



VICTORIA
—
PARLIAMENTARY
DEBATES

AUTUMN/SPRING
SESS. 1992
VOL. 408
COUNCIL

4 JUNE - 10 JUNE
11 AUG. - 12 AUG.
1992

WITH INDEX FOR
VOLS. 406 - 408

PAGES
1345 - 1663
1 - 135

ASSEMBLY CHAMBER

VICTORIA

PARLIAMENTARY DEBATES
(HANSARD)

FIFTY-FIRST PARLIAMENT

AUTUMN/SPRING SESSION 1992

Legislative Council

VOL. 408

[From 4 June 1992 to 10 June 1992]
[From 11 August 1992 to 12 August 1992]

The Governor

His Excellency the Reverend DR JOHN DAVIS McCAUGHEY, AC

The Lieutenant-Governor

The Honourable SIR JOHN McINTOSH YOUNG, AC, KCMG

The Ministry

[AS FROM 28 JANUARY 1992]

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FIFTY-FIRST PARLIAMENT—FIRST SESSION

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FIFTY-FIRST PARLIAMENT—FIRST SESSION

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last one that this House will deal with in the series that commenced some years ago.

It says something for the patience, perseverance and perspicacity of those at Swinburne that they resisted attempts by the government to force them into various amalgamations and mergers and sat tight. Swinburne engaged in various negotiations but they never came to anything and is now about to become a university in its own right without having to merge with any other tertiary institution.

It is worth while going back to 1988 when Mr Walker gave the House his outline of what should happen with tertiary institutions in Victoria. I have previously taken the House through the list of Mr Walker's recommendations, most of which failed to come to fruition, but I remind the House of what he said about the eastern suburbs. He proposed that a new institution be established embracing Swinburne Institute of Technology, the Burwood and Toorak campuses of Victoria College and the Hawthorn Institute of Education. He said the Prahran campus of Victoria College could be transferred to the technical and further education sector and the Rusden campus to Monash University.

It is true that a new institution will be created in the sense that Swinburne Institute of Technology will become a university. However, that is almost the only part of Mr Walker's prediction that is correct. Victoria College has become part of the Deakin University; Hawthorn Institute has been affiliated with the University of Melbourne; the Prahran campus of Victoria College has in effect been disbanded and its TAFE component has gone to Swinburne; the Rusden Campus of Victoria College is not part of Monash University but of Deakin University, so that Monash and Deakin can smile at each other across the road.

The new Swinburne University of Technology will be important partly because it is in the electorates of the honourable members representing East Yarra Province, but also because it has a substantial history. In 1908 Swinburne Institute of Technology was established as a company limited by guarantee and over the years it has developed, building up its campus in Hawthorn where it has become a substantial deliverer of higher education courses and TAFE courses.

Today Swinburne has almost 13 000 effective full-time students, comprising 9500 effective full-time students in higher education courses and some 3500 effective full-time students in TAFE

courses. The staff number 1100, including teaching staff and general staff in the higher education and TAFE components. In 1991 Swinburne had an operating budget of \$75.5 million. It is interesting to note that \$56 million of that came from government and \$18 million from other sources. It shows that Swinburne has been effective in obtaining funds from a range of areas.

Swinburne is proud to be able to say that it meets the criteria laid down by the Australian Vice Chancellors Committee (AVCC) for establishment as a university. In 1992 more than 3 per cent of the staff are in higher degree research; that figure will reach 4.2 per cent by 1994, as against the AVCC minimum of 3 per cent. Swinburne has one research grant for 4.9 effective full-time academic staff, as against the minimum AVCC criterion of one for every 20 staff. Some 28 per cent of the full-time academic staff have PhD qualifications and by the end of the year that number will have risen to 30 per cent, as against the 25 per cent laid down as a minimum by the AVCC.

I mention all those figures because many people have said that Swinburne does not meet the criteria for admission to the status of university. The figures demonstrate the way the institution has developed the various criteria applied to universities.

Swinburne has a number of research centres that also make important contributions. One of the things that Swinburne is perhaps best known for among members of the general public is the former Swinburne Film and Television School. It has been a leader in producing people who have gone on to become important figures in the Australian film industry and who have contributed much to Victoria's success as a film producer and as the capital of film production in this country. The film and television school has now moved to the Victorian College of the Arts. Although it is no longer associated with Swinburne I am sure everyone will remember it as a high profile aspect of the work undertaken by the institution.

As I said, over the past year or so the Prahran TAFE campus has merged with Swinburne TAFE and the result is a large TAFE component.

The government's policy was that Victoria should have only five universities. I have spoken before about the idiocy of the policy. It bore no relationship to the nature of the institutions in this State or its needs. Nonetheless the government used the policy in an attempt to force institutions into associations they did not always want. As I said yesterday in the

debate on the Royal Melbourne Institute of Technology Bill, the government has quietly dropped that policy. RMIT will become Victoria's sixth university and Swinburne Institute of Technology will become the seventh university in this State.

The Bill provides that Swinburne will cater for higher education needs among people in the outer eastern area of Melbourne. The outer east has a low participation rate in higher education when compared with some other parts of Victoria, particularly the inner east and the south of Melbourne.

Members of the coalition, particularly those representing the area, have recognised that it is essential to establish an institution that provides higher education in that area. Currently it is becoming recognised more and more that geographical aspects are important in the provision and gaining of higher education. It seems to be clear that where a region has a higher education institution the result tends to be the lifting of the profile of education in the region and that leads to a greater participation in higher education courses. Such a result has been experienced in other parts of Melbourne. The same will be the case with the establishment of a higher education institution in the outer east.

Mrs Varty and Mr Honeywood, the honourable member for Warrandyte in another place, are representatives of the area. They pointed out to the coalition the need for a higher education institution and as a result well over two years ago or even longer the coalition called for the establishment of a higher education institution in the outer east. The suggestion was made that it could be based upon Swinburne Institute of Technology which could reach out into the area. I commend and congratulate the two honourable members on their foresight and on the work they have done on behalf of their constituents. It was through their perception of the need for the establishment of a higher education institution and their advocacy and the work that they did in their local communities that the government finally, after straggling along behind, agreed that a need existed in the area. Of course we see the fruits of that in the Bill.

Swinburne recognised the need and purchased the old MDA Grammar School site at Mooroolbark to set up a higher education presence in the area. However, it was not helped by the government because it was not allowed to follow its original

plan, which was to use at Mooroolbark the capital funding that had been made available to it for an engineering building in Hawthorn. Nevertheless the project is under way and activities are already provided on that site. I am sure Mrs Varty will tell the House more about that later.

I shall not go through the history of the various committees that were set up, which finally led to the introduction of the Bill, suffice to say the government ultimately accepted the good sense of what the coalition had been urging, which was then validated by the findings of various committees, including a committee set up by the government.

Swinburne will be providing higher education with a different flavour to that of traditional universities in this State. It plans to have a comprehensive distributive learning network and will support that in the outer east region through a variety of innovative learning modes based on Swinburne's existing and future information technology. In the future students will be able to do a great deal of their work in their own homes using information technology or will be able to use other facilities that are dotted around the region close to them. For only a small part of their time will they visit the main campus for face-to-face interaction with staff. Modern technology will be used to access higher education in a more efficient way than has previously been the case.

Swinburne will also work to achieve articulation between TAFE and higher education, which has been urged upon these institutions during recent years. As with the Royal Melbourne Institute of Technology, Swinburne will be a university that offers higher education and also a TAFE component. It is pleased to have achieved that articulation. It will also develop its export educational services and hopes to be able to exchange technological know-how and education services with other countries in Asia and the Pacific Rim area.

The coalition is pleased to support the Bill and it wishes Swinburne well. While expressing that support I shall comment on some provisions in the Bill. We do not oppose them because we have been told that the Bill is fully supported by the council of Swinburne. I refer to the composition of the council. The Bill provides that certain members of the council appointed by the Governor in Council must not be employed as staff or be students at that university. I am reminded of a person I know well who was a member of a university council and during that time he undertook a part-time Bachelor of Education

degree. As a student and a council member he was able to more fully understand how the institution worked and perhaps he was able to bring something to council that may otherwise have been lacking.

I understand that it is desirable not to have a full-time student appointed to the council when there is already provision for student representation, but it seems a harsh way of dealing with the situation for a council member to be excluded in that way. There are also provisions dealing with the length of time that members can serve on the council. After a certain period those persons are not eligible to be members of the council until a further period of time has elapsed. I have reservations about that provision because I believe people should be on a council because of the contributions they make to the council. If they are making contributions, it is in everyone's interest that they should stay on the council. If they are not making contributions it is in everyone's interest that they do not stay. The number of years a person serves is irrelevant in those circumstances.

The Bill provides for the appointment of the first chancellor by the Governor in Council on the nomination of the Minister after consultation with the Swinburne council. That means it will be open to the Minister to consult by all means but then to appoint a person that the Minister likes. The coalition would be most upset if this provision were used to make a political appointment by an outgoing government. The coalition has been told that an appointment process has been settled in consultation between the government and the council of Swinburne. A committee will make the recommendation to the council, which will then make a recommendation to the Minister. If that process works as we have been told it will, that will be fine, but if the Minister appoints a person who has not been recommended that will be an unfortunate beginning for the new university because it will show that the position has been politicised by the government.

The coalition hopes the new university will be successful in all its endeavours, that it will provide access to higher education in the outer east, that it will show how articulation can take place between TAFE and higher education, and generally that it will add to the variety and diversity of institutions in this State so that in the future we will be able to compete more fully with the world.

Hon. P. R. HALL (Gippsland) — I, too, appreciate the opportunity to comment on the Swinburne

University of Technology Bill. I add my support for the new university. As Mr Storey commented in his opening remarks, we hope this is the last of an extensive series of amalgamations that we have seen in recent years. Certainly those amalgamations have occupied both the time of this House discussing the various Bills on amalgamations and also the time of the institutions that have been involved. The institutions will now be thankful that the issues have been resolved because they have spent a great deal of time seeking partners and discussing amalgamations and mergers. The list is extensive. I thought it would be an interesting exercise to backtrack through the different amalgamations that have taken place in Victoria in recent years and even further back into history as well.

In 1973, 44 different institutions delivered higher education in Victoria. As I read through the list of institutions some of the names are only dim memories because most have now disappeared. For example, the School of Mines and Industry in Ballarat; the School of Forestry at Creswick; the College of Nursing, Australia; the Emily McPherson College of Domestic Economy, which some of my school mates attended; Larnook; Glendonald; and the Gordon Institute of Technology have all disappeared. They have been subsumed into larger institutions and many people regret that those famous names from the past, which have a lot of history associated with them, are slowly fading from our memories.

Although it is true that many of those 44 institutions merged or amalgamated some time ago, in the past four years, since the then Federal Minister for Employment, Education and Training, Mr Dawkins, implemented his unified national system of higher education, which forced amalgamations, a rash of amalgamations has taken place. Almost half of the institutions that existed in 1973 have been involved in amalgamations over the past four years. Many of those amalgamations have required legislation.

Victoria now has seven universities, one affiliated university college, and the Institute of Catholic Education has become the Victorian campus of the Australian Catholic University. Four of those universities — RMIT, Swinburne, the Victoria University of Technology and the University of Melbourne — are now involved in the delivery of TAFE courses.

The University of Melbourne amalgamated with the Victorian College of the Arts, Hawthorn Institute of Education and the Melbourne College of Advanced

Education, and has an affiliation with Ballarat University College. The University of Melbourne is the largest university in Victoria with almost 34 000 students involved in higher education programs.

La Trobe University amalgamated with the Wodonga Institute, the Bendigo College of Advanced Education and the Lincoln Institute of Health Sciences. La Trobe University has 21 000 students in higher education.

The Bill creates the Swinburne University of Technology — Victoria's newest university. Swinburne is probably the only university that has not been involved in a series of mergers, merging only with the Prahran College of TAFE. Swinburne will have an enrolment of almost 8500 students in higher education but will also have a significant component of students undertaking TAFE courses.

The Royal Melbourne Institute of Technology (RMIT) merged with the Phillip Institute of Technology and has an enrolment of just over 22 000 students in higher education. Monash University was recently amalgamated with Chisholm Institute of Technology, Gippsland Institute of Advanced Education and the Victorian College of Pharmacy.

The enrolment of Deakin University was almost doubled when it amalgamated with Victoria College and the Warrnambool Institute of Advanced Education. Deakin now has just over 24 000 full-time higher education places. The Victoria University of Technology came into being two years ago as the result of an amalgamation between the Western Institute and the Footscray Institute of Technology. It has 11 000 students in higher education.

Over the past four years just over 20 institutions in higher education have been involved in amalgamations. The processing of the legislation for those amalgamations has kept the institutions and Parliament busy. I hope the amalgamation process has now been completed.

This Bill creates Victoria's seventh university and represents a significant backdown by the Labor government. All honourable members heard the comments of the former Minister responsible for Post-Secondary Education, Mr Walker, that it was a policy of the government to have five universities in Victoria. Coalition members can take the government's backdown as a compliment. As Mr Storey said, it has long been opposition policy that a university should be provided to cater for students in the outer eastern area of Melbourne and

the opposition has not restricted itself to the idea that Victoria should have only five universities.

Melbourne's outer east has been underserved with regard to higher education facilities and Swinburne will facilitate increased levels of participation in higher education. I recall Mr Storey and Mrs Varty on many occasions pointing out the need for a university in the outer east. They should now feel a sense of fulfilment that their efforts have been rewarded by the creation of the Swinburne University of Technology.

The Bill merges the Swinburne Institute of Technology, the Swinburne College of TAFE and the Prahran College of TAFE. Swinburne has a good reputation in Victoria and has for years offered courses in applied science, arts, business, engineering, design and film and television. The Swinburne College of TAFE had three teaching divisions: business studies, engineering and industrial science, and further education and community services. The institution offers a broad range of educational opportunities. The higher education component of Swinburne will have well over 8000 students in higher education and more than 5000 undertaking TAFE courses.

The second-reading speech refers to the low participation rate in higher education in the outer east. The opposition has been aware of that fact and has advocated a university for the region. The most recent information I was able to obtain from the Victorian Post-Secondary Education Committee reveals that the participation rate in the outer east is 12.4 per cent compared with a metropolitan rate of 14.8 per cent. The participation rate for the outer east was almost at the bottom of the scale of metropolitan regions.

Every country region is well down in its participation rate in higher education. The rate is as low as 8.3 per cent in north-eastern Victoria and 9.8 per cent in Central Gippsland. Those figures highlight the issues that this government and the incoming coalition government will need to address to increase the participation of the young people of Victoria in higher education.

I understand that this year Swinburne Institute of Technology is able to offer higher education courses at its outer eastern Mooroolbark campus for the first time, and that 250 students are enrolled in the courses. Nevertheless the campus has only limited facilities and even more limited opportunities for expansion. A steering committee has been

established to investigate a new site in the outer east that will become a campus of the new university, and the government has allocated \$2.3 million towards the cost of the project. The coalition welcomes that initiative. The members of the Liberal and National parties will do their best to ensure that the new campus is established as soon as possible.

The new Swinburne University of Technology has exciting challenges ahead of it. I hope the university will meet the expectations of the students in the outer east whom it will serve. I assure the House that the coalition will do everything it can to ensure that the university prospers and that it is recognised as the equal of any of the other six universities in the State.

Hon. ROSEMARY VARTY (Nunawading) — I thank my colleagues Mr Haddon Storey and Mr Peter Hall for their coverage of the principal issues involved in the provision of higher education. I shall concentrate on the impact the Bill will have on the outer eastern region of Melbourne, the rationale for improving student access to higher education in the outer east and the work done by various organisations to achieve that goal. As my colleagues have said, the Bill will establish the Swinburne University of Technology, which will be the State's seventh university. Had the Bill been passed before the Royal Melbourne Institute of Technology Bill, Swinburne could have claimed to be the State's sixth university!

The Bill recognises the need to improve access to higher education in the outer east. It also recognises the current lack of post-secondary education facilities in the region and affirms a change in government policy that in no small measure has been brought about by the consistent and cohesive pressure applied by the Outer Eastern University Planning Council.

The pressure applied by the council was acknowledged in a letter sent by Mr Roper, the Minister for Employment, Post-Secondary Education and Training, which was received by the Chairman of the Outer Eastern University Planning Council, Dr Peter Harris, in May this year. In his letter Mr Roper says:

I would like to thank you and the members of your committee for the assistance that has been provided in planning for this important initiative.

Those comments refer to the Bill; and the Minister also sent a copy of his second-reading speech to the

planning council, of which I have the privilege of being a member.

The founding members of the council, which was established in December 1990, were Dr Peter Harris, the Principal of Billanook College; Mr Des Russell, the Principal of Pembroke Secondary College; Mr John Goodfellow, the Principal of Mount Lilydale Regional Catholic College; Mrs Sylvia Walton, the Principal of Tintern Anglican Girls Grammar School; Mr Doug Loveless, from Cadbury Schweppes Australia Ltd; Mr Peter Fergusson, from Fergusson's Winery; Cr Len Cox from the Shire of Lilydale; my colleague Mr Bob Charles, the Federal member for La Trobe; Mr Phil Honeywood, the honourable member for Warrandyte in the other place; and me.

Along the way the efforts of the committee have been augmented by a number of other people. We tried to ensure that the membership of the committee reflected the widest possible range of views by including representatives of all levels of education — primary, secondary and tertiary, both government and non-government — and representatives of industry, because industry training courses are needed in the outer eastern region, which encompasses the Yarra Valley.

During 1991 and 1992 the work of the committee was augmented by the addition of Mr Barry Jackson, the Principal of Rolling Hills Primary School; Mr Charles Murodono, from Australian Automotive Air Pty Ltd, which is a Japanese-owned company based in Croydon; Mr Maurie Curwood, the Director of the Outer Eastern College of TAFE; Mr Geoff Draper, the Executive Officer of the Outer Eastern Municipalities Association; and Frank Bannon, the Deputy Director of the Swinburne Institute of Technology.

The House will notice that not one member of the government served on the committee. To my eternal sorrow we could not persuade one local Labor member to join the committee, even though a number of government members represent the outer east.

Hon. J. V. C. Guest — They're only visitors.

Hon. ROSEMARY VARTY — One assumes they are only visitors, Mr Guest, because they have shown no interest whatsoever in the issue and refused to join the council because government policy dictated that there be no more than five

universities in Victoria. Those members have shown no interest in the needs of their local communities.

Hon. P. R. Hall — Do they support the Bill?

Hon. ROSEMARY VARTY — Not one of them spoke during the debate in the Lower House, despite the fact that all of them have claimed that the change in government policy has been brought about because of their input. What a load of rubbish! Their failure to speak on the Bill in the other place makes me doubt whether they support the provision of higher education in the outer east.

I went out of my way to try to convince both Mr Pope, Minister for School Education, and Mrs Setches, the Minister for Community Services, to join the council. Mr Pope's office offered to send a Ministerial adviser along in his place. When I conveyed that suggestion to the planning council I was told, "No way, we want the Ministers, themselves, to take part in the planning for the university". In May 1991, after having been approached a number of times and having been kept informed of what was happening, Mrs Setches sent a letter to the council, saying:

I was disappointed that I was unable to participate in the forum held on Friday 10 May 1991, but I would like to continue to be informed of the progress of your council.

She said not one word about supporting the council or about working to ensure a change in government policy. Members of the government who represent electorates in the outer east cannot claim to be good local members when they have shown themselves to be unwilling to respond to the needs of their communities.

Caroline Hirsh, the honourable member for Wantirna in the other place, joined the council in March 1992 after the change in government policy. The council has met only a few times since that date. Despite the unwillingness of local members to join the council the Minister had the absolute audacity in his second-reading speech to say:

I would like to thank a number of my colleagues in the outer east ...

What a joke! The involvement of local government members has been negligible; but now they have realised that the issue is electorally important they are trying to claim credit for the work done by others. After the hard work that has been done by

State and Federal coalition members such as Mr Bob Charles, Mr Honeywood and me, the local Labor members now want to jump on the bandwagon. I have news for them: the local community will not wear it. Those members have missed the bandwagon.

Why has there been a push in the outer east for higher education? As early as 1989 the Outer Eastern Municipalities Association (OEMA), which is a regional group of municipalities with which I am sure you, Mr President, are familiar, and which comprises representatives from the shires of Upper Yarra, Healesville, Sherbrooke and Lillydale and the cities of Knox, Croydon, Ringwood and Nunawading, prepared a report into the future provision of post-secondary education in the outer eastern region. The report acknowledged that the Victorian Post-Secondary Education Commission had a major study under way on the provision of post-secondary education in the outer east. Some of the comments in the report are very interesting. I should like to read them into the record because they show that the community in the area was pushing this issue long before the government got round to really coming to grips with it. On page 4 the report states:

1. The numerous studies undertaken in the past and currently under way by educational bodies will no doubt support the argument for facilities in this region.
2. There does not appear to be a firm plan or broad strategic plans in place for the establishment of substantial facilities to provide post-secondary education in this region.
3. Planning by the respective organisations does not appear to occur between the various educational bodies —

that has been one of the problems all along the way —

4. Statistical information is not easily accessible to outside organisations. Most information is stored on computers and retrievable for specific information only.

The report makes a few other comments that I shall not read, but the last point states:

10. Concern was raised in discussion with representatives of higher education bodies that existing negotiated student places could be moved from institutions in the east and south east to accommodate promises made in the establishment of the Western University.

We all went through the saga of the establishment of the Victoria University of Technology and the re-run of that whole exercise. The recommendation of the 1989 report is:

That a letter of concern be sent to the Minister responsible for higher education and State and Federal members of Parliament (OEMA region) outlining the issues raised in this report and to request a strategic plan be implemented to support existing and anticipated requirements for higher education in this region.

In 1989 the Outer Eastern College of TAFE had a funding approval of \$8 million for a modified stage 1 of the Croydon campus to cater for 524 effective, full-time student places in electronics, business and management studies, and computing, information, social and community studies. The college also had small units at Lilydale and Healesville and an industry training and enrichment unit at Croydon, while Victoria College — now part of Deakin University — had a small study centre located at Lilydale. That was the extent of education in the area.

In August 1989 the Swinburne Institute of Technology purchased the MDA Grammar site in Mooroolbark with the intention of making available a wide range of courses similar to those available at the Hawthorn campus. Swinburne had hoped to be able to redirect some portion of a Commonwealth funding allocation of \$7 million for updating engineering and technology facilities. On 25 October 1989 a question was put to the then Minister responsible for Post-Secondary Education, Mr Evan Walker:

Can the Minister responsible for Post-Secondary Education inform the House on the government's attitude to the provision of higher education facilities in the outer eastern suburbs of Melbourne?

Part of the Minister's response was:

Given that the needs of the outer east should be met and balanced, I have asked the Victorian Post-Secondary Education Commission to investigate urgently how best MDA Grammar School site can be used to deliver higher education programs ... I will have that report in the second week of November and I confidently expect that some higher education programs will be delivered on the MDA site as early as 1990.

On 13 November 1989 the report had still not come to light and I asked a further question of the Minister. He responded by saying that he had received the report and that it would be available in the next few weeks. On 16 November the Minister released the report which recommended that there be a more extensive review of higher education needs in the eastern region, including both the outer eastern and south-eastern regions, because the south east, in common with the outer eastern region, has a low participation rate. The south-eastern corridor is designated as a growth corridor. A lot of young families live in that area so in the next 10 years there will be an immense need for higher education. Because there are many families with teenage children the need for higher education in the Yarra Valley and outer eastern areas exists now and will continue over the next few years.

In addition, approval was given to the Swinburne MDA site to offer arts/humanities and business studies with an estimated 500 to 600 effective full-time student places. Mr Walker also agreed that \$300 000 of the \$7 million should be spent on the MDA site to complete the proposed student and staff amenities building on the site. The Minister's press release relating to the report states:

They (the authors of the report) say there is currently insufficient data to understand why the outer east has lower than average higher education participation rates.

On 2 November 1990 Mr Ron Cullen reported to the then education Minister, Mr Pullen. The report that was tabled showed that on 1990 figures the participation rates in higher education in the outer east for all age groups were substantially below the State average and suggested that structural solutions should be aimed at particular areas of need to make the most efficient use of existing facilities.

The report also gave the first suggestion that there should be a change to the five-university policy.

Hon. B. T. Pullen — Not in 1990?

Hon. ROSEMARY VARTY — On page 10 of the report — —

Hon. B. T. Pullen — It was a report to me?

Hon. ROSEMARY VARTY — It was a report of November 1990.

Hon. B. T. Pullen — That was not a report to me as the Minister.

Hon. ROSEMARY VARTY — The report was tabled in 1990. On page 10 the report states:

However, if the existing universities are unable to assist this rationalisation to occur then the commission believes that there is scope for an additional university to develop, provided it is sponsored by a major research university for at least a six-year period and accepts suitable guidelines to ensure it is able to develop.

Hon. B. T. Pullen interjected.

Hon. ROSEMARY VARTY — The press release begins "The Minister for Education and Training, Mr Barry Pullen — —"

Hon. B. T. Pullen — Sorry, I was thinking of the earlier one.

Hon. ROSEMARY VARTY — At the same time that the reports were being prepared, there was growing community concern that the reconstruction, if you like, of tertiary institutions did not appear to be in any way providing facilities in the outer eastern region.

The Minister for Education and Training issued a press release on 12 November 1990, two weeks after Dr Cullen's report. It said:

Mr Pullen said that both governments had agreed that any future amalgamations of higher education institutions should be based on strengthening the five existing universities.

The Minister was referring to both State and Federal governments. At first Dr Cullen suggested there should be a change but only a few days later the Minister affirmed the government's policy of having only five universities.

Hon. Haddon Storey — A slow learner!

Hon. ROSEMARY VARTY — Exactly. At that time concern about the five-university policy was also expressed by Mr Storey and me, the honourable member for Warrandyte, educators, business people and parents who had been unable to enrol their children at the former MDA Grammar School site because, although it was expected that the school would take students in 1990, because of planning problems that could not occur.

The House should bear in mind that, in addition to the Outer Eastern University Planning Council,

several hundred people who expressed support for the proposal were contacted regularly so that they knew about our progress in negotiations to get a change of government policy. On 11 December 1990 at a meeting of the Outer Eastern University Planning Council the following statement was agreed to and later confirmed at a meeting of other interested people on 6 February 1991:

1. Nothing less than an independent university based in the outer eastern zone can provide the necessary focus and services for the people of the zone.
2. The arbitrary restriction to five universities proposed by the government and the VPSEC must be abandoned with the north-east corridor as a priority candidate for a sixth university.
3. There is a need to immediately resolve any difficulties preventing the amalgamation of existing institutions to form a basis for the new university.
4. If appropriate status is seen as a problem support from an existing major university could provide an umbrella for a limited time after which the new university should be completely independent.
5. The best possible site should be chosen taking into account transport and the possibility of growth in the long term, and short-term expedience should be avoided.

It was clear by mid-February 1991 that enrolments at the Swinburne MDA site could not proceed in 1991 because of further planning delays. To that point 585 applications had been lodged for places at what is now called Swinburne's eastern campus. Over the next 12 months the planning council continued to hold discussions with key people involved in higher education, industry, public transport and funding bodies. The comments of those people made it clear that any provision of further educational services in the outer east had to be special. I shall quote two letters I received, one from Cadbury Schweppes and the other from Fergusson's Winery Pty Ltd. The letter from Cadbury Schweppes states:

The total role of business in the development of a tertiary institution should be one of integration, where academic training is seen as a continuing process rather than a task done for a finite number of years.

It may mean that employees spend time at a tertiary institution as part of their normal working life. This type of contract would also facilitate using an institution as an adjunct to industry, rather than something more distant or quite separate from industry.

Cadbury Schweppes is one of the largest employers in the area. It employs people ranging from the semiskilled to those with higher education qualifications. Mr Peter Fergusson, the proprietor of Fergusson's Winery in the Yarra Valley, also contributed to the debate:

As the Yarra Valley establishes itself as a tourist destination there needs to be teaching facilities to have staff for the hospitality industry. So to summarise we need training facilities for the following: viticulture; oenology; business management; and hospitality.

There is a diversity of needs in the area, from the needs of the tourism and hospitality industry to the need for applied sciences in the manufacturing area.

On 10 May 1991 the Outer Eastern University Planning Council held a large community meeting at the Domaine Chandon where the following resolution was passed:

The community meeting affirms the need for an independent tertiary institution centred and based in the outer eastern region.

On 26 July the then Minister for Education and Training, Mr Pullen, wrote a letter to Dr Peter Harris, the Chairman of the Outer Eastern University Planning Council, saying:

The recent Commonwealth supplementary report on higher education funding for the 1992-93 triennium indicated that Swinburne institute would be a focus for the proposed expansion in the outer east, subject to further advice from the State in accordance with the Commonwealth's policy on new campus developments set out in the general 1991-93 report released last November.

It is my view that questions of site, management and nature of delivery, need to be considered in the context of the education and training needs of both the outer eastern community and its local industries. To this end I have asked Professor Peter Chandler, Dean, David Syme Faculty of Business, Monash University, to chair a working party made up of representatives from VPSEC, the State Training Board, Swinburne institute and the Outer Eastern College of TAFE, together with two additional people, whom I will nominate, with particular interest in and knowledge of the area and its educational needs.

I note that your group —

and the letter was written to Dr Harris as chairman of the planning council —

has done considerable work on the potential shape of higher education provision in the outer east. It would therefore be most useful if you would consent to join the working party as one of my nominees.

So the Minister acknowledged that the work undertaken by the council was of importance and should be taken into account. He continues:

Your participation would assist Professor Chandler and the working party in ascertaining community views; it would not preclude them consulting with other members of your group or other members of the community.

It is clear that the Minister is aware of the work that was being done. The sad part is that in the Minister's press release of 30 July, when he outlined the establishment of that working party, he referred to how much work had been done on the issue by local Labor members and named them. When members of the media received that press release they contacted me and were most irate that the Minister had said local Labor members had been actively involved in the work that was being done. The print media refused to publish that paragraph because they saw it as an affront to their own personal integrity. Members of the media had been keeping close contact with Mr Honeywood, Mr Bob Charles, the Federal member for La Trobe, and me on the issue because of its importance to the outer east.

Professor Chandler's working party report dated 12 September 1991 indicated its preferred option at page 18. Paragraph 10.1 states:

The working party's preferred option would be for the Swinburne Institute of Technology to commit to the relocation of its central operations to the region. Such a move would recognise the relative over provision of institutions in the inner suburbs and the declining local catchments they are serving.

Clearly Professor Chandler was reinforcing the view put by me and a number of other people for a major facility located in the area.

Tertiary institutes were invited to respond to Professor Chandler's proposals by 10 October 1991. Swinburne institute made a positive response. In a letter to Dr Harris, Professor Pennington, Vice-Chancellor of the University of Melbourne, states:

Our view is that if the favoured solution of an institution based on Swinburne institute is not judged to be viable the University of Melbourne would be willing to sponsor the development of a new institution in the outer eastern region subject to our full costs being met by government.

Swinburne institute was not the only organisation that believed it was important to be part of the provision of facilities in the outer east. If Swinburne does not deliver on its promise the University of Melbourne is obviously still interested in the proposal.

On 10 October 1991 the then Minister for Education and Training, the current Minister for Conservation and Environment, made a Ministerial statement on the report entitled *Victoria: Pathways to Success*. Page 16 of that report states:

The Victorian government has been pursuing a policy of establishing five strong universities to meet the needs of Victoria. An important consideration in this strategy has been a requirement that sufficient resources to support high quality research and post-graduate teaching programs normally expected of universities be provided. As a result of the expansion in demand for higher education and increased levels of support for research it is now possible to consider increasing the number of institutions with university status. This can occur as additional institutions meet the criteria which the community expects of Victorian universities.

At least the then Minister was prepared to give a commitment that the government may change its five university policy. The government has finally agreed with the coalition on the need to provide adequate facilities in the outer east, but it has taken some two years for that change to occur.

Following the release of the Chandler report the Outer Eastern University Planning Council wrote to the Swinburne college council on 16 November 1991 advising that:

Our planning council resolved —

1. That we commend Swinburne for being ready to accept the resolutions of the working party report, and as such we would recognise it as a major tertiary education provider in our region, provided all the recommendations of the report are met.
2. Our planning council would provide five of its members representing a range of community

groups to act as a reference group to Swinburne.

3. Our planning council will write to government indicating that in any legislation being prepared for —

- (a) the recognition of Swinburne as a university; or
- (b) the establishment of a tertiary institution in the area —

provide for a government structure which is centred within the region.

4. Our planning council would wish to work with Swinburne to press the case for an increase in student places and capital provision.

On 26 March 1992 a meeting of the planning council, the president, the director and the assistant director of Swinburne institute was held to discuss among other things the proposed legislation, which was in draft form, the likely location for a new facility and the changes in government policy. As a result of that meeting a draft public statement was agreed:

The outer eastern planning council and the Swinburne Institute of Technology agree that there be an immediate purchase of land for the initial establishment of Swinburne as a university within the outer eastern region and that this land have access to the railway line, be within reasonable proximity to a TAFE centre or centres to enable a colocation concept and it take into account the study centre/learning model proposed by Swinburne, which will enable the university to be established on one or more sites.

For a long period the planning council has worked with Swinburne institute to ensure the best possible provision in the outer eastern region. The working party was established under the chairmanship of Dr Ian Allen to advise on the location of the additional site. It visited Croydon this morning and it is planning to look at a number of other sites over the next few days.

Last Monday a public meeting was held at Domaine Chandon. Cadbury Schweppes Australia and Domaine Chandon have been most generous over a long period in providing facilities for planning council meetings. The public forum called by the planning council was attended by more than 120 people representing education, business, local government and community groups. The meeting was addressed by Mr Neil Pope, the Minister for School Education, Professor Iain Wallace, Swinburne institute, Mr Maurie Curwood, Director, Outer

Eastern College of TAFE, Mr Steve Macpherson, director, eastern region, and Dr Peter Harris, the Chairman of the Outer Eastern University Planning Council. These eminent people are clearly dedicated to the success of the proposed Swinburne university. Obviously much needs to be done to turn the dream into a reality — for instance, providing innovative creative programs within the present funding constraints, programs that will give students flexibility within and between the TAFE sectors because there will be a joint and key facility between Swinburne and the Outer Eastern College of TAFE.

For all that to happen there must be total commitment from the secondary education, TAFE and higher education sectors. Many questions were raised at that meeting, but it was finally agreed that the outer eastern planning council will continue to work with the government, business houses, educational authorities and interested community groups with the aim of contributing to a long-term strategic plan that allows greater access for secondary students to education in the outer eastern region. That sets the framework of what has occurred in regard to that change of policy.

I shall refer briefly to the proud history of Swinburne Institute. The outer eastern planning council appreciated the opportunity of working with the institute to bring higher education to the outer east and expand education in the State to meet the needs of all Victorians. It is a different view to that adopted by Ms Kokocinski, who was interested only in the Victoria University of Technology and what it could do for people residing in the western suburbs. The planning council is interested in new and innovative programs that benefit the State and possibly Australia.

Swinburne Institute was established as a technical college in 1908 in the outer eastern suburbs and the first students enrolled in 1909. In 1913 the institute changed its name to commemorate the Honourable George Swinburne, a former member of both Houses of Parliament and a Minister of the then Bent government. I am not sure whether that is a recommendation! George Swinburne was a member of the council of the University of Melbourne and in 1908 he became the first president of the college council. He was a great believer in technical education.

Swinburne Ltd comprises two teaching divisions; the Swinburne Institute of Technology and the Swinburne College of Technical and Further Education. The Swinburne Institute of Technology

has well-established undergraduate and postgraduate programs and research activities. In addition, a number of innovative centres have been established, such as the Centre for Computer Integrated Manufacture; the Centre of Industrial Democracy; Graphic Design Centre; National Scientific Instrumentation Centre and the Centre for Business Development and Training.

The Swinburne College of TAFE has always been at the forefront of innovation in offering courses at middle level or para-professional, trade, technical and tertiary orientation program levels.

In the April 1992 edition of *Swinburne News* the director, Professor Iain Wallace, says in his editorial on Swinburne becoming a university of technology with responsibility for the outer east:

Clearly the future is a challenge but it is an exciting one. Scarce financial resources and the distributed nature of the region's population require novel solutions for the provision of quality tertiary education for the area.

We have a strong record in making education accessible and relevant and have committed ourselves to building on that tradition in the outer east.

Typical students will divide their study time between the conventional campus, a learning centre and home, linked by advanced technology-based learning systems to resources at all Swinburne's campuses.

The real path towards solutions to low participation in education is a fundamental reappraisal of the role of the three sectors: schools, TAFE and higher education, and an appropriate relationship will be worked out in developing a long-term approach. The eastern campus was made possible by wholehearted support from the local community. We intend continuing that cooperation with the community, industry and local educational institutions to ensure the development of quality higher education which emphasises the needs of the outer east.

I welcome that commitment from Professor Wallace and look forward to working closely with him to ensure that we get that provision in the outer east.

In addition to provision in the outer east, the Bill will bring together and strengthen the Prahran and Hawthorn campuses, and the Prahran College of TAFE will be merged with the Prahran campus. The current profile data for the Swinburne Institute of Technology indicates that Swinburne meets the

criteria set down by the Australian Vice-Chancellors Committee for status as a university in fields of study; post-graduate research; research grants; academic publications and academic staff qualifications. The annual budget for the institute in 1991 was \$75.6 million.

I shall briefly go through the participation rates that Mr Hall dealt with briefly and point out why the Outer Eastern University Planning Council has been so insistent on gaining a campus in the area. It is predicted that the population of the catchment area — the outer eastern region — of 310 900 in 1986 will grow to 364 877 by the year 2001. However, it is not expected that the 10 to 14-year-old population will increase, but there will be a steady growth in both the 15 to 19-year-olds and the 20 to 25-year-old population.

Education in the region has accommodated the growth of both primary and junior secondary education and is now having to respond to the number of students in the senior secondary and the post-secondary years.

The outer eastern region of Melbourne is no longer designated a growth corridor but has steadily grown over the past 15 years and a change of government policy will not stop it from continuing to grow, but that growth has been without the corresponding increase in infrastructure services. Municipal authorities have had to wrestle with these questions.

There has been a lag and an under-provision of higher education in the region. The participation rates in higher education of 17 to 40-year-olds in the outer eastern region is 12.4 per cent in 1991 — 8.8 per cent in 1988 — while the inner east has 25 per cent — 20.4 per cent in 1988 — and the total metropolitan area has a rate of 14.8 per cent — 12.1 per cent in 1988.

The choice of a higher education provider by participating students in the outer east demonstrates a similar pattern to that of students in the inner east, but requires a substantially greater expenditure of both time and money to reach the chosen higher education institution. In 1990 students sought the following institutions: Monash University, 22.8 per cent; Deakin, 20.8 per cent; University of Melbourne, 15.3 per cent; RMIT, 10 per cent; Swinburne, Hawthorn, 10.5 per cent; and La Trobe University, 8.9 per cent.

The level of retention of year 12 in the region has been consistently below the State average. Currently

it is 52.4 per cent compared with 78.7 per cent in the inner east in 1989 and the State average was 60.5 per cent. However, over the past two years there have been dramatic increases as students have stayed on to complete their VCE hoping for ongoing tertiary studies or employment. This has varied in the region with the schools associated with the Boronia Support Centre having a retention rate of 55.6 per cent; Lilydale, 54.4 per cent; and Ringwood, 82.4 per cent. That can be compared with Doncaster at 98.8 per cent. Expectations have been lifted, but insufficient places have been available. There is a national objective that there will be a 90 per cent retention rate of secondary students by the year 2000. This will also increase the demand for higher education places. Up to this year there were only limited places for post-secondary education as provided by Deakin's Lilydale Study Centre and the Outer Eastern College of TAFE.

It is interesting to examine what is happening to the TAFE sector and the Outer Eastern College of TAFE as the main provider to the outer eastern region, although Box Hill also takes a large number of students from that area.

At the end of 1991, the Outer Eastern College of TAFE received record inquiries for its 1992 courses. In the initial three week application period some 3567 applications were received, compared with 2480 for the same period in the previous year; a 44 per cent increase. More than half the applications were from students seeking to re-enter education rather than school leavers.

We should never lose sight of the fact that the provision of this new facility will meet a need in the Yarra Valley and the outer eastern region for the more adult members of our community who also missed out on tertiary training for the very reason that young people are now missing out. I include in that people from my generation where the facilities were not available and the mix of families was not sufficient to enable the families to pay for the cost of students going to the University of Melbourne or Monash University.

I pay tribute to the work carried out by members of the Outer Eastern University Planning Council, particularly the work of Dr Peter Harris who took on the task, along with a number of other tasks with which he is involved. He has made a significant contribution in assisting with the change in government policy to get this facility.

I am privileged to have been a member of that council since its inception in 1990. The work of that council has ensured that the community is fully supportive of the expansion of higher education provisions in the outer east. Now it is up to the Swinburne University of Technology to deliver on its promises.

Swinburne can rest assured that, if its council does not follow up on its promises with action, our planning council will leave no stone unturned to ensure that the outer eastern region is not being used by Swinburne simply to achieve other territorial goals. We certainly do not wish to see a repeat of the in-fighting that characterised the original establishment of the Victoria University of Technology, nor do we want a repeat of the community antagonism that occurred over the establishment of the Swinburne eastern campus.

Our planning council will continue to work to get the best possible higher education facilities not only for the outer eastern region but also for all of Victoria.

This Bill demonstrates what good things can be achieved by local members while in opposition, and that the opposition is not simply concerned with negatives. Much of the initial impetus for the special provisions for the outer east in the Bill was provided by my colleagues Mr Bob Charles and Mr Phil Honeywood, the honourable member for Warrandyte.

If we can achieve that despite the inactivity of government members and their refusal to help bring about a change of Labor policy, honourable members should think about how much they as local Liberal Party members will achieve when in government! I support the legislation.

The PRESIDENT — Order! This Bill expressly affects the jurisdiction of the Supreme Court and therefore an absolute majority is required. To enable honourable members who are not present in the Chamber to participate in such a majority I direct that the bells be rung.

Bells rung.

Members having assembled in Chamber:

The PRESIDENT — Order! To enable me to ascertain whether an absolute majority exists for the motion I request honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 to 6 agreed to.

Clause 7

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

1. Clause 7, line 31, after "in" insert "or managing".

The present wording would exclude from the election for council any staff and senior administrative staff in TAFE positions. The amendment will allow them to be elected and vote in elections.

Hon. HADDON STOREY (East Yarra) — I thank the Minister for providing me with the amendments earlier; they are all technical in nature and the opposition supports them.

During my contribution to the second-reading debate I forgot to thank Dr Wallace and Dr Allen for their assistance to the opposition at the series of briefings.

Amendment agreed to; amended clause agreed to; clauses 8 to 18 agreed to.

Clause 19

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

2. Clause 19, page 13, line 4, after "Council," insert "the Academic Board,".

The amendment is required to permit the council to delegate powers to the academic board.

Amendment agreed to; amended clause agreed to; clauses 20 to 38 agreed to.

Clause 39

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

3. Clause 39, line 32, after "Board of" insert "Technical".

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The amendment corrects an editorial mistake.

Amendment agreed to; amended clause agreed to; clauses 40 to 42 agreed to.

Clause 43

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

4. Clause 43, line 31, omit "sub-section (6)" and insert "sub-section (7)".

The amendment effects a renumbering of subsections to obtain the correct sequence.

Amendment agreed to; amended clause agreed to; clauses 44 to 52 agreed to.

Clause 53

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

5. Clause 53, line 10, omit "section 7(5)" and insert "section 7(6)".

The amendment corrects a reference in the Bill so that section 7(6) is correctly included.

Amendment agreed to; amended clause agreed to; clauses 54 to 59 agreed to.

Clause 60

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

6. Clause 60, line 25, after "rights" insert "but excluding the land described in Book 722 Number 246".

The Bill transfers the university land used by Swinburne for higher education, which is vested in the Minister. The land described in Part 2 of the schedule is a consolidated description which includes three original titles, one of which is used for TAFE purposes. The amendment excludes that piece of land from the list of properties transferred from the university.

Amendment agreed to; amended clause agreed to; clauses 61 to 67 agreed to.

Clause 68

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

7. Clause 68, after line 32 insert —

'(d) in Schedule 2, omit "Swinburne Limited".'

This simply removes "Swinburne Limited" from the schedule since it will now be replaced with the title "Swinburne University of Technology".

Amendment agreed to; amended clause agreed to; clauses 69 and 70 agreed to; schedule agreed to.

Reported to House with amendments.

Report adopted.

Third reading

The PRESIDENT — Order! I am of the opinion that this motion requires to be passed by an absolute majority. I direct the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

The PRESIDENT — Order! As an absolute majority is required, I request honourable members supporting the third reading of the Bill to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

ACCIDENT COMPENSATION (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 2 June; motion of Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs).

Hon. R. M. HALLAM (Western) — This is a sad little Bill, not because of what it does — the coalition supports that — but because of what it started out to be and what it has finished up as. It started out as a substantial reform package of the WorkCare system. It was supposed to address the fundamental problems confronting WorkCare; it was to do something about the rate of growth in common-law claims on the WorkCare system; it was to do something with the massive blow-out of legal costs; it was designed to make it much harder to rort the system; it was to cut the growth in administrative costs being incurred by WorkCare; and it was actually going to do something about the structural problems in the system.

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Because of that it had the enthusiastic support of the coalition and of industry and it should have had the support of every employee and potential employee in the State given that WorkCare is now a major barrier to employment opportunities. The system need not be a barrier; the New South Wales system is similar, at least in purpose, to WorkCare but it is working dramatically better than the system in Victoria. The raw comparison is not welcomed by the government but nonetheless remains extremely relevant.

Under WorkCover in New South Wales the average premium paid by employers is 1.8 per cent of salary whereas in Victoria the rate is an average of 3 per cent. A fair commentary on the relative strength and health of each system is that Victoria has unfunded liabilities now totalling in the vicinity of \$2000 million and a comparison with New South Wales shows how poorly Victoria is doing. The WorkCover system in New South Wales has accumulated reserves in the order of \$700 million. Our system is an embarrassment even at a premium level of 3 per cent of salary when compared with the system in New South Wales.

The Bill, which started out as a major reform package, has been gutted along the way. Once again the government capitulated to the union movement. It wimped out on the really tough questions. In its initial draft form the Bill contained something like 60 major reforms but the measure before the House today manages to retain only two of those reforms — 58 got the chop. It is hardly worth the effort of going through a debate today to retain what is left in the Bill but I repeat that it will be allowed to pass by the coalition. I suppose we should be grateful for small mercies but it is hardly worth the trouble of the consultation process that has preceded the Bill.

I report as a matter of incidence that the Bill is supported by the Victorian Congress of Employer Associations, the Insurance Council of Australia Ltd and the Law Institute of Victoria.

As I said, only two reforms of the original package remain. The first closes two loopholes in the WorkCare legislation, which led to a concerning incidence of double dipping. I can hardly refuse to support the amendment to overcome that double dipping because it was I who raised the issue in Parliament in the first instance!

I recall bringing this matter to the attention of the Minister in November 1991 and at that time I

described the incidence of double dipping as contrary to the intention of Parliament and to natural justice. The first incident concerned the decision by the Accident Compensation Tribunal to award, under the provisions of the Workers Compensation Act 1958, \$69 250 as a lump sum to a widow for the work-related death of her husband. It was a sorry outcome of a sorry episode and certainly no question was raised about the payment except that the same widow had previously received \$80 600 under a similar claim under the Accident Compensation Act 1985. The case has become infamous and is known as the Boral-Taylor case. It transpires that the Accident Compensation Act expressly prohibits a claim for weekly benefits under both Acts but, as was learnt at some cost, lump sum payments had not been considered and were not covered by the Act. In that case a loophole clearly existed that needed to be closed and the Accident Compensation (Further Amendment) Bill will achieve that. Therefore it is supported by the coalition.

Another case of double dipping related to the table of maims as set out under section 98 of the Accident Compensation Act. It had been presumed that any damages under the table of maims would have been deducted from any damages for non-pecuniary losses subsequently awarded. However, an appeal division of the Supreme Court has recently held in *Metropolitan Transit Authority v. Ivanovski* that that is not so. I am sure that the case, now known as the Ivanovski case, has sent shudders through the commission and the Ministry. Section 135(3A) is quite clear and provides:

In proceedings for damages in respect of an injury arising out of or in the course of, or due to the nature of, employment, the amount of damages shall not exceed \$140 000—

that has been increased; here is the important point —

less any amounts of compensation paid under section 98.

That section is the table of maims. As I said, an appeal division of the Supreme Court has interpreted that section to mean that the claimant can receive an award under section 98 and not have it deducted from any subsequent award for non-pecuniary loss. Again, a glaring loophole exists in the law of the land and it will be specifically closed by the Bill.

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When I raised this issue initially in Parliament, I pointed out that I cast no aspersions on either the Accident Compensation Tribunal or the Supreme Court. The decisions made in both instances may have been proper, given the law as it currently stands, but I make the point again that I believe neither of the decisions reflects the intention of Parliament or represents true justice. On that basis, I urged the Minister to take urgent action to clarify the law and I pointed out that the potential had been created for the situation to get completely out of hand. That is the first effect of the Bill.

The second effect of the Bill relates to the appointment of inspectors. Some recent decisions in the Supreme Court and the Magistrates Court have raised fundamental doubts about the validity of the appointment of inspectors under the Occupational Health and Safety Act 1985, the Dangerous Goods Act 1985, and the Liquefied Gases Act 1968. Apart from anything else, the coalition contends that such a question mark should not remain hanging over legislation and important legislation should not be flouted due to a technicality if that technicality is the basis of relief. Therefore the coalition is prepared to support the validation of the appointment process.

The coalition had some misgivings about the way the government sought to overcome that problem initially. If read simply, the Bill is retrospective in effect and form. The coalition took the view that it would be unfair for a litigant to win a case and, on whatever basis that win was achieved, to subsequently have it re-run because of a change in the legislation. In other words, it would be unfair if, in changing the rules or clarifying them, we opened the door to subsequent action against an individual who had had a case tested previously. The government has agreed, and I understand the Minister for Consumer Affairs will move a House amendment to clarify the situation.

I have a letter signed by Dr Marc Robinson, Director, WorkCare Coordination Unit, that contains the following comment:

A question concerning the validity of an inspector's appointment arising in proceedings under the Occupational Health and Safety Act, the Dangerous Goods Act, or the Liquefied Gases Act commenced before the commencement of this Act must be determined as if this section had not been enacted.

The meaning of the paragraph is clear: the legislation will not have an unfair retrospective effect. In other words, the circumstances I outlined

will not apply to an individual who has successfully defended a charge under any of the three Acts to which I have referred.

The Bill is disappointing because it does not address the structural problems of WorkCare. No dispute is raised about the existence and nature of the structural problems. Although the Bill is designed to address the problems of WorkCare, it simply does not do so. The Bill does not deliver what had been hoped of it: a reduction in WorkCare premiums. The Bill provides no hope of any relief from administrative costs. The Bill will certainly not redress the dramatic growth in common-law costs and settlements. No relief is in sight for Victoria's hard-pressed employers. WorkCare is an unmitigated disaster. It is a monkey on the back of Victorian business.

Hon. T. C. Theophanous — It is much better than the old system. It is much cheaper; you know that!

Hon. R. M. HALLAM — It is sending jobs interstate and the risk exists that jobs will be sent overseas as well.

The Bill demonstrates more than anything else that WorkCare is too hard for the government. The government will not bite the bullet by addressing the real issues because it will not confront the unions. That is why this is a sad Bill. The government will not address the problems it acknowledges as existing, simply because it is not game to run the risk of offending its union mates!

Hon. T. C. Theophanous — What about your employer mates?

Hon. R. M. HALLAM — As I said, this is a sad Bill. It represents a good reason for Victorians to say goodbye to this administration. I add: the sooner Labor goes the better! And WorkCare provides a good reason for making that compelling call. It is important that as short a time as possible elapses before the coalition comes to power and does something about the extraordinary problems of WorkCare.

The workers compensation scheme urgently requires reform. We will put that back on the agenda when the coalition parties come to office. We will give it a high priority. The Bill is supported, but not enthusiastically.

The PRESIDENT — Order! I am of the opinion that the second reading of this Bill is required to be

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passed by an absolute majority, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

The PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

1. Clause 4, lines 14 and 15, omit “, or a claim for compensation has been made,”.

Amendment agreed to.

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

2. Clause 4, lines 17 to 25, and page 3, lines 1 to 4, omit proposed sub-section (2) and insert —

“(2) If a claim for compensation in respect of the death of a worker is made under the **Workers Compensation Act 1958**, a claim must not be made under this Act by any dependant of the worker unless the claim made under the **Workers Compensation Act 1958** is withdrawn or is rejected.”.

Amendment agreed to; amended clause agreed to.

Clause 5

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

3. Clause 5, line 16, after “includes” insert “an”.
4. Clause 5, line 17, after “compromise” insert “, other than damages in the nature of interest”.

Amendments agreed to; amended clause agreed to.

Clause 6

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

5. Clause 6, line 35, omit “or entering”.
6. Clause 6, line 36, omit “judgment,” and insert “judgment or”.
7. Clause 6, line 36, omit “damages,” and insert “damages or approving a”.

Amendments agreed to; amended clause agreed to.

Clause 7

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

8. Clause 7, lines 11 and 12, omit “, or a claim for compensation has been made,”
9. Clause 7, lines 14 to 26, omit proposed sub-section (2) and insert —

“(2) If a claim for compensation in respect of the death of a worker is made under the **Accident Compensation Act 1985**, a claim must not be made under this Act by any dependant of the worker unless the claim made under the **Accident Compensation Act 1985** is withdrawn or is rejected.”.

Amendments agreed to; amended clause agreed to.

Clause 8

Hon. R. M. HALLAM (Western) — I have a problem with the terminology in clause 8(3), which says:

On and from the commencement of this section —

- (a) all inspectors holding office or purporting to hold office under section 38 (1).

The words I am concerned about are, “or purporting to hold office”. I understand what the Bill is endeavouring to do. It is endeavouring to save the appointments that have since had a question mark placed against them. It seems to me that in the process of saving those appointments, the Bill goes beyond what we would normally expect it to; that is, it will save appointments that are bogus.

I considered moving an amendment to the clause but I hoped that my concerns could be covered by a commitment from the Minister that those words will not save an appointment that was not genuine. In other words, I seek an assurance that someone who

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has simply claimed to be an inspector would not be protected by the terminology in this provision to the extent that it says that the person was purporting to hold office. I ask for a commitment from the Minister that the terminology used in this case will not go beyond the agreed position.

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — The government certainly is not in the business of supporting bogus appointments, as was suggested by Mr Hallam. I certainly give a commitment on behalf of the government that those words do not mean an appointment that was not properly made and therefore that someone purporting to hold office would be appointed by the department.

Clause agreed to; clause 9 agreed to.

Clause 10

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

10. Clause 10, page 9, line 12, after "person" insert "as".

Amendment agreed to; amended clause agreed to.

New clause

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

11. Insert the following new clause to follow clause 10:

Existing proceedings

"AA. A question concerning the validity of the appointment of an inspector arising in any proceedings commenced under the **Occupational Health and Safety Act 1985**, the **Dangerous Goods Act 1985** or the **Liquefied Gases Act 1968** before the commencement of this Act must be determined as if this Part (other than this section) had not been enacted."

New clause agreed to.

Long title

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — I move:

12. Long title, omit ", the Transport Accident Act 1986".

Amendment agreed to; amended long title agreed to.

Reported to House with amendments, including amended long title.

Report adopted.

Third reading

The PRESIDENT — Order! I am of the opinion that the third reading of this Bill requires to be passed by an absolute majority. As there is not an absolute majority present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

The PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

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Second reading

Debate resumed from 6 May; motion of Hon. M. A. LYSTER (Minister for Health).

Hon. J. V. C. GUEST (Monash) — Underpinning family violence is the bad government that has put so many millions of Australians under economic stress. Family violence has always been a serious problem that has received little attention until comparatively recently. I have documents dating back to the early 1980s containing serious statements of policy by the then Liberal Party opposition for measures that were not given legislative effect until the government moved in 1987.

The opposition has remained concerned about the problem of family violence and the failure of the family violence legislation that was passed just under five years ago to have any impact. The opposition welcomes attempts to strengthen and improve the operation of the Crimes (Family Violence) Act. The Bill will almost certainly need finetuning as time goes by. The opposition welcomes the prospective implementation of the five objects or purposes of the Bill in the form they will take following amendment in the manner proposed, of which the opposition has been given notice.

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The five purposes as stated in the Bill are: to provide for the registration and enforcement of interstate protection orders; to provide for mandatory confiscation of firearms in family violence incidents; to provide police with powers of entry under the Crimes (Family Violence) Act 1987; and to further provide for intervention orders, including applications by telephone and facsimile transmission. As a result of proposed amendments that have been agreed between the opposition and the government the Bill will also provide for revocation of firearms licences and permits and the disposal of firearms.

I turn to the provisions of the Bill. The provision for interim intervention orders in clause 5 makes it clear that an interim intervention order may impose any restrictions or prohibitions on the defendant that may be imposed by an intervention order. It goes on to provide that a member of the Police Force may make a complaint for an interim intervention order by telephone or by facsimile transmission in certain circumstances. Those are perfectly sensible circumstances, particularly when subject to the amendments that are proposed, in which the opposition has foreseen that problems may arise.

Police may call at night, on weekends or on public holidays when magistrates are not readily available or when extremely urgent action is needed that may make it desirable to act within the hour or within minutes.

The provision for the obtaining of an order from a duty magistrate by telephone or facsimile transmission has obvious scope for abuse, but the order sought is only an interim order. One might say that the obtaining of interim orders from the Supreme Court is equally open to substantial abuse. However, in those cases and in cases of interim injunctions an undertaking as to damages is invariably required. That is not to say that the person giving the undertaking could always pay the damages or compensate a person damaged by an interim order.

In this case we are not dealing with the likelihood of any substantial pecuniary loss or loss that could be expressed in pecuniary terms; rather we are concerned with the restriction on the liberty of an individual. In many circumstances the alternative is death or injury, a fact that is rightly apprehended by the police and by the aggrieved family members who initiate the intervention of police.

The opposition regards this as an important practical measure to protect people in the real world in family situations within the wide definition provided in the family violence legislation. Family members are defined in the Crimes (Family Violence) Act as including persons normally living in a household. The family is described in contemporary terms and refers to the ordinary household; but the Bill is principally concerned with the abuse of women and children — the abuse of the weak by the strong. The coalition certainly supports the provision, which will be finetuned by amendments put forward during the Committee stage to ensure that prompt action can be taken.

Clause 7 deals with the registration of interstate orders. That will benefit mostly women and it allows a beneficiary of an intervention order that is made in another State to move to Victoria without having to seek a further intervention from a Victorian court.

It goes without saying that a woman who comes to Victoria to escape a husband or de facto spouse who has been beating her will not want to advertise her presence by seeking an intervention order from a Victorian court. Even if that is not a precise description of such a woman's circumstances, one can well imagine that she would not want to go through the process again. If the reasons for the order were no longer apposite the woman would run the risk of the other party seeking to have it discharged in the State in which it was granted. That assumes the husband or de facto spouse remains in the other State, but he could come to live in Victoria as well.

It may be that although the spouses or de facto spouses had resumed contact — to make arrangements about children, for example — the aggrieved party might choose to have the intervention order reinforced, which could be done under clause 7. The clause is complicated by the fact that orders made in New South Wales are not limited to 12 months as is the case in Victoria. Although the order could be many years out of date because intervening events had altered the reasons for its being granted, it could be used as an inequitable weapon against a former defendant.

The government should consider including a provision to enable applications to be made in appropriate circumstances to vary orders made in other States. That is not to say that the Bill is seriously flawed. For all its loose ends and rough edges, the opposition would rather see the provision

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included than omitted pending the discovery of some ideal way of doing justice to all parties in all circumstances.

The opposition supports the clause dealing with the entering and searching of premises by members of the Police Force. It is highly desirable that police officers be given a clear charter of their rights and duties when faced with entering and searching premises in cases of suspected family violence. Over many decades police officers have been unwilling to involve themselves in situations where they are required to make difficult judgments about matters of fact and, indeed, matters of law in dealing with cases of suspected family violence. That has been exaggerated by the absence of clear guidelines, which the Bill will overcome.

The mandatory confiscation of firearms is another matter of concern. Many people support the notion that police officers should be told to confiscate firearms where they believe any possibility exists that the firearms may be used. The October 1990 discussion paper of the National Police Working Party on Law Reform, which carries the heading "Domestic Violence" and the subheading "Violence: Directions for Australia", addresses the issue. Recommendation No. 66 of the discussion paper says:

Police should have adequate powers to seize, and should in fact seize, any firearms or other weapons which may be present at the scene of an assault.

Other weapons are certainly used to kill spouses, but firearms are overwhelmingly the weapons of choice. They are truly dangerous weapons that can cause very serious harm — and they can be used accidentally or negligently in stressful circumstances. Page 26 of the 40th report of the Law Reform Commission of Victoria, which is entitled *Homicide*, states:

Firearms were used in 44 per cent of domestic homicides between 1984 and 1988. Both men and women tend to carry out domestic killings with firearms or knives.

Unfortunately such killings are rarely accidental. One may suppose that in the heat of the moment a truly evil person such as a burglar may discharge a firearm accidentally, but the passion generated by domestic violence makes the presence of firearms extremely dangerous.

Page 27 of the report says:

A similar pattern was found in the New South Wales study of reported homicides, which also found that guns were used against spouses in a higher proportion of cases than in the total homicide sample ...

The family violence incident reports data show that in the period December 1987 to March 1988 there were 87 cases of non-fatal violence in which the victim had been threatened with a gun. In 65 per cent of those cases no prosecution action had been taken.

That goes to the heart of one of the principles underlying the Bill. In the absence of what they have regarded as a clear mandate, police officers have been less than willing to treat the presence or possible use of firearms as seriously as many of those observing the high number of such cases believe they should have. Page 28 of the report says:

Police attending a family violence incident should remove any gun in the presence of the perpetrator, whether the gun was involved in the incident or not. The existing section 18A of the Crimes (Family Violence) Act 1987 should be amended so that it is mandatory that any gun is removed immediately: it should not remain a matter for discretion.

On page 145 of the same report several tables show the figures for cases involving guns where prosecution followed. Table 8 shows that there were 17 incidents in which a gun was used, and 14 prosecutions, which is a rate of 82.3 per cent, followed; 87 incidents in which there was the threat of a gun, and 28 prosecutions followed; 31 incidents in which a gun was present, and only 5 prosecutions followed. This was before the 1987 legislation, which came into force in mid-1988 and which would have allowed the police to remove the guns.

Table 11 shows that guns were used or threatened to be used in a significant number of cases. There were 7 cases of assault/murder involving the use of a gun; 7 assault/murder cases involving the threat of the use of a gun; 7 firearms offences where a gun was threatened to be used; and 6 unspecified cases involving guns. In 59 cases involving guns no charges were laid.

I shall not read the individual cases from the report but I refer interested honourable members to pages 148 and 149 of the report so there is no criticism that police have not always taken the stern action one might have hoped for when guns are present or used in the case of family violence,

because they have not had the clear mandate that we are proposing to give them. We have learnt from their good work over the past few years that there is no reason to suspect that police condone family violence.

The stereotype of the average policeman is that he is a macho fellow, but there is no reason to suppose he condones family violence. Indeed, the police are anxious that firearms not be unnecessarily in the hands of members of the community. They would be well aware of the fact that, as cited in the second-reading speech, in the period from 1 July 1990 to 30 June 1991, 3209 orders were made in the Magistrates Court in relation to family violence. One hardly needs to spell out by quoting the other material in the report that the defendants concerned were for the most part spouses and de facto partners or that the aggrieved person was the other spouse or partner.

The extraordinary thing that emerges from the statistics is how rarely firearms have been effectively dealt with. One does not really have to say that it is probable — there being a greater than 50 per cent probability — that a person who has a firearm in the house, a violent temper and alcohol in his system and who has just assaulted his spouse is likely to use the firearm. If this legislation, which gives the police a mandate to remove guns, were designed simply to prevent one or two homicides a year we would say it was justified. However, as the Bill was originally drafted there was the prospect that persons would lose their firearms when they could make a good case for keeping them or that, were the firearms sold, they might lose the proceeds when they could make a good case for ownership. While the court could remain convinced that, on balance, it would be better that there be no firearm in the hands of that individual, it would not be just to condemn the person to an additional fine by way of the loss of a valuable firearm and the proceeds of the sale.

We are glad the government has accommodated the points raised by the opposition. If they had not been raised by the opposition I am sure various shooting organisations would have raised them very effectively. A satisfactory resolution of the problems is about to be effected by the amendments that will be moved during the Committee stage.

I have indicated and I reiterate that the opposition supports the legislation and says that in some respects it should have been enacted earlier than it will be, but it is better now than never.

Hon. B. A. CHAMBERLAIN (Western) — This is a very important piece of legislation. The Crimes (Family Violence) Bill that was introduced in 1987 was strongly supported by the Liberal Party and it has initiated and suggested other changes since then. I wish to deal with the amendments to section 18A of the principal Act. When the 1987 Bill was introduced into this House, in speaking on behalf of the Liberal Party, I said that I believed the measures being enacted did not go far enough. On 28 April 1987 I said:

The opposition believes the Bill does not go far enough and that the proposed amendment clarifies the right of police in those circumstances.

I asked the Minister to give consideration to a number of proposals that I put to him. Early in 1988 when the House was considering the Firearms (Amendment) Bill (No. 2) I proposed an amendment that was the genesis of section 18A of the Crimes (Family Violence) Act. This measure came from the Liberal Party and I shall read the proposal I made on 3 May 1988. It is headed "Seizure of firearms" and states:

"18A(1) If a member of the police force is satisfied on the balance of probabilities that there are grounds for the issue of an intervention order in respect of a person under section 4, the member may seize any firearm in the possession of that person and, for that purpose, may, without warrant, enter and search any premises where the person resides or has resided.

(2) If an intervention order is made in respect of that person, any firearm seized must be returned to the person, forfeited to the Crown or disposed of in accordance with directions in the order or, if there are no such directions or an order is not made, must be returned to the person, forfeited to the Crown or disposed of, as the Minister directs".

That was my proposal on behalf of the Liberal Party on 3 May 1988. At that time it was accepted by the then Minister for Conservation, Forests and Lands, Joan Kirner, on behalf of the Attorney-General. Once all the hoo-ha died down and the firearms legislation was passed, the government publicised the principal elements of the new legislation in which the opposition had taken an active interest. The No. 1 selling feature was this provision which came not from the government but from the opposition. The opposition's cooperation with the government was responsible for Parliament eventually passing a measure which had considerable community support and which seems to have worked extremely well.

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Clause 8 proposes to insert in the principal Act new section 18AB, which will allow a member of the Police Force to enter and search premises. Clause 9 will amend the provision I introduced in 1988 to give police mandatory rather than discretionary power to confiscate firearms. My colleague, Mr Guest, advised the House of the basis on which that proposal has been put forward. I understand it was recommendation No. 66 of the report he quoted to the House. I support those measures.

However, it is important to note that there are other views on whether the police should have a discretion to confiscate firearms. I refer the House to comments of a friend of mine in Portland, a former military man who is a responsible and articulate gun owner. This gentleman has had a lot to do with the police on this issue and he is not just a kerbside critic. He is an active agitator for sensible gun control. He has advised me of comments that he received from active police officers on another perspective to this issue. He advised me of objections that were raised with him by police officers. Although I shall not name this man I shall quote his letter to me of 14 May 1992:

The first objection was the removal of discretionary powers from the policeman at the scene. This is in two parts. Firstly if he wishes for any reason to remove the firearms he is then compelled to ensure that an intervention order is put in place, even if the circumstances do not require this level of activity.

Conversely if he fails to remove the firearm from the premises, even though they might not belong to the person involved, and further actions occur he could be in jeopardy legally and departmentally.

As it was explained to me, the power to remove firearms from a situation is already there with a broad base of discretion.

Example: country policeman attends domestic situation, plays on local football team with husband, and has social contact with wife. Suggests that he rings mother or father of either party to assist in a reconciliation. In most cases a certain amount of shame is felt by both parties and this is resisted.

Common solution used in the bush: attending officer takes possession of firearms and advises the owner that he will hand them over to the owner's father or brother for safekeeping and until things calm down.

Immediately he has involved a larger family, appears to be conciliatory by doing the right thing by the owner

and in general is a peacemaker, not compounding the anger.

At the same time he has removed the primary threat. If he is compelled to confiscate the firearms, the owner is further angered and lays the blame jointly on the wife and the police officer personally. Thus escalating the anger.

The Bill is further flawed in that the owner of the firearms has very little recourse in the recovery of said firearms or the commercial disposal after an intervention order has been put in place. Thereby placing a financial burden on both parties, who in the main in domestic disputes are originally arguing over money matters. Plus the fact of the antagonism that is further developed by the loss incurred by the husband, escalating the rift between the two parties.

They are thoughtful comments that give another side of the argument, perhaps in a different context, but are a plea to leave the discretion with the police. Having said that, I believe in those cases it is probably better to err on the side of extreme caution and that the principal action should be to get the firearm out of the way so that after things calm down it is not available to anyone if a further flare-up develops.

Consistent with the support it has given to similar proposals since 1987, the opposition supports the Bill. The opposition has constructively added to the debate and to the statute book, and this is a further progression. I suggest it will not be the last time the House will debate those issues.

Debate interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! My attention has been drawn to the presence in the House of the following distinguished visitors: the Right Honourable Don McKinnon, Deputy Prime Minister of New Zealand; the New Zealand High Commissioner to Australia; and the New Zealand Consul-General in Victoria. We welcome you, Mr McKinnon, and your party and trust that your stay in Australia and in Victoria will be profitable and useful to you and to your government.

CRIMES (FAMILY VIOLENCE) (FURTHER AMENDMENT) BILL

Debate resumed.

CRIMES (FAMILY VIOLENCE) (FURTHER AMENDMENT) BILL

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Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Hon. M. A. LYSTER (Minister for Health) — I move:

1. Clause 1, line 12, after "transmission" insert —
"; and
(e) to further provide for revocation of firearms licences and permits and disposal of firearms".

The amendment sets out a fifth purpose for the Bill, namely, to further provide for the revocation of firearms licences and permits and the disposal of firearms.

Amendment agreed to; amended clause agreed to; clauses 2 to 4 agreed to.

Clause 5

Hon. M. A. LYSTER (Minister for Health) — I move:

2. Clause 5, line 32, and page 3, lines 1 and 2, omit all words and expressions on these lines and insert "facsimile machine if —
 - (a) the complaint is made —
 - (i) before 9 a.m. or after 5 p.m. on a weekday; or
 - (ii) on a Saturday, Sunday or public holiday; or
 - (b) the distance from the nearest venue of the court where the court is sitting is so great that it is impracticable to make the complaint in person."
3. Clause 5, page 3, after line 9 insert —
"() On a complaint made by telephone, the court may, if practicable, hear the defendant or the aggrieved family member or both."
4. Clause 5, page 3, line 17, after "made" insert "and must cause a copy of the order to be forwarded to the registrar at the venue of the court nominated in the order before the further hearing of the complaint".
5. Clause 5, page 3, line 22, omit "(7)" and insert "(8)".

Amendment No. 2 will enable police to obtain interim intervention orders by telephone or facsimile during court sitting hours when the person cannot make the complaint in person. It will ensure that victims of family violence in rural areas receive similar protection to that available in metropolitan Melbourne.

Amendment No. 3 empowers a magistrate to speak on the telephone to the defendant, the aggrieved family member, or both when a police officer seeks an intervention order, in addition to hearing from the police complainant.

Amendment No. 4 will ensure that a magistrate making an interim intervention order forwards a copy of the order to the registrar before the further hearing of the complaint.

Amendment No. 5 corrects a numbering error.

Amendments agreed to; amended clause agreed to; clauses 6 to 8 agreed to.

Clause 9

Hon. M. A. LYSTER (Minister for Health) — I move:

6. Clause 9, lines 10 and 11, omit paragraphs (b) and (c) and insert —
 - (b) In sub-section (2) for "as the Minister administering the Firearms and Other Weapons Act 1958 directs" substitute "under the Firearms Act 1958";
 - (c) In sub-section (4) for "as the Minister administering the Firearms and Other Weapons Act 1958 directs" substitute "under the Firearms Act 1958".

The clause provides for the mandatory confiscation of firearms. The amendment clarifies the meaning of disposal as in the disposal of firearms and brings it into line with the Firearms Act.

Amendment agreed to; amended clause agreed to; clause 10 agreed to.

New clause

Hon. M. A. LYSTER (Minister for Health) — I move:

7. Insert the following new clause to follow clause 4:
Intervention order that revokes firearms licences etc.

'AA. (1) For section 5(1)(h) of the Principal Act substitute —

“(h) revoke any licence, permit or other authority to possess, carry or use firearms and —

- (i) disqualify the defendant from obtaining any such licence, permit or authority for such time as the court thinks fit, being not more than 12 months from the date of the order; and
- (ii) direct that any firearm in the defendant's possession —
 - (A) be forfeited to the Crown; or
 - (B) be disposed of by sale to a person other than the defendant by a gun dealer licensed under the Firearms Act 1958 and that the proceeds of sale, less the gun dealer's reasonable costs, be paid to the owner of the firearm; or
 - (C) be disposed of under the Firearms Act 1958.”.

(2) After section 5(2) of the Principal Act insert —

“(3) Despite anything to the contrary in the Firearms Act 1958, an order under sub-section (1)(h) takes effect when it is made and no appeal lies under that Act against an order made under this Act.”.

(3) In section 17(1) of the Principal Act, after paragraph (d) insert —

“; and

- (e) where the order revokes any licence or permit or other authority to possess carry or use firearms, cause a copy of the order to be forwarded to the Registrar of firearms appointed under section 50 of the Firearms Act 1958.
- (1A) The Registrar of firearms, on receiving a copy of an order referred to in sub-section (1)(e) must make such entries in his or her records as are necessary to record the effect of the order.”.

Provisions of the new clause will apply to an intervention order that revokes firearm licences. If an intervention order is made relating to the cancellation of a firearm licence the amendment directs the magistrate to specify the period of cancellation of the licence and the defendant is disqualified from obtaining a licence. If no discretionary period is prescribed the defendant can apply for the licence at any time. The provision will apply for only 12 months, which is the maximum

period that intervention orders remain in force. The new clause also clarifies other provisions that apply to firearm licences.

New clause agreed to.

Reported to House with amendments.

Passed remaining stages.

LOY YANG B BILL

Second reading

Debate resumed from 2 June; motion of Hon. D. R. WHITE (Minister for Manufacturing and Industry Development).

Hon. R. J. LONG (Gippsland) — This Bill is unusual. The preamble states:

It is expedient to enable the State Electricity Commission of Victoria to sell a substantial interest in the power station known as Loy Yang B near Traralgon:

For those purposes, it is intended that an agreement be entered into by the Minister on behalf of the State:

It is expedient to authorise the entering into of the Agreement set out in Schedule 1 and to ratify and approve that Agreement:

I have no hesitation in saying that this is the most important Bill to come before the House in the 19 years I have been a member of this place. The State Bank (Succession of Commonwealth Bank) Bill was an important Bill because the House was required to pass the legislation and that was the end of the State-owned bank. This Bill will bestow either a benefit or a burden on this State for the next 30 years or more.

The House is being asked to give authority to sell a substantial interest, whatever that means, in the Loy Yang B power station, yet no signed agreement of any description has been presented to the House. Schedule 1 contains a draft State agreement, which is not yet signed, does not name the parties to the agreement, contains no purchase price and contains nothing to indicate what percentage of the enterprise is being sold. Additionally, the State agreement refers to a coal supply agreement, a completion of construction agreement, a joint venture agreement, a miscellaneous services agreement, an operating and maintenance agreement, a power supply agreement, and a sale of assets agreement. Not one of those

agreements have been tabled yet honourable members are expected to pass the Bill. Negotiations are still proceeding in relation to the project agreement.

When the Bill was debated in the other place the government moved 86 amendments and it will move a further 43 amendments during the Committee stage in this place. The coalition also proposes to move a number of additional amendments.

I first saw the Bill on 19 May — 16 days ago — yet the government has been talking about the sale of Loy Yang B for 12 months or more. It expects the House to pass the Bill without protest even though it was introduced only last Tuesday.

I attended a briefing on the Bill and I shall summarise what I believe is the vital information I gleaned from that briefing. Originally, the Loy Yang B power station was to consist of four 500 megawatt coal-fired units. The contracts for the completion of units 1 and 2 are 98 per cent committed. Unit 1 is due for completion by September 1993 and unit 2 by September 1996.

The joint venturer controlling units 1 and 2 will comprise Mission Energy, which will have a 40 per cent stake in the power station. Mission Energy is a subsidiary of a large company in the United States of America with experience in the production of electricity from coal. A subsidiary of the State Electricity Commission will control 49 per cent and other government bodies will control 11 per cent. The Bill does not refer to any of that and until recently we did not even know the names of the other government bodies.

The State agreement, as set out in the schedule, will bind the SEC and be guaranteed by the people of Victoria for the supply of electricity for 30 years or more.

By 30 June 1992 \$1.42 billion will have been spent on Loy Yang B and another \$820 million is required to complete units 1 and 2, of which Mission Energy will pay 40 per cent, or \$570 million. That should have been paid by 30 June 1992 but that now seems to be a pipedream.

When the power station is in operation the cost of power in 1991 dollar terms from units 1 and 2 will be 6.8 cents a kilowatt hour. That will inflate prices according to a complicated formula that Mr Guest will explain in his contribution to the debate. The

Minister for Manufacturing and Industry Development says that the 5.4 cents a kilowatt hour is a notional tariff over the 30-year period and is a "levelised" average in real terms being constant in 1991-92 dollars.

Each power station has a different cost of production. For example, Yallourn W power station has the cheapest cost of production and the standby generator at the briquette factory in Morwell is the most expensive.

The SEC is obliged to purchase 100 per cent of the power generated, but Mission Energy and the other participants have the option to sell 20 per cent of that power elsewhere if they desire, leaving the commission with an obligation to purchase the remaining 80 per cent. A subsidiary of Mission Energy will manage and operate the power station on behalf of the joint venture.

The difficulties with the sale have been caused by the fact that 40 per cent is being sold to an outsider instead of 100 per cent, which would have enabled Loy Yang B to compete on a level footing with other power stations in the State and in that way achieve some real competition. Despite that, the coalition applauds this first major step towards privatisation by a left-wing dominated government but does not endorse the way the sale has been arranged or necessarily the terms of the sale. The coalition will not oppose the Bill but expects that the State agreement will be executed following a number of amendments that will be made to it in the Bill.

The coalition favours 100 per cent privatisation of the power station. I understand that originally Cabinet had a similar view but the government is ideologically split and substantial sections of the Labor Party are opposed to privatisation. One is forced to ask: how did the government manage to introduce a Bill of this nature at all? In truth, there was no alternative; the government found it impossible to complete the construction of the power station with 98 per cent of the contracts committed to the building of units 1 and 2 at Loy Yang B. There would have been a greater cost in mothballing the project in its present form than in continuing and completing it. That was brought about by the government's appalling financial mismanagement.

As we all know, the State is bankrupt. If the government had borrowed money to complete the power station there would not have been any money for anything else, such as hospitals, schools and so

on. Consequently, the government had to sell the power station. Instead of selling the lot, which would have been a simple exercise, it pandered to the left wing, which allowed it to sell only 40 per cent, with all the attendant problems.

The most doubtful part of the scheme is the excess electric power in New South Wales and Queensland. The Bill guarantees that Victorians will buy 100 per cent of the Loy Yang output at a fixed price. I am informed that New South Wales has a mothballed power station called Mount Piper. If that station is brought on stream I am fearful that it may sell power cheaper than the guaranteed price for Loy Yang.

One is also fearful that in the next 30 years cheaper methods of electricity production and generation will be discovered. The problems of nuclear waste disposal may be solved and therefore nuclear power stations could become a cheaper alternative. The Commonwealth government is promoting development of the eastern power grid that will enable consumers of any description to use the cheapest power supply. Mission Energy has the option to sell 20 per cent of its power anywhere and the Victorian taxpayer is obliged to guarantee Mission Energy, but, if necessary, it will buy 100 per cent of its power, and that guarantee will continue for 30 years.

Anything I say should not be taken as criticism of the State Electricity Commission of Victoria: it is a large organisation and has done a lot, particularly in the past few years, to make notable changes in its administration. It has a large work force and has reduced manpower significantly. In 1990 the SEC introduced a no new debt policy. That made it extremely difficult for the commission to complete the construction of Loy Yang B. The necessity for full internal funding was a huge hurdle. At that time 42 cents in the dollar of revenue received by the commission went into the payment of interest on debt. The SEC decided to sell Loy Yang B: that was the only way. As I said, however, the ALP caucus entered into the matter and forced the Kirner government to sell only 40 per cent. That decision has caused a lot of problems. Without doubt, the most important problem facing the State today is unemployment.

Many employers are required to reduce unemployment in Victoria by creating jobs through wealth creation. I am sorry to say that wealth creators rely on electricity in the workplace. I cannot imagine any workplace today where electricity is not

required, and the cheaper the electricity, the greater the opportunity for us to create jobs. Consequently, the government must ensure it is providing the cheapest power for that purpose. It is vital for our future.

The coalition supports privatisation only if it benefits the State. It would be silly of us to support privatisation simply for the sake of privatisation. Naturally we would like to see a privately run power station in Victoria so that we could compare it with a State-owned one, and assess their respective merits.

I am not the party spokesman on privatisation but I know of a number of examples involving privatisation. I confess that I would contract out some parts of our hospital linen service so as to be able to make comparisons with the present laundries run by the hospitals.

It is apparent that to protect Mission Energy investment in this project from an income tax point of view it was necessary to introduce other government bodies to hold 11 per cent, thus reducing the SEC holding to 49 per cent. I cannot understand how the other government bodies are being financed and I hope the Minister will explain that to the House. The Bill contains no explanation of financing arrangements. I hope any future government is not landed with providing that finance. The other government bodies will not be required to put up funds until 1996 when the second power station unit is due to come on line.

In the short time available to it the coalition has questioned many parts of the Bill and in some cases amendments will be moved. I notice that, during his second-reading speech the Minister referred on no less than three occasions to the concerns of the opposition. Clause 5 was amended in another place. Originally that clause provided that the Minister could:

enter into an agreement in or to the effect of the form set out in Schedule 1.

The amendment passed in the other place resulted in the clause now providing that the Minister can:

enter into an agreement in the form set out in Schedule 1.

At least the clause has been restricted to some degree. Proposed amendments will at least add the names of the parties to the schedule. Others will

revise some of the draconian powers in the Bill, the agreement and the schedule. Some of the powers were at a higher level than the Constitution of Victoria so that, in effect, the Bill would have amended the Constitution.

There has been much negotiation — for which I thank the Minister — but the agreement referred to in the State agreement has not yet been executed. As I said, we do not approve of the terms of sale but we will not oppose the Bill. We have no faith in this government's financial management, but no other course is available to us. I only hope the government has got it right this time; otherwise, the people of Victoria will suffer for the next 30 years.

Hon. J. V. C. GUEST (Monash) — This Bill marks an end to State socialism in Victoria.

Hon. D. M. Evans — The beginning of the end.

Hon. J. V. C. GUEST — The end of it as an ideology, and as a serious factor in the conduct of the affairs of the State. It is the beginning of the end, as Mr Evans said, in the sense that there is much to be dismantled of the uneconomic overstaffing and inefficiencies in the public sector. That is only now beginning to move.

For all the reasons the coalition welcomes that aspect this Bill also marks Victoria's shame because the reason for it, according to the government, is that the State is broke. Why is it possible to pass the Bill? I shall say something about the method by which we have approached this legislation.

Hon. D. M. Evans — If it were a privatised government it would be in liquidation now.

Hon. J. V. C. GUEST — That is true. If we privatised the government we would have to find someone to pay the liquidator to get the operating assets out of hock.

Hon. Haddon Storey — There are still some left?

Hon. D. R. White (to Hon. Haddon Storey) — Don't encourage him, Mr Storey.

Hon. J. V. C. GUEST — That is a good one to have on the record, Mr Minister!

The sale of well over \$1 billion of operating assets is quite serious enough for Parliament to be involved in up until the finalisation of the principal agreement and all the project agreements that are in

the gold book which, we are told, embodies all the heads of agreement. That method has not been open for the opposition. It has had to engage in attempts to draft safeguards after and in very heavy consultations with many professional people — merchant bankers, solicitors, executives, SEC officers, representatives of Mission Energy, the Minister's department, the Treasury and the Ministry of Finance.

It is usually the case that Parliament decides important issues after making informal inquiries, quite often after very intense and informal procedures compared with the processes of a Royal Commission, a Parliamentary committee or a court taking evidence that is supported either by oath or by the sanctions of Parliament if the evidence is deliberately incorrect. We were not doing anything very different in this case when we found ourselves relying on the people we spoke to who certainly were not on oath but who gave us absolutely no reason to doubt that by every indication they were doing their professional best to achieve a rational result within the extraordinary limitations of the government's desperate plight, which has been imposed by the ALP left wing.

Above all, we do not wish to hinder either the completion of Loy Yang B or the beginning of privatisation, which it is. Loy Yang B probably should never have been undertaken by the SECV. Certainly it was a political decision to do so, based on appeasing interests in and associated with the Labor Party. Now that it is partly built and heavily committed to construction contracts we have been convinced it is better to proceed than to scrap or not proceed with Loy Yang B.

Because of the government's no new debt policy for the SEC, the only way to finance construction of the power station was to sell something. The government's no new debt policy, it occurs to me, did not arise from any new accession to virtue by the government as financial managers. The government was providing for its Budget sector excesses which will require and have required everything that the government can borrow, whether under the global limits or by the various devices that during the past few years have been increasingly exposed and desecrated.

What was there to sell? The ALP's troglodytes have forced the sale of the newest and best power station rather than an old one. No doubt there would have been considerable difficulties with the sale of an older one with its existing work force. There can be

little doubt that there were internal political sensitivities within the Labor Party about the sale of Loy Yang B because the ALP prevented it being sold 100 per cent, which was and is the logical, the simplest and certainly by far the most economical way to go about it.

The shadow Minister in the other place, the honourable member for Evelyn, has pointed out that the costs associated with this sale have already risen to about \$70 million paid out by the various partners involved; much of that might have been saved, but 40 per cent was to be the figure because even the troglodytes were convinced that that was necessary.

We do not wish to insist on taking the government to the line on this project because, among other things, we do not trust the government's devotion to the public welfare. Not only do we not trust it to avoid funny-money deals, but we do not trust it not to throw up its hands and go to an election on the basis that it could blame the coalition for ending the Loy Yang B deal and leave Victoria, by its own government's irresponsible actions, in a very difficult situation, if Loy Yang B does not come on stream when it ought to. We must satisfy ourselves that the most serious risks that might attend this financial operation are minimised.

We were concerned that the moneys might be passed straight over to the government to use for its ordinary recurrent needs, to keep down its Budget sector deficit or to be used in any number of ways. However, it does not appear that substantial amounts of money will be paid in this financial year and, regardless of whether the Loy Yang B project goes ahead, it does actually seem impossible for us to prevent the government from simply continuing to squander everything it can borrow within the global limits during the few months of life it has left. The difficulty will be restraining the government. Everything we do, regardless of how strong a line we take, brings up starkly what this State faces over the next few months; that is, the spending of everything the government can lay its hands on through borrowings, revenue from taxation or from Commonwealth grants.

We have not been able to make any serious impact on the risks contained in the Bill. Perhaps the explanation for the calm with which the government has greeted strenuous attempts to draft amendments to protect the State is because it knows that ultimately it cannot be done. We have been concerned about various contingencies or consequences flowing from the contract. Obviously

with all the project agreements still to be finalised any number of matters could have loose ends that will need to be tidied up. Many of the calculations for prices for electricity are not able to be checked, and I shall come back to that after I have satisfied myself about some aspects of the mathematics of the deal.

As one of the participants in the lengthy discussions leading to the opposition accepting the Bill, I must be satisfied that the SEC has strenuously sought to protect its interests not just as a quasi-bureaucracy of the State but also as a commercial entity that looks forward to competition and to improved efficiency. I believe the SEC has done its best on all fronts and there is no reason to suppose that the many capable people within the SEC should not be able to do that at least as well as members of Parliament. The professional people the SEC and the government have engaged have reputations to protect. As I have apprehended from discussions with them they are competent people whose reputations depend upon their giving advice which is not trimmed to some political wind or some short-term consideration.

Again it is reasonable for the opposition to accept an imperfect agreement — imperfect in the sense of not being ordinary as well as in the sense of not being complete — and imperfect information about all the matters leading up to the conclusion of the State agreement and all the project agreements. We were equally concerned about the price, and again there is absolutely no reason to suppose that when the SEC receives competitive tenders and bargains with the considerable knowledge it has of practice in the industry not only in Victoria but also worldwide and of the possibilities of obtaining additional power from New South Wales in the not too distant future it would not try to strike an acceptable bargain.

Among the vast amount of information, some of which cannot be disclosed because of its commercial confidentiality, is the SEC's target figure for the real rate of return on an investment of 8 per cent — that is public knowledge and the SEC was happy for it to be made public — which is a much higher figure than was the case a few years ago when I believe it was about 4 or 5 per cent. It is not the ultimate figure to which apparently they aspire; 10 per cent is projected for the future and in a competitive environment — and one might say that a competitive environment will come — one could say that is a reasonable aim, if not aspiration, because greater risks will be experienced in the future in a competitive environment and a higher real rate of return is accordingly a sensible and proper aim. In

return, of course, the people of Victoria will expect that the improved productivity resulting from competition and the necessities of competition will more than justify the SECV or the companies into which its activities are broken up — and, of course, Loy Yang B — attaining that rate.

Another major matter of concern to the coalition will be the subject of a number of amendments. I am not sure whether they will be moved by the opposition or whether, as they are agreed to by the government, they will be moved by the government. The coalition was concerned that future reconstruction of the industry will be made more difficult if not impossible. We were concerned about the wide non-discrimination provision, clause 4.5 of the State agreement in Schedule 1 to the Bill, and what including the selling of cheap power or cheap coal might mean to the beneficiaries. We were concerned about inhibitions that might result in broad terms from some clauses of the Bill, such as clause 7(3), particularly in conjunction with the State agreement. We were concerned that to put it generally in the State agreement or possibly in the project agreement would mean barriers could be erected to the creation of a competitive privatised industry. The coalition has taken steps to ensure that that will not result from the proposed legislation. Accordingly we have largely satisfied ourselves that we can responsibly pass the Bill.

I have in my possession and I shall keep for future reference print-outs of the possible course of prices over the 30 years of the contract. It was presented to me by Schroders Australia Ltd, investment bankers, who are advising the government. I am happy to say that I was convinced that the methodology used to equate the 6.8 cents a kilowatt hour starting price for electricity from Mission Energy declining over the 30-year period to a 5.4 cents price, starting now and continuing for the whole 30-year period — each, of course, in 1992 dollars — is a sound methodology. There are, as I was not surprised to find, complications in the formula which make it impossible to say that the price will decline in real terms from the 6.8 cents starting point by 2 per cent each year. That is a possible result. However, it will depend on the course of inflation, which will be the principal factor. When explained in commercial terms, it is not terribly difficult to understand.

It is of interest that if inflation remains extremely low in Australia — quite unprecedentedly low, looking back over the past 50 years — Mission Energy will do reasonably well and get a higher price. That means, of course, a higher price for

Victorian consumers. However, if inflation is higher than the forecast given by the SEC to Mission, a forecast on which Mission was able to base its offer — I think all the tenderers based their offers on it although they used a different formula — and for my part I expect that at some time in the next 30 years old habits will reassert themselves and inflation will increase, in the long run Mission will do rather worse in terms of its expected profit and the price it expects to receive. Although Australia has not had the experience of the hyper-inflation of Germany in 1922, and I am not sure whether I am at liberty to mention any figures, the inflation rate is likely to reach levels with which we are unfortunately familiar.

I do not regard it as particularly satisfactory that so much should be hanging on whether our inflation rate is high or low because there does not seem to be anything in the mathematics to suggest that should be so. What is suggested is that it is a straightforward rational commercial deal and Mission is not getting out of the deal anything about which we should be suspicious. Basically, Mission has made quite sure that it will get a good strong cash flow in the early years, up to the year 2011 in particular, which will enable it to pay off the financiers — and that is what one would expect. In fact, that is quite a long period during which to pay off the bulk of the financial obligations. In many resourced developments it is expected, of course, that they will be paid off quite a lot sooner. There is really nothing surprising in the structure of the deal.

Although the 6.8 cents equates to the 5.4 cents in the way I have mentioned and in the way that has been quite widely publicised, it does so by virtue of an 8 per cent real discount rate. That is the figure the SEC has affixed as the target, so I can mention it. For my part, if I could earn 8 per cent real more or less gilt-edged for the next 10 or 15 years, I would be extremely happy with it. In a sense, the structure of the deal, given the high prices and the high cash flow up front, is particularly favourable to Mission. But beggars cannot be choosers and this State has been rendered a beggar by this government. It would certainly have been better if the government had not squandered our resources and squandered our global limits allocations, so that it was able to finance this project in the ordinary way, with borrowings.

In the days when any respectable government had the highest possible rating from the rating agency, borrowings still had a respectable rate of interest. We have been assured by the SEC that with the

efficiencies that still remain, the project could have been completed and electricity could have been priced at 5.1 cents, not the 5.4 cents equivalent. Of course, electricity rates could have been 5.1 cents right now, which would have been of considerable benefit to the people of Victoria.

One hopeful aspect of the necessity the government has forced upon itself is that the difference between 5.4 cents and 5.1 cents, which has been calculated as a cost totalling \$90 million a year for the SEC and Victorians generally, will be more than offset, if the SEC's hopes are borne out, by the savings of \$300 million, which Mission Energy has said will be the effect of its operations, its industrial relations and its management methods when applied throughout the Latrobe Valley to other SEC operations. If that is the case, we have reason to welcome the legislation, beyond what it will do in setting a precedent for privatisation, which, whether one likes it or not, will be important for the future of Victoria. Privatisation is welcomed by the coalition and it is accepted as a necessity by the government for those reasons. I join my colleague Mr Long in expressing qualified support for the Bill.

Hon. C. F. VAN BUREN (Eumemmerring) — I support the legislation. I listened to Mr Long and Mr Guest. Most of the questions asked by Mr Long about what is happening are answered in the Minister's second-reading speech. At briefings the opposition was brought up to date with what is going on. Honourable members are aware of the long consultative process that was carried out by the relevant groups. The government looked at many proposals. A number of issues led to the part sell-off of Loy Yang B. That highlights the difference between the government and the coalition parties. The coalition would sell 100 per cent of the State Electricity Commission, the Gas and Fuel Corporation, Melbourne Water and so forth.

When Loy Yang B power station was under construction approximately 800 workers were involved. That power station is needed. If it had not been completed there would have been a shortage of power, industry would have experienced many problems and jobs would have been lost.

I was a member of the all-party Natural Resources and Environment Committee that visited New South Wales and South Australia when we were inquiring into energy requirements into the 1990s. We examined a proposed joint venture between New South Wales and Victoria using black coal from Oaklands. The committee recommended that we

should maintain a base power station in the Latrobe Valley. That was agreed across the board. It has been suggested that there is a sinister motive behind the Bill, but the recommendation was clear.

Hon. Robert Lawson interjected.

Hon. C. F. VAN BUREN — I hear Mr Lawson interjecting. He was a member of the committee, which saw the importance of building the Loy Yang B power station. The SEC also supported that recommendation but there was a problem in raising the funds required from the SEC's resources. Honourable members know that the SEC has a high debt level with the likelihood of its rising during the next few years and contributing to the State's overall debt.

The government has been working to reduce the debt level, but if it had to fund the SEC from Victoria's global borrowing allocation, cuts in the capital works program would be necessary. As a result there would be no schools, hospitals or other government programs. If those facilities are not provided, especially in the area I represent, which is a new area, people will suffer. We need schools and hospitals and we will get them only if the government has the capital to provide them.

If the funding for Loy Yang B were taken from the State's global borrowing allocation, funds for other capital works would not be available and the Federal government would say that Victoria could not have any more funding. If the programs were cut jobs would be lost. We would have problems if we went down that road. Projects funded through the capital works program mean that more jobs will be provided.

The government had to make a choice. It had to make a hard decision. It made this decision after examining whether it was possible to increase the capacity of the SEC through increased efficiency and budgetary constraints. The government also looked at other options for a funding shortfall. The deferral option was considered but it was said that that would cause a price hike. That was not an option. We know in the future there will be a national electricity grid that will include New South Wales, South Australia, Tasmania and Victoria. It was important that Loy Yang B was on-stream so that we could take part in that national grid. The government had only one choice: it had to examine the possibility of making the SEC more efficient.

The Bill provides for the sale of 40 per cent of the Loy Yang B power station — not the wholesale sell-off that the opposition wants — which will allow the community to retain an interest and control. The community does not accept that government trading enterprises should be wholly in private hands. Of the interest to be sold, 11 per cent will be go to organisations affiliated with the State government that are independent of the SEC.

The key factor is that the public will be the major owner of the power station. The difference between privatisation as offered by the opposition and this sale and control option is that the power station will be jointly owned and maintained by a world-class operator, completely independent of and in competition with the SEC. The operator will introduce new technology to lift standards and, as was said by Mr Guest, the competition will cause the SEC to look at and improve its work practices. That will provide another benefit to the State.

That competition should result in a reduction in the cost of electricity and a consequent reduction in the State debt — a key concern of the government — because Victoria will be in a better position to export power to the national electricity grid.

Mission Energy will run the station using a business-like approach. The company will negotiate an enterprise agreement with workers on the site, if possible with single-union coverage, with the support of the Australian Council of Trade Unions and the union movement in general. The sale will provide benefits for workers. The introduction of modern technology together with increased production will subsequently lead to higher wages and better conditions. That benefit to workers will have a flow-on effect: if workers in the SEC want to get the same conditions they will have to increase productivity.

The performance of the power industry is vital to the Latrobe Valley. I was a member of the committee that inquired into the SEC and what stood out quite clearly was that the whole structure of the Latrobe Valley depends on the power industry. It is the responsibility of the government and Parliament to ensure that base power generation takes place in the Latrobe Valley and not through the short-cut methods of buying power from New South Wales and so on.

The committee was told by people from the valley that it is an important social issue, that people have given a lifetime of work not just to the SEC but to

the construction and other industries that depend on the power industry. I support the argument that base power stations must be situated in the Latrobe Valley, even if power to meet peak load demands and so on is purchased elsewhere. If power generation is taken away from the Latrobe Valley social problems will be created because people throughout the area depend on the power industry.

The government has moved in the right direction at a difficult time. The Minister for Manufacturing and Industry Development has done a great job in developing the Bill. He has succeeded in getting the Bill through the Labor Party. That is different from the last effort by the former Liberal government to build a power station at Newport, when it encountered problems and could not get anything done. The government has secured a world-class operator in Mission Energy and has reached agreement with the unions on a greenfields site.

The project will benefit not only the people of Victoria in general but also those who work in the area and are employed in the power industry. Once Victoria is on the national electricity grid it will be able to sell electricity and help provide the State with a sound future.

I commend the Bill to the House.

Hon. R. M. HALLAM (Western) — I shall restrict my comments on the Bill to the aspect of municipal rates, the issue which has become known as section 25 to many people in municipalities across the State but which is dealt with in clause 27 of the Bill.

That issue has grabbed the attention of local government because the Bill erodes the primary right of local government bodies to levy rates against property within their municipal boundaries. This has become a big issue because municipal rates are by far the most important revenue source for local government.

The Shire of Traralgon has a keen interest in the Bill, given that Loy Yang B is within that municipality, and has been pushing local government generally to register a protest at the way the Bill has been framed. It is a critical issue and letters on the issue have been flooding into my office, and I presume into the offices of my colleagues.

It is significant in this case because the issue has also been raised by the City of Morwell, which stands to gain from the Bill. It is interesting that a

municipality that has a direct interest in the outcome should raise a question mark against the Bill. Clause 27(1) states:

Despite anything to the contrary in the Local Government Act 1989 or in any other Act or law, the Loy Yang land is not rateable land.

Clause 27(2) states:

A person who, but for sub-section (1), would be liable to pay rates ... must pay to each relevant council ... amounts as are agreed between the person and all the relevant councils ...

The clause goes on to explain that if there is no agreement the amount payable shall be the sum determined by the Governor in Council. The clause then specifies the relevant councils as the Shire of Traralgon, the City of Traralgon and the City of Morwell.

I wish to highlight two issues: firstly, the declaration in the Bill that land is not rateable; and secondly, that a payment is to be made in lieu of rates not merely to the municipality in which the station is located but also to other municipalities. That raises a substantial precedent. The coalition is fundamentally opposed to the government's action in both respects. The coalition is opposed to the waiving of rates and to the way a replacement payment in lieu of rates is made specifically to other municipalities.

The decision to waive rates in this case and this case alone demonstrates the government's double standards. On the one hand the government constantly whinges about the revenue-sharing arrangements between the Commonwealth and State governments and cries crocodile tears about the States being treated as poor cousins. But on the other hand the government feels no compunction about making a decision to exempt land from municipal rates. In other words, the government complains about how it is treated by the Federal government yet sinks the boots into local government in Victoria.

Local government makes the very valid point that the success of the project should not stand or fall on the question of whether the site is subject to local government rates and charges. Local government is very concerned about the precedent being set by the government, fearing that it may be the tip of the iceberg. Although the government is only now talking about privatisation, the coalition is not the

slightest bit coy about talking about the issue. We make no apology at all for the fact that a coalition government will give priority to privatisation.

The coalition acknowledges local government's concern about the precedent that is being set and we understand why it believes that the decision to allow the owners to make payments in lieu of rates is not much consolation. Apart from the question of the desirability of making payments in lieu of rates, which is mentioned in the second-reading speech but not in the Bill — and that has raised a few eyebrows — the Minister has been unable to answer coalition questions about how the payments will be computed.

The Minister in charge of the Bill was asked a question on that very issue in the House this week, yet he was not able to say how the payments will be computed. We were told it was to be a negotiated amount, but the Minister was not able to say whether the figure will be set against some notion of property values or whether it will be simply plucked from the air. For that reason alone local government is understandably concerned that payments in lieu of rates will be based on criteria yet to be decided.

If the parties cannot reach agreement, the Bill provides that the Governor in Council can step in and decide the issue. The danger is that the setting of rates may be taken out of the hands of local government and assumed by the government, which would be a dangerous precedent.

I am not impressed by the sharing arrangements outlined in the Bill — that is, the formula for the distribution of the payments in lieu of rates to neighbouring councils. The formula ignores the sensitive issue of municipal boundaries, which in itself is a dangerous precedent. I do not believe the neighbouring councils have any right to the payments. I do not object to their receiving some of the payments in lieu of rates, but my point is that they have no right to them and cannot negotiate on that basis.

I do not object to the ex gratia payments, but that decision should rest with the municipality in which the facility is located. I have nothing against the cities of Traralgon and Morwell — I believe it is fair enough that the payments be shared — but I do not accept that they have a right to share in the distribution.

I do not accept the argument that somehow the municipalities will be contributing to the project

LOY YANG B BILL

Thursday, 4 June 1992

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because those who will work at the power station will reside within the municipal boundaries. Although the municipalities concerned may be required to provide additional services, one cannot overlook the fact that those who work at the power station and live in the municipality will not be freeloaders; they will contribute to the rate revenue of the municipality in which they live.

The arrangements should be no different from those that applied to the establishment of the Alcoa aluminium smelter at Portland. I do not remember any argument being advanced at that time that neighbouring municipalities had a right to rate-type payments. Many of those who work on the Alcoa site live not in the City of Portland but in the neighbouring Shire of Heywood. I have not heard local government argue that the rates paid by Alcoa should be shared by the Shire of Heywood.

The argument is not new, and the coalition understands that the distribution arrangements apply because of the sensitive issue of municipal boundaries. In the City of Hamilton, which is where I live, complaints are constantly made about the so-called freeloaders who reside outside the city limits in the Shire of Dundas. The complaint is that the ratepayers of the shire are able to take advantage of the services paid for by the ratepayers of Hamilton. Those arguments have been heard for at least a generation. I did not accept them the first time I heard them, and I do not accept them now. If it were not for the wealth generated by the residents of the Shire of Dundas the City of Hamilton would not be as financially strong as it is. Such arguments ignore the benefits gained from the two-way relationship between the city and the shire.

Neighbouring municipalities should not be given the right to claim some of the quasi-rate revenue of their neighbours. I am not impressed by the argument that the circumstances are special because the worth of the power station is so large when compared with the rate base of the municipality in which it is located. The argument is not valid because the issue is of concern only to the municipality itself. In any event, the House has changed the way rates can be levied and has allowed municipalities to set differential rates in certain circumstances. In other words, it is possible for a municipality to set a special rate that is specific to the enterprise and takes account of the special circumstances.

I well remember the debate that led to that decision being made. The advantages of the new power

station — and they are massive — flow to the region, not simply to the immediate municipality. The building of the Loy Yang B power station will have a significant effect on the regional economy. I regret the squabbling between the municipalities involved. The reputation of local government has not been enhanced by the sight of local municipalities squabbling about the payments like dogs fighting over a bone when a huge boost to the regional economy is in the offing.

I want to reinforce the point that this really is a windfall. Because of the fact that settlement was not reached — and it could have been by direct negotiation — the Grants Commission is involved in the process. I think we need that like we need a hole in the head. I have grave concerns about the commission's performance, and I now see the opportunity for the councils to actually resolve this issue directly, having had it taken out of their hands because they did not do so in time.

I see the prospect of the advantage won by the region as a result of the location of the enterprise being clawed back by the same organisation that is being nominated as the umpire. It is a matter of regret that councils were unable to settle this issue behind the scenes because to a large degree they have now lost control and perhaps have created a precedent. Most municipalities have contacted us to say this situation is dreadful because it is changing the rule book. I do not accept that because in the first place I am still not convinced that rates would have been payable on the site. Many people have told me it is assumed, but I have not heard a very convincing argument.

I suggest the Bill is the most appropriate authority. The object of the Bill is to facilitate the sale by the State Electricity Commission of Victoria of a substantial interest in the Loy Yang B power station. Mr Long said there is a question mark over what "substantial interest" means.

Hon. C. F. Van Buren — It's 40 per cent!

Hon. R. M. HALLAM — It's 40 per cent of what, Mr Van Buren? You have not answered that first question. Why have we all presumed that, because the SEC has granted the authority to sell 40 per cent of an interest in a power station, it necessarily means we have lost the exemption for rateability? I do not see that that follows as a matter of logic.

This Bill does not say the land shall be sold. If it does I should like Mr Van Buren to tell me where it is in

the Bill. I cannot find it. It is not clear whether the land will change hands. We see the title described in a special schedule but the Bill does not say the land will change hands. If it does, I would be delighted for Mr Van Buren to tell me to whom it will belong. I defy him to do that. I have read the Bill very carefully and I cannot find it.

Who is the new owner of the land described in the schedule? Who will own the parcel of land that up until now has been owned by the SEC? The Bill does nothing more than grant the SEC the right to sell the land. Why have we all assumed that because the Bill will pass, therefore rates will be applicable to the land? If rates are applicable and we have sold 40 per cent, why are we paying 40 per cent of the rates? Mr Van Buren has not answered that one either.

I raised this issue with the Minister because I was concerned that the Bill raises an unnecessary tiger. If the Bill does not introduce the notion of rateability, why are we going to all this trouble to reassure councils and councillors? In response to my fundamental concern the Minister said:

The Loy Yang B site will be sold by SECV to three organisations, which will hold the assets as tenants in common. Two of the buyers will be companies established under the Corporations Law, and taxable, and therefore rateable.

I do not accept that for a start. I do not accept that it necessarily follows that the land is rateable because it is taxable. The Minister continues:

One of the companies will be a subsidiary of the SECV, and the other will be owned by public sector financial investors. The third owner will be a partnership, which doesn't itself pay tax, but the various partners will all do so.

On that basis, it has concluded that the Loy Yang B land et cetera would normally be rateable after it is sold to the new owners. Therefore clause 27 was developed by the Office of Local Government.

That may be a valid question, and I thank the Minister for raising it. However, if that is the structure we will be selling the land to, it would have been nice to see it in the Bill. We are debating the most fundamental issue to come into the House this sessional period: the sale of a very substantial asset of the State. Yet we do not even know to whom we are selling it. Apparently we are to learn the answer at the eleventh hour as a result of

amendments introduced by the government. We have an implication, nothing more, that if it were not for section 27(1), this land would not be rateable land. The issue is decided by section 27(1). I examined the Local Government Act 1989 to find out why that assumption should apply and found the definition of what land is rateable under section 154(2)(b):

Any part of land, if that part —

(i) is vested in or owned by the Crown, a Minister, a Council or a public statutory body or trustees appointed under an Act to hold that land in trust for public or municipal purposes —

I am not convinced that the land we are dealing with here would not be exempted under that definition —

(ii) is used exclusively for public or municipal purposes;

I presume the government has concluded that the land will now be rateable because 40 per cent of the station is to be sold and will no longer be used for public or municipal purposes and therefore will become rateable. I do not even accept that. Why is it that the purposes of the land should change simply because we have decided to sell an interest in the station that stands on it? Who will argue that the purpose of the land is no longer exclusively public? In my view the production of power is a public purpose so I am not convinced that what the Bill is doing is valid in the first place. We can only presume that, and I do not think the Minister's response answered the real question.

I have to raise an even more basic question. I am not convinced that this is privatisation. It has been embraced as privatisation but it is nothing more or less than an elaborate scheme to get around the restrictions of the Loan Council. Why would the sale of 40 per cent of the power station trigger the payment of rates? If it were 51 per cent I would give ground, but why 40 per cent? Would the same position arise if we were contemplating selling only 1 per cent? I am not sure we have created the precedent everybody is concerned about but I make the point to reassure those who have raised it with me that the issue will not be a major concern under a coalition government because we will have real privatisation, not this play version the government comes up with. The organisation will be privatised and there will be no question about who owns the installation. We will actually resolve the issue. That part of the question of rateability will become part of the commercial test. We believe that part of the

advantage of privatisation is that the enterprise will then meet the competition of the real world so the issue of rates will be resolved as a matter of course.

The issue will not go unresolved. Municipal rates will be payable under our test as a normal part of putting our enterprise on an equal footing in the commercial sector. Rates will become payable because the question of ownership will be resolved as a matter of course. I know from what the Minister has told us in the past few minutes that the government considers rates are payable, but I am not sure that the explanation actually resolves the issue. But it does make it clear that the ex gratia payment in this case really is an ex gratia payment. It is not a payment in lieu of rates at all.

Before the House gets carried away about this issue, it should recall that if the Loy Yang B power station remained in the ownership of the State Electricity Commission — as it would have done without this Bill — the question of rateability would not have arisen. No-one would have thought of the argument. It is clear that the payments that will evolve to the three municipalities are a windfall gain and should be accepted in that spirit. I ask the Minister whether he has considered the suggested amendments of the Municipal Association of Victoria that go to the question of precedent and the sword that the Bill raises above local government.

The coalition will not propose those amendments because it is not prepared to imperil the Bill. The Loy Yang B power station has a price tag of \$3 billion. Although the coalition believes the issues are important it is not prepared to put a question mark over the Bill. The coalition believes the Bill is not a precedent and the issue will not be a precedent under a new government. The coalition will ensure that any private enterprise that is established, including those that are transferred from the public sector, will pay municipal rates as a matter of course. The coalition's attitude to the issues raised in the Bill is not meant to be a big deal or magnanimous, because it believes the issue of rates becoming payable to municipalities is a natural consequence of ownership. In those circumstances the coalition will not imperil the Bill. It will not die in the ditch over the question of rateability and precedents that are said to be established in this case.

I register the coalition's concern at the way the issue has been handled. I send a clear message to local government that the coalition believes the Bill does not create a precedent at all. I hope that will allay

many of the fears that have been brought to the attention of the coalition over the past few days.

Hon. P. R. HALL (Gippsland) — The Loy Yang B Bill is one of the most important pieces of legislation to come before the House for some time. The Bill is important for two primary reasons, the first being the sheer size of the financial transactions involved with the 40 per cent sale of the Loy Yang B power station. The House is debating a Bill that provides for a 40 per cent sale of an asset which, on completion, will be worth about \$3 billion, so the value of the 40 per cent sale is in excess of \$1 billion. The other financial implications are long term because the Bill provides for the sale of electricity produced from Loy Yang B to the people of Victoria over the next 30 years. They are the two significant financial transactions associated with the Bill.

The second reason why this is an important measure is that it will be the forerunner for similar shared private/public ownership arrangements for major service providers that traditionally were owned publicly in Victoria. It is inevitable that all States of Australia are proceeding down the same path in privatising traditional public utilities; and shared ownership is the process that is being adopted by organisations.

Hon. R. A. Mackenzie — That's the way to go!

Hon. P. R. HALL — I suggest it is inevitable and that it is the way to go. I believe the sale of 40 per cent equity in the Loy Yang B power station is supported by the Latrobe Valley community. It might be reluctantly supported in some quarters, particularly by the union movement in the Latrobe Valley, but it is warmly supported by other sectors of the community, including local government. The people of the Latrobe Valley recognise that it is inevitable that the SEC will change. In recent years there have been significant changes in the structure of the SEC. Those changes will be even more significant in future years with corporatisation proposed for the SEC. Many changes such as the contracting out of services within the SEC have already occurred. The Bill is another example of further structural changes that will occur.

One significant feature that has not been mentioned in the debate so far is that the proposal will mean that the operation of the Loy Yang B power station will be managed solely by the private investors. At this stage it looks like being Mission Energy although the deal is not yet finalised. Mission Energy will have 100 per cent control over the

management of the power station. That is significant because it will be the first time the SEC can use a Victorian power station as a yardstick to measure its own performance. I am well aware that the SEC welcomes and encourages that position. It welcomes the competition and requires a guide to measure its effectiveness and efficiency. I am sure there will be improvements in both areas with a local privately managed organisation with which to compare the SEC's performance.

The Bill has been made unduly complicated by the government's decision to sell only 40 per cent of Loy Yang B. It would have been far easier and cleaner and the coalition's preferred option to totally privatise Loy Yang B and sell 100 per cent of the power station. I am not suggesting the SEC should sell off every power generation unit in the State, particularly in the Latrobe Valley, but when Loy Yang B is fully on line it will produce about 12 per cent of the State's power. The coalition would prefer to sell one whole unit that generates 12 per cent of Victoria's power. It does not believe that is taking unnecessarily huge steps towards privatisation, but it will provide a better yardstick to compare the performance of the public utility. Because the government decided to sell only 40 per cent of the power station, issues such as water rights, freedom of information applications, municipal rates and government guarantees have become messy, complicated and difficult issues for Parliament to resolve. I am not sure whether all those issues have been resolved. The government may have further thoughts and discussions on some of those issues.

This complicated Bill raises many issues. Like Mr Hallam, I refer the House to clause 27 which provides for local rates, because that is a controversial subject in my electorate.

Sitting suspended 6.29 p.m. until 8.3 p.m.

Hon. P. R. HALL — Prior to the suspension of the sitting I referred briefly to clause 27 headed "Local rates". The title is a misnomer because Loy Yang B power station will not be subject to rates. The clause should be headed "Local non-rates". I am concerned about two issues in relation to the clause: firstly, the fact that the Loy Yang land is not rateable land; and, secondly, the sharing of the payment in lieu of rates between relevant councils.

The decision to make the Loy Yang land non-rateable land has caused controversy within the Latrobe Valley. The government did not justify or explain its decision, and I shall put on the record

some of the views of the local councils that are concerned about the rate issue. The City of Traralgon commented about the non-rateability of the land in a letter dated 22 May 1992:

Because this project would be the highest valued rateable property in Victoria and would be situated in one of the smallest municipalities.

The fact that the rates would be high is not a valid reason why rates should not apply to that land.

The Latrobe Regional Commission made a similar comment in a letter dated 26 May 1992:

The power station is too capital intensive and has been the subject of such a level of public sector infrastructure spending over many years, that it should not be subjected to normal rating provisions.

I do not agree with that comment. The decision by the government to declare the Loy Yang land non-rateable is a dangerous precedent. Contrary views to those earlier views were expressed by other councils within the Gippsland area. The City of Morwell said in a letter dated 26 May 1992:

The council believes that it is a dangerous principle for our first privately-owned public utility to be extended the benefit that only the Crown has enjoyed for many years, and is opposed to this clause and we urge you to work for the deletion of it. In addition, we believe the State government should take a lead from the Federal government and address the question of its own exemption rather than consider extending it to the private sector.

The Shire of Rosedale made a similar comment in a letter dated 27 May 1992:

The council believes that it is totally inappropriate that the traditional exemption of Crown land from the rating provisions of the Local Government Act be extended to a privatised Loy Yang B. The fact that this action has been taken in respect of the first privatised public enterprise in Victoria is significant and this council would be most concerned if the traditional rights of the Crown were to be extended to all privatised government business enterprises.

As I said earlier, it is a dangerous precedent because more government enterprises will be privatised in the future. Should those privatised organisations be excluded from paying local municipal rates? The Shire of Rosedale further states:

Where there is a major industrial development, the council in whose area the development is located is the beneficiary. This principle has been applied in numerous parts of Victoria. In each case local councils have managed to enter into some arrangement with the major industry for the payment of rates and despite legal challenge, the arrangements pursuant to the Local Government Act have stood up.

Special arrangements have been made for the payment of rates between major industries and municipalities in which the industries reside. A similar agreement should have been struck in this case. I agree with the comments of the City of Morwell, the Shire of Rosedale and other municipalities that have written to me about this issue.

On 28 May I asked the Leader of the House, the Honourable David White, a question without notice about the formula that will be applied to calculate a quantum figure for the payment of rates. Clause 27 stipulates that if the municipalities cannot agree on a rate the government will determine the amount to be paid and how it will be distributed to the councils named in the proposed legislation. I asked the question because I wanted to know what criteria the government would use to make an assessment of the rate payable. All councils are concerned about this issue but especially those in the Latrobe Valley because any agreed payment in lieu of rates will be used for the benefit of the people in that area.

The Minister for Manufacturing and Industry Development commented that among other considerations regarding the amount that might be paid, the Western Port (Steel Works Rating) Act would be taken into consideration as a precedent. Section 3(3) of that Act states:

The rates shall be made and levied in accordance with the provisions of the Local Government Act 1958.

The Western Port (Steel Works Rating) Act clearly states that the land is rateable. The Loy Yang B Bill clearly states that the land is deemed non-rateable. Further, the Western Port (Steel Works Rating) Act clearly ensures that the Shire of Hastings is guaranteed a minimum rate; that the rate will be assessed under certain criteria.

It gives a table of rates to be paid each year and guarantees that the Shire of Hastings will receive a minimum amount. That is of concern to me. The total quantum levy of the rate is important for the region, and regardless of which council or councils it

is distributed amongst it is important that the quantum figure be set.

I asked the Minister what criteria would be used, but I still do not have an answer to that question. The Minister said that the government would seek advice from the Office of Local Government and the Grants Commission, but he did not say that the government would necessarily accept that advice. We are putting a lot of trust in the government for an adequate level of payment in lieu of rates.

I turn to the sharing component. Clause 27 of the Bill states that the payment in lieu of rates will be shared between the three relevant councils, the Shire of Traralgon, the City of Traralgon and the City of Morwell. Views were expressed by many municipalities about the concept of the sharing of payments. It was opposed by the Shire of Traralgon and other local councils. It was agreed to only by the City of Traralgon and the Latrobe Regional Commission.

The City of Traralgon's argument for saying there should be a distribution of rates gives valid points in support of its position. In a letter dated 22 May 1992 the City of Traralgon states:

In the context of "the business of local government" the residents are the generators of costs and service demand.

The letter goes on to point out that:

Of the people who at the Loy Yang power station or in the Loy Yang open cut mine, 31 per cent are residents of the City of Traralgon; only 5 per cent are residents of the Shire of Traralgon.

The Shire of Traralgon provides very few traditional municipal services - these are provided by the City of Traralgon which has an extensive range of cultural, sporting and community welfare services.

The City of Traralgon has excellent services that are used by the Shire of Traralgon. It is not true to say that the Shire of Traralgon provides very few services. The Shire provides services but not to the same extent as the City of Traralgon. The City of Morwell expressed views against that argument despite the fact that it would be a recipient of the distribution of payment. The City of Morwell in a letter dated 26 May 1992 states:

The council strongly believes that the integrity of the municipal rating system is threatened by this concept

and should be opposed at all costs. It appears that no objective assessment has been made of this concept and we sincerely hope that the idea is not based on the premise that because the Shire of Traralgon is a relatively small rural shire, that it should not be able to receive the benefit of a substantial windfall in revenue.

The City of Morwell supports the present requirements that require ample opportunity for municipalities to negotiate agreements or address boundary issues where a community of interest is extended, and believes that this enables the equity question to be adequately addressed.

In making that point, the city is suggesting that the government should be looking at municipal boundaries instead of talking about rate sharing where the influence of a major industry extends across more than one municipality. There is validity in the point and it is probably time that the Latrobe Valley councils examined the way in which they operate and look at their boundaries for a structure that is to the benefit of the people in the area.

The City of Morwell goes on to say:

The reality is that every employee/contractor at the Loy Yang B power station will be paying rates to the municipality in which they reside or operate their business, and no-one seems to have provided any objective reason as to why they should also share in the rate revenue of the power station.

Mr Hallam made exactly the same point. It is true that many of the employees of the power station live in other municipalities but they will pay rates in that municipality also and the rate they pay in the municipality in which they reside goes toward providing the services that they require within their municipality.

The Shire of Rosedale makes similar points in objection to the clause in the Bill that requires a sharing of rates between municipalities.

I do not dispute that some revenue sharing is appropriate. The Shire of Traralgon currently gives an amount to the City of Traralgon each year in recognition of the services that the city provides, such as library services, basketball stadiums, swimming pools and so on which are impossible for the shire to provide. The shire realises that its residents go to the City of Traralgon to use those services or facilities. The shire is making a voluntary annual contribution to the City of Traralgon.

The Shire of Traralgon has indicated to me that the contribution is fair and reasonable and would entertain increasing that contribution if it were given the Loy Yang B rate.

The issue is: should we compulsorily require the Shire of Traralgon to join that rate sharing and give away some of the rate revenue, or should we allow it to continue on a voluntary basis as it is doing now? I would prefer the latter option.

I am opposed to the Loy Yang B land being classified as non-rateable for the reasons I have outlined. The Loy Yang B power station will be 40 per cent privately owned but, more importantly, 100 per cent privately managed. That is justification for treating the Loy Yang B power station the same as one would treat any other privately owned industry.

I am not opposed to the principle of revenue sharing but I would prefer that revenue sharing be on an agreeable voluntary basis rather than requiring the Shire of Traralgon in this instance to do it by legislation. It sets a dangerous precedent. The Bill stipulates that only three councils will share in the distribution of rate revenue. Many SEC workers at Loy Yang B live in other than the three nominated municipalities. The City of Moe has made a valid claim for a share of the rates. An impressive point made was that already the SEC makes a payment to quite a few municipalities in the Latrobe Valley in recognition of the fact that the SEC wishes to be a good corporate citizen, to help to provide infrastructure facilities for their employees.

Each year the SEC gives almost \$400 000 to local government. It is distributed proportionately to shires, depending on where the commission's employees reside. It allocates 9 per cent to the Shire of Narracan, 40 per cent to the City of Morwell, 15 per cent to the City of Moe, 17 per cent to the City of Traralgon and 19 per cent to the Shire of Traralgon. Shires other than the three nominated in the Bill have justifiable claims to shares.

Hon. B. A. Chamberlain — The City of Hamilton could do with that money!

Hon. P. R. HALL — I don't think people working at Loy Yang B would live in Hamilton, Mr Chamberlain!

The concept of forced sharing is undesirable, particularly when the present voluntary system works satisfactorily.

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I also refer to a number of associated issues. I support the sale of Loy Yang B, as do the various Gippsland municipalities. No-one has objected to the principles behind this legislation. My only disappointment, and perhaps a clouding of the issue, is the 40 per cent equity in Loy Yang B; it is preferable to have a totally corporatised body.

I register two further concerns, the first of which is the speed with which the sale is being effected. On several occasions I have asked the Minister during question time for details about when the deal would be finalised between the preferred bidder and the State. Initially his answer was 30 April, but then almost a month ago the Minister said that the deal would be finalised in either the last week of April or the first week of May. It is now the first week of June but still we have no indication that the deal has been finalised.

The Minister has yet to inform the House and the public about the outstanding issues and why the government has failed to finalise the deal. I have concerns about the opposition being asked to pass the legislation here; we have been asked to pass agreements as per the schedule to the Bill when we do not know about the final agreement or the final owner. We know that the government is desperate to get the deal through before 30 June because it wishes to share in the approximately \$570 million proceeds from the sale. Also we have heard that much of the money will be used to retire SEC debt, but equally there will be a dividend at least in stamp duties payable to the government and perhaps it will take a special dividend from the final amount.

Hon. G. A. Sgro — What is wrong with that? We spend it for the public.

Hon. P. R. HALL — There is nothing wrong but you are trying to get it through by 30 June and, because of the government's haste, Mission Energy will be in a very strong position. The government is a desperate seller and Mission Energy is not a desperate buyer. I would very much like to be in the position of Mission Energy because everything would be weighted in my favour.

I am saying, Mr Sgro, that I support the Bill but the only reason a 30 June deadline has been imposed is that the government wants the money to help boost its finances in this financial year.

Hon. G. A. Sgro — It will be spent for the people of Victoria.

Hon. P. R. HALL — I have no objection to spending it, but do it after 30 June. Get the deal right!

Hon. Robert Lawson (to Hon. G. A. Sgro) — You don't understand the principles of business.

Hon. P. R. HALL — The government is so inefficient that it cannot wrap up the deal at this time and we should not be giving any special dispensation for the incompetence of the government. It has had many months to wrap up the issues but still we do not know about the deal.

The final concern I express relates to parts of the agreement, which has some very favourable clauses for the purchaser, not the least being the guarantee that the SEC will purchase 100 per cent of the power produced from the Loy Yang B power station. The initial position was that the SEC was to guarantee to purchase 80 per cent of the power produced; it was then up to the private owners to try to sell the remaining 20 per cent either interstate or through the Victorian grid of power stations.

Now Mission Energy, the supposed new owner, has a better deal in that the government has agreed to buy not only the 80 per cent but also the remaining 20 per cent if Mission Energy fails to sell it elsewhere. If I had a business and knew I had someone who intended to buy at a fixed price every product I was able to manufacture, I would be rubbing my hands because I would know where I stood. I would ensure through the deal that the price I received for the power was more than enough to make a good living and a comfortable profit. The agreement has many factors weighted in favour of Mission Energy. I hope the long-term effect is not to the detriment of future electricity consumers in Victoria.

The coalition supports the concept of the Bill but has real concerns that the deal has not been finalised and the final form of the agreement is not known. I am also critical of some provisions in the Bill, for example, how the issue of local rates is treated.

We have been forced into a corner just as we were with State Bank Victoria. We cannot oppose the Bill but we can be extremely critical of the government for not finalising the deal and allowing the people of Victoria to know exactly where they stand on this important issue. With those qualifications I state my support for the Bill.

Hon. R. A. MACKENZIE (Geelong) — This historic Bill in many ways marks the beginning of

corporatisation and privatisation programs of a supposedly socialist democratic party. It goes against the express wishes not only of the party but also of the Victorian people. The legislation is being debated as though it were a minor Bill requiring some machinery alterations. No-one is taking much interest; history is being made tonight and no-one cares, least of all the opposition.

I do not suppose opposition members should care because they probably cannot believe their luck. For years they have had a privatisation policy on their books but have been too politically shrewd to make much play of it or to make it a plank in any of the election campaigns with which I have been involved. Government members have always used the opposition's privatisation policy for their own benefit and before each election have said to the people of Victoria, "Don't let those awful Liberals in, they'll privatise everything". Opposition members are sitting here smiling smugly because the Labor Party has bitten the bullet and opened the door for the opposition. After all these years the opposition has got it made. I cannot believe it!

The members of Parliament here tonight represent every person in Victoria. According to a recent survey obtained by a Liberal Party member using the freedom of information legislation, more than 60 per cent of Victoria's population is opposed to what is being done tonight. Despite that I seem to be the only dissenting voice. Some members, including Mr Hall and Mr Long, expressed concern about certain aspects but no-one has opposed the principles espoused in the Bill.

The Minister's second-reading speech shows that the government views the Bill with much pride. It states:

This transaction represents a significant opportunity for private sector involvement in Victorian infrastructure projects and the electricity industry. It is one of the biggest public sector transactions ever contemplated in Australia. It will be the first time that a major power station will be part-owned and managed by a private investor.

The cold chill running down the spines of the people of Victoria has been exacerbated by the announced sale by the Federal government of Qantas and Australian airlines. People are wondering how much of their assets will be left. The SEC has been successfully producing power for Victoria since 1917 and suddenly we find that it can no longer be run by the government. This Bill is an admission of failure;

it is an admission by the government that it can no longer run the electricity utility in this State.

This is a sad day because we are taking a retrograde step. Privatisation is becoming a worldwide disease; countries are rushing to privatise, but that does not make it right. We are being conned by the so-called economic rationalists into believing everything must be sacrificed for efficiency. Everyone has different terms for economic rationalism but it means nothing more than making departments more efficient.

After 10 years in government the Labor Party has suddenly decided to make utilities more efficient, and one must wonder what it has done over the past 10 years. Immediately it came to power — and I was involved with that — the government implemented enormous reforms of government departments and utilities. I was involved with the restructure of three departments. The then Forests Commission was reviewed for the first time in its 60-year existence. All the other departments were reviewed by consultants and the Public Service Board and restructures took place. All the efficiencies were made in those early days.

It is being said that this Bill is not about efficiency, but is another thinly-veiled disguise for privatisation. For "corporatisation" honourable members should read "privatisation" because even though it may not go all the way, corporatisation is the first step. It is worrying that we are falling for the trap of so-called economic rationalism. Privatisation policies have been disastrous overseas; people from the United Kingdom would soon tell honourable members what they thought about privatisation and what it has done to them.

The consequences of corporatising the SEC must be considered. It will become efficient but at the expense of many workers who will have to be laid off. Already 9000 people have been laid off from the SEC. That has certainly cleaned up the SEC and made it lean and mean but what has happened to those 9000 people? Who deals with the social problems that are created when the redundancy payments to those people run out and they cannot get jobs? Who picks up the bill for that and all the other problems associated with people losing their jobs?

Certainly the SEC has been made lean and mean and more efficient but the taxpayer has to pick up the bill and try to sort out the human misery that has resulted. That is economic rationalism! Rather than considering corporatisation we should consider

public authorities that work successfully. One need only look at some of the Scandinavian countries such as Sweden and Denmark to see that public corporations can be run efficiently. Rather than cutting staff numbers employees must be made to work more efficiently and provide more services to the public.

Honourable members must admit that we get fewer and fewer services from our utilities. That is certainly so with the SEC and the Gas and Fuel Corporation in Geelong which have cut down the number of staff, regional offices and repair crews. Everything is delayed; one cannot see people in those organisations and it takes longer to have anything done. The service to the public has disappeared but that is not taken into account by the economic rationalists. All they are interested in is balancing the books and looking at the dollar signs.

A public utility has many values other than dollars, and State Bank Victoria is a prime example. All the economic rationalists could see was its deficit. The only value of that bank to the economic rationalists was the dollar sign. The economist rationalists did not take into account the regard the people of Victoria had for their bank or the times when the bank stood beside people in the depression and extended their loans to keep them on their farms and in their businesses for many years. One cannot put a dollar sign on that. The economic rationalists wipe all those values because their rules do not allow them to extend loans, to be flexible or to be human.

Tonight we are starting a process that should be condemned. Liberal and Labor members should be combining as a body to sort out this mess without having to corporatise Loy Yang B and open the gate for privatisation.

In January this year concern was expressed about another part of the privatisation issue when it was proposed by the SEC to privatise the Morwell overburden removal operation. On 21 January the Trades Hall Council wrote to the Premier. It said:

Since 1989 the SECV has been set on undermining the unions, reducing its permanent work force, privatising and contracting out. Jobs in the SECV have been reduced from 22 000 to 15 000 with further losses projected to reduce the work force to about 13 000; that means a total of 9000 jobs lost.

I thought the government was about jobs, jobs, jobs and creating jobs.

Hon. Robert Lawson — It is about losing jobs, jobs, jobs!

Hon. R. A. MACKENZIE — If it is going to start privatising, it will lose jobs, jobs, jobs — 9000 in fact, in the SEC. Here is an important factor:

There are almost no apprentices or trainees left in the SECV. And now, during the current recession the SECV is contemplating retraining internal employees, in the Latrobe Valley, denying further opportunities for 12 apprentices to enter the work force in a major authority which has traditionally been very important for the skills development of non-metropolitan young Victorians. The SECV is now based on business centres which have to account for themselves financially and are ripe for privatisation, corporatisation and/or contracting out.

In 1990-91, against the wishes of the SECV unions, the Gippsland Trades and Labour Council, the VTHC and the State ALP, the truck fleet in the Latrobe Valley and Brooklyn store were sold to Linfox and the Morwell electrical workshops were sold to Siemens. The unions reluctantly agreed to a 40 per cent privatisation of capital for the construction of Loy Yang B in 1991.

The Trades Hall Council is expressing grave concern to the Premier about the proposal.

The unions took it on themselves to put in a price for the Morwell overburden work. Their proposal was \$6.6 million cheaper than the proposals of the companies that submitted prices for the work. The proposal reflected a commitment of the workers and the unions to the work. Here is an example of the work force being prepared to become efficient.

If a government corporation or a government body is not efficient, it is the failure of the government or of the people responsible for making it efficient. Victoria has efficient public organisations. During the time that I was the Minister for Conservation, Forests and Lands, I was fortunate to have under my jurisdiction the Rural Finance Corporation, one of the most efficient organisations I have ever been involved with. Other honourable members know of the RFC's work. Members of the National Party could vouch for its efficiency, as could Mr Chamberlain, who comes from a country district, and that efficiency has been demonstrated virtually since it came into existence. I found working with people in that area a most rewarding experience. It proved to me, a socialist, that public enterprise can operate efficiently if it has the right leadership. My

view is that the key to efficiency is the right leadership because then the work can be done.

Tonight honourable members are following a course against the wishes of the Labor Party, the labour movement generally, and certainly the Victorian people. Honourable members must look closely at what we are doing. I refer to the views expressed by various State branches of the Australian Labor Party. In Queensland the following motion was carried:

The Queensland branch of the Australian Labor Party, through its State council, reaffirms its strong support for public enterprise and its total opposition to privatisation in whole or in part of Commonwealth statutory corporations.

The Victorian branch had the following comment to make:

Conference rejects suggestions that private enterprise is inherently more efficient than public enterprise or that private sector expenditure is more productive than public sector expenditure. Conference also rejects suggestions that the Federal government should privatise government enterprises and instrumentalities.

The South Australian branch has said:

Privatisation increases opportunities for speculative capital and diverts capital from new productive investment to the acquisition of existing assets.

Convention therefore calls for the maintenance of existing party policies and philosophy on public ownership and for adherence to the same by Labor governments and all Parliamentary members.

The Western Australian branch of the ALP said:

That the Pilbara Electorate Council oppose any move by State or Federal governments to sell off any public utilities, particularly profitable ones which should be preserved for future generations.

The New South Wales branch of the ALP carried the following motion:

The NSW branch of the ALP reaffirms its philosophical commitment to public enterprise and emphasises that the ALP's support for public enterprise is one of those essential points which distinguishes our party from our conservative opponents.

In Tasmania the ALP said:

The administrative committee has unanimously adopted a resolution opposing the sale or privatisation of any publicly owned enterprises or assets.

Right around the country every State council of the Australian Labor Party has voted strongly against what honourable members will do tonight. Very little evidence has been produced to show that there are benefits in undertaking such a sale; the indications are that the benefits are at best very doubtful. Honourable members are in danger of witnessing the same thing happening in Victoria as happened in the United Kingdom where publicly owned assets were sold at a price much lower than their market value; because buyers could not be found, the United Kingdom dropped the value of the assets, so the people who owned the assets and utilities did not even get the benefit of selling them for their market value.

I invite honourable members to consider the following: how do we know we are getting the market value for Loy Yang B? How do we know we are getting the right price? By what criteria was the price judged? Did an independent panel travel overseas to compare similar sales? Is the figure for which 40 per cent of Loy Yang B will be sold a figure that has been arrived at just through discussion with the Mission group? How has the figure been arrived at? How can we guarantee when we pass the Loy Yang B Bill that the people of Victoria will be getting the market value for the sale of the asset? The answer is: we do not know. We are taking a terrible gamble, yet we will sit here and pass the Bill. We are letting down the people we are supposed to be representing.

Kenneth Davidson, in the Opinion and Analysis column of the *Age* of 9 April, under the heading "Something doesn't add up in power station IOU", says:

The decision by the Kirner government to sell 40 per cent of Loy Yang B looks like one of the most expensive union-busting exercises undertaken by any government, anywhere.

While the government and the SEC have done their best to dress up the exercise as a productivity "quick fix", it looks to me, based on admittedly rough back-of-the-envelope calculations, that Victorian electricity users will pay up to 50 per cent more for the electricity generated from Loy Yang B than if the project had been fully funded by public borrowings ...

Instead, power from Loy Yang B — to be operated by the American Mission Energy group — will cost the SEC 6.8 cents a kwh initially, which is 25 per cent higher than the cost of power now generated by Loy Yang A.

According to SEC sources, the cost of the power generated by Loy Yang B will average 5.4 cents a kwh in today's dollars over the 30-year life of the power station. The cost to the SEC will fall to 5.4 cents a kwh in 2004.

The SEC, asked whether the 5.4 cents average was discounted for time, said the 5.4 cents was "life-time levelised costs".

This may not mean much to readers, but you may get the general idea if I ask whether you would prefer to have \$1000 in your pocket today or the promise by a reputable institution, such as a State government or American power utility, for the equivalent of \$1000 in the year 2004.

If you are given an IOU for the equivalent of \$1000 payable in 2004, what would you be prepared to sell it for — \$500? \$600? or \$800?

The price you accepted would depend on many things, including how secure you thought the IOU was, whether you expected to be around next century, how badly you needed the money now and what the going interest rate was.

This is the type of deal we are entering into. I cannot understand why the State government is hell-bent on this course of action.

Hon. D. M. Evans — Because it is broke!

Hon. R. A. MACKENZIE — I do not believe that is the reason; I believe it is part of a program. There is no doubt, when one considers an earlier statement made by the Premier, that the government fully intended to undertake a program of privatisation not only of the SEC but also of Melbourne Water and the Gas and Fuel Corporation. It is not possible to sell these utilities or to privatise them until they are corporatised. No-one would be interested in taking them on.

The government has had to rethink its program of privatisation because of pressure exerted by a large number of people in its party. I know from my own observation and speaking to people that it is not only the Labor Party that is concerned about what is happening but also a great many people in the

general public. They believe that this program will not be able to be controlled. The door has been opened. It is all very well to say that a fence has been put around this program. The Labor government may have put a fence around it but governments change and we heard Mr Hallam say quite honestly that the coalition would privatise the SEC. He honestly said that that was on the agenda.

The Bill is a retrograde step. The people out there know that this utility may not be able to be controlled by Australian companies. In the first instance 40 per cent of the SEC will be controlled by an overseas company. Australians see this move as losing control of the assets they had trusted this government to look after. We are selling out those people by this action.

This is a step backwards. It is another black day for Victoria. I oppose the legislation for the reasons I have outlined. I am appalled that the Bill will be passed without a great deal of debate or interest being shown by honourable members. The people of Victoria are extremely worried. I hope serious consideration has been given to the course we are taking. I hope, if nothing else, that this is the last public utility in Victoria that is corporatised and privatised.

Hon. ROBERT LAWSON (Higinbotham) — Several speakers have mentioned that we have come to the end of an era. That is true. Never again will Parliament authorise the State Electricity Commission of Victoria to build huge and expensive power stations. Loy Yang B marks the end of an era. The costs of building power stations have escalated out of control, and the government has taken this course of action not because it is in love with the idea of corporatisation or privatisation but because the spiralling debts of the SEC have forced it to do so.

The SEC has no choice because if Loy Yang B is not sold in the manner described in the Bill — honourable members have heard that the coalition believes it is better to sell it as a whole — its debts would become virtually unpayable. This is an attempt to get rid of some of the debt hanging over this great organisation.

For the same reason, 800 workers are being released by the SEC. It is unfortunate but the people of Victoria cannot sustain a vast sheltered workshop in the Latrobe Valley. Mr Mackenzie was complaining about the fact that the government is now looking at the balance sheet and is worrying about the almighty dollar. It has been a realisation for the

government quite late in its decline, in its fall to inevitable defeat, that it must begin to look at the balance sheet and the bottom line — which it has not done during the first eight years — in order to save the finances of Victoria from complete collapse. This action has been taken to save Victoria's finances.

The issue of the sale of Loy Yang B has been canvassed thoroughly. I want to put it in some sort of perspective so that people who read this Parliamentary report at a later time will understand something of the background of why the government is being forced into this action much against its will.

In June 1988 Victoria had an electricity generating capacity of 8000 megawatts. Up to that time if every plant were operating and Loy Yang A, Newport, Jeeralang and all the other power stations were running at full capacity, 8000 megawatts of power was being poured into the grid. Loy Yang B will produce another 1000 megawatts to make 9000 megawatts, which is ample power for our needs.

Unfortunately many power stations will have to be retired during the next few years. Hazelwood was built in 1960 with an anticipated life of 20 years. It is now the 1990s and Hazelwood is being refurbished one unit at a time. That is still going on. A table on page 30 of the report of the Natural Resources and Environment Committee on electricity supply and demand beyond the mid-1990s shows when the power stations will be retired. According to SEC estimates made in 1988, Yallourn E will go in 1993 — I do not know whether Yallourn has already gone. Hazelwood 1 and 2 will be retired in 1999, and that will take place in stages over a four or five-year period. Jeeralang A will go out in 2006 and Jeeralang B will be retired in about 2008. Newport will be retired in 2011 and Yallourn W1 and W2 in 2013. Our generating capacity is becoming old and decrepit. They are prolonging the life of Hazelwood and the others. However, it is something like George Washington's axe: you can change the head only so many times and you can change the handle only so many times; eventually it must wear out.

Hon. R. A. Mackenzie — It will not wear out in that case.

Hon. ROBERT LAWSON — That is right. It is not similar. It is necessary to finish Loy Yang B, at least units 1 and 2. Units 3 and 4 may never be completed. It is likely that when the old power station is retired we will have to come back at some future time and authorise either Mission Energy or

some other organisation to complete units 3 and 4 of Loy Yang. However there are other possibilities such as the Mount Piper power station in New South Wales, which has not yet been commissioned, and which has been mothballed. I believe it would be relatively cheap for the New South Wales government to finish Mount Piper, commission it and produce electricity. A grave miscalculation was made a few years ago and too many power stations were built. A suggestion has been made that Mount Piper could be finished and that Victoria could buy power from that station. That proposal would require an upgrading of the Snowy Mountains link and involvement of the Commonwealth because of the State-Commonwealth agreements on that link.

Another possibility is the building of a power station at Oaklands, near Yarrowonga. I believe that CRA Ltd and the Mitsubishi company hold the rights to a vast deposit of approximately 1500 million tonnes of black coal in that area. Sufficient coal is available to service a four-unit power station for about 30 years and could be used as an alternative to the Snowy Mountains link. The coal, although eminently suitable for power generation, is not of exportable quality.

A four-unit power station at Oaklands would have the capacity to supply more power than would be available from Loy Yang B if it were to be completed. The four proposed Oaklands units would each deliver 660 megawatts, as against the Loy Yang B units which deliver 500 megawatts. With four units Oaklands would deliver 2640 megawatts of peak load power, because of the quality of the coal, and Loy Yang B1 and B2 would deliver only 1000 megawatts of base load power.

Another reason for building a power station at Oaklands rather than completing Loy Yang B is the old objection to putting all your eggs in the one basket. It would be better for Victoria to derive a portion of its power supply from areas other than the Latrobe Valley. A number of options are available for the provision of additional power generation capacity following the completion of Loy Yang B, units 1 and 2.

The construction of power stations is an enormously expensive exercise. My research revealed that Loy Yang A cost \$1.25 million — an indication of how prices have spiralled since the completion of that power station. I fully understand why the government is faced with having to sell off part of Loy Yang B in order to complete construction of the first two units.

LEGAL AID COMMISSION (AMENDMENT) BILL (No. 2)

Thursday, 4 June 1992

COUNCIL

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Hon. R. A. Mackenzie — Do you believe we are getting value for money?

Hon. ROBERT LAWSON — I am not here to debate that question. I know that the debts of the State Electricity Commission of Victoria (SEC) are getting out of control. At the moment the SEC is technically bankrupt; it will be really bankrupt if it attempts to finish off Loy Yang B as it stands. That is why the government has been forced to sell part of Loy Yang B. The coalition would like to sell all of Loy Yang B and allow Mission Energy to complete the project and generate the electricity.

Hon. R. A. Mackenzie — Do you worry about foreign ownership?

Hon. ROBERT LAWSON — Foreign ownership is a difficult subject because so much of Australia is now owned by foreigners. The Labor government has been responsible for selling off bits of our homeland. We do not own any of our trams and trains!

Hon. R. A. Mackenzie — Does it worry you, though?

Hon. ROBERT LAWSON — Yes, because at some time or other we must pay off the debts on our trams and trains. We will pay twice for those trams and trains: we pay the manufacturer to build the vehicles, we use them as security to borrow money and then have to pay them off again. That was not the coalition's idea.

The State debt is getting out of hand and the government is forced to sell Loy Yang B regardless of whether it wants to or not despite the fact that Australian Labor Party branches all over Victoria have said they do not want it sold. They have a sentimental attachment to it and believe, like Mr Mackenzie, that we should not sell these assets to foreigners.

Ten years of Labor government resulting in spiralling SEC and government debt has left the government with no choice but to sell the complete units of Loy Yang B.

The PRESIDENT — Order! The question is:

That this Bill be now read a second time.

Hon. R. A. MACKENZIE (Geelong) — I seek leave to have my dissent recorded.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — Leave is granted.

The PRESIDENT — Order! Leave is granted for the recording of dissent by Mr Mackenzie, without the necessity of having to go through the detailed procedure that is available to him as of right.

Motion agreed to.

Read second time.

Ordered to be committed later this day.

LEGAL AID COMMISSION
(AMENDMENT) BILL (No. 2)

Second reading

Debate resumed from 2 June; motion of Hon. M. A. LYSTER (Minister for Health).

Hon. J. V. C. GUEST (Monash) — I have read, and I will not otherwise make reference to, the debate in the other place. I commend it to honourable members. It may seem a dry subject, but in the other place the shadow Attorney-General gave an extraordinarily lucid account of the financial problems of the Legal Aid Commission, how they have probably come about and how it could possibly best be analysed, concluding that subject with a plea to the Attorney-General to have the Auditor-General examine the accounts of the Legal Aid Commission. Accordingly, she called into question, as do I, the real need of the Legal Aid Commission for the additional powers that it will be given by this Bill.

As the government asserts, although the number of cases handled by the commission has not increased greatly over the past 10 years or so, the burden of administrative costs has increased enormously. Although those costs cannot be precisely calculated, they have increased at a rate far higher than the number of cases handled and the costs paid out to private practitioners. All that is a matter of conjecture, because there are limits to what an opposition can achieve.

Many people are being denied legal assistance because of the government's poor economic circumstances and the inability of the commission to find the money it needs to represent an increasing number of clients. The remedy proposed in the Bill, which has been suggested by the Legal Aid Commission and accepted by the Attorney-General,

is to give the commission greater power to facilitate the recovery of contributions from assisted persons. In other words, the commission will have the ability to lay its hands on anything of value owned by assisted persons as simply and as quickly as possible.

Clause 10 will make it easier for the Legal Aid Commission to obtain a charge over land. In the other place the honourable member for Balwyn, Robert Clark, eloquently highlighted the possibility of the commission's being able to override another person's interest in the land even if it were protected by caveat. Because that is an arguable question that should not be left open to interpretation, during the Committee stage the coalition will propose amendments to the clause. Problems also arise in the commission's dealings with a person whose security is the deposit of a certificate of title or where the registration of old titles are involved. I understand that the government will agree to the amendments proposed by the coalition to overcome those difficulties.

The Legal Aid Commission, which was established to assist the poor and relatively defenceless, appears to regard its own judgments and purposes as being sanctified by the work it does. The commission has sought to have the Limitation of Actions Act waived in relation to debts assigned to it by contributing clients. That will enable it to bring actions to recover debts that for all other purposes are irrecoverable. The coalition understands that the government accepts the need to amend the provision, which we expect to be deleted from the Bill during the Committee stage.

The concerns the coalition has about the administration of the Legal Aid Commission, the limited financial support given to it by the government and the attitude of both the commission and the government to the protection of individual rights are added to by clause 8, which will allow the commission to bargain about the fees it pays to private practitioners, who do 75 per cent of its legal work.

The coalition believes public money should be spent efficiently and effectively. It would be unfortunate if the clause had the effect of forcing the Legal Aid Commission to instruct the less competent members of the legal profession.

Hon. R. A. Best — Are there people like that?

Hon. M. A. Lyster — Name names, James.

Hon. J. V. C. GUEST — I have no doubt that the Legal Aid Commission will be well able to find some of the less able members of the legal profession, if it has not done so already. One hopes the clause does not tempt the commission to brief the less competent members of the profession simply because their fees are cheap. Perhaps I have chosen an inflammatory way of making the point, which was made more than once in the other place. I am not saying that the Legal Aid Commission should not try to get value for money. But barristers and solicitors have a tradition of doing what the Americans call probono work, which describes work done on a fee-to-client basis. In my days as a very junior barrister I was often given briefs on which I felt morally obliged to write "Fee declined".

Hon. M. A. Lyster — Truly noble!

Hon. J. V. C. GUEST — The point I am making is that a junior barrister is often very glad to get such experience, if only to relieve a senior barrister who says that although he has promised to do a favour for a friend he cannot because he has become caught up in a lucrative case in another court. I am speaking from personal experience; it is not my intention to cast aspersions. The legal profession is an honourable profession with a long tradition of undertaking cases in the public interest, and I am sure there is no likelihood of Legal Aid Commission clients being inadequately represented simply because the commission is trying to make the best use of the limited funds available to it.

Those honourable members who want to know more about the purposes and background of the Bill should read with care the excellent debate in the other place, particularly the contributions made not only by the honourable members for Kew and Balwyn but also by the honourable member for Doncaster. Mr Perton related the story of Mrs Kate Gilmour, who was caught up in the bureaucracy in a way that makes one ashamed to be a part of the workings of government.

After being drawn into litigation involving two government departments Mrs Gilmour sought assistance from the Legal Aid Commission, as a result of which she was left very much out of pocket in circumstances that can only be described as horrendous. To quash the notion that the granting of legal aid is nothing but a benefit to the person who receives it, that and other cases were referred to. Those cases raise issues that the next government will have to take up.

As I have indicated, I support the shadow Attorney-General's comments about the need for the Auditor-General to look into the administration of the Legal Aid Commission. However, with all those qualifications the opposition does not oppose the Bill.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 6 agreed to.

Clause 7

Hon. M. A. LYSTER (Minister for Health) — I move:

1. Clause 7, line 30, after this line insert —

“(1C) If the Commission has imposed a condition under sub-section (1) requiring a person to pay interest on any amount payable to the Commission, interest must not accrue until 30 days after the Commission has communicated to the assisted person under section 33 —

- (a) its decision to impose a condition requiring the payment of the amount; and
- (b) its decision to impose the condition requiring the payment of interest.

(1D) If communication of one decision to impose a condition is given at a different time from the other, interest must not accrue until 30 days after the later communication.”.

This amendment will ensure that interest is not charged on any amount payable by an assisted person until at least 30 days after notice of the decision to impose a contribution and to impose interest has been given to the assisted person.

Amendment agreed to; amended clause agreed to.

Clause 8

Hon. M. A. LYSTER (Minister for Health) — I move:

2. Clause 8, page 4, lines 20 to 23, omit proposed sub-section (2D).

I invite the Committee to omit proposed subsection (2D). This amendment deletes the provision that requires legal aid payments to be no more than the payments ordinarily payable for similar services to a non-assisted person. The deletion is in accordance with the government's desire to allow the commission to set its rates according to the market. It is not envisaged that the commission will in practice ever wish to pay more than the amount that is ordinarily payable. The clause is a redundant intervention in the market for legal services.

Amendment agreed to; amended clause agreed to; clause 9 agreed to.

Clause 10

Hon. M. A. LYSTER (Minister for Health) — I move:

3. Clause 10, page 5, line 11, after “fee simple” insert “, either solely or as a joint tenant or a tenant in common,”.
4. Clause 10, page 5, line 13, after “fee simple” insert “or an equity of redemption, either solely or as a joint tenant or a tenant in common,”.

The first amendment ensures that the commission is able to register a charge against the interest of an assisted person who is a joint tenant or a tenant in common of land under the Transfer of Land Act 1958. The second of these amendments ensures that the commission is able to register a charge against the interests of an assisted person who is a mortgagor or joint tenant or a tenant in common of land in general law.

Amendments agreed to.

Hon. J. V. C. GUEST (Monash) — I move:

1. Clause 10, page 5, line 37 and page 6, line 1, omit “A recording of a notice lodged by the Director is to be made in the register” and insert “The Registrar of Titles must, subject to the provisions of Division 1 of Part V of the Transfer of Land Act 1958, record in the register a notice lodged by the Director”.

The opposition makes it perfectly clear that a person with interest can preserve his priority and that there should be clarity in the meaning of the provisions that relate to the charging of land by the commission. I point out that we are not seeking to protect the position of a person whose security may be protected by the deposit of a certificate of title because the persons who have such security almost

invariably do know they can protect their interest by caveat. They do not want to actually register it.

There is some concern that a system of providing security for financial accommodation by way of depositing a certificate of title providing an equitable mortgage may be disrupted but, basically, the caveat provisions should be sufficient to enable those who are in the business of lending money to protect their interests. There is always the possibility that persons who lend money within the family or to close friends on a reasonably informal basis do not demand the deposit of a certificate of title but are granted it as a gesture of good faith, and they may assume they have a better security. They could well be wrong because although there are other provisions relating to rates and land tax — the charges imposed on land without the registration of an encumbrance — the amounts involved are not likely to be so great as to extinguish the whole value of the security. They are amounts that can be readily ascertained by ordinary inquiries.

Neither of those statements can be confidently made about charges for the cost of litigation which might amount to a very substantial sum indeed, possibly excluding the whole of the value of the security, and are not easy to ascertain. They are not going to be readily suspected by a person who may be an old family friend or an uncle who has provided some assistance. Nonetheless, the basic concept of the Torrens title system, the one with which we are most usually concerned, is that it should be registered, but not a registered caveat. However, the opposition is not pressing that point.

Hon. M. A. LYSTER (Minister for Health) — The government does not oppose the amendments. As we see it, they do not affect the substance of the Bill but clarify provisions contained therein.

Amendment agreed to.

Hon. M. A. LYSTER (Minister for Health) — I move:

5. Clause 10, page 6, line 20, omit "depositing with" and insert "delivering to".
6. Clause 10, page 6, lines 33 to 35, omit ",if the land is under the Transfer of Land Act 1958 the certificate may be lodged with the Registrar of Titles" and insert —
" —

- (a) if the land is under the **Transfer of Land Act 1958** the certificate must be lodged with the Registrar of Titles; and
- (b) if the land is not under the **Transfer of Land Act 1958** a memorial of the certificate which complies with Part 1 of the **Property Law Act 1958** must be lodged with the Registrar-General."

The first amendment relates to general law land. It provides the language of section 7 of the Property Law Act 1958 which refers to the delivery of documents for registration and prevents any possible confusion with the deposit of deeds and documents under section 15 of that Act. The second ensures that the certificate of discharge is delivered in respect of both Transfer of Land Act land and general law land. It also compels the director of the commission to deliver such a certificate. The existing provision refers only to Transfer of Land Act land and gives the director a discretion to deliver the certificate.

Amendments agreed to.

Hon. J. V. C. GUEST (Monash) — I move:

2. Clause 10, page 8, line 7, after "Secondly," insert "in the case of a charge under section 47A of the **Legal Aid Commission Act 1978**,".
3. Clause 10, page 8, line 8, omit "encumbrances" and insert "mortgages or charges".
4. Clause 10, page 8, lines 23 and 24, omit "of which the Commission had notice" and insert "which ranked in priority to the Commission's interest".

Amendment No. 3 is principally a clarification and not necessarily related to the issues I raised earlier.

Amendments agreed to.

Hon. M. A. LYSTER (Minister for Health) — I move:

7. Clause 10, page 8, line 26, omit "registering" and insert "enforcing".
8. Clause 10, page 8, line 30, omit "and certificate of title".
9. Clause 10, page 8, line 32, omit "and certificate of title".
10. Clause 10, page 8, line 33, omit "the Registrar-General or".
11. Clause 10, page 8, line 37, omit "Registrar-General or".

ROYAL MELBOURNE HOSPITAL (REDEVELOPMENT) BILL

Thursday, 4 June 1992

COUNCIL

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Amendments agreed to; amended clause agreed to; clause 11 agreed to.

Clause 12

Hon. M. A. LYSTER (Minister for Health) — I move:

12. Clause 12, page 10, lines 18 to 26, omit proposed sub-section (4).

New section 48C(4) extended the limitation period in respect of any right of action assigned to the commission by a period of two years from the date on which the right of action was assigned, if the commission advised that it expected to exercise any such rights well within the limitation period and, accordingly, this provision extending the limitation period can safely be deleted.

Amendment agreed to; amended clause agreed to; clauses 13 and 14 agreed to.

Reported to House with amendments.

Passed remaining stages.

ROYAL MELBOURNE HOSPITAL (REDEVELOPMENT) BILL

Second reading

Debate resumed from 28 May; motion of Hon. M. A. LYSTER (Minister for Health).

Hon. M. T. TEHAN (Central Highlands) — The Royal Melbourne Hospital (Redevelopment) Bill is to facilitate the redevelopment of the Royal Melbourne Hospital and for other purposes. The opposition will not oppose the Bill because there is a lot of value in the redevelopment of the hospital. However, I express serious concern about the action required to enable the Royal Melbourne Hospital redevelopment to proceed. Although the matter has not been handled as well as it should have been, the opposition supports the redevelopment of the hospital.

The Royal Melbourne Hospital is a hospital of significant prestige in this city. It was established in 1846 and is Victoria's oldest hospital. It commenced as a charity hospital for the poor and has always offered a full range of medical and surgical services. By 1910 the hospital consisted of 350 beds and, when it moved to Parkville from the Lonsdale Street site, it increased the number of beds to 480. When the north wing was completed in 1950 it had 639 beds, and

with the completion of the south wing in 1975 the hospital increased in size to 702 beds.

The Royal Melbourne Hospital has a long history of medical education and teaching commitment that is analogous to the University of Melbourne's Faculty of Medicine. It has also been responsible for the education of nurses since 1890 and has been actively involved in the training of allied health professionals and trade apprentices. For many years there has been no major development at the hospital. If the Royal Melbourne Hospital is to maintain its prestigious role in providing hospital services in Melbourne the hospital requires considerable upgrading.

It is interesting to note that in its 1988 health policy the government promised a redevelopment of the hospital to the value of some \$56 million. That promise was confirmed on 1 February 1991 in one of the Minister's first press releases after she moved into the health portfolio. After visiting the Royal Melbourne Hospital she repeated her predecessor's promise in 1988 that the government would proceed with the redevelopment of the hospital. Her press release states:

A \$56 million redevelopment of the Royal Melbourne Hospital was announced today by health Minister, Mrs Maureen Lyster.

A new emergency theatre and coronary care unit will be built as well as new operating theatres and a radiology department.

That was more than a year ago. The redevelopment was again referred to in the Priority Victoria statement that the Premier delivered in the other place on 25 March this year. The Priority Victoria statement has brought about the introduction of the legislation. In 1988 the promise did not lead to any legislation. In 1991 the promise did not lead to any legislation. The Priority Victoria statement of this year indicated that some \$14 million would be provided for the redevelopment of the Royal Melbourne Hospital over the next financial year and that it and other health projects would create an estimated 2700 jobs.

I hope I will have the opportunity of following the excellent speech by Mr Hallam on the Appropriation (July to October) Bill because I want to raise aspects of the health portfolio referred to in Priority Victoria. I do not know how the promise of 2700 jobs was derived from that statement. Most of the money was spent in marginal seats and it is obvious that it was a

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sham and a pork-barrelling exercise. I will not have the opportunity of participating in the Appropriation debate, but if I did I would say that the government can fool some of the people some of the time but it cannot fool all of the people all of the time. The Priority Victoria statement was an attempt to do just that but it has not worked.

The key to the redevelopment of the Royal Melbourne Hospital is the critical need for a car park. My colleague in another place the shadow Minister for Planning and Environment, Mr Maclellan, said the need for a car park at the hospital was mentioned in 1975, and that was one of the issues brought to my attention when I took over the shadow portfolio of health in 1989. The only place for a car park is under the oval of University High School. That is a sensible place for a car park, and a perfect example of a similar car park is the lawn area at the University of Melbourne. Unfortunately, the Royal Melbourne Hospital was not able to negotiate satisfactorily with the representatives of University High School on that proposal.

Before the last election I asked questions in the House of the then Minister for Health, Mrs Hogg, and the then Minister for Education, now the Premier, about the plan for a car park at the Royal Melbourne Hospital. In 1992 — an election year and some four years after the promise to build a car park at the hospital was made — the government has decided that the hospital will be redeveloped and an underground car park will be built on land attached to University High School. The coalition is being asked to agree to legislation that takes away the rights of individuals and contravenes the power of the Supreme Court by restricting the ability of individuals to make claims arising out of the legislation. Parliament should not be in the position of supporting odious legislation like this, but it is in this position because the government was not able to get its house in order and negotiate better arrangements to enable the redevelopment to take place.

The coalition supports the redevelopment of the Royal Melbourne Hospital but it is dissatisfied with the legislation. It has decided on balance that the greater good lies with the redevelopment of the hospital, but I indicate now that when it is in government the coalition will never deny individuals their basic rights because of an inability to negotiate.

Jonathan Tribe, the Executive Director of the Royal Melbourne Hospital, wrote to the convenor of the coalition's health committee, Dr Denis Napthine, on 15 May and his letter states:

The hospital welcomes the introduction of the Royal Melbourne Hospital (Redevelopment) Bill and looks forward to its speedy passage through both Houses.

The redevelopment of the hospital has been planned since 1988 and elements of the master plan, particularly the car park under the University High School oval, have been the subject of public scrutiny and debate for many years. Despite lengthy negotiations, a public consultation process and formal scrutiny and successful passage of an application for a permit to build through the Melbourne City Council, some local residents have committed themselves to block the car park construction.

That last sentence could well read that some local residents are concerned about a car park being built close to where they live and they want to exercise their right to appeal against the Melbourne City Council permit. The coalition acknowledges the need for a car park and it is not convinced that the residents have a strong case, but it does not happily restrict their rights to go through the normal planning appeals process.

The coalition met with the Melbourne City Council and was informed that the council approved of an application for a permit subject to a number of conditions. I have correspondence from the hospital stating that the 18 conditions of the planning permit will be complied with during the redevelopment of the hospital and the building of the car park. Nevertheless, I ask the Minister to give an assurance that the terms and conditions of the MCC planning permit will be complied with.

On 1 June the council of University High School sent me a fax outlining some concerns it had about the Bill. They had concerns that the provisions in clause 5 may be contrary to the heads of agreement. I ask the Minister to ensure that the development of the hospital and the building of the car park do not in any way abrogate the heads of agreement signed in October 1991 by the then Minister for Education and Training, the chairperson of the board of the Royal Melbourne Hospital and the president of the council of University High School. I do not believe the Bill will abrogate the heads of agreement, but it may alleviate some of the concerns of the school council if the Minister were prepared to give that additional commitment.

Clause 1, which sets out the purpose of the Bill states:

The purpose of this Act is to facilitate the redevelopment of the Royal Melbourne Hospital and, in doing so, to —

- (a) provide for planning controls on the redevelopment;
- (b) provide for the application of the Environment Protection Act 1970 to the redevelopment;
- (c) facilitate the construction of an underground car park on land adjoining the Royal Melbourne Hospital site ...

I am concerned about clause 2; I do not understand why the Bill may need to come into operation on a day or days to be proclaimed. I should like an explanation or some commitment from the Minister for Health that the whole of the Bill will be proclaimed at the one time. The purpose and the functional part of the Bill is to provide for the Minister administering the Planning and Environment Act on the recommendation of the Minister administering the Health Services Act to prepare, adopt and approve amendments to any planning scheme applying to the land covered by the redevelopment project to facilitate that project. Clause 4 precludes any person seeking to limit such an amendment through various provisions of the Planning and Environment Act.

Clause 5, dealing with the Environment Protection Act, provides similarly:

- (1) A decision listed in sub-section (2) cannot be repealed against, reviewed, challenged, quashed or called in question in any procedures before a Court or Tribunal except by the person who is the subject of the decision.

Subclause (2) extends the provisions of subclause (1) to a decision of the Environment Protection Authority or a delegated agency in relation to a works approval, licence or permit under the Environment Protection Act or any other matter arising under that Act and applying to anything concerning the redevelopment project.

The purpose and effect of clause 5 is that the approval, licence or permit under the Environment Protection Act will give total power for the purpose of the redevelopment project as defined in clause 3, definitions.

Clause 6 provides that certain land may be used despite reservation, and states:

- (1) The land shown cross-hatched on the plan in Schedule 1, being part of the land described in

Schedule 2, may be used and developed, in accordance with the redevelopment project, for a car park. Subclause 3 states:

This section applies despite anything to the contrary in the Crown Land (Reserves) Act 1978, the Land Act 1958, any instrument reserving land or anything in any other Act or law.

It has been put to me that clause 6 is too broad and the amendments the coalition brought to the attention of the government in clauses 8 and 9 should have been applied to clause 6. I shall speak to those amendments, which were debated in another place. Clauses 8 and 9 provide powers of constraint and limitation on compensation and Supreme Court jurisdiction respectively. I do not think the same reasoning applies to clause 6. I do not think one can amend clause 6 to limit the jurisdiction that is precluded by subclause (3). I do not think there is any cause for amending the clause despite it having been raised in another place as something which we might look at. I have not had representation to the effect that clause 6 should be amended; it was not included in the fax that I received on 1 June that raised concerns with other clauses in the Bill.

Clause 7(2) under the heading "Strata licensing" states:

The Minister may grant to the Royal Melbourne Hospital a licence or licences for a relevant stratum of Crown land or relevant strata of Crown land.

It also gives opportunity for the licence to be subject to any conditions that the Minister thinks fit and specifies in the licence as to access to and use of the land; improvement of the land and the maintenance and repair of improvements; protection of the continued use of parts of the surface of the land by the school, and reinstatement of existing access routes across the surface of the land.

Finally, it gives the opportunity for the Minister to grant a licence for a term of not more than 50 years, which is considerably longer than the normally accepted licence or lease that is granted in these circumstances.

The impact of clause 7 is that, for the purpose of the establishment of a car park on the land referred to in the schedule, the Minister has wide powers in consultation with the Minister for Planning and Environment to stipulate conditions and to grant a licence for a term up to 50 years.

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The question raised with me, and which I again bring to the attention of the Minister, is the reference to the word "Minister" in subsection (2) of the clause. I presume it means the Minister for Health or the Minister administering the Health Services Act. It is not defined as such in the definitions section of the Bill. It does not follow that the reference in clause 4 is the same reference in clause 7. When it was brought to my attention I was not in a position to seek further clarification, but the Minister may wish to refer to it because there is some element of uncertainty.

The last two clauses do not pass happily. Clause 8 states:

No compensation is payable by the Crown for the Royal Melbourne Hospital because the hospital uses or develops land in accordance with this Act and any licence issued under it but inconsistently with the reservation of the land.

In other words, while the hospital is using or developing the land no compensation will be paid to any person by the Supreme Court in the event of any person seeking to appeal against the licence or the implementation of the clauses to which I referred earlier.

Similarly, clause 9 limits the jurisdiction of the Supreme Court. It states:

It is the intention of this section to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to —

- (a) prevent the Supreme Court awarding compensation because the Royal Melbourne Hospital in accordance with this Act and any licence issued under it uses and develops land inconsistently with the reservation of the land; or
- (b) prevent the Supreme Court considering or reviewing matters of the kind described in section 39(7) and (8) of the **Planning and Environment Act 1987**.

By deleting the words "in respect of anything done under section 6 or" as they were originally incorporated in clauses 8 and 9, both those clauses have been constrained in the payment of compensation and in the jurisdiction of the Supreme Court to precisely the words that are required to carry out the intent of the legislation, which is to facilitate the building of a car park on the University High School land.

It was put to me that there was no similar clause 9 limitation of jurisdiction of the Supreme Court in the Collingwood Land (Victoria Park) Bill that was debated in this place earlier this sessional period. If it were not in that Bill why should the Royal Melbourne Hospital (Redevelopment) Bill be passed with such a limitation?

I contacted Parliamentary Counsel and was advised that if the clause was not included in the Bill it would create a difficult situation in the event of an appeal to the Supreme Court in that the Supreme Court would see the intent of the Bill and recognise that Parliament was seeking to limit its jurisdiction, but it would not be spelt out clearly in the legislation that Parliament had addressed that matter precisely and had covered it in the concise terms of clause 9.

That was not done in the Collingwood Land (Victoria Park) Bill because the Attorney-General had asked Parliamentary Counsel not to include that clause, thereby creating a situation where the Supreme Court may be placed in the invidious position of knowing the intent of Parliament but not having spelt out clearly in the legislation the precise constraint on the Constitution Act. I was not prepared to do that for those purposes.

If we are to make the decision to limit the court's jurisdiction we should go that one step further and spell it out in the legislation. We were not happy with the situation and we sought an opinion. We decided to leave clause 9 in the Bill.

Some people are not happy with this Bill. I refer to a facsimile sent to me by the president of the school council at University High School. The council indicated that it was not consulted about the contents of the Bill although it knew of the need for a licence to be granted. It said that the school council was indebted to the honourable member for Portland in the other place, Dr Napthine, the convener of the coalition health policy committee, for alerting the council to the Bill. It said the council had tried to contact the Minister for Health about its concerns prior to a council meeting; in a 5-minute telephone conversation its representatives had sought discussions with the Minister for Health, citing clause 8 as an example of its concerns. To date the promised return telephone call has not eventuated. The council further says that more attempts to contact the Minister for Health were unsuccessful although it received acknowledgment of its facsimile message. It said that if the Bill were to pass through this place the council of University High School may probably rather than possibly

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decide that the heads of agreement had been breached by the Bill.

I have said that on my reading of the Bill the heads of agreement have not been breached and I ask the Minister to state whether that is her understanding.

The University High School council concluded by apologising for landing this problem in my lap at this late stage but said it had waited in vain for the government to bother to consult with it.

The council's concerns relate to clause 3. Having raised the matter, I examined the implications of that clause in the definitions section. The clause defines "redevelopment project" as including:

road works and other works (whether on the hospital site or not) associated with the redevelopment described in paragraphs (a) to (e).

The redevelopment includes road works and other sites adjacent to the hospital. In my opinion, the intent of the Bill is to facilitate as speedily as possible the hospital redevelopment; therefore, that provision is not an unreasonable inclusion in the clause.

The council's concern about clause 5 is whether it breaches the heads of agreement. I do not think it does. I have raised the matter with the Minister but have not received an answer about the meaning and extent of clause 7. The council's point is valid. The council raises concerns about clauses 8 and 9. I share those concerns but on balance we have been put in a position where, if we wish to see development of the Royal Melbourne Hospital, we have no option but to proceed with both clauses, clause 8 being an abrogation of the right to compensation and clause 9 being a spelling out of the limitation of jurisdiction, which I have explained.

As I said in the beginning, the whole razzamatazz of the development is nothing but a shoddy public relations exercise by the government in its dying days. If one looks at the financial arrangements for the development one can see that the Bill is a piece of window-dressing for the amount of money the government has allocated for the development.

Stage 1A has an estimated cost of \$14.6 million, of which the Royal Melbourne Hospital will contribute \$11 million. Health Department Victoria will put in \$3.6 million in 1992-93 when it will be responsible for only a short period of that financial year. The car park will cost \$21 million, to be totally funded by the hospital. The bone marrow register building will

cost \$4 million, all of which is to be raised by donations.

The government will contribute only \$3.6 million of the \$38.6 million cost of stage 1 developments. The total cost of the stage 2 development will be \$58 million, of which \$2 million will be contributed in this financial year, \$10 million next year, with the balance of \$46 million to be spread over the 1993-94 and 1994-95 financial years. This government will not be in office to put in 1 cent of that amount and the incoming government will bear that commitment in addition to the huge debts and other commitments of the past 10 years that will be hung around its neck.

The Royal Melbourne Hospital has said it will not seek further funds in addition to what has been promised. I am thankful for that because, as the opposition spokesperson in the other place said, the government will not be in a position to provide any funds above those committed until now.

The opposition is pleased that it can play some small role in facilitating the redevelopment of the Royal Melbourne Hospital, but it is most unhappy that it has had to constrain the rights of ordinary citizens in order to facilitate the redevelopment that should have been negotiated and worked through satisfactorily at least four years ago. The fact that the legislation is before the House is an indictment of and an example of the ineptitude of this government. However, we look forward to a successful outcome of the redevelopment of one of Victoria's outstanding hospitals.

Hon. G. P. CONNARD (Higinbotham) — I support the remarks of Mrs Tehan who has referred to a number of matters that I had intended to comment on.

The Royal Melbourne Hospital is one of Victoria's distinguished establishments. It is led by an efficient board of management that has adopted efficient operating methods. I make the boast that the chief executive of the hospital, Mr Tribe, is a close friend; he is also a very effective general manager. He is chairman of a division of the Victorian Hospitals Association Ltd. He is a young man with vision and much competence.

As Mrs Tehan said, the redevelopment plan has been on the hospital's agenda for quite some time. Although appearing to be a modern hospital, the Royal Melbourne Hospital was built in the early 1940s. My brother, now aged 68 years, was a

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medical practitioner and served his internship there. In fact, he was one of the first interns at that hospital.

When commissioned, the hospital was not occupied by Australians but by the American Army. It was one of the finest hospitals in the world at the time and it remains a fine hospital with an extremely dedicated medical and nursing staff.

The government has been working through the various plans to update the hospital, which is desperately needed, and Mrs Tehan has described the stages of that update. The current master plan was developed in 1988, some four years ago, and the government has shown some cynicism in pushing the Bill through Parliament at this late stage. At a conference last year I was speaking with the Minister for Health and, for whatever reason, Jonathan Tribe was forced to interrupt that happy conversation to ask when the Bill would be introduced. That was more than six months ago.

Mrs Tehan has given accurate figures about the cost of the various stages. The total estimated cost is some \$15 million of which \$11 million is to be funded by the hospital reserves and \$4 million by Health Department Victoria. Site preparation works are under way and construction should commence in the next few weeks. However, that is a small amount of money for the second largest hospital in the State and it seems to me to be a poor approach.

Stage 1B, which is the construction of a four-storey building on the corner of Royal Parade and Grattan Street, will include an accident and emergency department, radiology, a coronary care unit and 10 operating theatres. That phase of the redevelopment is vital to relieve the congestion in the outdated and inadequate emergency department. The total estimated cost is \$58 million to be funded by Health Department Victoria, with some \$14 million allocated in 1992-93.

When the Liberal Party was in government it was able to arrange the vast majority of the capital funding necessary for hospital buildings leaving only a small amount for the various hospital management boards to raise. It is entirely the reverse situation with this government. In its dying days it does not have the money. The amount required to be paid by Health Department Victoria for stages 1A and 1B in 1992-93 is only some \$18 million. However, this government has left the State so desperate for money that a new government will have difficulty finding that amount. That shows the cynicism of the government in leaving this load for

the new government to bear in the latter part of this year. No doubt the Minister will say that the government will find some money between now and October, which is when an election is likely to be held.

The car park has been the subject of a difficult relationship between the hospital, University High School, Health Department Victoria and the former Ministry of Education and Training. What was intended to be a 1150-space car park has now been reduced by the Melbourne City Council to a 1000-space car park. I know the procedures have been complicated but it should not have taken 10 years for construction to commence. It is even more than four years since the last master plan was completed!

The necessity for a car park is well known and has received wide coverage in the press. Numerous staff cars which have been parked in side streets or even major streets have been stolen and staff have had to pay parking fines because they have no alternative other than to park in the streets. Despite that the government has refused to address the problem over the past 10 years. The government has blamed difficult planning processes for the continued delay. In the meantime many staff members, especially nurses, have been hit by cars while crossing roads in the middle of the night to get to their vehicles. That has all been because of the lack of integrity by the government to move on this issue.

The total estimated cost of the car park is \$21.3 million which includes a \$2.4 million contribution by the Royal Melbourne Hospital to develop stage 1 of the master plan, and there is no indication in the notes I have of whether the government, the hospital or the school pays for the rest.

I support the Bill because I wish to aid the development of this excellent resource to our community. The Royal Melbourne Hospital is run by an efficient executive structure with competent nursing and administrative staff. I have had many conversations with the chief executive officer, Jonathan Tribe, in an endeavour to assist this project going ahead.

The opposition has done its best and we can only apologise to the Royal Melbourne Hospital that we have not been as successful as we would have liked in bringing this forward. I regret that the government has not provided a real financial contribution to the project. However, I support the

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Bill and I wish the Royal Melbourne Hospital well so that it can go from strength to strength in its service to the Victorian community

The **PRESIDENT** — Order! Both the Minister and Mrs Tehan have directed attention to the fact that the Bill expressly affects the jurisdiction of the Supreme Court. An absolute majority is therefore required, and I direct the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

The **PRESIDENT** — Order! To enable me to ascertain whether an absolute majority exists, I request honourable members supporting the second reading to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Third reading

Hon. M. A. LYSTER (Minister for Health) — By leave, I move:

That this Bill be now read a third time.

I shall respond to some of the questions raised by Mrs Tehan. Firstly, I thank Mrs Tehan for her support. I thought I would be able to indicate that I was pleased that the opposition was joining with the government in mutual support of the Royal Melbourne Hospital (Redevelopment) Bill until Mr Connard made a statement. I want to check the statement in *Hansard* because it seems to me that he foreshadowed that any future Liberal government would have great difficulty in supporting the redevelopment.

In response to Mrs Tehan's question about the conditions of the planning permit, I indicate that it is certainly my intention that those conditions will be met.

In respect of the heads of agreement involving the University High School Council, I am surprised and disappointed that the comments that were made were necessary. I was not aware that the school council was waiting for further considerations; I thought the council's concerns had been addressed. I apologise to the University High School Council for

any misunderstanding and give an assurance that I expect the terms of the heads of agreement to be observed.

Again, I thank Mrs Tehan for her support of this important legislation.

The **PRESIDENT** — Order! The question is, by leave:

That this Bill be now read a third time.

I invite honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

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Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

1. Clause 3, page 3, line 34, after "by" insert "or under".
2. Clause 3, page 4, line 7, after "varied" insert "in accordance with section 9".

Amendments agreed to; amended clause agreed to; clauses 4 to 6 agreed to.

Clause 7

Hon. R. J. LONG (Gippsland) — I move:

1. Clause 7, lines 28 and 29, omit "or derogates from".

The amendment affects the implementation of agreement provided for by clause 7(3):

A person must not do anything that interferes with or derogates from the operation or implementation of the State agreement ...

The coalition considers the provision to be too wide and therefore suggests that the words "or derogates from" should be deleted.

Amendment agreed to; amended clause agreed to; clauses 8 to 11 agreed to.

Clause 12

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

3. Clause 12, line 22, after "into" insert "and perform".
4. Clause 12, line 23, after "project" insert ", including the project agreements".
5. Clause 12, line 30, after "station" insert ", including an arrangement for the declaration of a trust in respect of any real or personal property of the Commission used for the purposes of the project".

Hon. R. J. LONG (Gippsland) — The opposition has had close negotiations with the government and its advisers on all the government amendments. I indicate that we agree with them all.

Amendments agreed to; amended clause agreed to.

Clause 13

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

6. Clause 13, line 5, before "The" insert "(1)".
7. Clause 13, line 18, before "subsidiary" insert "company that is a".
8. Clause 13, after line 22 insert —

"(2) A guarantee, covenant, undertaking or agreement under sub-section (1) is not affected by reason only that the company to which it applies ceases to be a subsidiary of the Commission, unless the terms and conditions of the guarantee, covenant, undertaking or agreement otherwise provide."

Amendments agreed to; amended clause agreed to; clauses 14 to 18 agreed to.

Clause 19

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

9. Clause 19, line 16, omit "13" and insert "14".
10. Clause 19, line 16, omit "or the disposal of an interest under section 14."

Amendments agreed to; amended clause agreed to; clause 20 agreed to.

Clause 21

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

11. Clause 21, lines 10 to 13, omit sub-clause (1) and insert —

() An exploration licence, mining licence or other authority must not be granted under the **Mineral Resources Development Act 1990** over any part of the project area unless the Minister administering that Act is satisfied —

- (a) that the licence or authority is necessary to enable a person other than the Commission to supply coal for the purposes of the project; and
- (b) that the granting of the licence or authority would not materially adversely affect the ability of a party to a project agreement to fulfil the party's obligations under the agreement."

12. Clause 21, after line 20 insert —

"() Sections 80, 81 and 82 of the **Weights and Measures Act 1958** do not apply to the sale or supply of coal for the purposes of the project."

Amendments agreed to; amended clause agreed to; clause 22 agreed to.

Clause 23

Hon. R. J. LONG (Gippsland) — I move:

2. Clause 23, lines 32 to 34 and page 14, lines 1 to 13, omit sub-clauses (1) and (2).

As drafted the clause is extremely broad. It begins by granting the Governor in Council power to exempt almost any law that interferes with the State agreement. That means Governor in Council would almost take the place of Parliament. The opposition considers that this clause should be amended and that is why it has moved to omit subclauses (1) and (2).

Amendment agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

13. Clause 23, page 14, line 20, omit "B".

Amendment agreed to.

Hon. R. J. LONG (Gippsland) — I move:

3. Clause 23, page 14, line 22, omit "or (3)".

4. Clause 23, page 14, line 25, omit "both Houses" and insert "either House".
5. Clause 23, page 14, line 26, omit "each" and insert "the".
6. Clause 23, page 14, line 28, omit "resolutions of both Houses are" and insert "a resolution of either House is".
7. Clause 23, page 14, line 29, omit "(5)" and insert "(3)".
8. Clause 23, page 14, lines 32 and 33, omit "resolutions are passed, or the last of the resolutions is passed, as the case requires" and insert "resolution is passed".
9. Clause 23, page 15, line 2, omit "or (3)".

These amendments are consequential to amendment No. 2 in my name, which the Committee has accepted.

Amendments agreed to; amended clause agreed to; clauses 24 to 26 agreed to.

Clause 27

Hon. R. J. LONG (Gippsland) — Clause 27 deals with local rating. Subclause (1) stipulates that the Loy Yang land is not rateable land. The coalition does not accept the principle contained in that clause and will not accept it as a precedent for the future.

Clause agreed to.

Clause 28

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

14. Clause 28, line 11, after "Commission," insert "undertake".

Amendment agreed to; amended clause agreed to; clause 29 agreed to.

Clause 30

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

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

1. Clause 30, line 20, before "The" insert "(1)".
2. Clause 30, page 19, after line 7 insert —
 "(2) A guarantee, covenant, undertaking or agreement under sub-section (1) that applies to a body of a kind referred to in sub-section

(1)(e) is not affected by reason only that the body ceases to be such a body, unless the terms and conditions of the guarantee, covenant, undertaking or agreement otherwise provide."

Suggested amendments agreed to; clause postponed.

Clauses 31 and 32 agreed to.

Clause 33

Hon. R. J. LONG (Gippsland) — I move:

10. Clause 33, omit this clause.

The coalition proposes to move an amendment at a later stage dealing with the restructuring of the electricity industry.

Amendment agreed to.

Clause negatived.

Clauses 34 to 49 agreed to.

Clause 40

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

15. Clause 40, line 31 and page 22, line 1, omit "the Commission to fulfil its obligations under a project agreement" and insert "a person to fulfil an obligation to supply coal for the purposes of the power station".
16. Clause 40, page 22, lines 6 and 7, omit "the Commission to fulfil its obligations under a project agreement" and insert "a person to fulfil an obligation to supply coal for the purposes of the power station".

Amendments agreed to; amended clause agreed to; clauses 41 and 42 agreed to.

New clauses

Hon. R. J. LONG (Gippsland) — I move:

11. Insert the following new clauses to follow clause 32 —

Act not to affect restructuring of electricity industry

"A.(1) Nothing in this Act or the State Agreement prevents or restricts the State, an agency or instrumentality of the State, the Commission, another statutory body or a municipal council

taking any action that constitutes or is connected with a restructuring of the Commission or the electricity industry.

- (2) A provision of an agreement that is inconsistent with sub-section (1) is void and unenforceable to the extent of the inconsistency.
- (3) Despite sub-section (2), a provision of a project agreement is not void and unenforceable by reason only of a provision that is inconsistent with sub-section (1) but which accords with principles in the contractual documents.
- (4) In this section —

“contractual documents” means the copy of the documents in 4 volumes held by the Commission entitled “Investment in Loy Yang B Project: Contracts Initialled by Mission: State Electricity Commission of Victoria: Mission Energy Company: 28 May 1992” as added to, altered or amended by an addition, alteration or amendment signed by a person authorised so to do in writing signed by the Leader of the Parliamentary Liberal Party;

“Loy Yang property” has the same meaning as in section 35:

“restructuring” includes —

- (a) any sale, lease or other disposal of all or part of any interest in the Loy Yang property held by the Commission or another statutory body;
- (b) any sale, lease or other disposal of any interest of the Commission or any other entity in any property within the Victorian electricity industry other than the Loy Yang property;
- (c) any agreement relating to the supply of products, by-products, materials or services used or produced by, in or through the operation of any electricity generating asset other than the power station;
- (d) any agreement relating to the supply, purchase or sale of electricity from any electricity generating asset other than the power station;
- (e) the issue of a permit within the meaning of the State Agreement in respect of any electricity generating asset other than the power station;

(f) any restructuring of the Commission including the incorporation of any part of the Commission.

Freedom of Information Act 1982

“B(1) The Freedom of Information Act 1982 does not apply to a document to the extent to which the document discloses information about —

- (a) a financial model relating to the project provided by or on behalf of a participant to a Minister or an agency within the meaning of that Act or an authorised representative of such an agency;
 - (b) the disposition by a participant of an interest in the project;
 - (c) a penalty or compensation payment payable by or to a participant under a project agreement;
 - (d) the determination of the price of an option held by a participant under a project agreement; or
 - (e) a management report relating to the operation and financial performance of the power station prepared by or on behalf of a participant.
- (2) A participant in the joint venture within the meaning of the State Agreement must not, under the Freedom of Information Act 1982, disclose any information which may entail commercial confidentiality except with the agreement of all other participants.
 - (3) A decision of a participant not to disclose information because of sub-section (2) is to be taken to be a decision that is subject to review in accordance with the Freedom of Information Act 1982.
 - (4) For the purposes of section 34 of the Freedom of Information Act 1982 —
 - (a) a participant is to be deemed to be a business, commercial or financial undertaking; and
 - (b) the obligations of an agency or a Minister under sub-section (3) of that section apply in respect of a participant whether or not the relevant document or documents have been supplied by the participant.

Proceeds of sale

“C(1) The net proceeds must be applied as soon as practicable after receipt —

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- (a) first, to repaying, discharging or satisfying temporary purpose borrowings; and
- (b) secondly, in repaying, discharging or satisfying other Commission debt.
- (2) The net proceeds are not payable, and shall not be required to be paid, in whole or in part, directly or indirectly, to the State for any reason whatsoever.
- (3) The Auditor-General —
- (a) within one month after the Commission has received \$100 000 000 or more of the net proceeds; and
- (b) within one month after the Commission has received any subsequent amount or amounts totalling \$100 000 000 or more of the net proceeds —
- must prepare and sign a report as to whether there has been compliance with this section and include a summary of the reasons for the conclusions of the Auditor-General.
- (4) In respect of each year ended 30 June in which any net proceeds are received by the Commission or taken into account in relation to the global limit for the year concerned the Auditor-General must prepare and sign a report before the next succeeding 31 July as to —
- (a) whether the borrowings of the State and its emanations complied with the global limit for the year concerned; and
- (b) whether any borrowing was treated as a refinancing and not a new money borrowing only by virtue of a repayment, discharge or satisfaction of Commission debt under this section.
- (5) In each report prepared under sub-section (4), the Auditor-General must include a finding as to whether any money actually received in one year was taken into account in relation to the global limit in any other year and, if so, identify the year concerned and the effect of such treatment.
- (6) Each report prepared and signed under sub-section (3) or (4) must be transmitted by the Auditor-General to the Legislative Assembly and to each member of the Legislative Assembly and the Legislative Council.
- (7) For the purposes of this section, any money received by or on behalf of a subsidiary of the Commission or by any other person on behalf of the Commission is deemed to have been received by the Commission at the time of such receipt.
- (8) In this section —
- “**Commission debt**” means liabilities of the Commission, whether current or non-current, but does not include any liability of the Commission to the State;
- “**global limit**” means the global limit fixed by the Australian Loan Council applicable to borrowings by the State of Victoria and its emanations as in force from time to time;
- “**Loy Yang property**” means —
- (a) the Loy Yang land; and
- (b) any business or undertaking carried on by the Commission on the Loy Yang land; and
- (c) any real or personal property, whether or not situated on the Loy Yang land, associated with any business or undertaking carried on on any part of the Loy Yang land; and
- (d) a company, joint venture, partnership, trust or other body which has an interest in any of the property referred to in paragraph (a), (b) or (c);
- “**net proceeds**” means the total financial consideration paid or payable to the Commission as the purchase price of the Loy Yang property under the Sale of Assets Agreement within the meaning of the State Agreement, less the transaction costs;
- “**temporary purpose borrowings**” means borrowings by or on behalf of the Commission as temporary purpose borrowings for the purposes of the global limit and made to finance the development of the Loy Yang property;
- “**transaction costs**” means the direct costs, charges and expenses of, or in connection with, selling or leasing any interest in the Loy Yang property, incurred by the Commission on its own behalf including, without limitation —

- (a) the costs, charges and expenses of negotiating, preparing, executing and settling each project agreement; and
- (b) the costs, charges and expenses payable to any financial or legal adviser or other professional consultant appointed by the Commission; and
- (c) the reasonable overhead and other internal costs, charges and expenses of the Commission —
- less the costs, charges and expenses of stamping or registering a project agreement or any other instrument executed to give effect to a requirement of a project agreement whether payable by the Commission or another person.”.

The coalition wants to make certain that the restructuring of the electricity industry can continue in the future and new clause A provides for that. New clause B deals with freedom of information. In another place the clause protecting this transaction from freedom of information legislation was deleted.

The coalition has received submissions from Mission Energy and it now accepts that Mission is entitled to some limited guarantee in relation to confidential information. New clause C ensures that the proceeds of the sale of a 40 per cent interest in the State Electricity Commission to Mission Energy are applied to reduce the debt of the SEC and that they are not used for any ulterior motive of the government. If the Committee wants any further information I shall be happy to supply it.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — The government does not oppose new clauses A and B but will oppose new clause C. It will not oppose clauses (1) and (2) of the new clause, which provide that proceeds must be used to retire SEC debt. However, the government opposes clauses (3), (4), (5), (6), (7) and (8) of new clause C, which provide that the Auditor-General must prepare a report verifying that the borrowings complied with the global limit for the year concerned and whether any borrowing was treated as a refinancing and not a new money borrowing.

The government is not opposed to the notion of the Auditor-General having a role in respect of the global limits — the Auditor-General ought to be able to do whatever he wants to do — but the notion of saying to Parliament, the government or any subsequent Parliament that existing borrowings

cannot be refinanced is not acceptable. Any State government would agree with that because acceptance of such a notion would mean that it would be forgoing a right of the State in a financial setting.

Honourable members know only too well that whatever constitutional powers we may have in our relations with the Commonwealth government we have few and very fragile financial powers. This is not one we would want to compromise or qualify in any way because doing so might invite further intrusion from the Commonwealth government. We believe the opposition should carefully consider the step it is taking in a statutory form because it is not something that any State government in Victoria has contemplated before or would contemplate in the future. It would be taking away something that we currently have. I do not believe any Treasurer either now or in the future would want that. For those reasons the government does not oppose new clauses A and B, but does oppose clauses (3) to (8) of new clause C.

Hon. R. J. LONG (Gippsland) — In answer to the Minister, I say that the government's conduct in the past has forced us to take this action. The opposition has considered the argument that the Minister has put to it for consideration and has rejected it. If necessary, we will divide on the issue.

The CHAIRMAN — Order! The Minister has indicated opposition to parts of new clause C. I therefore propose to put new clauses A and B first, and then clause C.

New clauses agreed to.

Schedule 1

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

17. Schedule 1, page 23, omit '[Parties to be named] ("the' and insert — 'Loy Yang B Power Station Pty Ltd (A.C.N. 052 530 551) of Monash House, 15 William Street, Melbourne, Victoria ("LYBPS"); and Victorian Power Station Investments Pty Ltd (A.C.N. 054 752 377) of 7th Floor, 228 Victoria Parade, East Melbourne, Victoria ("VPSI"); and Mission Energy Australia Pty Ltd (A.C.N. 055 563 785) of Level 37, 101 Collins Street, Melbourne, Victoria for and on behalf of the Latrobe Power Partnership ("LPP"), A Limited Partnership of which Mission Energy Australia Pty Ltd is a general partner. (LYBPS, VPSI and LPP are referred to in this Agreement as the'.

Amendment agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

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

3. Schedule 1, page 23, clause 1.1, omit the definition of **"Coal Supply Agreement"** and insert —

"Coal Supply Agreement" means the agreement pursuant to which SECV is to maintain a capability to supply and, as requested by the Participants, is to supply brown coal from the open cut mine at Loy Yang in accordance with appropriate quantity and quality limits, for use in the Power Station, and the Participants are to pay SECV for maintaining the supply capability and for the coal used.'

4. Schedule 1, page 23, clause 1.1, omit the definition of **"Completion of Construction Agreement"** and insert —

"Completion of Construction Agreement" means the construction agreement pursuant to which SECV, as independent contractor for the Participants, is to complete construction of the Power Station (including the first generating unit of approximately 500 megawatts scheduled for completion in the second half of calendar year 1993 and the second generating unit of approximately 500 megawatts scheduled for completion in the second half of calendar year 1996).'

5. Schedule 1, page 24, clause 1.1, omit the definition of **"Joint Venture Agreement"** and insert —

"Joint Venture Agreement" means the agreement providing for the establishment of an unincorporated joint venture for the purpose of acquiring (as tenants in common in undivided shares), operating and maintaining the Power Station, regulating the rights, interests and obligations of the Participants, providing for the establishment of a management committee to oversee the operations of the joint venture, establishing the basis upon which disputes in relation to the joint venture are to be resolved and regulating financial arrangements between the Participants in relation to the joint venture.'

6. Schedule 1, page 24, clause 1.1, omit the definition of **"Miscellaneous Services Agreement"** and insert —

"Miscellaneous Services Agreement" means the agreement pursuant to which, among other

things, SECV is to supply or provide certain services and supplies (including electrical energy, ash disposal, saline waste disposal, neutralised chemical waste disposal, low quality water, high quality water, gas, auxiliary fuel, drainage and sewage disposal) in connection with the operation of the Power Station and which is to establish rights of access and easements to facilitate access to and from the Power Station and adjoining land for the purposes of supplying these goods and services.'

7. Schedule 1, page 24, clause 1.1 omit the definition of **"Operating and Maintenance Agreement"** and insert —

"Operating and Maintenance Agreement" means the agreement pursuant to which Mission Energy Management Australia Pty Ltd is to be appointed by the Participants to operate and maintain the Power Station on their behalf in accordance with prescribed performance standards, planned annual performance levels, and budgets and programs which have been approved by the management committee established under the Joint Venture Agreement.'

8. Schedule 1, page 24, clause 1.1, omit the definition of **"Power Supply Agreement"** and insert —

"Power Supply Agreement" means the agreement pursuant to which the Participants will maintain a capability to supply electricity from the Power Station to SECV, and the Participants will supply electricity to SECV as it requires, and SECV will pay to the Participants a capability charge referable to the capability to supply maintained by the Participants and an energy charge referable to electricity supplied by the Participants to SECV.'

9. Schedule 1, page 24, clause 1.1 omit the definition of **"Sale of Assets Agreements"** and insert —

"Sale of Assets Agreement" means the agreement pursuant to which, among other things, the Power Station (to the extent constructed), the land on which the Power Station is being constructed and various related fixtures and completed chattels will be sold by SECV to the Participants, as tenants in common in accordance with their respective shares in the joint venture, for a price specified.'

Hon. R. J. LONG (Gippsland) — Many amendments and suggested amendments have been

introduced to answer the concerns of the coalition and the coalition agrees with them.

Suggested amendments agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

18. Schedule 1, page 25, after sub-clause 1.3 insert —
 “1.4 Rights and obligations of each Participant under this Agreement are several and no Participant is responsible for the obligations of any other Participant.”
19. Schedule 1, page 26, clause 2.3(b), omit “The Participants” and insert “Each Participant”.
20. Schedule 1, page 26, clause 2.6, after “waived” (where first occurring) insert “in whole or in part”.
21. Schedule 1, page 26, clause 4.1(b), omit “provide a subsidy for” and insert “subsidise”.

Amendments agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

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

10. Schedule 1, pages 26 and 27, omit clause 4.2 and insert —

“4.2 Grants of interests in Crown land

The State must grant or cause to be granted to SECV or the Participants at the request of or on behalf of any of them such interest in such Crown land as the Minister determines is:

- (a) necessary for the purposes of the Project; and
- (b) not required or reasonably likely to be required by the State for any purpose (including, without limitation, its sale),
 on terms and conditions which are reasonable in all the circumstances.”.

Suggested amendment agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

22. Schedule 1, page 27, clause 4.3(b)(ii), omit “provide a subsidy for” and insert “subsidise”.

Amendment agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

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

11. Schedule 1, page 28, clause 4.5(a)(i)(D), after “products,” insert “by-products,”.
12. Schedule 1, page 28, clause 4.5(a), after sub-clause (iii) insert —
 “; or
 (iv) in the case of a local law, modifies or reduces the rights or adds to the obligations which the Participants or the Operator have at the date of this Agreement in a way which is discriminatory.”.
13. Schedule 1, pages 28 and 29, clause 4.5, omit paragraphs (c) and (d) and insert —

“(c) For the avoidance of doubt, each party to this Agreement acknowledges that:

- (i) the exercise of a right conferred on a person by this Agreement or a Project Agreement, or the performance or satisfaction of an obligation imposed on a person by this Agreement or a Project Agreement, does not contravene paragraphs (a)(i), (ii) or (iii); and
- (ii) if an action or combination of actions is not directed at affecting the Power Station or affecting, modifying or reducing the rights or benefits or adding to the obligations of a Participant in relation to the Power Station but, as a result solely of SECV or another body being a statutory body of the State, that action or combination of actions affects or potentially affects the Power Station or affects, modifies or reduces or potentially affects, modifies or reduces the rights or benefits or adds to or potentially adds to the obligations of a Participant in relation to the Power Station in a way that is different to its effect or potential effect on other power stations and related facilities owned by SECV or another statutory body or the rights, benefits or obligations of SECV or another statutory body as proprietor of those other power stations and related facilities, then that action or combination of actions does not contravene paragraphs (a)(i), (ii) or (iii).

- 4.6 Clause 4.5 does not prevent or restrict the State, SECV or any agent, instrument or statutory

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body of the State, or Council, taking any action or combination of actions which is or involves:

(a) a sale, lease or other disposal of all or part of any interest in:

(i) a power station or the Power Station; or

(ii) facilities associated with the generation by, or supply, transmission or distribution of electricity from, a power station,

on terms different to those contained in a contract;

(b) the supply of products, by-products, materials or services used or produced by, or through the operation of, a power station on terms different to those contained in a contract;

(c) the sale, purchase or supply of electricity from a power station on terms different to those contained in a contract; or

(d) the issue of a Permit in respect of a power station which Permit is subject to conditions different to the conditions applying to an equivalent Permit issued in respect of the Power Station,

and the taking of an action or combination of actions described in paragraphs (a)-(d) does not contravene Clause 4.5.

4.7 In clause 4.6:

(a) "power station" means a power station for the generation of electricity other than the Power Station; and

(b) "contract" means a Project Agreement, this agreement or any other agreement entered into for the purposes of the Project by the Operator or by one or more Participants.

Suggested amendments agreed to.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I move:

23. Schedule 1, page 29, clause 5, before "modify" insert "vary,".

24. Schedule 1, page 29, clause 6.1, omit this sub-clause and insert —

"6.1 (a) Rights under this Agreement or any part of this Agreement cannot be assigned, mortgaged, charged, disposed of or otherwise dealt with by a Participant except as provided in this Clause.

(b) An assignment, mortgage, charge, disposition or other dealing with rights under this Agreement or any part of this Agreement other than as provided in this Clause is void."

25. Schedule 1, page 30, clause 6.5, omit "6.1" and insert "6.2".

26. Schedule 1, page 30, clause 7.1, omit this sub-clause and insert—

"7.1 If a Participant goes into liquidation (other than a voluntary liquidation for the purpose of reconstruction), and there is a failure by that Participant to observe a financial obligation under the Joint Venture Agreement which failure is not cured within 90 days, the State may by notice in writing given to that Participant terminate the obligations of the State to that Participant under this Agreement. Termination under this Clause does not prejudice any right, obligation or liability of the State, that Participant or any other Participant then accrued or incurred under this Agreement and does not prejudice any right, obligation or liability of the State or other Participant thereafter arising under this Agreement."

27. Schedule 1, page 30, clause 8.1(b), omit "of the addressee" (where first occurring).

28. Schedule 1, page 30, clause 8.1(b), omit "of the addressee specified in this Clause" and insert "notified by the addressee to each other party for the purposes of this Agreement".

29. Schedule 1, page 31, omit all words and expressions before sub-clause 8.2.

30. Schedule 1, page 31, omit clause 9 and insert —

"9. VARIATION OF AGREEMENT

This Agreement may from time to time be added to, substituted, cancelled or varied in accordance with section 9 of the Loy Yang B Act."

BUILDING CONTROL (FURTHER AMENDMENT) BILL

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31. Schedule 1, page 32, omit "Executed as an agreement." and insert —

"IN WITNESS WHEREOF this Agreement has been executed by the parties on the day and year first above written.

SIGNED by DAVID WHITE)
in the presence of:)

THE COMMON SEAL of)

STATE ELECTRICITY COMMISSION OF)
VICTORIA)

was affixed in the presence of:)

THE COMMON SEAL of)

LOY YANG B POWER STATION PTY LTD)

was affixed in the presence of:)

THE COMMON SEAL of)

VICTORIAN POWER STATION)
INVESTMENTS PTY LTD)

was affixed in the presence of:)

THE COMMON SEAL of)

MISSION ENERGY AUSTRALIA PTY LTD)

was affixed in the presence of:)

Amendments agreed to; amended schedule postponed.

Schedule 2 agreed to.

Preamble agreed to.

Progress reported.

Suggested amendments and amendments reported to House.

Reported adopted.

Ordered to be returned to Assembly with message intimating decision of House.

BUILDING CONTROL (FURTHER AMENDMENT) BILL

Second reading

Debated resumed from 2 June; motion of Hon. B. T. PULLEN (Minister for Conservation and Environment).

Hon. B. A. CHAMBERLAIN (Western) — This Bill is a move in the right direction with regard to building control. We have come to the rapid realisation that one of the major elements of necessary micro-economic reform in Australia concerns the building and construction industry and the recognition of a need to develop national codes of operation which, as far as possible, will eliminate the differences between State boundaries. I know that the work that is being done in this area is of interest to you, Mr President.

Municipal boundaries in Victoria can unfortunately dramatically affect the rules operating in the building industry. I have received many complaints about the difficulty of undertaking construction projects in the 52 municipalities of metropolitan Melbourne.

The record of councils on this type of development is patchy: although some councils are progressive, assist development and find solutions rather than erecting barriers, others are obstructive and make it extremely difficult for people wishing to embark on large-scale residential or other development projects. Those municipalities seem to go out of their way to make it difficult.

To give an example, a couple of weeks ago I went on a tour of a number of estates with representatives of the Urban Land Authority. One of the northern municipalities — —

Hon. B. W. Mier — What estates?

Hon. B. A. CHAMBERLAIN — Roxburgh Park.

Hon. B. W. Mier — Housing estates?

Hon. B. A. CHAMBERLAIN — Yes.

Hon. B. W. Mier — You were talking about building generally.

Hon. B. A. CHAMBERLAIN — Part of the process of being able to start building is to have land

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and then to obtain approval for a certain volume of housing.

Hon. B. W. Mier — You are confining your comments to housing?

Hon. B. A. CHAMBERLAIN — In the case I am speaking of a relatively simple application that should have been dealt with in one week was held up by a council for somewhere between three and four months.

To give an idea of how the industry operates, I refer to a January 1990 report by the government's Regulation Review Unit. The unit examined the impact of the regulations on the building and construction industry. At that stage the Regulation Review Unit was part of the Department of Manufacturing and Industry Development, but I am not sure which department it is located in these days. The report said:

In 1988 more than \$6 billion worth of buildings were completed in Victoria ...

The conclusion of this work is that the most likely estimate of the cost of unnecessary regulation in Victoria is \$475 million above that (less than ideal situation) in New South Wales.

The government's own working party highlighted the cost of unnecessary Victorian regulations. The report continues:

The inquiry has found an extremely complex regulatory system which can be substantially simplified without any adverse effects on the health and safety of the public or the work force.

Although the report clearly illustrates the importance of the building and construction industry to the Victorian economy, it also highlights the need to ensure that unnecessary regulations do not inhibit development.

The document goes into some detail about necessary reforms, including the introduction of the private certification of development proposals, which I support. Although that is not yet coalition policy, I am sure that is the direction in which we will head.

The need to remove variations in regulations as one moves either across a metropolis or across the country is recognised Australia-wide, as is the need to develop a set of proposals which are consistent

and which clearly spell out the objectives underlying the regulations.

Rapid moves have been made towards the development of a national code. In Victoria the code is known as VicCode, although it is based on the national system.

In September 1990 the Master Builders Association issued an industry perspective on building regulations and standards, which made a number of recommendations. The document argued for the development of a uniform approach to building regulations in which the industry should be involved. It argued that so far as possible the variations between State and Territory codes should be eliminated and that a common set of objectives for building regulations and standards should be established. It argued for the implementation of a single set of standards, the establishment of the one-stop-shop concept and the adoption of a uniform approach to registration, licensing and certification.

Both industry and investors see the need for dramatic changes in the building and construction industry. It is ironic that many of those issues are being addressed in this government's dying days. I keep a file in my office that contains statements made by the Minister for Planning and Housing about government proposals affecting his portfolio. Every time I read one of the statements I write in the margin, "Nice words, but what about some action?"

Fortunately the government is taking action. An article in yesterday's *Herald-Sun* referred to a fast-tracking scheme for housing development called the charrette scheme. I have not heard of the scheme — and if you have not heard of it, Mr President, I am sure no-one has! The charrette scheme is based on an American model, where the relevant government departments, developers and municipalities meet to work out their objectives and establish a system by which they can be achieved. The article says that a development team headed by an American architect is applying the scheme in the Cranbourne area. Both the Shire of Cranbourne and the neighbouring Shire of Berwick have progressive attitudes to sensible development.

That is the background to the Building Control (Further Amendment) Bill, one of the purposes of which is to remove a potential anomaly by correcting the operative dates of sections of the Building Control Act. The more substantial purpose of the Bill, which is set out in clause 1, is to limit the

powers of municipal councils to make local laws in relation to building matters.

The House will be aware that under the Local Government Act local councils have the ability to make local laws that must not be inconsistent with any Act or regulation. Item 2(i) of Schedule 8 of the Local Government Act provides that a local law is liable to revocation under section 123 should it duplicate, overlap or conflict with other statutory rules and legislation. In his second-reading speech the Minister said that the Government Solicitor had advised that the word "inconsistent" in section 111 of the Local Government Act 1989 must be read narrowly. The Minister also said:

Accordingly, there is no inconsistency in terms of section 111, and nothing to prevent the making of a local law that extends building controls, provided both the local law and the Victorian Building Regulations 1983 can be complied with.

The Minister says that that situation is unacceptable to the government. I inform the House that it is also unacceptable to the opposition, which is why we support the proposal. The series of controls that apply are the bane of those who seek to develop land or buildings, and any overlap in local laws can only add to their frustration. It is the government's objective that those frustrations should not occur, and we concur with that. Section 26(3) is to be amended by the addition of two subsections and will read:

"(4) A local law made under section 111 of the Local Government Act 1989 has no force or effect to the extent that it provides for any matter set out in section 25 (5).

(5) Sub-regulation (4) does not apply to a local law made under the powers conferred by a regulation made under sub-section (1) (x)."

Section 26 of the Building Control Act 1981 states:

- (1) Any regulation made under section 25 may —
 - (a) prescribe different standards for buildings of different classes;
 - (b) provide for buildings —
 - (i) constructed with materials, designs or components of such types or by such methods of construction as may be specified in the building regulations; or
 - (ii) constructed with accredited materials, designs or components or by accredited methods of construction —

to be deemed to satisfy the prescribed standards;

Although the ability to make local laws in this area still exists, the local laws cannot relate to the issues prescribed in section 26 of the Building Control Act. In other words, this is designed to stop the duplication of control which may be inconsistent and which will add to the confusion of those wanting to invest money in the State. We believe that is a sensible amendment. It would probably be a problem only in some areas but we think for reasons of consistency that councils should not have the ability to enter those areas prescribed in section 26 of the Building Control Act by the use of the local law system.

Having said that, this measure is designed as a protection against the dual controls. It is consistent with the way the national code and the Victorian code are going and for that reason we are happy to support the proposals.

Motion agreed to.

Read second time.

Passed remaining stages.

EGG INDUSTRY (AMENDMENT) BILL

Second reading

Debate resumed from 2 June; motion of Hon. B. T. PULLEN (Minister for Conservation and Environment).

Hon. R. S. de FEGELY (Ballarat) — This is a small Bill but it is important because it provides the opportunity to increase and improve the value-added egg industry in Victoria. The purposes of the Bill are to amend section 76 of the Egg Industry Act 1989 to allow the issue of permits to keep hens to meet a specific demand for production of egg product for human consumption and to allow the production of eggs at certain times of the year for other purposes. The latter part of the purpose was included in the Bill through an amendment moved in another place.

The Victorian Egg Marketing Board's factory at Keysborough has been running short of supplies of eggs for egg product. There is a need to keep the factory going, firstly because of the employment it creates, and secondly, because of its income. The factory has been obtaining eggs from New South Wales to keep up its supplies. It has the capacity to process 200 tonnes of eggs a week and its break-even

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through-put is 80 tonnes a week. However, its supplies have dropped to between 20 and 40 tonnes a week, and that is a level that cannot be sustained.

In recent years the Victorian Egg Marketing Board has purchased most of its eggs from New South Wales. However, as a consequence of the deregulation of the egg industry in that State, which has created chaos in the New South Wales egg industry, there is a shortage of eggs for egg product. As New South Wales producers have been vying for a position in the whole-egg market not enough eggs have been coming through to Victoria.

Although the first year of deregulation in the New South Wales industry has been disastrous, we hope the egg industry will settle down in the future. In recent times the government was seriously considering deregulating the egg industry and the coalition was also thinking along those lines, but after the New South Wales experience I suggest we should take a step back and examine what happened in that State before Victoria proceeds down that path. There is a fair chance that in the long term deregulation is inevitable, but it would be unwise at this stage to launch into total deregulation of the Victorian industry.

The Victorian Egg Marketing Board's Keysborough factory must have a regular supply of eggs to be viable. The Bill will enable permits to be issued to Victorian egg producers who have room in their sheds to continue production with hens that otherwise may have been put out of production because of the quota system. It will enable those producers to produce more eggs for the egg product market and it will enhance the opportunity for the factory to survive.

The arguments in favour of the Bill are, firstly, the need to preserve the 54 jobs in the factory and, secondly, the fact that a large manufacturing plant in Victoria can provide marketing flexibility for the egg industry. The plant is modern, is the only one in the State and is registered for export purposes. The factory is having difficulty maintaining its small export market because of an insufficient egg supply.

There is general widespread industry support for the Bill and the coalition will not oppose it. There are some areas of concern relating to the Egg Industry Licensing Committee, which has the power to issue permits. The committee must keep a close eye on what is happening so that additional eggs that are produced do not come onto the fresh-egg market as they have in New South Wales instead of the egg

product market; otherwise Victoria will be in the same position as New South Wales with an oversupply of whole eggs. Victorian agents who operate their own egg product plants must be able to compete equitably with the Victorian board for any increased supply of eggs for manufacture made possible by the measure. Although the Bill may help to maintain the viability of the Victorian Egg Marketing Board's factory in the short term, the industry is uncertain whether it will be viable in the long term.

That will depend greatly on competition from interstate and overseas. Recently complaints have been made about the dumping of agricultural products in Australia. The egg industry is not immune from overseas competition. Egg imports come from Australia's northern neighbours and countries such as Italy, which is involved in the export of eggs from Hungary to Australia. Under the General Agreement on Tariffs and Trade (GATT) Third World countries may export products into Australia tariff-free and those imports are of concern to local producers.

The industry supports the Bill and I have letters of support from Mr Malcolm Peacock, President of the Egg Producers Group, the Victorian Hatcherymen's Society and Mr Richard Guy of Crystal Egg Co., one of the largest egg producers in Victoria. Mr Guy supports the Bill but is concerned about policing of the regulations.

Clause 3 refers to the production of eggs for experimental purposes by the Commonwealth Serum Laboratories. The process is worth approximately \$2 million a year to the industry. The clause contains an amendment that was made to the Bill in another place, and it is the reason for the change in clause 1, which sets out the purpose of the Bill.

The Bill will assist and add value to the egg industry. The coalition hopes the industry will continue to be viable and that the Bill will assist in that regard. The coalition supports the Bill.

Hon. R. A. BEST (North Western) — I support the comments made by Mr de Fegely. The egg industry has made a significant contribution to agricultural production in the Bendigo region through the business generated by the egg producing sector, Crystal Egg Co. and the grading floor.

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I have met with Mr Guy and other egg producers and they have indicated their support for the Bill. Approximately three years ago Parliament debated a similar Bill dealing with the egg industry. The concern then was whether Victoria should follow the New South Wales policy of regulating the industry or whether it should deregulate the industry. Parliament eventually decided that the industry should be regulated, but three weeks after that debate took place the New South Wales Parliament decided to deregulate its egg industry and producers were paid \$15 a hen for their chicken quotas. New South Wales producers received a windfall profit from the government merely because it was unsure of the direction the industry should take. In the three years since deregulation the New South Wales egg industry has gone through a lot of pain. In 1990 there was little disruption to the industry but in 1991 an overproduction of eggs flooded the New South Wales market.

Prior to Easter 1991 there was an insufficient supply of eggs in Victoria and the egg processing plant at Keysborough ran short of eggs. The Victorian Egg Marketing Board entered into a 12-month contract with Mr Svark, an egg producer across the border in New South Wales, to provide production eggs. That contract has expired. The egg market in New South Wales is now more profitable for Mr Svark and other producers who were supplying product eggs in Victoria.

The Victorian Egg Marketing Board is again faced with an insufficient supply of production eggs for its plant at Keysborough and consequently the board in the short term has taken the option of allowing extra hen quotas.

I support the Bill because it will give farmers the opportunity of obtaining extra income that will assist their viability and will ensure that the board's future requirements at its production plant in Keysborough will be fulfilled. Although I welcome the Bill I am concerned that with the extra quota there is an opportunity for certain producers to cheat the system. One must be aware of that possibility. Will the Minister give an assurance that the board will be meticulous in policing the licensing requirements and hen quotas in the State?

I particularly support the Bill because it will help the egg producers in the Bendigo district, and Crystal Egg Co.

Motion agreed to.

Read second time.

Passed remaining stages.

RACING (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 2 June; motion of Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs).

Hon. J. G. MILES (Templestowe) — No doubt this small Bill will be welcomed at this late stage of the evening. The coalition supports the Bill and will not move any amendments.

The Bill has two main purposes: to increase from one to five the number of Sundays on which race meetings may be conducted each year; and to increase the maximum number of yearly country race meetings from 400 to 430. Other States have no restrictions on the number of Sunday race meetings. New South Wales recently moved in that direction and the others have no restrictions imposed. Victoria is bringing its legislation into line.

The Bill provides for an extra Sunday race meeting when Anzac Day falls on a Sunday, thereby allowing six Sunday race meetings in that year. The provision for 30 extra race meetings is in line with not only what the racing industry desires but also what happens in other States.

A minor disappointment, referred to by my colleague in the other place, is that the government has introduced the legislation so late in this sessional period. Last December the Minister for Sport and Recreation in the other place, Mr Trezise — of whose work in the sporting portfolio over many years I now record my appreciation — said he wished to introduce such a Bill but the government did not introduce it until the early hours of 28 May.

However, we thank the Minister and his department for their work in bringing the legislation forward and for giving us the opportunity of debating the Bill. Obviously the department has been efficient in its preparation of the Bill.

The Bill deals with a number of other minor matters including a relaxation of permit requirements for mixed sports gathering, an extension of the registration period for bookmakers, clearer powers for the Harness Racing Board to hold a venue

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operator's licence to house gaming machines at its Moonee Ponds premises, and a provision regarding the board's facilities at the "Royal Showgrounds", as referred to in clause 11.

I ask the Minister to provide guarantees relating to two concerns expressed by the Harness Racing Board. The first concerns the increase by 30 in the number of race meetings outside the metropolitan area. The Harness Racing Club was concerned that some of those race meetings might be held on a Monday, which is the traditional harness racing day. The Minister in another place assured my colleague that that would occur on only one Monday in the first year of operation of the additional race dates.

The other concern was that harness racing should be allocated some of those extra 30 race meetings outside the metropolitan area. The dog racing industry did not apply for any extra race days because it is happy with the number of days and nights it already has. However, the trotting fraternity wants to ensure that it has the opportunity of racing on those extra occasions. I understand the Minister in another place has given a guarantee that the appropriate authority, the Racecourses Licences Board, will look into this matter. If it can be proved that it will be economically viable for harness racing to have the extra race meetings, it will be looked upon favourably.

The Bill increases from one to five the number of Sundays in a year on which race meetings may be conducted. When Sunday falls on Anzac Day that number will be increased to six. That provision will apply to all racing codes: galloping, dog racing and trotting.

I support the Bill and ask that the Minister give similar guarantees to the Harness Racing Board to those given in the other place.

Hon. B. A. E. SKEGGS (Templestowe) — The main thrust of the Bill is the increase in the maximum number of racing dates and the extension of Sunday racing. At first glance the Bill appears to be innocent and uncomplicated but it opens up a Pandora's box by expanding the ever-growing gambling colossus and increasing the dependence of governments on the gambling dollar. One wonders where government reliance on gambling to supply money for the consolidated revenue to operate the affairs of State will end.

I place on record my interest: I am the President of the Cranbourne Harness Racing Club. I express

concern at the effect that the additional number of race meetings for galloping clubs provided for by the Racing (Further Miscellaneous Amendments) Bill could have on harness racing if the number of harness race days is not similarly extended. The number of thoroughbred country race meetings will be increased by 30 to a total of 430 a year, at the rate of six each year over five years.

Over the years the number of horses racing at thoroughbred meetings has grown significantly. As a result, a problem has arisen in that many horses are balloted out from the nominations at acceptance time for a number of country meetings. Therefore it is understandable that thoroughbred race clubs have sought an extension in the number of meetings that may be conducted each year. I support that extension and hope the same yardstick will be applied to harness racing when the Harness Racing Board makes its application for an increase in the number of country harness racing dates from the present 25 meetings. It is most important that the codes keep some measure of relativity to each other in respect of the number of opportunities available for the owners of thoroughbred horses, pacers and trotters in this State.

An undertaking has been given by the Minister for Sport and Recreation in another place, which I am pleased to acknowledge. However, I ask the Minister for Consumer Affairs to give the undertaking that when the Harness Racing Board lodges an application for extra dates on which country harness race meetings may be conducted the board will be given the same consideration as has been given to those conducting thoroughbred race meetings. I note that Mr Miles sought a similar assurance during his contribution to the debate. I hope the undertaking will be more effective than the expectation given regarding both the Cranbourne and Kilmore harness racing clubs during the debate on 6 June 1991 on the Racing (Miscellaneous Amendments) Bill. On that occasion, Mr Miles and I sought an assurance that there would be no variation in the number of dates available for harness race meetings to be held at the Cranbourne and Kilmore tracks. Prior to that each year the Cranbourne and Kilmore tracks had 12 of the 25 country meetings allotted to the Harness Racing Board under the Act.

The latest indications in the early draft for racing dates for the new season are that the Harness Racing Board is likely to take at least three meetings each from both Cranbourne and Kilmore harness racing clubs and one from Yarra Glen and transfer them to

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other tracks. The decision has not been finalised at this stage, as I understand it. However, if that were to be the case it would represent a significant departure from the understanding Mr Miles and I had during the debate last year to which I have referred.

On 4 June 1991 the Minister for Sport and Recreation said on the same subject that he could see no reason why the two clubs could not keep the same number of dates that they then had. He indicated that the numbers might be increased but that the decision was for the board and not for members of Parliament. It appears that some of the meetings that should be held at Cranbourne and Kilmore are likely to be transferred to other tracks. I understand that decision will be made on the basis of the cost of the operation of meetings at those courses. However, I believe the real basis should be the ability of harness racing clubs to generate Totalizator Agency Board turnover. I believe the two tracks have been among those generating the highest country TAB turnover.

The legislation increases the number of Sunday race meetings, which is something I have approached with some caution. I have some reservations about increasing the number of activities that intrude upon Sundays, but it is inevitable that the number of Sunday race meetings will be increased as they have been in New South Wales.

The Sunday race meetings at Moonee Valley, which coincide with the Australian Football League final, have been successful. There was a large betting turnover on the Sunday race meetings. It is therefore not unreasonable that Sunday race dates have been increased from one to five. It is worth a trial to see how popular Sunday racing is and whether it can be sustained on those extra days.

When the dates are allocated it is important that they do not affect the other thoroughbred racing clubs that hold important country race cups and carnivals. It is important to ensure that the Sunday dates are at such a time as to not have a deleterious affect on country racing clubs and Monday harness racing dates.

In the years when Anzac Day falls on Sunday the racing date will be a bonus for the Returned and Services League charity fund. It is good to see that the widows guild, other RSL charities and patriotic funds will receive the benefits from a race day when Anzac Day falls on a Sunday. I believe 1993 is the next year when Anzac day falls on a Sunday.

The legislation also provides for the Harness Racing Board to use its premises in Moonee Ponds to have a venue operators licence under the Gaming Control Act 1991 and to hold a license under the Liquor Control Act 1987. That is a good decision because it would be unfair if harness racing did not have the same opportunities as thoroughbred racing will have for gaming machines to operate on their courses.

The Moonee Valley Racing Club will have gaming machines operating on its racecourse. It will be necessary for the Harness Racing Board to have that facility extended to Moonee Ponds Tavern, which it owns. Of course it is necessary to have a liquor licence to operate under the gaming machines provisions. That will probably be a popular venue for harness racing fans to congregate and to enjoy the somewhat doubtful pleasure of playing the gaming machines after they have been to the trots.

Another matter in the Bill is the provision that extends bookmakers registration and permits bookmakers clerks to write betting tickets. Other provisions remove restrictions on the conduct of mixed sports gatherings and delete reference to the Royal Agricultural Showgrounds from the Racing Act.

The reference to the Royal Agricultural Showgrounds is nostalgic for me because the showgrounds played such a large part in the conduct of night trotting, as it was then known, following its introduction to the showgrounds in 1947. I have warm recollections of the great horses that went around the track at the showgrounds.

In the post-war period the Royal Agricultural Society assisted in the establishment of harness racing, as it is known today — a contribution that should not be forgotten. The society's involvement ceased when harness racing moved to the Moonee Valley racecourse. Trotting at the Royal Agricultural Show was also a popular feature and I am pleased that the sport has been revived in recent years. I have long and happy memories of the showgrounds and of the trotting conducted there.

Although I am sorry to see reference to the showgrounds deleted from the Act, it is possible that they may again be needed if any problems should occur with the tenancy of the Harness Racing Board at Moonee Valley. The board is a long-term tenant and has no part in ownership and control of the racecourse.

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It is unfortunate that of the three major racing codes only harness racing does not have its own home. Although I support harness racing at Moonee Valley it is still a matter of concern to the harness racing industry that it does not have its own home and therefore lacks a measure of control over its own affairs. It is sad that harness racing does not have its own racecourse. Perhaps it will one day!

Hon. R. A. BEST (North Western) — I support the Bill and, because of my extensive involvement in horse ownership, have an interest in its provisions. The Sunday racing experiment has worked. The first Sunday race meeting was held at Moonee Valley in 1986 following the then Victorian Football League grand final and people voted with their feet. Attendances have increased at Sunday meetings, particularly on the day following that grand final day, when attendances at city meetings are, on average, approximately 50 per cent larger.

Although I support additional Sunday race meetings I am concerned that the Bill provides people who frequent racecourses with an extra five days on which to go to the races. The increase in the number of race meetings will give people like Clarrie Quinn and our old friend George Oliver a good excuse to spend more time away from home to have a flutter on the horses, a pastime they certainly enjoy.

I should not like to see the increase in Sunday race meetings interfere with the cup carnivals conducted by the Bendigo Jockey Club, the Ballarat Turf Club, the Werribee Racing Club and other provincial racing clubs, which are significant events on the State's racing calendar. I congratulate the Bendigo Jockey Club not only for the way it conducts its cup carnival but also for its efforts to attract sponsorship, which has ensured the maintenance of top quality fields. The Ballarat Turf Club is also to be congratulated for its successful cup carnival. Honourable members must not forget that the carnivals are important social events. Like the people of Bendigo, the people of Ballarat take advantage of the festive atmosphere. They bring along their deck chairs and umbrellas and picnic on the vast expanse of lawn, enjoying the company of friends.

We must not lose sight of the effect of the Bill on the smaller racing clubs at Donald, Wycheproof and Manangatang, all of which are in my electorate. Those clubs make a significant contribution to the Victorian racing industry. Earlier this year a filly I own won a race at Manangatang, which gave me as big a thrill as her win at Bendigo.

Hon. T. C. Theophanous — Did you have a few bob on it?

Hon. R. A. BEST — I certainly did! Country race meetings are important to local communities. Those small clubs should benefit from the increase from 400 to 430 in the maximum number of country race meetings that may be conducted each year. The increase will be phased in over five years, which means that next year an additional six meetings will be held — one at Yarra Glen, two at Cranbourne, one at Benalla, one at Echuca and one at Bairnsdale. All country racing clubs should be given the opportunity of holding extra meetings.

Care must be taken to maintain employment in the industry. When horses are continually balloted out of races owners become dejected and disillusioned and in some cases drop out of the sport. That reduces the ability of trainers to attract owners to their stables, which reduces employment opportunities for stablehands and strappers, for example.

I am pleased that the Bill will increase the number of race meetings, which will particularly facilitate the small country clubs. Country racing clubs are a great strength of the Victorian racing industry. In other States there is a far greater emphasis on city racing, and I do not think racing in other States is as successful as Victorian racing. I congratulate the Victoria Racing Club and the Victoria Amateur Turf Club on their handling of the sport in this State.

I wish to make two other points. In these changing times, it is becoming increasingly difficult for bookmakers to operate. One of the provisions in the Bill will allow the clerks to write tickets, and that will assist bookmakers in their operations at racecourses. Another provision will allow electronic betting slips to be dispensed at racecourses. While the Bill is only a minor amendment to the Act, in the overall context of the racing industry it provides a lot of support, assistance and incentive for racing clubs and the people in the industry.

I am pleased to support the Bill.

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — By leave, I move:

That this Bill be now read a third time.

In so doing, I will respond to the opposition's request for some answers and undertakings. I understand Mr Skeggs's concern that the 30 days that have been allocated to the gallopers might clash with the Monday trotting meetings and, consequently, affect the viability of those meetings. I understand the Racecourse Licences Board allocates the number of days and the controlling bodies themselves decide on the dates. The Minister does not have control — —

Hon. B. A. E. Skeggs — We are seeking an understanding that when the Harness Racing Board applies for extra country races the application will be considered favourably.

Hon. T. C. THEOPHANOUS — I understand that. I will pass those concerns on to the Minister. He may be able to use his powers of persuasion, if only to try to bring some rationality to the system.

The issue that was raised by Mr Miles was also a subject of concern for Mr Reynolds, the honourable member for Gisborne in another place; it relates to trotters not being given access to those 30 days. The Minister in another place has responded to that concern and said the issue is under review by the respective authorities and that the recommendation would be regarded favourably. I reiterate those comments and I understand the Racecourses Licences Board has the review in hand and will be considering the issues and making recommendations on economic grounds.

Obviously there is a need to demonstrate that any race meeting will be economically viable, and that is the concern of the Minister. Subject to economic viability, the Minister has said he will be treating the applications favourably. On behalf of the government I reiterate that position.

Motion agreed to.

Read third time.

Sitting suspended 11.56 p.m. until 12.22 a.m. (Friday).

WATER (RURAL WATER CORPORATION) BILL

Second reading

Debate resumed from 2 June; motion of Hon. B. T. PULLEN (Minister for Conservation and Environment).

Hon. D. M. EVANS (North Eastern) — This important Bill does more than change the name of the Rural Water Commission to the Rural Water Corporation; it also makes major changes to bulk water delivery in Victoria. The Bill echoes some of the recommendations of the 1983 report of the Public Bodies Review Committee, particularly the establishment of water districts which was one of the major proposals. Nevertheless, the direct catalyst for the Bill was the refusal of farmers in 1991 to pay a significant increase in water rates.

That increasingly bitter confrontation was resolved by a decision to establish an independent inquiry. The initial suggestion for the inquiry came from the Victorian Farmers Federation and the Minister at that time selected an eminent and well-qualified person, Mr Stuart McDonald, to chair the inquiry. Mr McDonald holds a master of agricultural science degree and was a lecturer at the University of Melbourne. He is an irrigation farmer and he was a member of this House from 1967 to 1979 and the Leader of the National Party from 1976 to 1979. He has since been both the State and Federal President of the National Party and is now the Chairperson of the Rural Finance Corporation.

Mr McDonald gathered around him a team of appropriately qualified people together with consultants from, Gutteridge Haskins and Davey, ACIL Australia and Ernst and Young who had the expertise necessary to deal with the various fields that needed to be addressed. The report was professional and well documented and was finalised only after significant and relevant public consultation. It is largely on this report that the Bill is based.

I shall reflect on the background to the water industry in Victoria and look briefly at some of the history. Since the late 1880s and 1890s, when the water industry and irrigation were first set up, farmers have paid some — rarely all — of the costs of water distribution. At the same time the State has provided the finance and continuing finance for headworks or dams. Over the years water charges have been decided on an arbitrary system — one

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could call it an ability to pay system — which was often basically a political decision. It almost always involved an accepted level of financial contribution — one could call it a subsidy — from the government.

Some of the users of bulk water, both now and then, paid nothing for water they consumed. For example, some municipalities pay no water rates for bulk water for domestic supplies through the urban water systems. Also, no payment is made in other areas, such as recreation and flood protection. The users or beneficiaries in those areas make no contribution.

The move by the present government in past years towards current cost accounting, particularly on headworks, plus a general pattern in the community of the move towards the user-pays system, have provided a rationale under which it could be expected that there will be a continual rise in the price of water. It was that prospect, together with the proposed increases in water charges in 1991, that raised the ire of farmers and led to the recent McDonald inquiry. The removal of the government contribution in the form of buffered water charges plus the additional headworks indexed charges led to a clear perception in the water and farming industries of continued steep increases. The removal of that government contribution intensified the concern of those industries.

It also had a beneficial effect in that with the removal of the buffering provided by the government contribution, the actual cost of the delivery of water and the cost of servicing the system became far more apparent and far more urgent to the farming community. As there was not to be a continued contribution from the government, clearly the farmers would have to bear increased costs. What had been until that time perhaps indeterminable murmurings as to the efficiency or otherwise, according to local conditions, of the delivery of services and other commercial matters of the Rural Water Commission now became the focus of farmer attention.

Despite the murmurings, the McDonald committee recognised that the Rural Water Commission is and has been an efficient organisation based on Australia-wide experience, and has had some excellent operators. Nevertheless, clearly significant changes could be made in its culture and in the way in which services could be delivered. That was seen as the only means of avoiding those perceived continual cost increases that were of such concern to

the farming community and of tackling the issues of current cost accounting and user-pays principles.

It was the issue of greater efficiency in the delivery of services through the Rural Water Commission, now the Rural Water Corporation with the passage of this Bill, on which the McDonald committee concentrated. The inquiry was conducted against the background of a continued erosion of farmer viability and the continual deterioration of the terms of trade of the farming community. It was done against the background of a recognition of the value of irrigated agricultural production in Victoria and Australia.

It may be well worth referring briefly to some of the subjects that the McDonald committee looked at in coming to the determination contained in its 15 January 1992 report to the Minister. I quote from the executive summary, and make comments about the committee's statements.

Obviously the key issue was the difference between the revenue raised by the Rural Water Commission and the costs of providing services. The McDonald committee reported that the total revenue was \$83.4 million a year at the time compared with a total cost of \$128.4 million, resulting in a shortfall of \$45 million for water services. It was this, the committee said, that caused:

pressure from customers, other rural community groups and the commission itself for major change to present structures. The changes are being sought in order to: cut costs through an increase in efficiency, and constrain increases ... increase responsiveness to customers; distinguish commercial and public sector objectives; —

as part of that process —

maintain the infrastructure for long-term sustainability; —

and certainly there were concerns that maintenance may not have been kept up to the degree necessary to ensure its continued serviceability —

achieve greater flexibility in response to major changes such as the introduction of transferability of water rights and capacity sharing.

The latter two issues, particularly the transferability of water rights, were discussed in the 1983 report of the Public Bodies Review Committee. At times that subject has been hotly disputed and controversial.

The committee report decided to recommend that there be six regions:

with a more commercial and customer/market responsive focus, a central authority to set particular policies, coordinate the Statewide system ...

Currently there are nine such regions, but the McDonald report has been buried in the Bill in the sense that it provides for five regions. There appears to be significant support for that particular design although one or two people have objected to it for various reasons.

The McDonald committee recommended that the real beginning should be in July 1993. It made that recommendation because it believed a certain amount of time would be necessary to get the new corporation up and running. Indeed, events have moved more quickly than Mr McDonald and his committee would have believed possible, the Bill being testimony to that fact.

It suggested that part of the restructuring should be that:

The regions should be managed by their boards as discrete businesses, setting prices, determining levels of services, operating its own systems including relevant headworks, and taking initiatives to control costs.

In other words, the board should become generally more self-sufficient, more district-responsive and should reduce the costs, which under the old system were obviously threatening to go through the roof and be a significant factor in viability.

The report suggests a central authority to set specific policies, coordinate a Statewide system and ensure that the change process is driven.

The committee also recommended "semi-independent service companies", which would bring a greater degree of commercial reality into the operation of the corporation. It identified that the shortfall in revenue — I am referring to the \$45 million shortfall — would have to be met by a number of different methods: substantial cost savings through restructuring; some reduction in costs through conversion by government of debt to equity — the current debt of the Rural Water Commission is some \$68 million; revenue from new sources, which may well include water authorities throughout the State which currently pay little or nothing for their bulk water supplies; additional costs to recreational users; and generation of

electricity, although I am not aware of that being identified in the McDonald report.

Certainly increased charges for existing customers can be expected but it is to be hoped at a lesser rate than would be the case if the improved efficiencies were not brought to bear. A continuing government subsidy over an adjusted period would certainly be needed. The committee considered that significant savings could be made over the next 10, 12 and 14 years. By 2004-05 the net benefit could be expected to be savings of \$13.7 million or \$4.19 per megalitre at 1991-92 prices.

Achieving those savings would still require an average real increase in revenue, and therefore customer charges, from all water services of about 1.86 per cent per annum to achieve break-even costs by 2004-05. Although it may seem that an increase of almost 2 per cent is insignificant, without the proposed efficiencies that the McDonald report has recommended, to get to a break-even point a significantly higher annual increase would have been required. The report suggests a rather modest increase in prices and the removal of the subsidy and the effects of current cost depreciation, as I understand it.

Although the report assumes that government equity contribution for headworks, capital expenditure and productivity investment will continue until 1994-95 and then taper off to the year 2000, it certainly recognises that the delivery of rural water services in Victoria as currently structured is reliable and generally effective and that that is due to the efficient way the Rural Water Commission has carried out its task. However, the time has come for improvements.

The report makes the controversial statement that:

While irrigated agriculture provides major flow-on benefits to other sectors of the economy, these benefits do not, in themselves, justify the wider community contributing to the cost of rural water systems.

That deals with the argument that there are more beneficiaries of an irrigation system than simply the farmers who received water to irrigate their properties because the provision of good quality food and services benefits other members of the community and they should be expected to contribute to the cost of water.

That goes back to the report commissioned in 1982-83 by the Public Bodies Review Committee

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from the Monash Centre. It was known as the Monash report and in its day it was a controversial report. In fact Mr McDonald and his committee tend to have taken the same line as the so-called Monash report of 1983.

The McDonald report goes a little further and makes this important point:

Any such adjustment should, of course, be part of a more consistent application of the user-pays principle for all government business enterprises.

I reiterate that if the farming community and the irrigation industry are expected to fully adopt the user-pays principle over a certain period it is reasonable to expect that other areas in the community follow the same line. I do not wish to be controversial by suggesting that some of those areas could take that same step, but I believe it could happen.

As I indicated, the Bill follows the recommendations made by Mr McDonald, although it speeds up the time line that he and his committee recommended. I quote again from the second-reading speech:

The changes do not affect the functions of any other water authority, river management board or Melbourne Water.

Some concern has been expressed, particularly in some areas of the State, that the Bill will have an effect on the functions of such authorities. The Minister for Conservation and Environment has assured the House in his second-reading speech — and I am aware the Minister for Water Resources in the other place gave the same assurance — that none of the functions of the other authorities will be affected by the proposed legislation.

An interesting provision that most people will probably not have noticed but that is worth noting is that the presence at a meeting of members of a board by way of electronic communication, either by telephone, closed-circuit television or other means, is permitted. Clause 14 and other clauses refer to such electronic presence. Clause 14 provides that:

- (1) The board may permit directors to participate in a particular meeting of the board, or all meetings of the board, by telephone, closed-circuit television or other means of communication.
- (2) A director who participates in a meeting under permission under sub-clause (1) is to be taken to be present at the meeting.

It means in effect that one can fully participate in and vote at a meeting by the use of electronic communication without being physically present. I believe there will be an increased use of electronic communication in that way. Over the past 18 months or so it has been mentioned as an aside at meetings of chairpersons of committees of Parliament. It has created some interest and I hope that in due course Parliament will accept and use the same electronic system that is being provided for in the Bill.

As I understand it, the Bill has the general support of the Victorian Farmers Federation. It has the general support also — with perhaps sometimes a little scepticism, as do all new things — of farmers throughout Victoria. Because of the scepticism expressed and because the Bill establishes a new corporation, it will be on trial until it proves it can perform and deliver the efficiencies and cost savings that are the rationale for the Bill.

Pressure will be put on the five regional management boards throughout the State to perform. It will be vitally important that the people selected to fill the positions on those boards are the best and most capable people available. A clear responsibility rests with the Minister at the time the selections are made to ensure that the people are selected without fear or favour of any kind so that the best possible people with the best relevant expertise are asked to perform the tasks and that they are given adequate power and time to do so. That is the only way that the Bill and the proposals of the McDonald committee can be successful.

Finally, I note that the Constitution Act requires that the Bill be passed by an absolute majority of the members of the House because certain clauses of the Bill affect the jurisdiction of the Supreme Court. The shield of the Crown — that is, protection from personal suit for damages against a member of the corporation or the regional management boards or their predecessors — is carried under section 90 of the Water Act.

Because of the change to the corporation it is necessary to include that procedure in the legislation. So doing removes the right to sue a member of those boards. In that sense it diminishes the jurisdiction of the Supreme Court. Similarly the ability for a third party to sue a member of either the board or the corporation under section 166 of the Water Act is removed. That particular section of the Water Act refers to the treatment of water and covers issues such as fluoridation. It is necessary

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that Parliament be aware that when the Bill is passed —presuming that the Bill will be passed with an absolute majority tonight — that measure will affect the jurisdiction of the Supreme Court.

I had hoped that some of my colleagues would present some regional perspective on the Bill. I am aware that Mr Baxter will follow me. Perhaps because of the lateness of the hour the debate should be concluded at this stage. I foreshadow that some amendments will be moved during the Committee stage.

In conclusion it would be remiss of me not to congratulate the members of the McDonald committee: Stuart McDonald, Peter Bertolus, David Dole, Donald McGauchie and Donald Swan, together with the consultants Gutteridge Haskins and Davey, ACIL Australia, and Ernst and Young for their excellent report and most significant contribution to the water industry in Victoria.

The coalition supports the Bill and wishes the people who are taking on those new responsibilities good luck. We hope they will succeed and derive the benefits that are the intention of the Bill. If that occurs the farmers' refusal to pay water rates in 1991 will have had a most beneficial effect and out of what was a most difficult situation will have come a great deal of good.

Hon. W. R. BAXTER (North Eastern) —

Mr Evans and I have the honour to represent the Goulburn and Murray irrigation districts, the largest in Victoria. Within those districts we have a variety of forms of irrigation: principally there are hundreds of gravity irrigators; there are private diverters, some from unregulated streams such as the Ovens River and some from the regulated streams such as Broken Creek; and there are some irrigators who draw either the whole or part of their supplies from groundwater.

We have a particular interest in the Bill and we are pleased to offer it our support. On previous occasions I have demonstrated to the House the importance of irrigation to Victoria. I shall not repeat that tonight, although I am tempted to do so for the benefit of some honourable members because often statements are made in all sincerity that portray a gross misunderstanding of the importance of irrigation to the economy of Victoria.

It is well to remember that Victoria was built initially on the returns from gold, and perhaps secondly from wool and dryland grazing, but in this century

the greatest contribution to the wealth generated has been from the great irrigation projects of this State. We should not forget that.

In 1983 the House amended the Water Act 1958, which abolished the State Rivers and Water Supply Commission and established the Rural Water Commission. Tonight we should reflect on the abolition of the State Rivers and Water Supply Commission (SR&WSC), which was established by pioneering legislation presented by the Honourable George Swinburne, MLC, in 1905 and served the State well for all those years. It is unfortunate that the House is debating this legislation at 1 a.m. I am aware that the Honourable George Swinburne collapsed and died in this very Chamber. I hope that does not happen to somebody else debating a water Bill at 1 a.m. in the morning! I think it is absurd that we are debating important legislation at such a late hour. It does not say much for the government's capacity to organise its legislative program.

The Rural Water Commission was established about 10 years ago as the successor to the SR&WSC. It has not been an outstanding success. One of the reasons was perhaps an inappropriate choice of initial chairman, a lady who I think had some difficulty relating to the farmers and irrigators of northern Victoria. She came from Lake Bolac, an area that does not have a tradition in irrigation as it is known in northern Victoria and Gippsland.

The board also failed to seize the initiative as the successor to the SR&WSC to get its name up in lights, failed to establish a rapport with its clients and was sadly lacking in public relations.

Hon. R. M. Hallam — Abysmal!

Hon. W. R. BAXTER — Abysmal is probably not too strong a word. I suggest to the new board, when it comes into being, that it needs to look carefully at how it relates to its clients and what steps are necessary to bind its clients together as a team and make them feel it is a service-providing organisation rather than their enemy. Too often in the past the commission has been seen by at least some of its clients as their enemy.

The reconstitution of the commission as a corporation and the establishment of regional boards should go a long way to overcoming that obvious deficiency. The fact that the organisation will become more localised and will receive increased significant input from both direct and indirect users

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must go a long way to establishing proper relationships.

It has long been said by me and others — and I suppose I should declare a pecuniary interest as the holder of a water right issued by the Rural Water Commission and as a ratepayer to the commission in a flood protection district — that none of us objects to paying the operating costs of the commission provided we have a say in the level of those costs. Until now irrigators have had little say in the level of the costs they have had to bear and in many instances have been provided with a Rolls Royce service when a Holden service would have been adequate and all they wanted.

Over the years the commission has been dominated by good engineers who, in a style not unusual for engineers, have tended to overbuild. In my own area there are many examples of structures and work which was undertaken by the commission and which was more expensive and elaborate than was necessary.

The new organisation, with local management and input from regional management boards, will go a long way towards establishing levels of construction appropriate for particular circumstances. Increasing productivity should also enable it to reduce the costs that have been incurred in the past by the commission as a result of work practices foisted upon it by unions and weak governments that have not stood up to those unions.

I firmly believe the majority of the work force of the Rural Water Commission wants to do a fair day's work for a fair day's pay. The opportunity offered by the Bill for the implementation of improved work practices must be taken advantage of. Nevertheless I am concerned that one clause allows officers transferring from the commission to the Rural Water Corporation to do so under the same terms and conditions as presently exist, and that would work against the possibility of introducing better work practices.

Hon. R. M. Hallam — It sounds too cosy.

Hon. W. R. BAXTER — That is right, Mr Hallam. I understand that during the Committee stage Mr Evans will move an amendment to clarify the provision, which the government should accept.

The construction of community drains is a further example of the inability of the Rural Water Commission to control its costs. Because the

construction of drains at the necessary rate is beyond the resources of the commission, in recent years local groups have worked together to construct community drains. In the Yarroweyah-Strathmerton area a community drain was constructed to Rural Water Commission standards not by the commission but by a local organisation at two-thirds of the cost quoted by the commission. That is an indication of what can be achieved under the new structure.

The local management plans introduced in southern New South Wales have placed irrigators in those areas in a better position than their counterparts south of the border. Although the Bill does not propose to replicate the arrangements in the Deniboota area in the Riverina, that experience has been drawn on. Since coming to office the Greiner-Murray government has demonstrated the efficiencies that can be achieved through local management plans, and that is due in large part to the efforts of the New South Wales Minister for Natural Resources, Ian Causely.

Mr Evans referred to the provisions of the Bill that require beneficiaries to pay for the services they receive. Although I do not object to the theory, the beneficiaries have to be identified and, once identified, charged under a pricing mechanism that is sustainable. Of course irrigators are beneficiaries; they are easy to identify and easy to slug, as has happened in the past. Other beneficiaries who have been more difficult to identify or who have not been able to be charged have had a free ride.

Those who enjoy recreational pursuits on our waterways are good examples of the problems that arise.

Hon. R. M. Hallam interjected.

Hon. W. R. BAXTER — As Mr Hallam says, thousands of people travel from Melbourne on the weekends to the Dartmouth, Hume, Mulwala, Eildon and Waranga weirs, to name but a few, as well to the regulated streams that have a constant supply of water throughout the year, unlike the unregulated streams that would dry up into a series of waterholes towards the end of a dry autumn.

Hon. R. M. Hallam — I wish Mr Mier were here.

Hon. W. R. BAXTER — I prepared the list for him; its unfortunate he's not here.

Those people who use the weirs and streams are clearly beneficiaries. I welcome their use of the facilities which are there to be taken advantage of. Although those users should contribute to the cost of maintaining the facilities they enjoy, it is difficult to charge them on a per capita basis. We cannot install turnstiles at every weir or send somebody along a creek bank to charge people \$1 for fishing. The fairest way of doing it is for the taxpayer to make some contribution via the Consolidated Fund as a community service obligation. There is no doubt that many people who have enjoyed the benefits provided by the facilities established primarily for irrigation have not been paying for those benefits. Then there are the secondary beneficiaries; they might be the motel owners or shopkeepers in Wodonga who have enjoyed the patronage of people who have come to the area to enjoy the water storages.

It is not possible to send somebody around to collect a 10 per cent surcharge from all those people, and I am not suggesting that that is how it ought to be done. I am saying that those people are beneficiaries of the irrigation systems of Victoria and that that justifies a contribution from consolidated revenue to the corporation.

I support the proposal to establish a main board and five regional boards, and in so doing I make the plea that the persons appointed to those boards be appointed because of their competence and not because they are friends of the government or because it is thought that they might represent a particular interest group. My colleagues in the National Party and the irrigators I represent are keen for people to be appointed to the boards on the basis of their skills and abilities. I also suggest that they need to be properly remunerated. The days have long gone when farmers or any other group could expect colleagues to work on their behalf for nothing or for peanuts. As an irrigator I am prepared to pay people who have the right qualifications and attributes to serve on a board to represent me. They deserve it, and that is one of the ways of attracting appropriately skilled people to apply for the positions.

There have been more than 100 applications as a result of the advertisements seeking to appoint people to the main board. That is very encouraging and I understand that a short list has been compiled and interviews are currently under way. I look forward to the announcement of the appointments in the not too distant future and I hope the regional boards comprise people who are not necessarily

irrigators. I should like irrigators to have fair representation but, clearly, people with business or local government experience could serve admirably on the boards and bring to them a breadth of experience that has been lacking in the past. I am casting around my own area as to who I might encourage to put his name forward, and I commend that process to others.

Earlier I spoke of the importance of irrigation to the State and in passing I note the current edition of the Rural Water Commission's news magazine *Aqua*, which is issue No. 2 of autumn 1992. It contains an interesting article on the history of the Murray Valley irrigation area.

Hon. D. M. Evans — It has a photograph of a tobacco farm on the front!

Hon. W. R. BAXTER — Yes, Mr Evans, and that is very interesting. In spite of its attitude towards the tobacco industry the government has produced a journal that has on the front cover a colour photograph of a tobacco farm in the King Valley. It shows that all is not lost! The article is well worth reading. It brought home to me, and I am sure it will to others who read it, that progress has been made in our generation in the way things are done.

The publication has a photograph of a team of eight draughthorses drawing a scoop making the main channel from Yarrawonga. The photograph was taken either just before or during the second world war about 50 to 55 years ago. It is difficult for some of us to contemplate that as recently as 50 years ago horse teams were still the method of carrying out major capital works. It demonstrates the extraordinary technological development that has occurred in such a short period, and we are the beneficiaries. We owe a great deal to those far-sighted persons who earlier this century conceived that it was possible to gravitate water virtually from one end of the State to the other and those who had the confidence to put in place this great scheme using the resources at their disposal, limited as they were, compared with what is at our disposal today.

Finally, I note the importance that must be placed by the new Rural Water Corporation and its boards on the salinity question. There is a good deal of community education to be done on salinity, including the education of some members of this House who seem to have the view that salinity is caused by irrigation when clearly it is not. The corporation needs to work closely with community

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groups that are springing up throughout Victoria and particularly in the Goulburn Valley. The Salinity Program Advisory Committee chaired by Jeremy Gaylard is doing a tremendous job in encouraging the community to tackle an immense problem that no-one can run away from.

Hon. R. S. de Fegely — They are doing a wonderful job.

Hon. W. R. BAXTER — Yes, as are the LandCare groups in the area. In the past I have given the government credit for establishing LandCare groups and I repeat my congratulations tonight. I hope the new Rural Water Corporation will work with the groups — and I have no doubt that it will — because this task is beyond the means of any one group and needs a community-wide response.

Another important issue is the operation of the Hume and Dartmouth dams and the need for the corporation to work closely with the Murray-Darling Basin Commission to establish the most appropriate operating regime for Hume and Dartmouth. One should bear in mind that the principal responsibility is to conserve water while taking into account flood mitigation, power generation and the need to maintain Lake Hume at a level that assists local industry, particularly the tourism industry in north-eastern Victoria by extending the season into the autumn and attracting people to the locality. In the past the operating regime has been conservative and it is well worth carrying out further examinations beyond those carried out by the Pak Poy and Kneebone Pty Ltd consultancy a year or two ago. It should not be forgotten by anyone that the purpose of the dams is to conserve water and that if water is released from Dartmouth prematurely to keep Hume at an artificially high level the prospects are that a lot of water will run to waste in the sea. That concept is difficult for many people to grasp.

On other occasions I have explained the issue in detail in the House, but I will not do it again at 10 minutes past 1 in the morning. The Rural Water Corporation needs to lift its game in explaining in simple terms to the community the mechanics, if that is the right word, of conserving the maximum quantity of water because we all know that another drought will come at some point in the future. Victoria may not have had a serious Statewide drought since 1982-83, but it will come again and we do not want to be caught short because water has run out of Lake Alexandrina when it could have been conserved in Lake Hume.

I wish the Bill well and I look forward to working with the corporation as a representative in this place. I endorse the remarks of Mr Evans regarding the working party and the chairmanship of Stuart McDonald. They did an excellent job in a quick time. I was a reluctant recruit to the action taken last year by some irrigators to refuse to pay their water rates. I would not normally commend such action but in this case it demonstrated in no small measure that the irrigators were dissatisfied. The government appointed an independent inquiry and the results are commendable. I also commend the government for its quick action on the recommendations.

The DEPUTY PRESIDENT (Hon. K. I. M. Wright) — Order! I am of the opinion that the second reading of this Bill requires to be passed by an absolute majority. I direct the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

The DEPUTY PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members who support the Bill to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Hon. D. M. EVANS (North Eastern) — I move:

1. Clause 4, page 4, line 22, after "Minister" insert ", after considering the recommendation of a selection committee established by the Minister,".

Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

1. Clause 4, page 5, line 16, after "management" insert ", including farm enterprise management".

Amendment agreed to.

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Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

2. Clause 4, page 11, line 24, after "court" insert "or tribunal".

Hon. D. M. EVANS (North Eastern) — It may be appropriate at this stage, given the context in which the amendment has been moved, to note that it deals with debts and liabilities and the employment of certain officers who are currently under the Public Service Act. I again seek from the Minister a guarantee that the superannuation which is currently carried by officers of the Rural Water Commission and the unfunded liability will not be carried forward to the Rural Water Corporation so that it becomes a debt and a liability against the new corporation.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — This assurance was sought from the Minister for Water Resources in the other place and I assure the honourable member that superannuation liabilities that accrue up until the time the Bill is passed will remain the liability of the State.

Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

3. Clause 4, page 12, line 28, omit "(d)" and insert "(e)".

Amendment agreed to.

Hon. D. M. EVANS (North Eastern) — I move:

2. Clause 4, page 12, line 30, after "transfer" insert "unless varied by a certified agreement".

The amendment refers to a possible enterprise agreement under a Federal Act of Parliament and it adds words to clause 5 of the proposed new schedule.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — Generally, amendments made by the opposition are amendments with which the government agrees, but that is not the case with this amendment. The Rural Water Commission has entered into commitments with the employees that they will be transferred to the new corporation on terms and conditions of employment no less favourable than the benefits of all rights which have accrued. Acceptance of this amendment will only make the negotiations of new award conditions and the formation of a new corporation more difficult. The government cannot agree to the amendment.

Hon. W. R. BAXTER (North Eastern) — I cannot accept the Minister's reasoning. Clearly if the new corporation is to be a success, and that is the overwhelming desire of all, there has to be some scope for productivity gains within the work force. The clause, as presently stated, explicitly denies that opportunity whereas the amendment provides for an agreement to be reached and to be registered and certified. It certainly has no coercive element in it and, as I noted in my earlier remarks, I believe the good will that exists within the work force of the commission is such that it is anxious that some changes be made. All the amendment does is facilitate that rather than hamstringing it.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I do not wish to prolong the debate but at this stage the new corporation is negotiating with relevant unions for the development of a new Federal award. The clauses provide for transitional arrangements and do not pre-empt any decision to be taken by the new corporation.

As such, the amendment is unnecessary. In terms of goodwill and maintaining harmony for the transition we see it as detrimental and we will oppose the amendment.

Committee divided on amendment:

Ayes, 21

Ashman, Mr	Hall, Mr (<i>Teller</i>)
Baxter, Mr	Hallam, Mr
Best, Mr	Knowles, Mr
Birrell, Mr	Lawson, Mr
Chamberlain, Mr	Macey, Mr
Connard, Mr	Miles, Mr
Cox, Mr (<i>Teller</i>)	Skeggs, Mr
Craige, Mr	Smith, Mr
de Fegely, Mr	Storey, Mr
Evans, Mr	Tehan, Mrs
Guest, Mr	

Noes, 15

Coxsedge, Mrs	Lyster, Mrs
Crawford, Mr	McLean, Mrs
Davidson, Mr	Mier, Mr
Henshaw, Mr (<i>Teller</i>)	Pullen, Mr
Hogg, Mrs	Theophanous, Mr T
Ives, Mr (<i>Teller</i>)	Van Buren, Mr
Kennedy, Mr	White, Mr
Kokocinski, Ms	

Pairs

Mr Long	Mr Walker
Mrs Varty	Mr Landeryou

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Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

4. Clause 4, page 12, line 34, omit "(d)" and insert "(e)".

Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

5. Clause 4, page 13, line 5, omit "(d)" and insert "(e)".

This is a consequential amendment.

Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

6. Clause 4, page 13, after line 5 insert —

"(8) An officer of the public service or a person referred to in section 36B of the **Public Service Act 1974** who becomes an officer of the Corporation under sub-section (2)(e) may, within the 2 year period after the day on which section 4 of the **Water (Rural Water Corporation) Act 1992** comes into operation, apply for promotion or transfer to an office in the public service or appeal against the promotion or transfer of another person to an office in the public service as if he or she were an officer in the public service.

- (9) For the purposes of sub-clause (8), the classification of a person who applies for promotion or transfer to an office in the public service must be taken to be that determined by the Public Service Board, having regard to the person's position with the Corporation."

Hon. D. M. EVANS (North Eastern) — This is a significant amendment in that it adds two new subclauses and allows for transfer back into the Public Service those who may have moved across into the new water corporation. It is a sensible amendment and is one with which the coalition agrees.

Amendment agreed to.

Hon. D. M. EVANS (North Eastern) — I move:

3. Clause 4, page 14, after line 29 insert —

"(4) A Regional Management Board must meet at least 6 times each year.

- (5) There must be presented to each meeting of a Regional Management Board financial statements that present fairly —

- (a) the results of the financial operations of the Board during the period beginning at the end of the month preceding its last meeting and ending at the end of the immediately preceding month; and
- (b) the financial position of the Board as at the end of the immediately preceding month."

Amendment agreed to.

Hon. D. M. EVANS (North Eastern) — I move:

4. Clause 4, page 14, after line 35 insert —

"(2) The Minister must make sure that on and from 1 July 1993 the Corporation exercises its power of delegation under this clause to delegate to a Regional Management Board sufficient powers, discretions and functions to enable the Board to operate within its region as it would if it were an independent authority but subject to and in accordance with any performance contract entered into, or business plan agreed, with the corporation and any conditions or limitations specified in the instrument of delegation."

Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

7. Clause 4, page 15, lines 1 to 4, omit all words and expressions on these lines.

Due to the success of Mr Evans's amendment No. 4, my amendment No. 6 is consequential and Mr Evans's amendments Nos 5 and 6 and my amendment No. 8 are redundant because the amendments are balanced.

Amendment agreed to.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

9. Clause 4, page 16, line 24, after "management" insert ", including farm enterprise management".

Amendment agreed to; amended clause agreed to; clauses 5 to 7 agreed to.

Clause 8

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

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10. Clause 8, page 24, line 17, omit "Registrar" and insert "Register".

The amendment corrects a typographical error.

Amendment agreed to; amended clause agreed to; clauses 9 and 10 agreed to.

Schedule

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I move:

11. Schedule, page 29, item 11.34, omit "(d)" and insert "(e)".
12. Schedule, page 29, item 11.35, omit "(d)" and insert "(e)".

The amendments are consequential.

Amendments agreed to; amended schedule agreed to.

Reported to House with amendments.

Report adopted.

Third reading

The **DEPUTY PRESIDENT** — Order! I am of the opinion that the third reading of the Bill requires to

be passed by an absolute majority. I ask all honourable members who support the Bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

ADJOURNMENT

Hon. C. J. HOGG (Minister for Ethnic, Municipal and Community Affairs) — I move:

That the Council, at its rising, adjourn until Wednesday, 10 June at 10.30 a.m.

Motion agreed to.

House adjourned 1.33 a.m. (Friday) until Wednesday, 10 June.

Wednesday, 10 June 1992

The PRESIDENT (Hon. A. J. Hunt) took the chair at 10.32 a.m. and read the prayer.

MELBOURNE UNIVERSITY (VCAH) BILL

Returned from Assembly with message relating to Council's suggested amendments.

Ordered to be referred to Committee.

LOY YANG B BILL

Returned from Assembly with message relating to Council's suggested amendments.

Ordered to be referred to Committee.

SENATE VACANCIES

The PRESIDENT — I have received the following letter:

Dear Mr President,

I transmit to you the text of a resolution agreed to by the Senate on 3 June 1992, as follows:

That the Senate —

- (a) believes that casual vacancies in the Senate should be filled as expeditiously as possible, so that no State is without its full representation in the Senate for any time longer than is necessary;
- (b) recognises that under section 15 of the Constitution an appointment to a vacancy in the Senate may be delayed because the Houses of the Parliament of the relevant State are adjourned but have not been prorogued, which, on a strict construction of the section, prevents the Governor of the State making the appointment; and
- (c) recommends that all State Parliaments adopt procedures whereby their Houses, if they are adjourned when a casual vacancy in the Senate is notified, are recalled to fill the vacancy, and whereby the vacancy is filled:
 - (i) within 14 days after the notification of the vacancy, or

- (ii) where under section 15 of the Constitution the vacancy must be filled by a member of a political party, within 14 days after the nomination by that party is received,

whichever is the later.

Yours sincerely,
Kerry W. Sibraa

QUESTIONS WITHOUT NOTICE

DEPARTMENT OF CONSERVATION AND ENVIRONMENT ADVERTISING CAMPAIGN

Hon. M. A. BIRRELL (East Yarra) — I ask the Minister for Conservation and Environment to advise the House of the cost and the general content of his department's proposed advertising and public relations campaign on national parks and other issues, explaining to the House how the expenditure of scarce public funds can be justified on what is nothing more than a pre-election stunt.

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I point out to Mr Birrell that promotion and awareness of Victoria's conservation strategy is a line item in the Budget documents. It was always intended that the matter would be the subject of advice and information to the public.

The Department of Conservation and Environment is engaged in the promotion of one of Victoria's most important assets — national parks. Such promotion runs the gamut of all the opportunities available to the public through the parks, including the wilderness parks, which have been the subject of recent debate in this place.

The jobs council that is operating comprises representatives of business and conservation, and it has been put to me strongly by those representatives that there are opportunities for both employment and economic development through access to the parks system. I have received an interesting submission from the eco-tourism industry stating that those opportunities should be advanced and that the Victorian public and overseas visitors should be made aware of them.

The subject is currently before the department and I am awaiting submissions. Depending on the type of submission received the campaign could involve television advertisements or other ways of bringing

those matters to the attention of the public. I make no apology for bringing to the attention of the public the opportunities for using important assets such as our national parks.

PRIVATISATION OF GOVERNMENT UTILITIES

Hon. W. R. BAXTER (North Eastern) — I direct my question to the Minister for Consumer Affairs in his capacity as the Minister assisting the Minister for Manufacturing and Industry Development with responsibility for Corporatisation, and I ask: will the legislation on corporatisation be introduced during this sessional period, as has been promised several times; if not, why not?

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — The government has instituted an extensive process of consultation and discussion on the issues relating to public sector reform because it is concerned that the major reform on which it is embarking should be clearly understood by those it affects and should be the subject of considerable debate in the community.

As a consequence some time ago the government embarked on a long process of consultation, including the production of a discussion paper. I spoke at two or three conferences on corporatisation that were held in Melbourne and I outlined the issues surrounding the question. In its deliberations the government must also take into consideration a report tabled by the Public Bodies Review Committee.

The development of the Bill has occurred concurrently with the various consultations and discussions that have taken place. The Bill is an extremely complex piece of legislation and a great deal of drafting and redrafting is required. The Bill is being developed in accordance with the discussions that I undertook at an earlier time with government business enterprises, and they are being kept informed of progress. The Treasurer has made it clear that the Bill will be the subject of discussion during the next sessional period.

The government had the option of rushing through the drafting of the Bill and presenting it to Parliament in this session, but that would have meant that a great number of amendments would have been necessary. It is important that public discussion be promoted and, as a consequence, the Bill will be issued as a public document together with a discussion paper explaining it to the various

parties that have an interest in it. The Bill will differentiate between the policies of the government and the opposition's privatisation proposals. It will also show the public the difference in emphasis between the government and the opposition. The opposition would like the State to go down the New Zealand path of corporatisation and privatisation, but the government will not have a bar of it.

TEXTILE, CLOTHING AND FOOTWEAR INDUSTRY

Hon. B. E. DAVIDSON (Chelsea) — I refer the Minister for Manufacturing and Industry Development to his recent statements to the House in answer to previous questions of mine regarding Victoria's textile, clothing and footwear industry. What further steps has the government taken to strengthen those sectors of the textile, clothing and footwear industry?

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — The textile, clothing and footwear (TCF) industry accounts for 11 per cent of manufacturing value added and 17 per cent of total manufacturing employment in Victoria. The impact of the current proposals announced by the Federal government in March 1991 will cause further dislocation to the TCF industry, and it is important that the Federal government consider not only tariff policy in relation to TCF but also the policy framework that shows where the future of the industry lies, as it did last year with motor vehicle manufacturing, which gave a clear indication to the industry of where the future would be.

As a prelude to a meeting either later this month or early next month between the Premiers of South Australia and Victoria with the Prime Minister I look forward in the near future to meeting with my South Australian counterpart, Lynn Arnold, and also with Senator Button, to discuss our concerns about the dislocation currently occurring in the industry.

It is clear that further initiatives need to be taken to minimise the dislocation occurring as a result of statements that were made in March 1991. As part of ensuring that we get a proper hearing Federally and ensuring that there is proper comprehension of what is happening in the industry it should be understood that this is not simply a problem of current Federal policies but also of the Federal coalition's policy on TCF.

Last week in this building a meeting was attended by almost 100 people from 20 municipalities and 13

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regional development boards to discuss their views about textile, clothing and footwear. As a consequence, we look forward to taking to the Federal government a considered position that reflects the views of the employers — as a consequence of a recent meeting prior to last week's meeting — and the trade union movement and also major provincial centres and regional development boards.

Given the current level of unemployment, tariff levels should increasingly be linked to and related to employment levels. The government is saying that if the Textile, Clothing and Footwear Development Authority (TCFDA) is to operate — and there is concern about the calibre of management and the financial standing of some textile, clothing and footwear firms — the guidelines and standards the TCFDA seeks should be made clear prior to any application being made, because we are concerned at a recent unsuccessful application by a major firm in Warrnambool. Why was it not capable of attracting funding under the rules and criteria, and why did funding not flow on that occasion? Obviously something is substantially wrong with either the criteria or the current setting. Further discussions will occur with the Federal government and we hope, as a consequence, that a major change will occur in the Federal government's attitude to the clothing, textile and footwear industry.

We are making it clear that on this occasion strong support exists, not just from employees and employers but from regional bodies. As well there is bipartisan support, effectively across the board, for a change in Federal policies on the TCF industry. I look forward to reporting to the House in the spring sessional period on a successful outcome to those discussions.

DEPARTMENT OF CONSERVATION AND ENVIRONMENT ADVERTISING PROGRAM

Hon. HADDON STOREY (East Yarra) — I direct the Minister for Conservation and Environment to his answer to Mr Birrell concerning the advertising program on which the Department of Conservation and Environment is embarking. How much money has been provisionally budgeted for that advertising campaign?

Hon. B. T. PULLEN (Minister for Conservation and Environment) — I am waiting on a submission from my department on the most effective way of conducting the advertising program. Mr Storey

should be aware that the line item in the 1991-92 Budget for promotion awareness is \$1.29 million and some part of that could be allocated.

Hon. Haddon Storey — But how much?

Hon. B. T. PULLEN — That will depend on whether the campaign involves television advertising or whether it is centred on radio and other forms of media.

Hon. Haddon Storey — How much?

Hon. B. T. PULLEN — Honourable members should realise that if it is a television-based campaign it could cost several hundred thousand dollars —

Hon. M. T. Tehan — Election-based!

Hon. Haddon Storey — Will you spend all of that allocation on it?

Hon. B. T. PULLEN — That decision will be made when I have all the information.

PROPOSED SUPERANNUATION LEVY

Hon. D. M. EVANS (North Eastern) — I refer the Minister for Ethnic, Municipal and Community Affairs to the concerns expressed by the councillors of the Rural City of Wodonga and no doubt by other councillors throughout Victoria that the Federal Superannuation Guarantee (Administration) Bill, which defines councillors as employees, may require superannuation to be paid for councillors who accept mayoral or other allowances. Is the Minister aware of this concern and, if so, what action is she taking?

Hon. C. J. HOGG (Minister for Ethnic, Municipal and Community Affairs) — The issue has not been raised with me by either of the local government peak councils, despite relatively recent meetings. I shall raise it with them and correspond with Mr Evans during the break.

WASTE PREVENTION TECHNOLOGY

Hon. JEAN McLEAN (Boronia) — The Minister for Conservation and Environment is aware of the many environmental problems that are being highlighted at the Earth Summit, the United Nations Conference on Environment and Development that is currently being held in Rio de Janeiro, Brazil. Is the Minister aware that overseas countries are

moving quickly towards new technologies that incorporate cleaner production techniques to prevent waste from being generated in the first instance rather than merely treating it at the end of the outlet pipe? What is the government doing about introducing those sorts of practices in Victoria?

Hon. B. T. PULLEN (Minister for Conservation and Environment) — Honourable members would know that the government is aware of the need to provide cradle to grave management of industrial waste and that that was adopted in an industrial waste strategy in 1986. Cleaner production takes this a logical step further. Environmental controls can provide a high level of environmental protection, and in some cases improve the manufacturing processes.

A move to sustainable development requires a re-evaluation of this approach and a stronger focus on pollution prevention and resource conservation. Cleaner production provides a very good way forward for manufacturing industry, providing a win-win situation in many cases with significant financial and environmental benefits. In looking to revitalise Victorian industry through international competitiveness without compromising the environmental gains of the past decade, we need to rely heavily on cleaner production.

The Environment Protection Authority (EPA) has been working with the Australian Manufacturing Council in its promotion of best-practice environmental management. The chief executives of DuPont and other major companies have endorsed the promotion through public commitments to waste reduction or elimination.

Through the EPA small and medium-sized industry has had access to the support of the clean technology incentive scheme, now in its fourth year. It is worth noting the projects that have resulted from the scheme. For instance, at Quality Heat Treatment in Bayswater a technology switch from using molten cyanide to fluidised bed heat treatment, which is more efficient, produces a better quality result at a cheaper price and has resulted in sales of computerised plants offshore. The Australian Dyeing Company at Seymour introduced a new cold pad textile dyeing process, which uses no salt, less energy, less water, is more efficient, and produces better quality fabric. The firm is currently pursuing export opportunities in this area. Wattyl (Victoria), a paint manufacturer at Sunshine, is utilising in-house closed loop technology and new production

techniques to recover and re-use solvents and residues in saleable products.

The EPA is supporting those measures by industry through workshops and seminars, waste audits and assistance with identifying waste minimisation opportunities, and through voluntary agreements.

In this sense to some extent the EPA is moving away from the traditional form of regulating industry towards providing encouragement and more opportunities for innovative industry solutions. Through those activities Victoria is giving practical expression to ecologically sustainable development while others are still talking about it. It can create jobs and business opportunities while improving environmental protection.

SECURITISATION OF TRADE RECEIVABLES

Hon. ROSEMARY VARTY (Nunawading) — In view of the lack of follow-up by the Minister for Manufacturing and Industry Development to my question of 26 May on securitisation of trade receivables in statutory authorities, I now ask him to advise the cost to the people of Victoria of the raising by the Gas and Fuel Corporation through Asset Collateralized Equity Ltd of \$100 million.

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — The advice I have from the Gas and Fuel Corporation is that the corporation has recently finalised an arrangement for the securitisation of its natural gas receivables. The corporation ascertained the need for such a facility at the start of the current financial year and subsequently approached a number of banks for proposals. On the basis of the proposals submitted, Societe Generale Australia Ltd (SGAL) was appointed as arranger of the facility. SGAL had previous experience in Australia as the arranger of the securitisation structure for David Jones Aust. Pty Ltd credit cards.

Upon appointment SGAL carried out a due diligence audit of the corporation's receivables process. On the basis of the due diligence process a structure that satisfied the requirements of the corporation was formed. The structure was submitted to the office of the Auditor-General of Victoria and KPMG Peat Marwick for comment. Both certified that the structure satisfied accounting requirements for true sale and consolidation. Legal advice on the documentation is being received from Mallesons Stephen Jaques.

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The structure involves the creation of a special purpose vehicle that will be used to purchase the receivables. The vehicle will issue commercial paper to finance the purchase of the receivables. The financial paper facility will be lead managed by the Commonwealth Banking Corporation with the National Australia Bank Ltd as a dealer. Although the structure entails the sale of outstanding accounts, this will in no way be apparent to consumers. Since the corporation will continue to collect all accounts on behalf of the receivables trust, no additional costs will be incurred by consumers of natural gas.

Securitisation is now being used by corporations with quality receivables as a means of making more efficient use of balance sheet items and cash flow management. In the case of the corporation, the seasonality of revenue results in significant troughs and peaks of available cash. Securitisation is an effective tool for levelling the cash flows of the corporation. The costs of such a facility are not significant. In the Australian market both David Jones and BHP have significant securitisation structures in place.

In response to Mrs Varty's question, the advice from the Gas and Fuel Corporation reaffirms the point that the cost of the facility is not significant. I take on board her specific question which requires an answer in respect of the specific amount involved. I shall communicate that to her in due course.

Hon. R. M. HALLAM (Western) — Given the response of the Minister for Manufacturing and Industry Development to the question just asked by Mrs Varty, I ask: are the State Electricity Commission of Victoria (SECV) and the former Melbourne and Metropolitan Board of Works, now Melbourne Water, also planning to raise funds by factoring accounts receivable with the special purpose company, Asset Collateralized Equity Ltd? If so, what is the amount in each case, and secondly, will the proceeds be used to pay out the Victorian Equity Trust?

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — So far as I know, the securitisation of the accounts receivable is a financial transaction, separate and distinct from and not related to the Victorian Equity Trust. I shall seek further advice on that last point.

In respect of the securitisation of the accounts receivable of both the former Melbourne and Metropolitan Board of Works and Melbourne Water,

I will have to take that on notice and seek advice from the relevant Minister. The State Electricity Commission (SEC) has also taken the initiative in the securitisation of accounts receivable.

Hon. R. M. Hallam — What else are you going to sell? There will be nothing left!

Hon. D. R. WHITE — In response to Mr Hallam's question, you can have it one of two ways: either you allow the SEC and the Gas and Fuel Corporation to manage their accounts on a day-to-day basis independent of interference from Ministers, or you do not. If you are implying in your interjection that you would prefer to intervene on a day-to-day basis in the management of the corporations and not allow them to make commercially sensible decisions and reserve that right for yourself, you should say it. Put it on the record, and don't give us any of the baloney about corporatisation and privatisation!

Hon. R. M. Hallam — You know what you are doing; you are getting around the Loan Council!

Hon. Rosemary Varty interjected.

Hon. D. R. WHITE — It is quite clear — —

Hon. R. M. Hallam — You have been caught out!

Hon. Rosemary Varty interjected.

Hon. D. R. WHITE — What is clear in the securitisation of accounts receivable is that we have allowed the management of the SEC to make an independent commercial decision similar to what occurs — —

Hon. R. M. Hallam — You are selling the bills; what else are you going to sell?

Hon. D. R. WHITE — I am quite happy for either Mrs Varty or Mr Hallam to make accounts receivable a topic for discussion by the Economic and Budget Review Committee, the Estimates subcommittee or the public accounts subcommittee whenever they choose, just as the role and function of the SEC has been the subject of inquiry by the Public Bodies Review Committee for 12 months. I do not have any problem about that.

Mr Hallam is suggesting that we want to intervene and make the commercial decisions of the SEC. In respect of the accounts receivable, we make it clear that the Gas and Fuel Corporation and the SEC —

independent of any interference by government and in recognition of the seasonal cash flows — have taken the initiative. The detail of the transaction will be made available to the honourable member either later this day or during the course of the week.

PUBLIC HOSPITALS

Hon. C. F. VAN BUREN (Eumemmerring) — I direct my question to the Minister for Health. It is vital that health agencies and the community have information that identifies strengths and weaknesses in the financial performance of hospitals. What steps is the government taking to measure the performance of public hospitals and make this information openly available?

Hon. M. A. LYSTER (Minister for Health) — I thank Mr Van Buren for his question and certainly agree with him on the importance of the availability of comprehensive and timely data from health agencies. Health Department Victoria produces a comprehensive publication entitled *Hospital Comparative Data* or, as it has become known in the health industry, the Rainbow Book. It is designed to enable hospital and regional managers and clinicians to compare their hospital's performance with that of similar hospitals. No other State publishes such a detailed volume of directly useful data. Since the publication was first produced in 1989 it has been changed and expanded significantly in response to the various comments that have been made by people in the field who saw the potential for this kind of material. I take this opportunity to thank people in the health industry for their positive interest and for their cooperation in improving this publication so that it will be of use to them.

In the report for 1990-91, data changes have been directed at providing easier access to major performance measures, broader groupings of hospitals and increasing the range of productivity and efficiency measures. The hospital comparative data provides far more information than just the cost of treating a patient. It provides costs and output measures as well as descriptive material about the full range of services provided by hospitals. In addition, productivity and unit cost measures are available for major employment categories. It also provides information on the nature of each hospital's case mix by speciality and it measures whether patient stays are long or short compared with State average figures. This publication is made available to hospitals free of charge and it is made available to others, usually consultancy firms that seek this material, at \$25 a volume.

The data is also made available to hospitals through regions, in both printed and computer readable form, to allow hospital managers to carry out their own analyses and comparisons. This publication is a good example of the way Health Department Victoria is seeking to work collaboratively with the industry. It has fostered trust between hospitals and regional staff, who accept the data as the basis of objective and fair measures. The current edition was published in March. It is available to members of Parliament in the Parliamentary Library.

GAS TARIFF INCREASE

Hon. R. S. de FEGELY (Ballarat) — Will the Minister for Manufacturing and Industry Development explain to the House why the cost of natural gas supplied to Australian Cement Ltd in Geelong has increased by 600 per cent? Is he aware that this increase in primary fuel cost threatens the continuing operation of this industry and the jobs of 150 people at the plant? In view of the importance of this industry to Geelong and also to Victoria, will the Minister ensure the provision of natural gas to Australian Cement at a price that will ensure the continued viability of the Geelong plant?

Hon. D. R. WHITE (Minister for Manufacturing and Industry Development) — I am surprised by Mr de Fegely's suggestion that Australian Cement's gas tariff has increased by 600 per cent. Australian Cement is one of the largest consumers of gas in Victoria and has one of the largest gas contracts in Victoria. On 29 March it was announced that from 1 July the gas tariff would increase by 2.9 per cent. I do not have any evidence, and I seek information from Mr de Fegely as to whether he has any evidence, to support his claim that the cost of natural gas to the company has increased by 600 per cent.

I recognise Australian Cement as a major consumer of natural gas. Its presence in Geelong was the one of the major reasons why the Gas and Fuel Corporation took over the Geelong gas company in 1972-73. It is an important market for the Gas and Fuel Corporation. There has been a long standing, close relationship between the corporation and that company.

If Mr de Fegely has any information from the company that he would like me to pursue further in addition to the discussions that have occurred between my office, the department and the Gas and Fuel Corporation, I should be pleased to hear from him.

The gas tariff that applies to Geelong was certainly increased by 2.9 per cent in March this year, to take effect from 1 July. There have been no other major gas tariff increases. I shall be happy to continue discussions with this company, which is a continuing purchaser of Victoria's plentiful and cheap natural gas supplies.

COMMUNITY ETHNIC ORGANISATIONS

Hon. G. A. SGRO (Melbourne North) — I ask the Minister for Ethnic, Municipal and Community Affairs: what is her Ministry doing to foster independence, self-help and managerial responsibility among ethnic community groups so that they may serve their communities better?

Hon. C. J. HOGG (Minister for Ethnic, Municipal and Community Affairs) — In recognition of the important work done by the community sector most community ethnic organisations now attract some government funding, and the larger organisations receive quite significant amounts. It is therefore important that community organisations understand how to manage particular projects, how to discharge their legal and financial responsibilities, which are sometimes quite onerous, and how to act in the role of employer, which is what management committees have to do. It is especially important for ethnic groups if they are to serve their communities as well as possible.

To assist community groups in this area the Office of Ethnic Affairs will fund four organisations to provide training and educational activities, especially for non-English speaking groups and representatives. Four groups are being funded to a total of \$20 000, so the grants are small, about \$5000 per organisation.

The four organisations that will coordinate the training workshops are Broadmeadows Community Health Services, the Brunswick Community Health Centre, the Jewish Welfare Society and the Ethnic Communities Council of Victoria. The groups targeted will include non-English speaking background representatives of the Ethnic Communities Council; Arabic, Greek, Italian and Turkish speaking communities in the City of Brunswick and environs; non-English speaking background representatives on committees of management in the Broadmeadows area — and as honourable members know, quite a number of people would conform to that description — and young potential leaders in the Jewish community.

While it is a small amount of money and it is broken down to those four groups, we see this as a project of special significance, which is accorded that status and funded in that way.

PSYCHIATRIC SERVICE DOCTORS

Hon. R. I. KNOWLES (Ballarat) — Will the Minister for Health assure the House there are no non-registered doctors practising as doctors in the State-run psychiatric services?

Hon. M. A. LYSTER (Minister for Health) — The House should be aware of a number of issues that surround this question. Firstly, the situation or potential situation that Mr Knowles describes is not unique to Victoria, nor indeed is it a new issue. Finding appropriately qualified psychiatrists, in particular, as well as the medical officers to whom he referred for our psychiatric hospitals and psychiatric services has been an ongoing issue.

We have difficulty in both recruiting and retaining psychiatrists. I believe a large part of the problem is due to the level of the Medicare rebate that is set by the Federal government for consultant psychiatrists, which means that qualified psychiatrists are often unprepared to offer their services to the public system when they can be so well remunerated in the private system. I hope the Federal Minister will pay attention to that issue, given his new interest in psychiatric services.

I understand that many of the people working in our psychiatric services are psychiatrists and medical officers who are qualified in their own countries. I am advised that every person who is working as either a medical officer or a psychiatrist in our health system has, at the very least, a temporary registration administered by the Australian Medical Examination Council. The majority are in the process of studying for the appropriate examinations that will allow them to attain full qualifications through the Australian Medical Examination Council.

Another issue, which is sometimes confusing, is whether those people currently hold full membership of the Australian and New Zealand College of Psychiatry. It is correct to say that although some of those people are still not eligible for full membership of the society they are working towards it.

The issue of overseas-trained doctors has captured the attention of many people, including the Federal

Minister for Health, the Federal Minister for Immigration, Local Government and Ethnic Affairs, the national branch of the Australian Medical Association and deans of medicine throughout Australia.

Victorian deans of medicine have raised with me several concerns about decisions affecting overseas qualified doctors. It is important to recognise the different factors that are brought to bear in seeking appropriately qualified medical and psychiatric practitioners from overseas. Although we would not sanction the continued employment of persons who were not making moves towards gaining full Australian qualifications, it is equally important to ensure that the clients of our psychiatric system from non-English speaking countries have access to treatment from people who are aware of and sensitive to their special cultural needs. As I said initially, this is not a new problem. It is an ongoing problem and one we must continue to seek to remedy.

I should like to think that the action identified in the clinical audit, which has been the subject of discussion in this House during this sessional period, will assist Victorian and Australian psychiatric services to recruit and retain the sorts of expertise to which people in our psychiatric system are entitled to have access.

LIQUOR LICENCES

Hon. LICIA KOKOCINSKI (Melbourne West) — In light of recent community concerns about the serving practices at some licensed premises will the Minister for Consumer Affairs advise the House what action his department is taking to ensure that licensees serve alcohol responsibly?

Hon. T. C. THEOPHANOUS (Minister for Consumer Affairs) — Last week the Liquor Licensing Commission published a statement in the press advising all licensees in Victoria of its views on practices that may encourage liquor abuse. The commission is concerned, as it has been for some time, about the gimmicks used by some licensees that promote or directly contribute to alcohol abuse. Such gimmicks include the serving of what are called slammers, shooters or lay-backs, which are terms describing the serving of a mixture of spirits that are consumed rapidly and cause those who drink them to become intoxicated quickly. Often the people who are consuming such drinks, because they are mixed drinks, are unaware of the alcoholic content.

Such practices as happy hours, the offering of discount drinks and the issuing of drink cards have come to my notice and to the notice of the commission. Although we are not trying to stop legitimate commercial practices, it is a different matter when those practices impinge on community interests. In particular, an intoxicated person should not be allowed to remain on the premises and continue to be served with alcohol.

The commission is taking a tough line on the issue. It has made it clear that the pursuit of such practices by licensees can bring into question their suitability as fit persons to hold licences under the Liquor Control Act.

The government regards the issue seriously and is taking positive steps in an attempt to educate the industry on the problems. Recently, in conjunction with the Liquor Licensing Commission, I have taken three steps.

The first is the introduction of a comprehensive course for licensees, which is available through the Box Hill College of TAFE and the Australian Hotels Association. Among other issues, the course places emphasis on the responsible serving of alcohol. Currently the course is voluntary, but I intend to make it compulsory for all people seeking liquor licences.

The second step, again in conjunction with the Liquor Licensing Commission, is a training program for staff at licensed premises and takes the form of workshops on the responsible serving of alcohol. The workshops are free and training is conducted on the premises of licensees. At this stage workshops have been undertaken at 64 licensed premises.

Finally, I have recently instructed the Co-ordinating Council on the Control of Liquor Abuse, headed by former police chief commissioner Mick Miller, to independently advise me on the serving practices in hotels. I have specifically asked the council to advise on the effectiveness of regulatory controls, information and education programs, industry guidelines and other existing measures to ensure that liquor service and promotional activities are carried out responsibly. I look forward to the report from the council.

The reforms undertaken by the government in the liquor industry have led to a varied and vibrant industry. However, it is important that the government should continue to place great emphasis

on the control of liquor abuse. Those actions are designed to ensure that that occurs.

PETITION

Human embryos

Hon. B. A. CHAMBERLAIN (Western) presented a petition from certain citizens of Victoria praying that legislation be passed to prohibit harmful and destructive experimentation on human embryos.

Laid on table.

AUDITOR-GENERAL'S REPORT

Bayside development

The **PRESIDENT** presented report of Auditor-General on Bayside development, May 1992 [pursuant to an Order of the Council on 5 September 1990].

PAPERS

Laid on table by Clerk:

Hospitals Superannuation Board — Report and financial statements for the year 1990-91.

Members of Parliament (Register of Interests) Act 1978 — Summary of variations notified to 1 June 1992.

Parliamentary Committees Act 1968 — Minister's response to recommendations in Natural Resources and Environment Committee's report upon Allocation of Fish Resources in Victorian Bays and Inlets.

Physiotherapists Registration Board — Report and financial statements for the year 1991.

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

Bulla Planning Scheme — Amendment L28.

Croydon Planning Scheme — Amendment L45.

Whittlesea Planning Scheme — Amendment L66.

State Casual Employees Superannuation Board — Report and financial statements for the year 1990-91.

Statutory Rules under the following Acts of Parliament:

Building Control Act 1981 — No. 77.

County Court Act 1958 — No. 76.

State Electricity Commission Act 1958 — No. 78, together with copies of the following documents which, by section 32 of the *Interpretation of Legislation Act 1984*, are also required to be laid upon the table:

AS 1430 — 1986 — Household refrigerators and freezers.

AS 1042 — 1973 — Direct-acting indicating electrical measuring instruments and their accessories.

AS 1284.1 — 1991 — Electricity metering — Part 1 — General purpose induction watt-hour meters.

AS 3303 — 1990 — NZS 6324 — 1990 — Approval and test specification — Particular requirements for refrigerators and food freezers.

AS 2575.2 — 1989 — NZS 6205.2 — 1989 — Energy labelling of appliances — Part 2 — Refrigerators, refrigerator/freezers and freezers — Determination of energy consumption and efficiency rating.

No. 79, together with copies of the following documents which, by section 32 of the *Interpretation of Legislation Act 1984*, are also required to be laid upon the Table:

AS 2040 — 1990 — Performance of household electrical appliances — Clothes washing machines.

AS 1284 — 1991 — Electricity metering — Part 1 — General purpose induction watt-hour meters.

Part 3 — Induction watt-hour meters — Energy demand type.

Part 4 — Socket mounting system.

AS 1284 — 1973 — Part 2 — Portable alternating current rotating standard watt-hour meters.

AS 2442 — 1981 — Performance of household electrical appliances — Rotary clothes dryers.

AS 3163 — 1985 — Approval and test specification — Electric washing machines for household use (as amended).

Australian Wool Corporation — AWC Test Method No. 102 — Method for the measurement of the felting severity of the wool product wash cycle or washing action of domestic washing machines.

Ordered that papers tabled by Clerk, except amendments to planning schemes and statutory rules, be considered next day on motion of Hon. HADDON STOREY (East Yarra).

TELEVISIONING AND FILMING OF PROCEEDINGS

The PRESIDENT — Order! As I entered the Chamber this morning I received a request from Channel 2 to film the proceedings of General Business. Consultation has been undertaken on my behalf with the Leaders of all parties. I understand they are happy with that arrangement. Permission is therefore granted under the usual terms designed to protect fairness and decorum.

BAYSIDE DEVELOPMENT and AUDITOR-GENERAL'S REPORT

Hon. M. A. BIRRELL (East Yarra) — By leave, I move:

That this House authorises and requires the Honourable the President to permit debate on Notice of Motion, General Business, No. 10, to be taken cognately with debate on a motion:

That the Council take note of the report of the Auditor-General on the Bayside development, May 1992.

Motion agreed to.

Hon. M. A. BIRRELL (East Yarra) — Pursuant to the foregoing resolution, I move:

- A. That this House censures the government for its chronic mismanagement of the Bayside development and other major projects in Victoria; and
- B. That the Council take note of the report of the Auditor-General on the Bayside development, May 1992.

The Bayside development is now ranked as the largest single failed capital works project in Victorian history. On a scale of loss of public funds it is equivalent to the Victorian Economic Development Corporation (VEDC) losses.

On a close examination of the Auditor-General's findings, this single failed government project has lost more than the VEDC combined and, as a result, will go down in history as another reason why the government must be thrown out at the next election.

This financial nightmare will be the political epitaph of the Minister for Major Projects. There is no doubt that the Minister is personally responsible for the mismanagement, failings and shortcomings that have led to this incredible financial liability. The Minister for Major Projects, the Deputy Premier, stands guilty of a number of charges.

Jim Kennan has been caught out being casual with the truth; he has been caught out being casual with public funds; and he is guilty of gross mismanagement of a project that has lost a fortune for Victoria.

Now we find out the added truth, the sting in the tail: there was a secret arrangement by the Minister to pass the cost of the project on to the term of the next government so that it would not have to be picked up by his failed administration, but would have to be picked up by the Liberal Party coalition government. The motive was for Jim Kennan to ensure that the issue was kept secret until after the election.

Close examination of the Auditor-General's report, and information supplied to the opposition, makes it clear that the secret agenda of the Deputy Premier was to pass on the cost of this project to the next government. That was part of his campaign to keep this disaster a secret and to ensure that Victorians were not told the full truth before the election. Those costs were to be bundled up in a new range of guarantees and agreements which would have ensured that the current debts and liabilities were transferred into the 1993-94 business year and beyond.

It is an outrage that Victorians have to pick up the tab for this example of gross mismanagement — with a project that has cost about \$122 million and is nothing more than an empty piece of dirt. This project makes even the World Congress Centre look good! Although according to an all-party report of Parliament the World Congress Centre will cost Victorians \$500 million — and this project will cost "only" about \$122 million — at least in the case of the centre we got a building! With this project we have nothing but empty dirt, no building and no achievement of any of the promises made by the government.

Is it any wonder that average Victorians in the suburbs are saying that they have had a gutful of this type of waste of public funds and that they will not tolerate people like Jim Kennan, Tom Roper, Sheehan, Jolly and the rest, who all deserve to be

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charged with being guilty of this type of failing. Victorians will not accept any more of the government saying that there must be a shiny side to this argument and a good case to be put forward. Fortunately today the public is too well in charge of this debate to accept the concocted nonsense the Deputy Premier puts forward as a reason for suggesting that the project stands up.

In the past 24 hours we have seen the Minister for Major Projects try to defend himself against the damaging charges put forward by the Auditor-General. The only single message that comes through from the Deputy Premier about this attack is that he wants to shoot the messenger — the messenger being either the Auditor-General or the media. He started attacking the Auditor-General early in the piece and last night he started attacking the media; he cannot defend himself on the substance and therefore he attacks those people who dare to inform the public of what has gone wrong.

On the Auditor-General's estimation the project will cost \$122 million, but on a closer reading and taking into account expenses outside the Major Projects Unit, it is clear that the cost to Victorians will be at least \$177 million.

The \$122 million was outlined by the Auditor-General on page 41 of his report. That is the official projected outlay of the government on the failed Bayside project. Further down that page of his report the Auditor-General cites \$26 million as the value of the land involved in the project. On top of that is a further \$29 million, which is the cost that has been forced upon the Port of Melbourne Authority to maintain Station Pier for the term of the lease to the Sandridge City Development Co. Pty Ltd. That is an all-up cost of \$177 million for this controversial project which is a mark of the failure of Labor governments over the past 10 years. According to the Auditor-General the State will receive only \$1.5 million in revenue.

Let us be fair; let us give it the benefit of the doubt and suggest that the government will sell this project in some heady boom time period of the future. The Auditor-General took that into account and said that, if it is sold in the medium-term future when things are better, we will receive \$14.3 million. Big deal! Let these Labor people become the property developers of the future and the whole nation will be bankrupt! Pump in \$177 million and in the good times we might get \$14.3 million back!

Labor MPs would not do it with their money but they have done it with ours, and if ever there is a hallmark of the corruption of Labor governments it is that they have been willing to squander our money.

Let us get the position into perspective and say that the \$122 million figure is right and that that is all it cost. The amount of \$122 million is more than the amount lost by the VEDC in its notorious first year, and we thought the VEDC was bad. Bayside makes it pale into insignificance because clearly the Labor Party has made an even bigger botch of this development. It lost only about \$111 million then, but the VEDC was different because it involved loans to private investors whereas this project has become, over time, a public investment project and nothing more. This is not a private investment project where, through facilitation, we are helping certain companies to develop their own deals. Secret money was given to the developer so that all the risk was borne by the State and all the cost was borne by the State.

This is almost an old-fashioned capital works project and yet when the history of the Labor government is written this will go down as one of its greatest single errors because this is the largest single failed capital works project in the history of Victoria, and God forbid it ever being bettered.

We know that with the defeat of the Labor government in the next few months this will become the painful and, one hopes, distant part of Victoria's history, and let us not forget the scale of this loss.

One should compare what was promised with the big lie of the Deputy Premier who said, "This land had to be developed; we had to consolidate it. There was a need to clean it up."

But the government promised to do all of that and make a profit and have something built on the site. It is a quaint notion that we might have a development project where something is built, but that is what was promised. It is a quaint notion to make a profit on a project that you are trying to sell for a profit, but that is what the government promised and now, even if the project proceeds, we will lose tens of millions of dollars.

It is perhaps arguable that we would be better off if the project did not proceed at this stage, given the contractual obligations quietly entered into between the government and the developer. We may be better off if it all falls flat because there will be extra

liabilities that fall due if it does proceed. Whatever occurs, we know that the people of Victoria and the incoming coalition government will inherit a financial disaster.

How do we accommodate the cost that has been built up in relation to the site? To put it in generous terms, the site is just a touch overcapitalised! This was meant to be a place for affordable housing, for heaven's sake, and we have spent \$122 million on it! At best we will receive \$14.3 million back. What do we do with the balance of the cost? Spread it across the purchase price of the houses?

We have heard the Minister, David White, say that Bayside is a great initiative because it will mean affordable housing that is cheaper than building in the outer suburbs. How are we going to recover our costs and still have affordable housing?

Condominiums that cost \$2 million each would hardly cover the cost of dealing with the inherited liabilities and debts that have been built up on this site! Although the project was meant to make a profit the situation has not turned out that way, and the coalition is indebted yet again to the Auditor-General for exposing for the first time the truth about what happened.

An honourable member interjected.

Hon. M. A. BIRRELL — Fearlessly doing so.

It was, for instance, agreed that the land would be valued by the Valuer-General, but that did not happen. An umpire was appointed from a list of names suggested by the developer and then all of a sudden the valuations were different. That was the first problem.

The second problem was that it was agreed that bodies outside the Major Projects Unit, such as the Port of Melbourne Authority, would not incur any costs. However, the project suddenly started to go under so Jim Kennan passed on some costs to bodies outside the Major Projects Unit. The Port of Melbourne Authority will be hit with a bill of at least \$29 million over 50 years to support a project from which it gains nothing and arguably loses a lot.

Thirdly, as a result of what the Auditor-General has put forward we also know that there was a clear plan to pass on the costs to the incoming coalition government. If anything outrages the coalition more than the exposé of the mistake, it is the information in the report, which confirms independent leaks to it that the secret plan of the government was to simply

bundle up the costs and put them into the next business year. In that way the mistake would not be exposed and the cost would not be taken out of the government's current Budget, which would relieve it of some major problems.

At page 72 of the Auditor-General's report some factual information is provided which confirms the coalition's worst fears. The Auditor-General makes it clear that in confidential discussions led by the Deputy Premier, offers were made to the developer so that it would not have to pay for the bulk of the land until 31 December 1996. In other words, the revenue flow from the site was going to be put off beyond the end of the coalition's first term in government, depriving the next government of the revenue flow that would have been expected and therefore further sabotaging its Budgetary position.

In addition to that, the government secretly offered further guarantees of just under \$13 million to prop up the project.

Let us cut through the detail of the Auditor-General's report; let us take with a grain of salt the leaks to the coalition from the Department of Treasury on this issue; let us get to the bottom line: the government saw the project becoming a massive financial problem and a gross political embarrassment. The government's answer to that was the dual objective of burying the issue publicly by continually offering guarantees that would fall due in the next term of government. A two-barbed attack could not be more clear. The coalition will feel the impact of one of those barbs, but thanks to the Auditor-General it will not go into the next election without the information on this project as it went into the last election without the information on the Victorian Economic Development Corporation. Times have changed.

Before the last election this government in its secretive, deceptive and corrupt manner kept quiet the disaster of the VEDC. But the Auditor-General has blown the government apart on this project, which has already lost more than the VEDC fiasco.

The coalition seeks to put on the record how it will deal with the matter and how it will expose further elements of it, having just exposed what it believes to be the worst and as yet not well-understood aspect of the scheme. I refer to the secrecy designed to cover up the mess and to pass on the costs into the period of future governments.