opinion and advice from the Prices Commissioner but has issued a press release indicating that it does not intend to take action on the matter at the moment.

Therefore, Mr Granter can be reassured that the price of eggs will stay as it is for the moment, but if it changes it will be because of a decision of the Victorian Egg Marketing Board, not of the Prices Commissioner or me.

The advice is completely understood, and I should be happy to make available to Mr Granter a copy of the government’s position on the issue.

FERAL CATS

The Hon. D. M. EVANS (North Eastern Province)—I am sure the Minister for Conservation, Forests and Lands would be aware that feral cats are efficient predators and that small mammals, particularly ground-dwelling birds in Australia, have no natural defence against them.

What research, if any, has the Department of Conservation, Forests and Lands been doing to try to deal with this menace and reduce the population of feral cats in Victoria to protect our native fauna and especially our birdlife?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Evans is quite correct in saying that feral cats are disastrous to birdlife. I suppose the question is important; it is better than his question about feral dogs and feral people!

I am pleased to say that I do not have to examine this important issue entirely by myself. A Parliamentary committee has been established under the excellent leadership of Mrs Judy Dixon to examine the whole issue of animal and especially dog and cat welfare. The issue seems to strike at the heart of the system much more than do issues about humans, and I hope when the committee’s report is tabled in Parliament it will deal with the issue of feral cats and will be accepted, as was the committee’s excellent report which led to the introduction of the Medical Treatment Bill.

MEDICAL TREATMENT BILL

The Hon. B. W. MIER (Waverley Province)—Can the Minister for Health explain to the House why he adjourned debate on the Medical Treatment Bill in this House yesterday?

The Hon. D. R. WHITE (Minister for Health)—When the debate was adjourned last night I did not indicate to the House the reasons for the adjournment, but there has been some comment, and to clear up any misunderstanding as to the reasons for the adjournment, I should like to take the opportunity of making clear to the House why the adjournment was sought by the government on this sensitive debate.

The Opposition led a great deal of argument on the point that the current common law is an appropriate mechanism for dealing with issues affecting medical treatment and dying
with dignity. It was also stated at some length, particularly by the Leader of the Opposition in this place, that the reason for the common law not working adequately was——

The Hon. B. A. CHAMBERLAIN (Western Province)—On a point of order, Mr President, as I understand it this question relates to a matter that is before the House at present. The issues being canvassed by the Minister for Health are issues which were canvassed in a debate which the government has chosen to adjourn. I should have thought that the rule of anticipation would have prevented the matter being debated in this way.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, the question related to the reasons that the adjournment of the debate was sought. It does not contravene the rule of anticipation. It would be of benefit to all members if the reasons for seeking the adjournment of the debate were clarified.

The PRESIDENT—Order! I do not believe there is a point of order. The question is admissible, but the Minister for Health is reminded that he should not canvass matters raised but restrict his answer to an explanation to allow honourable members to understand fully the reasons behind the adjournment.

The Hon. D. R. WHITE—Much time was spent yesterday raising the issue as to the manner and the circumstances in which common law applies, and whether it applies appropriately. Much argument was led on that matter.

The government sought an adjournment because it is of the view that not only is this a sensitive issue, but also it is important to be able to meet the matters raised on two counts—firstly, whether common law is an effective mechanism, and secondly, whether it is correct that the reservations or concerns expressed by Mr Chamberlain and Mrs Tehan about the applicability of common law rested on the point that the government had not taken sufficient steps to inform people of their common-law rights?

The government sought an adjournment to give it the opportunity of responding on those points in view of the fact that the all-party Parliamentary committee in its deliberations quickly reached the view that there were inadequacies in relation to common law. Therefore there was not extensive discussion at the Parliamentary committee level about that particular matter, which ought now to be the subject of significant consideration in Parliament.

I further put the point that the other matters raised, particularly by Mr Chamberlain who led the debate in respect of definitions relating to palliative care versus medical treatment, are matters that could not only be more appropriately dealt with in Committee, but also in regard to definitions raise similar problems with respect to common law. In respect of the opinions that Mr Chamberlain quoted, it would be in the interests of the debate generally if the entire opinions—not only selective quotes—were made available to all members, because, as he indicated, many of the quoted opinions were from people who were writing in support of the proposed legislation.

The government will be responding on the issue as to its view that common law is not working effectively, and that even after taking into account the views expressed by Mr Chamberlain, and having provided educational material to the public, common law will not be an adequate mechanism.

Honourable members interjecting.

The Hon. D. R. WHITE—In reply to the interjections of Mr Long, with the assistance of Mr Storey, that is the sort of argument that ought to be pursued in the Liberal Party room.

SCHOOL RETENTION RATES

The Hon. J. G. MILES (Templestowe Province)—I refer the Minister for Education to her statement yesterday concerning government school retention rates, and ask whether it is a fact that the latest Australian Bureau of Statistics figures show that retention rates are
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rising in all States of Australia but that Victorian government school retention rates are below the national average.

The Hon. C. J. HOGG (Minister for Education)—The retention rate has markedly improved over the past five years in Victoria. Retention rates have improved across the education system and across Australia largely because of the dynamic leadership given by the Federal government and because of Federal involvement in education. That Federal influence and a national agenda for education, one might say, is at last beginning to have its effect.

It was of interest to me to read in the Age some two weeks ago that during the Liberal Party conference a successful resolution was proposed by Victorian branch members. The Victorian branch, supported by the Leader of the Victorian Opposition, argued against Federal influence in education. It struck me that that was a retrograde step. I was amazed by it because I thought that if the Federal government had no influence in the sorts of programs that it emphasises and funds—the disadvantaged schools programs, country education and many programs that have been pace-setters throughout education—we would be the losers.

I also thought that without Federal influence in education we would not be seeing the kinds of retention rates we are seeing now. In my view it has been very much the emphasis placed on participation and retention rates, particularly by former Senator Susan Ryan, the previous Federal Minister for Education, that has brought about the nationwide trend. I am, of course, not yet satisfied with the retention rate in Victoria, but it has increased at a rate beyond the Ministry's projections this year—it has risen to 51.9 per cent. Next year the figure will be even better and by halfway through the 1990s we will have the sort of retention rate of which we can be proud.

STRAY ANIMALS

The Hon. D. E. HENSHAW (Geelong Province)—Can the Minister for Agriculture and Rural Affairs advise the House of the progress made by animal welfare agencies in tackling the problem of stray and unwanted animals?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—There are some indications that the number of dogs abandoned or strayed in metropolitan Melbourne each year is beginning to reduce significantly. The Lost Dogs Home in North Melbourne has recorded a 10 per cent reduction in the number of homeless dogs in the first quarter of this year compared with the first quarter of last year. While the decrease does not mean that the problem of homeless dogs and animals generally is conquered; the figure does indicate that the efforts of people such as Dr Graham Smith of the North Melbourne Lost Dogs Home are beginning to work, and I pay him credit for that.

Each year in Victoria about 45 000 stray or unwanted dogs are handled by local councils and animal welfare societies. More than half of those—over 20 000—have to be destroyed. If the figure for stray cats were to be added, it would be far greater. It is hard to estimate the populations, but if one were to add together the number of feral dogs and cats, particularly in metropolitan Melbourne, it would be well into the 1.5 million category. It is a big issue and it is being tackled.

Today I took part in a small ceremony at a pet cemetery in Rowville where a stray, unknown, unloved and unwanted dog was buried. I unveiled a small plaque—

The Hon. Robert Lawson—Was it dead?

The Hon. E. H. WALKER—I know the honourable member is a pet lover himself, and I do not think he meant that to be disrespectful. The point of the ceremony was to raise the consciousness of the public about irresponsible pet ownership. After Christmas and through January each year thousands of pets that have been bought and given as Christmas presents are left to stray and become feral and unwanted, which is a tragedy.
The Social Development Committee, which is an all-party Parliamentary committee that does a great job, although it is not always appreciated, is examining the whole issue of companion animals, as a reference, and we hope shortly to receive a report that will allow the preparation of proposed legislation on the matter.

I look forward to the companion animals legislation being paired with the Prevention of Cruelty to Animals Act to make a good basis for proper treatment of all animals in the State. I know that work is under way and will take some time. I also look forward to the work of the committee. There are signs of the programs that we have put in place beginning to work.

PETITION

Flora and Fauna Guarantee Bill

The Hon. C. J. KENNEDY (Waverley Province) presented a petition from certain citizens of Victoria praying for the passing, this session, of the Flora and Fauna Guarantee Bill, and that any amendments be directed towards strengthening the powers of protection rather than limiting the range of species and communities protected under the Act. He stated that the petition was respectfully worded, in order, and bore 8 signatures.

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

NATURAL RESOURCES AND ENVIRONMENT COMMITTEE

Electricity supply and demand beyond the mid-1990s

The Hon. N. B. REID (Bendigo Province) presented a report from the Natural Resources and Environment Committee upon electricity supply and demand beyond the mid-1990s, together with appendices and minutes of evidence.

The Hon. N. B. REID (Bendigo Province)—I move:
That they be laid on the table, and that the report and appendices be printed.

In doing so, I shall make a few brief comments. The report that is being tabled today will have important significance to the economic future of Victoria and the residents of the State.

The inquiry has been long and arduous and has demanded a major commitment from members of the committee, research staff, secretarial staff, the staff of Hansard, and the participants in the inquiry who gave evidence before it. I take this opportunity of also recording my thanks to the deputy chairman of the committee, the Honourable Barry Pullen, and to all members of the committee for their commitment to the task.

I also thank the director of research, Mr Malcolm Knight, Mr Alan O’Neil, and Liz Roadley for their technical assistance on many issues and their professional approach to the whole inquiry. Many thanks also to the secretary, Vera Velickovic, for her cooperation and assistance and to Dianne Wilding for her dedication to the report.

I especially thank the staff of Hansard who had to endure many early mornings and long trips to fulfil their obligations to the work of the committee in recording what amounted to extremely technical evidence on many occasions.

The motion was agreed to.

PAPERS

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

Local Government Grants

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Planning and Environment Act 1987—Notices of approval of the following amendments to planning schemes:
- Melbourne Planning Scheme—Amendment L2.
- Mildura (Shire) Planning Scheme—Amendment L1.
- Swan Hill (City) Planning Scheme—Amendment L1.

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

LOCAL GOVERNMENT REVENUE ASSISTANCE GRANTS

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

That this House registers its grave concern at the impact of the new formula for distribution of revenue assistance grants to local government, and calls upon the government to seek an amendment to the formula, and its interpretation, with the specific objective of alleviating the plight of rural municipalities.

The recently revised formula for the distribution of revenue assistance grants to local government represents a disaster for rural municipalities and for the communities they represent. There has been a dramatic reduction in those grants to the smaller shires in particular, and a compelling argument exists for the Cain government to review the formula and intervene as a matter of urgency.

The shift in the allocations is biased and discriminatory. The Premier and the Minister for Local Government must see the need to intervene on the grounds of equity and social justice to have the situation redressed. The case I want to make revolves around two fundamental issues: the first is the clear need to change the formula; and the second is that the Cain government has the prime opportunity of having the formula amended. The Cain government is in the best position to provide the relief that is so desperately needed.

I turn to the first of those points: the need to change the formula. Before I start, I should explain that the new formula is to be phased in over four years and, to this point, we have seen but a quarter of that phasing in. We now have a concept of implied grants; in other words, grants which would apply, given that the formula were completely phased in. The effect of the change is clearly demonstrated by the raw data. I seek leave to have the two simple tables which were prepared by the Municipal Association of Victoria incorporated into Hansard.

The PRESIDENT—Order! I have examined the material and it falls within the appropriate guidelines.

Leave was granted, and the tables were as follows:

PERCENTAGE DISTRIBUTION OF GRANTS BY CATEGORIES, 1986–87, 1987–88 AND IMPLIED GRANT

<table>
<thead>
<tr>
<th>LGDIS Category</th>
<th>1986–87 Alloc</th>
<th>1987–88 Alloc</th>
<th>Implied Grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Inner Metro</td>
<td>33.34</td>
<td>33.29</td>
<td>31.81</td>
</tr>
<tr>
<td>2. Rural Cities</td>
<td>8.15</td>
<td>8.79</td>
<td>10.80</td>
</tr>
<tr>
<td>3. Outer Metro</td>
<td>17.71</td>
<td>18.76</td>
<td>23.30</td>
</tr>
<tr>
<td>4. Urban Fringes/Rural</td>
<td>4.87</td>
<td>5.18</td>
<td>6.46</td>
</tr>
<tr>
<td>5. Large Towns</td>
<td>7.38</td>
<td>7.85</td>
<td>9.07</td>
</tr>
<tr>
<td>6. Small Towns</td>
<td>0.90</td>
<td>0.88</td>
<td>0.81</td>
</tr>
<tr>
<td>7. Rural Shires</td>
<td>27.64</td>
<td>25.26</td>
<td>17.76</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.00</strong></td>
<td><strong>100.00</strong></td>
<td><strong>100.00</strong></td>
</tr>
</tbody>
</table>

Source: MAV (1988)
The first table is headed "Percentage distribution of grants by categories, 1986–87, 1987–88 and implied grant". This shows the drift in the allocations by category. It shows clearly that the rural shires have borne the lion's share of the turnaround. The table shows clearly that, whereas under the previous allocation formula rural shires were receiving 27.64 per cent of the total cake; under the new formula, their share will decline to 17.76 per cent. In other words, the loss represented in that category is one-tenth of the total cake. This represents a massive shift in the share going to that category.

The second chart shows the nature of that turnaround by analysing the totals of the increases and decreases in grants. The chart clearly shows that, in money terms, the rural shires category is the only category that is the net loser. The loss is almost $12 million, despite the fact that the funding cake increased in size.

One category of local government has been singled out to bear the brunt of the charge in the allocation of grant funds. I put it to the House that the facts speak for themselves. The change in the formula is biased and the effects of that change are discriminatory. Those figures represent the shift in money terms. The shift in real terms is far greater.

I shall examine those shires that have been the real losers under the formula. I shall give examples of those shires, particularly those that are situated in western Victoria, the area for which I have responsibility. The Shire of Arapiles received a grant of almost $190 000 in 1986–87, but under the new formula that grant is reduced to $42 000, a decline of 78 per cent. The grant received by the Shire of Ararat falls from $531 000 to $104 000, which is a massive turnaround. The Shire of Belfast received a grant of $121 000 in 1986–87, and it has had its share cut to $61 000. The Shire of Colac, which received $499 000 in 1986–87, has had that grant cut to $42 000. In 1986–87, the Shire of Dimboola received $444 000; that grant will now be cut back to $373 000. The grant of $267 000 made to the Shire of Dundas in 1986–87 has now been cut to $42 000. The grant to be received by the Shire of Glenelg this year has been halved: it has been reduced from $554 000 to $242 000.

The list continues. The Shire of Hampden has had its grant reduced from $560 000 to $482 000. The Shire of Kaniva has had its grant reduced from $232 000 to $46 000—and in that case one wonders whether the Shire should have bothered to apply for a grant at all. The Shire of Kowree previously received a grant of $413 000; that amount has been reduced to $47 000, which is a loss of almost 90 percent of its grant allocation at one full swoop. The Shire of Leigh has had its grant reduced from $161 000 to $26 000. The Shire of Lowan has had its grant reduced from $338 000 to $238 000, a loss of $100 000. In 1986–87, the Shire of Minhamite received a grant of $242 000; that grant has been reduced by two-thirds to $84 000. The Shire of Otway has had its grant almost halved. The Shire of Portland, which had received a grant of $750 000, is to receive a grant of $237 000, a loss of $500 000 in a small shire.
The Shire of Wannon has had its grant reduced from $338,000 to $78,000. The Shire of Warracknabeal has had its grant reduced from $349,000 to $156,000. The Shire of Warrnambool received $650,000 in the previous year, and its grant has been reduced to $255,000. The Shire of Wimmera is perhaps one of the worst examples of what has occurred; that shire had received a grant of $341,000 in the previous year, and that amount has been reduced to $34,000, a loss of almost 90 per cent.

Those examples illustrate how draconian the cutbacks have been. I have written to both the Premier and the State Minister for Local Government and on 14 December last year I wrote to the Federal Minister who has responsibility for local government as well as his Opposition counterpart. In my letter I clearly explained the enormous impact that the new formula will have in rural Victoria.

I cited the City of Hamilton and its hinterland as an example. Although the City of Hamilton received an increase in funds—in other words, it has been described as a winner in the terminology used by the government—the facts are that each of the surrounding shires upon which the City of Hamilton depends heavily has received a massive cutbacks in funding. The effect on the City of Hamilton and the surrounding shires has been a turnaround in funding of $650,000 a year.

That must be described as a massive turnaround. Although the City of Hamilton could be described as a winner, I put it to that city that it could not sit on its hands when a massive turnaround was occurring in an area upon which it was dependent.

There must be an extraordinary loss of services associated with a massive reduction in funding. The government cannot allow certain sections of the Victorian community to suffer that loss without implications flowing through society; coming, as it does, on top of the reduction in road funding. The repercussions will have an extraordinary impact. Unless a turnaround occurs this reduction in funding will prompt a crisis in local government throughout rural Victoria.

The Hon. B. W. Mier—They had better amalgamate!

The Hon. R. M. HALLAM—I shall come to that in a moment; it is a good interjection. Because I have worked so closely with community services and because I understand that the former Minister has a great feeling for community services, I put it to her that she should inform the House what services will be reduced, because that is the prospect facing small municipalities. Will services be reduced in the home help, infant welfare, and the roads and bridges areas? The choice facing the smaller shires is very clear. They will either have to impose on their communities rate increases of approximately 30 per cent to 40 per cent or dramatically reduce services.

I have some sympathy for the council of the Shire of Wimmera, which faces a 90 per cent reduction in its revenue assistance grants. I remind the House that the title of the grant says what it should be used for—to assist revenue. The grant is to assist revenue, not to hinder municipalities; yet, because of the way it has been applied, the formula is working in the reverse.

The councillors in the smaller shires have an impossible task. They are told that almost all of the grants they received in the past from the Federal government will be wiped out, but they will still be under the same pressure from local communities to retain the services that they have operated in the past. It is placing those small shires and small communities in an untenable position.

An Honourable Member—They will have to get bigger.

The Hon. B. P. Dunn—His answer is that they have to get bigger!

The Hon. R. M. HALLAM—Funding reductions of that magnitude will have enormous implications on small communities. The funding is allocated from outside the boundaries of those areas, and so the multiplier effect occurs. I use as an example the Shire of Wannon, which services two relatively small communities, Coleraine and Balmoral. The loss of
Local Government Grants

almost $250,000 a year will have an enormous impact on those two communities. Will the services that those communities provide be wound down further? That loss must impact on the hospitals, the schools and the employment levels of the shire.

Unless there is a turnaround in funding, many of the smaller communities that I represent will not survive in the long term. The turnaround in government funding is the biggest and most sinister threat those communities have faced in their entire existence, and many communities will not survive.

The second point that I said was central to my argument, is the claim that the Cain government is primarily responsible for the formula and that the Cain government is in the best position to provide the relief that is required. It is important to establish that, because there are three central players: the Federal government, the Cain government and the Victoria Grants Commission. Each of those players has responded to criticism by passing the buck. In fact, they have all acted like Pontius Pilate and washed their hands of the issue, saying, “We are free of blame”.

When I raised the issue with the Premier he said, “Roger, you must not complain simply because you do not like the umpire’s decision.” That would be a fair comment, except that the Premier briefed the umpire before he took the field. That is the central issue; it was the Premier who determined how the rules would be applied. On those grounds, the Premier of Victoria must accept the primary responsibility for the issue and the responsibility for the demise of local government throughout rural Victoria.

For honourable members to understand the roles of those three players I mentioned, it is necessary for me to outline the events that led to that change. In June 1986 the Commonwealth government enacted the Local Government (Financial Assistance) Act to provide an ongoing program of funding to local government throughout the six States and the Northern Territory. At the same time, the Federal government repealed the Local Government (Personal Income Tax Sharing) Act 1976, which previously provided the basis for the distribution of revenue assistance funding. Indeed, it was a concept introduced by the Whitlam government in 1973-74. As an aside, the rationale used by the Commonwealth government to move away from the concept of distribution based on personal income tax is another story, and I shall not go into that issue.

When the amending legislation was debated in the Commonwealth Parliament it was supported by all parties. One of the central features of the new 1986 legislation was:

Each State shall, before 1 July, 1986 formulate principles for the purposes of allocating amounts . . . amongst local governing bodies in the State, and shall give a copy of the principles so formulated to the Minister before that date.

That was the primary instruction; it was not directed to the Victoria Grants Commission, but to the State government. The State was required to formulate the principles—that was very clear—but that legislation further provided three quite specific instructions. It said that the State government must consult with local government in the determination of those principles. It said that the State government:

. . . shall have regard to the objective of ensuring that the allocations of funds for local government purposes is made, as far as practicable, on a full equalisation basis . . .

The Act went on to define what was meant by full equalisation, which is a complicated process. The third instruction given to the State government was also most important—it was not given to the Victoria Grants Commission—and stated that the government:

. . . shall ensure that no local governing body in the State will be allocated an amount in a year that is less than the amount that would be allocated to that body if 30 per cent of the amount . . . were allocated . . . on a per capita basis.

In other words, there was to be a safety net of the total funds being granted on a per capita basis.

I apologise for the complicated instructions but they come directly from Federal legislation. The bottom line is that the Cain government was given three tasks: it was told
to introduce those principles; to consult with local government, and to introduce the
concept of full equalisation with a safety net. The Victorian government then decided to
send the brief off to the Victoria Grants Commission. The government—the Premier, in
particular—now has three excuses as to why it says it cannot be held responsible for the
outcome.

The Premier has said that the government was told to consult and it has done so. The
Premier is claiming that the change in instructions was imposed by the Commonwealth
government and is using that as a defence. The Premier has said that the government sent
the matter off to an independent arbitrator, to the Victoria Grants Commission and,
“What could be fairer?” Both the Premier and the Minister for Local Government have
held their hands up in mock horror and said, “How could you suggest that we have been
unfair when we have followed that process?”

It will be shown how the Cain Labor government got around those instructions to
produce a predetermined outcome. I refer to each of the defences in turn.

The government has said that it consulted with local government. I concede that there
was a detailed consultation process. In the Victoria Grants Commission report of 1987
the details of that process are laid out. Of the 210 councils in the State, no less than 193
took part in the consultation process, and 45 written submissions were directed to the
Victoria Grants Commission. Round one to Mr Cain.

While the Victoria Grants Commission claims there was general acceptance for its
proposal to change the equalisation model from the direct measurement model to a
balanced budget model—the primary change which is causing subsequent heartache—
acceptance was based on the elementary notion that the new system might be easier to
understand. In the past, no-one could get near the formula; it was shrouded in mystery
and almost in mystique. The most common complaint of local government was that the
formula could not be understood. Local government wanted the system changed so that it
could be understood. That was the basis of the acquiescence.

The first thing local councils wanted to know was what the new formula would mean
for them. It is a fairly fundamental question. Those councils were told by the Victoria
Grants Commission that the information could not be released because it might prejudice
the councils’ view of the formula. The commission was saying, “You cannot get too close
to the outcome because you might judge it on the outcome”. What an extraordinary
situation! The suggestion put to the municipalities is that a system which involves dollar
signs cannot be judged because those judging it might be biased.

Those municipalities which are enormous losers would certainly have challenged the
new formula had they had knowledge of its impact. They would have given it the thumbs
down signal.

I quote from the 1987 report of the Victoria Grants Commission:

The commission took the view that it would be unwise to attempt any definitive assessment of likely outcomes
until there is some general agreement about the principles that should be employed . . .

the commission believed that the important question to be resolved was that of the principles themselves. If it
were agreed that the new model . . . met the Commonwealth’s requirements and provided an equitable base for
determining the allocations, then the allocations that flow from it have to be accepted.

The municipalities were not allowed to know what the outcome would be so that, at best,
their support had to be in principle only. It is not too unkind to suggest that the
municipalities did not know what it was they were agreeing to.

In any event, the municipalities were assured that the change in formula would not have
any dramatic effect. A document was circulated by the Victoria Grants Commission
during the period of consultation. The document suggested that the changes to be made would be minimal. At point 39 of the document, the commission states:

In Victoria, only minimal changes to the principles used by the grants commission will be necessary to conform with the (Commonwealth) principles. Therefore, it could be expected that changes to the pattern of allocations will also be relatively minimal.

I suggest that there would not be one member of the government who would undertake the task of selling the changes as being relatively minimal to those municipalities which have subsequently lost up to 90 per cent of their grants.

The Hon. A. J. Hunt—Over that percentage!

The Hon. R. M. HALLAM—The Premier cannot claim as a defence that consultations were held. It is clear that the municipalities were conned by the consultation process and that they are now paying for the government's duplicity.

The second defence used by the Premier and the Minister for Local Government is that the changes in principle were imposed from above by the Commonwealth government and that, therefore, the Cain government had no option but to accept them. Parliament has been told that it is not the fault of the Premier or the Minister for Local Government. I want to show that that is no defence, either.

The Cain government can point to the fact that the ground rules were changed. I admit that they were changed, but they were changed in only two aspects.

The first aspect related to the safety net provisions. Even when they were fairer, the safety net provisions caught very few municipalities in the past. On my investigation, I could find only two municipalities that were caught in the safety net provisions in any year. One cannot say that a change in the safety net provisions, which were catching only one or two municipalities before, is the reason for the dramatic turnaround. I repeat that Parliament has been told the changes were minimal. The State government can hardly blame its Federal colleagues for the massive shift in allocations when it claims that the changes imposed were minimal. The safety net provisions are not an excuse.

The new arrangements reduce the population component from the previous standard of 34 per cent to 30 per cent and eliminate the area component from the safety net, to which concept I am diametrically opposed. The new provision imposes a direct and insupportable penalty on municipalities, given that the sparcity of population must be a major factor in the delivery of services. As I have said, few municipalities received relief under the previous system, which was a great deal fairer. That cannot be used as an excuse.

One is left with one change imposed from above; it goes to the central issue of the motion standing in my name. In respect of grant allocations, the allocation from the Federal government now prescribes the standard as:

\[ \text{... the average standard of other governing bodies in the State.} \]

Whereas the previous legislation referred to:

\[ \text{... a standard not appreciably below the standards of other governing bodies in the State.} \]

It is a very subtle but absolutely crucial difference. In Victoria in the past, the top 25 per cent of the municipalities were used as the measuring stick to determine revenue-raising disability. The Victoria Grants Commission is now interpreting the change in legislation as requiring the need to take the average from across the 210 municipalities in the State; whereas the benchmark was determined on the top 25 municipalities, Parliament is now being told that the benchmark must be lowered to accommodate the average across the State.

Because of the lower benchmark, those municipalities that fall below the reduced Federal mark can expect to receive a much lesser grant; that is the cause of the problem. The net effect of it all is a dramatic loss of funding to rural municipalities.
I have carefully examined that legislative change; I believe it was deliberately misinterpreted. I am sure the Victoria Grants Commission put a construction on that change that was not intended by the Commonwealth government.

By taking the average across the 210 municipalities, a whole new range of inequities has been introduced. However, the legislation does not refer to the average standard of all other local government bodies; it refers to the average of other local government bodies in the State.

If one refers to the principles that were introduced by the Commonwealth government by way of instruction to the States when the legislation was changed, one finds a principle that goes to the heart of the point I am making. Point five that the Commonwealth government introduced provides:

When assessing revenue disabilities by some measure of property valuation, local government grants commissions should use either classes of property or categories of councils.

It did not provide for a Statewide average but indicated that the commissions should use categories of councils.

The Victoria Grants Commission completely ignored a specific instruction from the Commonwealth government. That is how rural municipalities have been done in: it has been quite deliberate. If a small rural municipality compares badly with its neighbours for any reason, it must live with the results of that comparison; it has to lift its game. A judgment based on a comparison taken across 210 municipalities, in the State, including metropolitan and major municipalities, is unjust and unfair; in fact, it is crazy, unless it is done by design. I submit that the rules were deliberately bent to achieve a government objective, and I am cynical enough to believe it is simply a rerun of the amalgamation issue that the government had to abort in the face of massive public opposition.

That statement brings me to the third defence this government has used. It said that the formula was devised by an independent authority. I refer again to the comments made by the Premier at a public conference in Horsham. He said, “You cannot criticise the decision just because you don’t like the umpire”. In my view, the umpire was clearly influenced before he took the decision. I mean no criticism of the chairman or officers of the Victoria Grants Commission; I have found Mr Stevenson extremely helpful when I have taken problems to him on behalf of individual municipalities. I concede that at least he has taken the time and trouble to try to overcome the mystique that surrounds the workings of the commission. He is doing his job under trying circumstances, but there is no doubt in my mind that the commission was influenced by the government in the process of determining that formula.

I refer to a letter addressed to the then Chairman of the Victoria Grants Commission over the signature of the Minister for Local Government, dated 25 November 1986, in which he stated:

I also note in the attachment to your letter the observation that “in Victoria, only minimal changes to the principles used by the grants commission will be necessary to conform with the principles predicated in the new legislation”.

In this regard I would draw your attention to the statement made by the Premier on 3 September 1986—a copy is attached. I do so for, as you would be aware, your report to me in this matter will be considered by government as the basis for its deliberations in determining the principles the Victorian government will submit to the Commonwealth Minister for Local Government and Administrative Services.

The letter thus confirms that it was clearly the accepted responsibility of the Victorian government to enunciate the principles. The letter also states:

You will note that in his statement the Premier has made a number of comments directed to encouraging the more efficient and effective operation of councils. In that context the Premier indicated that the government would “provide other incentives for local government to become more efficient”.

In conclusion, the Minister stated:

In drawing attention to the Premier's statement of 3 September, I would ask that in formulating proposed principles you pay full regard to the Victorian government's policy in this area.

I could almost leave my case at this point. It must be conceded, undeniably, that the government sought to influence the independent arbitrator, the Victoria Grants Commission.

It just so happens that the statement of 3 September of the Premier included an announcement of the government's intention not to proceed with the amalgamation of local government. I find that an extraordinary coincidence. It contains a number of thinly veiled threats to achieve amalgamation by financial penalty, as distinct from the big stick that did not work up until that point.

I highlight one of the comments of the Premier:

There will be an examination of more flexible funding arrangements for those which are efficient.

I wonder what the government had in mind. I suspect the Federal colleagues of this government would be most upset if they knew of the Cain government's deviousness on this point. I shall quote a letter from the former Federal Minister for Local Government and Administrative Services, Mr Tom Uren, to my Federal colleague, Bruce Lloyd, dated April 1987:

> With respect to your query concerning whether the Commonwealth would allow Victoria to use the financial weapon of Commonwealth grants to enforce local authority amalgamations, I can assure you that such use of funds would not be permitted.

It is significant that that comment came from the former Federal Minister for Local Government and Administrative Services. Many observers remember that same Minister giving an undertaking in 1986 at the Municipal Association of Victoria's annual session that no municipality would receive less under the new formula.

The Hon. A. J. Hunt—Who gave that undertaking?

The Hon. R. M. HALLAM—it was the then Federal Minister for Local Government and Administrative Services. He has confirmed that the Commonwealth would not allow the distribution of funds to enforce amalgamations. I put to the House that that is precisely what has happened. Any independent observer would conclude that this exercise, at worst, is a rerun of the amalgamation issue or, at best, a classic example of pork-barrelling simply because of the direction of the funds.

I submit that the government leant on the Victoria Grants Commission to achieve the desired result, a result that was predicated upon the redistribution of funds for political purposes. I also submit that the government knew of the outcome before the formula was released, and I submit that that is precisely why it did not want the computations to be released. It did not want any municipality to understand what it would receive under the formula until the principles had been set in concrete and could not be challenged. I also submit that, if that were not the case and no-one knew of the outcome of the formula, as we are now being led to believe, that is the best possible argument as to why the formula should be reworked as a matter of urgency.

If the Victoria Grants Commission did not know of the outcome, it knows it now. There has been an impact on rural shires, in some instances involving losses of up to 90 per cent, and that is the best possible argument for the commission to review its formula.

The fundamental question to be put to the government is: how can a new formula be described as fair and equitable when changes that the government describes as minimal have had such a dramatic effect on allocations and when the previous formula was also held to be fair and equitable by the same commission which now designs the change? Victorians were told that the previous formula was fair and equitable. They were told that by the same commission that is now saying it must change the formula for it to become more fair and equitable. That is extraordinary.
On behalf of rural Victoria, I appeal to the Cain government for a fair go. Rural Victorians are amazed by this change and ask where is the government's social equity. It is clear that many rural municipalities, by this formula alone, will be brought to their knees. I wonder whether that is being done by design. Several specific actions could be taken by this government to provide the relief which I submit is desperately needed.

The first is to seek a change in Federal legislation. That is a particularly appropriate way to go. If the Cain government claims that it is an innocent bystander, why does it not use its influence to have the formula changed, if it must be done, at the Federal level? A very good case can be made to reintroduce the sparsity of population component into the safety net provision, and to lift that safety net provision so that real relief can be obtained for rural industries which will suffer the greatest disadvantage on the delivery of services over large tracts of land. That is the first action that should be taken, and it should be done quickly.

The second action would be to issue an instruction to the Victoria Grants Commission to address many of the anomalies in the methodology that has been adopted. There should be a recognition of the variance in the standard cost of administration. Depending on whether the municipality is rural, provincial or metropolitan, obviously these costs of administration, in standard terms, must vary dramatically. Yet that factor is not fairly taken into account.

In addition, there should be an allowance for cases where services are provided voluntarily. In many rural municipalities services are provided by an organisation without assistance from the local government unit. However, under the bizarre workings of this formula, those communities are penalised in the grants allocated because that provision of services is not counted. In other municipalities, where it is counted, the local government unit provides it at the ratepayers' expense and receives additional grant funds for doing so. That is also a bizarre situation.

The third action would be for the Victoria Grants Commission to acknowledge that rural municipalities have less opportunity of augmenting their incomes. They do not have the opportunity of improving revenue through fees and fines. They do not have the same opportunity as their metropolitan counterparts, and that is totally ignored in the formula. The commission should also be instructed to release the index which serves as the basis for determining movements in aggregate property valuations. That is the cornerstone on which these grants are determined. Yet the municipalities are not able to gain access to that information. Even if that information could not be released publicly, municipalities are entitled to see and challenge that index on the ground of equity.

It would be simple for the government to review its reaction to the Municipal Association of Victoria proposal to reduce the impact of the change in formula. The association has come up with a compromise which says that in return for a number of specific undertakings there will be a safety net covering the loss of funds for any individual municipality.

The Hon. W. A. Landeryou—There is a safety net now.

The Hon. R. M. HALLAM—The association says that no municipality should lose more than 30 per cent of its pre-formula allocation. Those municipalities which are “losers” should be given the opportunity of coming to grips with the decline in funding; they should be given time to accommodate the change; they should have the opportunity of responding in such a way that the effect on their ratepayers is minimised.

I have been critical of the Municipal Association of Victoria because I believe it has sold out on this issue. When the change in formula was first announced, the association took the policy line that any change in the distribution had to come from future growth. In other words, no-one was to lose anything in money terms. I thought that was a reasonable approach.

However, the association has shifted from that policy and has been promoting a maximum of 30 per cent loss in allocation. The point that disturbs me about that policy is
that the association came to that view not because it thought its first policy was wrong but because the variance in the first formula was so wide. The association sold out. Because the association has to speak for every municipality across Victoria and thus represents "winners" and "losers", the compromise represents a substantial achievement. It had to sell the concept to the winners. That certainly says something about this compromise.

I was disappointed that the government blindly discarded the compromise put forward by the association. I was intrigued by the comments of the Minister for Local Government at the time those decisions were made. I refer the House to an article in the Colac Herald of 15 April where the Minister is reported as having said:

... the MAV proposal would extend the gross inequity ...

What a dreadful insult to the organisation now employed to design a new formula. The distribution prior to August 1987 was determined by the same commission. In its report, time and again the commission said that this was a fair and equitable distribution. The Minister now says that there were gross inequities, which is a dreadful insult. He also stated:

... the MAV "safety net" would simply block implementation of the legislation and the least needy councils would be assisted by this proposal.

I am not sure what is wrong with the Minister when he describes municipalities in the far reaches of this State in those terms. The Minister must drive around with his eyes closed. I am referring to the distribution and availability of services to people in far-flung communities, which the Minister now describes as the least needy. That is extraordinary. The Minister says that, if any municipalities are having difficulty in responding, the government will consider assistance on a case-by-case basis.

The Hon. W. A. Landeryou—How else would you want them to do it?

The Hon. R. M. HALLAM—I want a fair formula so that we do not have to go through this case-by-case proposition. That is what the formula was meant to achieve. It appears the government is now saying the formula was not up to scratch and it will have to review it on a case-by-case basis. That is clear evidence that the formula has failed. I further quote the Minister:

Municipalities that received reductions in grants are municipalities with a low rate effort, who deliver few services to their communities and have high administration costs.

Those claims cannot be supported on the facts. Indeed, one of the benchmarks this government is now using is the comparison of rating effort, in which it is comparing the revenue raised by rates to the value of the total property in the municipality. The government is saying, "If you do not measure up to the State average, your rating method must be poor". Many of the municipalities I represent fall below the State average of 9.3 cents in the $1.

The Hon. W. A. Landeryou—They sure do.

The Hon. R. M. HALLAM—I shall explain the position to Mr Landeryou. If it were demonstrated that a municipality obtained low rates through its efficiency, why should it be penalised? It is extraordinary that the government is now saying to these people, "Go home and lift your rates so that we can give you a government handout": I thought the distribution was supposed to be based on efficiency; yet the formula works in reverse.

The fourth thing the government could do, and do quickly, is direct the Victoria Grants Commission to review the principles of equalisation, especially regarding revenue raising. I remind the House that the task was given to the State government to devise the formula; it was not given to the Victoria Grants Commission. The commission was given that task by proxy; it was simply flick passed to it by the Cain government.

The commission has adopted the valuation of property as the direct measure of revenue-raising ability. That is patently inappropriate, but that is what has been done. It ignores the fact that there are different classes and types of property. All honourable members
would acknowledge that a farm property worth, for example, $200 000 would have a
different revenue-raising ability than a commercial or residential property of the same
value. The ability of a property to raise revenue depends not just on its value but also on
its type and class. However, under this system, all properties are lumped together, and
that is part of the inequity of the system.

It is critical that the mix of property in a municipality is ignored under the new formula.
I submit that the mix of property is just as important as the aggregate value. If the
commission were looking for authority to include the type of property in the formula, a
range of authorities could be used. The first is Western Australia. Under precisely the
same legislation as Victoria is currently tackling, the Western Australian government has
recognised variances by property type and classification. It is operating under exactly the
same instructions as the Cain government was given.

Another argument can be put forward. Local government recognises that the revenue-
raising ability of a property depends upon its class and type. Otherwise, why would
differential rates exist? That concept is built into the local government system, and everyone
concedes it exists, except the Victoria Grants Commission via the agency of this
government.

All honourable members would agree that the fundamental issue in revenue-raising
ability is disposable household income, and that is the direction in which we should be
heading. Commonwealth Ministers have said that to me. Taking the valuation by type
and mix of property is not the best method, but it is a step in the right direction for moving
towards household property income. It overcomes the problem of those who are asset rich
and income poor, and there are many such people throughout the rural communities.

Perhaps the best authority is the Victoria Grants Commission itself. In its annual report
of 1985, it states:

The types of property within a municipality will also influence its capacity to raise revenue and therefore
effects of variations in the mix of property types should be recognised. Thus, the commission separately measures
capacity to raise revenue from residential property, capacity to raise revenue from commercial and industrial
property and capacity to raise revenue from rural and other property. Allowance is also made for the relative
proportions of each of the three classes of property in the total valuation of each municipality.

The commission has turned its back on that principle; the same principle it so openly
supported only two years ago. A return to the principle used by the commission no more
than two years ago would provide much of the relief so desperately needed throughout
rural Victoria. Relief could be gained by a simple instruction to the Victoria Grants
Commission.

I have established that the formula is biased, unfair and discriminatory. I have established
that there is an urgent need for change. I have shown that the government has the clear
opportunity and responsibility to effect that change. I have shown that it would be possible
to overcome the inequities with a simple instruction to the Victoria Grants Commission
to rework the formula within the guidelines laid down by the Victorian government.

I shall refer to the simple proposition that I put forward previously: I appeal to the
government for a fair go for rural municipalities and their communities. The new formula
is creating havoc within local government and within rural communities. I commend the
motion to the House.

The Hon. W. A. LANDERYOU (Doutta Galla Province)—At the outset I acknowledge
the cooperation of Mr Hunt and his colleagues in allowing me to leap forward in the order
of this debate. I want to take issue with some of the assertions put to the House by Mr
Hallam. As usual, he has done his homework and has prepared well for the debate.
However, some of his observations, not just the conclusions, are wrong and I intend to
tackle them.

The effect of the government's action is that 92 per cent of Victorians living in
municipalities have received more in grants this year than they received last year. In other
words, the government has set out to help, and is helping, more Victorians. Municipal councils are in a position to adjust their incomes in terms of their rating revenue and to provide equity within the rating system by that form of taxation.

It is difficult when there are winners and losers when any government allocation is adjusted because some people get more while others get less. It is easy to scream and yell about those who get less without analysing why they are getting less. Exaggeration has been the order of the day.

I shall refer the House to an example involving the Shire of Kara Kara. Its funding has been decreased by 92 per cent, or $156 000, over the four-year phase-in period. This is not an abrupt change; it is being phased in.

The Hon. R. M. Hallam—Does that make it more palatable?

The Hon. W. A. Landeryou—it gives those who have been on the gravy train unfairly a chance to adjust. It gives those who are to receive more, because more people live in the municipality and because more services are provided, time to adjust.

The Shire of Kara Kara has a high valuation and its rate is 6·8 cents in the $1. The town of St Arnaud has a rate of 19·3 cents in the $1. If the Shire of Kara Kara elected to increase its rates to make up the shortfall in grants, its rates would still be below the State average of 9·3 cents in the $1. Whereas the town of St Arnaud performs most of the functions of municipalities, the Shire of Kara Kara does not provide eleven important functions, including: family and child health services, aged and disabled services, street cleaning, urban drainage, public halls, recreation services and street beautification.

It is fair to ask: where is the justice, as Mr Hallam argues, in suggesting to the ratepayers of St Arnaud that they should continue, either through Federal, State or municipal taxation, to subsidise the operation of the Shire of Kara Kara, which is inefficient, does not charge sufficiently and does not provide the level of services that one expects?

The Hon. K. I. M. Wright—Why should it; there are no towns in Kara Kara.

The Hon. W. A. Landeryou—if there are no towns and no people in a municipality, should the National Party raid the public purse for a municipality that does not require services? It cannot have it both ways!

The National Party puts an argument to this House from time to time that if one lives in rural Victoria—as the National Party curiously refers to its electorates—those who live in other parts of Victoria should pay more taxes to make life easier for those who reside in these so-called rural Victorian areas. How can the National Party put that argument day after day without blushing? It is difficult to understand how that can be so. Even the former Premier of Queensland, Sir Joh Bjelke-Petersen has finally woken up and no longer puts that argument.

The Minister and the government have improved the lot for 92 per cent of people in Victoria because of the change in the allocation of these funds. It is difficult to argue rationally against that situation. In addition, the Premier, the Minister and the government have said that any problems can be investigated. In a press release the Minister for Local Government said:

The MAV proposal involves imposing a "safety net" that would limit any reduction in grants to no more than 30 per cent of the grant.

Mr Simmonds said the MAV proposal would extend the gross inequity which existed prior to a new formula being introduced in August 1987...

"As the MAV proposal stands, there is no guarantee that the affected councils would not still be in need of the 'safety net' ten years down the track."

The Minister has endeavoured to bite the bullet; it is difficult to get councils to do that, as the proposal to amalgamate councils demonstrated.
Whatever the Minister tries to do, some conservative will always want to keep things as they are. I can understand the argument that these people want their own village councils, but they should not expect the people that the Labor Party members of Parliament represent to pay the cost.

In my view, big is not necessarily beautiful, but it is not fair or equitable for the National Party to suggest that this is not an efficient and equitable way of dealing with the matter. If the National Party wants its members to sit on the councils of municipalities without towns and without a certain number of people, because it is its heritage and tradition, I respect that view. If it is arguing for small councils and highly paid municipal officers, it should not expect the ratepayers of metropolitan Melbourne to meet the cost.

The Hon. R. M. Hallam—It has nothing to do with ratepayers; we are talking about the taxpayers.

The Hon. W. A. Landeryou—Most people who pay rates pay taxes. In the municipality in which I reside a high rate is forced upon ratepayers because of the level of services that the local community demands; we pay our way. I do not see how the National Party can expect the St Arnaud and the Kara Kara argument to apply. Why should the Town of St Arnaud ratepayers pay more because the Shire of Kara Kara does not impose the correct level of rates? Ratepayers would not have to pay as high as the average rate just to maintain the level of services provided by the grants that the council has lost.

The Hon. K. I. M. Wright—They are efficient councils!

The Hon. W. A. Landeryou—Mr Wright may say that; perhaps we should examine the cost of running them?

An Honourable Member—Ask him who the secretaries are?

The Hon. W. A. Landeryou—Mr Wright probably attended their children’s weddings; I shall not give him a chance to record their names in Hansard. The Department of Local Government provided me with a computer print-out—it is available for honourable members to peruse—which lists the administrative costs of each shire. The Town of St Arnaud has an administrative expenditure of 81 cents per person compared with the Shire of Kara Kara which has an administrative cost of 188 cents a person.

The Hon. W. R. Baxter—Compare apples with apples!

The Hon. W. A. Landeryou—That is what I am asking the National Party to do. Those of us who live in the big apple have to pay high rates and taxes to make the lives of those who live in some parts of Victoria easier. That may be good, but the government has said that there is a safety net and councils who can present a good argument to the government, about them being unfairly treated in comparison with other councils or that they are expected to carry a heavier burden than others, will have their cases examined individually in accordance with the formula. That is fair and equitable.

That approach is fair for 92 per cent of the people of this State who will receive a better financial deal.

The Hon. M. J. Sandon—They can’t spell equity!

The Hon. W. A. Landeryou—Mr Sandon is probably right. I am appealing to one of the brighter members of the National Party, Mr Hallam. It is unfair of the National Party to suggest to those on this side of the House that in some way National Party electorates should be given an advantage simply because the majority of people in those areas vote for the National Party.

An Honourable Member—He is not saying that at all!

The Hon. W. A. Landeryou—to examine that argument in terms of Ballarat City, the Minister recently attended a meeting at Buninyong at which neighbouring councils attended. They were astonished to learn that grants for the City of Ballarat were up 61
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per cent; for the Shire of Buninyong they were up 6 per cent; for the Shire of Bungaree the increase was 25 per cent; for the Shire of Grenville grants were increased by 10 per cent; for the Shire of Bacchus Marsh the increase was 25 per cent; and the grants for the Shire of Sebastapol were up 72 per cent.

In every situation there are losers and there are winners. In this instance 92 per cent of the people of the State are winners; their position has been enhanced.

An Honourable Member—The losers come from the rural areas!

The Hon. W. A. LANDERYOU—The losers now have been the unfair winners in the past. If a particular municipality can put a case rather than boring honourable members witless in this House, it should accept the long-standing invitation of the Minister to argue its case.

The Hon. R. M. Hallam—The Minister did not respond to my letter.

The Hon. W. A. LANDERYOU—I do not believe that the case was put properly to the Minister; nor do I believe the National Party has a case that can deflect the government from its action of excellent reallocation. Funding is not unlimited and the approach that the government has taken has improved the lifestyles of 92 per cent of people in this State. There is still the opportunity to argue for the 8 per cent funding and if there are problems with that those honourable members deserve to be members of the National Party.

The Hon. A. J. HUNT (South Eastern Province)—I congratulate Mr Hallam on his lucid and comprehensive presentation to the House. I listened to Mr Landeryou but must say with respect that he is better when he spontaneously rises to speak on an issue on which he feels strongly rather than when he is speaking to a departmental brief.

It may be helpful to the House for me to go back into the history of general revenue assistance grants to local government because that history is instructive in examining and appreciating the purpose and the workings of equalisation grants.

Honourable members give credit to the Whitlam government in 1974 for commencing—

The Hon. B. W. Mier—You didn’t at the time!

The Hon. A. J. HUNT—Mr Mier will have his chance a little later if he will only be patient and allow others to make their speeches.

In 1974 the Whitlam government introduced the first revenue assistance grants. There was a simple rationale behind those grants. It was recognised that local government no longer served property alone and that the rate base that was perfectly valid for services to property on which the rate was charged was inequitable in providing for the new services to people for which local government was being increasingly called upon. That was the basic issue.

It was further recognised that those people services could be met properly only from contributions from general revenue—from the taxation base of this country. The Honourable Gough Whitlam recognised those two principles and, to his credit, he acted upon them.

In 1976 the Fraser government not only endorsed those principles but took them further. Prior to the 1975 election, the Fraser government made it clear that it would give local government a fixed annual percentage of income tax revenue. In 1976, before the Commonwealth Act was passed, negotiations took place about what that percentage should be. Victoria led the way in saying it should be 2 per cent. The calculations on which that figure was based were produced in Victoria by the Local Government Department, which convinced other State governments that that was the appropriate figure to accept. The figure was adopted by the Municipal Association of Victoria and the Australian Council of Local Government Associations. The States and local government went to Canberra with a united voice.
The Honourable Malcolm Fraser said in 1976 that the Federal government could not immediately go to 2 per cent, it could go only to a certain sum—which happened to be 1.52 per cent in that year—but that it would move within a short time to 2 per cent of income tax collections going as of right to local government in recognition of the people services that local government now performed.

That was the basis of those grants. The increase happened over a two-year period between 1976 and 1978. The figure moved, if I recall correctly, to 1.75 per cent in 1977 and to 2 per cent in 1978. That was a welcome recognition of the true role of local government. I was sorry to hear that the 2 per cent guarantee was to disappear under the Hawke government and that it is now a matter of an annual decision about how much local government will receive. Local government is no longer being treated as a true partner in the system of government, where the three spheres of Federal, State and local government share the responsibility of serving the same people from the one set of taxation revenues.

The negotiations in 1976 went further as to the way in which that 2 per cent should be distributed. The Commonwealth government laid down some simple parameters. At least 30 per cent of the total had to be on the basis of population. The rationale for that was simple; the greatest generator of needs is people. That should be a self-evident truth. In that way at least 30 per cent had to be distributed on the basis of population and up to 70 per cent could be contributed on the basis of special needs, such as hardship and disabilities.

After detailed computer analyses and comparison of effects on municipalities, it was determined that the appropriate disposition for Victoria was 40 per cent as of right and 60 per cent based on needs and disabilities, which fell within the parameters laid down by the Fraser government and which was a basis readily approved by it.

In turn, within that 40 per cent that councils knew they would get as of right, there were two components: 85 per cent for population and 15 per cent for area. That recognised that municipalities with dispersed populations and longer roads would incur higher per capita costs. The remaining 60 per cent was to be distributed on the basis of special needs and disabilities in accordance with a Victoria Grants Commission formula that has operated ever since. What has now happened is that the as-of-right segment has disappeared. Furthermore, the change in the basis of revenue comparisons, to which Mr Hallam has referred, operates with severe detriment to those rural communities for whom the earlier formula recognised a need for special consideration.

Which municipalities have suffered most under the change? The Municipal Association of Victoria has said that this is simple to see, and that those which experience significant reductions share four characteristics. The first is a rate in the $1 below the State average. Rural communities have always had a rate in the $1 below the State average. Their ratepayers have a lower capacity to pay than the State average. Previously this was recognised by examining the top 25 per cent and comparing the capacity of the particular municipality to raise revenue with that top 25 per cent. The change of formula means that the starting point is the average for the State instead of the top 25 per cent. If a municipality is not rating as much as the average, regardless of its ability to pay, it loses out.

The second characteristic to which the Municipal Association of Victoria directed attention was that per capita valuations are above the State average. In a farming community where there is a lot of land, of course the average value of a property will be higher than the average value of a home in the suburbs. Thus the average per capita valuation will obviously be higher and the farming community is now being penalised for that fact.

The third characteristic of the municipalities which will lose under the new formula, according to the Municipal Association of Victoria, is that per capita expenditure on administration is above the State average. One would expect the percentage cost for administration in large municipalities like Camberwell or Moorabbin to be lower; it is shared over far more people. One would expect the administrative cost of a small
municipality with few people to be higher per head. Therefore, again, those small municipalities lose out.

The Hon. W. R. Baxter—Small in terms of population.

The Hon. A. J. HUNT—Yes, small in terms of population, with fewer people to share the costs.

The fourth characteristic was a large number of expenditure functions performed at a lower effort compared to the State average.

It is not possible for a small rural municipality to have such an extensive meals on wheels scheme, for example, nor is it normal for the percentage expenditure on library services and welfare services to be as great, but that does not mean that the municipality lacks efficiency or effort. Many of these municipalities are holding their budgets very tightly and thus spending at a comparatively low rate on some of these activities simply because the capacity of their ratepayers to pay more is not there.

The Hon. W. R. Baxter—They would be criticised for spending too much on street beautification, for example.

The Hon. A. J. HUNT—They would. What is now occurring is that those municipalities are put in a worse position again.

The Hon. R. M. Hallam—They are being penalised.

The Hon. A. J. HUNT—They are being put in a worse position than they ever were before.

Mr Hallam has referred to some figures on those municipalities, and I believe I should give some different ones to which he has not adverted. Under the new formula, 35 municipalities will suffer a reduction of more than 60 per cent; not all at once, but over a comparatively short period. They will suffer a reduction of more than 60 per cent in their grants. Twenty-three municipalities will suffer a reduction of more than 70 per cent; 12 municipalities will sustain a reduction of more than 80 per cent; and two, Kara Kara and Wimmera, will sustain reductions of in excess of 90 per cent. Each one of those municipalities is a shire. Not one of those municipalities is a borough, town, city or a suburban metropolitan municipality.

The burden is falling on one sector alone, and anybody with a sense of equity would recognise that the comparatively sudden loss of 90 per cent, 80 per cent, 70 per cent, or 60 per cent of grants to municipalities in this category is a disaster. That they should suffer an enormous imposition for a relatively tiny gain per capita to larger suburban metropolitan municipalities is entirely unfair. That is not a situation that was envisaged by the original system. It represents a transfer of income from the weak to the strong. One asks why.

Mr Hallam has examined those reasons with care, and there is little to add to what he had to say. However, I do want to add that “little”. Mr Hallam referred to the letter from the Minister for Local Government to the Chairman of the Victoria Grants Commission dated 25 November 1986. I will not read what Mr Hallam has already read, but he did omit a quote that I believe is significant. The Minister said:

Second is the matter of the formulation of the funding principles themselves. In considering your letter of 11 November 1986 I note your comments in the penultimate paragraph that you will be preparing detailed proposals for the principles to be employed in determining future allocations of general revenue grants which will take account of the views of local government that emerge from the consultation processes, and that you expect to be in a position to submit these to me by mid-February 1987.

As Mr Hallam said, the Minister then went on to express some surprise about the fact that only minimal changes to the principles used by the Victoria Grants Commission would be necessary. The Minister was saying, in effect, “Now look, here’s a statement by the
Premier which constitutes our policy on local government and you are to take that into account". In fact, the Minister went further and said:

...I would ask that in formulating proposed principles you pay full regard to the Victorian Government's policy in this area.

The Minister was saying that consultation is all very well, but one should not get carried away by it. He was saying, in regard to the minimal changes, "Just be careful about that, too! The real thing that counts is not that principle; it is the Victorian government's policy embodied in this statement of the Premier that I now forward to you".

As Mr Hallam has said, the statement by the Premier was dated 3 September 1986. Mr Hallam has quoted from it, but I shall quote another sentence. The Premier's statement said:

For the future, the Commission will be required to direct its energies and resources to assisting councils that wish to restructure.

I have to acknowledge that that statement specifically related not to the Victoria Grants Commission but to the Local Government Commission, but that statement was being forwarded by the Minister for Local Government to the Victoria Grants Commission, directing it to adopt it as a Victorian government policy in determining the new formula. Is that not the same as saying, "You will adopt the same principle as the Local Government Commission has been directed to adopt"?

The Hon. R. M. Hallam—It is a direction by the back door.

The Hon. A. J. HUNT—Is that not, as Mr Hallam says by interjection, a direction by the back door to this commission, too, to direct its energies and resources to assisting councils that wish to restructure? Is it not suggesting that weaker councils might have to be forced into restructurings or amalgamations? Is that not the result when one considers where the councils that will suffer reductions of more than 60 per cent are located—the far-flung smaller rural municipalities?

It is all very well for Mr Landeryou to call those municipalities inefficient and to imply that they should get together with other municipalities, but the local people do not want that.

The Hon. K. I. M. Wright—They are not inefficient, either.

The Hon. A. J. HUNT—No. As Mr Wright says, it is not inefficiency that causes greater costs in a small municipality serving a sparse and widely dispersed population. If two municipalities that are side by side, each covering a large area but having little in common, are forced to amalgamate, where is this sense of community identity that local government exists to serve? It disappears. No longer is there a sense of community at all. The more one forces differing communities with widely distributed townships, if any, into the one bag, the more the purpose of genuine local government to serve its local people and meet their needs and aspirations goes down the drain.

The Hon. R. M. Hallam interjected.

The Hon. A. J. HUNT—Mr Hallam says it is subverted; that is better language. The Opposition rejects the argument that these municipalities are inefficient. They simply suffer high costs and low capacities to pay because of their inherent natures.

Amalgamation is no solution to their problems. They need assistance rather than discouragement. A change in formula returning more closely to the previous situation is needed on a basis that recognises the lack of capacity of the ratepayers of these municipalities to pay. A safety net of the type suggested by the Municipal Association of Victoria is needed to prevent unwarranted and sudden decreases with disastrous effects upon municipalities.
The Liberal Party commends Mr Hallam on the enormous amount of research he has undertaken and on the clear way he has presented the motion, and we have no hesitation in giving our full support to the motion.

The Hon. R. S. de FEGERLY (Ballarat Province)—It is imperative that I support the excellent motion moved by Mr Hallam. A number of municipalities within the electorate I represent are greatly concerned about the present formula on which allocations are being made to local councils by the Victoria Grants Commission. The motion is important to those mostly rural shires because their very survival depends on a change in the present formula.

It has already been suggested today that the formula could well be a backdoor method of forcing amalgamation on the municipalities that the government has decided are inefficient. Earlier I listened to Mr Landeryou who mentioned the Shire of Kara Kara and the Town of St Arnaud. He made comparisons between the two in the cost of administration and, regrettably, that is the sort of ill-informed assessment that has been made by the State government in arriving at the formula it wishes to foist upon local government in Victoria.

As Mr Hunt pointed out a few minutes ago, comparisons cannot be made between sparsely populated rural municipalities and densely populated metropolitan areas.

I should like to be a little more specific than my two colleagues who have spoken already have been in covering the major areas of concern thoroughly and well. I shall mention some good work that has been done by Mr Haynes, the Secretary of the Shire of Ararat, which is one of the municipalities suffering severely under the Victoria Grants Commission allocations.

I shall quote from a letter that the shire secretary wrote to the Prime Minister, the Premier, and State and Federal Ministers for local government on 19 November 1987. The letter states:

The advice from the Grants Commission indicates that council's allocation for 1987-88 would have been $104,000 had the allocation been fully based on the new principles. This compares with an allocation of $531,342 for 1986–87 and represents a decrease of 80 per cent or $427,000.

The letter continues:

What has happened to the principle of autonomy for local government? It also appears that the high spending and high rating councils are to be treated more favourably with Grants Commission allocations, regardless of any measure of effectiveness and efficiency. What is the logic behind this?

That has been aptly demonstrated by Mr Hallam and Mr Hunt in earlier submissions today. Why has this situation come about? The allocations, as they were laid down by the Federal government, were intended to be far more equitable than has occurred. As was stated by the Federal office of the Local Government and Administrative Services Department when assessing the revenue disabilities by some measure of property valuation, local government grants commissions should use either classes of property or categories of councils as the basis for allocations, and Mr Hallam mentioned that point earlier.

I shall go over that same ground again because it is absolutely critical to rural councils that this type of measure be adhered to. If that is not done, rural municipalities will be heavily disadvantaged. Honourable members have heard my colleagues quoting statements made by the Premier in September 1986. I reiterate one of the points made in the Premier's statement when he said to the Federal Minister:

I would ask that in formulating proposed principles you pay full regard to the Victorian government's policy in this area.

Had the Victorian government been prepared to stick with the Federal government guidelines, municipalities in Victoria would have received a much more equitable proportion and allocation than they currently receive. However, because the Victorian government set its own guidelines, which it believed were in its interests, rural municipalities have suffered badly.
It was also interesting to note that in the annual report of the Victoria Grants Commission for that year it is stated that implicit disability factors are adjusted by the commission as a matter of judgment. This point brings another dimension into the argument. There is also some area where the commission can deviate from the formula and make special provisions for what it believes are special circumstances. The letter from Mr Haynes goes on to say:

Thus, the commission still has plenty of scope to have a very significant impact on the level of allocations to particular councils.

Earlier in his speech Mr Hallam mentioned the drastic reductions that have been made in the allocations to some rural municipalities. I shall mention some of the shires in the area I represent. The Ararat shire has suffered a reduction in funding of 80.43 per cent; the Shire of Ripon a reduction of 68.8 per cent. The Shire of Hampden, of which I represent only a portion, suffered a reduction of 13.86 per cent. In the Shire of Kara Kara the reduction was 92.33 per cent. In the Shire of Donald, where once again I represent only a portion of the southern area, the reduction is 78.75 per cent.

Those councils are the ones most drastically affected. In the Western Municipalities District Assembly, in which there are approximately 17 shires out of 23 municipalities, all these shires can expect a decrease in allocation with a total reduction for the group amounting to $3,675,222 or 15.6 per cent in dollar terms only. This figure would be a 58.8 per cent shift away from the State average.

Where is the fairness, the equity and the social justice in these allocations to rural municipalities? In the Ararat shire there are approximately 29 expenditure items that do not receive government assistance.

The shire has been estimated to have a rating of 7.5 cents in the $1 as against a State average of 9.3 cents in the $1. That immediately places the shire at a disadvantage. What will happen among municipalities from now on is that where in the past they have been providing self-help services such as swimming pools and facilities for other activities at no cost to the taxpayer, municipalities may well write many of these things into their books to qualify for grants. These costs will then be added to the taxpayer's costs by qualifying municipalities for grants. The government cannot class it as efficiency if it intends to force councils to survive by doing that type of bookwork.

The areas of largest reduction include the Shire of Kara Kara and the Town of St Arnaud. The Town of Stawell, a badly disadvantaged area, was successful in obtaining its grants. The Shire of Stawell was badly disadvantaged. By contrast the City of Ararat fared the best of any of the municipalities in the area.

The Hon. B. A. Murphy—That is where the people live!

The Hon. R. S. de FEGELY—That is true; that is where the people live. But it is interesting to note that the vast reductions for rural municipalities are used as a means of putting pressure on them to amalgamate with the adjacent urban areas. That is a good example of a push towards amalgamation by the backdoor.

As has already been pointed out, obviously the government does not believe there is a problem with the present system, and in fact is happy with it. As Mr Hallam clearly pointed out, if the government observed a problem it would urge the Federal government to do something about it if, as the government tends to inform the House, the problem lies at that level. The problem is most certainly in Victoria, and it is in the way in which the Victoria Grants Commission has been directed by the government to implement the formula.

In its present form the formula is grossly inequitable and unfair. Victoria should be moving towards a valuation system whereby municipalities are split into commercial, rural and residential categories, thereby producing in most rural municipalities a much better result and a more equitable and fairer method of allocating grants. The system could be changed if the government had the will or desire to do so, but it will not do that.
Therefore, Victoria will have to wait for a change of government, which may not be very far down the track. The Opposition would then implement as a matter of urgency a call for a report into the whole method of allocating grants in Victoria to ensure that they are more equitable and that their distribution is carried out on a fairer basis than at present.

With those few words, I have the pleasure in supporting the motion.

On the motion of the Hon. C. J. HOGG (Minister for Education), the debate was adjourned.

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

GROCERY PRICES (AMENDMENT) BILL

The Order of the Day for the resumption of the debate on the motion for the second reading of this Bill was read.

The Hon. ROBERT LAWSON (Higinbotham Province)—Mr President, I direct your attention to the state of the House.

A quorum was formed.

The debate (adjourned from March 29) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

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

That the following Order of the Day, Government Business, be read and discharged:

Grocery Prices (Amendment) Bill—Second reading—Resumption of debate.

and that the Bill be withdrawn.

This Bill came to this House some two or three weeks ago. It contained a twelve-month sunset clause from last year. The measure established the prices that the government believes has been successful. Debate on that Bill was adjourned until a time which took it to a point beyond the date when the sunset clause ran out.

It is not possible once the sun has set to make it rise again. It was not possible to reactivate the previous piece of legislation. It is the government’s intention to reintroduce the basic measure, but with this year’s date on it. To do that, I am moving to discharge the previous one and following that—if the discharge is allowed—the government will bring on Order of the Day, Government Business, No. 12, and the Minister for Education will move the second reading of the new Grocery Prices Bill.

The Hon. HADDON STOREY (East Yarra Province)—The Opposition does not oppose the motion. We recognise that the government left it far too late to introduce the Bill into this House so that the sunset clause operated before the Bill came on for debate in this House. Perhaps the Minister should also withdraw Order of the Day No. 12!

The motion was agreed to, and the Bill was withdrawn.

GROCERY PRICES BILL (No. 2)

The Hon. C. J. HOGG (Minister for Education)—I move:

That this Bill be now read a second time.

This Bill is being introduced to restore the powers to enforce the government’s price restraint programs that existed under the the Grocery Prices Act 1987.

The Grocery Prices (Amendment) Bill 1988 was introduced earlier this sitting, for which the second reading was moved on 29 March. The amendment Bill sought to extend the 1987 Act a further twelve months by amending the sunset clause in the principal Act.
However, that Bill was not dealt with in the required time by this House, despite passing in another place. As the principal Act has now expired, it is not possible retrospectively to amend it. Therefore, the government has resolved to introduce a new Bill to re-establish the same powers as have successfully worked over the past twelve months to constrain price increases and protect the welfare of all Victorian families.

The arguments made against the extension of this legislation are based on ignorance and political expediency. I believe both opposition parties are obligated to reconsider their obstructionist stance and act to protect the interest of all Victorians rather than pursuing narrow, ideological arguments. It is particularly incumbent on the National Party to explain why it supported this exact legislation twelve months ago, just prior to a by-election, and now refuse to support it despite the indisputable achievements it has brought about.

The prices-peg program is designed to ensure that the wage restraint accepted by wage earners in recent times is matched by restraint in prices and government charges. A basket of essential groceries and a basket of State government household charges were pegged to a rise of no more than 6 per cent for the twelve months from 6 March 1987. That target has been met easily in both cases.

The State government household charges in the prices peg have risen an average of only 2-8 per cent since March 1987. The government is again committing itself to keep the basket average increase in State household charges below 6 per cent, and believes it will achieve another good result. The prices peg grocery basket rose a total of only 3-2 per cent for the full twelve months of the program. If prices had continued to rise at the same rate as in 1986, Victorians would have spent an extra $140 million on groceries. Victoria's success at restraining prices is confirmed by the consumer price index figures for the calendar year 1987, which show the national inflation figure to be 7-1 per cent. The Opposition has claimed that inflation last year was less than 6 per cent—that is a reflection of its economic ignorance and inconsistency.

In 1986, Australian food prices grew faster than the CPI generally and Melbourne's food prices rose the fastest of all capital cities. In 1987, food prices grew at less than half the rate of the CPI and Melbourne was below the Australian average. This did not happen by some accident or quirk of a free market. It happened because the government alerted Victorian consumers to the fact that they were being treated worse than consumers in other States and forced greater competition between the major retailers.

The government's efforts at publicity and education were central to this dramatic turnaround, and the powers under the Grocery Prices Act were a key to ensuring that the system was not rorted or undermined by unscrupulous companies. Throughout the prices peg the government has won the support of manufacturers and retailers who, unlike the Opposition, understand that consumer confidence is critical to sales growth. By stepping in to put a lid on prices, the government has scared away the sharks and taken the heat out of price inflation. By rejecting this Bill the Opposition would be inviting the sharks back to feed on the pay packets of Victorian wage earners.

In 1986, Melbourne's food cost increases were 1-3 per cent higher than for the average of all capital cities. In 1987, they were 0-2 per cent lower. The prices-peg campaign is a major factor in this dramatic improvement. If the prices peg does not continue, the rate of increase might return to pre-1987 levels and the benefits of the prices peg would be lost. It has been suggested that the same result would have been achieved without any government intervention. This is absolutely incorrect.

Melbourne in recent years had above-average increases in prices as a result of higher profit margins and less competition than in other States. The advent of the prices peg has reversed this situation and the sharp focus on pricing issues at both State and Federal levels has severely curtailed food price growth. The gains that have been made via the prices peg cannot be allowed to be eroded. The prices peg has shown how intelligent
government action can encourage the private sector to exercise price restraint in the interests of the economy. We must continue to provide that responsible leadership.

The Opposition appears to be ignorant of what the Grocery Prices Act 1987 actually provided. Recent statements from the Opposition assert that the Act prevented increases above 6 per cent, when, in fact, the target for 1987 was not mentioned in the legislation at all. The Bill provided a simple enforcement mechanism to deal with unjustified increases. The government indicated it would use this power if a manufacturer failed to discuss the justification for price increases in excess of the government's 6 per cent target.

The National Party has argued publicly that despite the success of the 1987 Act it was not broad enough. It appears not to have read it. Sections 4 and 5 provided for the price of any grocery item, whether it was in the basket or not, to be controlled if the Minister is satisfied that an increase is excessive, having regard to the economic circumstances and the public interest. That is what this Bill also provides, and if there is any grocery product the National Party feels is increasing beyond the bounds of reason this Bill enables its price to be controlled.

The 170 commonly purchased items used by the government to monitor general grocery price trends are not the only products which may be controlled. They are, however, the key indicators and market leaders. Experience over the past twelve months confirms that restraining the market leaders forces competing brands to control their prices. The detailed statistics prove this; the remarkable turnaround in Melbourne's food prices confirms it.

I seek leave of the House to incorporate in Hansard a table showing the relative movement in grocery prices in Melbourne and Sydney over the past twelve months.

Leaves was granted, and the table was as follows:

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<td>COMPARISON OF PRICEWATCH GROCERY BASKET COST INCREASES</td>
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The Hon. C. J. HOGG—These figures come from the Federal Government's National Pricewatch Taskforce. In March last year this national survey confirmed that Victorians were being charged more than consumers elsewhere.

These differences are not due to any higher costs in Victoria—in fact, many costs are lower. The difference is due simply to high profit margins, less competition and less consumer awareness. After twelve months it can be seen that Melbourne's prices have increased substantially more slowly than Sydney's—3.6 per cent compared to 4.8 per cent. As a result, the difference in favour of Sydney has been slashed by half and the trend indicates that prices should be brought back in line over the next twelve months if the prices peg continues. These figures, incidentally, are based on a different basket from the prices peg, but show very similar results for the Melbourne increase, thereby confirming the accuracy of the government's surveys.

The government has retained the sunset provision and will be closely monitoring the success of the prices-peg program and future national wage decisions. The government will extend the sunset clause in the future unless there is a sustained slowdown in prices and Melbourne prices fall in line with those of the rest of Australia. In rejecting the earlier Bill, the Opposition has demonstrated that sunset clauses are not considered by it to be an opportunity for mature reflection but simply an opportunity for political troublemaking.
The Opposition has blatantly frustrated the extension of the original Act without presenting any sound arguments.

The government's research has failed to find a precedent for the non-extension of a sunset provision for such cynical motives. It is obvious that it is the Opposition that is playing political tricks, not the government, and the interests it is protecting are not those of ordinary Victorians.

It is interesting to note that 23 community-based price action groups have sprung up across Victoria, providing further evidence of the support given to this important campaign by Victorians. It is also worth noting that most of these groups are outside the metropolitan area. It is obvious that country people are very concerned that lack of competition in small towns should not result in excessive pricing.

The prices peg has a high profile among consumers. By successfully disseminating current price information, the government, through the prices peg, has made Victorian shoppers far more price conscious. They are now more discriminating about where they spend their money. Since the commencement of the prices peg, the major supermarket chains have responded with a much greater emphasis on everyday lower prices and greater competition.

Although the powers of the Grocery Prices Act 1987 have been used only once, they have been an important part of the equation in having meaningful discussions with manufacturers. The prices peg has been a great success in 1987 and must continue to make a valuable contribution to price and wage restraint in 1988. Victorian families are looking to the government to ensure an affordable grocery basket.

The introduction of the new Bill gives the Liberal and National parties a chance to reflect and to act to protect the interests of ordinary Victorians. The future of wage negotiation, the standard of living for Victorian families and the economic advancement of the State are three central concerns addressed by the Bill.

Let there be no mistake, the public demands effective steps to lower inflation. The Bill is an important opportunity of testing the maturity of the Opposition to address such fundamental long-term economic issues.

I commend the Bill to the House.

The Hon. H. R. WARD (South Eastern Province)—I suggest that the debate on this gimmick Bill be adjourned.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Acting President, I take exception to the use of the word "gimmick". I ask that it be withdrawn.

The Hon. H. R. WARD (South Eastern Province)—On the Grocery Prices Bill (No. 2), I move:

That the debate be now adjourned.

The motion for the adjournment of the debate was agreed to, and it was ordered that the debate be adjourned until later this day.

ENERGY CONSUMPTION LEVY (AMENDMENT) BILL

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

The Hon. J. V. C. GUEST (Monash Province)—This is a Bill which gives effect to the government's stated intention to abolish the energy consumption levy from 1 July 1988, except it is maintained in respect of gas supplied to the State Electricity Commission of Victoria.
Since it will not save gas consumers money—with minor exceptions, because the levy will be included in prices—it is hard to find much virtue in the Bill. The levy should never have been imposed in the first place. In 1982 the government’s voodoo economics wing mandated that the big gas consumers—

The Hon. Robert Lawson—Mr Acting President, I direct your attention to the state of the House.

A quorum was formed.

The Hon. J. V. C. Guest—Perhaps I should begin again because I am sure many honourable members would like to hear me. As I said, the levy should never have been imposed in the first place. In 1982, the government’s voodoo economics wing mandated that the big gas consumers who could best take competitive advantage of Victoria’s low gas prices should be penalised for using gas. The levy was the means and it also fitted nicely the government’s need for revenue to feed its spending spree, which would still be under way if the government had not run out of money.

The levy just might have made sense, after careful research, to give certain industries an extra incentive to conserve energy or use electricity instead of gas. However, I doubt that because, in the end, such reasoning involves the basic fallacy of governments which try to predict the future and to pick winners. As it is, the government has simply continued a heavy additional impost well beyond any need to do so.

The economic distortion, which the Minister for Health brought in, will now be built into gas prices because of the government’s monopoly. Why the levy is being maintained in relation to the State Electricity Commission has not been explained. It seems to have no justification except to confuse people who try to make sense of the public authority accounts. That point is not made lightly. It is evident that that is the strategy of the government: to confuse people from year to year about public accounts of all kinds, in particular departmental accounts, but also public authority accounts.

It also lends support to the view that this government constantly seeks ways of changing its extremely complicated accounts so that comparison and obviously valid criticisms are made much harder. Unfortunately, it also impairs analysis and understanding. Despite the purposes that may well linger behind the government’s apparently tax-abolishing and simplifying proposed legislation, the Opposition supports the Bill.

The Hon. W. R. Baxter (North Eastern Province)—The National Party does not oppose the Bill, which is honouring a budgetary commitment made by the government some time ago. The matter of energy consumption levies has been opposed by the National Party for many years. My colleague, Mr Evans, reminded me that, in 1982, when the matter was first floated, he moved and had carried in the House a motion opposing the consumption levy because it is a tax and repudiates one of the natural advantages of the State in having a plentiful and relatively cheap gas supply.

I share Mr Guest’s puzzlement that it is still to be imposed on the State Electricity Commission, although it is being removed from other large gas users. It is hoped that in future the levy will be removed from the State Electricity Commission.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

**STAMPS (AMENDMENT) BILL**

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

The Hon. J. V. C. Guest (Monash Province)—The Bill does a number of desirable things, and the Opposition is willing to go along with it. It gives relief from stamp duty on corporate reconstructions. For a number of years the Treasurer has given relief amounting
to well over $10 million by ex gratia payment, which has to be provided for in the Budget, to persons and companies that have paid large amounts of stamp duty for the purpose of effecting a corporate reconstruction which is naturally intended to facilitate more efficient, effective and profitable business.

The Treasurer has decided that it would be much better to regularise those ex gratia payments in an Act of Parliament when rebates are given in such cases. That is what the Bill achieves.

The Bill contains a provision for the removal of stamp duty on transfers for full market value of call options on unissued debentures. That will facilitate the growth of Melbourne as a financial market. It was quite an anomaly that any such duty should have been payable. The Opposition therefore supports the removal of that duty being made effective retrospectively.

The only thing I would add in relation to that particular stamp duty is that it points to the extraordinarily unsatisfactory nature of stamp duty as a tax. It is not necessarily inefficient in the sense that it is usually quite painless and relatively costless to the government to collect stamp duty, but it is not costless for the industry and there is nothing especially rational—and certainly nothing economically rational—in the retention of stamp duty.

I point out this particularly petty impost that is now being removed as an example of the unsatisfactory nature of stamp duty generally and the distinct desirability that the move towards superior revenue-raising measures by the States over the past few years should be continued.

There is a provision in the Bill which can be reasonably described as technical, and the Opposition does not oppose it. The only one which it would regard as fairly contentious is the provision for taxing, by stamp duty, transfers on properties effected by reductions of capital, where that reduction of capital on a corporation-owned property is itself effected by the reduction of redeemable preference shares. Where that means of transferring property has been used, it has been quite clearly an artificial device for avoiding the ordinary stamp duty on transfers of real property.

The Liberal Party is against the unfairness of one person or one corporation escaping duty on transactions which, in substance, are the very same as those on which other people pay large amounts of taxation.

In this case the exemption which applies to reductions of capital, specifically to those of them which are effected by the use of redeemable preferences shares, is not, the Opposition was advised, one that has been much used, if used at all, for legitimate purposes—that is, ordinary non-tax avoidance purposes.

The Opposition naturally supports a restriction on this use of redeemable preference shares to legitimate cases. The only problem is that the Treasurer has sought to make this change in the law retrospective to 15 December. On 15 December the Treasurer gave notice of this change by press release. The press release was presumably communicated reasonably well to the commercial advisers who would inevitably be involved in the use of such a tax avoidance device.

One can never be sure that press releases have been adequately circulated. There are taxation services, to which most solicitors and accountants who deal with this kind of business subscribe, and one of those services would certainly have made sure it had at least available in its offices notice of the proposed change.

Nonetheless, there is an element of retrospectivity and, although the intention of retrospectivity is much misunderstood and much retrospective legislation, as I would describe it, is not objected to, such as, for example, the Land (Goonawarra Golf Course)
Bill which was dealt with last week, and went through with practically no mention of its retrospective character—

The Hon. W. A. Landeryou—It was correcting a mistake made by your Leader!

The Hon. J. V. C. Guest—I am happy to speak about that Bill because it was not a mistake of the Leader of the Opposition in another place; it was an earlier mistake. It was possibly a mistake, but the fact is that the Crown unilaterally went about correcting that mistake in its own interest and, if it had done it correctly, it would have provided compensation. Mr Landeryou and I should have got together on that Bill. If the Bill had not been prematurely brought before the House for debate, I would have had something to say about it. We will uphold justice in the Shire of Bulla!

I return to the impact of retrospectivity. In this case the Opposition would only insist that, where tax is to be retrospective, the announcement of the intention must have been clear and must have been adequately circulated; the tax avoidance device in question must be one which is blatantly artificial; and, the government must then have moved with reasonable promptness to effect the change in the law and not, as the Federal Treasurer has been doing in recent years, leave over the actual enactment of quite complicated amending tax provisions for months, and even years, so that taxpayers are in an extraordinarily difficult situation in knowing how to comply with the law.

The final matter that I wish to comment on has already been commented upon by the shadow Treasurer in the other place. An exemption is provided for in the Bill through the exercise of the comptroller's discretion. The way in which the exemption is expressed has the effect of placing an excessive onus on those who seek an exemption. The emphasis should not be, as it appears to be in the Bill, on avoiding attempts to take advantage of the tax implications of an exemption.

It is both legitimate and proper for individuals and corporations to so arrange their transactions that they can take advantage of the available courses open to them to ensure that the least possible tax is payable, towards achieving an end which is not, of itself, a tax avoidance end. The exemption should be available to those who have at least examined the taxation implications of what they are doing. The exemption should not apply where the sole reason for engaging in a particular transaction is to avoid the payment of tax. That is a matter that the government does not appear to be remedying in the Bill. Because of the slight use that has been made of the exemption the Opposition will not oppose the Bill on that account.

If the government is not to find itself seriously at odds with large parts of the business community which feel that it is important, in order to protect their investments, that they should have a reasonably sympathetic government in office, it should look at its attitude towards the form of transaction embodied in the Bill, which illustrates that the government regards as illegitimate an attempt to avoid paying the maximum amount of tax. The government believes it is legitimate to try to tax people by whatever means, even through retrospective measures, if companies or individuals have avoided tax that the government believes should have been paid. With those qualifications, the Opposition supports the Bill.

The Hon. W. R. Baxter (North Eastern Province)—The Bill deals with a number of technical matters concerning the Stamps Act, and I do not propose to dwell on those matters at length. I have been briefed on all aspects of the Bill. I confess to having had some difficulty in grasping the concepts that are contained in the Bill, although I believe I now have an understanding of them.

The National Party does not oppose the Bill, although it believes the matter of ex gratia payments should be clarified. It is an unsatisfactory arrangement if such payments are being made by the Treasurer without a clear legislative charter to do so. In respect of stamp duty being attracted by certain share transactions, it is clear that the matter should be put beyond doubt if unfair practices by certain business entities—or, to use the
Treasurer's word, "rorts"—are allowed to occur. I take with a large grain of salt comments made by the Treasurer about rorts. As Mr Guest has said, the Treasurer believes everyone ought to pay taxation at the maximum level, and he believes no-one has the right to legally arrange his or her affairs so as to minimise the payment of tax.

Victoria is the highest taxed State in Australia, especially when it comes to stamp duty on transfers of property. Since the Cain government came to office there has been a dramatic increase in the imposition of stamp duties. The Treasurer believes people transferring property are doing so as a means of evading tax. I do not believe that is so. However, the law should be clear as to what stamp duties are to be paid on certain categories of transactions.

Mr Guest referred to the practice of legislation by press release. In particular, he referred to the Treasurer's press release of 15 December last year, which announced that the changes the Bill deals with were to be made. I do not necessarily object to such a procedure. Such announcements about taxation measures should be made, and the changes that are announced should take effect from that moment onwards. To do otherwise would be to advantage certain people by forewarning them of the changes to be made. That would enable them to enter into arrangements to conclude certain transactions prior to a change in the law.

It is a well-established principle and practice with Budgets, both State and Federal, that announcements about taxation changes are made in the Budget and those changes take effect from Budget night. In this case the matter could not wait to be dealt with until the Budget was brought down. The Treasurer was responding to a decision of the High Court, a decision that would have opened the way for certain untoward arrangements or contrivances to take place. The Treasurer had no option but to issue a press release forecasting his intentions and making the date of the commencement of those changes the date of the press release.

The Treasurer moved to introduce legislative measures at the first opportunity—that is, as soon as Parliament resumed for this sessional period. That is more than can be said for his Federal counterpart, who tends to govern by press release and does not introduce the relevant legislative measures until, in some instances, years afterwards. A particular example concerns the vexed question of the capital gains tax, the proposed introduction of which was announced in September 1985. More than two years afterwards, the Federal Parliament was still waiting for the introduction of that legislative measure, and the community was still awaiting details of the proposed legislation. That created an unfortunate hiatus. The Federal government is to be condemned for allowing that situation to develop. That is not the only example; it happens to be a recent and graphic example. I do not object to the action that the Treasurer took in this instance. He has moved to have the Bill introduced into Parliament at the earliest opportunity.

The National Party does not oppose the Bill. I appeal to the Treasurer to ensure that the Stamps Act is reprinted as soon as possible. This Bill represents the fourteenth amendment to the Act since it was last reprinted; it has become a confusing document to decipher. There are many substantial amendments that need to be read into the last edition of the Act. I am aware that there is a mechanism for the reprinting of an Act. That mechanism may need some adjustment to ensure that the Stamps Act is reprinted as a matter of urgency.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 6 were agreed to.

Clause 7

The Hon. D. R. WHITE (Minister for Health)—During the passage of the Bill through the Legislative Assembly, the Opposition raised for consideration by the government an
amendment to clause 7. That clause 7 deals with the exemptions from stamp duty arising from the reduction of capital of a company, and empowers the Comptroller of Stamps to determine whether or not a scheme has been devised for stamp duty avoidance purposes.

The Opposition argued that the phrase "with a view to", appearing in clause 7, was too broad and would deny stamp duty exemptions in a number of legitimate cases in the reduction of capital. The government has considered the matters raised by the Opposition in another place and has agreed that the clause should be amended by substituting for the phrase "with a view to" the words "for the principal purpose of". This amendment will ensure that general reductions of capital not principally motivated by stamp duty avoidance schemes will continue to obtain the benefit of the stamp duty exemption.

Consequently, I move:

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

1. Clause 7, line 22, omit "with a view to" and insert "for the principal purpose of".
2. Clause 7, line 35, omit "with a view to" and insert "for the principal purpose of".

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

The remaining clause was agreed to.

Progress was reported, and the suggested amendments were reported to the House and adopted.

It was ordered that the Bill be returned to the Assembly with a message intimating the decision of the House.

ENVIRONMENT PROTECTION (AMENDMENT) BILL (No. 3)

This Bill was received from the Assembly and, on the motion of the Hon. D. R. White (Minister for Health), for the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), was read a first time.

WATER AND SEWERAGE AUTHORITIES (RESTRUCTURING) (POSTPONEMENT OF EXPIRY) BILL

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

The Hon. R. J. LONG (Gippsland Province)—In 1983 Parliament passed the Water and Sewerage Authorities (Restructuring) Act which established a number of water and sewerage authorities in Victoria. That Act contained a sunset clause providing for the Act to cease to have effect in 1986.

A measure to extend that Act was passed by this House in 1986 and similar action occurred in 1987.

The purpose of the Bill now before the House is to prevent the expiration of the Water and Sewerage Authorities (Restructuring) Act until 7 December 1989. It is a simple Bill. The Opposition does not oppose it and wishes it a speedy passage through the House.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party does not oppose the Bill because it is clearly evident that an extension of the provision is required. If the Act were allowed to run its course and the sunset provision took effect, some districts in Victoria would be left without water boards.

I am concerned about comments being made around country Victoria that pressure is being placed on some water boards to amalgamate into larger entities. Since the Public Bodies Review Committee made its initial report at the time of the former Liberal government and carried on its investigations during the early period of the present government, particularly when the current Minister for Health was the Minister of Water