Thursday, 21 April 1988

The PRESIDENT (the Hon. R. A. Mackenzie) took the chair at 11.2 a.m. and read the prayer.

FLORA AND FAUNA GUARANTEE BILL

This Bill was received from the Assembly and, on the motion of the Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands), was read a first time.

QUESTIONS WITHOUT NOTICE

PUBLIC TRANSPORT ROLLING STOCK

The Hon. B. A. CHAMBERLAIN (Western Province)—I ask the Minister for Transport whether the government has abandoned the policy which has been discredited by the Auditor-General of selling and leasing back public transport rolling stock and, if so, when the policy was abandoned.

The Hon. J. H. KENNAN (Minister for Transport)—It is nice to see Mr Chamberlain in the House during question time. In answer to his question, there has been no general abandonment of that policy.

RAILWAY OPERATIONS

The Hon. B. P. DUNN (North Western Province)—Is the Minister for Transport aware of statements made in Bendigo yesterday by the Managing Director of the State Transport Authority, Mr Keith Fitzmaurice, who is also responsible for V/Line, that V/Line's operations in that region had suffered severely in both the passenger and freight areas because of the government's decision to sell off railway land and the adverse effect that had on the railway image in that region?

What assistance will the Ministry of Transport provide to win back the lost patronage and goodwill that existed; can the Minister advise whether this trend is common in other areas of the State, where V/Line's image has suffered as a result of the government's policy of selling off railway land; and what action the government is taking Statewide to win back that support?

The Hon. J. H. KENNAN (Minister for Transport)—I am not aware of the comments to which Mr Dunn refers, but I am aware of discontent in some parts of the community about the government's policy on sale of land. As Mr Dunn would be aware, that matter has been attended to.

I point out that V/Line has conducted a very vigorous marketing policy in the past couple of years and, in overall terms, I believe the image of V/Line and of transport generally has been improved enormously under this government. That improvement is reflected in a number of ways.

The Hon. B. P. Dunn—You destroyed it all!

The Hon. J. H. KENNAN—As I indicated, not only has patronage increased over the past few years but also the per capita subsidy paid to public transport under this government has fallen by 20 per cent; and, indeed, under this government public transport consumes less of the State Budget—13.5 per cent rather than 16.5 per cent—than it consumed under the former administration. Under this government the public transport deficit has fallen quite dramatically in real terms, and patronage has increased. Honourable members
would be aware that rolling stock has improved enormously. Mr Chamberlain referred earlier to the enormous refurbishment of rolling stock that took place.

In terms of country areas, the Opposition has made a promise generally to shut down country rail services because it wishes to privatisate the public transport system. Because of the low cost recovery on country lines, privatisation would lead inevitably to the closure of country passenger and rail freight services. All that has been forthcoming from the Opposition is a promise to privatisate public transport—of course, Mr Dunn would recall the Lonie report—which on the one hand would lead to an increase in fares on those lines in the city area that would continue and to closures in the country on the other hand.

The Hon. A. J. HUNT (South Eastern Province)—On a point of order, Mr President, the Minister is debating the issue.

The PRESIDENT—Order! I am inclined to uphold the point of order. The Minister has covered the question fairly well, and I ask him now to wind up his reply.

The Hon. J. H. KENNAN (Minister for Transport)—Thank you, Mr President. Honourable members opposite would be aware that V/Line has been very successful in boosting its image in country areas and obtaining greater cost recovery in both the freight and passenger areas. Unlike the Liberal Party, the government will not shut down railway lines, wind up public transport or privatisate it.

**COMMONWEALTH GRANTS FOR MEDICAL CARE**

The Hon. B. W. MIER (Waverley Province)—I direct my question to the Minister for Health. It has been reported recently that Medicare and Commonwealth grants to the State for medical care may be abolished and replaced by a private health scheme. Can the Minister explain to the House what effect that proposal would have on Victoria?

The Hon. D. R. WHITE (Minister for Health)—Firstly, on behalf of the Victorian government I place on record that we are strong supporters of Medicare and indicate that clearly there are suggestions abroad that Medicare ought to be abolished. I place on record the implications that would have for the public hospital system.

The abolition of Commonwealth grants to the States for medical care would mean that public hospitals would charge much closer to the full cost of their services, and that would mean that fees could be expected to triple, to between $350 and $450 a day.

Obviously, health insurance premiums would have to jump dramatically to cover those extra costs. If everyone were charged at the same rate a family would pay at least $27 a week for basic cover.

A person currently earning approximately $500 a week who uses only Medicare would experience an increase of about 450 per cent annum in health costs. An end to Medicare would also mean an end to the universal health care system currently enjoyed by all Victorians.

In addition, the Federal Opposition is also proposing, with the abolition of Medicare, to introduce a risk rating whereby people who are most at risk would pay more for their health cover. The implication of the policy on top of the abolition of Medicare is that young and healthy people would pay less than average for their health cover—perhaps around $20 a week—while less healthy people would make up the difference and pay between $30 and $35 a week for health insurance.

Those who would pay more are the elderly and the sick. The idea is that the older people get, the more they would pay, and this is part of the humanitarian policies of advocated by Mr “Ironbar” Tuckey on behalf of the Federal Opposition, whose major plank is to abolish Medicare and impose the cost on the sick, the elderly and the aged.

In response to that measure, the State government has put on record a proposal to the Federal government that increased funding should be provided to the public hospital
system under a revised Medicare arrangement. The arrangement ought to include funding for AIDS treatment, funding for azidothymidine or AZT drugs and funding for palliative care for both in-patient treatment and community-based treatment. The building and capital works program which was part of the settlement of the New South Wales doctors’ dispute ought to be included in the arrangement, and in addition there should be an increase in real funding to the States.

I expect the Federal government will respond positively to the proposal and that there will be a health Ministers’ conference in May to produce a revised Medicare arrangement resulting in additional funding being provided to the States for the public hospital system.

These measures stand in stark contrast to the proposals of “Ironbar” Tuckey, which would be supported by the Opposition in this State, and which would have disastrous consequences for the sick, the aged and the elderly.

The Hon. W. R. Baxter—What is the difference between the aged and the elderly?

VICFIN BORROWINGS

The Hon. ROBERT LAWSON (Higinbotham Province)—The Minister for Transport will be aware that VicFin—the Victorian Public Authorities Finance Agency—approached the Austrian market in 1987 to borrow $200 million to finance rolling stock in Victoria. Will the Minister give details of this transaction and also explain why the details have never been made public?

The Hon. J. H. KENNAN (Minister for Transport)—The Treasurer is the Minister responsible for VicFin, and Mr Lawson will have to take up that matter with the Treasurer.

The Hon. Robert Lawson—But you are responsible for rolling stock!

The Hon. J. H. KENNAN—In relation to the rolling stock, under the government extraordinary and noticeable improvements have been achieved in the public interest, in the context of a decrease in the deficit, a 20 per cent reduction in per capita subsidies to public transport and a reduction in the percentage of government funds provided for public transport in the State.

In the last few years of the former Liberal government honourable members heard threats to close rail lines generally and the deficit was rising. Opposition members do not like the fact that under the present government the percentage of State funds provided for public transport has fallen from 16·5 per cent to 13·5 per cent. The per capita subsidies have been reduced by 20 per cent and the deficit has fallen in real terms, resulting in a much better rail system. They do not like the heat!

The PRESIDENT—Order! Nobody likes the heat and I will cool it down shortly!

The Hon. HADDON STOREY (East Yarra Province)—On a point of order, Mr President, in the Minister’s first sentence he said that the question would be referred to the Treasurer; therefore, everything else he has said is quite irrelevant.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, the government is delighted that the Opposition is here for the first time this week for question time, to take a point of order, because its members have not been here all week. Let them ask a sensible question.

In respect of the question, when the Minister indicates that he will refer the matter to the Treasurer, that does not preclude him from making observations himself.

The Hon. B. A. CHAMBERLAIN (Western Province)—As to the point of order, Mr President, the question was simple. Mr Lawson asked: is it a fact that the government raised $200 million in foreign exchange for Metropolitan Transit Authority rolling stock, and, if so, why was that matter kept secret?
As all honourable members would be aware, the Victorian public does not own its rolling stock. It has been sold to the Swiss, the Austrians, the Japanese and everyone else.

Honourable members interjecting.

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

The Hon. W. A. Landeryou interjected.

The PRESIDENT—Order! I remind Mr Landeryou that he is not in his place—he could be in another place shortly!

As to the point of order I believe the Minister for Transport has now completed the answer to the question. Therefore, the point of order has lapsed.

NURSING HOME CARE

The Hon. K. I. M. WRIGHT (North Western Province)—I understand there are plans by the Federal government to alter funding for nursing home care, which could have serious ramifications for Victoria, where there is the highest level of dependency among nursing home patients. Will the Minister for Health advise the House what steps the government is taking to head off the threat to the standard of nursing home care in Victoria? Will he also advise the House what ramifications it will cause to health services, particularly in the Bendigo area, if the Federal government proceeds with the proposals currently under consideration?

The Hon. D. R. WHITE (Minister for Health)—I anticipate that the Federal Minister for Housing and Aged Care, Mr Staples, will this afternoon be making a statement going to the heart of the matters raised by Mr Wright.

Last evening I took the opportunity, with the Victorian aged services peak council, of making presentations to the Federal government with respect to the nursing home situation in Victoria. It is true that Victoria has fewer nursing home beds per capita than other States; the government has not sought to change that, and has indicated it needs additional nursing home beds but that it much prefers the home and community care programs and hostel programs, which enhance the opportunity for people to remain in their own homes for as long as possible.

It is important to have and maintain a viable nursing home industry, both the church-based, not-for-profit nursing home beds and the private, for-profit nursing home beds. It is not surprising that Victoria, having fewer nursing home beds than other States, has a higher level of dependency among its patients in nursing home beds, and that ought to be reflected in Commonwealth policy.

The point made to the Commonwealth last night is that Victoria would not agree to any Federal proposals unless there were adequate funding, and if there were any proposals to change the mix of hours for personnel in nursing care it must have the support of the Victorian aged services peak council, particularly the representatives in those discussions on behalf of the council, namely, Brian Moss and Richard Whiting. That was the purpose of last night’s meeting.

The government looks forward to making further comment after the Federal Minister has made his statement this afternoon. I hope and look forward to his making a statement that further secures and enhances the delivery of nursing home services in Victoria.

SPACE TECHNOLOGY

The Hon. B. T. PULLEN (Melbourne Province)—I refer the Minister for Conservation, Forests and Lands to the Madigan report on space technology tabled in Federal Parliament in 1985. That report made a key recommendation that remote sensing should be used
more widely in Australia in the areas of conservation and management of natural renewable resources.

Since that time, consideration improvements have been made in the development and applicability of remote sensing and, in particular, in areas such as management research and monitoring of wild fires and matters of that type. It is an important area and I ask the Minister: what is the government doing in Victoria to take up that challenge, and are there any proposals to introduce that technology in our management services in relation to environment and conservation areas?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank the honourable member for his question and his understanding of the matter. The use of remote sensing is a significant tool in the management of public land and, indeed, of private land, and the Department of Conservation, Forests and Lands is among the leaders in the States on this issue.

Next Tuesday I shall be opening a four-day seminar and workshop program entitled "Remote Sensing in Victoria". My department is co-sponsoring the proceedings, along with the Royal Melbourne Institute of Technology and other organisations interested in the industry. Remote sensing describes the use of satellite and airborne scanner imagery for mapping and monitoring resources. In recent years significant advances have been made—as anyone who has been to the Australian Institute of Marine Science would know—in the use of satellite imagery for conservation management.

The department has decided to take advantage of this technology in a number of ways. We are the first State government agency in Victoria to acquire a computer that can be used to analyse data obtained by remote sensing. Several other departments and teaching institutions have since followed our lead. The most important question becomes: what will we use it for? The first area for which we will be using remote sensing is in the measurement of forest clearing. The debate about forests has centred around whether there is more forest or less forest and what causes the denuding of the land and whether reforestation techniques and national park preservation is actually increasing forestation cover in Victoria.

We have not been able to tell that in any sensible way. By the use of remote sensing, we will be able to measure the current extent of forest cover across Victoria and the extent of clearing on public and freehold land. We can also receive, via this very sensitive imagery, a view of which vegetation we have on which areas, and by using that in a longitudinal way over a number of uses, we will in the future be able to tell more clearly how our policies are affecting us and will also be able to be clear about having our policies implemented and about land clearing since 1972, for which we actually have manually collected records.

Two other areas are of significance: one is to measure the impact of fuel reduction burning of our vegetation. This system will give us a clear measure of whether we are having cool burns—which are in fact not so devastating.

The Hon. R. I. Knowles—I thought the Ministerial statement was coming later.

The Hon. J. E. KIRNER—I shall do both, if you like! The second area is seagrass mapping. A number of honourable members have been concerned about the loss of seagrass in the Western Port area. We are now using, with the techniques developed by the Australian Institute of Marine Science, remote sensing to measure seagrass growth in Corner Inlet and we shall be extending that to Western Port.

PRODUCTIVITY INCREASES IN TRANSPORT SYSTEM

The Hon. HADDON STOREY (East Yarra Province)—When was the Minister for Transport advised that the second-tier 4 per cent wage increase for transport workers was not cost neutral, and what steps did he take to ensure that it was cost neutral in accordance with the requirements?
The Hon. J. H. KENNAN (Minister for Transport)—I understand the embarrassment of the Opposition in relation to public transport issues. The government has managed public transport, and is continuing to manage it, in a most effective way. Ultimately, offsets in relation to the 4 per cent increase will be achieved during this year. I remind the House that the public transport deficit was blowing out of control under the previous Liberal government.

During the six years in which the Labor Party has been in government, the real public transport deficit has decreased. The subsidy per head of population has decreased by 20 per cent and the funds allocated to public transport as a percentage of the State Budget have decreased under this government. Despite that, what do we get from the Liberal Party? A proposal to privatise!

The PRESIDENT—Order! I have been listening to what the Minister for Transport has said. The question was specific; we have heard some comments about this matter during question time, even today, so I invite the Minister to answer the question in terms of the way it was asked.

The Hon. J. H. KENNAN—in relation to the question of cost neutrality raised by the Opposition—

Honourable members interjecting.

The Hon. J. H. KENNAN—Members of the Opposition are bleating again. They are beauties in this place! Members of the Opposition ask questions, do not like the answers and take points of order against their own questions. That is typical of their political behaviour in this place.

In terms of cost containment, which is what the question was about, in recent years, the government has done a remarkable job in the transport area. Members of the Opposition know that fewer people have been employed in the public transport system in recent years. As I said at the outset, the offsets for the 4 per cent increase will be achieved this year.

The situation was different with a previous honourable member for Western Province. He was less of a bleater than the present lot who take their instructions from people like Margaret Tighe. Half the time members of the Opposition do not bother to come into this Chamber—they have a press conference during question time! If one tries to find out who is holding the press conference, one cannot see him because he is surrounded by reporters; the person holding the press conference is invisible. Members of the Opposition are invisible in this place!

The PRESIDENT—Order! Not only is the Minister for Transport not addressing his remarks to the Chair, but he is ignoring an honourable member wishing to take a point of order.

The Hon. ROBERT LAWSON (Higinbotham Province)—On a point of order, Mr President, I do not understand how Margaret Tighe got into a discussion on the transport portfolio. I ask the Minister to answer the question.

The Hon. D. R. WHITE (Minister for Health)—On the point of order, Mr President, I direct the attention of the House to the fact that the decision for the 4 per cent wage increase made by the Commonwealth Conciliation and Arbitration Commission has the following features: all employers and all sections of the trade union movement must take into account not only present and current productivity improvements but all past activities related to productivity improvement. Nowhere have those achievements been greater than in the transport sector.

The PRESIDENT—Order! I do not follow the point of order.

The Hon. D. R. WHITE—You want to talk about relevance, read the decision!

The PRESIDENT—Order! I ask the Minister for Health to apologise to the Chair for those remarks.
The Hon. D. R. WHITE—Mr President, if you take exception to the remarks I made, I withdraw them.

The PRESIDENT—Order! There is no point of order, but I understand that the Minister for Transport has completed his answer.

The Hon. J. H. Kennan—No.

The PRESIDENT—Order! If the Minister has not completed his answer, I remind him of the guidelines regarding answering questions without notice. I have given him a great degree of latitude. I invite him to wind up his answer in the terms in which the question was asked.

The Hon. J. H. KENNAN (Minister for Transport)—Thank you for that ruling, Mr President. I have answered the question about the 4 per cent wage increase that was raised.

PLANNING AND ENVIRONMENT ACT

The Hon. W. R. BAXTER (North Eastern Province)—In the light of the answer of the Minister for Conservation, Forests and Lands to my question yesterday—this is the third occasion this week that I have had to raise the application of the Planning and Environment Act to the Minister's department—will the Minister give the House an undertaking that, where pines are to be planted on former freehold land that has been acquired by her department, the department will make application to the responsible authority for an appropriate planning permit in the same manner as a private operator has to make application under the Planning and Environment Act?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—It is the third time that Mr Baxter has asked me this question and so I shall go through my answer in words of one syllable. Two days ago, Mr Baxter asked a question; it was correct that the provision about the Act binding the Crown was put into the legislation by way of an Opposition amendment. The government considered that issue and decided—as I said yesterday—that, except for those areas affected by schemes around Port Phillip Bay and the area along the urban stretches of the Yarra River and the Dandenong Creek, all other areas ought to be exempt from the provisions on the Planning and Environment Act.

The basis for the exemption was that my department is clearly bound by other Acts of Parliament such as those on national parks, reference areas, forests and wildlife, to manage land in certain ways. It is not always appropriate—in many cases it is certainly not appropriate—to have that particular Act of Parliament breached in any way by another planning process.

Having said that, as I said yesterday, we are now in the process of developing a new lands Bill, which will look at the issue of how to ensure there are proper and coordinated planning processes on public land. When that lands Bill is finally debated and passed by Parliament, a process will be in place that will ensure that the concern that Mr Baxter has rightfully raised—which progressively has been put more correctly—will be addressed.

The Hon. W. R. Baxter—Do you mean it is an education process for you and me; it has taken three days?

The Hon. J. E. KIRNER—It would have to be by the best teacher in the State system.

ROAD FUNDING

The Hon. M. J. ARNOLD (Templestowe Province)—The Minister for Transport has not had much opportunity to express his views on transport this morning, but honourable members will recall that I asked a question in relation to road funding in the province of Templestowe and the Minister was able to inform the House about the dramatic increase in expenditure on roads in that province. Can the Minister inform the House about the increase in the level of expenditure on road funding throughout Victoria?
The Hon. J. H. KENNAN (Minister for Transport)—I thank Mr Arnold for his continuing interest in transport and I congratulate him for his fortitude in not taking points of order on his own question.

By way of preface to the question, if you will allow me that indulgence, Mr President, I thank Mr Arnold for asking the question about road transport because all of my comments this morning have been on rail transport.

In the financial years since 1982-83, the government has committed a total of almost $1800 million to the construction and maintenance of Victorian roads. In the same period, the Commonwealth government committed almost $1400 million to roads in this State. In current dollar terms, the increase in annual State funding between 1982-83 and 1987-88 financial years has been 55 per cent. In real terms the increase in commitment was 16.5 per cent.

In the last financial year, expenditure on roads has been maintained at the same percentage level of total State outlays. The percentage of funds from State sources as a percentage of total road expenditure in Victoria has increased steadily from 52.8 per cent in 1984-85 to 57.9 per cent in 1987-88.

The government's financial commitment to roads is in stark contrast to action taken by the Opposition during the final years of its former life. During the last six years of the then Liberal government's administration, State government expenditure on roads declined in real terms by 17.5 per cent. In the past six years government expenditure on roads has increased in real terms by approximately 17 per cent. There is the contrast. During the last six years of the previous Liberal government, such expenditure declined in real terms by 17 per cent; and during the same period, Commonwealth government expenditure on roads declined in real terms, under the Fraser government, by a similar percentage. It is clear that under Labor governments, both State and Federal, there has been a greater commitment, in real terms, to road funding than was the case under previous conservative administrations.

The METRAS and NATROV documents that were released by my predecessor outline strategies for the development of the road system within Victoria. Those documents are fine examples of the government's commitment, not only to increasing the level of expenditure and, as I have demonstrated, to maintaining it, but also to the proper prioritisation of those areas that are important in the development of service corridors, such as the R5, between industrial areas and goods distribution centres.

Similarly, the METRAS strategy recognises the importance of upgrading heavily utilised urban arterial roads to improve the amenity of neighbourhood areas. The two-lane upgrading program focuses on both outer suburban areas and developing areas such as the City of Doncaster and Templestowe, which, as a result of Mr Arnold's continued good work in Templestowe Province, has experienced a dramatic increase in road funding.

There is an ongoing annual commitment by the government of at least $22 million in that area. The City of Doncaster and Templestowe has recognised the importance of that program, and the benefits it has received from it, in correspondence that officers of the city have sent to Mr Arnold.

VICFIN BORROWINGS

The Hon. A. J. HUNT (South Eastern Province)—I ask the Minister for Transport whether it is a fact that the Minister was advised, in December last, of the VicFin borrowing on behalf of the Metropolitan Transit Authority of $200 million from Austria? If that is a fact, as I am sure it is, will the Minister proceed to answer the question posed to him by Mr Chamberlain?
The Hon. J. H. KENNAN (Minister for Transport)—The Opposition is continually attacking the government’s methods of funding rolling stock in the State. As I have said—

Honourable members interjecting.

The PRESIDENT—Order! The House will come to order! Members of the Opposition will allow the Minister to answer the question.

The Hon. J. H. KENNAN—Members of the Opposition do not like the fact that, because of the policies of the government, there has been a huge improvement in the quality of rolling stock. All members of the Opposition promised to do was to shut down the system. Now they are promising to sell it off to private enterprise.

Members of the Opposition continually attack the government’s methods of financing, yet they do not like the improvements that have occurred because of it. There has been a dramatic improvement in the quality of rolling stock and a decline in the level of both the subsidy and the deficit. The Opposition is aware of that. In the past three years there has been an enormous improvement—

The Hon. A. J. HUNT (South Eastern Province)—On a point of order, Mr President: my question directly related, firstly, to the Minister’s knowledge and, secondly, to the need for an answer to Mr Chamberlain’s question. The material the Minister is providing to the House is unresponsive and has nothing to do with the question.

The PRESIDENT—Order! As Mr Hunt is well aware, Ministers are granted a degree of latitude in the way in which they answer questions. A certain degree of preamble is allowed, which I am sure the Minister has completed, and I am sure he will now answer the question.

The Hon. J. H. KENNAN (Minister for Transport)—I shall repeat the answer that I gave to Mr Chamberlain. The Opposition wants to attack the government’s method of financing and VicFin, but it knows that the government has dramatically improved the rolling stock of the transport system and, at the same time, reduced the deficit.

When the Opposition was in government the deficit was out of control. The government’s spending on public transport has reduced in real terms and as a percentage of the Budget. The system is more efficient and exhibits far better financial management than was ever shown by the Liberal Party.

The Opposition’s proposals are to bag the fact that the deficit of the transport system has fallen and rolling stock has improved. Instead of implementing the Lonie report, which promised to close down the transport system, the Opposition now wants to sell it off to private enterprise.

**CONSTRUCTION OF DAM AT HORSHAM**

The Hon. D. E. HENSHAW (Geelong Province)—Can the Minister for Agriculture and Rural Affairs advise the House of the progress of the construction of a dam at Horsham, a dam that is being built for the storage of sewerage effluent to prevent discharge into the Wimmera River?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Honourable members would be aware of the pollution problem in the Wimmera River due to the discharge and treating of effluent from the City of Horsham. It has been a difficult problem, particularly for towns downstream, such as Dimboola, because the whole Wimmera catchment is an internal catchment and flows into a lake system rather than into a major river system and out to sea.

The high nitrogen and phosphorus levels in the treated effluent have encouraged vegetation growth in that river system. When I first became Minister for Planning and Environment, some five or six years ago, I tackled that problem and I have had to tackle
it since, not only as the Minister for Planning and Environment, but also as the Minister for Agriculture and Rural Affairs.

This effluent problem has caused considerable difficulties for the two municipalities concerned, as well as others, and significant hostility has built up between Horsham and Dimboola over that period. After many years of protracted negotiations, a creative solution to the problem will be completed soon. Mr Dunn would understand the problem, because it is his electorate. The solution involves the government purchasing land adjoining the Victorian Crops Research Institute near Horsham, a very important establishment, particularly for wheat growers. A 650-megalitre storage dam which will store treated effluent is nearing completion on the property owned by the government. The irrigation of the new crop varieties with the treated effluent is a creative solution to the problem.

In solving one problem the government is able to advance its research into crops. This use of treated effluent makes it possible for a second crop to be grown during the summer/autumn period, which will double the rate at which new varieties are developed. This innovative irrigation process will significantly shorten the time for developing new strains. In fact, using current procedures, it takes approximately twelve years to develop a new variety which can ultimately be used by wheat farmers, and that period will be reduced dramatically. As I said, the solution is a creative one, because both the water quality of the Wimmera River and Victoria's crop breeding program will be enhanced.

I know that there has been community concern about the dam itself. Some honourable members understand that as well. Late last year, the Minister for Transport, when he was the Minister for Planning and Environment, and I had to review the matter rapidly and determine whether to proceed in a time span that was quite critical. If a quick decision had not been made it would have affected a determination of the Environment Protection Appeals Board and a later decision of the Planning Appeals Tribunal, which determined that the issue had to be resolved by 22 May this year. The lack of a quick decision would also have involved additional cost. The government determined to continue with the dam after a short review of the project.

Last week when I was in Horsham I took the opportunity of visiting the dam site. The dam is near completion and I was most impressed with its design and the progress made on it. I invite honourable members who are interested in this kind of project—particularly one such as this which has so many elements to it—to have a look at the dam because the work has been very well done.

The embankments are not obtrusive and when they have been fully grassed and another row of trees has been planted, the dam will be hardly noticeable. It is difficult to see the dam from the nearby houses; it is not obtrusive.

The new dam will become a point of interest and will attract visitors to the area. It has been designed as a haven for wildlife, particularly for bird life, in conjunction with the Department of Conservation, Forests and Lands.

The Hon. W. R. Baxter—Will there be a bit of duck shooting on it?

The Hon. E. H. Walker—who knows; it will probably be banned. As I have said, the new dam will provide a sanctuary for wildlife, which is a good use.

I refer to the payment of the costs of the dam and related works. The purchase of the extra land for the irrigation farm cost approximately $1 million and has been paid for by the government. The construction of the dam cost around $700 000 and that cost has been shared on a 50-50 basis by the City of Horsham and the government. The pumps and pipes to the dam cost $1·3 million and were paid for by the City of Horsham. The $1 million irrigation system was paid for by the government. There has been an excellent sharing of the costs of the project.

The communities of Horsham and Dimboola in particular will be the benefactors of some good and creative decision making and cooperation between local government and
State government. I am proud to say it is a good solution to a tough problem; it will solve a pollution problem and benefit the wheat farmers of this State.

HEALTH (GENERAL AMENDMENT) BILL

The Hon. D. R. WHITE (Minister for Health)—I move:
That this Bill be now read a second time.

This is one of the key Bills to be introduced by the government to modernise Victoria's health laws. The purpose of the Bill is to reform the law as it relates to the public health. Its proposals are the culmination of a great deal of work by the Health Legislation Review Unit under the leadership of Mr Alan Rassaby.

I take this opportunity of pointing out to the House that, in formulating its recommendations to the government, the unit has conducted extensive consultation. The unit, for example, has carefully considered more than 400 written submissions from interested organisations and members of the public as a result of the release of the seven discussion papers on the reform of health law that form the basis of the Bill. It has also held numerous seminars across Victoria aimed at local government.

Moreover, the Bill now before the House incorporates many of the suggestions for improvement that were proposed to the unit in the 100 submissions received following the initial introduction of the legislation into the Legislative Assembly last year.

The current law applying to the public health is found, essentially, in the Health Act 1958. The Act has a long history, and many of its provisions continue to reflect its colonial origins. Much of the Act is anachronistic and no longer meaningful or appropriate, in modern health law. Despite its shortcomings, the Health Act underpins a wide range of public health programs.

It is, therefore, essential that, if the Act is to continue to meet today's needs and those of the future, it be flexible, as well as functional. The Act must also clearly express the roles to be played by Health Department Victoria and by local government in the provision of public health services.

The significance of this Bill is that it signals a change in direction as to the way in which those services are to be provided. Under an amended Health Act, Health Department Victoria will be encouraged to be more a standard setter than an inspector, and will have a cooperative, consultative relationship with community organisations and local government.

The Bill will insert into the Act a statement of objects establishing clear goals for the delivery of services. It will repeal, or substantially modify, provisions which no longer serve a useful purpose or which duplicate functions of newer agencies such as the Environment Protection Authority. It will also clearly identify the functions of the Chief General Manager of Health Department Victoria and of municipal councils.

A major underlying theme is that local government will continue to play a key role in the delivery of public health programs. However, the Bill will remove unnecessary controls and restraints so that councils can determine their own priorities in response to the particular needs of their residents.

Finally, the Bill encourages broad public participation in debate on issues affecting the health of the wider community—mostly notably, through the introduction of health impact statements. It is not my intention to take up the time of the House by discussing each of the clauses in detail. Nevertheless, it may be helpful to honourable members if I outline the thinking behind some of the more important innovations contained in the Bill.

The Bill provides for the repeal of laws requiring the annual registration of special trades and for the transfer of responsibility for administration of tips and waste management to the Environment Protection Authority. The streamlining of controls will be of considerable
benefit to industries, like the pig industry, which are currently subject to multiple regulatory schemes, and it will eliminate duplication between State government departments and between State and local governments.

New laws on regulation of accommodation for hire will replace archaic provisions on common lodging, boarding, and apartment houses, while streamlined nuisance laws represent a major overhaul of a confused but important area of law.

Significantly, public health will in no way be compromised by these measures. Indeed, the Bill will promote more stringent public health standards, among other things, through the adoption of new water laws, which will enable regulations to be made on such matters as the sampling and disinfection of water supplies and the reporting of waterborne illnesses.

Of particular importance are the provisions on infectious diseases, including AIDS. The Bill places a clear responsibility on infected persons and those at risk to behave responsibly. Those who fail to act responsibly may be prosecuted or may be required to be examined, tested, counselled or, in certain circumstances, isolated.

At the same time, the civil liberties of infected persons and those at risk are promoted through new anti-discrimination laws and, in the case of AIDS, through provisions requiring that the privacy of persons with human immuno-deficiency virus—HIV—be preserved and that persons tested for HIV receive adequate information about the nature of the condition and its treatment.

The Bill also emphasises the importance of preschool immunisation. The requirement that parents or guardians provide evidence of immunisation against prescribed diseases prior to school entry will be an important weapon in the fight against measles. It should be noted that Victoria will be the first State in Australia to adopt in legislation this National Health and Medical Research Council recommendation. Exceptions have been provided where immunisation is medically inadvisable or in the event of conscientious objection.

The proposals in this Bill represent the first major updating of the law relating to the public health. Not only will they enable both Health Department Victoria and local government to respond more readily to changing community needs, but they will alsodelete from the statutes unnecessary and outmoded provisions that no longer have a place in modern health law.

I take this opportunity of thanking Mr Alan Rassaby and his team, local government and all sections of the community who responded, for the excellent work that has been done in producing what the government regards as a first-class, quality Bill.

I commend the Bill to the House.

On the motion of the Hon. M. A. BIRRELL (East Yarra Province), the debate was adjourned.

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

**PIPPINES (AMENDMENT) BILL**

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

That this Bill be now read a second time.

The Pipelines Act 1967 was substantially amended twice previously, in 1983 and 1984. Neither of these amendments has yet been proclaimed. It is intended that they be proclaimed simultaneously with these amendments.

The delay in proclamation was considered desirable pending finalisation of a pipeline strategy and the development of model regulations by a national committee. Regulations to be made will be similar to the model regulations.
It is unfortunate that this has taken so long. However, the benefits that will flow on from the work undertaken in the meantime far outweigh any minor inconveniences caused by the delay. The Bill will link the two previous amendments and address other deficiencies in the Act brought to light during the intervening period.

Among other things the Bill provides for a clear basis for making regulations, and allows Australian standards and codes of practice to be adopted in part or in whole. Previously there was little flexibility when standards mentioned in regulations underwent updating or change. The Bill will allow greater clarity of intent.

The provisions for the cancellation, variation and renewal of pipelines permits and licences have also been reviewed in the light of recommended changes to the operating regulations. It is appropriate that these sections be reviewed at this time as renewals of licences and permits—issued since 1967—will commence later this year.

The opportunity has been taken to review and amend any parts of the Act that do not plainly set out necessary procedure and powers to do certain things. This is especially so in the areas of applications to vary existing permits, licences, renewals, and—most importantly—the removal of disused pipelines. Honourable members will appreciate the value of clarity in this legislation. Wherever possible the requirements placed upon owners and operators of pipelines have been set out in some detail. The efficient and safe operation of these important works must be ensured.

I turn now to the Bill itself. Primarily it is comprised of machinery clauses to link the previous amendments together and new provisions to assist with the renewal and amendment of licences and permits.

Clause 7 clarifies the process by which permits are renewed. The power of the Minister to amend or add a condition is clearly set out. Clause 9 mirrors these provisions for reissued licences. Clause 11 includes new sections 29 and 29A to provide power for the Minister to recommend the cancellation of a licence. Honourable members will note that this power is exercised only after the Minister considers that a licensee has not complied with a condition of the licence. This non-compliance could have potentially very serious effects because of the hazardous properties of the materials transported. The ultimate power for the Minister to cancel a licence is, therefore, considered necessary.

Clauses 12 and 14 provide a power to prescribe a pipeline operation fee and to better provide for regulation-making powers. The currently prescribed pipeline operation fee is charged at a rate for each kilometre of pipeline operated. This amendment clarifies the powers contained in the Act and permits the continuation of this style of charging.

I have previously mentioned the other main effect of clause 14, which includes a power to adopt standards and items of Commonwealth legislation by reference. This reduces the length and complexity of the regulations.

Clause 15 corrects a minor error introduced by the Conservation, Forests and Lands Act in 1987, and is proposed to be deemed retrospective from 1 July 1987.

I commend the Bill to the House.

On the motion of the Hon. H. R. Ward, for the Hon. ROSEMARY VARTY (Nunawading Province), the debate was adjourned.

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

SUBDIVISION BILL

The debate (adjourned from April 12) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. A. J. HUNT (South Eastern Province)—The thrust of this Bill is universally supported, not only by the parties in this House but also by every profession and
organisation having anything to do with real estate. The Bill, therefore, will pass with the Opposition’s blessing, although we will seek to still further improve it.

The Bill sets out to create the simplest possible procedure for subdivisions of all descriptions and for matters connected with subdivisions. It seeks to cover conventional subdivisions and resubdivisions, stratatitle subdivisions, cluster subdivisions, consolidation of titles—which if one thinks about it is subdivision in reverse—excisions for acquisition and the creation, variation and removal of easements and covenants.

I foreshadow at this point that the Opposition will have some disagreement with that last aspect, which is unnecessary to the real thrust of the Bill. The Bill envisages that there will be three simple steps affecting subdivisions. The first will be the obtaining of a planning permit, where that is required, although it is the government’s intention to have as-of-right provisions so far as possible. Thus no planning permit at all will be required in many cases.

The second step is certification of the plan replacing the old form of sealing, and the third is registration. The Bill further envisages that controls and standards will be exercised under the Planning and Environment Act not the Subdivision Act, so that discretions under the Subdivision Act will be minimised and the delays they cause eliminated so far as that is practicable.

Other features of the Bill are that reserves will vest in the municipality or relevant authority upon registration of the plan, which is much simpler than the old form of transfer. The Bill enables the creation of bodies corporate with respect to any subdivision and requires their creation where there is common property, and sets out the basic framework for those bodies corporate.

The Bill also envisages that subdivisions may be staged if the planning permit or planning scheme requirements so permit. The Bill further seeks to allow preselling for all types of subdivisions, and in the case of building subdivisions of the strata title kind enables this to occur at an earlier stage than previously.

The Bill also seeks to increase the public open space contribution from the existing 5 to 6 per cent or, where money in lieu is accepted, to 8 per cent. The Opposition has some disagreement there. The Bill sets out a framework only and heavily depends on regulations. They, unfortunately, have not been drafted. Much is left to those regulations.

In December I wrote to the Minister for Planning and Environment pointing out the importance of the regulations and asking him to have them drafted, if possible, before the Bill was debated; if not, to provide the Opposition at least with a framework. I also suggested to him that all the major bodies affected by this Act should participate in a working party to draft the regulations so that general consensus will be achieved in advance.

Last week I received a reply indicating that a working party will be established involving all major organisations. I also received a copy of the framework of the regulations, which are heading in the right direction. I understand that copies have been supplied to all honourable members and I am informed that organisations which wish to obtain a copy have only to contact Mr Owen Lennie, the Director of the Development and Building Control Division at the Ministry for Planning and Environment, and it will be supplied.

Thus the arguments the Opposition has about the Bill are with the detail rather than with its thrust. It is a good Bill which has been a long time coming. Its genesis was in the report of the Hayes Residential Land Committee issued in 1976 which recommended the consolidation of all subdivisional procedures into one Bill. The Building and Development Approvals Committee—BADAC— which was established shortly after, in September 1979 confirmed the findings of the Hayes committee and spelt out what a subdivision Bill should contain.
My colleague in the other House, the honourable member for Benambra, then the Minister for Planning, appointed a working party. Some eight years later in June 1987, a Bill was circulated to the public for comment. That draft Bill was the subject of widespread community consultation, and as a result about 50 changes were made to that draft and a new Bill was presented to Parliament in September. At my suggestion, the previous Minister for Planning and Environment, now the Minister for Transport, convened a conference of all interested organisations in October to hear their comments about the Bill and to see whether consensus could be reached on points of difference. At that conference 43 of the 46 clauses were questioned; points were raised and constructive suggestions were made.

In February the Ministry responded to the matters raised in October and provided me with its instructions for amendments, and at that stage about 30 or so further amendments were proposed by the government. I replied on behalf of the Opposition on 1 March, pointing out that there were many further issues on which changes needed to be made to protect the interests of the community.

My response was taken into account in the first set of actual amendments that were received, of which there were then 52. I responded on 7 March in greater detail. Since then the department has also had conferences with the Institution of Surveyors Victoria and the Law Institute of Victoria. The next draft was produced at Easter time and contained 156 amendments, which took up many of the issues raised by the professional associations and the Opposition.

I responded to that on 7 April pointing out that there were still inadequacies. A further draft was received a week ago and that increased the number of government amendments to 165. After further oral discussions, the final draft was presented a few days ago with 176 amendments, one of which has subsequently been changed. There are 176 government amendments and 24 Opposition amendments making the total 200. The Opposition also proposes four amendments to the government’s amendments. If all the amendments are accepted, we will have an extremely good Bill.

I pay tribute to the willingness of the Minister to consult and to Mr Owen Lennie, of the Ministry for Planning and Environment, who has listened patiently to our arguments on every issue. He has not always agreed but sometimes we have convinced him of the desirability of an amendment. Most of the difficulties have been resolved and the areas of disagreement are now comparatively narrow.

I shall turn now to the major differences between the government and the Opposition. Although the Opposition accepts the thrust of the Bill, it is too all-embracing and goes further than the need. This is evidenced in the treatment of easements, covenants and vesting orders. The Bill assumes that easements and covenants are necessarily part of the subdivisional process. That is simply not true. Many private easements exist between one landowner and another where no subdivision is envisaged or intended. There is no reason why the creation of such easements, their variations or their removal ought to be part of the subdivisional process and require certification by a council.

Certainly, the council ought to be notified, but no council approval need be required. After all, these are simple issues between adjoining landowners that do not impinge on subdivision in any way. In addition, every interest outside the public sector believes we should not interfere with matters of purely private rights. The Subdivision Bill has no place in dealing with those matters.

Against this aspect of the Bill are the developers, the real estate agents, the legal profession, the Institute of Surveyors Victoria and all those who are affected by the provisions. They unanimously oppose it; it is unnecessary. Therefore, the Opposition proposes that this unnecessary provision be removed. The advice the government received from the Registrar of Titles was that the Bill does not appreciate all the complexities of private easements. It assumes that something simple is being done when it is not. The same provisions relate to covenants, as does the same reasoning.
The council needs only to be notified of vesting orders where someone claims land by adverse possession. The council should have no part in saying, "Yes" or "No" to whether someone acquires land by adverse possession. The council is entitled to be notified and that is all.

All honourable members fully recognise the desirability of contribution for open space. The Liberal Party does not underestimate that need. A week or so ago Mrs Tehan forcefully drew attention to the need for adequate urban open space. However, honourable members should remember that any increase beyond the 5 per cent currently required is a further impost on house and land purchasers. The cost must be borne by them.

In recent times the Liberal Party has publicly drawn attention to the escalating price of land. Currently the community cannot afford any actions that would further increase the price of land. Young people are being driven out of the market. As a result, the Liberal Party has decided, in their interests, to oppose any increase in the open space requirement beyond 5 per cent.

Another major difference between the Opposition and the government is that the Bill does not bind the Crown. The Opposition accepts the proposition that, on an initial Crown subdivision from which Crown grants issue, the Crown ought not to be bound. There is no reason why the Crown should not comply in other respects with the same provisions that apply to the ordinary citizens on subdivision of land in urban areas. Thus the Opposition will be seeking to ensure that the Bill, as it should, binds the Crown.

I turn now to further criticisms of the Bill. One must criticise the time taken to produce the proposed legislation. I also criticise the inclusion of three clauses at the end of the Bill that have nothing to do with subdivision. The government has used the Bill as a vehicle to slip in further provisions that ought to have appeared in a separate Bill.

The Southgate Project Act gives the developers of that project certain advantages that are not applicable to citizens at large. Clauses 44, 45 and 46 lift those provisions from the Southgate Project Act and enable them to apply wherever the Minister decides land is special land. That process appears to be very dangerous and has no place in this Bill. It is a separate matter. Therefore, the Bill seeks to repeal the Southgate Project Act because the provisions will apply generally to whatever the Minister of the day sees fit. The Opposition does not like that approach and thinks it is sneaky.

A further criticism is that the major change to the preselling provisions appears nowhere in the Bill. It arises by implication only.

New and wider rights of preselling are a serious issue. The Bill should have addressed that issue squarely and set it out so that honourable members could vote either "Yes" or "No" on it. If one does not like the provision there is no point at which one can vote against it; it is simply inferred from various changes in the subdivision procedure.

Furthermore, honourable members will recall that I said, in the case of building subdivisions, that preselling may occur at an earlier stage. Under the existing law, preselling can occur when there is virtually practical completion, when the walls are up, and the precise boundaries of the strata unit can be determined.

Under this Bill the result will be that preselling can occur when the footings are in—a very much earlier stage, indeed. It can occur as soon as the boundaries can be determined, even if the walls are not built.

The Hon. E. H. Walker—That is not much prior to the other arrangement.

The Hon. A. J. Hunt—I am saying that matters of this nature, which make substantial changes to the law, ought to have been addressed expressly in the Bill, and not left to implication.

The Hon. E. H. Walker—It is not as big a difference as you are saying; it is a little more realistic, in my view.
The Hon. A. J. HUNT—That may well be. I am suggesting that it should have appeared expressly so that it could have been discussed by honourable members, and they could have the option of voting one way or the other. Now the result is that, if one accepts the Bill—although it is nowhere mentioned—these changes will result. That is not the right way of going about things.

I turn to the schedules. In the schedule it is the practice to include only consequential amendments. Schedule 2 goes far beyond consequential amendments. Many amendments of a substantive nature, which are not directly addressed in the Bill or in the second-reading speech, appear in Schedule 2. That is a very bad practice for Parliament.

If there are amendments of a substantive nature to other legislation, they ought to be addressed in the body of the Bill because most people do not even bother to read schedules. If they do, they cannot understand them without having the twenty or so other Acts at hand to refer to.

I mention the nature of some of the profound changes to the existing law; amendments to sections 8A, 9AA, 10, 11, and 32 of the Sale of Land Act provide for far-reaching changes, and they were not explained in the second-reading speech and do not appear in the Bill itself. The changes appear only in the consequential amendments, which are not consequential at all.

I note that the government recognises now that Schedule 2 does not deal only with consequential amendments because it changes the title of Schedule 2 to deal with "Amendment of other Acts" rather than "Consequential Amendments". However, it is a very bad principle for Parliament, and it ought not be repeated. On another occasion the Opposition may well consider rejecting substantive amendments that do not appear in the Bill itself.

My next criticism is that the owners of stratum titles are left inadequately protected. Not many stratum titles are left; there are about 6000 in this State and their owners deserve proper protection. Furthermore, for the strata title type, much of the protection for owners which exists under the current Act disappears from this Bill and is left to be dealt with by regulations. That, again, is not good Parliamentary practice, for basic rights ought to be dealt with not in regulations, but in legislation which comes before Parliament.

Nevertheless, as I indicated, the government has been receptive to changes the Opposition has suggested and I believe the 176 amendments proposed by the government, the amendments to those amendments which the Opposition proposes, and the 24 further amendments that the Opposition will submit, will provide the framework for a good Bill which will be workable and which will be welcomed by the general public and by all those interested in the real estate market and the development industry.

I wish to thank the Minister and his staff for the cooperative way in which they have been prepared to work with the Opposition with a view to getting the best possible Bill.

The Hon. W. R. BAXTER (North Eastern Province)—I commend Mr Hunt on the work he has done on the Bill and the contribution he has made to the House this morning. I suppose when one has had the background in Parliament that Mr Hunt has had and has held the Ministerial positions he has held over the years, one tends to build up a tremendous store of knowledge. It is of benefit to Parliament that Mr Hunt is able to impart that knowledge to the House on occasions such as this. He certainly has an excellent understanding of the principles enunciated in the Bill.

I simply point out that the National Party intends to support the proposed legislation, but with similar reservations to those expressed by Mr Hunt.

I was somewhat intrigued by the assertion made in the second-reading speech that:

This is the most advanced subdivision legislation in Australia, and will be a model for other States.
That claim was made about the original Bill. We are now up to 204 amendments to the Bill. It makes one wonder about the basis on which the assertion was made.

As Mr Hunt outlined to the House, the Bill was the end result of a twelve-year gestation period. Dozens of changes have been made. Therefore, in future speech writers need to be more careful about making such sweeping assertions that are subsequently proven to be very wrong, indeed. I only express the fervent hope that, with the 204 amendments that are to be made today, the Bill ends up being a model for the rest of Australia. I am not knowledgeable enough in this subject to be able to make that claim, but I hope that that is the situation because of the tremendous amount of work that had been put into it. The fact that amendments are being provided right up to the last minute gives me some cause to doubt that that will be the situation.

The Bill, as has already been pointed out, certainly links the subdivision procedures much more closely with the Planning and Environment Act. It repeals the Cluster Titles Act, the Strata Titles Act, and removes certain provisions from the Local Government Act.

I have received expressions of concern from local government that perhaps local government powers were being eroded in some respect. I do not believe that that is the case; I think it is a simplification of the involvement of local government in the subdivisional process without there being any erosion of responsibility or the powers involved therein. The provisions set out for certification rather than sealing will be to the advantage of local government. Therefore, I certainly do not oppose them.

Careful planning in land use is essential. To some extent the new Planning and Environment Bill and this Bill address that matter. However, I sound a warning. I would not want to be too prescriptive in what is being done and I have some reservations about the residential planning options currently circulated. There are grave dangers inherent in going down that track. I take comfort from the fact that the Bill has been amended so many times since the first draft hit the deck. I hope the same will apply to those other proposals and that the end result will be a workable document that will not include the aspects in the present proposal that give rise to deep concern.

I endorse the remarks of Mr Hunt about the open space requirement of the Bill being increased from 5 per cent to 6 per cent. The second-reading speech claims that that is a minor increase. I was not very good at mathematics at school but my understanding is that an increase from 5 per cent to 6 per cent is in fact a 20 per cent increase—one-fifth. That is substantial and cannot be characterised as a minor increase in open space requirements. Not only do I believe such an increase is unwarranted, for the reasons Mr Hunt gave, but I also have my own concerns about the principles of open space requirements being extended. The existing 5 per cent requirement is leading to all sorts of problems in some subdivisions because the cost to a local municipality of maintaining that space sometimes leads to a lack of maintenance and the open space areas turn into veritable jungles, firetraps and havens for vermin. In some cases, the population is put at risk from undesirable elements in the community loitering in these areas.

It depends on how the open space is allocated in the subdivision as a whole. If it is used for recreational facilities, such as a sportsground, it probably has value. However, I have concerns with the modern planning concepts of green belts running up between residential blocks so that backyards face green areas. It sounds nice and it looks nice on the plan but I am not certain that it is practicable in real life.

I allude to some of the planning undertaken by the Albury-Wodonga Development Corporation, not so much in Victoria but definitely in New South Wales—and there is no reason why it would not apply in Victoria. I refer specifically to the new subdivisions at Thurgoona, where this concept of planning with open space requirement by the use of green belts at the back fences of houses is proving difficult and unpopular in practice. I sound a warning about that aspect because it has not worked in practice. If open space requirements were increased by a further 20 per cent, those problems would be exacerbated.
The repeal of the Strata Titles Act and its incorporation in the proposed Subdivision Act requires the regulations or requirements for bodies corporate to be continued. They are not included in the Bill; they will be contained in the regulations. I share Mr Hunt's concern that no draft form of the regulations has been provided. I have a document that outlines the proposed regulations and addresses strata title and body corporate requirements. I am a member of a body corporate and I know that legislation causes a good deal of heartburn in that area, especially in bodies corporate with large numbers of members who have little in common with each other except that they own pieces of property under a strata title subdivision.

I appeal to the Minister to be sensitive in formulating regulations for bodies corporate because it is an area that can lead and has in the past led to much ill feeling. I flag my disappointment that the regulations are not available for Parliament to examine before a decision is made on the Bill as a whole, and ask that the regulations be formulated with a good deal of care.

I also share Mr Hunt's concern about the schedules. The amendments certainly go beyond the concept of consequential amendments and the heading is misleading because many people looking at the heading “Consequential amendments” would think that they do not need to give any consideration to those amendments because they run on consequentially as a matter of course and are of no significance. In fact, the amendments go much further than that and, as Mr Hunt has said, the government has acknowledged that by proposing to change the heading.

The Hon. A. J. Hunt—It is worrying.

The Hon. W. R. BAXTER—It is a worrying trend if Acts of Parliament are to be amended in a substantial manner by the schedules of unrelated Bills. That is a procedure about which the House should protest. On this occasion, that protest has been made by Mr Hunt and me and we will take more drastic action if that procedure becomes the norm.

I do not propose to say anything further during the second-reading debate. A large number of amendments will be dealt with and I shall make one or two interventions as appropriate at the Committee stage.

The motion was agreed to.

The Bill was read a second time and committed.

The Hon. A. J. HUNT (South Eastern Province) (By leave)—In view of the volume of amendments, I seek leave to be seated at the table.

The CHAIRMAN (the Hon. G. A. Sgro)—Leave is granted.

Clause 1

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

1. Clause 1, line 6, after “creation” insert “, variation”.

This clarifies the purpose of the Bill by stating that the Bill applies to variation of easements and so on. It is reasonably self-explanatory.

The amendment was agreed to.

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

2. Clause 1, line 7, omit “and” and insert “or”.

The amendment is consequential upon the first amendment, and it is self-explanatory.

The amendment was agreed to, and the clause, as amended, was adopted.
Clause 2

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I should like to make a few points quickly. I thank Mr Hunt in particular for his comments during the second-reading debate. I believe Mr Baxter made the point very well that Mr Hunt has had a long and distinguished background in this area. He understands the topic very well. Mr Hunt has been through a long series of negotiations and cooperation with the relevant Minister and the staff of the Ministry for Planning and Environment. I thank him for his comments and cooperation.

Of the 176 amendments that I shall move in Committee, a significant number are a result of that negotiation and cooperation, so they are, in a sense, a combined piece of work on this whole issue of subdivision. The amendments will improve the Bill, and I doubt whether there will be substantial disagreement. There may be a couple of divisions on a couple of amendments, but there will be no major disagreements.

I also thank Mr Baxter for his comments. He, too, has a significant grasp of the issues. He is often a little humble about that and he tends to withdraw as if he were not well informed. I do not believe that is true. He has a significant grasp of the issues.

I thank both Mr Baxter and Mr Hunt and the parties they represent for their contributions and I hope the Committee is able to deal with the Bill very quickly.

The clause was agreed to.

Clause 3

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

3. Clause 3, after line 17 insert—

‘‘Applicant’’ means—

(a) a person who submits a plan to the Council for certification; or

(b) a person who wishes to have a certified plan registered.’.

The amendment is self-explanatory. It contains a definition of ‘‘applicant’’.

The amendment was agreed to.

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

4. Clause 3, page 2, lines 15 and 16, omit ‘‘and is specified in the planning scheme’’.

The amendment clarifies the definition of ‘‘encumbrance’’.

The amendment was agreed to.

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

5. Clause 3, page 2, after line 17 insert—

‘‘Land affected by a body corporate’’ means the lots of which the owners for the time being are the members of the body corporate together with the common property for which the body corporate is responsible.’.

The amendment inserts a new definition of ‘‘land affected by a body corporate’’, which expression is used throughout the Bill. I believe the matter is well understood.

The amendment was agreed to.

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

6. Clause 3, page 2, after line 20 insert—

‘‘Lot entitlement’’ in relation to a lot affected by a body corporate, means the lot owner’s interest in the land affected by the body corporate.

‘‘Lot liability’’ in relation to a lot affected by a body corporate, means the proportion of the administrative and general expenses of the body corporate which the lot owner is obliged to pay.’.
The amendment inserts in clause 3 definitions of "lot entitlement" and "lot liability". The definition of lot entitlement is inserted to clarify the meaning of this technical term which is used in connection with subdivisions by a body corporate.

The definition of lot liability is similarly inserted for clarity.

The amendment was agreed to.

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

7. Clause 3, page 3, lines 16 and 17, omit "and is specified in the planning scheme".

It is consequential on a previous amendment.

The amendment was agreed to.

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

8. Clause 3, page 3, after line 17 insert—

"Site value" means market value on the assumptions that there were no improvements and no leases, mortgages or charges affecting the land.

The amendment inserts a definition of the technical term "site value". It is inserted to ensure that site value used for valuation of land under the Bill is comparable to connected legislation.

The amendment was agreed to.

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

9. Clause 3, page 3, after line 19, insert—

"Works" includes any changes to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

The amendment inserts a definition of "works" in clause 3. It is inserted to ensure that the definitions of "works" and "buildings" are the same as those in the Planning and Environment Act 1987.

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

**Clause 4**

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

10. Clause 4, lines 25 and 26, for "implication of law" substitute "in accordance with a direction in a planning scheme".

The amendment deletes references to the creation, variation or removal of easements and so on by implication of law in clause 4 (1) (c), but clarifies that directions in the planning scheme come under the Bill. Creation, variation and removal of easements and so on in the process of subdivision or consolidation are already encompassed under clause 4 (1) (a) and (b).

The Bill does not otherwise alter the law as it relates to these matters, except in regard to registration.

The amendment was agreed to.

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

11. Clause 4, after line 26, insert—

"(d) the registration of the creation, variation or removal of an easement, restriction or encumbrance; and"

The amendment inserts a new paragraph (d) in clause 4 (1), stating that the Bill applies to the registration of easements and so on, whether in the process of subdivision or consolidation or whether by expression or implication by law.
The amendment was agreed to.

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

12. Clause 4, after line 27, insert—

"( ) This Act does not apply to the disposition or acquisition of any land which can be lawfully sold under section 8A of the Sale of Land Act 1962 without being subdivided."

The amendment inserts a new subclause in clause 4 and clarifies the link between the Bill and section 8A of the Sale of Land Act 1962.

The Hon. A. J. HUNT (South Eastern Province)—This is a particularly important amendment because, without it, existing rights to sell land without subdividing it may have been put in jeopardy. I mention the case, for example, of a farmer who has land on two sides of a stream, perhaps not in one title because, traditionally he has always had the power to sell each of those parts that are divided by a natural feature in that way separately without subdivision.

Without the provision that the amendment seeks to insert, that right would have been lost. This proposed clause, together with the further amendments that will be made later to proposed new section 8A of the Sale of Land Act will be substantially restored—I must say, they will not be restored completely, but at least they will be restored substantially and retained. I shall deal with that issue further when the Committee deals with proposed new section 8A of the Sale of Land Act.

The amendment was agreed to.

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

1. Clause 4, after the words inserted by the immediately preceding amendment following line 27, insert—

"( ) This Act does not apply to the acquisition of any land through a vesting order under section 62 of the Transfer of Land Act 1958.

( ) Despite sub-sections (1) (c) and (1) (d), this Act (except sections 23, 25 and 36) does not apply to the creation, variation or removal of any easement, restriction or encumbrance or to the registration of the creation, variation or removal of an easement, restriction or encumbrance unless the creation, variation or removal relates to the subdivision or consolidation of land."

Honourable members will recall that during the second-reading debate, I advanced substantial reasons why vesting orders and easements and covenants which are of a private nature and have no connection with the subdivision or consolidation of land should not be dealt with by the Bill. To do so merely complicates a satisfactory existing legal system and creates legal doubts unnecessarily.

I point out that everyone concerned with the actual administration of subdivisions disagrees with the course proposed by the government of including these purely private matters in a subdivision Bill when they have no connection with subdivision.

The amendment I have moved seeks to take out vesting orders and these purely private easements and covenants—or variations or removal of them—from the operation of the Bill when they have no connection with subdivision.

The amendment I have moved seeks to take out vesting orders and these purely private easements and covenants—or variations or removal of them—from the operation of the Bill. Of course, the Bill will still have minor relevance in relation to sections 23, 25 and 36. In section 25, we are providing for a form of notice to the council instead of the complicated procedure of obtaining council approval in advance on these matters that are really of no concern to the subdivision.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government disagrees with the amendment. The Opposition’s amendment inserts two new subclauses in clause 4 of the Bill and its purpose is to remove the application of the certification of registration procedures to: easements, restrictions and encumbrances which do not relate to the subdivision or consolidation of land; and to alteration of titles in relation to vesting of the order prior to acquisition.

This represents a substantial attack on the purpose of the Bill, which was set out earlier in clause 1. The purpose of the Bill is to place the local council at the centre of the
administration of easements, restrictive covenants, and encumbrances, but particularly easements.

The boundaries between these concepts are not completely clear, so all three have been included in the Bill. The object is to have a single method of registration of plans encouraging standard documentation and simple procedures and a single first port of call in the process.

By making the council this first stop, the local authority is able to keep abreast of changes as they occur and is in a position to point out potential conflicts or other problems with what is proposed. This measure works in well with other council powers such as drainage planning, building control, road construction, rating and so on.

The arguments against the provisions in the Bill amount to an attack on local government, and the proposition is that despite the lack of discretion under clause 6, councils will be obstructionist and will cause delays. The possibility that a council may possess vital information or have a central role seems to be ignored, but the matter has been a point of some disagreement during the discussions that have occurred.

I do not wish to call for a division on the matter in that I have understood the essence of the point Mr Hunt makes. The government simply disagrees with it on the points I have made.

The Hon. A. J. HUNT (South Eastern Province)—I do not need to add that in no way is the measure an attack on local government. It is unnecessary for local government to have to agree to a vesting order. It would be crazy if local government were to have the right to refuse an application of a vesting order as well as the registrar having the right.

The Registrar of Titles is the person who has to be satisfied. The only interest of the council is in obtaining information that is available, although the council will have an interest in requiring consolidation if the land acquired is less than the minimum lot size. That opportunity is preserved by my amendments.

The council has a right to be notified, and that right is preserved by a later amendment, so there is no attack on local government in that case. Exactly the same remarks apply to non-subdivisional easements and covenants.

The amendment was agreed to.

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

13. Clause 4, after line 30, insert—

“( ) Parts 2, 3 and 4 (except sections 24 and 25) do not apply to plans submitted under section 98cA or 98cF of the Transfer of Land Act 1958.

( ) This Act does not apply to subdivision by the Crown in order to issue a Crown Grant under the Land Act 1958.”.

The amendment inserts subclause (3) to clause 4 of the Bill relating to the application of the Bill. Its purpose is to clarify that conversions of subdivisions from company title to body corporate do not need to proceed through the certified planning process.


The amendment also inserts a new subclause (4) in clause 4 ensuring that when the Crown is subdividing land by way of Crown grant, the Act will not apply. The initial alienation of Crown lands from what may be a huge unalienated parcel of land does not fit the scheme of the Bill.

The Hon. A. J. HUNT (South Eastern Province)—The Liberal Party agrees with the proposition that the Crown ought not to be bound in the case of an initial Crown
subdivision. The Opposition disagrees on the assumption that the Crown should not otherwise be bound, and it will be dealing with that point at the appropriate time.

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

Clause 5

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

2. Clause 5, line 32, omit “In spite of any rule of law to the contrary” and insert “Subject to section 4”.

The amendment is consequential upon my first amendment accepted by the House and it supersedes the Minister’s amendment No. 14.

The amendment was agreed to.

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

16. Clause 5, after line 35 insert—

“( ) A subdivision by acquisition by compulsory process under the Land Acquisition and Compensation Act 1986 does not require the lodgement of a plan until the acquisition is complete and a plan is lodged under section 35.”.

The amendment inserts a new subclause to clause 5 of the Bill. It ensures that there is no incompatibility between the Land Acquisition and Compensation Act 1986 and the Bill. The plan required under clause 33 of the Bill occurs after acquisition has been effected by notice in the Government Gazette.

The procedure does not interfere with the process of acquisition but clarifies the identify of the remainder of the land and provides an opportunity for adjusting easements, if this is desirable.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition does not oppose the thrust of the amendment, but as an amendment to the amendment moved by the Minister for Agriculture and Rural Affairs, I move:

1. In the proposed amendment to clause 5, omit “by compulsory process”.

If an acquiring authority is acquiring land it ought not be discouraged from completing the acquisition by agreement, wherever this is possible. If the acquiring authority has to go to the council with an extra plan causing delays there and have the plan certified, it may well be a powerful deterrent to completing the purchase by negotiation rather than by compulsory process.

The Hon. W. R. Baxter—And they might get caught up in the time limits, too.

The Hon. A. J. HUNT—They might, indeed. In any event, it is much simpler for the acquiring authority if it merely proceeds. Obviously it is much simpler for the acquiring authority if it really has to lodge a plan with the council in respect of the acquisition when that acquisition is completed, whether it was completed in a voluntary way or through the use of compulsory process.

It makes no difference to the authority and it ought to make no difference to the council. All the council wants is to be notified. It certainly does not require any veto power in cases such as this.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The proposed change to the government’s amendment seeks to exempt acquisitions by agreement from most of the procedures in the Bill. The government does not believe the change to the amendment is necessary because the planning scheme will exempt sales to public authorities for utility services from planning approval, and government amendment No. 69 exempts subdivisions excising land for utility purposes from the open space requirement.

The government’s amendment No. 18 allows the authority, with the consent of the owner—which would be forthcoming if the acquisition is with the agreement of the
owner—to lodge the plan of subdivision, and this could be made an administrative practice.

Item 40 in Schedule 2 allows a statutory authority to purchase or acquire land by agreement before a plan is certified, so the owner does not have to wait for the money, and the change proposed to the amendment is not in accordance with the scheme of the Bill.

I know the amendment has been a matter of some discussion, but the government does not accept Mr Hunt’s amendment on my amendment.

The Hon. W. R. BAXTER (North Eastern Province)—I am attracted to Mr Hunt’s argument because I should have thought that Parliament had gone to some lengths with the Land Acquisition Bill to overcome the problems endemic in its predecessor, where all sorts of difficulties arose with the compulsory process and notices to treat and the like.

The new Land Acquisition Bill gives every possible encouragement for acquisitions to be agreed to without resort to compulsory process. It appears to be placing an impediment in the way of that occurring. In his subsequent explanation the Minister did not give any reason why it should not be extended to all acquisitions under that Act, and why it should be confined to the compulsory process.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government considers that the key issues are handled in later developments that it intends to implement.

Mr Hunt’s amendment on the amendment was negatived, and Mr Walker’s amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
17. Clause 5, line 36, omit “An owner” and insert “A person”.

The amendment caters for an applicant for subdivision not necessarily needing to be the owner or the owner’s agent. The amendment, together with the insertion of the definition of “applicant” and other consequential amendments in the Bill, will provide flexibility.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
18. Clause 5, page 4, lines 3 and 4, omit sub-clause (3) and insert—

“(3) The Council can accept and consider a plan submitted to it for certification even if a planning permit is required but has not been issued.

(4) Any person may, with the written consent of the owner, submit a plan to the Council for certification.”

The amendment clarifies the intent of clause 5 (3) of the Bill. It allows for a council to accept and consider a plan of subdivision before a planning permit is issued.

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

The sitting was suspended at 1.3 p.m. until 2.7 p.m.

Clause 6

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to vote against this clause. It will be replaced by proposed new clause AA.

The clause was negatived.

Clause 7 was agreed to.

Clause 8

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
20. Clause 8, line 23, omit “owner” and insert “applicant”.

The amendment proposed is self-explanatory.
The amendment was agreed to.

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

21. Clause 8, line 28, after "removed" insert ", unless the authority has agreed to the easement, restriction or encumbrance in connection with the planning scheme or permit or otherwise".

Again, this amendment is self-explanatory.

The amendment was agreed to.

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

22. Clause 8, line 30, omit "33" and insert "35".

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

Clause 9

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

23. Clause 9, line 36, after "requires" insert "specified".

The amendment is self-explanatory.

The amendment was agreed to.

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

3. Clause 9, line 36, after "alterations" insert "or provision as to services".

With the amendment made by the Minister, a referral authority must inform the council within the prescribed time that it requires specified alterations. There is an omission in that concept. Honourable members will recall that the government is moving to have standard conditions for subdivision which will take them out of the planning process in many cases, particularly if the residential development provisions circulated by the government are approved.

Thus, statutory authorities would not be called upon at the planning stage where those standard conditions apply for any view at all on the provision of services. In fact, there will be no planning application required in many cases. There comes a point where the statutory authorities must lay down their conditions as to the provision of services. It is insufficient simply to enable the statutory authorities to require amendments to the plan.

To give an example of the case of a subdivision in the metropolitan area, perhaps on the outer fringes, the Melbourne an Metropolitan Board of Works is both the sewerage and water authority and may make three very important requirements as to provision of services. It may require sewerage mains of a specified diameter to be provided and to be linked into existing mains at a given point; it may make a similar requirement with respect to water; and it may require a payment towards headwork costs as a condition of the subdivision. These are all requirements as to the provision of services. They may not have been addressed at the planning stage because there may have been no planning stage as a result of the planning scheme giving as-of-right opportunity for the subdivision. They must be addressed at some stage.

It is for these reasons that I desire added to the right of the authorities to require specified alterations, a right to them to require provision as to services. If this is not done, there will be times when that issue is not addressed.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The problem is that this amendment gives the service authorities two bites at the cherry. That is not intended. It will also suggest that they disregard the planning stages, or downplay the planning stages. Mr Hunt talks about the fact that there may not be a planning stage. Personally, I am not sure what he means by that.

The Hon. A. J. Hunt—Yes, it is.
The Hon. E. H. Walker—Mr Hunt could explain it a little better to me. I oppose what Mr Hunt is saying on the basis that I do not believe it will create good practice. I understand Mr Hunt is talking to his amendments Nos. 3, 4 and 5 rather than amendment No. 3.

The Hon. A. J. Hunt—Yes.

The Hon. E. H. Walker—These amendments to clause 9 appear to give referral authorities a discretion to make provision as to services under the proposed legislation. It runs counter to the express policy of the Bill to have all substantial requirements made at the planning approval stage. That is the intent of the Bill. I simply say that the government opposes the amendment because it gives service authorities two bites at the cherry and will downgrade the importance of the planning stage.

The Hon. A. J. Hunt (South Eastern Province)—If the Minister does not want to protect his statutory authorities, I will not force a division. It is certainly not intended that statutory authorities should have two bites at the cherry, but the Minister’s rejection of my amendment may mean that they will have no bites at the cherry. That is the problem. I pointed out as clearly as I could that if the residential development provisions are adopted there will be no planning requirement at all because the subdivision will be as of right if it complies with those provisions. There is no planning stage at which the statutory authority can make a requirement. In that event, the statutory authority needs protection.

If the Minister does not want to give it, that is his problem and it is one that will no doubt have to be addressed by the next government.

The Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—It is not as bad as that. Clearly, there is an alternative. If there is no planning procedure or planning permit required, the scheme will require a reference to the service authority, so that that issue is caught up. Mr Hunt has a point, but I do not think he understands that there is a fail-safe mechanism to pick up the point he is putting.

The Hon. A. J. Hunt—What if it does not?

The Hon. E. H. Walker—it does.

The amendment was negatived.

The Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:
24. Clause 9, line 38, after “requires” insert “specified”.

The amendment is consequential.

The amendment was agreed to.

The Hon. A. J. Hunt (South Eastern Province)—In view of the Committee’s decision on amendment No. 3 standing in my name, my amendments Nos. 4 and 5 become inapplicable and I shall not proceed with them.

The Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:
25. Clause 9, line 39, omit “owner” and insert “Council and the applicant”.

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:
26. Clause 9, page 6, line 3, omit “an” and insert “a specified”.

The amendment is consequential.

The amendment was agreed to.
The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
27. Clause 9, page 6, after line 5, insert—

"(5) If a plan contains all the specified alterations required by a referral authority, the authority cannot
require any further alterations or refuse to consent to the plan."

The amendment is self-explanatory.

The Hon. A. J. HUNT (South Eastern Province)—I had an amendment to amendment
No. 27, but in view of the Committee’s decision on my amendment No. 3, it becomes
inapplicable and I shall not proceed with it.

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

Clause 10

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
28. Clause 10, line 8, omit “owner” and insert “applicant”.

29. Clause 10, line 10, omit “owner” and insert “applicant”.

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
30. Clause 10, line 14, omit “all”.

This amendment simply removes some unnecessary wording.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
31. Clause 10, lines 15 and 16, omit “or refuse to certify the plan”.

This amendment removes a possible ambiguity between clause 10 (4) and clause 6. New
clause AA—which will subsequently be moved—will replace clause 6 of the Bill and
provides that the council must certify a plan if alterations required by the council have
been made and the other requirements have been met.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
32. Clause 10, line 24, after “alteration” insert “required by the Council”.

The amendment is self-explanatory.

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

Clause 11

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
33. Clause 11, line 26, after “owner” insert “or a person with the consent of the owner”.

This amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
34. Clause 11, page 7, line 9, omit “owner” and insert “person who made the application to amend the certified plan”.

This amendment is also self-explanatory.

The amendment was agreed to.
The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
35. Clause 11, page 7, line 17, omit "licensed".

There is some unnecessary wording and the amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
36. Clause 11, page 7, line 17, omit "the amendment" and insert "an amendment applied for by an acquiring authority".

The amendment clarifies that if a surveyor prepared the plan, the surveyor must be informed if an amendment is required by an acquiring authority. It is self-explanatory.

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

Clause 12

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
37. Clause 12, line 20, after "easements" (where first occurring) insert "(other than easements referred to in sub-section (2))".

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
38. Clause 12, line 24, after "easements" (where first occurring) insert "(other than easements referred to in sub-section (2))".

The amendment is self-explanatory.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
39. Clause 12, lines 28 to 41, and page 8, lines 1 and 2, omit sub-clause (2) and insert—

"(2) An easement or right is implied and attached to a lot and the common property of a building subdivision if—

(a) it provides—

(i) support, shelter or protection; or

(ii) passage or provision of water, sewerage, drainage, gas, electricity, garbage, air or any other service of whatever nature (including telephone, radio, television and data transmission); or

(iii) right of carriage way with or without vehicles over areas marked on the plan for the purpose; or

(iv) full, free and uninterrupted access to and use of light for windows, doors or other openings enjoyed at the time the plan is registered; or

(v) maintenance of overhanging eaves existing when the plan is registered; and

(b) it is necessary for the reasonable use and enjoyment of the lot or the common property; and

(c) it is consistent with the reasonable use and enjoyment of the other lots and the common property in the subdivision, and

(d) where it is attached to the common property, the benefit is enjoyed by a lot owner who is a tenant in common in that common property.".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
40. Clause 12, page 8, line 6, after "easement" insert " , even if the lot or common property is not part of a building".

The amendment was agreed to.
The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
41. Clause 12, page 8, line 8, omit "has a right of" and insert "can gain".

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
42. Clause 12, page 8, line 9, after "lot" insert "for the purpose of using the easement".
43. Clause 12, page 8, line 9, after "in" insert "gaining access to or".
44. Clause 12, page 8, line 10, omit "or right of access".
45. Clause 12, page 8, line 13, after "easement" insert "if reasonable care is taken in gaining access to and using the easement".

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—The Committee has just amended subclause (5) of clause 12. I move:
6. Clause 12, page 8, lines 11 to 13; omit sub-clause (5).

The amendment will omit the entire subclause. There is a good reason for that. There is a duty of care when using easements, and that should be preserved. In some circumstances, that duty of care is weakened by this clause. I do not believe the subclause is necessary. The common law is perfectly capable of looking after rights between users and owners of easements, and the subclause simply muddies those rights.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government does not agree. Although I accept the sense of what Mr Hunt is saying, one of the main purposes of the subclause is to encourage the registration of easements through the protection of claims for damage. The main concern was the lack of duty of reasonable care, which has been inserted by the government in the previous clause.

The Hon. A. J. Hunt—that goes part of the way.

The Hon. E. H. WALKER—it does, but I do not accept what Mr Hunt is saying. The government does not accept the amendment.

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

Heading to Part 3

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
46. Clause 13, part heading preceding this clause, omit "REQUIREMENTS UNDER PLANNING SCHEMES" and insert "STATUTORY REQUIREMENTS FOR PLANS".

It is a matter of omitting certain words and inserting certain words. The amendment is self-explanatory.

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

Clause 13

The Hon. A. J. HUNT (South Eastern Province)—I move:
7. Clause 13, line 17, omit "(a)".

This is a step towards my amendment No. 9, which would ensure that the Bill binds the Crown except in cases of original Crown subdivisions. It is important that the Crown should be bound by the rules that apply to its citizens, although the Opposition accepts that the Bill need not apply to initial Crown subdivisions. That has already been provided for. The amendment, together with amendments Nos 8 and 9, will ensure that, except for Crown subdivisions, the Bill binds the Crown.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes the amendment and will call for a division, if necessary. The amendment binds
the Crown by open space requirements and other provisions of planning schemes. That is not sensible or workable. The procedures in Part 3 of the Bill cannot be appropriately applied to the Crown.

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

**Ayes**
- Mr Arnold
- Mrs Coxedge
- Mr Henshaw
- Mrs Hogg
- Mr Kennedy
- Mrs Kirner
- Mr Landeryou
- Mrs Lyster
- Mr McArthur
- Mrs McLean
- Mr Mier
- Mr Murphy
- Mr Pullen
- Mr Van Buren
- Mr Walker
- Mr White
- Mr McArthur
- Mrs McLean
- Mr Mier
- Mr Murphy
- Mr Pullen
- Mr Van Buren
- Mr Walker
- Mr White
- Mr McArthur
- Mrs McLean
- Mr Mier
- Mr Murphy
- Mr Pullen
- Mr Van Buren
- Mr Walker
- Mr White

**Noes**
- Mr Chamberlain
- Mr Connard
- Mr de Fegely
- Mr Dunn
- Mr Evans
- Mr Guest
- Mr Hallam
- Mr Hunt
- Mr Knowles
- Mr Long
- Mr Miles
- Mr Reid
- Mr Storey
- Mrs Tehan
- Mr Ward
- Mr Wright

Tellers:
- Mr Crawford
- Mrs Dixon

Tellers:
- Mr Lawson
- Mr Macey

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

47. Clause 13, line 18, omit “33” and insert “35”.

The amendment was agreed to.

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

8. Clause 13, line 18, omit “or”.

9. Clause 13, line 19, omit paragraph (b).

The amendments follow from the successful division the Committee has just been involved in which will have the effect of binding the Crown except in the case of an initial Crown subdivision.

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

Clause 14

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

48. Clause 14, line 22, omit “owner” and insert “applicant”.

49. Clause 14, line 23, omit “and” and insert “including”.

50. Clause 14, line 31, omit “certify the plan” and insert “approve the engineering plan”.

51. Clause 14, line 32, omit “owner” and insert “applicant”.

52. Clause 14, line 35, after “altered” insert “engineering”.
The amendments are consequential and are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 15.

Clause 16

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

53. Clause 16, line 18, after “supervision” insert—

“(c) enter into an agreement with an owner providing that works or other things required by the planning scheme or permit may be completed after registration.

(3) Division 2 of Part 9 of the Planning and Environment Act 1987 applies to an agreement under subsection (2)(c) as if the Council or referral authority were the responsible authority.”.

The amendment inserts a new paragraph (c) which gives councils and referral authorities certain powers in relation to work that is required as part of a development. It enables the council or the referral authority to enter into an agreement with the owner to allow works to be completed after registration of the plan of subdivision until the provisions of the Planning and Environment Act are incorporated allowing for bonds and guarantees. The amendment provides much needed flexibility and has wide support in the industry.

The amendment was agreed to.

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

54. Clause 16, line 19, omit “owner must maintain” and insert “applicant is responsible for the maintenance of.”.

55. Clause 16, line 21, omit “owner” and insert “applicant”.

56. Clause 16, after line 23, insert—

‘( ) In this section, “works” means works that—

(a) are required by or for the Council or a referral authority to provide roads or public utility services to the land; and

(b) are or are to be the responsibility of the Council or a referral authority after the maintenance period.’.

The amendments are self-explanatory.

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

Clause 17

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to omit clause 17.

The clause was negatived.

Clause 18

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

58. Clause 18, line 28, omit “A Council” and insert “If a requirement for public open space is not specified in the planning scheme, a Council, acting as a referral authority under the Planning and Environment Act 1987”.

The amendment provides that a planning scheme may make provision for open space and that provision prevails over the default provision of this clause. A council using the provision of this clause does so as a referral authority and must use the requirement at the planning approval stage.

Honourable members note that the planning schemes must be approved by the Minister and may be disallowed by this Chamber or the other place and so considerable safeguards exist against arbitrary open space requirements in schemes.
The purpose of the provision is to encourage rational planning of open space requirements in open areas rather than creating a blanket approach. The drafting makes it clearer than exists in clause 18 (1) (a) and (b).

I did not believe that I would ever stand in this place and speak about the value of either Chamber disallowing a regulation or amendment to a planning scheme but in this case it has merit.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition is opposed to the amendment for the reason that the 5 per cent requirement for open space should not only be retained but also should be standard throughout the State. The amendment provides the opportunity for a higher percentage to be fixed by local planning schemes and we therefore oppose the government's amendment.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party opposes the amendment for the reasons I canvassed during my second-reading remarks in addition to the reasons given by Mr Hunt, both in his second-reading speech and now.

The National Party believes the 5 per cent figure is appropriate. To increase that figure by 20 per cent which is envisaged would be excessive. I realise that is not the amendment that is before the Chair but I foreshadow that the National Party intends to oppose the increase to 6 per cent.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
59. Clause 18, line 28, omit "owner" and insert "applicant".
60. Clause 18, line 29, after "plan" insert "of subdivision".
61. Clause 18, line 30, after "aside" insert "on the plan".
62. Clause 18, lines 30 and 31, omit "to the satisfaction of" and insert "satisfactory to".

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:
10. Clause 18, line 31, omit "6" and insert "5".

The proposed amendment seeks to retain the existing 5 per cent figure instead of increasing the open space contribution to 6 per cent. The Minister will be well aware that this is not done with a view to limiting open space—we are certainly not in favour of that—but it is done with a view of containing escalating land prices.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes amendment No. 10 circulated in Mr Hunt's name, which is connected with Mr Hunt's proposed amendment No. 11. The proposed amendments to clause 18 will preserve what the government considers to be the unsatisfactory situation with respect to public open space requirements, and goes against the recommendations of the residential development provisions task force. They also have the effect of going against the express views of the Municipal Association of Victoria. The government will call for a division if Mr Hunt perseveres with his proposed amendment.

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

| Ayes | 18 |
| Noes | 21 |

Majority for the amendment 3

AYES
Mr Crawford
Mrs Dixon

NOES
Mr Baxter
Mr Birrell
The Hon. H. R. WARD (South Eastern Province) (By leave)—There was an agreement that Mrs Varty would be paired with Mr Sandon. I did not see Mrs Varty come into the Chamber while the pairs list was being prepared. As a result of being in the Chamber, Mrs Varty has been counted in the Division Lists. Mrs Varty’s presence was overlooked; she should not have been in the Chamber.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—I thank Mr Ward for his explanation. It would not have affected the result of the division had Mrs Varty not been in the Chamber. The matter has been noted in Hansard; and I accept Mr Ward’s explanation. But it had better not happen again!

The expression proposed by Mr Hunt to be inserted was so inserted.

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

63. Clause 18, lines 31 and 32, omit “(or, if another percentage is specified in the planning scheme, that percentage)”.

The Hon. A. J. HUNT (South Eastern Province)—The Liberal Party opposes the principle, but the Committee has already made a decision on the matter.

The amendment was agreed to.

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

11. Clause 18, line 35, omit “8” and insert “5.”.

The amendment has the effect of retaining the existing 5 per cent if the payment is cash in lieu of open space.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes the amendment but the Committee has already made a decision on the matter and the government will not call for a division on the amendment.

The amendment was agreed to.

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

64. Clause 18, lines 35 and 36, omit “(or, if another percentage is specified in the planning scheme, that percentage)”.

65. Clause 18, page 10, line 9, omit “owner” and insert “applicant”.

Subdivision Bill
66. Clause 18, page 10, line 10, omit "higher percentage" and insert "percentage other".

The amendments are self-explanatory.

The amendments were agreed to.

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

12. Clause 18, page 10, lines 9 and 10, omit sub-clause (4).

The amendment enables the council and the owner to agree to a percentage other than the 5 per cent. They can probably do that anyway without that provision, and its insertion in the Bill may only encourage particular councils to make requirements in excess of 5 per cent and to hold up owners who do not agree with it, even if it is not specified in the planning scheme.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government opposes the amendment. The amendment deletes subclause (4) of clause 18, which allows for flexibility in the open space requirement by providing for agreements to vary the amount of open space.

The Law Institute of Victoria believed the subclause as amended by my amendment No. 66, was necessary for the smooth operation of the system. The institute supports the government's view and the amendment is opposed.

The amendment was negatived.

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

67. Clause 18, page 10, line 12, after "subdivided" insert "whether the requirement was made before or after the commencement of this section, unless sub-section (6) applies".

68. Clause 18, page 10, line 14, omit "if" and insert "and".

The amendments are self-explanatory.

The amendments were agreed to.

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

69. Clause 18, page 10, after line 16, insert—

"( ) If any amount is paid to the Council under this section and the Council is satisfied that it is no longer intended to subdivide the land to create any additional lot, the Council may refund the amount paid to it.

( ) A public open space requirement is not required if—

(a) the subdivision is of a class of subdivision that is exempted from the public open space requirement by the planning scheme; or

(b) the subdivision is for the purpose of excising land to be transferred to a public authority, Council or a Minister for a utility installation.”.

The amendment clarifies exemptions from the requirement in respect of open space. Planning scheme exemptions will include a number of cases now covered by the Local Government Act, but with greater attention to the impact of the type of subdivision in the area. The insertion of the proposed subclause clarifies the position of councils regarding the refund of contributions if a subdivision does not proceed.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition supports the amendment and, in fact, requested it. However, the amendment moved by the Minister does not go far enough and so I move, as an amendment on the amendment:

3. In the proposed amendment to clause 18, after paragraph (b) insert—

"; or

(c) the subdivision subdivides land into two lots neither of which is capable of further subdivision.”.

The amendment on the amendment seeks to exempt from the open space provision a subdivision of land into two lots. That accords with the existing law. I am not going quite
so far as the existing law, because I refer to "two lots, neither of which is capable of further subdivision."

I urge the government to agree to my amendment and indicate that the Opposition will call for a division on the amendment if the government does not support it.

The principle is already established in the existing law and the government, itself, has acknowledged that because in the schedules to the Bill the government, in respect of building subdivisions, is expressly referring to open space contributions where there are more than two lots. I seek to adopt the same principle, so I urge the government to accept the principle in this amendment. If the government agrees to the amendment the Opposition will not oppose the exemptions to be proposed by the Minister.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government will not oppose the amendment.

Mr Hunt's amendment on the amendment was agreed to, and Mr Walker's amendment, as amended, was adopted.

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

13. Clause 18, page 10, after the words inserted by the immediately preceding amendment following line 16, insert—

"( ) If a public open space requirement has been complied with, the plan of subdivision must be endorsed with a statement to that effect."

The amendment is designed to ensure that people will know when the open space contributions have been met in respect of a given piece of land.

The principle is that the open space contribution shall be charged once only. When one goes along with a plan of subdivision one does not know whether or not there has been a previous open space contribution. It is possible for someone to be charged when there has already been a consideration in respect of the particular land. This is a defect in the existing law that ought to be overcome by the Bill. People ought to know where they stand and, by the simple expedient of their noting the fact of payment on the plan of subdivision, anyone who deals with the land subsequently will know whether or not the open space consideration is met.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—There is no disagreement with the policy as expounded by Mr Hunt, but it was proposed to do this by regulation because new technology will make endorsement on plans inefficient as a method of making information available.

I understand the difficulty of whether the council or the registrar should have the responsibility, but it is for those reasons that the government opposes the amendment.

The Hon. A. J. HUNT (South Eastern Province)—If the Minister will give a firm assurance on behalf of the government that the issue will be dealt with by regulation, I will not press for a division.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—That firm assurance is offered.

The amendment was negatived, and the clause, as amended, was adopted.

Clause 19

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

70. Clause 19, line 19, omit "at the expense of the owner".

71. Clause 19, line 22, omit "owner of the land" and insert "applicant".

72. Clause 19, line 28, omit "another valuation at the owner's expense" and insert "a revaluation at each anniversary of the submission".
The amendments are self-explanatory.

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

Clause 20

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

73. Clause 20, lines 37 and 38 and page 11, lines 1 and 2, omit sub-clauses (3) and (4) and insert—

“(3) A Council must not sell public open space unless—

(a) the land meets the minimum lot size requirements in the planning scheme; or

(b) the land is sold to the owner of neighbouring land and the owner consolidates the open space and the neighbouring land.”.

74. Clause 20, page 11, line 4, after “scheme,” insert “or sold only”.

Again the amendments are self-explanatory.

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

Clause 21

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I invite the Committee to vote against this clause. Amendment No. 143 standing in my name sets out new clause Cc, which I shall later move and which will replace clause 21. It clarifies that planning requirements must be met before the statement of compliance will be issued. The requirement for a certificate of occupancy to be issued in relation to a building subdivision has been deleted, as the requirement for substantial completion of building works under the new clause should be adequate. This will give flexibility to developers of buildings which are to be subdivided and sold.

The clause was negatived.

Clause 22

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

14. Clause 22, line 18, after “22.” insert “(1)”.

The amendment paves the way for amendment No. 16 standing in my name, which I understand will be approved by the government.

The amendment was agreed to.

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

76. Clause 22, line 19, omit “the plan appears to the Registrar to have” and insert “it appears to the Registrar that the plan has”.

77. Clause 22, line 22, omit “owner” and insert “applicant”.

78. Clause 22, line 28, after “sent” insert “by the Registrar”.

79. Clause 22, lines 29 and 30, omit “the period in the notice has” and insert “30 days have”.

The amendments are self-explanatory.

The amendments were agreed to.

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

15. Clause 22, line 32, after “(e)” insert “in the case of a plan of subdivision or consolidation,.”.

The purpose of the amendment is to limit the application of subclause (e) to plans of subdivision or consolidation.

The amendment was agreed to.
The Hon. A. J. HUNT (South Eastern Province)—I move:

16. Clause 22, after line 32 insert—

"( ) Where a valid plan has been lodged in the Office of Titles for registration during the period of 12 months after the commencement of section 44, the Registrar may, if in his or her opinion the circumstances so warrant, extend the period of validity of the plan by no more than 12 months for the purpose only of enabling the plan to be registered."

The amendment is in essence consequential upon an amendment to clause 44 which I shall move later and which I understand the government will accept.

This is perhaps a convenient time to explain the interaction of the two amendments. Clause 44 contains a defect in drafting in that a plan of subdivision sealed under the old Act, even 25 years ago, could suddenly be presented for registration under the proposed legislation. That surely is not intended. My amendment to clause 44 will limit registration to plans not more than five years old at the date of lodgment. Plans under the new legislation are deemed to have validity for five years; that surely is long enough. The validity expires, however, at the end of the five years. There may be some plans presented in four years and nine months under the proposed legislation. That would leave only three months for registration and then the plans would lapse.

Amendment No. 16 deals with that situation and provides that in the first year of operation of the new Act, if a plan is valid at the date it is lodged at the Land Titles Office, the Registrar of Titles may extend the period of registration by up to one year.

I believe the amendments to be self-explanatory.

The amendments were agreed to.

Clause 23

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

80. Clause 23, lines 36 and 37, omit "person directed under the planning scheme" and insert "Council or the person benefitting from the direction if the planning scheme so requires".

81. Clause 23, line 37, after "a" insert "certified".

I believe the amendments to be self-explanatory.

The amendments were agreed to.

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

17. Clause 23, after line 40 insert—

"( ) A person whose interest in land is divested or diminished by a direction of a planning scheme required by a Council or referral authority has a claim for compensation under the Land Acquisition and Compensation Act 1986 as if the Council or referral authority were the Authority for the purposes of that Act."

The purpose of the amendment is to add a new subclause to clause 23, which enables people's rights in easements and the like to be affected by directions in the planning scheme. A person's easement can be extinguished as a result of a direction in a planning scheme. For example, a valuable right of access may be lost as a result of a direction in a planning scheme, which may in turn substantially diminish the value of the owner's property; yet there is no provision for any compensation to be paid. The view of the Opposition is that such a direction is in the nature of a compulsory acquisition and the effects of it should be compensated for as if it were a compulsory acquisition. What else is it if there is an expropriation of one's rights under the Bill as a result of a direction in a planning scheme? There must be adequate protection for owners affected in that way.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—As I understand Mr Hunt, he is seeking an undertaking from the government in this regard.

The Hon. A. J. Hunt—I go a bit further than that.
The Hon. E. H. WALKER—On behalf of the government I undertake to ensure that planning scheme amendments will not be approved if the proposal is properly viewed as an acquisition and should proceed under the Land Acquisition and Compensation Act 1986. If the proposed planning scheme amendment deprives the owner of the land of an interest in a valuable easement—say, a right of way—for the purposes of a council or public body, the government would regard any significant reduction in the owner's property value as an acquisition. As such, it will not be approved as an amendment. I give Mr Hunt the assurance that the government views the matter seriously. What he seeks by his amendment will be achieved by other means.

The Hon. A. J. HUNT (South Eastern Province)—I should have preferred the amendment to have been agreed to. It would have more adequately secured the interests of owners. I cannot disregard the Minister's undertaking and I am heartened by the fact that it is not merely his personal undertaking but it is expressed as an undertaking given on behalf of the government. If I have it clearly, the undertaking is that, where it amounts to an expropriation which diminishes the value of an owner's property, no direction under a planning scheme will be sanctioned; am I correct in that?

The Hon. E. H. Walker—As I understand it, you are correct.

The Hon. A. J. HUNT—In those circumstances, I shall not press to a division.

The amendment was negatived, and the clause, as amended, was adopted.

Clause 24

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

82. Clause 24, line 6, after “plan” insert “freed and discharged from any mortgage, charge, lease or sub-lease”.

83. Clause 24, line 8, after “plan” insert “freed and discharged from any mortgage, charge, lease or sub-lease”.

84. Clause 24, line 13, omit “implied easements” and insert “easements or rights implied by section 12 (2) or (3)”.

85. Clause 24, line 18, omit “part of the land set aside as a”.

86. Clause 24, line 22, after “lodged;” insert “or”.

87. Clause 24, line 24, after “certificate;” insert “or”.

88. Clause 24, lines 29 to 31, omit sub-clause (5).

The amendments may be taken in globo and I believe they are self-explanatory.

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

Clause 25

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

18. Clause 25, page 13, after line 2 insert—

“( ) On registration of the creation, variation or removal of an easement, restriction or encumbrance which does not relate to the subdivision or consolidation of land, the Registrar must notify the Council of that registration.”.

When the Committee amended clause 4 to remove private easements from the operations of the Bill, I indicated that the Opposition would have no objection to placing an obligation on the registrar to notify councils of the creation, variation or removal of those private easements. Therefore, the government's initial purpose is achieved in a simpler way. The amendment provides for notification of the registration of easements, covenants and the like by the registrar to local councils, to carry out the view I expressed in an earlier part of the debate.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I believe this amendment is consequential on amendment No. 1 moved by Mr Hunt. The government has no opposition to it.
The amendment was agreed to, and the clause, as amended, was adopted.

Clause 26

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
89. Clause 26, line 4, omit “An owner” and insert “A person”.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 27.

Clause 28

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
90. Clause 28, line 24, after “plan” insert “providing for the creation of one or more bodies corporate or”.
91. Clause 28, line 26, omit “the bodies corporate are” and insert “each body corporate for which the plan provides is”
92. Clause 28, after line 28 insert—
   “( ) the owners for the time being of the lots are the members of the body corporate; and”.
93. Clause 28, line 32, omit “names of the bodies corporate as nominees” and insert “name of the body corporate as nominee”.

The amendments are self-explanatory.

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

Clause 29

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
94. Clause 29, lines 8–10, omit sub-clause (4) and insert—
   “( ) A member of a body corporate is not liable to pay or contribute to the funds of the body corporate a proportion of any amount required to discharge a liability of the body corporate exceeding the member’s lot liability.
   ( ) An action does not lie against a member of the committee of the body corporate who acts in good faith and in accordance with this Act and the regulations in respect of anything done or omitted to be done by the body corporate.”.

This amendment is also self-explanatory.

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

Clause 30

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
95. Clause 30, line 22, after “land” insert—
   “; or
   (f) amalgamate with another body corporate but preserving all rights of persons other than the body corporate and its members and all liabilities of the body corporate and its members to third parties; or
   (g) reinstate damaged or destroyed improvements, if this requires a change to the registered plan”.
96. Clause 30, line 23, for “a plan” substitute “a new plan of subdivision”.
97. Clause 30, line 24, omit “owners” and insert “members”.

The amendments are self-explanatory.

The amendments were agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
98. Clause 30, after line 26, insert—
   “( ) A lot owner who is a member of a body corporate may submit a new plan of subdivision for certification if the changes to the subdivision affect only the lot or lots of which he or she is the owner and do not affect common property.”.
The amendment seeks to insert a new subclause to enable a landowner to submit a registered plan of changes affecting only the lot or lots owned and not affecting any of the common property, as with a scheme of redevelopment. It also inserts a new subclause providing that a replacement plan of subdivision does not have to be prepared if the council agrees that changes to the registered plan are minor.

The amendment was agreed to.

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

99. Clause 30, line 27, omit “modification” and insert “alteration”.

100. Clause 30, line 27, after “plan” insert “under this section”.

The amendments are self-explanatory.

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

Clause 31

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

101. Clause 31, line 30, after “31.” insert “(1)”.

102. Clause 31, line 32. after “entitlement” insert “or lot liability”.

103. Clause 31, after line 32 insert—

“(2) In making any change to the lot entitlement, the body corporate must have regard to the value of the lot and the proportion that value bears to the total value of the lots affected by the body corporate.

(3) In making any change to the lot liability, the body corporate must consider the amount that it would be just and equitable for the owner of the lot to contribute towards the administrative and general expenses of the body corporate.”.

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

Clause 32

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

104. Clause 32, lines 34 and 35, omit “on the plan”.

105. Clause 32, line 36, omit “The” and insert “A”.

The amendments were agreed to.

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

19. Clause 32, page 15, line 2, after “is” insert “the address of the premises or”.

The clause deals with the notification by the registrar to the body corporate and the rather complicated system of sending the notification to the registered address. Accountants who act as company secretaries change addresses from time to time, and addresses become obsolete. However, there is a simple remedy because the members of the body corporate normally reside at the address; so a notice addressed to the body corporate at the place where the body corporate is, and its members live, will reach the appropriate person, whereas when a notice is sent to the registered address it may be sent to someone who has long since departed, such as the company secretary. The amendment is giving the registrar an added option to send the notification to the premises.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The government is not happy with this amendment. As Mr Hunt said, it seeks to amend clause 32 (3) to allow service of a notice to a body corporate by addressing the notice to the “premises”. This would alter the existing law, which was intended to be continued by provision to be made by regulation. The body corporate currently must display on the building a plate
with the address for service of notices, which must agree with the address registered in the Land Titles Office; and where that address is a subdivided premise, a mailbox for notices must be provided. The government believes the current law is superior to the Opposition's proposition, and therefore it will oppose the amendment.

The Hon. A. J. Hunt—Will you be providing for that under regulations?

The Hon. E. H. WALKER—I believe so; that is the comment I made earlier.

The Hon. A. J. Hunt—If you can give an assurance, I will accept it.

The Hon. E. H. WALKER—I am happy to give Mr Hunt an assurance that the government will be making provision, by regulation, for the circumstance I outlined in my comments.

The amendment was negatived.

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

106. Clause 32, page 15, lines 2 and 3, omit "on the registered plan" and insert "in the records of the Registrar".

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

Clause 33

The Hon. A. J. HUNT (South Eastern Province)—I had proposed to move amendments Nos 20 and 21 to this clause seeking to omit the word "compulsorily", but in view of the earlier decision of the Committee I shall not proceed with those amendments.

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

107. Clause 33, line 10, after "subdivided" insert "by the acquisition".

108. Clause 33, line 13, omit "of the members of" and insert "affected by".

The amendments were agreed to.

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

22. Clause 33, lines 23 to 26, omit sub-clause (6) and insert—

“( ) If a person acquires land through a vesting order under section 62 of the Transfer of Land Act 1958, the Registrar—

(a) must notify the Council of the vesting order; and

(b) must require a plan of consolidation if the land does not comply with the minimum size of lots under the planning scheme.”.

Its purpose is to ensure that the registrar notifies the council of a vesting order and that, where a vesting order relates to a piece of land that is less than the minimum lot size, that land will be consolidated with adjoining land.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This amendment is consequential on the Opposition’s amendment No. 1; the government agrees with it.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 34.

Clause 35

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

109. Clause 35, line 2, omit "development" and insert "subdivision in accordance with the planning scheme or the planning permit".

110. Clause 35, line 4, after "(2)" insert "Despite section 33, ".

The amendments are self-explanatory.

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

111. Clause 35, line 6, omit “development” and insert “subdivision if conditions specified in the planning scheme or permit allow this to happen”.

This amendment to clause 35 (2) clarifies that if lot entitlements or liabilities are to be changed by legislation at subsequent stages in the subdivision, it must be mentioned in the conditions of the planning approval.

The Hon. A. J. HUNT (South Eastern Province)—As an amendment to amendment No. 111 moved by the Minister for Agriculture and Rural Affairs, I move:

4. In the proposed amendment to clause 35, omit “conditions specified in the planning scheme or permit allow this to happen” and insert “this is not inconsistent with the planning scheme or permit”.

As unanimity of corporate members is required in any event, that ought to be sufficient, providing the change is not inconsistent with the planning scheme or permit. To require, as the government’s amendment is attempting to do, that it be specifically authorised by the planning scheme or permit is going unnecessarily far. It may not have been adverted to at all at the time of planning decisions, whenever they may have been. It is sufficient if the new proposal, unanimously agreed to by members of the body corporate, is not inconsistent with the requirements of the planning scheme or permit.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The eloquence of Mr Hunt is remarkable. I indicate that the words that Mr Hunt is suggesting that we use reflect a less constrained attitude to entitlements and liabilities, and in his few short words he has convinced me that his amendment is a better form, and I am happy to accept it.

Mr Hunt's amendment on the amendment was agreed to, and Mr Walker's amendment, as amended, was adopted.

The clause, as amended, was adopted.

Clause 36

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

112. Clause 36, line 8, omit “arises” and insert “or any other matter arises under this Act”.

113. Clause 36, line 12, omit “for arbitration of the dispute” and insert “an order determining the dispute or other matter”.

114. Clause 36, lines 13 to 16, omit sub-clause (2) and insert—

“( ) A Magistrates' Court may refer a dispute or other matter to which sub-section (1) applies to the County Court, on its own motion or on the application of a party if the Magistrates' Court is satisfied that it ought to be so referred having regard to—

(a) the fact that the dispute or other matter raises a question of general importance; and
(b) this Act and the regulations; and
(c) the complexity of the matter; and
(d) the amount (if any) in dispute.

( ) A member of the body corporate, an administrator or a person with an interest in the land affected by the body corporate may apply to a court of competent jurisdiction for—

(a) an order requiring the body corporate to alter the plan in any of the ways set out in section 32 (1) or 33; or
(b) an order restraining the body corporate from altering the plan; or
(c) an order in relation to damaged or destroyed buildings or improvements.”.

115. Clause 36, line 20, omit “to replace the body corporate”.

116. Clause 36, after line 20 insert—

“( ) A person (including a Minister, the Council or a public authority) for whose benefit a requirement or duty is imposed on a body corporate by its rules or by-laws or by this Act or the regulations may apply to a court of competent jurisdiction for an order compelling the body corporate to carry out the requirement or perform the duty and the court may make such order as it thinks proper.”
117. Clause 36, line 22, after "appointment" insert "or make such other order as it thinks fit on an application under this section".

118. Clause 36, line 30, omit "30" and insert "32".

119. Clause 36, lines 30 and 31, omit "a Court or the Administrative Appeals Tribunal" and insert "the Court".

The amendments are either consequential or self-explanatory.

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

Clause 37

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

120. Clause 37, line 36, after "owner," insert "an applicant,"

121. Clause 37, line 40, omit "33" and insert "35".

122. Clause 37, line 40, omit "36" and insert "38".

123. Clause 37, page 17, line 5, after "Act" insert—

"; or

( ) relating to orders of a Court".

124. Clause 37, page 17, lines 7 and 8, omit "Administrative Appeals Tribunal" and insert "County Court".

125. Clause 37, page 17, line 11, after "or" insert "in relation to".

126. Clause 37, page 17, line 15, omit "(1) (c)" and insert "(d)".

127. Clause 37, page 17, line 16, omit "Tribunal" and insert "Court".

128. Clause 37, page 17, line 18, omit "33" and insert "35".

The amendments are consequential.

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

Clause 38

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

129. Clause 38, line 22, omit "owner" and insert "applicant".

130. Clause 38, line 28, omit sub-paragraph (iv).

131. Clause 38, line 36, after "has" insert "unreasonably".

The amendments are self-explanatory.

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

Clause 39

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

132. Clause 39, line 16, omit "20 (4) and 34" and insert "and 36".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 40.

Clause 41

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

23. Clause 41, lines 34 and 35, omit paragraph (f).

The amendment proposes to omit clause 41 (1) (f), which duplicates the regulation-making power under the Surveyors Act. I am sure the Committee would agree that there ought not be identical regulation-making powers, or comparatively close regulation-making powers, under two Acts. Two sets of regulations prepared by two different Ministries or departments under different Acts lead only to confusion. It seems to me that it is appropriate to leave the existing regulations under the Surveyors Act which appears to operate
adequately at present rather than to envisage new regulations under the Subdivision Act when this Bill is passed. If it is found that any regulations under the Surveyors Act are inadequate, the Minister for Planning and Environment could ask the Minister for Property and Services to present an amendment to the regulation under the Surveyors Act, but having two regulations that could well be in some conflict seems to me to be a recipe for disaster. I might say the same applies to paragraph (h) which duplicates provisions under the Land (Transaction Information) Bill.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Hunt seeks, by this amendment, to omit subclause 1 (f) and he makes it clear that his comments also apply to subclause 1 (h), which contains the regulation-making powers for surveyors involved in laying out a subdivision. The government's proposed amendment No. 174 will enable the surveyors handbook to contain much of this information. The regulation-making power is provided to ensure that standards for plans, survey marks and the laying out of subdivisions are prescribed. There will be no duplication or overlap under the Surveyors Act or the surveyors handbook, and for that reason the government opposes the amendment.

The amendment was negatived.

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

133. Clause 41, lines 39 and 40, omit paragraph (h).

134. Clause 41, page 19, lines 13 to 17, omit paragraphs (a) and (b) and insert—

"(a) prescribe fees including—

(i) different fees for different classes of applications, determinations, documents or things done under this Act; and

(ii) composite fees payable to the responsible authority for consideration of an application by the responsible authority and any referral authority or the Council; and

(iii) fees related to the costs and value of works; and".

135. Clause 41, page 19, line 26, omit "(c) and insert "(b)".

Amendment Nos 133 and 135 are consequential. Amendment No. 134 is self-explanatory.

The Hon. A. J. HUNT (South Eastern Province)—In moving these amendments, the Minister is omitting paragraph (h) which would have been in conflict with the Land (Transaction Information) Bill, and really the argument for that is exactly the same as I have advanced for the Surveyors Act. It is ironical that the Minister is doing one of the things that I asked but not the other when the same reasoning applies to both requests. The Opposition accepts the amendments.

The amendments were agreed to.

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

24. Clause 41, page 19, after line 34 insert—

"( ) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

( ) Disallowance of a regulation under sub-section (4) is deemed to be disallowance by the Parliament for the purposes of the Subordinate Legislation Act 1962."

The Committee has already discussed the fact that the regulations under this Act will need to be extensive. They will need to contain many provisions that really ought to have been in the Act itself. At the moment those regulations have not been drafted, although an outline has been provided of what they will contain.

As we do not know what the extensive regulations will contain, it makes it all the more essential that either House of Parliament has the right of veto over them, just as either House would have a right of veto if the material had been included in the Act.
The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Notwithstanding certain remarks I made earlier, the government is, in principle, implacably opposed to the notion of one House of Parliament being able to disallow regulations. It has said this often and restates it now. It has become the practice of the government to make that point and then not to divide on it. I do not intend to call for a division now.

It was a sad day when in recent days a situation that had existed for decades, if not the lifetime of Parliament, was altered. In the past, regulations could be disallowed by both Houses or not at all. The government is still opposed to this amendment, which is moved almost every time a Bill is introduced.

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

Clause 42

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

136. Clause 42, line 40, omit “S69F,”.

The amendment corrects an error and is self-explanatory.

The amendment was agreed to.

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

25. Clause 42, page 20, lines 3 and 4, omit “or 12 months after the commencement of this section, whichever is later,”.

The amendment corrects the anomaly that would have allowed old subdivisions up to 25 years’ old to be presented. The amendment limits the presentation period. It is consistent with another amendment to which the Committee has already agreed.

The amendment was agreed to.

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

137. Clause 42, page 20, line 5, after “plan” insert “and, for this purpose, a statement under section S69E of the Local Government Act 1958 and a statement of compliance are to be treated as equivalent and a plan of strata subdivision does not require a statement of compliance”.

138. Clause 42, page 20, lines 10 to 12, omit all words and expressions after “Act” and insert “but where the subdivision is pursuant to a permit issued under the Town and Country Planning Act 1961 or the Planning and Environment Act 1987 before the commencement of this section, the Council may make any additional requirements or require referral to any referral authority if this is in the public interest.”.

139. Clause 42, page 20, line 15, after “plan” insert “as if this section had not come into operation”.

140. Clause 42, page 20, after line 15, insert—

“( ) With the written consent of the Council, the owner of a restricted unit on a plan of strata subdivision or a restricted lot on a plan of cluster subdivision may apply in the prescribed form to the Registrar to remove the restriction and the Registrar may amend the plan in accordance with the application.

( ) The provisions of the Strata Titles Act 1967 and the Cluster Titles Act 1974 continue to apply to dealings with accessory units and accessory lots shown on any plan of strata subdivision or plan of cluster subdivision.

( ) A plan of subdivision, including a plan of strata subdivision and a plan of cluster subdivision, or a plan of consolidation, which has been sealed by a Council before the commencement of this section may be amended in accordance with section 11 as if it were a certified plan.”.

The amendments are self-explanatory.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 43.

Clause 44

The Hon. A. J. HUNT (South Eastern Province)—I invite the Committee to oppose clause 44 and also clauses 45 and 46. In my remarks during the second-reading debate I
described the way these clauses deal with matters that have nothing to do with the Subdivision Bill and by the back door, as it were, seek to import the provisions of the Southgate Project Act into this Bill in a way that allows the Minister to declare special projects so that the normal subdivisional rules will not apply. That is a sneaky way to work. If the Minister wants the Bill for that purpose, he ought to introduce a separate measure.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This matter is close to my heart. The government does not accept the explanation offered by Mr Hunt. As he said, these amendments seek to delete the important major project provisions from the Act.

These provisions are required by major developers, especially of mixed-use developments; to mention a few: the Southgate project; the Riverside Quay project, which is important and well under way; the Victoria project, which has gone ahead rapidly in recent days; the most important bayside project, which I hope will be under way in a few months; and the Como project, which is a private sector project on private sector land. In those cases special necessities exist. Mr Hunt's comments are not applicable; this capacity is necessary.

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

New clauses

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

141. Insert the following new clause in Part 2 to follow clause 5:

What must the Council do?

"AA. (1) The Council must certify a plan within the prescribed time if—

(a) the plan complies with the planning scheme, this Act and the regulations; and

(b) the land is under the Transfer of Land Act 1958 or steps have been taken to bring the land under the Act; and

(c) every referral authority has given consent; and

(d) all alterations required by referral authorities have been made; and

(e) regulations which require the marking out of lots at ground level have been complied with; and

(f) alterations required by the Council have been made; and

(g) where the lot boundaries in the plan are specified by reference to a building, building works have reached a stage at which the boundaries of the lots can be accurately determined; and

(h) where the only access to a lot is over Crown land, either a road has been reserved or proclaimed or the Minister administering the Land Act 1958 has consented in writing to the use of the land for access; and

(i) where a plan removes or varies an encumbrance, the planning scheme has directed the removal or variation or there is a court order for the removal or variation; and

(j) where a plan removes or varies a restriction—

(i) the planning scheme has directed the removal or variation; or

(ii) the Registrar has declared that the restriction has been released or varied; and

(k) where a plan removes or varies the whole or part of an easement—

(i) the planning scheme has directed the removal or variation; or

(ii) the Registrar has declared that the easement has been abandoned or extinguished; or

(iii) the easement was set aside for the purpose of a council, public authority or other person which has requested or consented to the removal or variation; or

(iv) all parties interested in the easement or the part of it have agreed to the removal or variation.

(2) If the conditions in sub-section (1) are not met, the Council must refuse to certify the plan and give its reasons in writing to the applicant within the prescribed time."

This replaces clause 6, which I mentioned earlier, with clearer drafting. Amendment No. 19 omitted clause 6.
The only substantive change is to omit the previous paragraph 6 (1) (e) requiring the public open space contribution to be made before certification of the plan. It is more appropriate that this be deferred until the plan is about to be registered and a statement of compliance is sought.

The new clause was agreed to.

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

142. Insert the following new claims to follow clause 12:

Certification evidence of compliance with Act.

“BB. Where the Council certifies a plan, the certification is conclusive evidence that the provisions of this Act relating to certification including any preliminary requirements, have been complied with, unless, before the plan is registered, an order is made under section 39 (3) and served on the Registrar.”.

The new clause is self-explanatory.

The new clause was agreed to.

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

143. Insert the following new clause to follow clause 20:

Statement of compliance with statutory requirements.

“CC. A Council must issue a statement of compliance to the applicant in the prescribed form as soon as possible after—

(a) the applicant has given it the prescribed information; and

(b) it is satisfied that—

(i) all requirements of and under this Act and the Planning and Environment Act 1987 have been met; or

(ii) there is an agreement to secure compliance with these requirements.”.

New clause cc is self-explanatory and was referred to previously.

The new clause was agreed to.

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

144. Insert the following new clauses to follow clause 29:

Member’s insurance.

“DD. Nothing in this Act or the regulations limits the rights of a member to effect a policy of insurance in respect of destruction of or damage to a lot owned by him or her or his or her interest in the common property.”

Winding up of a body corporate.

“EE. (1) A body corporate, a member of the body corporate, and administrator or a registered mortgagee may make an application to the County Court for winding up of the body corporate.

(2) The Court may order the body corporate to be wound up if it decides that is just and equitable.

(3) A person claiming an estate or interest in the land, a creditor of the body corporate and an insurer who has insurance over any part of the land have a right to be heard in an application.

(4) Notice of an application must be served on the Registrar who must record the notice in the prescribed manner.

(5) The Court can make any directions or impose any conditions or vary, modify or cancel the order as it thinks fit.

(6) Where the Court makes an order, the applicant for the order may apply to the Registrar for the amendment or cancellation of the plan and the Registrar may amend or cancel the plan in accordance with the order.

(7) The body corporate is dissolved when the Registrar amends or cancels the plan and, subject to the Court order, the lots and common property (if any) become a single lot and vest in the former lot owners as tenants in common, in proportion to their lot entitlements.

(8) After amending or cancelling the plan, the Registrar must notify the Council.”.
The new clauses refer to matters such as member’s insurance and winding up a corporate body. They are self-explanatory.

The new clauses were agreed to.

Schedule 1

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
145. Schedule 1, last line, omit “not to exceed”.

The amendment simply omits the words “not to exceed”.

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

Schedule 2

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
146. Schedule 2, heading, omit, “CONSEQUENTIAL AMENDMENTS” and insert “AMENDMENT OF OTHER ACTS”.

The amendment changes the heading to reflect the character of some of the amendments that have been made in Schedule 2.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition agrees to the amendment, but I reinforce the point I made that the so-called consequential amendments go well beyond that. It is bad Parliamentary practice to deal with them in this way.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
147. Schedule 2, item 3, before the amendment inserting new sections after section 21 insert—
    “2A In section 20, sub-section (isa) is repealed.”.
148. Schedule 2, item 3, in proposed new section 21A (1) (b) (i), omit “two or more” and insert “more than two”.

The amendments were agreed to.

The Hon. A. J. HUNT (South Eastern Province)—I move:
29. Schedule 2, item 3, page 23, in proposed new section 21A (2) omit “8” and insert “5.”.

Its purpose is to retain the open space contribution in respect of building subdivisions at 5 per cent, as at present. The Committee has, of course, already dealt with that issue.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—This amendment follows the Opposition policy which was expressed, I think, in amendments Nos 10 and 11 earlier in respect of the open space contribution being kept to the existing 5 per cent. The government disagreed with it then, and disagrees with it now.

The amendment was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
149. Schedule 2, item 3, page 24, in proposed new section 21A (2), omit all words after “bears to” and insert “half the area of the land”.
150. Schedule 2, item 3, page 25, in proposed new section 21B (1) (b), after “is satisfied that if” insert “that”.
151. Schedule 2, item 3, page 25, in proposed new section 21B (1) (b), after “provisions” insert “of the planning scheme or”.
152. Schedule 2, item 7, in the proposed amendment to section 17c (1), omit “42” and insert “44”.
153. Schedule 2, after item 10, insert—
    “10A In section 28 (3) (a), after “Act” insert “or the Subdivision Act 1988”.”.
154. Schedule 2, item 12, before the proposed amendment to section 569BA (2), insert—

'11A In section 569BA (1), for "whether before on or after the commencement of this section" substitute "before the commencement of section 45 of the Subdivision Act 1988".'

155. Schedule 2, item 14, omit "omit "under the Strata Titles Act 1967" " and insert "after "the Strata Titles Act 1967" insert "or the Subdivision Act 1988" ".

156. Schedule 2, item 19, in the proposed amendment to section 258AB (3), omit "42" and insert "44".

157. Schedule 2, omit item 27, and insert—

'27 In section 3, in the definition of "Subdivision", for "enabling any of the parts to" substitute "which can".'

158. Schedule 2, item 28, after the proposed amendment of section 6 (2) (k) insert—

'28A After section 20 (3) (b) insert—

"(ba) under section 19 (2) or (3), if the amendment proposes a change to provisions relating to land set aside or reserved as public open space; or"

The amendments were agreed to.

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

164. Schedule 2, item 38, page 31, after proposed new section 8A (I) (vi) insert—

"(vii) a separate parcel of land which meets the minimum lot size requirement in the planning scheme (if any) and which existed and could be sold separately prior to the commencement of section 46 of the Subdivision Act 1988; or

(ix) a separate parcel of land which existed and could be sold separately prior to the commencement of section 46 of the Subdivision Act 1988 but which does not meet the minimum lot size requirement in the planning scheme, if the parcel is sold to the owner of neighbouring land and that owner consolidates the parcel with that neighbouring land; or".

The Hon. A. J. HUNT (South Eastern Province)—This is a very important amendment, indeed. It links with a very early amendment the Opposition made to the Bill to say that it did not apply to acquisition or sales of property lawfully made under clause 8A of the Sale of Land Act. The amendment seeks to preserve, so far as possible, the existing rights to which I then referred.

I want to make it clear, however, that this amendment to the Sale of Land Act does not completely restore the existing law. If one has on the one title pieces of land which are divided by a physical barrier or by other land, it will be possible to sell them without subdivision, provided they comply with the applicable minimum lot requirements in the local planning schemes or, if not, are sold to a neighbour for consolidation.

What the government is doing is grafting a new principle on to the existing rights. Therefore, the Opposition accepts the fact that some people are going to lose some rights, and I suggest they had better see their solicitors pretty quickly if they want to get separate titles.

The Hon. W. A. Landeryou—are you touting for business?

The Hon. A. J. HUNT—No! However, basically, apart from the requirements in future that the land either be of minimum lot size or sold for consolidation, the existing law is confirmed where otherwise it would have been abrogated.
This is an important amendment which was sought by surveyors, the Law Institute of Victoria and farming organisations. Indeed, it was sought, as a matter of equity, by pretty well everyone who has had any concern with the Bill. I am grateful that the government has acceded to the pleas and met the requests for substantial restoration of the existing law.

The amendment was agreed to.

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

165. Schedule 2, item 38, page 31, in proposed new section 8A (1) (b) (ii), omit “42” and insert “44”.

166. Schedule 2, item 38, page 31, after proposed new section 8A (1) (b) (iii) insert—

“or

(iv) a separate parcel of land which meets the minimum lot size requirement in the planning scheme (if any) and which existed and could be sold separately prior to the commencement of section 46 of the Subdivision Act 1988.”.

167. Schedule 2, item 38, page 31, after proposed new section 8A (1) (b) insert—

“(c) Any land (whether or not under the operation of the Transfer of Land Act 1958) which is a part of any land referred to in a sub-paragraph of paragraph (a) or (b), if the remainder of that land—

(i) was disposed of under section 569 (2A) of the Local Government Act 1958 or any corresponding previous enactment to the Crown or a public statutory body; or

(ii) was compulsorily acquired by an acquiring authority under the Land Acquisition and Compensation Act 1986 or any corresponding previous enactment; or

(iii) was disposed of to an adjoining owner under section 569D (3A) of the Local Government Act 1958 or any corresponding previous enactment.”.

168. Schedule 2, after item 46 insert—

‘46A. After section 9AA insert—

Insurance.

“9AAA. If a body corporate created by a plan of subdivision will be required by the Subdivision Act 1988 or regulations under that Act to effect insurance on registration of the plan, the vendor must effect insurance in accordance with that Act or the regulations as if the vendor were the body corporate, until the plan is registered.”.’.

169. Schedule 2, item 59, page 33, in proposed new section 11 (1), for “Subdivision Act 1987” substitute “Subdivision Act 1988 for any insurance required by the regulations to be effected by the body corporate”.

170. Schedule 2, item 63, in proposed new section 32 (2) (h), after “by the body corporate” insert “and particulars of the liabilities and contingent liabilities of the body corporate, including any liabilities or contingent liabilities arising from legal proceedings, and expenditure or proposed expenditure by the body corporate known to the vendor which may result in an increased liability of the lot owner”.

171. Schedule 2, item 63, after the proposed new section 32 (2) (h) insert—

“(i) Particulars of any quarantine imposed or Order made in relation to stock on the land under the Stock Diseases Act 1968 due to the presence of a specified chemical residue in excess of a specified level, whether or not the quarantine or Order is still in force.”.

172. Schedule 2, for item 64, substitute—

‘64. In section 32 (3) (ba)—

(a) after “1958” insert “or registered under the Subdivision Act 1988”; and

(b) after “approved” insert “or registered”; and

(c) after “sealed” (where twice occurring) insert “or certified”.’.

173. Schedule 2, item 69, in proposed new section 3 (2), omit “42 (1)” and insert “44 (1)”.

174. Schedule 2, after item 72, insert—

“72A. In section 32 (1) after “surveying” insert “or subdivision of land, standards and content for plans and documents under the Subdivision Act 1988”.”.

175. Schedule 2, item 103, page 37, in proposed new section 98CB (1) (a), omit “certified”.

176. Schedule 2, item 103, page 40, in proposed new section 98CD (1), omit “The following” and insert “In addition to sections 24 and 28 of the Subdivision Act 1988, the following”.

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

The Bill was reported to the House with amendments, and the amendments were adopted.

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

That this Bill be now read a third time.

I thank honourable members for their patience; the Bill required a significant number of amendments. However, it reflected only the great deal of work that had been done leading up to today. I thank Mr Hunt for his contributions, both prior to today and during the debate.

The Hon. A. J. HUNT (South Eastern Province)—Before the Bill is dealt with in another place, I hope the Clerks and Parliamentary Counsel will check the cross-references. I believe we have got most of them but, with the addition of new clauses, it makes it absolutely essential to double check the references to clauses that are being included in the amendments, some of which could well be wrong after the renumbering. I ask that this be done carefully before the Bill is dealt with in another place.

I also thank all the organisations that contributed so much to both the government and the Opposition in directing attention to the deficiencies in the Bill and the ways in which it could be improved.

Perhaps three-quarters of the government's amendments, if not more, came from those sources and from pressure from the Opposition. The Opposition, in turn, is greatly indebted to the many organisations that assisted and took an active interest in the Bill.

While it is invidious to name any particular organisation without mentioning others, I think the Institution of Surveyors Victoria deserves special mention. It took enormous interest and made a great contribution at every stage. In the past month or so, too, a special contribution was made by the Law Institute of Victoria, and its comments have been absolutely invaluable in contributing to improving the measure. Therefore, I publicly acknowledge that fact.

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

SUPPLY (1988–89, No. 1) BILL AND WORKS AND SERVICES
(ANCILLARY PROVISIONS, No. 1) BILL No.2

The debates (adjourned from April 19) on the motions of the Hon. D. R. White (Minister for Health) for the second reading of these Bills were resumed.

The Hon. M. A. BIRRELL (East Yarra Province)—I address my remarks to those parts of Supply dealing with the Department of the Premier and Cabinet, the Department of Management and Budget, and Health Department Victoria, and I shall be focusing the concerns of the Liberal Party on the ways that public funds are spent, especially on ongoing programs that the government is seeking to re-fund.

There has been an unprecedented misuse of public funds for political purposes. Those funds have been used to commission public opinion polls that have been used by but not paid for by the Labor Party. Documents released to me under freedom of information and other documents that fell off the back of a truck reveal that the Cain government spent more than $3 million from 1984 to 1988 to pay for opinion polls that have been used for the government's own political purposes. There could not be a more classic and extravagant example of taxpayers' money being squandered.

The tragedy is not only that this money has been wasted by the government but also that the government is embarking upon an expansion of its opinion poll program. It is intended within the next few months to spend close to $500 000 on expanding what is known as the Public Attitudes Monitoring Program run from the Department of the
Premier and Cabinet. That $500,000 will be used to commission opinion polls and surveys that will be the basis of briefings to Cabinet members, senior public servants and Ministerial advisers.

It is an open secret that those opinion polls will be used as the basis for the election preparation of this government. It is outrageous that public money is being used by a government in this way when it should be provided only by political parties.

I shall outline the expenditure the government has engaged in and is currently planning in this area. I stress that the Public Attitudes Monitoring Program is unprecedented and has its base only in Victoria and only under this government.

The history of the program is that it was established by the Department of the Premier and Cabinet in 1984. At that time, a friend of the Labor government, Mr Irving Saulwick, was appointed, without any public announcement, to the position of opinion poll consultant to the Cain government at a cost of more than $500 a day.

The Hon. B. P. Dunn-He now runs the VDIA.

The Hon. M. A. Birrell—As Mr Dunn interjects, he now runs the Victoria Dairy Industry Authority. In fact, he has two jobs. He receives $500 a day from the government to assess the opinion polls that the Labor Party improperly commissions at public expense and on top of that he runs the VDIA. He has received $500 a day for an indeterminate number of days each year since 1984 for poring through the opinion polls that have been commissioned under this program.

No unforced public statement has ever been made by the government on this program. The government has never in any honourable terms explained the reason for the expenditure and it has never been able to convince people that the project is anything other than a grubby political exercise. I have been following the course of the program since 1984 and I regard it is the single worst example of misuse of public funds.

The first instance was on 17 August 1984 when the Age newspaper reported that the Metropolitan Transit Authority had commissioned a $30,000 study to find out what people wanted from and thought about Melbourne’s public transport system. From then on, no public announcements have been made about the program. Social Data Research did that study.

What did we find out? We have not heard one word from the government about its expenditure of more than $3 million on this program. At a time when funds are not available for urgent public projects, the government has an open cheque for its political projects. At a time when people in the health system are being told that they must pull in their belts, the government has plenty of money to throw around on projects that are designed to help its re-election. Why? Because the Australian Labor Party does not have the funds to pay for this and it is dipping its nose into the trough.

The Hon. B. P. Dunn—It will need a lot of help, too.

The Hon. M. A. Birrell—Yes, it will need a lot of help. This story is not just about waste, it tells us something about the government. It tells us that it is a government that is tired and lacking in ideas and must rely on opinion polls for its advice. This is a government that is so bereft of initiatives that it commissions opinion polls before it thinks up ideas for its Budget. This is a government that so clearly internally recognises the failing of the health system that it commissions opinion polls on how it can get out of the mire.

None of the surveys is made public. It is only because we found it under the Freedom of Information Act that we have any information. Why does the government not release these polls? When I first raised this matter—and I took it as far as the Full Court of the Supreme Court, and won—the government told me, “No, you can’t have the opinion polls.” These are opinion polls paid for with public money that outline public opinions that are being withheld from the public! The bottom line is that the government does not
want to trust us with the surveys of community attitudes. That is because the surveys are so damaging and because they are being used for the ALP's electoral work.

In the old days, political parties paid for their own opinion polls. I served on the State strategy committee of the Liberal Party under the Hamer government and I know very well the expense to the Liberal Party of opinion polls at that time. That is how it should be. The money should not be taken out of Treasury. However, that is what the government is doing.

Other instances of this waste have recently come into my possession and I shall go through them in detail because it is the government's plan not just to secretly keep these existing opinion polls in a locked-up cupboard but also to commission more without telling the media or the public that it is doing so. The government is secretly commissioning and spending millions of dollars on these opinion polls.

Perhaps the Minister for Health, who is in the Chamber, can tell us about one of these opinion polls that has never been announced publicly. An opinion poll was commissioned in June 1987 by The Research Business to "undertake a survey of public attitudes to the public health system in Victoria".

The Hon. D. R. White—I do not know about that.

The Hon. A. J. Hunt—Don't they tell you, either?

The Hon. M. A. BIRRELL—The Minister for Health has never heard of it. He cannot get a nod into Hansard. Is that a "No"?

The PRESIDENT—Order!

The Hon. M. A. BIRRELL—No response from the Minister. No wonder! In June 1987, $23 200 was spent by the government, which, at the same time, was telling hospitals, "Look, pull in the belt, there is not enough money."

The Hon. D. R. White—What is the survey?

The Hon. M. A. BIRRELL—It was a $23 200 survey done for the government by a consultant known as The Research Business to undertake a survey of public attitudes to the public health system in Victoria.

If the Minister has any doubts, I have a document signed by the Premier indicating what it was. Just to refresh the government's memory, the Effectiveness Review Committee of the Department of the Premier and Cabinet, in its request to engage consultants, had the following recommendation to make about the survey:

That approval given for the Health Department... which the Minister for Health is supposed to be running—

... to engage "The Research Business" to undertake a survey on public attitudes to the public health system in Victoria at a cost of $23 200.

Has the Minister still not heard of it?

The Hon. D. R. White—I shall follow it up.

The Hon. M. A. BIRRELL—At least the Minister's answer is now not quite a "No". In the question about priority, the request document stated:

High priority—Result of survey may influence the direction of health initiatives in 1987-88.

This is the government that was so sure of its direction that it needed to commission an opinion poll to tell it what was the short-term political benefit! The poll was not provided to the shadow Minister for Health, Parliament, the media or the public; the Opposition had to obtain the information under the Freedom of Information Act and pull it away from the government.
The document, dated 15 October 1987, which is signed by the Chief Administrator, Ms Lorraine Benham—the Minister knows her—from Health Department Victoria, further stated:

In view of the confidential nature of the services, public tenders were not called.

That tells us two things: the government wanted to keep the information from the public because it was "confidential"—it was not proud of it, and had to keep it secret; and, because of that, it decided to go to the final step, not to even call tenders.

The document then indicated what the poll information was used for. It stated:

A report was required and material supplied was incorporated into a communication strategy.

That is what the opinion poll was used for: a communication strategy for the government, which was a clear political use to try to deal with a hot potato. The government knows very well that it is failing in the health system. Its response has been not to improve the system but to try to manage its way out of it through glossy public relations material.

Furthermore, in 1986 or 1987—the date is now known—$140 000 was given by the government to Social Data, a consultancy group, "to undertake market research for the government’s economic strategy." The government gave that consultancy firm $140 000 to do opinion polling and survey work to tell the government what the public’s attitude was to its economic strategy and how it could better sell it for its own political advantage.

I regard that as being the proper work of a political party; I do not regard that type of opinion polling as being the proper use of public funds. However, even if it were a proper use of public funds, there is a necessary condition; that is, that the opinion polls should be released for public consumption. If the government says that these opinion polls are needed, how can it then argue, after the event, that the opinion polls should not be released? What does it have to hide? Who will be hurt by their release? The fact is that honourable members will find out something about the way the government is running the State—something that is very ugly.

The list of costly polls goes on and on. There have been plenty of reviews of the health system. I do not know whether the Minister knows about the opinion poll carried out by Nexus research on 28 January 1986. That cost the State $39 600. It was an opinion poll to tell the Minister how to lift the government’s game in terms of “public attitudes to its health system”.

Does the Minister know about the $41 360 spent on engaging Ross Hepburn to do consultancy work on the health system on 2 December 1985?

The Hon. D. R. White—Have you seen any of those?

The Hon. M. A. BIRRELL—The Full Bench of the Supreme Court said that I should have access to them, but the government is again appealing to the Supreme Court to stop me from gaining that access.

The Hon. D. R. White—Do you mean in relation to the work of Ross Hepburn?

The Hon. M. A. BIRRELL—All of them, except for the most recent ones, which I did not know existed until a couple of weeks ago.

The Hon. D. R. White—I mean, have you seen any of them?

The Hon. M. A. BIRRELL—I have seen only one. I am glad the Minister has raised that with me, because I did not allude to that fact in my earlier remarks. The Minister’s predecessor, the present Minister for Planning and Environment, had the honesty—I do not know if it was the wisdom—to release to me one of the opinion polls carried out about the health system. Ironically, he did so on the day before I took him before the Administrative Appeals Tribunal, where I would have won access to it anyway.
I need do no more than refer to the way an article in the *Sun* described the opinion poll. That article reflects accurately what was contained in all of those opinion polls commissioned by the government into the health system. The article written by Ken Merrigan that appeared in the *Sun* of 12 April 1985 stated:

Most Victorians believed the State government had done a bad job in running public hospitals, according to a once-confidential government poll released yesterday by the Opposition.

It revealed that 62 per-cent were critical of the government's performance.

The findings showed the "biggest gripes" with hospitals were staff shortages, delays, the nurses dispute, bed shortages, and the government's priorities and funding priorities and funding levels.

The poll was conducted in September for Health Department Victoria by Australian National Opinion Polls. I have seen that opinion poll, but that was undertaken back in 1985. The public has a right to see all those opinion polls that were commissioned out of the taxpayers' pocket. What plausible argument could be mounted against that?

As I said earlier, this issue is more important than just pointing out that this has been a case of misuse and waste of public funds. It tells us something about the way the government runs its health system, that it is not acting in the best interests of the State, but is acting in the short-term interests of a political party—the Australian Labor Party.

How could any government hold its head up high when it is revealed that, prior to putting together the last Stage Budget, it commissioned an opinion poll supposedly asking the average man and woman in the street what options he or she would find most popular? It did not ask what hard options are best for the State or what complex economic decisions needed to be made to reduce taxes or boost economic growth: The government asked for some quick, off-the-top-of-the-head, soft, short-term political options that would sound nice.

Just so that the government does not deny it, I refer to the fact that Mr George Brouwer, the Secretary of the Department of the Premier and Cabinet, signed a letter on 20 April 1987 to the Secretary of the State Tender Board, in which he supported the commissioning of Data Sciences Pty Ltd to conduct an opinion poll on:

... expenditure options in the Budget.

The letter also mentioned the fact that:

The total quotation of $90,750 is considerably higher than last year.

That did not stop the government, however, from having the opinion poll conducted.

All of this is small beans compared with the largest of the opinion polls, which was conducted by that great mate of the Labor Party, ANOP Research Services Pty Ltd. The most recent large handout to the ANOP company was for $359,800 on 27 July 1987. Documents released to me under the Freedom of Information Act show that the Premier personally signed a requisition summary on that date commissioning the ANOP company to conduct four opinion poll studies at a cost of $89,950 each.

An accompanying letter from Mr George Brouwer, Secretary of the Department of the Premier and Cabinet, indicates:

ANOP's tender falls on the high side of tender quotations . . .

That did not stop the government from using that company to conduct the polls. I suspect that there was a certain convenience in commissioning ANOP Research Services Pty Ltd to do the opinion poll work for the government at the same time as the Australian Labor Party was commissioning that company to do its political work.

How much does it add up to overall? The Opposition's estimation is in excess of $3 million over the past three years, and the list with which I have been provided informally
or through the Freedom of Information Act shows that slightly less than $2 million has been spent on 29 separate opinion polls.

My concern is that the government is just about to expand the program again. These opinion polls are a vital political tool for any political party. When they cost nothing and are conducted in secret the value is enhanced enormously, but I challenge the government to come clean on its extensive public opinion poll program and to release those opinion polls, if it has nothing to hide.

The bottom line is that the government should abandon immediately its plans to spend further sums on the opinion polling program. If the current expenditure rate is continued up until the election, the government will probably have spent $5 million in five years on opinion polls. The indications are that the government is spending more and more every six-month period.

As I mentioned previously, on 27 July 1987 the Premier had no hesitation in expending $359 800 on four opinion polls from ANOP Research Services Pty Ltd. Clearly he is on the verge of doing a similar thing again.

The issues covered by the polls—which prove the government's political intent—include polls on social justice, the economic strategy, budget options, shop trading hours, schools, liquor law reform, rural issues, preschools and public transport. The list goes on and on. All of them deal with hot political topics and I should like to know why the Opposition cannot see the results.

The government should immediately end the Public Attitudes Monitoring Program. It is a matter of deep regret that so much hypocrisy comes from the government which tells so many community groups that there is no money for them. At the same time, when a political project is in the wind, the government has plenty of money available—an endless stream of funds for those political opinion polls.

The Hon. R. M. HALLAM (Western Province)—The Bill simply allows an extension of the government expenditure program to cover that period from the first day of the new financial period until the Budget for 1988-89 is passed by Parliament.

The tradition is that under the Bill, no new expenditure programs are considered, and funding is provided simply to cover the programs and priorities already enunciated by the government. In those circumstances, support of the Supply Bill becomes a formality.

I restate the National Party view that Parliament should retain the right to deny Supply. It always had that power, but it should be the ultimate sanction held in reserve and used only in exceptional circumstances. Indeed, I cannot ever envisage those circumstances arising, and I place on record that the National Party will be supporting the Bill.

It is against the current economic backdrop in Australia, and two particular aspects of that backdrop, that the National Party believes the Cain government should redirect its policies and priorities. I refer, first of all, to the worsening balance of payments crisis in this State, and, secondly, to the stock market crash that occurred in October last year.

The single most worrying feature of the Australian economy is the national debt. Currently it is the vicinity of $110 000 million—a horrific level, particularly when considered in comparison to the 1983 level of approximately $36 000 million.

Several times I have submitted that the government is building an enormous legacy to be faced by future generations of Australians in the servicing of that debt. The average debt per family is approximately $26 000, yet we continue to run up enormous debts each month. Indeed, yesterday’s newspapers record a further deficit of $1185 million in the balance of payments for the month of March.

It has almost reached the stage where the government runs the flag up if it can hold the monthly deficit within $1000 million. It is an extraordinary situation, and I am amazed
that Australians generally and, indeed, the economists of this nation, are not jumping up and down all the time over this issue.

The community is told that the situation is under control, but the facts are that an enormous proportion of future trade from this nation will be consumed directly in the servicing of debts already incurred and debts continuing to be incurred. That is the first factor that the Cain government should take into account, and the first indication that it needs to question its policies that have led to its well-earned reputation as the highest taxing, highest spending government the country has ever seen.

I turn to the stock market crash that occurred in October last year and sent ripples throughout the economy. We have not seen the last of those effects; they are still being identified, and assessed, and we do not know what the ultimate outcome of the crash will be.

It is a compelling argument for the Cain government to get down from the merry-go-round which it climbed on when it came to power. The Treasurer cannot make decisions in a vacuum. His income is someone else’s expenditure and the size of the government in this State requires that each of his decisions has a ripple effect throughout the economy. Whether by design or not, each decision the Treasurer makes has a macro-effect.

The mad scramble to implement social change is grinding to a halt, as is the campaign to redistribute wealth. The great Labor experiment is over.

The opposition parties have consistently criticised the government for its attitude on taxes and charges and on its expenditure. Consistently we said there can be no Santa Claus in government. Each time $1 is distributed it has to be taken from a member of the Victorian community. It is now becoming clear that those paying the enormous cost foisted on them by the government are the ones the government says it represents—the average workers in our community.

I turn now to the government’s record, first of all in expenditure. In 1981-82 when the Cain government came to office the departmental appropriations totalled $3931 million. In 1987-88 the Budget for those same departmental appropriations totalled $9561 million. That is an increase of $5630 million over six years. Those distributions have more than doubled over the six-year life of the government.

The consumer price index movement in the same time has been 58 per cent, so clearly there has been a massive increase in real terms. At the same time we keep hearing the Premier call for restraint, which is an indication of the government’s double standards. As a matter of interest, I should also compare the distribution in relation to community welfare. In 1981-82 that component of expenditure represented $142-5 million or 3-6 per cent of total outlays. In the current Budget for 1987-88 the figure has increased to $508-3 million, an increase of more than 250 per cent over those six years. That now represents 5-3 per cent of total government outlay. They are the facts of the situation.

I refer to State taxation: in 1981-82 the government collected $2084 million in the form of State taxation; the 1987-88 Budget indicates an expectation of $3640 million, an increase of 75 per cent, compared with the consumer price index increase of 58 per cent in the same period. That is a clear indication that taxes have grown dramatically in real terms.

The comparison I have used refers to a tax definition excluding charges in relation to electricity, water and gas. From my investigations I found that those charges have risen by 13 per cent over the past twelve months. If one includes those charges in the definition of taxation one finds that taxes have doubled during the past six years under the Cain administration. That represents a penalty of approximately $1000 for every man, woman and child in the Victorian community.

It is quite tricky to discover how those household charges—water, gas and electricity—have been excluded from the definition of taxes and charges. It is particularly appropriate
because they represent a large part of the reason for the levying of a public authority dividend tax on the authorities providing those services. Those taxes have increased more than fourfold under the government’s administration. Taxes of $540 million a year will be imposed on public authorities. Those sorts of authorities have almost been taxed out of existence. Victorians have heard about wealth tax in the past, but this would qualify as stealth tax! No wonder Victorians have become indifferent and callous towards the government.

Not all the funding has come from taxation. This is not a pay-as-you-go government. Many of the priorities and policies of the government have been funded on the never­never. Future generations of taxpayers will meet the real costs of the government’s mismanagement. That is an enormous legacy of commitment to be passed on to future generations by the Cain administration.

I now refer to a comparison of debt levels in Victoria. At 30 June 1982 the net debt of the public sector of Victoria was $11 428 million. According to that same definition of debt, the expectation at 30 June 1988 is $22 740 million. In other words, the debt of the State has almost doubled over the past six years, during the Cain administration. The government has been able to duplicate in six short years what it took previous governments all those years from Federation to achieve. That will remain its legacy.

Perhaps the worst feature is that much of the debt has been procured to fund shortfalls in revenue. More evidence is now emerging that the debt has been incurred to meet recurrent outlays. That is the classic kite-flying that we recognise as being dangerous in the private sector—in other words, borrowing more to meet yesterday’s debt. That is known in everyday language as the classic oozly bird syndrome, and everyone knows what happened to the oozly bird!

The burden of debt is growing and, as the Treasurer said in his Budget speech on 12 August last year, as reported on page 105 of Hansard:

Steps are being taken also to moderate the rising cost of debt service to the Budget.

That is the first acknowledgment by the government that all is not rosy.

I turn to the terminology of moderation. The House has been told that the debt cost will be moderate. It is interesting to consider that because 17 cents in each $1 of government revenue raised from its own resources in 1981–82 went to the servicing of debt burden, but in 1987–88, 25 cents in each $1 will be expended for that purpose. In other words, $1 in every $4 raised from the government’s own resources will go towards meeting the interest bill. That is not the real picture; it is worse than that, given that over that term interest rates have generally increased, and therefore Victoria can expect the servicing cost to increase as each of the debts is rolled over.

An enormous legacy is being passed to future generations of Victorians. We are meant to be consoled by the Treasurer undertaking to actively pursue an improvement to the level of debt. Honourable members are told that there will be improved management, but the Treasurer’s version of improvement in management is what has led to the mess Victoria is in today. Can we rely on the Treasurer’s version of management? I do not think we can.

I referred to some examples of his version of management and have highlightened two, namely taxes, which have doubled under the Cain government and debt, which has also doubled. There is grave concern in relation to debt, and particularly, about the component raised to meet yesterday’s debts.

Is this the same Treasurer who designed the $90 million golden handshake in the transport sector which did not work? The people who accepted the handshake were not the ones who had been determined to be redundant to the industry. Those whom the government encouraged to leave the industry stayed on. The employees who were not required to be changed were replaced. That cost of $90 million was expended for nil effect!
Is this the same Treasurer who converted $600 million of Victorian government assets to $1200 million worth of lease commitments—a commitment that will have to be met by this community until the year 2000? That is not smart business.

Is this the same Treasurer who forced the Melbourne and Metropolitan Board of Works to bail out the government in relation to the Thomson—Cardinia dam, thereby effectively selling the rights to the water which had been promised to the downstream users? That was scurrilous!

Is this the same Treasurer who now determines to sell $200 million worth of assets to prop up the Budget? If there are excesses, why was it necessary to determine the level beforehand, because it is clear that the $200 million target was set long before any judgement was made as to what assets were to be declared excess?

Is this the same Treasurer who introduced a public authority dividend tax on the Grain Elevators Board, when it is clear that the body is not a public authority, and when, indeed, the funds provided in the first place for that authority came from the growers? It is grossly unfair on those who are directly involved.

Is this the same Treasurer who introduced the concept of productivity savings when he could not even explain how the aggregate savings were determined, and when, before the Parliamentary Estimates Committee, it was established that much of the productivity improvements involved direct and explicit outlays of capital which must require additional costs, but which were excluded from the computation of the productivity savings? To that degree savings are quite illusory.

Is this the same Treasurer who is responsible for agencies losing hundreds of millions of dollars because they incurred debts exposed to the vagaries of currency variations when protective mechanisms are available in terms of swapping or hedging arrangements?

Is this the same Treasurer who allows government agencies to punt on the stock market, with the result that every Victorian had his or her fingers badly burnt last October? Is this the same Treasurer who supervised changes to the third-party insurance scheme and is therefore responsible for additional massive losses?

Is this the same Treasurer who is the architect of WorkCare, which was rushed through Parliament during the hiatus following the initial election in Nunawading Province—an arrangement from which Victorians are reaping a rotten reward, an ill-conceived scheme with accumulated losses reportedly totalling approximately $1600 million after 22 months of operation? We are told that those losses are now approaching $3000 million.

The Treasurer complains that he was done in the eye by insurers in the liability for claims arising now but which can be traced back to the pre-WorkCare period. In either situation, I put to the House that the Treasurer is culpable.

If the transitional agreement was not watertight, it should have been. We obviously sent a boy on a man’s errand. That is a small factor in the WorkCare performance and, by any test, WorkCare has been an unmitigated disaster and one that will cost the Victorian taxpayers dearly in the future. I put it to the House that the Treasurer is the person who was responsible for all those schemes, priorities and plans and who now says, “Trust me to actively pursue improved centralised management of debt.” That is his terminology. I would not trust him to manage almost anything. He may be a good theoretician, but he is found wanting in terms of his practicality of the theory.

When in the past I have outlined similar criticisms, I have been asked to put my views on behalf of the National Party and to give an alternative. When the National Party responded to the Budget debate last August, I laid out in some detail the strategies that we would undertake to redress the irresponsible management of this administration. In a document entitled “Pre-Budget Discussion Paper”, I gave an outline of plans to control and reduce spending, to address the explosion in the Public Service, to reduce the level of borrowings, to re-examine spending priorities, to review revenue resources, particularly
the tax restructure, and to overcome much of the duplication that exists between the various tiers of government. That is a matter of record, and I do not intend to go through that in detail.

The Hon. B. T. Pullen—What areas would you cut?

The Hon. R. M. HALLAM—I put that on record last time around. I have read the Liberal Party's plan to drastically redirect the thrust of the government's financial mismanagement, as recorded in Hansard and put forward by the honourable member for Brighton in another place. I place on record that the National Party wholeheartedly supports that strategy. I personally hope the honourable member for Brighton is the Treasurer in the next government and I also hope the National Party is part of that government so that we have the opportunity to assist and endorse those initiatives.

I believe the first hundred days of that government will indeed be crucial. The National Party stands ready to take the tough decisions that would be applicable in those circumstances.

I shall deal briefly with three areas in relation to the Supply Bill, the three areas of highest expenditure, which, in my view, are symptomatic of the mess that a new government would inherit. I turn firstly to education. In the current Budget education has been allocated a sum of $2460 million for recurrent expenditure, almost one-third of the total Budget. The education system is in total shambles. We have spent so much time and effort amending the administration in the education system that we have lost sight of the ultimate goal, which should be to turn out graduates who are able to take their place in the community.

The school committees with which I am most involved complain bitterly about the plethora of reports, discussion documents, position papers and working parties, yet, at the same time, those communities continue to demand that greater emphasis be placed on the basics, the three Rs. The government has missed the forest for the trees.

The government has now conceded that, in relation to secondary education in Victoria, we can expect enrolments in the State sector to decline by an average of 10 000 students a year for each year up until 1990, a loss of 100 000 students within the State secondary system. That says a lot about the system. That dramatic turn-away reflects the fact that we are having so many problems with the administration and, indeed, the structure of our schools. It says a great deal about the problems when the government, as its first priority each year, determines, in conjunction with the unions involved, what will be the relationship between teacher numbers and student numbers.

The government is coy about conceding that half of those 100 000 students lost to the State system will go into the private system, the church school system. That says something about the State system. More and more parents are prepared to pay the penalty for turning their backs on what is essentially a free system and to make the sacrifice that is necessary to place their children in the private school system. I wonder what it will take for the penny to drop for the government and for the teaching profession within the State system, because there must be massive problems when the loss is so great. It says a great deal about the professionalism of the teaching profession represented in the church school system. The wheel has turned when more and more people are showing concern about a Christian upbringing and the advantage of the church system.

I shall spend some time on the subject of health. The health vote was $1600 million for recurrent expenditure this year—20 per cent of the total vote—and $1600 million for capital expenditure. What do we have? About the most significant factor that emerges is a blow-out in the waiting list for elective surgery. There are 25 000 people on the waiting list and something must be dramatically wrong if that is the case. I do not accept the terminology "elective surgery". People would not elect to place their names on that list. It represents much-needed surgery and the system should provide that opportunity for people who need those services.
One of the aspects of hospital funding, which I broached with the Minister for Health during question time yesterday, concerns hospitals in small rural communities because those hospitals have had question marks placed over them. I put it to the Minister that the National Party does not accept the criteria being used to measure efficiency in those hospitals. The hospitals have simply joined a long list of facilities that rural communities now fight to retain. Many of those facilities have been placed under risk by this administration. We have seen risks to our courthouses, to our one-man police stations, to our local government units and to our various government departments. The latest are the State Electricity Commission offices. Indeed, as I outlined in the House yesterday, there has also been a serious downturn in revenue assistance grants. Our race dates are under threat, which is extraordinary. Threats to our hospitals are of grave concern. Unless there is a turnaround—

**The Hon. D. R. White**—Which hospitals?

**The Hon. R. M. HALLAM**—I shall go through them. Unless there is some turnaround there will be nothing left of the hospital system in country Victoria. The Hamilton Base Hospital is facing a deficit in its recurrent budget of $300 000 and was forced to take action that will result in a restricted intake of patients. That is against a situation where there is no shortage of demand. In fact, demand is increasing.

I put it to the Minister for Health that many of the costs faced by any hospital, including Hamilton Base Hospital, are fixed costs—in other words, costs that will be incurred whether patients are taken in or not. If much of the cost structure is fixed cost, one would have thought that by increasing the throughput efficiency would be improved. Apparently the opposite is the case. It is a no-win situation.

What are the hospitals to do? Is the Minister asking them simply to cut back their budgets or asking them to improve efficiency? The Minister cannot have it both ways. If the hospitals achieve their budgets in relation to revenue, or achieve a level beyond that, the Minister takes it off their budgets next time around; therefore, they cannot win. It does not matter what they do, they are caught in a bind. Is the Minister imposing on them a system that requires them simply to cut back the costs of operation, irrespective of what that means, or is the Minister asking them to lift efficiency? I put it to the Minister that that is not understood by the hospitals. They need to know what their initial—

**The Hon. D. R. White**—I am happy to look at the Hamilton Base Hospital, but the issue is understood.

**The Hon. R. M. HALLAM**—The third issue to which I shall briefly refer is transport, and I am sorry that the Minister for Transport is not in the Chamber. The transport vote is $804 million of the recurrent outlay, which is approximately 10 per cent. Transport represents another disaster. It continues to incur monumental losses, as it has done over many years. It is becoming a major millstone around the neck of this State.

The objective of the metropolitan system is to achieve the recovery of half of recurrent costs. It is clear that the system is not doing that; it is falling further behind each year. The country freight service is even worse; it has a target of 100 per cent cost recovery.

As was highlighted by a question asked this morning by my colleague, Mr Baxter, the country freight service is experiencing a massive drop in patronage that will be extremely difficult to win back, and I shall explain why. Each time a farmer or carrier decides to incur the capital cost of buying a road vehicle, which may cost $110 000, to cart his own grain or crop to a seaport, that farmer has been lost to the rail freight service for all time. Once he has made that decision, he must service the outlay. It is extremely sad that those decisions are being taken every day, which means more volume is being lost to the rail network in the long term. It will take a major policy decision to turn that position around.

Each time a farmer decides to use the road network as opposed to the rail network, the problems of road funding are increased. Evidence can be seen of that throughout the State. More and more of the road network is falling into disrepair. At the same time, despite
what the Minister for Transport said this morning, evidence shows that road funding is not keeping pace with demand. Much of the road funding is being redirected. The Minister himself said that road funding was being diverted on the basis of traffic counts. That is fine; I do not object to those claims being made in the metropolitan area. Metropolitan people are entitled to demand a good road service. However, when the government continues to redirect road funding based on traffic counts alone, the country road network is completely neglected.

More and more of the shires of the State are taking conscious and deliberate decisions to revert roads that were once sealed to gravel. Hundreds of kilometres of roads are subject to such decisions. Some 30 years ago, with the technology and equipment that was available, authorities had the wherewithal to seal those roads; 30 years later, with the technology and equipment that is available today, we cannot find what it takes even to maintain those roads. That is the sorry state facing Victoria today.

Many frightening aspects are involved in the drift of road funding, and I have highlighted them previously. The first is the annual rate at which funding derived directly from motorists is being siphoned into the central coffers of government—some $7000 million to the Commonwealth government and $600 million to the Cain administration. Of every $1 taken from the Victorian motorist, only 18 cents finds its way back to road funding in this State. That was the original intent of the tax levied on the motorist.

There is a further aspect of the hiving off that I wish to highlight because it is a direct penalty on country people. Country communities rely more heavily on fuel than do people living in metropolitan areas. However, every time a country person buys an article, the price of the article is inflated by the freight component. Country people must pay more for articles than people in metropolitan areas. That is accepted, but the component for freight is inflated by the tax levied on fuel that is taken by the central governments. It is extraordinary and almost laughable that the Liberal Party should now be debating a consumption tax when this country already has such a tax. It just happens that it comes via the taxes levied on fuel. Worse still, the existing consumption tax is clearly biased against country communities.

The government has now conceded that, of the 8500 bridges in this State, more than half—that is more than 4000—are due for replacement. I do not need to tell the House the cost involved. Those operations are so far behind that the costs will have to be faced well into the future. Because of the dimension of the nation and because of our reliance on export and rural industries, Australia's road network becomes an even more vital aspect of our infrastructure, and that makes this government's mismanagement even more culpable.

Because these and other examples of the government's mismanagement are being recognised by Victorians, the Cain government will be dumped at the next State election. Its epitaph will record that it was the highest taxing, highest spending government in the history of this nation. I hope that the National Party is part of the new government so that it will have the opportunity of assisting in the massive redirection of policy that I submit is so obviously and urgently required.

The Hon. C. F. VAN BUREN (Eumemmerring Province)—I have much pleasure in supporting the Supply Bill. I shall dispel some of the nonsense uttered by members of the conservative parties. The Budget was brought down by an excellent Treasurer. The problem with the conservative parties is that they continually preach gloom and doom. The Liberal and National parties have no policies. The Liberal Party has leadership problems; even the president of the party says it has leadership problems. No wonder members of the Opposition come to this Chamber and forecast gloom and doom and try to knock the government for taking action!

Mr Hallam proposed the same policy put forward by the Liberal Party, which wants to sell the public transport system. This government has a vision, unlike the National Party government in Queensland. Heaven help the people of Victoria if that type of government
is elected in this State! Corruption is thriving in Queensland, but Victoria does not face that problem. This State has an honest, straightforward government.

I shall take the opportunity of focusing on some of the achievements of the Cain government. When the Labor Party came to power in 1982 in this State and in 1983 in the Federal sphere, it inherited a mess. The country was in a mess after the Fraser–Howard years and Victoria was in a mess after the Hamer–Thompson years. Inflation was high and people could not get jobs. Taxes were high, and that was the policy promoted by the National Party in coalition in the Federal sphere. There was no policy or direction; legislation was made on the run. A change of government both at the State and Federal levels gave the country focus and direction.

An article in the *Business Review Weekly* of April 1988 states:

Victoria's Treasurer, Rob Jolly, knows the painful side of running a State's finances. Since the Cain Government came to power in 1982, it has launched an ambitious economic strategy aimed at strengthening Victoria's export and technology bases.

Workers' compensation charges to business have come down, exports have risen and Victoria's statutory authorities have some of the most sophisticated treasury operations in the country.

Critics have seized upon the negatives. They say the Government's WorkCare program will cost much more in the future because of abuse.

The Opposition is accusing the government of mismanagement but the Opposition is supporting its mates in the insurance industry. The insurance industry does not provide the facts and that is causing the problem with WorkCare.

**The Hon. R. M. Hallam** interjected.

**The Hon. C. F. VAN BUREN**—Mr Hallam and the Opposition should examine what the Treasurer, the Premier and the government have done for Victoria. We now have industrial peace; prior to 1982 there were constant strikes. One would open the paper each day to find that someone was on strike. The Liberal Party had a confrontational policy to smash the union movement, which was unsuccessful.

The Cain government has created jobs. It was elected on the platform that it would give the people the right to work and it has been successful because the people have jobs. The inflation rate when the government came to power in 1982 was between 12 per cent and 13 per cent. That is vastly different to the current inflation rate.

**The Hon. R. M. Hallam**—Are you saying the 18.7 per cent is acceptable?

**The Hon. C. F. VAN BUREN**—The government has pegged prices. It introduced a Bill on this matter but the Liberal Party opposed it because big business was opposed to it. That Bill would have benefited the working people but the Liberal Party took the position it takes every time the government introduces such a Bill.

The Cain government has opened up new markets overseas in China, Japan and the United States of America. The government is well respected. It has opened up new markets for manufactured goods which has created employment; that is something that we can be proud of. The Premier is respected in those countries.

The timber industry was in a difficult state before the Labor Party came to office.

**The Hon. M. J. Sandon**—They didn't have a strategy.

**The Hon. C. F. VAN BUREN**—The Liberal Party did not have a strategy, except to chop down trees. The Treasurer provided $5 million to implement the timber industry strategy which has created jobs and it is a safeguard for rural industries. In the Gippsland area jobs were being lost but the government, by its strategy, has done something of which it can be proud; it has created more jobs.

When one compares this time to the era of the former Liberal Premiers, Sir Rupert Hamer and the Honourable Lindsay Thompson, one will note that with the fewer industrial
disputations that have occurred during the past twelve months, the days lost have dropped compared with those in 1982. There are fewer strikes and problems with the unions. Victorians appreciate that achievement.

Tenants are now protected because the government has legislated on tenants' rights. However, the conservative parties are all doom and gloom; they do not want to provide for tenants' rights but the government has protected these people.

The building industry is moving ahead with more development occurring than there has been for a long time. In my area of Berwick and Pakenham there is a growth corridor in which houses are being built and developments are going ahead. Rowville also has increased development.

The government has created jobs in the building industry and the industry is stable. It is not like it was in the days of the conservative government—which is what Mr Hallam and the Opposition want Victoria to return to. In those days there were continual disputations. People were not willing to invest in developments but now the government has stabilised the industry so that people can have confidence to invest their money in this area.

In my area recently, I attended an opening of a complex as the representative of the Minister for Planning and Environment, Mr Roper. I spoke with one of the big developers in the area and asked him how stable the industry was and whether he had any problems with builders and so forth. He answered that he did not because the industry was harmonious and they were able to negotiate contracts before the job began so that everyone knew what they were doing and they could then go ahead and build. I asked the developer whether there was any hold-ups and he told me that there were no hold-ups on building sites.

I am proud to be a member of the government party because in the education area we have new schools and a positive attitude, as opposed to the negative attitude taken by the Opposition. A lot has been done in the education area.

I am proud also of WorkCare. Most programs have difficulties initially but when one compares the situation with that of the workers compensation scheme under which five years down the track an injured worker was still going back and forth to court without the opportunity of returning to work, one sees that the situation is now much improved.

Under the old system a worker who was buying a home could suffer the likelihood of losing it because of the time it took to have the matter dealt with. After five years the injured worker would be given a cheque out of which was taken five years pension payments but meanwhile the worker had lost everything.

Workers did not have any dignity under that scheme. Now workers receive 85 per cent of their salary and they are able to meet their commitments when they are injured and off work.

Many injuries are caused by the neglect of employers who do not ensure that safety precautions are taken. There are a few problems to be ironed out with WorkCare but workers do have dignity under that scheme.

WorkCare is one of the finest things that the government has put in place and I am proud to be part of a government that has had the guts to proclaim this legislation. The Treasurer was the key instigator in drafting the legislation for WorkCare and he should be congratulated. I am not ashamed to go anywhere and stand in any forum as a member of a government that has introduced a reform of which every working person can be proud.

The government has introduced many other measures. An important measure involved the action that the government took to establish the Portland aluminium smelter. Before the Labor Party came to office in 1982, the Liberal government was having trouble in establishing the smelter. When the government came to office, capital was obtained for the project through negotiation and a partnership arrangement was set up. The government
was criticised from pillar to post, but the aluminium smelter was developed, and many jobs were created in the Portland area. That is a good example of the success the government has had.

Mr Birrell, who is not in the House at present, often criticises the government's health policies. I shall give the House an example of the action the government has taken on health matters. The government moved the operations of the Queen Victoria Hospital from its site in the city to Clayton, and in the process established the Monash Medical Centre in an area where it was needed. In the province I represent, the Eumemmerring Province, the Dandenong and District Hospital once received trauma cases from areas as far away as Gippsland. The establishment of the Monash Medical Centre has been of great assistance because it has reduced the number of trauma cases that are directed to the Dandenong hospital. The Minister for Health is to be congratulated for the work he has done. His predecessor also did a good job in the policies that he implemented.

The government has abolished the toll on the West Gate Bridge. People who travel by car from Melbourne to Warrnambool or Geelong over the West Gate Bridge no longer have to pay a toll. Further, the government has enacted legislation that deals with the manual lifting of heavy weights, which has had the effect of reducing back injuries and introducing safer working practices. When the government introduced those measures the Opposition opposed them, as is their usual practice. The government has had the courage of its convictions to introduce measures that are essential for the betterment of people who work in Victorian industry, especially where heavy lifting is involved. In the province I represent the Nissan factory at Clayton has adopted the prescribed manual lifting standards, and they have operated successfully.

The government introduced the Firearms (Amendment) Bill (No. 2), but in this House the Bill was opposed by the Opposition. The government was prepared to bite the bullet, in literal terms, in introducing the Bill.

The Hon. N. B. Reid—I thought they spat the bullet out!

The Hon. C. F. VAN BUREN—The government was willing to negotiate with the Opposition, but the Opposition cannot make up its mind on the issue. The problem is a lack of leadership in the Liberal Party—not in this place, but in the other place. The President of the Victorian Liberal Party said that the party had a problem with the Leader of the Opposition. I agree that there is a complete lack of leadership within the Liberal Party.

One of the great successes of the government has been the implementation of its social justice strategy. The Opposition does not understand what the concept of social justice means.

An honourable member interjected.

The Hon. C. F. VAN BUREN—When the Liberal Party can make up its mind on the firearms legislation, the government will be prepared to negotiate with it.

The government allocated $42 million in the Budget for expenditure on social justice measures. Opposition members should take the time to read the volume entitled People and Opportunities. In part, the introduction to that booklet states:

Economic development and social justice are the two major goals of the Victorian government. Together they express the government's commitment to a fair society based on firm economic foundations.

The government released its social justice strategy in 1984. Victoria now leads the nation in economic performance and job growth. Victoria has a higher employment level and a lower unemployment rate than any other State. The strategy states:

In encouraging sustained economic growth, the government's ultimate interest is the well-being of the people. So where it creates new opportunities, the government also needs to ensure that these are shared by the whole community.
Furthermore, concern about who benefits from economic growth should be matched by concern about who bears the burden of economic constraint.

I am proud to be part of a government that adopts such a social justice strategy. All government departments have adopted the themes contained in that strategy. When the government came to office it had to re-educate the Public Service about such strategies. Under previous conservative governments the Public Service was not forced to carry out policies in the social justice area. The social justice strategy is a key priority of the government. Victorians should be proud of the action that the government has taken. Other State governments have taken notice of the government's performance, because the social justice strategy is working so well.

Honourable members interjecting.

The Hon. C. F. VAN BUREN—Members of the Liberal Party may laugh, but when the newly elected Premier of New South Wales, Mr Greiner, was in Victoria recently he wanted to see Mr Cain to find out how to run a government properly. Mr Greiner said openly that he wanted to see Mr Cain for that reason.

The Federal Labor government has created 1 million jobs since it came to office. That policy was part of the Labor Party's platform and I am proud to say that the Prime Minister, Mr Hawke, and the Federal Treasurer, Mr Keating, have ensured that, with good economic management, Australians are able to find work.

The government has created 1 million jobs in that time, which is at a rate twice as high as the average for the Western World; and it is four times the average rate experienced under the Fraser Liberal government. The Leader of the Federal Opposition, Mr Howard, offers Australians a return to those days of the Federal government.

The Federal government has reduced the rate of unemployment to 7.4 per cent. Although the rate is a little too high, the government is taking action to reduce it. When the Federal Labor Party came to office, the rate of unemployment was running rampant at 13 per cent.

The Federal government has introduced a family package, which is one of the best things that has happened for a long time. The effect of the package has meant a gain of $22 per week per child, and a greater sum for teenage children aged thirteen to sixteen years. Almost 600,000 working people have benefited from the family package, as well as 1.2 million children. The Prime Minister is keeping to his target of trying to reduce poverty by introducing a package worth $500 million. The Federal government is close to achieving the promise it made to abolish children in poverty by the 1990s. I am sure the Federal government will succeed. Honourable members will be aware of the economic mess that the Federal government inherited when it came to office. Inflation was running rampant at that time, but the Federal government has reduced the rate of inflation.

The Federal government, in conjunction with the Cain Labor government, has brought interest rates under control and it is predicted that they will be 6 per cent by the middle of this year. Housing loans are now available at reduced interest rates and working people are benefiting by this policy.

I listened to the radio this morning and concern was expressed that, because housing loans were cheaper and more easily available, there is no backlog in applications. This is an outstanding achievement by the Federal and State governments.

The introduction of a national accord for wages bargaining is another outstanding achievement of the Federal government. It has been the basis for industrial harmony between the union movement, employers and the government. Employees have enjoyed regular pay rises and know how much they will get in their pay packets. The Liberal Opposition, when in government, could never have achieved this. Every time representatives of the then Liberal government appeared before the Conciliation and Arbitration Commission on national wage cases they opposed any pay rise for workers.
That is the Liberal Party's record. The union movement is now able to negotiate with the Federal government on behalf of all workers, and the second-tier wage increase is an example of those negotiations.

Under Labor governments, both Federal and State, the productivity of Australian workers has increased. That could never have been achieved under a Liberal government. Industrial disputation is at an all-time low; a Howard-led Federal government would create greater industrial disputation—that is what the Opposition is all about.

People on fixed incomes have benefited from Federal government policies. Age pensions have risen by 8-4 per cent in real terms. When Mr Howard was the Treasurer in a Federal Liberal government the value of age pensions, in real terms, was reduced by 4-1 per cent. Under a Labor government, the age pension has almost reached the important target of 25 per cent of average weekly earnings. Age pensions are indexed twice a year, at a cost of $1 billion. The Federal Labor governments' policies ensure that people on age pensions are adequately cared for.

The Federal government has doubled the funds available for public housing. Since the government came to power 220 000 more families now live in public housing. The government has reformed the taxation system and has a firm taxation policy. What is the policy of the Liberal Party? It has the John Elliott policy, the Howard policy, the Peacock policy, the Sinclair policy and now the John Stone policy. When the Liberal Party last went to the people with its taxation policies it was exposed—it has no taxation policies. The Liberal Party wants to introduce a consumption tax that would affect the people least able to afford it.

The Hon. Rosemary Varty—Come on!

The Hon. C. F. VAN BUREN—that is a fact. I ask Mrs Varty: did you support the motion for a consumption tax at the recent Liberal Party conference?

The ACTING PRESIDENT (the Hon. M. J. Sandon)—Order! Mr Van Buren should come back to the Bill.

The Hon. C. F. VAN BUREN—The Cain and Hawke Labor governments have reduced taxation, to the benefit of all Australians, which destroys the myth put out by the Liberal Party that people are worse off than before. A Liberal-National Party Federal government would increase taxes and charges and sell off the assets of all Australians. A Liberal government would revert to the dark old days of opposing national wage rises.

I am proud to be a member of a State government that has such an outstanding Treasurer. The Treasurer has turned the Victorian economy around and it is now on the right track. When the Labor Party came to office in Victoria, the State was in real trouble. Its overseas markets had collapsed and the manufacturing sector was in trouble. The Minister for Industry, Technology and Resources, in conjunction with the Federal Minister for Industry, Technology and Commerce, has put the manufacturing sector of the Victorian economy on the right track and dragged it into the twentieth century, so that it can now compete with overseas markets.

The Hon. B. P. Dunn—the wool industry saved Australia.

The Hon. C. F. VAN BUREN—Mr Dunn still believes that the Australian economy is riding on the sheep's back. I support the Bill and commend it to the House.

The Hon. J. V. C. GUEST (Monash Province)—These two Bills are the last gasp from a graffiti-led government. April 1988 will be remembered for the splendid irony that the beloved device of this trivial government—handing out grants of $500 to $1000 for some supposedly worthy local cause—has blown up in its face and marks the time when the people of Victoria have finally recognised the true character of the government.

Victoria has all the natural advantages to assist a government that purports to manage the economy of the State. Its climate is superb, except for some difficulties about a certain
changeability of our weather; its geographical position is excellent when compared with Sydney—the only comparable city in the country; it has a large amount of economically usable land, excellent schools, a sound economic base and a culture derived from our serious-minded forebears.

The Hon. B. P. Dunn—What about agriculture?

The Hon. J. V. C. GUEST—Victoria has an excellent agricultural industry on excellent land that is utilised by skilful primary producers. It also has a strong mining industry, comprising the Collins Street miners centred in Collins Wales House and 35 Collins Street, whose companies mine the whole of Australia with the skills and money based in Victoria, and I do not say that lightly. Victoria’s medical research institutes, institutes inherited from previous governments, are the best in Australia.

The purpose of the Bill is to allow the government to continue its spending program, and it is tempting not to allow the government to continue. It seems a very attractive prospect that this House might precipitate the Premier’s choice of the date for the election.

The Hon. M. J. Sandon—You have again put yourself in the driver’s seat, ignoring what the people want.

The Hon. J. V. C. GUEST—From a political point of view, the Opposition does not mind when the election is held, but action is needed now from an economic point of view for the public benefit.

The Supply (1988–89, No. 1) Bill and the Works and Services (Ancillary Provisions, No. 1) Bill (No. 2) contain provisions for further Supply during the first four months of the next financial year and are not concerned with any change of policy. The Bills are concerned only with further Supply to allow for the continuation of existing programs according to existing principles, which is not enough.

It is a disaster for the State of Victoria that the government will not act. I shall not cover the ground which has been covered so well by the extremely able shadow Treasurer who pointed to the substance of the problems facing this State. The government has managed to bring this State to ridicule and shame. Victoria is now scoring the highest marks in the negative polls, criticisms and comments of informed commentators. The Institute of Public Affairs, a well-financed and well-resourced body with highly qualified commentators and researchers—

The Hon. M. J. Sandon—What, Rosemary West?

The Hon. J. V. C. GUEST—I think Mr Sandon is referring to Katherine West, who wrote for the Australian newspaper in company with Des Keegan and other enthusiasts who are somewhere to the right—beyond any of us in this House. I do not think that Katherine West is connected with the Institute of Public Affairs.

I might inform Mr Sandon and other members of the House that Des Moore, who was one of the most senior officials in the Federal Treasury—and he is not the only former member of that staff—has written a splendid article in a publication of the Institute of Public Affairs, in which he refers to Victoria under the heading, “The Public Finance Hall of Shame”. It is Victoria and the Victorian government which leads all other States of Australia in its achievements in being recorded in the public finance hall of shame.

WorkCare is the No. 1 disaster of any government managing any economy in the English-speaking world today.

The Hon. E. H. Walker—It is a fairly grand statement.

The Hon. J. V. C. GUEST—I confined the statement to the English-speaking world, as I have no doubt that in Nigeria or possibly on the Ivory Coast there might be a Treasurer who would take longer than Mr Jolly, the Treasurer, to realise that he is on the learning curve, has not learnt much, and has a lot to learn in the area.
WorkCare achieved a deficit of $1.7 billion within 22 months. That $1.7 billion has to be found by future generations or, at any rate, by future taxpayers or future lenders who can be conned by this extraordinarily ingenious government which must have employed all of the out-of-work tax avoiders and specialists from the firms of solicitors and accountants that were put out of business by Part IV of the Income Tax Assessment Act and by the punitive enthusiasms of the Commissioner of Taxation over the past few years.

One might have thought that WorkCare would have something good about it. It has not started to develop anything good on its profitability or its ability to finance itself over the period that the government quite falsely predicted, because its deficit now must be of the order of $3 billion. Honourable members know that through its investments the Accident Compensation Commission lost more than any other investing body and a major proportion of its funds. I shall come back to that later and deal in detail with the extraordinary performance of a body set up only in 1986. It plunged into the stock market until it had invested 57 or 58 per cent of its investments in equities on a roaring bull stock market. Finally, in the space of about three days, it lost something in the order of $250 million. It is a fund which must pay out sums needed to compensate sick and injured workers on a day-to-day basis.

Although it can be said that the Accident Compensation Commission has long-term liabilities and might appropriately invest in long-term investments, that cannot be said of this body over the past two years because it never got itself into a healthy financial position where it could say that the money is set aside for long-term investments for years to come. It was totally imprudent to invest something close to 60 per cent of its funds in equities and suffer the loss of something of the order of a quarter of its total funds in the debacle of last October’s stock market crash.

As I said, one might have thought that there could have been something to be said for the WorkCare system, but its income has been less than predicted.

So far as industry is concerned, a survey conducted by the Australian Chamber of Manufactures showed that 52.6 per cent of industry surveyed in a widely-distributed survey had not experienced a reduction in compensation costs. Honourable members should remember that a reduction in compensation costs was what it was all about: a reduction in the costs to industry, a reduction so that industry in this State could take off, free from the burden of the heavy recurring costs about which so much complaint had been made.

The Australian Chamber of Manufactures survey found that 43.7 per cent of industry was paying more under WorkCare than it had paid before. It found that 24.2 per cent of industry reported that WorkCare had subsequently increased compensation costs. There is the No. 1 entry in the public finance hall of shame.

The No. 2 entry shows what the government has done to the reputation of this State, a reputation which is all important if investment is to be encouraged in Victorian business. I refer to the absurd early retirement scheme in the Ministry of Transport, which has been referred to often, but in no more telling terms than the words on the front page of the Herald. The Legislative Council Estimates Committee opposed the legislation, for rather obvious reasons, which are apparent when one reads the Herald and its reference to the “$90 million learning experience”. That was a nice way of describing it by the Director-General of Transport, who had not been responsible for the scheme.

He did not want to state the truth, which was an absolute, unmitigated disaster, because it involved paying out $87 million of borrowed money to provide for the early retirement of 2325 employees who were, in many cases, the most valuable employees who could not easily be replaced and who, therefore, had to be employed again on short-term contracts, and the further employment by the end of the financial year of 2565 employees, leaving Victoria with no net benefit but an additional debt of $90 million and all the interest costs involved.
It is not just a series of quarterly indicators that have caught up with this government. It is a sign of the times when a feature article in the *Australian* by an excellent financial journalist, Lim Say Boom, who has been known in the press gallery as a journalist for the *Australian Financial Review*, states:

For Mr Jolly, the reality behind conservative economic guru Milton Friedman's celebrated line that "There's no such thing as a free lunch" must be becoming painfully obvious.

The costs are rolling in and adding up. Mr Jolly's partially successful strategy of boosting a depressed State economy through high government spending has created more problems in its wake.

I point out that the strategy of high government spending that he described as partially successful was entirely maladroit; it did not press where it was intended to press. It did not spend the money at the times when it was meant to spend money. The analysis the Liberal Party published two years ago showed that the countercyclical policy had, in fact, completely missed the cycle.

The Hon. D. R. White—What did you say?

The Hon. J. V. C. Guest—It was the government's policy and intention to make it countercyclical, but it completely missed the cycle it was intended to counter. It reinforced what happened anyway. The article also stated:

In the process, the Cain government appears to have something of a cash junkie, increasingly reliant on quick financial "fixes" paid for by huge asset sales, disguised debt, unorthodox lease and lease-back deals, cleverly contrived schemes to beat Commonwealth limits on State borrowings and even squeezing money out of public utilities.

That nicely summarises what the Opposition has been trying to get over to the general public that will remove this government——

The Hon. D. R. White (to the Hon. H. R. Ward)—Tell us what he is talking about, Roy.

The Hon. J. V. C. Guest—The Minister for Health, as the representative of the Treasurer in this House, knows all too well what the significance of this matter is. I must give him credit, as he has probably tried to tell his colleagues for years about the trouble they are getting into with the funny money tactics of the Treasurer.

The reference to "cash junkie" in the quotation is important; people are discovering that the government is desperate to get its hands on cash. The Opposition has known it for years. The government has found one way after another to get cash to pay the bills for the services, capital investments and other ingredients of its Budget, year after year, to be put off until the time of repayment, which has involved the need for increased revenue to pay the lenders. The government is now in such a desperate position that it has had to contrive the Victorian Equity Trust as the most blatant and obvious way around the legal limits of the Australian Loan Council; although if it had not been for the foolishness of the Federal Treasurer this would not be so. The purpose of the trust is obviously to ensure that the government can survive just another year until the next State election without having to raise taxes or make difficult decisions about cost cutting that would allow it to finance its extravagances honestly, but, instead, it has put onto future generations the real burden of financing its current extravagances.

Let us look briefly at the problems in education, health, law and order, and public transport because the ultimate charge against the government is that it has borrowed money at increasing rates of interest throughout most of the 1980s and has raised taxes by 100 per cent since coming to office, without giving value for money. Nobody objects to the government making a good investment. However, it may be better in most instances if it left that to the private sector.

The Hon. M. J. Sandon—How much are your investments worth?

The Hon. D. R. White—Yes, how did you go last year?
The Hon. J. V. C. GUEST—I fared very well. The government should have had me managing some of those investments, rather than the mug punter Treasurer who lost $120 million. It is a bit late now.

The Hon. D. R. White—It is never too late, James!

The Hon. J. V. C. GUEST—I assure the Minister that the shadow Treasurer and I will do this for the State after the next election, without a fee. We will not be charging what those private sector—

Honourable members interjecting.

The PRESIDENT—Order! I suggest that Mr Guest ignore interjections and continue with his contribution on the Supply Bill.

The Hon. J. V. C. GUEST—Before I deal with the failure of the government to use the funds raised by taxation and borrowing to good effect—I have shown honourable members that it has not given the State value for that money—I shall look briefly at some of the answers the government gives. The government admits that the debt figure—it cannot avoid admitting it because the Auditor-General has done so—has increased by 99 per cent since it came to office. The government claims the debt figure has not increased considerably as a percentage of non-farm gross domestic product, but the figures do not include everything. As I observed earlier, year after year the government has been building up more devices for taxing future generations. Taxpayers face rate burdens, superannuation payments and now the Victorian Equity Trust. This is one of the themes of the government. That debt figure does not take into account sales of assets; $500 million worth of assets have now been sold off. There would be nothing wrong with selling off most of those assets, provided the funds obtained were used to reduce the debt.

That debt burden has been considered in conjunction with the various loopholes that one can easily find between the works and services and Supply Bills which are supposed to provide for recurrent expenditure and for capital expenditure; but one discovers that $500 million, like so much other borrowed funds, has gone into the funding of recurrent expenditure. Worse still, the government has funded the increasing burden of leasing charges, which have been incurred, from capital funds. Those leasing charges amount to almost half of the total value of the debt incurred in the sale and lease-back of rolling stock by the transport authorities.

During the tenure in office of this government the interest burden on borrowed funds has increased from 17 per cent to 24 per cent of revenue raised by State sources. It was bad enough that it was once 17 per cent of State revenue. Now almost one-quarter of all State revenue is being used to pay the interest bill on borrowed funds. That points to another assertion by the government in support of its justification for the huge increases in taxation. There has been a 100 per cent increase in taxation in the six years of the Labor government. The government says that it is not a large proportion of non-farm domestic product, but the government’s increased borrowing right throughout the 1980s was conducted under circumstances totally different from the 1970s position. In the 1970s interest rates were negligible in real terms, but through the 1980s they have grown to a point of being very high interest rates. Interest rates are now beyond the historically established 3 per cent or so used for securities, which is the 3 per cent mentioned in the prospectus for the Victorian Equity Trust as a long term gilt-edge security.

The government has proven that it came into office with preconceptions, but it has not had the courage to admit its mistakes and that its preconceptions have been brought about by heavy borrowing to stimulate the economy. The reality is that the borrowing climate was completely changing from whatever might have justified the borrowing of funds at a real interest rate of 1 per cent to an actual interest rate of 5 or 6 per cent in real terms. The government cannot justify that ideologically motivated expenditure.

Again the government points to Victoria’s relatively good statistical record in areas such as unemployment. However, in all these areas in which the government so prides itself,
Victoria has always been at the forefront. A few years ago Victoria’s unemployment rate was the lowest of all States in the Commonwealth. Despite that, there are now an additional 27,000 unemployed people in Victoria than there were in the last days of the Liberal government. Some 27,000 people, together with those whose real standard of living has dropped in those years, are wondering what a Labor government has done for them.

One reason Victoria is in trouble and one of the symptoms of mismanagement by the Treasurer and the government is the $918 million lost on the stock market crash in addition to the $700 million in foreign exchange losses. The reality is that that figure is more than $1 billion because the figures used to arrive at $918 million were estimates based on figures other than those at the high point of the stock market.

When one examines the figures at the high point of 30 September 1987, one discovers that the loss was more than $1 billion. This is not something that the Treasurer can lightly brush aside because whatever investment policies were used, whatever private sector investment managers were employed by the Accident Compensation Commission, the guidelines on investment policy are the responsibility of the government, and particularly of the Treasurer.

Honourable members will recognise that the Treasurer has since given instructions after the horse has bolted. In February he told government authorities that investment exposure to stock market equities must be reduced. What a pity he did not do that in that exciting period between June and the end of September 1987!

The Hon. D. R. White—Is that what you did?

The Hon. J. V. C. GUEST—Yes. When the Accident Compensation Commission’s percentage in equities came down between 30 September 1987 and the low point after the stock market crash—a reduction from $470 million to $233 million—there was a loss of almost 50 per cent of the value of its equities, and the reduction in percentage terms was from 56 per cent to 39 per cent. I suppose 39 per cent looks reasonable, but if it is achieved by losing $250 million, it is not a good proposition.

There were other institutions that also had a high exposure to equities and some of them, including Monash University and the University of Melbourne, as recorded in the Auditor-General’s report, might well justify that high investment in equities. It is one matter to be involved with funds that are meant to produce income for an institution with an indefinite life and a completely different matter to have investments that are required for paying out benefits. It is completely different again to become heavily involved in the stock market, as did the Accident Compensation Commission, which commenced its investment policies when the bull market had been running for a considerable time. Although the State Electricity Commission Superannuation Fund seems to have been well managed when compared with other pooled funds for employees’ superannuation, there are other professional investors, such as the BT Australia Ltd group, which have achieved much better results.

Honourable members should recognise that the real test of the Treasurer and the Minister for Industry, Technology and Resources can be assessed by examining the Victorian Economic Development Corporation, which is a body with equity investments. One discovers that with an issued capital of only $32.5 million, part-time board members of the corporation have tried to pick winners across the spectrum of the share market.

The corporation’s latest annual report shows that it provided $1-2 million for loss on equity investments for 1986-87. However ignorant, who managed to lose money in 1986-87 on the stock market? Only the Victorian Economic Development Corporation! That was during the biggest bull market that has been seen for decades on the Australian Stock Exchange.

If the Treasurer or the Deputy Premier were willing to apply to themselves the standards imposed on the private sector by the National Companies and Securities Commission, we would have a statement of the way the Victorian Economic Development Corporation
fared in 1987-88. We would know how it fared up to January 1988 at the very least. When the Minister for Health addresses the House, it would be helpful if he informed us of the state of the VEDC’s portfolio up to date.

In the run up to the crash, the corporation boosted the number of its investments from 22 to 31 at a book value of $13.2 million; the rate of return on capital investment was only 3.7 per cent for 1985-86 and 15 per cent for 1986-87. That 15 per cent is really pretty phoney and it is not even impressive because at the same time professional equity investors were showing gains of 45 per cent and conservative pool funds were showing gains of 40 and 50 per cent in 1986-87. The reality of that figure was that it was produced by a one-off capital gain of $10.4 million on the sale of the corporation’s 50 per cent stake in the Hong Kong Bank of Australia Ltd last financial year.

It had that investment as a special privilege because it was the Victorian Economic Development Corporation; it was given a favour not through any decision to take investment bought on the market after valuation but it was given the traditional privilege of the stag. That is where its profits came from. This led to yet another absurdity by the government.

The government took a dividend of $4.9 million out of the VEDC on the basis of that one-off capital profit. The corporation’s own income showed a loss on equity investments of $1.2 million. That is a small but serious symptom because not only the Treasurer but also the Deputy Premier is playing with expensive toys instead of soberly running this State’s finances according to conservative traditional principles that have regard to the fact that politicians are not businessmen. Like businessmen, they are not infallible; they have a great many other things to do besides playing the stock market.

On education, we have found the numbers employed in the education system under the Cain government increasing by approximately 6000 from about 40 000, apart from those employed in the bureaucracy; yet the number of students has decreased by 26 000. Education is costing the State vastly more than it did in 1982, yet there is universal dissatisfaction with the State system as evidenced by the continuing flight to the independent system. No wonder that continues because there are many good State schools, many satisfied parents, and happy children learning from dedicated teachers but there is no confidence in the government’s handling of the education system.

Ultimately, the government is beholden to the unions. That is the way the people see it and why Victoria’s reputation suffers in this area of provision of services just as it does in the area of financial management. The customer is not receiving the benefit. Who had the benefit of the last major move in the education system? Simply, its unionised teachers.

There is the pretence of the 4 per cent second-tier wage rise being justified by increases in productivity— a completely illusory notion. On top of that, teachers have been given three days off at the end of the school year; three days less in which the children of Victoria will be equipped to compete in the job market and to help Australia compete with countries like Japan, which has been leaving Australia for dead.

The unions are this government’s Achilles heel. One overwhelming reason at the base of all other reasons why Victorians will reject this government is that for all the good intentions the government may have and for all the understanding some Ministers may have—I do not dispute the understanding of the Minister for Health and the Minister for Agriculture and Rural Affairs, who are present, on many issues—as a party, the Labor Party is beholden to the greatest upholders of restrictive practices, the greatest instinctive monopolists in the country, the very people who put narrow sectional gains before merit, performance or service.

It is a sad day in Australia when the Labor Party does not allow accredited journalists to its conference unless they prove they are union members. Because of the molly-coddling of successive governments—especially Labor governments—unions have become the refuge of those who feel inadequate or uncompetitive, those who live on myths and legends
and, to some extent, the history of far past times to try to justify their totally uncompetitive and antisocial behaviour in the present day. Who believes this? Nearly everyone in the community, including the majority of unionists, knows better than those who support a lot of unions just how antisocial and unconstructive is the leadership that is tied to the Australian Labor Party.

Let us again consider another area of failure; another area where one can state with overwhelming certainty the criticism that the borrowings and taxes have not given us value. Two months after the Cain government took office, the then Minister for Health declared that he had inherited the best health system in the country. Now, after years of industrial problems, the waiting lists are increasing, misleading statistics about government expenditure are being produced; misleading statistics are being produced to justify the sale of public hospitals, including the closure of Prince Henry's Hospital, one of our major public hospitals; and there has been a 40 per cent increase in public hospital charges in the past year.

Yet we find that the public hospital waiting list, which we were promised at the last election would be reduced, has risen by a factor of three to some 25 000 people in December 1987. Some 25 000 people are facing serious problems because the government has totally failed to use the money it has extracted from the taxpayers of this State and the money borrowed on the credit of future taxpayers of this State to do anything useful in the area of health.

In the area of housing, likewise, from June 1982 to June 1987 the Ministry waiting list has risen from 16 000 names to more than 34 000; a factor of more than two. One has only to examine the figures for arrears of rent and compare those to any comparable Ministry or commission in other States to recognise that one of the major factors in this failure to provide adequate public housing in the State is the inadequate use of the public housing stock we have.

Arrears of rent amounting to $14.5 million, after some $4 million had been written off, as reported in the last report of the Auditor-General, are some four times as high as the arrears in New South Wales where the public housing stock is twice as large. What we are looking at is a total failure of management; not just the financial mismanagement of this State, but the mismanagement of detail in each individual Ministry.

It is not surprising really, when one considers that all the career public servants that were appointed under the former Liberal government, with just one remaining exception, have been systematically weeded out by this government and replaced by people congenial to its ideas. The picture of mismanagement is made clearer still when one examines the 600 or 700 dwellings which have remained unused by the Ministry of Housing and Construction—sometimes for many months; sometimes in the course of being maintained and being renovated; but often having already been maintained and renovated and with nobody actually bothering to check up to see that that was the case.

It is a disaster when one takes it at face value. It is an absurd disaster when one compares that situation with the position in other States which did not even have the beneficial history of many years of previous honest Liberal governments to provide the sound basis on which this government started its career in government.

The Hon. D. R. White—Is the Auditor-General one of our appointees?

The Hon. J. V. C. Guest—The Auditor-General is someone who will be very welcome to continue in the service of the State of Victoria under a Liberal government.

The Hon. D. R. White—Who appointed him?

The Hon. J. V. C. Guest—The Parliament appointed him. The Auditor-General is responsible to Parliament. There have been some appointments which this government has regarded as being too important to its reputation for it to be seen to make political appointments. It is significant that two of the better appointments of this government
have been in areas where the persons concerned do not deal directly with Ministers and they are not required to do the day-to-day bidding of Ministers and, therefore, be particularly congenial. I refer to the Governor of this State, who was possibly one of the best appointments of this government, and the Auditor-General.

I dare say that the Minister for Health leads me on to consider the very real reason why the government may be loath to appoint somebody to simply do the government's political bidding without regard to a wider view of the State's welfare. We know the Public Service is seething with people whose innate integrity, honesty, and competence makes them anxious to see the end of this government so that at least they can do a decent, honest job for the State.

In the area of transport there has been not only the notorious early retirement scheme but also the fact that losses year by year, without even counting the interest charges and without counting the horrendously expensive sale and lease-back arrangements, have trebled to more than $1 billion a year in the time of this government—a burden so great that only radical measures will possibly make the public transport system of sufficient benefit to the State to justify its continuance at all.

The government knows already that a large part of its work force is inefficient and redundantly employed. The government knows very well that there are 600 or 700 guards who have no function. This goes to prove the point I was making that this is a government that belongs to the union movement—the most troglodytical, backward-looking part of the union movement which simply will not allow members of the government to keep their preselections and, at the same time, perform an honest job in the management of assets of this State.

Let me mention areas of neglect by the government because at least it cares about public transport; it is part of its doctrine to care about public transport. It cannot help but care about public health; it cannot help but care about education—it is, after all, one of the main delusions of a socialist government that it can remake our society by getting hold of the education system.

One area of neglect that honourable members should consider is the poverty that exists in the country. This government is now seen to put country interests so far down its list of priorities that it cannot honestly expect to win any seats outside the metropolitan areas at the next election. Recent Australian Bureau of Statistics figures show that thirteen of the fifteen poorest electorates in Australia, measured by average family income, are in the country. The Mallee, for example, is one electorate in Victoria where family income, on average, is under $20 000, yet there are many other electorates where the average family income is between $28 000 and $43 000.

In the country, too, is where one goes to find the horrendous unemployment figures of 18 to 25 per cent in some cases. It is not as though the government has been trying to do justice as between all members of the community to look after those most in need. The government has been neglecting large numbers of people and has not been able to make its core of metropolitan government functions work.

Let us look at one of the largest manifestations—or symptoms, I might also call it—of the government's incompetence. I refer to the Victorian Equity Trust which has just been launched. I do not pretend to have digested all the contents of its prospectus—a prospectus, I notice, which has the imprimatur of the Corporate Affairs Office and which has nicely avoided the kinds of restraints, standards, and criteria that are applied to the private sector.

If it has merit, it is a tribute to the tax avoidance industry. As I said before, some of those who are now unemployed are probably the ones who are unemployable but who survived from the bad old days of the bottom-of-the-harbour schemes by feeding ideas to this government. We have a device, not necessarily entirely a way of saving tax but, as
originally conceived by this Treasurer, a way of getting around his Federal colleagues' strings on excessive borrowing and it is billed as equity.

It is billed as a way of providing equity funds for public authorities which have, to a shameful degree, been made to depend on this government because borrowings have doubled. In fact, the proportion of their asset values to borrowings on the other side of the balance sheet over the period of the Cain government has been used to finance expansion, to finance working capital and to pay the increasing taxes which this government has levied through the public authority dividend. One could not disagree that equity capital is desirable under those circumstances, but this is not equity capital that is provided. How can one say it is equity capital in any ordinary sense when there is no risk to the investor?

The government guarantees the Victorian Economic Development Corporation and the VEDC will undertake to purchase the units in the trust in four years' time according to a scale which will virtually guarantee returns of 1 per cent or more above the rate that semi-government securities would provide over that period. Where is the risk that justifies giving a higher return? The government cannot dispute the idea that risk and return go together. It is stated in the last Budget Papers and it is stated in the Victoria Equity Trust's own prospectus that the return corresponds to risk.

Where are the incentives? One of the characteristics of equity capital is that good management produces higher profits and higher rewards. The cost savings go to the holders of equity. The improvements, as a result of more demand from effective marketing, go to the holders of equity. Where is the incentive? There is no incentive, of course, because the so-called equity holders will have no input into management, nor will the management of the public authorities have any direct incentive as a result of the setting up of the trust to improve their performance in these respects.

There will be no personal liability and none of the obligations of directors under the Companies Code which might land on them if they borrow in certain circumstances. There are no sanctions and it is not even the government's own public authorities that will ultimately bear the burden of loss if the VEDC finally pays out the unit holders.

Another important distinguishing factor between the so-called equity issues and what one would expect to come across in the lawful, honest commercial world is the absence of any statement of what the government was paying to the underwriters. I should like the Minister for Health to answer on this issue. What is the percentage fee, the absolute fee, being paid to J. B. Were and Son and McIntosh Hamson Hoare Govett Ltd? That is not stated, so far as I can determine, anywhere in this extraordinarily large document—the prospectus of the Victorian Equity Trust—nor is it surprising. Who are the sub-underwriters and what are they being paid? In particular, I ask if the Minister for Health could find out because I might raise the matter again in the debate on the motion for the adjournment of the sitting this evening. In any event, I hope he will answer later in this debate. Are those sub-underwriters statutory authorities? Are they government bodies? Are they, in fact, underwriters? Will there be publicly controlled moneys going into investment in the Victoria Equity Trust?

This trust is not only in essence a means of obtaining cash now to pay the government bills which can be recycled via public authority dividends into recurrent expenditure—in fact, paying interest bills for the government and putting the burden of actually paying and raising the taxes to pay on the lenders, the investors, for future financial years—it is also a way of avoiding the decisions that should be made this year.

It would be helpful to hear the government's true justification for the Victorian Equity Trust. It would also be helpful to hear the government's true justification for the typical legislative changes we get year after year—of which we have had several examples this year—which makes true accountability much more difficult because they obscure the comparisons that one would otherwise seek to make between years and because they add considerably to the time it takes to understand, by careful analysis, the documents published—always tendentiously by the government—on the financial affairs of the State.
The fact that months later, by use of freedom of information legislation or by noting careful comparisons between figures in subprogram documents, annual reports and so on, one might get some better idea of the truth. That is not really the point. When we are making decisions in this House, while the focus of the press and the public is on the decisions being made about Budgets, we need honest figures that allow proper analysis and true comparability and accountability.

I pointed out yesterday that the Energy Consumption Levy (Amendment) Bill embodied one of the fiddles that this government goes in for. The giant fiddle was to take a levy, never justify it, not abolish it in reality but only in name, and to incorporate that into gas pipes. The Victoria Arts Centre (Debt Transfer) Bill, which will do a splendid thing for the Arts Centre, will also unburden its large debt and incorporate that into the overall debt of the State. It will be buried there and it will simply help the government's ever-pressing necessity of covering up its tracks so that one can never, at a glance, see how this State has progressed from year to year under the stewardship of the Treasurer.

The Supply Bill itself manages to illustrate this problem, and I refer only briefly to the explanatory memorandum, which contains a statement of major changes that have been made between the passage of the 1987-88 Appropriation Act and the introduction of the Supply Bill. In fact, there should not be changes in any event without a comprehensive statement of what would have been the case were those changes not made. It makes it quite impossible to make comparisons and then to form a judgment about the appropriateness of a Bill that makes provision for supplementary appropriation that honourable members are required to pass.

The first and second pages of the explanatory memorandum contain a long list of changes. Perhaps I should refer to the details embodied in the notes attached to the table in the Bill, where one finds as good an illustration as anywhere else of the total obscurity which was produced by this verbiage in the notes that one received. Under the current description of programs and the recurrent works and services expenditure that is related to them, the statement appears to the effect that it is just as an indication of the program under which the expenditure has occurred. That is all it is.

In fact, it does not allow any kind of comparison to be made, and when one actually examines this indication, one finds that under the current table, in the section dealing with education, Program No. 291 deals with education Ministry services and the details of expenditure. Opposite that program identification, one notes the expression "281 (Part)". It does not say which part, so one is unable to trace the changes from a Budget that is only seven or eight months old to the Supply Bill, which is meant only to continue existing programs into the financial year ahead.

That is symptomatic of the whole state of the documentation provided, the whole state of financial management of this State and also of the government's terror that anybody should ever promptly find out the true state of affairs.

The Liberal Party is not without a remedy. Complete remedies for what the government has brought on the State are unlikely to be found, but the Liberal Party has a program that the shadow Treasurer has already announced. It is called the Victorian public finance rescue strategy. I should like to take the House through the aspects of that strategy. It is comprehensive, and the object of the strategy is real relief from State taxes and charges for every family and business and a dramatic reduction in government intrusion into people's lives and business activities in Victoria.

The elements of the strategy are as follows. Firstly, there is a commitment by the Liberal Party to making Victoria a low-tax State, which it suggests should be adopted by the government. The second feature is that a May mini-Budget should be introduced rather than waiting until August, well into the next financial year, to bring about the necessary changes.

The Liberal Party does not believe the necessary changes will be made by the government in August either, but, rather, that next year there will be a blatant election Budget, a blatant
attempt to cover up the long-term Budget necessities that have been forced on this State by this irresponsible government through the disaster of WorkCare and the sale and lease-back of assets, which can only mean the increasing depletion of the assets of this State.

The Liberal Party has a commitment to make this a low-tax State. It believes the government ought to accept this commitment, too. The Liberal Party wants a May mini-Budget to be introduced with expenditure restraint operative as soon as possible and, in all cases, not later than 1 July 1988.

Thirdly, the Liberal Party would commit itself in the 1988–89 Budget to reducing recurrent expenditure by 3 per cent in real terms in all Ministries, subject only to two important exceptions: the important areas of the Victoria Police Force and public hospital services.

Fourthly, it would discipline Ministries so that no new program could be commenced out of existing resources, that is, after the application of the 3 per cent real reduction. Therefore, resources for new programs would have to come from savings in other areas.

Fifthly, there would be a reduction of new public sector borrowings by restraint on capital works and in the use of borrowings for recurrent purposes.

Sixthly, there should be an improvement in the efficiency of management of cash surpluses to ensure that investment income is maximised. We would avoid taking on surplus loan allocations, which we believe the government should also do, simply because they are available, unless the expected investment yield is less than the cost of the funds.

Seventhly, a major point of departure for the Liberal government will be to use the proceeds of asset sales for the reduction of debt, commencing with the highest cost liabilities.

Eighthly, there is a need to radically change the policy of the government on foreign exchange exposure and to allow only unhedged foreign exposure where it is an investment directly related to the earning of foreign currency in the appropriate currency.

Ninithly, the government should set guidelines that prevent WorkCare and other agencies from making excessive commitments to the stock market and other high risk investment markets. The reasons for that are given abundantly in the examples with which I have already dealt.

The tenth feature of the Liberal Party’s strategy which should be taken up by the government is to confine lease-back arrangements to legitimate commercial transactions where the financial return exceeds the cost of finance obtained, which is not to be used as a means of simply raising revenue in the way it has been used by this government.

The eleventh feature is to abandon the sale of deferred annuities and other financing transactions which would simply defer liabilities to future generations of Victorians.

The twelfth point is that there must be a reversal of the growth in public sector manpower: firstly, by using natural wastage and the redeployment of personnel to ensure that public sector employment falls in absolute terms by at least 50 per cent of the natural attrition rate—and it must be remembered that approximately 7 per cent of public sector employment is lost every year to retirement and, therefore, it is only necessary to replace half of those retiring; secondly, by redirecting administrative manpower from administration to service positions so that the people of Victoria gain more efficient services; and, thirdly, by imposing absolute staff ceilings so that no agency can create new positions without Cabinet approval on the basis of demonstrated necessity.

The thirteenth feature is to ensure that the national wage case principles are strictly applied to require that superannuation and second-tier wage increases are based on practical and achievable productivity offsets instead of the fictitious programs pursued by the
government, which are shown up in the minority report of the recent Estimates Committee inquiry.

The fourteenth point is to confine the upward reclassification of Public Service and other public sector positions to cases of actual increases in position demands. The fifteenth point in the policy is to halt all expenditure on advertising and promotion of government agencies, Ministers and government policies.

The sixteenth point is to return to the private sector, with preferential rights for employee participation, existing public activities that do not provide a sufficient benefit to the Victorian community. There are many instances of that; the obvious ones are Victorian Government Printing Office and the State Insurance Office, and one could look to further examples of the metropolitan bus services, which are known to cost $1 a kilometre more than the services run by the private contractors.

This strategy shows beyond doubt that the Opposition is ready for government. It has an alternative economic strategy ready to go right now or whenever an election is called. It is a strategy the government could have put in place, if it were capable of admitting the errors it has made over six years and if it were capable of admitting the true state of Victoria's finances. It has brought the State to its knees by mismanagement.

On the motion of the Hon. H. R. Ward, for the Hon. N. B. REID (Bendigo Province), the debate was adjourned.

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

The sitting was suspended at 6.35 p.m. until 8.7 p.m.

HEALTH (GENERAL AMENDMENT) BILL

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

The Hon. M. A. BIRRELL (East Yarra Province)—The Bill is a significant rewrite of the laws relating to public health in Victoria and, from the outset, I should say that many of the proposals in it are not embraced by the Liberal Party and, when in government, the Liberal Party will be keeping a close eye on them.

The proposals increase the load on local government without increasing the financial support for it, and the Liberal Party also has reservations about the State government's decision to remove a limited number of powers from local government and transfer them to other government agencies.

The proof of the alleged value of those changes will be in the success of those agencies in dealing with the new powers and, as I will indicate further on, the Liberal Party has concerns based on representations to it about the ability of those agencies to do the work of local government in the areas concerned.

Other important aspects of the Bill relate to AIDS, and the Liberal Party will use this debate to discuss that issue and discuss the need for new legislative provisions that deal with some of the extreme cases of individuals who have had AIDS.

The Liberal Party's view on the regulation of public health is that the bodies best able to deal with that area are those closest to the issue. In most cases that will mean that local government is the appropriate body to rely on to enforce standards and to deal with complaints that have been raised by members of the community.

Local government has a very proud and well deserved reputation for doing an outstanding job in terms of public health, and it has received recognition from all political parties. In the name of rationalisation the government is suggesting some changes that are of concern to the Liberal Party.
In the second-reading speech the Minister for Health stated:

The Bill provides for the repeal of laws requiring the annual registration of special trades and for the transfer of responsibility for administration of tips and waste management to the Environment Protection Authority.

The streamlining of controls will be of considerable benefit to industries, like the pig industry, which are currently subject to multiple regulatory schemes, and it will eliminate duplication between State government departments and between State and local governments.

New laws on regulation of accommodation for hire will replace archaic provisions on common lodging.

Significantly, public health will in no way be comprised by these measures.

Certain concerns about that aspect of the Bill have been put to the Liberal Party by local government.

I refer to a letter from Mr Alan K. Lee, Shire Manager, Shire of Melton, dated 26 February 1988. The concerns expressed therein perhaps encapsulate the concerns of many local authorities about the changes to municipal responsibilities under the Bill. Part of the letter states:

It appears there has been a significant widening of council’s responsibility in the health area. Whilst council accepts this added responsibility it is concerned that where innovative public health programs are undertaken it won’t be funded to cover equipment and staff resources.

It is unacceptable to transfer or add new responsibilities to local government without ensuring that local government has the financial capacity to meet its new legislative requirements.

It is quite legitimate for the municipalities to complain when the State government says, “This is your new role”, but does not identify sources of revenue to meet the expenses of that role. For that reason the Liberal Party has reservations about the plans put by the government.

It is the right of the Cain government to determine administrative responsibilities, but the liberal party will be keeping an extremely close eye on the changes that are being made and will review the new provisions when it is in government.

The particular area of concern that has been raised by local government relates to the repeal of the special trades provisions of the Health Act 1958. In a very well prepared and detailed submission dated 9 March 1988 presented to me by Mr G. Page, of Maddock, Lonie and Chisholm—who are the solicitors for many municipalities—the following point was made about the special trades provisions:

The repeal of the special trades provisions of the Health Act 1958 is of some concern. Firstly, there currently exist some consents and registration conditions which apply to special trades which commenced prior to planning controls and prior to any requirement for Environment Protection Authority approval. Conditions which may no longer be enforceable. Further EPA approval may not be required.

We have in mind a number of current client cases where motor vehicles or motor vehicle parts are stored on land in connection with a motor car wrecking business or a motor repairer’s business which commenced prior to operation of section 696c of the Local Government Act and which have non-conforming use rights pursuant to planning legislation. At present the only control available to councils is the ability to prescribe conditions as part of a special trade registration which arises because the Third Schedule includes any trades usually carried on in or in connection with motor vehicle wrecking yards, junk yards and obsolete machinery yards. As registration is year by year, the effect of the repeal will be that registration is no longer required and the ability to require storage of vehicles or vehicle bodies or vehicle parts in an orderly manner will be lost. The conditions may not be serious enough to justify a nuisance prosecution but are unsightly in the extreme.

That is a practical voice on a practical issue. The government has said it does not want duplication and that the Environment Protection Authority should look after it. That is a decision the implications of which the government must bear. The Liberal Party sounds an alarm about the fact that the Environment Protection Authority may not be up to the task and, without any doubt, local government has done a good job in that area.
In the submission Mr Page further states:

No doubt special trade provisions are being repealed because of alleged duplication involving approval from the Environment Protection Authority or other government departments. We would submit that because of the numbers of inspectors employed in the various departments when compared with the health surveyors employed by councils, the ability to attend to problems and to maintain supervision of these types of premises will be substantially reduced. Departmental inspectors will tend only to react to complaints which are received.

I take very seriously the concern that has been aired in that correspondence that the Environment Protection Authority will be reactive rather than proactive, and that it will be a distance away from the complaint as against local government, which is very close to the immediate concerns of the surrounding communities.

Therefore, it is with some reservation that the Liberal Party will not oppose these plans, because we know that the government has a broad mandate to make some changes, but it will certainly keep a close eye on it and looks forward to reviewing the area when in government.

The Shire of Warrnambool, in a letter to Mr Alan Rassaby, the Project Director, Review of Health Legislation Branch, Health Department Victoria—a copy of which was sent to me on 2 February 1988—echoed similar concerns on behalf of many shires that are concerned about the changes. In that letter the Shire Secretary, Mr Alan J. Bowes, made the following pertinent comments about the special trades provisions:

The proposed legislation assumes that council control over special trades currently contained in the Health Act 1958 is no longer appropriate in the context of powers available to the Department of Planning and Environment, Department of Labour, Department of Agriculture and Rural Affairs and to local government, but council does not hold this view. For council to retain adequate control and supervision over such trades within the municipality, these sections of the Health Act need to be retained. Certainly council has planning control under its 100, but once a trade has been established and problems later arise that may constitute a nuisance, council can then only fall back on the nuisance provisions of the Health Act, which is rather like "shutting the gate after the horse has bolted".

That argument is one that the Liberal Party believes is logical. I again sound the warning that the Cain government should make sure that the Environment Protection Authority does its job well, so as to ensure that this attempt to allegedly remove duplication will end up being in the public interest.

Other councils have taken up this issue with the Liberal Party, but I shall conclude by drawing attention to a letter written by J. T. Kerr, Town Clerk of the City of Werribee, dated 8 April 1988. The letter is addressed to the Minister for Health and a copy was sent to me and makes the following points about the repeal of the special trades provisions which is envisaged in the Bill:

In our experience, the other agencies identified do not supervise, control and investigate the industry in Werribee to an adequate degree in order to protect the environment, the public or the worker. This council uses an independent consultant to assess the operations of industries, including special trades, and invariably the consultant uncovers deficiencies in operations not identified by the other government agencies. These deficiencies have been life threatening.

If special trades and existing section 42 (b) are removed from the Health Act, council will have no power to prevent dangers to health.

It is on the government's head that it makes this change. There are approximately 200 health surveyors in Victoria. Will the Minister explain how many inspectors the Environment Protection Authority would put into this type of work; how many there are now as compared with previous years; and, particularly, whether any new inspectors will be appointed to the authority to examine special trades and to take on this type of responsibility? The concerns of local government are genuine and concern an important part of the Bill.

The second Part of the Bill relates to new legal initiatives to control the spread of AIDS. The Minister for Health made it clear in his second-reading speech that these initiatives form part of a package. The Liberal Party appreciates that this package of provisions was
Health (General Amendment) Bill

arrived at after a great deal of consultation and has the support of many members of the medical and legal communities. The initiatives deal with a deadly new virus on which the Act is currently silent.

We take the view that, in the case of an individual who is knowingly transmitting AIDS, that person should be dealt with severely under the law. It will be a rare case, and the Liberal Party does not join with the minority who seek to treat AIDS as a cause for victimising individuals in society. However, in the rare case of someone who is knowingly transmitting an infectious disease, there should be no legal doubt that that person is in breach of community standards and will be dealt with in the appropriate manner. Currently there is doubt. There is simply no way of controlling the situation. I am not aware of cases in Victoria where this is occurring, but there certainly have been cases in New South Wales and Queensland. These provisions will be a step towards dealing with that matter.

The Liberal Party has, as part of its outlook on AIDS, a belief that we need to focus on high-risk groups. We should have, as the primary basis for our approach to reducing the incidence of AIDS, an education and consultation campaign. There must, however, be legislative backing and a capacity to penalise individuals in certain cases and, therefore, legal sanctions against those who knowingly spread AIDS should be put in place. The Liberal Party recognises that there is some community debate about this issue and will not use this Bill as a vehicle for outlining a more general policy on the control of AIDS.

I conclude by indicating that during the Committee stage of the Bill the Liberal Party will outline some difficulties with individual clauses of the Bill, in particular those raised with us recently by the Australian Medical Association and others. The Liberal Party looks forward, both during the Committee stage and privately, to discussing those matters with the Minister for Health.

The Liberal Party will move an amendment during the Committee stage to insist that any regulations made under the proposed legislation may be disallowed by either House of Parliament. There are some sweeping powers to be granted, particularly to the chief general manager, under this proposal. Disallowance is a safeguard, and it is important for the Legislative Council to insist that it have the right to disallow any regulation should that regulation be offensive. The Liberal Party will, therefore, be moving an amendment to that effect.

Within the context of the substantial reservations I have outlined with regard to some clauses of the Bill, the Liberal Party does not oppose the proposal.

The Hon. K. I. M. Wright (North Western Province)—This is the third draft of the Bill that has come to our attention. It is difficult for honourable members to reconcile the various Bills with the comments and criticisms that we receive from interested parties because as soon as one Bill is disposed of, another one is in its place. One has to reconcile both of those with the principal Act. A considerable amount of time is involved in doing that.

I thank my colleagues in another place, the honourable members for Mildura and Swan Hill, for their assistance and Mr Alan Rassaby of Health Department Victoria. As the National Party has only five members in this House, each of us is handling one in five of the Bills introduced. I am at present dealing with this health Bill, another health Bill, a local government Bill and two other major Bills. It is difficult to be a position to debate each of them. Usually, debate on Bills of this nature is adjourned for a week, but at this stage of the sessional period the National Party is cooperating in much shorter adjournments. For its part, the government is tolerant and sympathetic regarding the times when debates are resumed. It can be chaotic, because one minute we are debating one Bill, and the next minute there is another Bill. After the next election the National Party might have one or two additional members, which will make things easier.

This Bill is like the curate's egg, good in parts. The National Party is not keen on the first Part of the Bill, but is supportive of the Part that deals with infectious diseases and
strict controls. I note that AIDS is referred to in the Bill as HIV, an immuno-deficiency virus, which is apparently a more correct description.

A major factor in the spread of AIDS is the homosexual community. In Victoria more than 2000 people are suffering from the various categories of AIDS, and more than 95 per cent of those cases can be directly attributed to homosexual activity. The cost to the taxpayer and the government is already more than $1000 million. AIDS is easily prevented simply by people having only one sexual partner. I shall not say any more about AIDS because the President of Fairfield Hospital, Mr Connard, will touch on that subject at a later time.

The reference to local government in the Bill is horrendous. The community does not realise precisely the implications of the Bill; councils are just starting to realise the implications. The National Party has had discussions with the Municipal Association of Victoria, and it is slowly coming to appreciate the difficulties the Bill will cause.

Under the Bill, councils will be directed into certain activities. Some of those activities will be impossible to perform. The Chief General Manager of Health Department Victoria will have absolute powers over the 210 local councils in Victoria. The Bill is the missing link in the Local Government Bill. The National Party was puzzled by that Bill, and it now realises the full implications.

The Chief General Manager of Health Department Victoria can delegate public health responsibilities to local councils. He can impose those responsibilities on an officer of council. That will deprive the council of any say in the matter and will leave the ratepayers to pick up the tab. That is why differential rating figures so strongly in the Local Government Bill.

I have received much correspondence about the Bill, and I shall refer briefly to some of it. The Shire of Wycheproof has expressed concern about special trades. It wants provisions dealing with that to be retained in the Act. The shire believes that if those provisions are removed from the Health Act there will be little control over special trades. The shire is also concerned about the controls on septic tanks. It cannot see any benefit in the control over septic tanks being transferred to the Environment Protection Authority. It believes it would be better if control were retained by health surveyors. In discussions prior to the debate in this House, I learnt that the EPA already has some measure of control because it sets the regulations.

The Shire of Dundas has written to my colleague, Mr Hallam. It refers to the provision about the Crown not being bound by measures relating to nuisance. It believes that is anomalous. A nuisance is a nuisance wherever it occurs, and the shire believes the anomaly should be corrected. It has requested that the National Party move to amend the Bill to ensure that the Crown is bound by the provisions in the same way as everyone else. It is a major problem and should be considered in all the areas in which government is involved.

The Victorian Hospitals Association Ltd is an influential organisation and represents hospitals in Victoria. It has raised a number of matters with Mr Birrell and me in our capacity as spokespersons for our parties on health matters. The association is concerned about clause 9, which deals with section 25 of the principal Act. It refers to vesting in the chief general manager the powers and duties of a medical officer of health and a council health surveyor. It believes any such power and duties should be exercised only after full consultation on the advice of suitably qualified experts.

The association also referred to proposed new section 119. It has advised me that it is uncertain about the term "unlawful discrimination". That implies that there could be lawful discrimination. I ask the Minister to inform the House what lawful discrimination is.

The City of Mildura expressed concern about proposed section 44 (3). It states that if a nuisance is likely to occur, the council must refer the matter to a justice who may summon the person to appear before the Magistrates Court. I and other honourable members
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directed that to the attention of the Minister and Health Department Victoria, and a new provision will be substituted.

The City of Mildura referred also to proposed section 228 (1) (b), which refers to boarding houses and common lodging houses.

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

A quorum was formed.

The Hon. K. I. M. WRIGHT—I hope the Minister can answer the concerns of the City of Mildura regarding mobile hairdressers who, obviously, do not operate from a specific premises. Despite that, it stands to reason that there should be controls over such operations.

Concern has been expressed about proposed section 5A, which refers to the objects. Proposed section 5A (b) states:

The objects of this Act are—

(b) to help people live as full a life as possible no matter what their pre-existing level of health.

How will that provision help the sufferers of AIDS and people suffering from other diseases and illnesses?

Proposed section 5A (d) states that a function of the chief general manager is:

To equip individuals and local communities to take responsibility for their own health.

Any discerning honourable member will appreciate that "local communities" means "local councils". Local councils will be lumbered with the cost of that program. Another function of the chief general manager is:

(f) To monitor the activities of, and to assist, other agencies which have an impact on public health and, if necessary, advocate on behalf of the Victorian public for the adoption and enforcement by those agencies of appropriate standards.

It would be appropriate to say that many councils operate from their own resources and for them to be subject to the chief general manager for appropriate standards will cause difficulties.

Part 1B of the Bill refers to health impact statements. It is likely there will be a large number of such statements, which will be at council cost.

Clause 6 refers to the delegation by the chief general manager. Section 8A (1) (d) states in part that a function can be delegated to:

... any council or officer of a council ...

That could mean the most junior officer of the council, who could have a function or power delegated to him or her by the chief general manager. I ask the Minister to explain the implication of that provision.

Clause 11 provides for the functions of councils. It states:

"29A. The function of every council under this Act is to seek to prevent diseases, prolong life and promote public health through organised programs including the prevention and control of—

(a) environmental health dangers; and

(b) diseases;

The National Party believes this is an imposition on councils. These are dangerous provisions. Before I am called to order, I direct to the attention of the House clause 219 of the Local Government Bill, which is linked with this Bill because that clause refers to the suspension of a councillor. It states:

The Minister can recommend to the Governor in Council the suspension of all councillors of a council who fail to perform a function they are required to perform.
This health Bill is linked with the Local Government Bill. New section 29A continues:

(c) health problems of particularly vulnerable population groups . . .

(f) monitoring the activities of and assisting other agencies whose work has an impact on public health and, if necessary, advocating on behalf of the people within the municipal district for adoption and enforcement by those agencies of appropriate standards . . .

(h) ensuring that the municipal district is maintained in a clean and sanitary condition.

That will be difficult. The Shire of Mildura has under its control the Sturt Highway stretching right through the municipality, through Mildura to the South Australian border and the Calder Highway from the boundary around Hattah Lakes through to Mildura. It has the problem of keeping these roads in a clean and sanitary condition.

Honourable members from the city who travel on country roads will realise there are numerous kangaroos in the area. According to the Bill, this will mean that many kangaroos are bowled over and killed on these roads, and this will create a significant responsibility for the councils. Clause 29b (3) states:

Every council must review its municipal public health plan annually and, if appropriate, amend the plan. Again this is a demanding responsibility on the council.

Clause 12 provides for the special powers of the chief general manager, and it states:

"36A. If, in the Chief General Manager's opinion, there is an emergency or sudden necessity, the Chief General Manager may do all or any of the following:

(a) Order a council to perform any duties that the Chief General Manager directs;

A municipality, which is an autonomous body, can be directed by the chief general manager to perform any duty that he directs. Mr Laurence Maher, of the Law Institute of Victoria, has pointed out that the clauses relating to nuisances do not properly define the term.

The Hon. M. A. Birrell—That has been fixed.

The Hon. K. I. M. Wright—It has been pointed out that the definition of "nuisance" has been amended following debate in another place. Section 39A, which appears on page 7 of the Bill, overcomes that problem.

Clause 13 provides for a proposed section 42 which relates to the offence of causing a nuisance and states:

A person must not—

(a) cause a nuisance;

The Victorian Hospitals Association has sensibly suggested that that should be "purposefully cause a nuisance", because someone can cause a nuisance without intention, and it would be incorrect for that person to be charged with an offence under the provision.

Clause 15 provides for the protection of water supplies; this is an important clause. The National Party supports it.

In the North Western Province, which is represented by Mr Dunn and myself, there are open channels at Heathcote and in other towns, which previously were diverted through non-urban areas but, because of the explosion of population, houses were built alongside these open channels. In one street, near a kindergarten and a primary school, there are 29 children, and there is an open channel that enters the street. It is amazing that a fatality has not occurred there. One channel has four children residing on one side of it and three children residing on its other side.

The clause refers to the pollution of water and the protection of water supplies. When the water is low mosquitoes become a problem as well as pollution. I commend the regional director of health, Mr John O'Neill, who acted properly and quickly in conjunction with the Rural Water Commission of Victoria and this matter has now been resolved. The channels are now being replaced with underground conduits.
The Victorian Hospitals Association pointed out that there is not a definition of a medical officer for health. I believe that is a valid comment but, after discussion with departmental officers, I understand there is a definition in section 3 of the Health Act.

I have already mentioned clause 21, which refers to unlawful discrimination and I ask whether there can be lawful discrimination. The clause makes it an offence for a person to infect another person. Mr Birrell has referred to this matter. There are very few social crimes that would be greater than for a person to knowingly spread the disease of AIDS. It would be a heinous thing to do.

Proposed section 123 (2) in Division 4, which relates to the power of the Governor in Council to proclaim an emergency, states:

A proclamation—

(a) must state the area to which it applies; and

(b) last for the period, not exceeding two weeks . . .

Now the period is to be four weeks. The National Party believes that is an inadequate period. I ask the Minister to explain to the House what is intended by that clause.

Under the heading “Division 6—Special Provisions Relating to the Human Immuno-deficiency Virus”, there are stipulations concerning the information to be given to a person requesting a test for HIV. I understand that the human immuno-deficiency virus is the most dangerous stage of the disease of AIDS. The National Party strongly supports the provisions in the Bill which refer to infectious diseases and AIDS, as well as to the nuts and bolts of the administrative matters dealt with in the Bill.

However, the National Party has great difficulty with and concern about the horrendous clauses that provide for the transferring of important powers to local government, without local government receiving sufficient funds from the government to carry out those powers. The Bill is linked with the Local Government Bill, which provides for the introduction of differential rating so that local councils can raise more money from ratepayers to fund the exercise of the powers transferred to them.

On behalf of the National Party I will move a reasoned amendment. I shall not comment further on it because I have previously covered the points it deals with. I move:

That all the words after “That” be omitted with the view of inserting in place thereof the words “this Bill be withdrawn and redrafted to—

(a) more adequately express the methods of the provision of health services in Victoria and the transfer of duties from the Health Department to local government; and

(b) make provision for adequate funding to cover the added responsibilities placed on city and shire councils”.

The Hon. M. A. Lyster (Chelsea Province)—The government will oppose the reasoned amendment moved by Mr Wright. I oppose the reasoned amendment because I have been closely involved with the people who have been redrafting the Act in such a major way.

The Minister for Health invited me to join the advisory committee in 1986. That advisory committee was chaired by Dr Terry Carney of Monash University. I should particularly like to comment on the excellent review process that has been followed since that time, which has resulted in the drafting of the Bill. The committee was representative of community attitudes and I shall comment about some of the people who were members of the committee because the way in which the committee operated reflected the wish of both the Minister for Health and the government, which was that a major rewriting of the Health Act be undertaken to reflect more accurately the needs of all Victorians.

Some of the members of the advisory committee were Dr Terry Carney of Monash University, and Mr Alan Hughes from the Victorian Hospitals Association. I shall not mention all the names, but the committee included representatives from the Health Issues Centre, the Environment Protection Authority, local government, the Law Reform Commission, the Attorney-General’s Department, the Victorian Council of Social Service,
Health Department Victoria, Community Services Victoria, the Victorian Trades Hall Council and the Department of Community Medicine at the University of Melbourne.

Those representatives met regularly to examine recommendations and discussion papers, as well as possible ways of arriving at legislation that was appropriate for the Victorian community, not only for 1988 but also for the next century. Those representatives acknowledged that any proposed legislation should be sufficiently flexible to meet the needs of the community.

As I read through my notes of the process that has taken place since March 1986, I discovered my copy of the minutes of the first meeting, which, as one would expect, was addressed by the Minister for Health. I shall quote briefly from those minutes, which, because they are minutes, are in summary form. In his opening address the Minister said that he wanted the health legislation to be rationalised. The Bill represents a commonsense approach to the way in which proposed legislation should be drafted. Secondly, the Minister said that there should be a shift from regulation-driven administration to a policy of goal-directed administration, where that was reasonable, possible and desirable. Thirdly, the Minister argued for a proper balance to be struck with other levels of government and non-government organisations. The third point the Minister raised, which emphasised the need for a close relationship between various State government departments and local government, has been competently addressed in the Bill.

Recently, I spoke about a particular review process that addressed sensitive matters in the community—and I was referring to the operations of a joint Parliamentary committee. The Bill is not the result of such a review process; nevertheless, it was important that the process of redrafting the Act was properly undertaken—and it is important to explain the review process that has been followed and has resulted in the introduction of the Bill.

Most honourable members will be familiar with the discussion papers that were prepared by the review team. They were excellent discussion papers that helped to focus the minds of relevant people in the community on the issues that should be addressed by any legislation which is concerned with public health. The first paper to be presented was an overview of public health legislation; and it was an excellent summary of the need for such legislation, what the goals of such legislation should be, what particular areas should be addressed, and how both the review team and the advisory committee believed health legislation in Victoria should be focused into the next century.

That discussion paper was followed by papers on particular issues such as infectious diseases, nuisance, municipal tips, the sanitation system, the waste management system, special trades, and the use of waste water. Throughout the time that the discussion papers were being prepared, consultation was occurring with bodies which were represented on the advisory committee and on other bodies throughout the State. Local government, because of its importance in the delivery of health services was a prime target for consultation from the beginning of the process to which I have referred.

The people in local government who are essential to the implementation of health legislation are the health surveyors. There have been meetings with regional groups of health surveyors in Ballarat, Horsham and Rutherglen, to ensure that the review team was confident of its ability to be cognisant of the views of health surveyors. A questionnaire was compiled in conjunction with the Swinburne Institute of Technology and the Australian Institute of Health Surveyors Victoria, which was of great value to them. The questionnaire sought the views of health surveyors about their current role, together with their thoughts on the roles they should have in the future, as well as their training needs.

Because health surveyors are such important people in the implementation of health legislation, the response to the questionnaire was valuable to the review team. Again, because of the importance of local government in the implementation of such legislation, meetings were held that were cosponsored by Health Department Victoria and the Municipal Association of Victoria. Meetings were held in Bairnsdale, Horsham, Shepparton and Camberwell, each of which lasted half a day, and each of which attracted a large
attendance. The meetings provided the review team not only with valuable information but also with the opportunity of making the issues raised in the discussion papers the subject of further discussion.

Consultation occurred with the trade union movement. There was a colloquium on the problem of infectious diseases which is a major part of the proposed legislation. A conference on this was held on 15 April 1987, sponsored by the Australian Association of Community Physicians, the Department of Community Medicine, University of Melbourne, the Department of Social and Preventative Medicine, Monash University, and the Fairfield Hospital. That was an important gathering, and the information that flowed from that conference was very valuable to the review team.

Members of the review team have been speaking to meetings throughout the State, including meetings of regional consultative councils, which play an important part in Victoria’s information distribution network.

Advertisements have been placed in Melbourne papers. Consultations were held with district health councils, where they exist, and a series of seminars was conducted on the important issue of acquired immune deficiency syndrome. The seminars involved groups who have a special interest in the subject and they prompted further discussion in the community.

Discussions were held with many local councils. The first seven discussion papers prompted responses from 171 councils, and 79 councils responded to the first draft of the Bill. In addition, responses were received from water boards, regional weights and measure groups, regional health groups, the Municipal Association of Victoria and the Metropolitan Municipal Association.

Every major group involved in the implementation of the proposed legislation has had ample opportunity to express its views on any matters raised and to address itself to possible anomalies between the proposals and the real world. I concede that it is easy, in the drafting of legislation, to make errors about some practical aspects but, through this excellent process of consultation conducted by the review team, every opportunity has been given for all those concerned to express any problems that they may have.

I have been extremely impressed by the response of the review team to those concerns. I pay tribute to the work done by Mr Alan Rassaby and Beba Loff for the way that they have overseen the rewrite of the proposed legislation. It has been a momentous task and I have nothing but praise for the conscientious, assiduous and creative way that they have approached their task, right up until this evening. They have listened to community concerns, have examined them and given advice to the Minister about the way in which those concerns should be addressed. I again offer my congratulations to them for the way in which they have done their work.

I now wish to canvass the objects and one or two clauses of the Bill. The objects of the Bill are extremely important and embody the very philosophy of the proposed legislation. The objects are:

(a) to ensure equity in health; and
(b) to help people live as full a life as possible no matter what their pre-existing level of health; and
(c) to reduce the incidence of disease, disability, distress and symptoms of ill health; and
(d) to reduce the incidence of untimely death.

Those four objects encompass all that any government should be seeking as a goal, and I acknowledge that those objects are a goal. The government may not achieve all of those goals in their entirety. But every organisation must have corporate goals upon which strategies may be developed and I believe the government could do no better than to accept those four objects for its major public health legislation.

I now deal with each of the objects separately. I read a report that indicated there was no need to have as an object: to ensure equity in health. I believe sufficient evidence is
available to indicate that it is in fact appropriate for that object to be incorporated in legislation as a goal at which any government should aim. Equity in health seeks to ensure that members of the community, regardless of their status, sex, class, race and ethnicity or region, have equal opportunities of access to good public and private health services.

When I saw that object I was reminded of the fine report of my colleague, Mrs Kay Setches, the honourable member for Ringwood, on the status of health of women in Victoria, which highlighted the differential nature of access to health services, according to one's sex. The examples quoted in that report highlighted the problems of women in rural areas, who felt isolated from health services, particularly health services with which they could identify and about which they could feel comfortable. The report showed that equity in health services is still not available to many women throughout Victoria.

The Hon. G. P. Connard—Mr Acting President, Mrs Lyster's contribution to the debate is so riveting that more honourable members should be present to hear what she has to say. A quorum is not present.

A quorum was formed.

The Hon. M. A. Lyster—As I said, the position of women in our community exemplifies the fact that while we—that is, the Parliament of Victoria—may aim for equity in the provision of health services, there is still a long way to go.

When one considers the regional distribution of services in my own region 8 one sees that, as a result of history, psychiatric services have not been equitably distributed. I am proud to say that the government is taking action to ensure that psychiatric services which have in the past been heavily concentrated in region 7 will be redistributed and will be provided in my region.

That leads to the second object of the Bill which is:

to help people live as full a life as possible.

This object has specific relevance for people with disabilities, whether they be physical, psychiatric or intellectual disabilities. The object clearly typifies the wish of the government to enhance people's potential, regardless of their health or of any disabilities from which they may be suffering. The government has taken a commendable and excellent step in seeking, for example, to relocate patients from Willsmere Hospital—not to close beds, which was the habit of a decade ago, but to relocate patients into more appropriate community-based dwellings. This is intended to achieve the objects outlined in proposed section 5A (b):

to help people live as full a life as possible.

The government is seeking to achieve the aims of the International Year of Disabled Persons to ensure that education, employment, mobility, housing and, most importantly, community attitudes are improved in response to the needs of people suffering from disabilities.

The third object of the Bill is:

to reduce the incidence of disease, disability, distress and symptoms of ill health;

That is a predictable object of any piece of public health legislation.

One hundred years ago public health legislation would have been preoccupied with rats, typhoid, infant mortality, the provision of water supplies and sewerage. We live in different times. It is more appropriate that present proposed legislation reflects the public health problems of the 1980s and 1990s and the Bill does that.

The Bill encompasses the notion of community general health—not just the diseases with which we are familiar but a broader definition of health which moves into the environment in which we live and seeks to promote a healthy environment.
I hope to have an opportunity during the Committee stage to comment further on some specific provisions of the Bill which I believe are features of it and reflect the government's concern to achieve a healthy environment. I refer to the importance of immunisation of children prior to school entry, which is a specific recommendation of the proposed legislation.

I shall raise now the importance of genetic research as it is not mentioned specifically. The Bill encourages research and mentions it as an expectation by any government of its health department.

Members of this House would expect me to comment on the importance of immunisation because they will be aware of my role as chairperson of the Statewide standing committee on specialist child and family services. The committee has an interest in generalist services for children and how those services affect the need for and the incidence of treatment by specialist services for children in our State. In that context, the immunisation program supported by Health Department Victoria is an integral part of the specialist services program.

I believe the Victorian government is the first government in this country to take up in legislation the 1982 recommendation of the National Health and Medical Research Council by ensuring that parents will be required to produce a certificate of immunisation of their children prior to school entry, with certain options for those parents for whom that presents a difficulty.

The last objective of the Bill is:

9. The Chief General Manager must—

(a) establish a comprehensive information system which includes information on—

(i) the causes, effects and nature of illness among Victorians and groups of Victorians; and
(ii) the determinants of good health and ill health; and
(iii) the utilisation of health services in Victoria; and

(b) analyse and disseminate this information widely to members of the public."

Clause 7 is a vital part of the Bill. Representatives of many groups in Victoria have approached me through my work with specialist child and family services and have said that this is one area in which Health Department Victoria has been unable to assist in the promotion of health in the community. Clause 7 and all that will flow from its application will yet again result in Victoria carrying the flag and setting the example for good practice in public health throughout the country.

One of the most important features of the Bill is that it will ensure that Health Department Victoria has a structure which reflects its functions. As a result of the proposed legislation
it will be divested of unproductive and inappropriate functions, which will either be
relocated to other departments or will be dispensed with entirely, because there is much
that currently exists that is not necessary any more.

Interdepartmental cooperation, particularly the examples that have been quoted in
respect of the Environment Protection Authority, will be fostered. I hope relationships
with the Federal government will also be fostered. I believe the relationship between the
State government and local government will improve as a result of the proposed legislation.
As Mr Birrell said, because local government is closest to the concerns of the community,
the Bill locates many functions in the correct and proper place. As a result of the proposed
legislation each arm of government will understand the roles, functions, responsibilities
and accountabilities of the other. The result will be that the public health legislation will
be appropriate to take Victoria into the next decade.

The task of rewriting the Health Act has been monumental. It has been carried out in
an exemplary manner. I commend the process that has been followed. I have been fairly
close to that process. I commend those who have been involved, particularly Mr Rassaby
and his team. I also thank all the parties who have been involved in the past two years
working towards ensuring that this State has legislation of which it can be proud. The
Minister for Health asked for legislation that would truly reflect current thinking in the
health field. I believe the wishes of the Minister have been fulfilled. I commend the Bill to
the community because I believe it will serve its interests, and I commend it to the House.

The Hon. G. P. CONNARD (Higinbotham Province)—I acknowledge, with a degree of
pride and pleasure, that Mr Robert Lawson, my colleague in representing Higinbotham
Province, is currently in the chair as Acting President.

At the outset I shall indicate my specific interest in this important Bill, namely, Part VI,
relating to the management and control of infectious diseases, as Chairman of the
Committee of Management of the Fairfield Hospital, and Chairman of the Macfarlane
Burnet Centre of Medical Research.

Before I explore some of the issues in that part, I shall comment on Mrs Lyster's
contribution, which I thought would have been more appropriate for debate on the Health
Services Bill, currently in another place. I hope she does not repeat those interesting
historical facts when she deals with that Bill.

The Liberal Party has had consultation with interested groups, including the Australian
Medical Association, which sent a communication to my colleague, Mr Birrell, today. I
have not had time to thoroughly digest that document, but many of the concerns of the
association should be addressed in regulation rather than by this Bill. I hope the Minister
for Health will read the correspondence and take note of the concerns expressed by the
association, perhaps overcoming some of those concerns by regulation.

The Hon. K. I. M. Wright—They are a bit late, aren't they?

The Hon. G. P. CONNARD—The correspondence is late, and I regret that because I
should like my party to have considered those matters in more detail.

I turn to the concerns expressed by my colleague in the National Party, Mr Wright, who
has moved a reasoned amendment to the second-reading motion. In a report to the City
of Moorabbin regulatory services committee, the group manager, health and regulatory
services, Mr A.R. Holland who, as the House knows, is also the current president of his
professional association, expressed concerns about the first part of the Bill to which Mr
Wright adverted. His remarks are encapsulated in the following quotation from the council
minutes:

It is of major concern that too great an emphasis is being placed on the use of the "nuisance" provisions of the
Act to solve all manner of problems . . .

It could be argued that with the regulation-making powers provided under the Health Bill and the Local
Government Bill (No. 2), all of these matters will be dealt with adequately. However, it is not considered
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This report is dated 29 February this year. It suggests that the introduction of the Bills is not appropriate unless suitable regulations are enacted almost immediately. The Liberal Party does not intend to vote with its National Party colleagues, but I seek from the Minister an assurance that he will introduce suitable regulations almost simultaneously with the enactment of these Bills so that the health surveyors can continue their jobs, taking care of the concerns Mr Wright described.

I turn now to Part VI, which relates to the management and control of infectious diseases. The provisions are a rewrite of past provisions. I compliment the Minister on the appointment of Mr Alan Rassaby and his ability to negotiate—

The Hon. M. A. Birrell—That is your personal view, is it?

The Hon. G. P. Connard—it is a personal view and that of my party as well as others; he is a fine officer. I acknowledge the Minister’s timely introduction of this Bill.

The Bill will remove a number of the provisions which, for various reasons, are unenforceable and will replace them with wider powers. Concern may be expressed about those wider powers, but traditionally the Chief General Manager of Health Department Victoria, and the Chairman of the former Health Commission, have always had extremely wide powers and even wider powers when dealing with infectious diseases.

The proposed legislation clarifies the powers of the chief general manager to order examinations such as blood tests, as well as counselling and the isolation of patients as referred to in proposed section 122. There has always been an implied authority in the previous legislation that people could be held and treated at Fairfield Hospital.

The proposed legislation makes it absolutely clear that, in certain cases of contagious disease or an issue determined by the Chief General Manager of Health Department Victoria, people can be ordered to be examined, counselled and isolated. The original Bill provided for quarantine but the Fairfield Hospital suggested that the appropriate word was “isolation”. Honourable members will recall that quarantine is a Commonwealth term. There is specific Commonwealth legislation referring to quarantining patients. One can be quarantined only by order of the Commonwealth Department of Health in Canberra. Such Commonwealth patients will then be placed in the national high security unit at Fairfield Hospital for clinical treatment.

The Bill also clearly states that, for the first time, it will be an offence to knowingly infect another person with an infectious disease, and this is a new provision. The word “knowingly” covers cases where the person suspects that he or she is infected, and that has to be read in conjunction with proposed section 120, which also provides that it is a defence if the infected person has been informed or has voluntarily agreed to accept the risk of infection. That is a particularly important provision in the Bill.

Adequate provisions are contained in the Bill to protect people who may be infected with an infectious disease. The interpretation attached to Part VI is quite clear and makes provision for people to be protected from unlawful discrimination, to have their privacy respected, to receive information about the medical and social consequences of the disease, and to have access to the available and appropriate treatment. This is very important, and I suggest that Fairfield Hospital is the right and appropriate place for people suffering from infectious diseases to have available to them the correct treatment.

I recognise that the Minister for Health acknowledges that. Fairfield Hospital, particularly with its infectious diseases unit, and experience with human immuno-deficiency virus—HIV—which should be used in preference to AIDS, which is an inappropriate term, is the main provider of clinical and research facilities in this State.

The provisions relating to HIV are good because they provide for the chief general manager to make an order in writing stating that he believes a person to be infected with
HIV, and requiring that person to be examined and tested, to undergo counselling, and to be isolated at the place stated in the order.

The chief general manager may also authorise a member of the Police Force to arrest, without a warrant, a person who requires isolation or a person who is not so isolated. The member of the Police Force may enter premises and use any force that is reasonably necessary. This, of course, may cause some outcry from people such as civil libertarians, but this is the way it must be. There is no doubt, historically speaking, that Health Department Victoria has had draconian powers over many decades, but it has not used them indiscriminately or stupidly. They have been used only for the protection of the community and such powers should remain in force.

The Bill provides for tests for HIV, and states that the medical practitioner must not carry out a test on a person unless it is requested, and the medical practitioner is satisfied that that person has been told of the consequences of being tested, and the results of the tests are made known to the person. It is important to have a sequential arrangement for people who have this unfortunate disease. Sufferers certainly require additional counselling. I have great pride in saying that the institution of which I am chairman is appropriate to conduct such counselling. The hospital is doing it now, and doing it well.

People attending the infectious diseases section also require additional counselling. What that means is, before somebody is tested, he or she should be counselled, and also afterwards. I trust that the appropriate facilities will be made available for this to occur, that is, additional staff must be provided for counselling services. I point out to the Minister that additional funds may be involved in that suggestion.

This is an enormous problem at the hospital in that its medical social work department cannot keep up with current counselling, without the requirement of compulsory counselling now being introduced. Yet this is an important proposal that will be introduced by the Bill.

The Minister for Health and the Chief General Manager of Health Department Victoria have been to Fairfield Hospital and are well aware of the problems, but the Bill places clear obligations on any institution that provides a service for testing because those tests must ensure absolute privacy. As I have said in this House on a previous occasion, HIV is not totally a homosexual disease. There are many bisexual men who must be assured of privacy so that they can have the confidence to attend an institution with testing facilities.

The Bill clearly states that a person in charge of a laboratory service undertaking the testing must ensure that written records are kept relating to the number of tests carried out, the number of persons tested and the categories into which they fall, including those that have been diagnosed for the first time. This information must be sent to the chief general manager at the end of each prescribed period. It is interesting to note that the information concerning antibody positive persons must be passed on to the chief general manager. I suggest to the Minister that it would be better if the information were kept at the institution that is regarded as being the leading authority in this State—the Fairfield Hospital. We will need to observe great caution dealing with patients to maintain confidentiality, but the Fairfield Hospital has already done that with success.

I turn now to proposed section 134 where provision is made covering the right of action against persons who have been infected with HIV through blood or tissue donations, and their right of redress. This is a significant provision and in the future may require further amendment. However, at this stage the Fairfield Hospital is content with it. In summary, the provisions in the Bill are very timely in view of the problems Victoria will face with HIV. It is a brave step on behalf of the government to introduce such a measure and it should be commended.

Mr Acting President, I note the incidence of HIV and its cost to the community. I seek leave to have incorporated in Hansard four tables.
The ACTING PRESIDENT (the Hon. Robert Lawson)—Order! I understand that the President has examined these tables and is of the opinion that they are suitable for incorporation. Is leave granted?

The Hon. K. I. M. WRIGHT (North Western Province)—Mr Acting President, I do not believe the tables have been shown to the National Party. It is a tradition in this House that documents to be incorporated in Hansard should be referred to the President, the responsible Minister and the spokespersons from the other parties.

The Hon. G. P. CONNARD (Higinbotham Province)—Mr Acting President, I apologise to Mr Wright, but I believe I have shown these tables to him on another occasion. I should have ensured that he was shown them again this evening, and he is now being provided with them.

Leave was granted, and the tables were as follows:

### TABLE 1

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* Does not allow for any widening of guideline

Full Catchment Y/E 1989 $140,000
Extra 1990 $28,000
Costs 1991 $52,000

These figures are conservative.

### TABLE 2

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The Hon. G. P. CONNARD—As honourable members will be aware, these tables refer specifically to Fairfield Hospital. Fairfield Hospital is the main centre in Victoria involved in treating infectious diseases, and is resourced by Health Department Victoria.

The excellent Executive Director of Fairfield Hospital, Mr Phillips, prepared a forecast of total actual and projected costs for AIDS at Fairfield Hospital from 1986–87 to 1990–91. Referring to Table 1, for 1986–87 the total cost of the disease was $4·54 million. As there was little incidence of the disease in the previous year, the costs were absorbed in the general hospital costs. The advice I have been given is that the number of cases of this disease doubles every ten months; therefore, for 1987–88 the projected cost is $7·979 million; for 1988–89, $17·15 million; for 1989–90, $22·9 million; and by 1990–91, $52·8 million. These figures are just for the treatment of this one disease.

That figure can be multiplied five times to estimate the national cost. In four years the national cost will be more than $1 billion. AIDS is divided into three categories, AIDS A, B and C. AIDS A describes those suffering with the disease in full flight. The patient has the virus and all the secondary symptoms; almost certainly it will be fatal. The figures for actual and estimated cumulative cases of category A AIDS cases at Fairfield Hospital are given in Table 2 incorporated in Hansard.

I shall not read them other than to say that on 31 December 1985 there were 23 reported cases of AIDS; by 31 December 1991, it has been estimated there will be 2456.

Table 3 lists the actual and estimated in-patients days for patients suffering from AIDS and AIDS-related conditions. The list is representative of the three categories of AIDS. For the year ended 30 June 1987, 3102 in-patient days were recorded; by 30 June 1991, it is estimated that 35 000 in-patient days will be recorded. Table 4 lists the AIDS-related outpatients attendances at Fairfield Hospital. In 1985–86 there were 1276 attendances and, by 1990–91, 22 000 have been estimated. The reason I had these tabled incorporated in Hansard was to place on the public record the severity of the disease, which should be of concern to our community.

Fairfield Hospital is the leading Victorian institution for providing clinical and nursing care for the majority of AIDS patients. It is supported by the Macfarlane Burnet research institute, which has a newly founded virology unit headed by Professor lan Gust. Not only is Professor Gust a well-known Australian virologist but he is also well-known internationally. Under his direction the new virology unit will have a major research component.

Within the Macfarlane Burnett research institute, there will be five virology research units, which will draw experts not only from this country but also from overseas. They will try to discover a cure and the appropriate drugs to treat the unfortunate AIDS sufferers. With a degree of pride I say that Mr Richard Pratt headed a fundraising appeal committee for the new virology research units. The appeal opened in the latter part of last year. More than $2 million was raised in less than four months with the support of the corporate sector. More funds will be sought for that research. I am appreciative of Mr Pratt and his committee for their magnificent report.

The committee should be concerned about the spread of AIDS by anal intercourse. In the main, it is spread by the homosexual community. If this subject is not treated carefully,
I envisage a serious revolution by the community against homosexuals. I do not care who is ill or dying, or whatever category illness a person may be suffering from, the patient deserves the appropriate and sympathetic treatment funded by the community. Because of the high costs associated with the treatment of this dreadful disease I can envisage a serious backlash by the community.

The Hon. K. I. M. Wright—Save one AIDS patient at the expense of 50 others!

The Hon. G. P. CONNARD—That is part of the ethical problem, but the problem we may experience in the community is that the high costs may be borne by many in the community. If that occurred, I should regret it. Irrespective of how the disease is contracted, we have a moral duty to provide any sufferer with the necessary treatment.

The homosexual community has helped its brethren. Not only has it raised money but it has also been linked with the Fairfield Hospital in trying to provide the appropriate support mechanisms that HIV sufferers need. The link between the Fairfield Hospital and the Victorian Aids Council is strong. I hope that continues.

These important issues should be aired. I rarely compliment the Minister for Health, but he has given the Fairfield Hospital tremendous financial and moral support. Through his Ministry, Fairfield Hospital has been provided with the physical means to continue to treat and care for HIV patients. Not only on behalf of Fairfield Hospital but also on behalf of the people suffering from this disease, I thank the Minister for recognising the problem and for his personal support.

This is not a party issue; it is a community issue. The Minister will confront no opposition on this particular issue and I hope he never will. From time to time this House is able to deal with issues of genuine community affairs issues that have crossed party lines. The former Minister for Community Services recognises that they were not party issues but community issues. We must work across party lines and over the barriers of the central table in this Chamber to help solve these problems.

I am certain that, as time goes by, honourable members will hear more from me on this issue. The Liberal Party will not support the reasoned amendment of the National Party because, despite what Mr Wright said about not having enough time, sufficient time has been allowed and consultation has taken place. However, because Mr Wright is busy with several shadow portfolios, perhaps he did not have sufficient time. The Liberal Party supports the general intention of the proposed legislation.

The Hon. M. A. BIRRELL (East Yarra Province)—I point out formally that the Liberal Party will not support the reasoned amendment. To do so would be to defeat the Bill and, in that sense, Parliament would be rejecting universally supported controls over the spread of AIDS. I am sure the National Party does not really want the Liberal Party to do that.

The Liberal party shares the view of the National Party upon which the reasoned amendment is based, which is that local government deserves a fair go. I adverted to that subject during the second-reading debate but, because the vast bulk of the Bill has to do with AIDS and because the proposed legislation is needed now, the Opposition cannot support a reasoned amendment that would have the effect of killing the whole proposal.

The Opposition will continue to keep a very close eye on the impact of the measure on local government. The Opposition will certainly voice the concerns of local government and act on them when it is in power.

The Hon. W. R. BAXTER (North Eastern Province)—I appreciate Mr Birrell's predicament and he is right in saying that the provisions of the Bill dealing with AIDS have universal approval and deserve to be enshrined in legislation at the earliest possible date.

Mr Birrell went on to acknowledge that the Bill has some obnoxious provisions, especially in relation to local government, and I do not accept his reasoning that the House should pass a Bill that contains obnoxious provisions just because desirable provisions are
incorporated within it. If we were to accept that principle, we would be providing the
government with an avenue to pass through Parliament all sorts of measures by attaching
obnoxious provisions to highly desirable provisions.

All the reasoned amendment asks for is a redrafting of the Bill to take account of certain
remarks and objections voiced by Mr Wright and by local government. As Mr Wright said
earlier, by interjection, the matter is quite simple: the Bill can be split into two parts easily
and the AIDS provisions can be passed by Parliament next week and the other provisions
can be further examined.

Therefore, I want to place on record that the National Party is in no way standing in the
way of the passage of the provisions dealing with AIDS. That matter can be attended to
expeditiously, quite simply, even with the adoption of the reasoned amendment.

The House divided on the question that the words proposed by Mr Wright to be omitted
stand part of the motion (the Hon. G. A. Sgro in the chair).

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<tr>
<th>AYES</th>
<th>NOES</th>
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<td>Mr Arnold</td>
<td>Mr Baxter</td>
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<td>Mr Birrell</td>
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<td>Mr Chamberlain</td>
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<td>Mr Ward</td>
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<td>Mr White</td>
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**Majority against the amendment 26**

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2
The Hon. D. R. WHITE (Minister for Health)—In response to the matters raised by Mr Birrell about special trades and the need for, in his view, additional resources for the Environment Protection Authority, I place on record the following comments.

Councils have other powers they may exercise to control industry, including planning and nuisance powers. In addition, since the advent of special trades legislation 150 years ago, new agencies have been created that also place standards upon industry. For example, almost all special trades are “scheduled premises” under the Environment Protection Act, which means they cannot be established without EPA permission. They are also licensed on an annual basis. There is currently a duplication in pollution control between the EPA and councils.

The Department of Labour now has an extensive role in the occupational health and safety area, thus the need for council officers to become involved in these types of disputes at the workplace has been substantially diminished. In addition, abattoirs and slaughterhouses, which are special trades, are also supervised by the Department of Agriculture and Rural Affairs and in some cases by the Commonwealth Department of Primary Industry.

Representatives have been made to the review which suggest that certain industries, such as piggeries, have been dissuaded from establishing in Victoria because of the current state of overregulation and the stigma of being classified as a special trade. Business groups have also claimed differential treatment of similar industries in areas controlled by different councils. Repeal of special trades legislation may encourage more industry to establish in this State.

I make it clear that what we are indicating here is that there is duplication and that, as a result of the transfer of responsibility for special trades to the Environment Protection Authority, given the functions it already undertakes and personnel already employed, there should not be a need for additional resources.

In response to the matter raised by Mr Connard about the timing of the implementation of the regulations, regulation making will commence over the next couple of months and will be introduced progressively over the next twelve months.

The clause was agreed to, as were clauses 3 to 7.

Clause 8

The Hon. D. R. WHITE (Minister for Health)—I invite the Committee to vote against the clause. Following representations made to the government, we will not now proceed with clause 8.

The Hon. M. A. BIRRELL (East Yarra Province)—It was in response to a letter to me from the Executive Director of the Australian Medical Association, Mr Ron Hastings, that the Opposition aired these concerns about clause 8 with the government. Mr Hastings described this clause as “a sweeping provision” and it would seem there is no need for it. We are pleased that the government is withdrawing the clause in response to those representations.

The clause was negatived.

Clauses 9 and 10 were agreed to.

Clause 11

The Hon. K. I. M. WRIGHT (North Western Province)—I shall not go over the ground I covered during the second-reading debate. In summary, I said that clause 11 devolves power on councils that will be costly. The issue is tied up with clause 219 of the Local Government Bill, which has yet to be debated in this House and which gives the Minister the power to dismiss councillors for not carrying out the provisions of that clause. The National Party is echoing the concern of councillors and will oppose that clause.
The Minister has not yet responded to some of the matters raised in the second-reading debate. He responded to Mr Birrell's concerns but he did not respond to the matters raised by the National Party.

The Committee divided on the clause (the Hon. G. A. Sgro in the chair).

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AYES

Mr Arnold
Mr Birrell
Mr Chamberlain
Mr Connard
Mr Crawford
Mrs Dixon
Mr Henshaw
Mrs Hogg
Mr Hunt
Mr Kennedy
Mrs Kirner
Mr Knowles
Mr Landeryou
Mr Lawson
Mrs Lyster
Mr McArthur
Mr Macey
Mr Mier
Mr Miles
Mr Murphy
Mr Pullen
Mr Reid
Mr Sandon
Mr Storey
Mrs Tehan
Mr Van Buren
Mrs Varty
Mr Ward
Mr White

Tellers:

Mrs Coxedge
Mrs McLean

NOES

Mr Baxter
Mr Dunn
Mr Hallam

The Hon. D. R. White—But you need speak on it only once.

The Hon. M. A. BIRRELL—Yes.
The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

2. Clause 13, page 11, line 17, after this line insert—

"(2) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962."

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 14 to 20.

Clause 21

The Hon. D. R. WHITE (Minister for Health)—I should like to move an amendment that has not been listed at this stage. I move:

Clause 21, page 19, line 12, after "it" insert "of him or her".

The reason for the amendment is that the government believes the insertion of those words will clarify the provision.

The Hon. M. A. BIRRELL (East Yarra Province)—The amendment appears to meet the concerns raised by the Australian Medical Association about the interpretation of this provision. The Opposition therefore supports it.

The amendment was agreed to.

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

3. Clause 21, page 28, line 32, after this line insert—

"(3) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

(4) Disallowance of a regulation under sub-section (3) must be taken to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962."

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 22 to 25.

Clause 26

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

4. Clause 26, page 31, line 15, after "213." insert "(1)".

5. Clause 26, page 31, line 40 after this line insert—

"(2) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purpose of the Subordinate Legislation Act 1962."

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 27 to 30.

Clause 31

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

1. Clause 31, line 16, after "31." insert "(1)".

2. Clause 31, after line 20 insert—

'(2) In section 376 of the Principal Act, after "376." insert "(1)".'
(3) At the end of section 376 of the Principal Act insert—

"(2) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962."'

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

Clause 32

The Hon. M. A. BIRRELL (East Yarra Province)—I move:

6. Clause 32, page 33, line 37, after this line insert—

"(2D) Regulations made under sub-section (2C) may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the Subordinate Legislation Act 1962.

(2E) Disallowance of a regulation under sub-section (2D) must be taken to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962."'.

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

The Bill was reported to the House with amendments, and the amendments were adopted.

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

That this Bill be now read a third time.

In so doing, I thank the Liberal and National parties for their support for the substantive measures in the Bill, and I thank Mr Alan Rassaby and others in the team for their work in producing this major piece of legislation over a significant period.

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

STATE BANK BILL

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

LEGAL PROFESSION PRACTICE (INCORPORATION) BILL

The debate (adjourned from April 19) on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs) for the second reading of this Bill was resumed.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Bill is important to the solicitors of the State. It is designed to give legal practitioners the opportunity of incorporating their practices. Many professionals have that opportunity these days, because of restrictions in the Legal Profession Practice Act, it is not possible for the legal profession to incorporate.

As stated in the second-reading speech, the Law Institute of Victoria has over many years urged successive governments to amend the Act to allow solicitors' companies to provide legal services. At one stage the Law Institute asked the former Attorney-General, Mr Haddon Storey, to legislate along these lines, and Mr Storey prepared a Bill. Unfortunately, at that stage the Law Institute elected not to proceed because of difficulties it foresaw with the operation of the Trade Practices Act of the Commonwealth Parliament. However, the profession now joins most other professions in saying that it wants the advantages of incorporation.

Parliament has had to examine whether those advantages can be given to the legal profession without concurrent disadvantages to members of the public who are dealing
with lawyers. The Legal Profession Practice Act dictates who can provide legal services, and currently they may be provided only by a sole practitioner or partnership, which is a group of individuals working together for the purposes of profit.

The problem is that, particularly in larger firms where the personnel in the partnerships are constantly changing, all sorts of difficulties are created. A corporation, on the other hand, has perpetual succession and its own legal identity and it goes on regardless of the change of the personnel of the shareholders.

In addition, when there are changes in the membership of the company it is a relatively simple matter to transfer shares, whereas, if a partner retires or dies, it is a complex matter to accommodate those changes, which mean additional tax returns to the date of death, or, in the case of a retiring partner, the date that the partner leaves the firm. There are also problems with the partnership raising funds because it is necessary to deal with each individual, and in a large firm in Melbourne where there could be 30 or 40 partners, potentially all the partners have to enter into loan agreements with banks and so on. In this case incorporation has the advantage of being a separate entity, having perpetual succession, going on forever, and it is relatively simple to deal with the changes in the shareholders.

The Bill sets a number of preconditions before a legal practice can be incorporated. Firstly the memorandum and articles of association of the company must be approved by the Law Institute. The Bill makes reference to the nature of the memorandum and articles. Secondly, the company must carry on only the professions of the legal practice. For example, it cannot be selling cars at the same time. Thirdly, the company must hold a practising certificate. Fourthly, and importantly, the company must be incorporated as an unlimited liability company. In other words, whereas many people in business form a company to obtain the benefit of limited liability, in this case Parliament is saying that a solicitor who incorporates his practice cannot hide behind limited liability to escape responsibility for his clients.

There is a concept of unlimited liability. It means that if the liabilities of a company exceed both the assets and the unpaid liabilities in shares of the company there is the ability to have recourse to the shareholders.

The fifth requirement is that each director of a company must hold a current practising certificate. As honourable members would be aware, each company has to have at least two directors, and there is a requirement that each director must have a current practising certificate. Approximately 1200 sole practitioners are registered in Victoria, and consequently an arrangement had to be reached whereby a second director could be appointed in addition to the sole practitioner. It has been arranged in that way so that a spouse or a child or some other person approved by the Law Institute of Victoria may be the second director. The sole practitioners are not precluded from entering the scheme.

The sixth condition of incorporation is that all company directors holding certificates of the company may be liable for all acts and defaults of the company as if the directors were solicitors in partnership. They cannot use the company to evade their liability under other requirements. That is very important for the protection of the public.

The seventh condition is that all shares in the company must at all times be registered in the name of a person holding a current practising certificate. Restrictions are placed on who can make a transfer of shares. The final major condition is that when the practising certificate of a shareholder is cancelled or suspended the shareholder must transfer his or her shares to the other shareholders in the company.

With those conditions, Parliament is seeking to ensure that the public continues to be protected. Those concerns are covered by the various conditions. Having assured itself on those points, and knowing that the legal profession is looking for the Bill, I indicate that the Liberal Party supports the Bill, but I must declare my interest as a solicitor who is not
in partnership but who could be in a legal company at some stage. I have a potential interest in the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—I am surprised that a Bill of this nature has not come before the House earlier because it seems to be a commonsense move. I note the remarks made by Mr Chamberlain. When Mr Storey was Attorney-General he prepared a Bill, because of objections by the Law Institute of Victoria he decided for various reasons not to proceed with it.

It is surprising that it has taken so long for what is a fairly common practice in virtually every other industry and profession to be introduced into the law profession. It seems that firms are entitled to the facility and simplification that the corporate structure provides.

I note that the formation and subsequent dissolution of partnerships is a very complicated, time-consuming and costly business. I do not know whether solicitors find it difficult to get on with each other but if one peruses the changes that are notified in the journal of the Law Institute of Victoria from time to time one sees that many partnerships are being dissolved, and not always due to retirements because of age. It seems to be a case of shifting sands!

I am aware from my own experience, although not as a solicitor but from helping clients of firms, that partnerships that have been dissolved or radically altered by the departure of former partners can cause complications. I regard the incorporation procedure as being a step forward.

However, as Mr Chamberlain has outlined, there are some significant differences to what would normally apply in incorporation. I think appropriate safeguards need to be used in this profession, and without doubt, the most important is that the body created will be of an unlimited liability nature so people need not fear that if there is negligence on the part of a solicitor he will be able to hide behind the limited liability structure that may apply in the normal corporate sense, and the client could thereby be denied due recompense. I am pleased that that provision is included in the Bill.

Other safeguards including the necessity for all shares to be held by a person who has a practising certificate are commendable. Safeguards are provided to ensure that the practitioners have absolute control of the incorporated body, and I therefore do not see any danger of outside interests being able to make policy decisions.

The National Party regards the Bill as a welcome initiative. It will particularly assist country legal firms, many of which have one practitioner or two partners, and I am sure they will benefit from the Bill.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. C. J. HOGG (Minister for Education)—Firstly, I thank members of the Opposition for their contributions. I move:

Clause 2, line 6, after "day" insert "or days".

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

The Bill was reported to the House with an amendment, and passed through its remaining stages.
FLORA AND FAUNA GUARANTEE BILL

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:
That this Bill be now read a second time.

THE PURPOSE OF THE LEGISLATION

This Bill provides for the enactment of a landmark piece of conservation legislation—for a flora and fauna guarantee. Two lifetimes are all it has taken to change the face of Victoria. In that short interlude a land of forests and woodlands, wetlands, heaths and grasslands, teeming with wildlife, has been transformed. What seemed to be a boundless expanse was opened up to yield its riches. But we did not always treat the land well. We have discovered that there are limits to how hard it can be pressed, and the signs of stress are now clearly evident: through the erosion of soils, the spread of salinity and pest plants and animals, and through the steady decline of our wild animals and our native vegetation.

However, a quiet change is spreading across Victoria. On farms and in the forests, in rural towns and in the metropolis, more and more people are joining in the task of restoring the land. Where once farmers were clearers of trees, now they are planters. Where once nature was seen as the enemy, we are now working together to restore wetlands, to re-establish habitats for native species.

This change of heart has come none too soon, however, because our native species are in peril. In fact, they face the greatest threat to their survival that has occurred in the whole history of evolution. Our records show that at least 20 species of mammals, 2 species of birds, and 35 species of vascular plants have vanished from Victoria in the space of 150 years. Furthermore, at least 700 native species are threatened right now. This means that about one in five of all the native vertebrate animals and vascular plants still living in Victoria is facing the prospect of extinction. This is not a situation that any section of the community believes should be allowed to continue.

In recognition of this, the government has prepared legislation for a native flora and fauna guarantee. This Bill will provide the basic legal powers, and the modern, efficient and effective management systems which are needed for the protection of the State's native species. It provides a framework for public participation, and for updating the provisions of the Wild Flowers and Native Plants Protection Act 1958 and for their consolidation into the new legislative structure.

The conservation of our native species is something that must involve a cooperative effort by both the government and the community. The task is simply too great to be shouldered by either alone. The mandate, the need for the Bill, the exhaustive consultation process involved in the development of the Bill, the objectives of the Bill and the benefits of having it have all been covered extensively in the second-reading speech in another place.

CONTENTS OF THE BILL

The Bill establishes clear objectives, including the aim to guarantee that all Victoria's taxa of native flora and fauna, other than those expressly excluded, can survive, flourish and maintain their potential for evolutionary development in the wild. A taxon is a taxonomic group such as a species.

The Bill will formally establish a Scientific Advisory Committee. The committee's primary task is to advise the Minister on the purely technical question of whether a species or a community of flora and fauna is threatened and whether a particular process is really a threat. A secondary task is to provide management advice to the Minister and director-general, which would be considered along with advice from many other sources. A formal process, involving public participation, is set out for determining the listing or delisting of taxa, communities and potentially threatening processes. There is also a requirement that, as soon as possible after a listing, an action statement be prepared.
Provision is made for the preparation of a flora and fauna guarantee strategy that would give an overview of the whole program, including resources available, the program for implementing the Bill's objectives and the means of minimising the social and economic impact of that program. The Bill establishes a procedure for preparing flora and fauna management plans, involving public consultation. The director-general is also empowered to determine the critical habitats of taxa and communities.

The key new power which would be established is that of the interim conservation order—an ICO. It is designed to give immediate and comprehensive protection so that there is a breathing space during which a program for long-term protection can be worked out for a particular critical habitat. These orders will be used only as a last resort where there is no other viable alternative available to protect the taxon or community. The Minister will make the last resort decision after consultation with the chairpersons of the Land Protection Council and the Conservation Advisory Committee. An interim conservation order could be applied at short notice, if necessary without prior notification. However, during the first 90 days of its operation there is an obligation on the director-general to consult with those affected by the order and other interested parties with the intention of fine tuning the order so that it is not unnecessarily restrictive and can so far as possible, meet the needs of all interested parties. If necessary, the order may be extended for up to an additional two years in the case of listed items. Where a compelling case exists, the order could be applied for a short time to taxa or communities which are undergoing assessment for listing. Where an ICO is being used to protect a nominated item, the determination of the listing must be completed within 90 days.

Interim conservation orders may override existing use rights where the exercise of those rights would jeopardise a listed taxon or community. Compensation, however, would have to be paid. Long-term protection of habitat at the end of the operation of the order would be provided, so far as possible, through voluntary agreements with the land manager or other relevant parties. Where such cooperative arrangements were not possible, statutory protection could be applied under the provisions of other relevant Acts, in particular the Planning and Environment Act 1987.

The powers to protect flora from taking, trading, keeping, moving or processing are broadened from those provided in the Wild Flowers and Native Plants Protection Act 1958. However, the very wide exemptions of private landholders, and those with the landholder's permission, from controls over taking where protected flora is not offered for the purposes of sale have been carried over. The handling of protected animals would continue under the Wildlife Act 1975.

The Bill provides that:

(A) possession of protected flora is evidence, and in the absence of evidence to the contrary, is proof of possession of protected flora in contravention of the legislation;

(B) a certificate of an authorised officer is evidence, and in the absence of evidence to the contrary, proof that a plant is a protected plant of the kind stated in the certificate; and

(C) in proceedings under this Act, a certificate of the director-general indicating whether an interim conservation order was in force in respect of a particular area of land is evidence, and in the absence of evidence to the contrary, is proof of the facts stated in the certificate.

RESPONSE TO CONCERNS

The government decided several years ago that the Bill would not provide for general vegetation clearance controls. To reinforce this decision, the interim conservation order is, on private land, limited to the protection of the critical habitat of threatened species or other taxa, and cannot be applied for the protection of the critical habitat of threatened communities. The order is also subject to rigorous consultation requirements, to appeals against its terms and conditions, to compensation for non-speculative losses and costs...
arising from the application of the order and to appeals against the determination of compensation.

Landholder rights in relation to the interim conservation order are exactly the same for owners of land as they are for lease or licence holders. These rights cover consultation, appeals on the terms and application of orders, compensation, and appeals on compensation.

It should be noted that clause 43 (10) in this second Flora and Fauna Guarantee Bill provides for appeals against the determination of compensation to be taken to the Land Valuation Board of Review by way of a cross reference to the Land Acquisition and Compensation Act 1986.

The Bill establishes that the Conservation Advisory Committee and the Land Protection Council have the right to advise the Minister on any matters arising from the administration of the Bill. This includes giving advice on the criteria for listing, the Scientific Advisory Committee's recommendations, the preparation of management plans and the making and application of interim conservation orders. Where these committees provide comment to the Minister on the listing recommendations of the Scientific Advisory Committee, the advice must be made available to the public.

In addition, the Conservation Advisory Committee and the Land Protection Council and its associated Land Protection Regional Advisory Committees may advise the director-general on any matters arising under the proposed guarantee legislation for which the director-general has responsibility. This includes giving advice on interim conservation orders and management plans.

Other bodies such as the Victorian Farmers Federation, the Timber Industry Council, the Victorian Sawmillers Association, the Victorian Chamber of Mines, the Conservation Council of Victoria, the Victorian National Parks Association, field naturalists' clubs and farm tree groups will be consulted from time to time as is appropriate to the issue under consideration.

When making a draft flora and fauna management plan the director-general must consult with any landholders whose interests, in the director-general's opinion, may be directly and materially affected by such a management plan. A notice must also be given to affected landholders when a draft management plan has been completed.

Land management cooperative agreements and codes of practice made under the Conservation Forests and Lands Act 1987 would be able to be used for the purposes of the proposed flora and fauna guarantee legislation.

Where the proposed legislation calls for notices to be published in a newspaper and it is specified that the newspaper should be one circulating in the area relevant to the notice, it is the government's intention to use very localised newspapers in most circumstances. Local newspapers seem to have a higher readership rate per area covered than regional papers.

Listing of taxa and communities does not determine specific areas of land or elements of waters which are to be the subject of conservation concern. This must be done separately. The listing process under the proposed legislation is therefore not comparable with National Estate listing under Federal law.

No regulatory controls of any sort nor any requirements to take regulatory action arise from the action of listing a potentially threatening process under this Act.

There is a provision for a critical habitat to be kept confidential so that a landholder's or other manager's property is not subject to unwelcome or damaging visitor pressure. Also there is nothing, in any way, in the Bill which gives or extends rights of private citizens to enter a person's property.
The controls contained in the Bill are designed to be flexible and targeted so that the maximum conservation effect can be achieved with the minimum level of impact on landholder and other interests.

The Bill provides for the issue of permits for the control of protected plants, including those which are members of listed taxa or communities. Such permits can be issued only if the controlling action does not threaten the conservation status of these plants as a taxon and does not threaten the conservation status of the community of which they are a member.

Propagation of rare and threatened plants will generally be encouraged. Consequently, it is expected that for most plant species, a licence will not be required to authorise the keeping, trading in, moving or processing of propagated plants.

CONCLUSION

There is no doubt that this measure represents a marked improvement on what has gone before. If the 700 or so native species that are currently facing the prospect of extinction in Victoria are not to suffer the same fate as the 57 species which have already been lost, it is essential that the Bill is passed with its full complement of provisions.

I commend the Bill to the House.

On the motion of the Hon. M. T. TEHAN (Central Highlands Province), the debate was adjourned.

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

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL

For the Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs), the Hon. J. H. Kennan (Minister for Transport)—I move:

That this Bill be now read a second time.

BACKGROUND

The Bill makes a number of significant improvements to the State’s criminal injury compensation scheme. The Bill reflects the government’s commitment, in line with its social justice policy, to ensuring that appropriate support and assistance should be available to the innocent victims of crime and violence. The changes proposed in the Bill are based primarily on recommendations made by the Parliamentary Legal and Constitutional Committee in its major report on support services for victims of crimes, tabled last November. The Bill also contains amendments based on recommendations of the Crimes Compensation Tribunal drawn from its experience.

The Bill contains the second major increase in the level of tribunal awards made by the government since it took office in 1982. In 1982 the maximum amount recoverable by a victim of crime in this State was about $10,000. Following a major review of the Act undertaken by a working party headed by Alan McDonald, QC, the maximum level of compensation was doubled to about $21,000 and the pecuniary loss element of compensation was indexed. The effect of indexation of the pecuniary loss element has been to raise the maximum amount payable to about $27,500. The government now proposes that the maximum level of payment be increased to $50,000. Regulations will soon be made to that effect. This very substantial increase in the maximum level of payments—from about $10,000 to $50,000, a 400 per cent increase in the space of five years—is a practical illustration of this government’s commitment to ensuring adequate compensation for victims of crime.

As honourable members will appreciate, the criminal injuries compensation scheme is funded entirely from the consolidated revenue. In the financial year 1986–87, the Crimes Compensation Tribunal made 2695 awards totalling $6.8 million.
CURRENT SCHEME

As the scheme now stands, compensation is available to victims of crime and, in cases in which the victim has died, to his or her dependants, for pain and suffering—maximum level $7500; expenses, such as medical, dental, and funeral costs resulting from the crime—maximum level $3000; and pecuniary loss through incapacity for work—maximum level indexed $17 000.

LEGAL AND CONSTITUTIONAL COMMITTEE REPORT

In November 1987, the Parliamentary Legal and Constitutional Committee reported on support services for victims of crime. Chapter 2 of the report is devoted to crimes compensation.

The committee's proposals largely reflect those made by a New South Wales task force which reviewed criminal injuries compensation in New South Wales in 1986. That task force found that Victoria had the best scheme in Australia, and recommended that, with some modifications, it be used as the model for new legislation in New South Wales.

The Legal and Constitutional Committee's main recommendations relate to the determination levels of compensation for criminal injury. In particular the committee found that current limits on compensation payments are too low. The key elements of the Bill substantially adopt the unanimous recommendations of the committee.

As honourable members will be well aware, the constraints on government spending are as tight as they have ever been. At the same time many worthy programs compete for those scarce resources. The government's social justice strategy accords a high priority, in the allocation of those resources, to protecting and enhancing the opportunities for and the quality of life of those most needing it. Consistent with that strategy and with the recommendations of the committee the government has agreed to raise substantially the available levels of compensation. The increases in each category of compensation will be as follows:

1. Compensation for pain and suffering

   The maximum award payable for pain and suffering will be increased by 167 per cent, from $7500 to $20 000. This generous increase will significantly benefit most victims, since payouts for pain and suffering represent over 90 per cent of total compensation awarded by the tribunal.

2. Expenses

   The Act currently contains three limits on the payment of expenses incurred as a result of the crime: only expenses incurred in the first year after the crime are able to be compensated; an award can be made for only 80 per cent of those expenses; and a limit of $3000 applies.

   It should be noted that payments are made only for expenses actually and reasonably incurred and which arise from the crime.

   The Legal and Constitutional Committee felt that the current limits were unduly restrictive. It called for the removal of the monetary limit and of the 80 per cent rule and it proposed that the one-year limit on expenses be extended to two years.

   The current limits do cause hardship in some cases: for example a rape victim may need more than one year of costly psychological counselling. The government has accepted the committee's criticism. In fact the government has decided to go further than the committee's recommendation and not restrict the payment of expenses to a two-year limitation, but to provide compensation for all expenses, subject to approval by the tribunal and to the overall limit on awards of $50 000.
3. Pecuniary loss

At present, maximum awards for pecuniary loss are set by reference to benefits available under the Workers Compensation Act 1958. Thus, the maximum benefit available to a person with dependants, who is totally incapacitated, is $326 per week for twelve months. Benefit levels are to be raised to accord with WorkCare payments. The current maximum is $457 per week.

Compensation for pecuniary loss will normally be payable for a maximum period of one year, but the present law which restricts claims under this heading to a maximum of one year is modified. In future an applicant may at the end of one year seek an extension of the order to cover a second year's pecuniary loss.

Only a very small number of victims require compensation for more than one year, but the government recognises that extension of the present time limit will greatly benefit those victims who have suffered very serious injury and who are not adequately compensated by other schemes.

These changes will be made by the Bill and by regulations to complement it.

MONITORING OF SYSTEM

The new system of criminal injuries compensation will be reviewed after two years of operation. The purpose of the review will be to ensure that equitable compensation is paid to genuine victims of crime. In order to assist the review process, the government will monitor the value and nature of compensation payments.

OTHER AMENDMENTS

The Bill also effects other worthy changes to the Act that have been proposed either by the committee or the tribunal itself:

1. REMOVAL OF DISCRIMINATION AGAINST VICTIMS OF FAMILY VIOLENCE

Section 20 (2) (D) of the Act discriminates against victims of domestic violence by prohibiting recovery unless the criminal act was reported to the police. In many instances, victims have a good reason for being unwilling to report an assault to police, often preferring to seek assistance from health professionals and counsellors.

A similar provision in Australian Capital Territory Law was criticised by the Australian Law Reform Commission which noted:

If it is necessary to guard against fraudulent or collusive claims on the compensation fund, then this should be provided in a general provision, rather than in a provision which singles out victims of domestic violence. Fraud and collusion can after all occur in other contexts.

In line with this philosophy and consistently with other government measures against family violence, the Bill repeals section 20 (2) (D) and inserts a general provision preventing awards in cases of fraud or collusion between the victim and the offender.

2. MAINTENANCE AWARDS IN SEXUAL OFFENCES CASES

The Bill empowers the tribunal to award maintenance in the very rare case in which a child is born as a result of a rape or incest offence.

3. PROCEDURAL REFORMS

In future, awards will be payable by way of periodic instalments in appropriate cases. Further, the tribunal will be empowered to hold directions hearings to resolve issues at an early stage. The title of the Secretary to the Tribunal will be changed to the registrar. The tribunal will have power to delegate to the registrar administrative and quasi-judicial functions. These changes will streamline the operations of the tribunal and reflect the procedural flexibility given to other administrative tribunals.
SUPPORT SERVICES FOR VICTIMS OF CRIME

I should add that, in consultation with interested organisations, the government is currently examining the other recommendations made by the committee in relation to support services for victims of crime. It will respond to them formally in the near future.

CONCLUSION

It goes without saying that nothing can adequately compensate some victims for the physical, emotional and psychological trauma they suffer as a result of crime. Nonetheless, the government accepts fully its responsibility to assist victims who have been severely injured to re-establish themselves in the community. The Bill will provide a more humane and generous regime of compensation to this worthy end.

I commend the Bill to the House.

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

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

FIREARMS (AMENDMENT) BILL (No. 2)

The Order of the Day for the committal of this Bill was read.

The Hon. W. R. BAXTER (North Eastern Province)—On behalf of Mr Hallam, I move:

That it be an instruction to the Committee that they have power to consider a new clause to provide that where either House of Parliament has disallowed a regulation under section 49 (1A) of the Firearms Act 1958, no regulation, being the same in substance as the regulation so disallowed, shall be made within six months after the date of disallowance unless the resolution to disallow has been rescinded by the House of Parliament by which it was passed, and for regulations made in contravention to be void and for a further new clause to make provision as to the membership of the Firearms Consultative Committee.

The motion was agreed to.

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

That it be an instruction to the Committee that they have power to consider a new clause to effect the amendment of the Crimes (Family Violence) Act 1987 to enable police to search for and seize firearms after complaint for an intervention order and to provide for their subsequent disposal.

The motion was agreed to.

The Bill was committed.

Clause 1 was agreed to.

Clause 2

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—In the time that this Chamber, the Lower House and the community have spent debating the Bill I believe the context of the introduction of the Bill has been forgotten. I remind honourable members that the context of the Bill was the tragedies of Hoddle Street and Queen Street.

I do not need to remind honourable members who would have read the newspapers of a few days ago that an M14 rifle was used in the Hoddle Street killings. Tonight the Committee is discussing the prohibiting of that type of gun as well as other guns.

I remind honourable members that this debate is not yet over in the community and, when the Bill is passed—if it is passed—the debate will continue, because 51 per cent of the community are women, who together with a large proportion of men who are not gun owners are extremely concerned that the issue of violence involving the use of guns has not yet been tackled.
The government's position is clear; it has not shifted from the underlying principle that the fewer guns there are in the community, the fewer chances there will be of violence occurring.

The underlying purpose of the Bill remains clear. There has also been a fair amount of discussion in the media about the government's backdown on the Bill. There has been no greater backdown on the Bill than the backdown of the Liberal Opposition. On December 17 last year the Leader of the Opposition in the other place said:

The Parliamentary Liberal Party recognises that one of the major ingredients in reducing violence is the legislative authority of the Parliament to reduce the number of guns in our society. The Liberal Party believes metropolitan Melbourne should become a no-shooting zone.

At another time—indeed, four days earlier—he said that he had the firm view that the government had done the right thing in banning all semiautomatic rifles. That view of the Liberal Party is dramatically different from the views contained in their proposed amendments.

The proposed amendments of the Liberal Opposition do not reflect what the government believed was an agreement it had with the Liberal Opposition—they reflect some of that agreement, but not all of it.

The government believed it was agreed that all sales of firearms would be through licensed gun dealers to better control the lawful possession of firearms. It believed there would be a prohibition on the advertising of private gun sales; a total prohibition on the use and ownership of military-style semiautomatic rifles, requiring their surrender, and therefore leading to a reduction in the number of guns; and the removal of the automatic entitlement to obtain a permit to purchase currently enjoyed by farmers and members of gun clubs. All applicants for a permit to purchase would need to demonstrate a good reason to own additional firearms, which would lead to a reduction in the proliferation of firearms.

The government believed there would be tighter controls on the renewal of licences, to ensure that good reasons still exist for the ownership of firearms; the introduction of a requirement for all security guards to undergo a practical pistol safety course before obtaining a pistol licence and carrying a pistol in public; the introduction of a requirement that firearms and ammunition must be separately and securely stored when not in use; and a substantial increase in penalties for the misuse of firearms.

Apparent agreement on such matters represented an improvement of the existing Firearms Act. Some of those provisions, such as the introduction of a requirement that firearms and ammunition must be separately and securely stored when not in use, are still contained in the Bill and are supported by both the government and the Liberal Party.

I am distressed to find that the proposed amendments that deal with the total prohibition on the use and ownership of military-style semiautomatic weapons, the removal of an automatic entitlement to obtain a permit to purchase, and tighter controls on the renewal of shooters' licences, represent a shift away from what the government believed was agreed to.

The government will still proceed with what it sees as its contribution to the agreed position on the Bill. The government will move to omit the requirement for applicants for shooters' licences who are sporting shooters to be members of an approved sporting shooters' club. That has resulted from the refusal by shooting clubs to cooperate with the government to take greater responsibility for their sport. The criterion for the issue of a licence will remain as a good reason to possess a firearm.

The government will also move to amend the firearms regulations to remove the prohibition on rim-fire semiautomatic rifles. All centre-fire semiautomatic rifles will continue to be prohibited weapons but the Registrar of Firearms will issue authorities for the possession and use of such rifles by persons who have a genuine need to use them.
Such authorities will be issued only in respect of centre-fire semiautomatic rifles having a magazine capacity of less than eight cartridges. Genuine deer hunters will be authorised to possess and use such rifles for that purpose, and authorities will be issued to any other individuals or classes of persons who can demonstrate a genuine need to use semiautomatic rifles.

All individual applicants for an authority will be required to provide a statutory declaration as to their bona fides. The government will provide an amnesty period of three months, which will apply from the date of the proclamation of the Act, during which time the owners of semiautomatic rifles will be required to apply either to the registrar or another authority to both possess and use that rifle, or surrender that rifle to the registrar.

I understand the Liberal Opposition will amend the Bill to provide that compensation will be paid for the surrender of prohibited weapons that were lawfully owned and registered before such weapons became prohibited. The amount of compensation will be assessed having regard to the market value of the weapon immediately before it became prohibited, as well as to the condition of the weapon at the time it is surrendered. Under such an arrangement an applicant for compensation will have the option of obtaining a valuation from a licensed gun dealer or accepting the standard pre-determined market value of the firearm as assessed by the registrar in respect of each make and model of weapon.

Some concern has been expressed about the removal of the exemption from the licensing provisions of the Act currently enjoyed by members of rifle clubs. The transitional provisions in Clause 24 (2) of the Bill will provide for the issue of a licence to a rifle club member without the need to demonstrate a good reason to possess that firearm or to complete a firearms safety course. Further, by virtue of section 22AA (2AA) of the current Act, a rifle club member will not be required to undergo a cooling-off period before the issue of the licence.

Every effort has been made to make the transition from Commonwealth regulation to State law as smooth as possible. The government will be moving further amendments to the Bill as a result of the consultation it has had with the Liberal Opposition; and those proposed amendments will be outlined later in the debate.

The Hon. B. A. CHAMBERLAIN (Western Province)—I shall not be moving the first amendment circulated in my name because, as is obvious, the subsequent proposed amendment requires a subsection (2) in the provision.

I move:

2. Clause 2, line 9, omit "or days".

The proposed amendment is to ensure that the Opposition is not caught by the Bill in the same way it has been caught by other legislation, where the government selectively proclaims those provisions of the legislation that it likes and does not proclaim other provisions of the legislation that it does not like.

Such situations have occurred with the legislation dealing with in-vitro fertilisation, with the Local Government (No. 2) Bill in relation to local options, and in relation to the Prostitution Regulation Act. Because the government has shortchanged Parliament by such slick tricks, it has been necessary for both the Liberal and National parties to take this action.

The Hon. R. M. HALLAM (Western Province)—The National Party will support the amendment moved by Mr Chamberlain. It is identical to amendment No. 2 circulated in my name. I shall not reiterate the comments of Mr Chamberlain, except to say that the National Party supports his amendment for the reasons he has outlined.

The amendment was agreed to.
The Hon. B. A. CHAMBERLAIN (Western Province)—I move:

3. Clause 2, lines 10 and 11, omit sub-clause (2) and insert—

“(2) Section 7 comes into operation six months after the day on which section 1 comes into operation.”.

The purpose of the amendment is to ensure that there is sufficient time for the firearms safety course provided for in clause 7 in relation to pistols to be set up.

I have been advised by officers of the Ministry that preparations for the course are well advanced; but it will still be some time before the course is available. The amendment provides for a moratorium of six months from the date on which the Act comes into operation, to enable the course to be fully operational.

The Hon. R. M. HALLAM (Western Province)—I support the amendment moved by Mr Chamberlain for the reasons he has outlined.

The amendment was agreed to.

The Hon. R. M. HALLAM (Western Province)—Amendments Nos 1, 2 and 3 in my name go to the thrust of clause 2. I do not intend to put those amendments to the Committee. Amendment No. 2 would have sought to change the proclamation date and that is now unnecessary because of a previous amendment. Amendment No. 3 also had the purpose of delaying the proclamation of the clause. The National Party intends to encourage the government to adopt the concept of increased penalty for an indictable offence involving the use of a firearm in other provisions of the proposed legislation. That concept is captured by subsequent amendments that will be moved by Mr Chamberlain. It is on those grounds that I do not intend to proceed with amendment No. 3.

The clause, as amended, was agreed to, as was clause 3.

Clause 4

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to omit this clause. In conjunction with a later amendment, the omission of the clause will restore to the function of the Firearms Consultative Committee the approval of sporting shooters' clubs for the purposes of the Act.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition welcomes the amendment. When the Bill was first circulated the Opposition indicated that it would oppose compulsory membership of gun clubs. The Opposition, as a matter of principle, objects to any form of compulsory membership, whether it be of unions or other organisations. The government had proposed that all shooters who did not fall within certain occupational categories had to be members of gun clubs.

The second element of the provision was that it enabled the government to approve gun clubs. The Opposition feels that is totally undesirable and that the function should be left to the Firearms Consultative Committee, in which all parties have confidence. The effect of this and the later amendment is that the Firearms Consultative Committee should make a recommendation to the Governor in Council, who would grant approval. Recent statements of the Minister, although rather gentle, show that the government does not like people speaking out against it on these issues. The provision had all the elements of political censorship of gun clubs, because, it being a Governor in Council decision, approval could be withdrawn. If a sporting shooters club, approved under the provision, disagreed with the government, it faced the prospect of having its approval removed. There was potential for blackmail. The Opposition indicated earlier that it would oppose that concept. It is pleased that the government has seen the impracticality of its proposal. Victoria has approximately 20 000 to 30 000 gun club members and 300 000 shooters, and the proposal would not have worked.

I recall a statement that I issued within two or three days of the draft Bill being circulated that states that I would recommend to my party that it oppose that principle. The National
Party also opposed the provision and I am pleased that the government has taken that step.

The Hon. R. M. HALLAM (Western Province)—The National Party also registered the most strenuous opposition to the concept of forcing the vast majority of sporting shooters to join sporting shooters' clubs. The government's intention was to require club membership as a qualification for the issue and renewal of a shooter's licence. That was bad enough, and the National Party opposed that provision, but the government's intent was even more significant, because the provision meant that the government would approve individual clubs.

As Mr Chamberlain stated, that opened the door to blackmail. That concept was used against the Sporting Shooters Association of Australia (Vic.). The Minister told that organisation to watch itself or its approval would be withdrawn. It would have meant that members of clubs represented by that association would lose their entitlement, under the Bill, to own firearms. The problem with that was that they would not have qualified to own a firearm by joining another sporting shooters' club, because the provision required a qualification period of six months. This was a dangerous provision.

Clause 4 had the effect of downgrading the role of the Firearms Consultative Committee, and the National Party was concerned about that because the committee has worked successfully and its function should be protected. It is for those reasons that the National Party is delighted that the government has determined that clause 4 should be omitted.

The Hon. B. A. MURPHY (Gippsland Province)—I support the deletion of the clause. Many individual shooters, particularly in Gippsland, objected to belonging to sporting shooters' clubs, not only because of the cost of membership, but because it was to be made compulsory to join a club. Those shooters would be bound by rules of the club to which they did not necessarily agree.

There are some advantages for sporting shooters in belonging to a shooting club, because they could receive further education in the use of firearms and safety procedures, but those people who require that education would join a club anyway. I congratulate the government on the omission of the clause.

The clause was negatived.

Clause 5

The Hon. R. M. HALLAM (Western Province)—I do not intend to proceed with amendments Nos 5 to 11 in my name. The National Party will support the deletion of the clause.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I invite the Committee to omit this clause. The government's decision to omit this clause has been most difficult. The clause goes to the heart of the issue that the community wants addressed. Proposed section 3A stated the objects of the Bill to be:

(a) to establish a presumption against private ownership of firearms; and
(b) to establish the principle that the ownership of firearms is not a right but a privilege to be conferred on persons who satisfy objective standards; and
(c) to change any remaining perception in the community that ownership of firearms is a matter of right; and
(d) to restrict the number and availability of firearms in Victoria; and
(e) to protect the public from injury or the threat of injury and prevent injury to property through the misuse of firearms; and
(f) to condemn the use of firearms in the community for the resolution of personal or interpersonal conflict.

It is with a heavy heart that the government proposes this amendment. It does so in order to attain an agreed position that will move the community forward in lessening violence in society.
The Hon. B. A. CHAMBERLAIN (Western Province)—I appreciate what the Minister says. The Opposition found the words and concepts used in the objects of the Bill to be overblown and deliberately provocative. Anyone examining the proposed legislation would find the intention of Parliament in the objects of the Bill. The Opposition’s view was that the clause was unnecessarily provocative.

The Opposition would adopt a set of objects such as were put forward by my colleague in another place, the honourable member for Mornington. I am sure that honourable members would have gone along with the amendments to the government’s proposal as proposed by Mr Cooper, the honourable member for Mornington in the other place, which were as follows:

(a) to protect the public from the criminal or irresponsible misuse of firearms; and
(b) to condemn the misuse of firearms in the community for acts of violence, crime and vandalism; and
(c) to foster education in the safe use and handling of firearms; and
(d) to restrict the number and availability of firearms in Victoria to licensed shooters for lawful purposes.

The proposals are in the same spirit as what the Minister is saying, but the result would have been reached in a different way. Going to the terms of “rights” and “privileges” is unhelpful.

There is a universal condemnation of the use of firearms in domestic violence and other situations. The Opposition will be proposing significant amendments in that area because one of the things that must be pointed out is that, although the Premier said much about the concern of firearms being used in a domestic violence dispute, there was absolutely nothing in the Bill which addressed itself to the matter.

The proposals the Opposition will put up will be supported by my colleague Mr Hallam. They will give the Police Force a power it does not currently have; when called to a domestic violence dispute, a police officer will now be able to immediately remove any firearms.

Those concrete approaches will be the great strength of the Bill as it passes through Parliament. I am pleased that the government is withdrawing the objects of the Bill as originally outlined in clause 5.

The Hon. R. M. HALLAM (Western Province)—I agree with the Minister for Conservation, Forests and Lands when she said that clause 5 went to the heart of the matter being debated. It caused nothing short of a furore in the community. The government sought to move against firearms ownership by declaring that it was no longer a right. While the National Party condemns the misuse of firearms, the ownership of a firearm is a right of law-abiding and responsible citizens of this State.

The amendments I shall propose seek to capture precisely the views put by Mr Chamberlain. The National Party has no qualms about condemning the misuse of firearms in acts of violence or crime. That should stand on the record. The National Party seeks to ensure that as far as possible only responsible and law-abiding citizens will have access to firearms in this State.

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The National Party was totally opposed to the government’s original objects as set out in clause 5 of the Bill and would have sought to dramatically amend those parts which were the subject of opposition. It is delighted that the government has decided to withdraw clause 5. I agree with Mr Chamberlain that it was only rhetoric and yet it was the issue which caused much heartache throughout the community.

The Hon. N. B. REID (Bendigo Province)—While I concur with the government’s decision to omit clause 5, I make some comments on proposed new section 3A (e):

to protect the public from injury or the threat of injury and prevent injury to property through the misuse of firearms.
Certainly no-one on this side of the Committee would disagree with the objective that that provision seems to impose on the community, but we object to the manner in which it will be imposed. Over the past five years, since 1983, members of the Liberal Party have tried to stress that the way to achieve the objective contained in proposed new section 3A(e) is to educate the community and train it in the safe use and handling of firearms. If the government had pursued that course from 1983 instead of waiting until now to institute a proper education and training course in the safe use and handling of firearms, the position in Victoria may have been of a sounder nature.

The Hon. B. T. PULLEN (Melbourne Province)—I support the comments made by the Minister for Conservation, Forests and Lands, that the government has accepted the deletion of clause 5 to have the proposed legislation passed by Parliament. That is quite clear to every honourable member who has followed the debate and the negotiations that have been part of it.

Mr Chamberlain and Mr Hallam have put on record their opposition to the concepts encompassed in the objects of the proposed legislation. It is important that they have done so because it reflects one of the principal differences in philosophy between the government and the Opposition in this debate. The community should realise that clause 5 has been withdrawn by the government under duress to facilitate some legislation being passed by Parliament. The original objects are still welcomed by large sections of the community. The opposition parties have indicated that they do not stand for the original objects of the Bill; they stand against them.

The Hon. B. A. MURPHY (Gippsland Province)—I agree with proposed section 3A(b), (c), (d), (e) and (f), but (a) would have confused a number of people. The government is seeking to include as an object of the proposed legislation:

- to establish a presumption against private ownership of firearms;

I think the government was saying that, if one belonged to a sporting shooters' club, the ownership was no longer private; but I am still not sure what the government intended. People in the community could not be persuaded that they should not be allowed to be in possession of a privately owned firearm. The government lost the other subsections because the first subsection was not clear and was not agreed to by firearms owners.

The clause was negatived.

Clause 6

The Hon. R. M. HALLAM (Western Province)—Clause 6 relates to the procedures applying to a gun dealer arranging a person-to-person firearms sale. The National Party opposes this concept on the grounds that it is unnecessarily complicated and involves additional costs. The Firearms Act and this Bill go to great lengths to recite the offences relating to illegal sales of firearms, that is sales other than to a licensed shooter. There is an additional protection of a permit to purchase as provided in the Bill.

Members of the National Party have thought the situation through very carefully. We are prepared to concede that the amendment proposed by the Liberal Party, which superimposes a second channel in that a sale can be witnessed and effected by a police officer, is a reasonable compromise. On those grounds, we have decided not to proceed with amendment No. 12 standing in my name.

The clause was agreed to.

Clause 7

The Hon. R. M. HALLAM (Western Province)—One of the effects of clause 7 will be to introduce a course on firearms safety approved by the Firearms Consultative Committee. It relates to licences issued in respect of the ownership of hand guns. The National Party
has some real problems in practical terms with this provision because it refers to an annual licence.

If there is any delay in the introduction of the safety course that is outlined in this clause, the licences of many people, particularly those in the security industry, will be placed at risk. I do not intend to move an amendment because I do not believe we can get around that problem. The National Party is not prepared to argue that the course should not be provided but wants the Minister to know that a substantial number of people who will need to qualify under the proposed legislation will be put at risk if the course is not introduced shortly.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I commend Mr Hallam’s concern. It is a concern the government acknowledges and all haste has been taken to ensure that the course is ready on time.

The clause was agreed to.

Clause 8

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

3. Clause 8, lines 26 to 42 and page 4, lines 1 to 5, omit sub-clause (1).

The effect of the amendment is to omit sub-clause (1), which means that one of the criteria retained for the issuing of shooters’ licences is the requirement that an applicant have good reason to possess a firearm. Clause 8 (1) attempts to define what constitutes good reason for limiting the issue of shooters’ licences to people who have a genuine need for firearms in their jobs, to primary producers and to genuine sporting shooters. The last category were to be members of approved shooting clubs, as evidence of their bona fides. Unfortunately the sporting shooters’ clubs are not prepared to cooperate with the government in this initiative to restrict the ownership of firearms to those who have a genuine need for them nor to take a greater responsibility for their sport. Therefore, the government intends to remove that requirement from the Bill.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Minister’s comment that sporting shooters’ clubs are not prepared to cooperate with the government should be placed in perspective. Those organisations are run by volunteers who show their interest in the sport by going out each week and arranging ranges and targets. Many of them have done considerable work because of their long-term interest in the sport. Many are concerned about the proposal that they take on increased responsibility because of the possible implications for personal liability.

Firstly, if they were given the job of vetting applicants and were required to give certificates indicating that a person is the right sort of person to own a firearm, and John Smith who had been given such a certificate went off the planet and shot someone, they would be concerned about their position in this litigious age. The beneficiaries or family of that person could take action against the hard-working club secretary, who would be putting his personal assets at risk.

Secondly, practical problems arose from the fact that there are approximately 20 000 or 30 000 members of sporting shooters’ clubs at present, but, under the government’s original proposals, another 300 000 shooters would somehow or other be transformed into club members. It was an impractical proposal. The clubs did not have the resources to cope with the anticipated increased membership. The government had not thought it through. For the Minister now to blame shooting clubs, claiming they did not cooperate, is to blame the clubs for the government’s incompetence on this issue. I do not believe the remarks of the Minister that the clubs refused to cooperate with the government on this issue can be allowed glibly to slide by.

The Hon. R. M. HALLAM (Western Province)—Mr Chamberlain has almost taken the words from my mouth because I also thought the comments of the Minister for Conservation, Forests and Lands were unfair. The National Party was delighted to note
that clause 8(1) was to be deleted from the Bill because it sought to restrict eligibility in relation to the issuing of or renewal of licences to categories of people who were primary producers, those who had been members of approved clubs for six months, or those with an occupational need for firearms. The National Party strongly opposed that concept from the first time it was announced.

The National Party claimed the proposal was unjust and unwarranted. It does not agree with the concept of compulsory club membership for precisely the reasons Mr Chamberlain outlined. It would have made clubs primarily responsible for vetting members, and this would have involved 300,000 shooters. It would have been an impossible task for the clubs and, as Mr Chamberlain said, National Party members did not see the point in it anyway because many of the shooters who would have been forced to join those clubs would not have benefited directly from the facilities offered by those clubs. It was something of an insult to suggest that many of those 300,000 shooters would benefit from the training courses, because many of them are experienced shooters.

One of the alternatives put forward by the Liberal Party was to encompass a fourth category of persons who had good reason to possess firearms. The National Party regarded that as a subjective test, and discarded that suggestion as well. Because it would have involved 250,000 shooters, or thereabouts, the task would have become simply enormous and no-one would have been prepared to run the gauntlet of the fourth category to demonstrate good reason for owning a firearm because, if that person failed that test on application for renewal of a licence, it would not have been possible for that person to go back and qualify through club membership, because the Bill required six months’ club membership; it was not an alternative. The National Party intended to oppose the subclause strenuously and, for those reasons, I am delighted that the government has determined to withdraw it of its own volition.

The amendment was agreed to.

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

4. Clause 8, page 4, line 17, after “person” insert “without fee”.

The amendment seeks to amend proposed new section 22AA (4) (a) so that it will state:

In the case of a licence issued to a person without fee by reason that the person is engaged in primary production...

Certain conditions apply. Amendment No. 8, which the Committee will deal with later, will make it clear that no fee is payable under proposed new section 22AA (7) by any person engaged in primary production, by members of that person’s family or by that person’s employees. It is nothing new. The concept is already contained in the Act. The Opposition wanted to clarify that the licence, having those conditions, will extend to the family and continue to be without fee.

The amendment was agreed to.

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

5. Clause 8, page 4, line 19, after “IIIa” insert “, is a member of the family of such a person or is an employee of such a person”.

The amendment seeks to extend the definition to members of the family of the farmer, or the employee of such a person.

The amendment was agreed to.

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

14. Clause 8, page 4, line 20, after “to” insert “purchase,”.

The amendment seeks to insert one important word, namely, “purchase,”. It seeks to amend proposed new section 22AA (4) (a) (i) and further amendments will seek to insert that word in proposed new section 22AA (4) (a) (ii) and 22AA (4) (b). The three amendments
are consequential to the thrust of my major amendment, amendment No. 52, which attacks the concept of the permit to purchase. If amendment No. 52 standing in my name is supported by this Chamber, all references to the permit to purchase will be deleted from the Act.

I shall spend a couple of minutes foreshadowing the effects of amendment No. 52 because the National Party is entirely opposed to the concept of the permit to purchase, and has been since it was first suggested. It would add to the administrative quagmire of firearm control in this State, on top of a registration system that has completely broken down. The National Party asks: if an applicant is refused a permit to purchase any particular firearm, why was that person granted a shooter's licence?

Indeed, as is happening now, if an applicant is refused a second firearm because he already has a first firearm in that category, why was he given the first? If he is such a bad risk to the community, he should not have been granted the licence in the first place. The National Party's contention is that there should be a testing process. Indeed, the National Party would support the principle that the government should be more stringent than it is at present. The control should be at the point of licensing, not at the time of purchasing the firearm.

The National Party believes the permit to purchase system is completely illogical. It has argued against the system on every occasion this issue has been brought into this Chamber and it will continue to argue against it.

The facts are that through a Liberal Party amendment at least some component of the shooting fraternity will be granted an automatic entitlement to a permit to purchase, namely, primary producers and members of approved gun clubs. The National Party supported that amendment but it still argued against the concept of a permit-to-purchase system. The National Party supported the Liberal Party's amendment because it was half a loaf, and therefore, better than no loaf at all. But the National Party still contends the permit-to-purchase system is wrong in concept. It will not do anything towards addressing the criminal misuse of firearms in this State. The provision will force shooters to join clubs simply to obtain permits to purchase or to provide access to automatic entitlement. The National Party has nothing against shooters joining clubs but this concept encourages them to join clubs for the wrong reason. They should be encouraged to join clubs because it will provide them with access to good shooting facilities, not because it provides them with automatic entitlement to permits to purchase. That is insane.

The permit to purchase does not address the main reason for introducing this measure: to restrict the number of firearms in Victoria. The National Party has opposed this proposition on every occasion. It is nothing more than humbug. The provision was introduced as a hurdle to discourage private firearm ownership and for no other purpose. The National Party implores the Committee to take on board my comments and to do precisely what has been done by the new Liberal government in New South Wales: to throw out completely the concept of permits to purchase.

On those grounds, I ask the Committee to support my amendment No. 14, which will amend clause 8 to fit the situation that would apply if the permit to purchase were no longer salient to the law in this State.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mr Hallam has eloquently and correctly outlined his position, which is diametrically opposed to the government's position on this issue. The government believes the maintenance of the permit-to-purchase system is an essential part of the framework for ensuring that this community has greater protection from the use of guns. The government opposes the amendment.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Liberal Party's position has been to support the permit to purchase. It is aware of many criticisms of the concept and has an open mind on alternatives. A Liberal government in New South Wales is now
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trying out a new system and it will be interesting to observe how that works. The Opposition has been examining the New Zealand system, but at this stage it is inappropriate to agree to the amendment moved by Mr Hallam.

One point that has been sheeted home to the Opposition and the National Party in the past ten days is the need to juggle this Chinese jigsaw puzzle of firearms legislation—we certainly need a new Act—and to also examine the various firearms control concepts. The Liberal Party has an open mind as to the thrust of the National Party's amendment but at this stage believes it is inappropriate. The Opposition does not support the amendment.

The Committee divided on Mr Hallam's amendment (the Hon. G. A. Sgro in the chair).

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Majority against the amendment 27

Progress was reported

**ENVIRONMENT PROTECTION (AMENDMENT) BILL (No. 3)**

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

That this Bill be now read a second time.

The Bill has two main purposes.

The first purpose is to enshrine into the Environment Protection Act the "polluter pays" principle. That principle is that persons who conduct operations or occupy premises from which there is a potential for environmental damage are responsible for such damage
rather than the public. The principle is part of the government's policy. It places the responsibility for environmental clean-ups arising from an operation on the person who may profit from the operation, rather than the public who might indirectly profit from the operation but are directly affected by any environmental damage.

To further this purpose, the Bill amends the Environment Protection Act by:

1. requiring certain operations to provide a financial assurance for potential pollution clean-up costs;

2. allowing courts to make compensation orders for environmental clean-up costs after a defendant is found guilty of an offence which resulted in the need for clean-up operations;

3. allowing the Environment Protection Authority to recover its internal laboratory analysis costs which it necessarily incurs in proceedings under the Act; and

4. removing deficiencies which unjustifiably limit or impede proceedings for the recovery of clean-up costs or make them ineffective.

The second purpose is to reaffirm the importance which this government and the community put on environment protection. The Bill does this by:

A. ensuring that the Environment Protection Act and the Litter Act operate efficiently and free from unnecessary technicalities and restrictions; and

B. by increasing penalties and thus ensuring that environment protection legislation has adequate "teeth" to be a deterrent.

To further this purpose, the Bill amends the principal Act by:

1. creating an offence of aggravated pollution which is intentionally or recklessly creating a serious risk or damage to the environment or to public health. The offence has a penalty commensurate with the seriousness of such consequences;

2. increasing the penalty for pollution offences under the Act which are committed intentionally. Penalties are also increased for offences under the Act, the Melbourne and Metropolitan Board of Works Act and the Sewerage Districts Act dealing with the illegal handling, dumping and abandoning of industrial waste. The penalty under the Water Act for the offence of polluting a water supply after a notice is given requiring the activities causing the pollution to cease is also increased;

3. extending the offence of "causing an environmental hazard" by recognising that such hazards are not only caused by "waste", but can also be caused by any substance;

4. extending the ambit of the Act to include "infectious" so that that type of material may be regulated in the future by the management systems in the Act that govern other potentially polluting and dangerous substances;

5. increasing the time limit for commencing prosecutions for offences which by their nature may not be detected for lengthy periods;

6. simplifying the proof of formal and technical matters in proceedings;

7. making driving as well as owning a vehicle which does not have the prescribed emission control equipment fitted or emits noise above the prescribed permissible level an offence so that there is scope for the EPA to prosecute the person who in fact has taken the responsibility for the mechanical condition of the vehicle;

8. broadening a head of regulation-making power in relation to noise-reducing equipment fitted on vehicles to ensure that it is wide enough for regulations to appropriately control the fitting and repair of that type of equipment.

9. giving the EPA the power to delegate the powers and functions bestowed on it by other Acts;
10. increasing the maximum limit below which minor works pollution abatement notices and minor works noise control notices may be issued from 50 penalty units to 100 penalty units—$10,000—and simplifying the administrative procedure for their issue; and

11. making various housekeeping amendments to the principal Act and the Litter Act.

FINANCIAL ASSURANCE FOR CLEAN-UP COSTS

The EPA’s response to pollution incidents sometimes requires significant expenditure to minimise, prevent or clean up pollution. That expenditure may be required urgently. A quick response to environmental emergencies can minimise damage and reduce the final amount of the clean-up costs.

For example, in April 1985 a large fire broke out in a chemical warehouse in Footscray. As a result of the fire, there was a threat that chemicals would flow into the Maribyrnong River. The EPA acted quickly and successfully to end that threat. The costs of minimising and preventing pollution arising from that fire were in the vicinity of $900,000. Those costs have been paid by the government. If the chemicals had entered the river, significant damage would have occurred and clean-up costs would have been much higher.

The majority of clean-up operations are paid for by the polluter. However, if liability for clean-up is denied, recovery of costs may be difficult because of the complex legal issues which are sometimes involved. Liability for the clean-up costs from the Footscray chemical fire is still being disputed before the courts. If clean-up costs cannot be recovered, the public purse bears those costs.

Other situations in which pollution clean-up costs may be difficult to recover include where:

1. the polluter is insolvent; or

2. the site is abandoned, leaving contaminated soil and equipment for the authorities to clean up. This has already occurred several times in Victoria. Even if the previous occupiers can be located, the issue of liability for the clean-up of the unoccupied site is often contested.

To reduce the number of situations in which recovery of clean-up costs is difficult, the Bill allows the EPA to require financial assurances from operations where there is a potential for severe pollution by conditions in works approvals, licences, pollution abatement notices and transport permits. The assurances can be utilised by the EPA if a clean-up is required. The types of assurance include letters of credit, certificates of title, guarantees, bonds and insurance policies.

The Bill allows requirements for financial assurances to be placed only on Schedule 4 premises—that is, premises which reprocess, treat, store or dispose of prescribed industrial waste—premises that handle more than the prescribed quantity or the prescribed concentration of a notifiable chemical—that is, a chemical for which the EPA has certified that there is not a satisfactory facility for its destruction or disposal in Victoria—and waste transporters. Operations that do not fall into those categories cannot be required to provide a financial assurance. The Bill recognises that operations in those categories have a special risk of extremely expensive environmental clean-ups which the operation may not be able to pay for in the short term unless provision is made for that possibility.

The Bill allows the EPA to require the assurance to be in effect even though the works approval, licence, pollution abatement notice or permit may no longer be in force. This is because problems with polluted sites or pollution spills may not be detected or fully appreciated until some time after a site is vacated or a spill is thought to have been cleaned up. The EPA intends to build in a time frame for the release of an assurance in the assurance requirements. The assurance will be released earlier if the EPA is satisfied that there are no potential problems.
If an emergency situation in which the provider of the assurance refuses to pay for the clean-up, the EPA intends to immediately utilise the assurance to finance the clean-up. In non-emergency situations in which the provider of the assurances refuses to pay for the clean-up, the EPA intends to seek mediation or arbitration in relation to the payment of the clean-up costs and the utilising of the assurance to pay for those costs.

The requirement for an assurance and a refusal to vary or release an assurance are all matters which the Bill makes appealable to the Administrative Appeals Tribunal.

RECOVERY OF CLEAN-UP COSTS ON A FINDING OF GUILT

A clean-up after a pollution incident may be conducted by the EPA or the EPA may require the polluter or the occupier of the premises from which the pollution arose to carry out the clean-up by serving a clean-up notice. Other bodies such as the MMBW or the Port of Melbourne Authority may also incur costs in the clean-up. The costs of those bodies may be billed to the EPA or may be claimed directly from the polluter or occupier. The EPA’s clean-up costs may be recovered as a civil claim under the Act.

A prosecution under the Act may follow a pollution incident. In a prosecution, the offence must be proved beyond a reasonable doubt. Currently, if a defendant in a prosecution is found guilty of an offence under the Act, there is no compulsion on that defendant to pay clean-up costs arising from that offence. If the defendant refuses to pay those costs, civil proceedings must now always be instituted to recover them. Those civil proceedings essentially cover the same ground as the prosecution on the issue of liability to pay clean-up costs, but the civil claim needs to be proved only on the balance of probabilities rather than beyond a reasonable doubt. Litigation that essentially covers the same issues in both criminal and civil proceedings is unnecessarily duplicating. It delays the recovery of compensation and increased legal costs. This is recognised by section 92 of the Penalties and Sentences Act which allows a court to make an order against a person found guilty of an offence to pay compensation to a person who has suffered loss or damage as a result of the offence.

To overcome the unnecessary delay and expense that arises from the duplication of criminal and civil proceedings under the Act, the Bill clearly allows the recovery of clean-up costs that are related to the commission of an offence under the Act by an order under section 92 of the Penalties and Sentences Act. Those costs may be recovered by any person who incurs them. The clean-up costs that the Bill provides can be recovered in that order include costs that are anticipated but are not as yet incurred. Pollution clean-ups may continue for a considerable period of time; consequently a clean-up may not be completed by the time a prosecution is completed. The amount of the anticipated costs will have to be proved as are other anticipated costs in litigation, such as anticipated future losses and expenses in personal injury litigation.

All the prosecutions under the Act are dealt with in the Magistrates Court except for the proposed offence of aggravated pollution, which is indictable, but may be tried summarily. An order made by a Magistrates Court is appealable as of right to the County Court and on appeal the matter is re-heard afresh. Consequently, in summary prosecutions under the Act, a defendant will have at least two full opportunities available as of right to contest an order under section 92 of the Penalties and Sentences Act. Of course, such an order cannot be made unless the charge is first proved beyond a reasonable doubt. For those reasons the jurisdiction of the Magistrates Court to make an order has not been limited.

Courts have sometimes refused to make orders under section 92 of the Penalties and Sentences Act for various reasons unrelated to the merits or evidence of the claim. Reasons for such refusals have included insufficient court time being allocated after the completion of a prosecution to determine the claim, or the defendant not being in a position to defend the claim as insufficient or inadequate notice of the claim was given, or the court is of the view that the claim is a matter which has a civil flavour and therefore would be better handled by civil proceedings. To overcome these difficulties, the Bill requires that, in relation to an application for an order for clean-up costs arising from the commission of
an offence under the Act, notice of the application must be given to the defendant. Affidavits may be used at the hearing of the application upon a copy of the affidavit and notice being given to the defendant and provided the defendant does not object. The purpose of the notice and affidavit provisions is to ensure that courts and defendants will be in a position in which they are prepared for a claim to be determined following the completion of a prosecution. By these devices it is anticipated that courts should not be placed in a position where in their view it would be preferable for the claim to be dealt with by the civil proceedings.

OFFENCES OF INTERNATIONAL POLLUTION AND IMPROPER HANDLING OF INDUSTRIAL WASTES

The Bill increases the penalties for certain offences under the Environment Protection Act from 100 to 200 penalty units and under the Melbourne and Metropolitan Board of Works Act from 50 to 200 penalty units. The increased penalties in the Environment Protection Act are for offences in relation to improperly handling industrial waste, causing an environmental hazard and pollution offences which are committed intentionally. The increased penalties in the Melbourne and Metropolitan Board of Works Act are in relation to offences dealing with the illegal discharge of trade waste to sewer and contravening the industrial waste provisions of that Act. The reason for increasing the penalties is to maintain an adequate deterrent against improper handling of potential pollutants and to emphasise the seriousness of improper handling of industrial waste.

AGGRAVATED POLLUTION

The increases in penalty are sufficient to deter and punish some intentional polluting acts. They are, however, inadequate where the effects or the potential effects of intentional or reckless polluting acts, possibly motivated by profit, are serious and may potentially be irreversible.

Recent incidents, such as the intentional disposal of carcinogenic and non-biodegradable polychlorinated biphenyls in waste fuel oils, has demonstrated the inadequacy of penalties under the Act in those circumstances. Significant concern has been expressed by the community that inadequate penalties contribute to serious pollution incidents. Stronger penalties are required as a realistic deterrent to activities that threaten both the environment and the health of the community.

The government is also concerned that penalties should be severe enough to discourage irresponsible operators from becoming involved in the waste management industry in Victoria. In particular, this government is determined that the situation does not arise in Victoria, as has happened in some countries, where criminal elements have become involved in waste management.

The Bill creates a new offence of “aggravated pollution” which is committed where a person intentionally or recklessly causes serious damage or a substantial risk of serious damage to the environment or to public health. The offence is indictable but may be tried summarily. The Bill makes the necessary consequential amendments to the Magistrates Courts Act. The maximum penalty for the offence is a $40 000 fine or two years' imprisonment or both if dealt with in the Magistrates Court and a $500 000 fine or a maximum of five years' imprisonment or both if dealt with by a higher court.

The Bill thus provides for substantial maximum penalties adequate for an appropriate sentencing range for this type of offence. This will act as a powerful deterrent against ignoring the safety of the community and the environment.

The creation of an offence of aggravated pollution is fully supported by the associations representing responsible industries, who are keen to ensure that the public image of industry is not damaged by irresponsible and reckless operators.

I commend the Bill to the House.
The Hon. ROBERT LAWSON (Higinbotham Province)—I move:
That the debate be now adjourned.

The Opposition is having difficulty with some of the provisions in the Bill and therefore it will have to consult on them. I propose that the debate be adjourned until the next day of meeting on the understanding that the Opposition will be able to confer with the Minister before it is debated.

The Hon. E. H. Walker—That is acceptable.

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

ADJOURNMENT

Speed limit through Narrawong—Penalty payment in speeding fine—Teachers at Police Training Academy, Glen Waverley—Victorian Equity Trust—School bus safety—Privatisation of public transport—Railway land at Spotswood—Closure of government road in Shire of Woorayl—Brighton and Middle Brighton railway stations

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

That the Council, at its rising, adjourn until this day, at eleven o'clock.

The motion was agreed to.

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

That the House do now adjourn.

The Hon. B. A. CHAMBERLAIN (Western Province)—I direct to the attention of the Minister for Transport a matter relating to the small town of Narrawong, which is to the east of Portland. The small community, which is situated on the highway, is concerned about the safety of its residents, particularly its children who attend the local schools. A petition has been signed by almost every adult in that community requesting that the speed limit through the town be reduced from 80 kilometres to 60 kilometres an hour.

The school principal has expressed concern about the safety of the students attending the primary school. I wrote to the former Minister for Transport, the current Minister for Planning and Environment, Mr Roper, and also to the Minister for Education requesting their support in this application.

The matter has been before the Road Traffic Authority which tested the area and found that 85 per cent of the traffic travelling through that town was travelling at 88 kilometres an hour down the highway to Portland.

I ask the Minister to direct the Road Traffic Authority to reduce the speed limit to 60 kilometres an hour for traffic travelling through that town.

The Hon. K. I. M. WRIGHT (North Western Province)—I direct to the attention of the Minister for Conservation, Forests and Lands who acts for the Minister for Police and Emergency Services in this place a matter concerning Miss Deborah Louise Howser of 88 Hawthorne Grove, Mildura, who incurred a fine of $135 for travelling at an excessive speed on 22 December 1987. Miss Howser paid the fine on 22 February 1988. It was approximately four weeks overdue, due to the fact that it had been the Christmas period, and she was young.

The cheque was returned to Miss Howser with a request for a penalty payment of $9 for lateness, which was also paid but the payment was made after the expiry date. The cheque was again returned to Miss Howser with an explanation that the matter had been referred to the Magistrates Court at Elsternwick for collection on 29 March 1988.
Miss Howser telephoned the Magistrates Court and she was informed that her papers had not reached the court but that, when they did, an extra $30 would be added to her list of costs.

My constituent believes—and I fully support her in this matter—that she has been treated unfairly. She is struggling to pay the fine, and I ask that the Minister intervene so that it will not be necessary for that extra $30 to be paid.

A person driving a truck can knock another person down and then be let off with a bond. When one compares that with this case, it is obvious that the situation is inequitable.

The Hon. HADDON STOREY (East Yarra Province)—I raise with the Minister for Education a matter concerning the members of the Ministry of Education who have been working at the Police Training Academy, Glen Waverley. These persons are part of a service that has been provided by the Ministry of Education in a number of different areas of government. They have been working at the academy as members of the Ministry of Education; in effect they have been seconded to the college. Eight teachers and one clerk are involved.

Three weeks ago, they were told that they had been transferred to the category of being on leave without pay and that their employment would be taken over by the Police Department. That is the only information those persons received. They were not consulted about the matter and they have not received any official notification of what will happen to them. Yesterday was the day they would have normally been paid, but that did not occur.

I spoke to the Minister for Education about the matter and she was good enough to make some inquiries and telephone me with the information that matters had been clarified. I understand those persons were paid today but they are still in the dark about their future, their status, what will happen to their entitlements as employees of the Ministry of Education and whether their employment will be taken over by the Police Department.

I ask the Minister to examine the matter further and to ascertain why there was no consultation with or official notification given to these people. It appears that they have been summarily transferred, almost by word of mouth. I ask the Minister to ensure that those persons will be reassured as to their employment, their status, and so forth. If they are to be transferred to the Police Department they will no longer have the opportunity, as Ministry of Education staff, to be transferred to other positions within that Ministry. It appears to be insensitive handling of the episode. I ask the Minister for those assurances.

The Hon. J. V. C. GUEST (Monash Province)—I direct to the attention of the Minister for Health, who represents the Treasurer in this place, a matter to which I referred earlier today about the underwriting of the Victorian Equity Trust. I ask, firstly what the underwriters J. B. Were and Son and McIntosh Hamson Hoare Govett Ltd are being paid, and whether it is a percentage of the funds raised? Secondly, who will be the sub-underwriters; thirdly, what will the sub-underwriters be paid; fourthly, will there be public authorities who are acting as sub-underwriters or who have otherwise committed themselves to taking units in the Victorian Equity Trust?

If the Minister cannot answer those questions now, I ask him to give some indication of when those questions can be answered:

The Hon. N. B. REID (Bendigo Province)—I direct a matter to the attention of the Minister for Transport; it also concerns the Minister for Education. I have received correspondence from Mr D. Anthony, the Executive Officer of the East Loddon School Council, regarding the safety of children travelling on school buses. I note that Mr Dunn has also raised the question of school bus safety.

The letter concerns the internal travelling arrangements on school buses, and children alighting from and entering school buses. The school council had observed overseas trends
in Ontario, Canada, where built into buses is a stop sign activated by the driver so that when a bus stops to drop off children, all traffic is required to stop while the bus has the flashing sign on display. I ask the Minister for Transport to consult with the Minister for Education on the serious problems involved in country areas and attendant safety measures required where large numbers of school buses traverse country areas.

The Hon. M. J. SANDON (Chelsea Province)—The Minister for Transport would be aware of the fact that privatisation is an issue that was raised recently in the public arena.

The transport policy of the Liberal Party would seem to embrace privatisation in a general sense; and that would mean that railyards around the State, such as those in Bendigo and Ballarat, could be placed in jeopardy. Will the Minister provide an undertaking with respect to the government’s policy in opposition to privatisation so that an effective public transport system can be maintained in general and, in particular, in areas such as Bendigo and Ballarat where jobs and the infrastructure of those regional centres may be placed at risk? Will the Minister give an undertaking about the government’s commitment to those areas?

The Hon. G. P. CONNARD (Higinbotham Province)—Will the Minister for Transport advise what plans he has for disused railway land at Spotswood? The land is prime real estate located quite close to the city. Does the Minister have plans for opening up the land for housing and, if so, when will they be implemented? If his plans do not include housing, what other plans is he considering?

The Hon. M. T. TEHAN (Central Highlands Province)—The matter I direct to the attention of the Minister for Conservation, Forests and Lands concerns two land purchases made at public auction in December 1987 on the Cape Paterson-Inverloch Road and Straun Road, which runs off that road.

The land was purchased under a new plan of subdivision which had been approved by the Shire of Woolay on the basis that it was an approved subdivision. The description, in terms of the planning certificate, indicates that the Cape Paterson Road is a sealed government road and that Straun Road is an unmade government road. The purchasers have been advised that, as from 20 April, the access from the coast road to Straun Road will be closed. The advice was telephoned to the people concerned by an officer at the Yarram branch of the Department of Conservation, Forests and Lands.

The area involved is 4 metres deep; it cuts across the foreshore reserve area, but leads onto the coast road. There are a number of similar private roads further along the coast road, across the foreshore. The decision has meant that total access to those blocks has been removed. There is no access from the other end of Straun Road because, even if it is classified as a government road, it is classified as an unmade road and must be subject to some form of unused road licence.

Both these properties, for which substantial amounts of money have been paid, have lost their access to the Cape Paterson-Inverloch Road. I ask the Minister to consider these matters of serious economic loss and the impossibility of the owners being able to build houses on the blocks, in view of the lack of road access. I ask the Minister what she can do about the matter.

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct to the attention of the Minister for Transport a plan by the Metropolitan Transit Authority to sell two parking areas at the Brighton and Middle Brighton railway stations. The land is to be sold and flats and townhouses are to be erected on the sites that are used for commuter parking.

It seems odd that, if the government is trying to encourage people to use the rail services, it sees fit to cut off the options of people wanting to use car parks adjacent to railway stations. Will the Minister examine the matter and rectify what is obviously an oversight on his part?
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