Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 29 AUGUST 1984

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Mr SPEAKER (Hon. J. H. Warner, Toowoomba South) read prayers and took the chair at 11 a.m.

OPPOSITION APPOINTMENTS

Mr WARBURTON (Sandgate—Leader of the Opposition) (11.1 a.m.): I desire to inform the House that the following Opposition members have been elected by the Australian Labor Party parliamentary caucus—

Leader of the Opposition—N. G. Warburton, MLA, member for Sandgate;

Deputy Leader of the Opposition—T. J. Burns, MLA, member for Lytton;

Opposition Whip—B. J. Davis, MLA, member for Brisbane Central;

Leader of Opposition Business in the House—W. G. Prest, MLA, member for Port Curtis.

PAPERS

The following papers were laid on the table—

Orders in Council under—

Workers' Compensation Act 1916-1983
Noise Abatement Act 1978-1983
Clean Air Act 1963-1981
Valuation of Land (Annual Adjustment) Act 1984
Valuation of Land Act 1944-1984
Forestry Act 1959-1982
Children's Services Act 1965-1982

Proclamations under—

Industrial Conciliation and Arbitration Act and Another Act Amendment Act 1983
Forestry Act 1959-1982
Parole Orders (Transfer) Act 1984
Offenders Probation and Parole Act Amendment Act 1983

Regulations under—

Industry and Commerce Training Act 1979-1983
Workers' Compensation Act 1916-1983
Consumer Affairs Act 1970-1983
Industrial Conciliation and Arbitration Act 1961-1983
Private Employment Agencies Act 1983
Factories and Shops Act 1960-1983
Weights and Measures Act 1951-1983
Inspection of Machinery Act 1951-1982
Construction Safety Act 1971-1982
Fire Brigades Act 1964-1983
Fire Safety Act 1974-1984
Clean Air Act 1963-1981
Valuation of Land Act 1944-1984
Valuers Registration Act 1965-1983
Offenders Probation and Parole Act 1980-1983

Rules of Court under the Industrial Conciliation and Arbitration Act 1961-1983

MINISTERIAL STATEMENTS

Builders Registration Board

Hon. C. A. WHARTON (Burnett—Minister for Works and Housing) (11.5 a.m.), by leave: Yesterday in this House the honourable member for Ashgrove raised certain matters concerning the Builders Registration Board. He raised a case about which he said there was cause for criticism of the board. As is so typical of many of the statements made by Opposition members, the attack failed to provide any source to authenticate it.

A cheap way of making an attack on the board is to make an unsourced claim and deny the body under attack an opportunity to reply specifically to the case. In the absence of any specifics about the case to which the honourable member refers, let me spell out the overall situation for him.

I assume that the matter referred to was one handled recently by the board. During 1983-84 the board handled a total of more than 1 200 complaints from home-owners. By the end of that period the board had already rectified 70 per cent of those complaints.

Let me further point out that only building companies registered by the board are entitled to build in Queensland. A subsidiary of a registered company is not entitled to build. Contrary to the honourable member's assertions, the board does investigate a company's corporate status before it can be registered.

Prior to signing a contract consumers should contact one of the board's offices to ascertain whether the builder is registered. A contract should not be signed with an unregistered builder.

If the honourable member is genuine about this particular case, he should provide to the board the name of the company concerned, and that of the owners, and the board will have the matter investigated.

The honourable member referred to media reports about the board. I point out that the board is experiencing a situation in which home-buyers are lodging complaints with the media before they lodge them with the board. People who feel that they have genuine complaints against builders should lodge a complaint in writing with the board to enable it to carry out its task. Thousands of people who have done so have received protection from the board which, each year, is now achieving at least $2m worth of repair and rectification work on homes at no cost to the owners. That is apart from the work being carried out through the board's insurance scheme. Since 1978 the board has spent $3.5m in insurance payments to assist home-owners throughout the State.

Fire Services Levy

Hon. M. J. TENNI (Barron River—Minister for Environment, Valuation and Administrative Services) (11.7 a.m.), by leave: In recent weeks, local authorities throughout Queensland, on behalf of the State Government, have begun distributing fire levy notices to residential property-owners serviced by urban fire brigades.

Under the State Government's fire brigade funding reforms, the levy shares the cost of fire protection fairly among all residential property-owners, regardless of their insurance cover or the value of their property.

No longer will the prudent home-owner, who fully insures his or her property, be expected to subsidise the fire protection costs of the uninsured or underinsured residential property-owner.

The reform is of particular benefit to home unit-owners who, under the old levy which was calculated on the sum insured, had to pay a totally unreasonable proportion of fire brigade cost. The reforms are also of great benefit to young home-buyers who, because they were required by their lending institutions to carry full insurance cover, paid a very high fire levy charge.

This reform in fire brigade funding will, from next July, be extended to all commercial and industrial property-owners. Until that date, the commercial and industrial sector will continue to meet its share of fire protection costs under the old insurance-based levy.

These important reforms were introduced by the State Government against a background of strong and totally misleading criticism from the ALP and, in particular, the Lord Mayor of Brisbane. Several weeks after the introduction of the first stage of these reforms, the ALP continues to perpetuate the myth that this fire levy is a totally unfair tax on the residential property-owners of this State. Its spokesmen carefully ignore the fact that the levy completely replaced the old insurance-based charge, which discriminated against the prudent home-owner who fully insured.

Such criticism is made even more hypocritical by the fact that the Brisbane City Council, which is presently distributing the fire levy notices, has cheated the rate-payers of this city. The council has conveniently found excuses not to pass on the saving of some $2.7m, which it is no longer required to make as a direct contribution to the running of the Metropolitan Fire Brigade.

Although the State Government continues its policy of reducing taxation, the Lord Mayor has kept a tight grip on this non-existent contribution, claiming that it will be spent on unemployment projects around the city.

I remind the property-owners of Brisbane that they should be saving almost $12 a year on their rate bills from Alderman Harvey. Like Mr Keating, who also believes in phoney tax relief, Alderman Harvey stands condemned for his financial sleight of hand.

PETITIONS

The Clerk announced the receipt of the following petitions—

Funding, Hercules Road State School

From Mr Kruger (136 signatories) praying that the Parliament of Queensland will give full consideration to the urgent need for further funding of the Hercules Road State School.

Allocation of School Funds

From Mr McElligott (147 signatories) praying that the Parliament of Queensland will review the basis on which funds are allocated to schools.

Resiting of Rosalie Shire Chambers

From Mr FitzGerald (572 signatories) praying that the Parliament of Queensland will draw attention to the results of the referendums concerning the resiting of the Rosalie Shire Chambers.

Electricity Tariff Increases

From Mr De Lacy (133 signatories) praying that the Parliament of Queensland will revoke the recent electricity tariff increases.

Rent Formula, Housing Commission

From Mr De Lacy (237 signatories) praying that the Parliament of Queensland will review the Housing Commission formula for calculating rent.

Class-room Lighting, Lota State School

From Mr Shaw (247 signatories) praying that the Parliament of Queensland will take measures to have lighting provided in class-rooms in C block at Lota State School.

Petitions received.

QUESTIONS WITHOUT NOTICE

Bread Pricing

Mr WARBURTON: In directing a question to the Minister for Primary Industries, I refer to the recent bread price increases that took effect on 8 August 1984, and point out that I appreciate that the actual control of prices is a responsibility of the Minister for Employment and Industrial Affairs. I now ask: Because there were no wage rises in the industry and no consumer price increases—and, indeed, there was an actual reduction in the price of wheat—will the Minister advise the House why Queensland consumers have to pay more for bread?

Mr TURNER: I point out that the bread price increases came about after two independent studies, one by the Bread Industry Committee and the other by the Department of Primary Industries, into cost escalations that had taken place over a period. I am delighted that the honourable member has given me an opportunity to reply on the supposedly high price of bread in Queensland. I advise him that the present maximum retail price of bread in Brisbane is 92c; in Adelaide, 98c; in Perth, 96c; in Melbourne, $1.02; and in Canberra, $1.03. That is an adequate answer concerning the increases which, I believe, have been justified in line with cost increases over a period.

Royal Commission into Control of Racing

Mr WARBURTON: The Minister for Justice and Attorney-General is absent, so I direct my question to the Minister for Local Government, Main Roads and Racing. In doing so, I refer to the stewards' inquiry into what, unfortunately, must go down as Queensland's worst racing scandal. The Minister will appreciate that the stewards' inquiry is very limited and that on Monday of this week a witness refused to answer questions put forward by the chief steward. There seems no doubt that criminal prosecutions will be launched as a result of allegations being made, which involve fraud and murder threats.

Appreciating the seriousness of the allegations and the harm that the present scandal is doing to the State's racing industry, will the Minister for Local Government, Main Roads and Racing recommend to the Minister for Justice and Attorney-General, as a matter of urgency, the setting up of a royal commission to investigate all aspects—and I mean "all aspects"—of racing control in Queensland?

Mr HINZE: I say emphatically at this stage that there is no need to give consideration to the appointment of a royal commission. As I indicated in the House yesterday, the matters are going along the way that they are supposed to go in relation to the stewards' inquiry. A meeting was held on Monday and was adjourned until next Friday. As the Leader of the Opposition will appreciate, simultaneously with the inquiry, the Police Department is working on the matter. The information coming to me from discussions with my colleagues the Minister for Lands, Forestry and Police and the Minister for Justice and Attorney-General indicates that the steps being taken are designed specifically to overcome the problem of which the Leader of the Opposition has spoken, that is, to keep racing in Queensland on the high plane on which it is now conducted.

Criticism is coming from one part of Australia. Strangely, it is coming only from the Sydney area; it is not coming from any other part of Australia. The delays being occasioned are the usual delays that justice inflicts on these sorts of trials. I am just as keen as the Leader of the Opposition to have the whole matter tidied up as quickly as possible. I give him the assurance that at this time it does not appear that a royal commission is necessary.

Upheaval Within the State Labor Party

Mr NEAL: In directing a question to the Premier and Treasurer, I draw his attention to the latest upheaval within the ranks of the State Labor Party, and I ask: Does he agree with the columnists, particularly one columnist who said this morning that Mr Keith Wright has pulled the plug on his Labor mates? Is it not a fact that Mr Wright said only two weeks ago that he would remain Leader of the Opposition until after he was soundly defeated by this Government at the next State election? Is it not a fact that Mr Peter Beattie, who sees himself as a future leader of this State, was the toe-cutter in this rather unfortunate exercise, and that the same fate awaits Mr Wright's successor?

Sir JOH BJELKE-PETERSEN: It is quite clear that the former Leader of the Opposition has jumped out of the frying-pan into the fire. He has assumed that he will be nominated for the Federal seat. Today, one finds that Dr Everingham is very cross and irate, and that he has gone to the media saying that Canberra should keep its nose out of Queensland's business. Of course, that relates to the Labor Party. So he will not help in any way. Therefore, this Assembly might still be stuck with the former Leader of the Opposition.

Of course, as the honourable member indicated in asking the question, it is quite clear that Mr Wright did act impetuously, bearing in mind the statements that he made a long time ago and the fact that yesterday he said that he had no hope in the future. Instead of congratulating the present Leader of the Opposition, I should commiserate with him, because he has an impossible task with impossible colleagues.

By and large, Mr Wright has a hard, stony road ahead of him, bearing in mind what Dr Everingham has said, and he was quite right in that regard. Let us wait and see what happens. I would say that Mr Wright has jumped out of the frying-pan right into the fire, and it will be pretty hot for him there for a long time to come.

Union Demands, Effect on Economy and Employment Prospects

Mr NEAL: I ask the Premier and Treasurer: Do statements attributed in the media to Mr John Stone, the Secretary of the Federal Treasury, underline the disastrous effect of union demands on the economy and employment prospects in this nation? Do such comments further emphasise the need for freedom of choice and the policy of voluntary unionism as advocated by the Queensland Government?

Sir JOH BJELKE-PETERSEN: The comments made by Mr Stone were very important because they criticised the performance of the present Federal Labor Government and the former Liberal/National Party Government. Because he has resigned his position and is on the verge of leaving the public service, he has justification for saying what he said. I am sure that he would have made those comments in the next couple of days anyway, and I do not criticise him for making them.

Mr Stone has drawn the attention of the nation to the serious problem that confronts it because of the attitude of the unions and the Federal Government of pursuing higher and higher wages and shorter and shorter working hours. As Mr Stone said, Australia cannot accommodate those changes. It is the people who are in work who are making it impossible for the people out of work. Mr Stone was as much concerned with that as he was with the unstable economic policies of the people in Canberra.

The Federal Government should be pursuing a policy of reducing bureaucracy and lowering taxes. Instead, it has introduced a new issue of bonds worth $13 billion in an attempt to overcome its mismanagement of the economy, which, of course, is disastrous for the nation. The interest and redemption payments that the Government must make amount to more than is spent on defence services.

Mr Burns: Didn't Mr Stone criticise State Governments for excessive borrowing?

Sir JOH BJELKE-PETERSEN: Mr Stone is a very strong supporter of the policy that the Queensland Government pursues.

Mr Burns: He did criticise State Governments, though.

Sir JOH BJELKE-PETERSEN: Yes, he criticised State Governments, but he had in mind the Labor State Governments that borrow heavily.

Mr Burns: He said State Governments; he did not say Labor State Governments.

Sir JOH BJELKE-PETERSEN: Mr Stone did make that statement, but he exonerated the Queensland Government. My Government borrows only for projects that will cover their own interest and redemption payments. It does not borrow to build schools or to provide social service benefits as the Labor State Governments do. Mr Stone is very rightly concerned about such borrowing.

I give Mr Stone 100 per cent for saying what he said and for warning the nation in that way. I hope that the Australian people will take heed of his comments at the Federal election that has been forecast, which, I might add, should not be held because there is no justification for it and it is out of kilter with the Government's term.

Nursing-home Beds

Mr ALISON: In directing a question to the Minister for Health, I refer to his recent press statement that no nursing-home beds have been approved by the Federal Government for Queensland since the Hawke Labor Government took office in March 1983. The Federal Government has taken no notice of the long waiting lists. I ask: Can he offer an explanation for the continuing lack of concern shown by the Hawke Labor Government for the elderly in the Queensland community?

Mr AUSTIN: In "The Sunday Mail" of last week-end, the Federal Minister for Health was reported as saying that 600 new beds had been approved for Queensland nursing homes. That report was a load of tripe. Since March 1983, no new nursing-home beds have been approved for the State. Because of the Federal Government's policy, a crisis has arisen in care for the aged.

Honourable members will recall that when the Labor Party was campaigning for office in 1983, it announced that it would revamp the aged-care policies that were being implemented by the Fraser Liberal/National Party Government and that it would spend approximately $300m on programs relative to care for the aged. When the Hawke Labor Government brought down its first Budget, it announced that it would spend $300m on such programs. I note from the Budget papers of the second Hawke Labor Government Budget that $300m has again been allocated. Since March 1983, an expenditure of $300m for aged-care programs has been promised, but that has not eventuated.

The Budget papers would reveal that the Budget that was brought down by the present Federal Government contains an additional allocation of only approximately $10m for the aged care programs.

Each and every honourable member receives telephone calls from desperate families who are wishing to have their elderly relatives placed in nursing homes. Many nursing homes throughout Queensland have now closed their books, and no nursing home beds are available. The situation is disastrous.

A committee known as the Commonwealth/State Co-ordinating Committee is charged with the responsibility of approving the establishment in Queensland of new nursing homes. Since the present Federal Government was elected, that committee has met on a number of occasions, yet, notwithstanding recommendations put forward by officers of the Queensland Health Department, no new approvals have been proceeded with. In fact, although that committee met as recently as last week, no decisions were made.

I am getting a bit sick and tired of the same type of press statements being regurgitated not only by the Federal Minister for Health but also by the Federal Minister for Social Security and the Federal Minister for Veterans' Affairs.

Following the Federal Government's recent Budget, a joint press statement was issued by those three gentlemen as follows—

> "The Federal Government has taken a much needed new direction in care for aged and disabled people with the announcement of a major community care package in the Budget."

A major community care package in the Budget! The Federal Government has allocated only $10m for the whole of the nation! It is obvious to the people of Australia that the Federal Government, in an attempt to save money, has stopped the development of nursing homes.

As I said recently in this place, the cost of Medicare is increasing at such a rapid rate that the tax-payers can no longer afford to pay for it, so the present Federal Government is asking the aged members of the community to finance its Medicare program.

Government Members: Shame!

Mr AUSTIN: It is indeed a public scandal.

If those Ministers to whom I have referred were questioned on what they have done for the aged, it would be revealed that they have done nothing. Yet they tell the people of Australia that they will be spending $300m. I am getting a bit sick and tired of hearing about this $300m. What the Federal Government's statements really mean is that in its next two Budgets the Federal Government will have to spend in excess of $280m on care for the aged. That is just not on.

Leasing of Wide Bay Marine Centre by Maryborough TAFE College

Mr ALISON: I ask the Minister for Education: Is he aware of his department's proposal to lease the Wide Bay Marine Centre, which is one block removed from the TAFE College at Maryborough, to ease the immediate problem caused by shortage of space at the college? Does he agree that that proposal would provide a reasonable short-term solution to the problem? Will he give an assurance that he is giving earnest consideration to a long-term solution to the overall problem of lack of space at both the TAFE College and the Maryborough State High School?

Mr POWELL: I am aware that the principal of the TAFE College in Maryborough has been involved in negotiations over the leasing of the Wide Bay Marine Centre by the college. I am also very familiar with the problems confronting both the Maryborough TAFE College and the Maryborough State High School with regard to limitations on space.

I hope that the preferred option, as it is commonly called, that my department is looking at at present within education will provide a solution to the problems arising from lack of space at Maryborough and other towns like Maryborough. The department has a real opportunity to pilot the proposal that it is putting forward in relation to senior college purposes and the building of a new TAFE college in the area. That proposal is currently being examined by my department. As soon as I have further information on it, I shall acquaint the honourable member of it.

Just as in the late 1950s and early 1960s an explosion occurred in secondary education throughout the State, I expect that the in the late 1980s and early 1990s an explosion in technical and further education will occur throughout Queensland. I assure the honourable member and the House that my department is currently examining plans to cater for that explosion.

Increase in Mill Peak for Rocky Point Sugar-mill

Mr CASEY: In directing a question to the Minister for Primary Industries, I refer to Monday's unprecedented announcement that an additional 10 000 tonnes of sugar peak will be granted to the State's only privately owned family company sugar-mill, which is the Rocky Point mill. I now ask: As the granting of that additional peak is contrary to the intent of the current series of meetings that are being held throughout

Queensland by the four main sugar organisations in the State—the ASPA, the Queensland Cane Growers Council, the Proprietary Sugar Millers Association and the Co-operative Sugar Millers Association—is it not an indication that the Government intends to ignore the recommendations put forward by the sugar industry concerning its structural adjustment? Further, why was Rocky Point Sugar-mill singled out without consideration being given to those very small co-operative mills that are struggling, such as Babinda and Cattle Creek mills?

Mr TURNER: Last year, problems were experienced at the Rocky Point mill. It did not reach its peak because of serious flood problems. At the moment that mill is experiencing serious financial difficulties, as is a large section of the sugar industry. It is a one-off situation. The Central Sugar Cane Prices Board under the chairmanship of a Supreme Court judge has recommended interim relief to allow the mills to remain in business until the completion of the internal review into the sugar industry, with which the honourable member is well aware. It is a pity that the honourable member, who represents a sugar-growing district, and the Federal Government, are not aware of the serious problems that presently confront the sugar industry.

Mr Casey: Why don't you answer the question?

Mr TURNER: I have answered the question. The industry is in difficulties. It is a one-off situation. A recommendation has been made to assist the mills until the internal review is carried out. The decision was not made by the Government; it was made by the board with a Supreme Court judge as its chairman.

Earlier I said that the sugar industry is facing probably the most serious crisis that it has ever faced in its history. Two years ago the Queensland Government saw fit to lend $10m to assist six sugar-mills that experienced problems, and $5m was provided in rural assistance scheme funding. Last year the Queensland Government induced the Federal Government to come to the party with $10m to match the $10m provided by the Queensland Government. That meant that the Queensland Government had contributed $15m to the Federal Government's $10m. This year, another $5m in RAS funding has been allocated to the sugar industry. What did the Federal Minister for Primary Industry (Mr Kerin) do? He did precisely nothing! He cut RAS funding across the board from $45m to $26m. He gave nothing to the sugar industry. In his election speech Mr Hawke promised an underwriting scheme to assist the sugar industry. The promise was not honoured. Nothing has been done about it. The Queensland Government has provided $175,000 or half the cost of an internal review into the sugar industry. The Queensland Government is cognisant of the problems. It is trying to do something to help the sugar industry because it is placed in a serious position at the moment. Because of the lack of assistance provided by the Federal Government to the sugar industry at present, I would not like to be one of the ALP Federal members who represent sugar-growing areas.

The Queensland Government is proud of what it has done and is attempting to do for the sugar industry in Queensland.

Rail Freight on Fuel

Mr CASEY: In directing a question to the Minister for Transport, I refer to the statements made last week by the Premier, the Minister for Environment, Valuation and Administrative Services (Mr Tenni), the Minister for Northern Development and Aboriginal and Island Affairs (Mr Katter) and himself about the great job that the Queensland Government is doing for north Queensland. I ask: Will he explain why, when his Government earlier this year reduced the Queensland rail freight on fuel from Townsville to Mount Isa by approximately $30 a tonne on a block-train system, which means a further loss to the railways of almost $2m a year, motorists, graziers and other consumers in the Mount Isa region did not receive the reduction of up to 2.9c per litre that they should have received on their fuel? Instead, fuel prices in Mount Isa have increased by 4c a litre. As that is typical of the way in which the Government takes

money from the tax-payers of Queensland and gives it to oil companies and freight-forwarders, will he either force them to pass on the freight saving to the people of Mount Isa or charge them an extra $30 a tonne until they do so?

Mr LANE: The honourable member's observations represent the new commercial, sales and marketing sections of the Railway Department at work. They have gone out into the market-place and struck rates designed to pick up business from the competitors of the Railway Department. That is exactly the Government's policy—to encourage the Railway Department to play a greater commercial role in the community.

Through increased efficiency, rail freight rates have been cut. When related to the carriage of petroleum products, one of these efficiencies is the one that was mentioned in the honourable member's question, that is, the block train system. Obviously, greater efficiency is obtained in running faster, better composed, block train systems.

Mr Casey: I am not arguing about that. Why isn't the benefit being passed on to the consumer?

Mr LANE: Just be quiet! The honourable member is a great windbag. He should listen to the answer. The honourable member complains about everything. About the only thing he will not complain about this morning is the new leadership of the parliamentary Labor Party, because, at present, he happens to be in the right faction of the party to benefit from it.

Whether the benefits of these reduced rail freights will be passed on to consumers is a matter for the oil companies. As the honourable member would know, Queensland does not have price control. However, under the guidance of my colleague the Minister for Employment and Industrial Affairs, an examination of the pricing and distribution of fuel is currently being carried out. When the results are available, the Government will be in a better position to know exactly what can be done with the benefits that will flow from the more efficient transportation of petroleum products.

Pensioners' Assets Test

Mr McPHIE: I ask the Deputy Premier and Minister Assisting the Treasurer: Is it not a fact that in the Federal Budget the Federal Treasurer made no mention of the proposed assets test? If that is so, would it be correct to assume that the Federal Government has abandoned the assets test on pensioners?

Mr GUNN: Mr Speaker——

An Opposition Member: You are not going to read it, are you, Bill?

Mr GUNN: No. I will read the figures.

Of course, the Federal Government's controversial assets test did not rate a mention in its Budget. However, if honourable members look at statement paper No. 1 of the Budget Papers, they will find reference to it there for implementation on 21 March of this financial year.

Mr Milliner interjected.

Mr GUNN: Opposition members should not look so unhappy. They are the most morbid looking lot I have ever seen. I have seen brighter looking people at the undertakers' picnic. Smile! Although it is pretty close to it, it is not the end of the world for the Opposition.

The impact on primary producers of Labor's pay-as-you-die policy in the assets test will mean that children who inherit family properties will have to pay for them for many, many years. This is one of the cruelest taxes that any Government in the history of this country has ever intended to levy.

Mr Keating can rest assured that the pensioners and other voters in this State and every other State in the Commonwealth will remember at the next election, which is

now being mooted, just what the Government intends to do to the poor old pensioners of the nation. That is not to the Federal Government's credit at all.

Effect on Industrial Relations of Election of Member for Sandgate as Leader of the Opposition

Mr McPHIE: In asking a question of the Minister for Transport, I refer to recent wildcat strikes that have caused nuisance to suburban rail commuters in Brisbane, and I now ask: Having in mind the close alignment that exists between the various factions in the industrial and political wings of the Labor movement, what effect is the election of the member for Sandgate (Mr Warburton) as leader of the parliamentary Labor Party expected to have on future industrial stability in the State?

Mr LANE: I compliment the honourable member on his perspicacity. If one wanted to speculate on the future industrial stability of Queensland now that the member for Sandgate is Leader of the Opposition, one would have to look first at the honourable member's personal record in that regard. One should look back to when he was an official of the Electrical Trades Union and one of the heavies at Trades Hall. Probably he was responsible for more industrial trouble and strikes and cost employees more money per head than any other trade union official who went before him or has come this way since. That is just a passing comment, and I am sure that all Government members will elaborate on the personal record of the new Leader of the Opposition as time goes on.

Sir Joh Bjelke-Petersen: Do you mean the present Leader of the Opposition?

Mr LANE: I mean the present Leader of the Opposition (Mr Warburton), yes. He is the man who used to cause all the electricity strikes. He used to close down the power houses, which meant that a large number of people in my electorate, particularly old ladies, could not use the lifts to get up to their units in high-rise unit blocks. Why did they have to put up with that? Because the members of his union, acting under his instruction, had turned off the electricity. That is the man who has just taken over the role of Leader of the Opposition. But what is probably more important is the fact that the election of Mr Warburton——

Mr Wilson interjected.

Mr LANE: What hurry? I am not in a hurry. I will continue speaking for quite a while.

Opposition Members interjected.

Mr SPEAKER: Order! I appeal for some semblance of order.

Mr LANE: It would be of interest to some of the new Government members to discover just where the Leader of the Opposition stands in regard to the factions within his party. Mr Warburton's election represents a great victory and a grand revenge for the old guard of the Labor Party. A grand revenge was wreaked on the interventionists today.

Opposition Members interjected.

Mr LANE: I can see the smirks on the faces of the members of the old guard. They look like a cat that has just swallowed a canary. They trampled over the bodies of members of the new guard such as Mr Goss, Mr Mackenroth and a few others.

I just happen to have with me this morning a pamphlet published by the Centre Majority of the Labor Party. That is not Mr Warburton's faction, of course; it is a new guard faction which, according to the pamphlet, is led in this place by Mr Terry Mackenroth, Mr Jim Fouras and Mr Geoff Smith, members of the State Caucus. Of course, the late Kevin Hooper was a prominent member. Other prominent members in the Federal arena are Bill Hayden, Manfred Cross, Len Keogh and Mal Colston. They

all belong to a faction of the Labor Party different from the current leadership of Mr Warburton and Mr Burns.

Sir Joh Bjelke-Petersen: They wouldn't be very happy, would they?

Mr LANE: No, they would not be very happy at all. It is a terrible state of affairs.

Let us look at this pamphlet produced by the faction to which Mr Mackenroth, Mr Goss and Mr Smith belong to see what they say about the new leader of the Labor Party. They set out why there needs to be factions in the first place, and they say, referring to their own faction—

> "The Centre Majority represents the broad spirit of the Labor movement and is not locked away into any narrow sectional base."

Of course, that reference is to Mr Warburton. They continue—

> "Without a healthy Centre faction to represent the aspirations of the ordinary ALP member there is a grave danger that the Party in Queensland will slide back into the irresponsible extremism that characterised the party up until Federal intervention in 1980 and which kept Queensland Labor in the political wilderness for so long."

So Mr Mackenroth, Mr Goss, Mr Beattie and all the other people referred to in the pamphlet say that the party has now slid back into the irresponsible extremism that characterised the party before 1980. It has slid back into the hands of Mr Warburton. Therefore, one wonders just how industrial relations will fare in the future, with the fights that will inevitably occur with the old guard controlling the parliamentary wing of the Labor Party and the new guard controlling the administrative committee.

The pamphlet goes on to describe the old guard. If Opposition members would like a little more—

Mr SPEAKER: Order! I am sure that the Minister has made his point.

Mr LANE: It is such good news that it is very tempting for me to remain on my feet all day. In referring to the old guard—

Opposition Members interjected.

Mr SPEAKER: Order!

Mr LANE: I will resume my seat after I have made this statement, Mr Speaker. Referring to the old guard—

Mr SPEAKER: Order! I have already said that the Minister has made his point.

Gulf Barge Service

Mr HENDERSON: I ask the Minister for Northern Development and Aboriginal and Island Affairs: Will he advise what criticism he has received of the initiative to establish a barge service to Gulf settlements? Is it true that a significant split has developed in the ALP in north Queensland over the proposal? Further, is it true that one member of the House has been deeply embarrassed by the actions of one of his parliamentary colleagues?

Mr KATTER: Naturally, I hate to bring this matter to the attention of the House. The department has been advised that, at times, people in the Gulf wait 37 days between shipments from the shipping service that presently services the inside areas of the Gulf. That is a long time to wait for fresh milk and fresh bread. On many occasions during the wet season, these items have to be flown in at enormous cost.

The member for Cairns (Mr De Lacy) has already asked me in the House whether the barge service will adversely affect the existing operators. Obviously the question was fed to him by the existing operators, Burke Shipping. I point out that, in addition to

the present 37-day delay between ships visiting the Gulf ports, when the cattle producers at Aurukun tried to get their 1600 head of cattle out, they sustained losses of one-third. Those cattle should have gone to the meatworks at Cairns to provide jobs for the meat-workers there. The workers can sheet home their thanks for the two or three weeks early closure of the works last year to the person who is trying to prevent the barge service from proceeding, that is, the member for Cairns. I am sure that, very shortly, this matter will be brought to the attention of the meat-workers up there.

The third reason why the Government had to consider the barge proposal was the enormous cost of items in the Gulf country. At Aurukun, the cost of milk is regularly $2.50 a litre. Water-melons that cost $2 in Cairns last year were sold at Aurukun for $9. The cost of food items in Karumba is 40 per cent higher than the cost in Brisbane.

In a desperate attempt to do something about the high cost of living, the Northern Development Office instituted this proposal. It will enable three things to be done. Firstly, it will assist Karumba and all the other Gulf settlements.

I should say that it is very interesting to see the black people and people of European descent in the Gulf area working so closely together in a business environment. This is an extremely healthy situation, and, if nothing else, that state of affairs has been achieved.

This will enable bulk-buying, bulk-handling and also bulk-loading, which is very important. The trucks carrying prawns are travelling to Cairns, Townsville and various other places and are returning empty. They can be used for back-loading. Goods will be carried into the Gulf area at virtually no cost at all.

In addition, it is hoped that the Government has organised direct buying from farmers at Mareeba, Ayr and Bowen, which will also result in sizeable reductions in the cost of living.

Finally, to answer the question I must indicate that the person who chaired the meeting at Karumba was the leader of the ALP at Karumba. The member for Cook (Mr Scott) has been extremely embarrassed by the stand taken by the member for Cairns (Mr De Lacy) in attacking the Government on this matter.

Mr Scott: When is it going to start?

Mr KATTER: Would the honourable member deny—

Mr Scott interjected.

Mr SPEAKER: Order! I will not allow question-time to be turned into a debate. I ask the Minister to answer the question.

Mr Scott: How much subsidy will you pay to get if off the ground?

Mr KATTER: Is the honourable member attacking the proposal?

Mr Scott interjected.

Mr SPEAKER: Order! I warn the honourable member for Cook.

Mr R. J. Gibbs interjected.

Mr SPEAKER: Order! If the honourable member for Wolston returns to his usual place, I might listen to him.

Mr R. J. Gibbs: Well, I will sit in my usual place and ask why you don't do something about him.

Mr SPEAKER: Order! I warn the honourable member for Wolston under Standing Order No. 123A.

Mr KATTER: The member for Cook has been flushed out on this issue, and that is exactly what the Government wanted to do. He has now joined the member for

Cairns in attacking the barge proposal. The people of Wujal Wujal asked for a road, and he tried to have it stopped. Then when he was bucketed he went into hiding. Now he has done exactly the same thing on the barge proposal. I shall take great delight in informing the leader of the ALP in Karumba, who chaired the meeting there, and also the people of Cairns of the performance in the House of the member for Cook on this subject.

When the Minister for Environment, Valuation and Administrative Services and I raised the issue of the Australian National Line, we were attacked by Opposition members in this House who were defending the ALP Government in Canberra. We were trying to defend the people of north Queensland. Again, when we come out with a proposal to try to do something constructive for the people in the Gulf area—our figures indicate that we can reduce the retail cost of items by 25 per cent—we come under attack from Opposition members. Let them look after their ALP stooges in Canberra and be a mouthpiece for the Federal Government in Canberra. We will continue to look after the people of north Queensland and achieve things, as we have done in the past.

Mr R. J. Gibbs interjected.

Mr SPEAKER: Order! I give the member for Wolston his final warning.

Mr KATTER: Finally, I must point out that the Burke Shipping Line is owned by Dillingham Constructions (Qld) Pty Ltd. The member for Cairns is caught in the position of looking after the Federal ALP Government, which has just chopped out northern shipping lines, and also of looking after Dillingham Constructions, which is a big American-owned company. While he continues to look after those people, the Government will look after the meat-workers and the other people in the Gulf area who earn hundreds of millions of dollars in fishing for this nation.

Widening of Gaven Way

Mr BORBIDGE: In asking a question of the Minister for Local Government, Main Roads and Racing, I refer to the widening of Gaven Way, and I ask: Can he advise the House of present progress and the expected date of completion? What action has been taken following financial difficulties experienced by a major contractor on this project?

Mr HINZE: As regards the problem experienced by the contractor who was engaged to carry out work on the Gaven Way—the estimate for the job was $1.6m. This contractor tendered a figure of $830,000. The Government took the lowest tender. Of course, it was obvious that it would be very difficult for it to be a successful operation. I understand that the company concerned has been wound up. The Main Roads Department has taken over the job again, and it is in the process of completing the work. I understand that the work will be completed before the Christmas period. A major intersection has been planned at Smith Street, which is about half-way along the Gaven Way. The work being undertaken at the other end of the Gaven Way is going along according to plan, and the successful tenderer is operating satisfactorily.

Petrol Prices

Mr DAVIS: In directing a question to the Minister for Local Government, Main Roads and Racing, I remind him of a statement that he made earlier this year that he could not understand why Queensland motorists were paying more for their fuel than motorists in the other States in which a petrol tax component affects the price structure. I ask: Has he been able to solve the mystery?

Mr HINZE: Because I was concerned about it, I did make a statment in the House. In the debate last night, I was interested to hear the registration figures and third-party insurance costs of the various Australian States compared. The Government prides itself on the fact that a fuel tax does not apply in Queensland. I was concerned for some time that Queensland motorists were not getting the benefits of the Government's policy.

Figures available to me indicate that the price of fuel in the State is now less than it is in other States.

Opposition Members interjected.

Mr HINZE: It is no use arguing about it.

The wholesale oil companies have had the point brought home clearly to them that the Queensland Government is watching. It will not allow Queensland motorists to subsidise motorists who pay a fuel tax in the other States. For the past 18 months, Queensland averaged the cheapest petrol prices in Australia. The latest figures available indicate that Queensland motorists are paying less now than motorists in all the other States.

Opposition Members interjected.

Mr HINZE: If the Opposition has other figures, it can present them to me, but I think that it will find that what I have said is correct.

Additional Taxation

Mr JENNINGS: I ask the Premier and Treasurer: Is he aware of a report in the "Daily Sun" of 25 August in which the Federal Minister for Science and Technology (Mr Jones) stated that increased taxation and new taxes will follow the forthcoming early Federal election? If he is aware of this statement, does he agree that it proves that the Federal Budget is a fake and a fraud?

Sir JOH BJELKE-PETERSEN: I was very interested to read that statement or admission by the Minister for Science and Technology, who indicated that the only reason the Federal Government did not have enough money to distribute to all the departments was that it was refraining from introducing new taxes before the election. The Minister also indicated that, as soon as the election was over, the Commonwealth Government would have the opportunity to institute a whole range of new taxes. That is an admission from a very important Minister. It confirms what the Queensland Government has been saying for some time—the election is being called so that the Federal Government can escape the consequence of its misdeeds, and when it is re-elected, it will have an opportunity to introduce new taxes.

Mr R. J. Gibbs interjected.

Mr SPEAKER: Order! I have already warned the honourable member for Wolston three times this morning. I do not intend to warn him again. I now ask him to leave the Chamber under Standing Order No. 123A.

Mr R. J. Gibbs: I'm shattered.

Mr SPEAKER: Order! The honourable member will be further shattered if I name him.

Whereupon the honourable member for Wolston withdrew from the Chamber.

Mr SPEAKER: Order! The time allotted for questions has now expired.

MATTERS OF PUBLIC INTEREST

Care for the Aged

Mr BAILEY (Toowong) (12 noon): I rise to speak to a subject that has already been covered to some degree this morning by the Minister for Health. The problem to which I shall refer has been caused by the Commonwealth Government and it reeks more of the excesses of Nazi Germany than of twentieth century Australia.

Care for the elderley in Australia has reached crisis point. The extraordinary attitude of the Federal Government is causing hardship, despair and desperation among many elderley Australians. It is destroying what is left of their lives.

Queensland does not have one nursing home that does not have a waiting-list a mile long. Yet, as the Minister for Health pointed out this morning, because of the Federal Government's policy not one new nursing home has been built since it came to power.

Many elderley people live under the most appalling conditions. They are unable to look after themselves, bathe themselves, cook or clean their dwellings. Many such people live in filth and in degradation. Their only access to the world is through the volunteers of the magnificent Meals on Wheels organisation.

The Hawke Government claims that it wants home care for the elderley. There are many elderley people to whom that would be a boon. In many ways, the concept contains a good deal of merit, if it is appropriate. However, the way in which the concept is implemented lacks both common sense and humanity.

A great deal of money is to be made available. The Federal Government mentions the sum of $300m. Of course, it has yet to be seen. Approximately $10m will be made available.

Nursing homes are expected to be nothing more than geriatric hospitals. The alternatives are the so-called Commonwealth hostels, in which the elderley inmates are expected to be able to cope with most activities themselves. However, the concept seems to be based more on juggling numbers than on solving the problems that confront elderley people and on meeting their needs.

Judgments on the suitability of elderley people are arrived at on an extraordinary basis. Some patients who are admitted to nursing homes suffering from advanced senility or other debilitating conditions are reclassified by Federal health inspectors as being unsuitable. They are given a 35-day period in which to be removed, and then they are placed somewhere else. That occurs in spite of the fact that the nursing home is willing to keep them or that their doctor believes that the nursing home is the appropriate place for them. So it is the power of the purse in the hands of some rather callous and uncaring bureaucrats who do not know the meaning of the words "compassion" or "understanding". It seems to be more of a logistical exercise than a matter of human management.

I cite the case of an elderley couple who live in my electorate, Mr John Crawford, aged 84, and his wife Edith, of the same age. Mrs Crawford was admitted to Berlasco Court, which is a nursing home in Central Avenue, Indooroopilly. I cannot speak too highly about that institution. Nor can I speak too highly of its splendid matron, Matron Rogers, and her equally competent and caring staff.

Mrs Crawford was admitted to Berlasco Court after suffering a stroke in October 1982. She is partially paralysed as a result. Mr Crawford remained at home looking after himself—not very well—until a month or so ago, when he had an accident and was admitted to Berlasco Court with a broken arm and a fractured skull. The cause of his fall was not old age but arteriosclerosis.

On doctor's advice, Mr Crawford was admitted to Berlasco Court on a permanent basis. So the old couple were reunited. It is a very heart-warming sight to see the old couple together. Then the Commonwealth stepped in. It told the old man that he could not remain in the nursing home with his wife and that he must go to a hostel. Despite medical advice that he needs medical care and that Berlasco Court is the most appropriate place at which he can be treated, he was told that he must leave his wife, go to a hostel and live a lonely existence without her.

Two old people in the twilight of their lives have been shunted round at some insensitive bureaucrat's behest without any regard for what they want, their needs or the fact that they are people and not just numbers. It is shattering to watch an old man,

who has just thanked somebody who has tried to help him, break down and weep at the thought of what is ahead for him. That is an appalling situation. It is reminiscent of the worst excesses of the Hitler totalitarian regime of Nazi Germany, and should not be Queensland in the 1980s. If that is the Hawke Government's idea of a welfare society that cares for all sections of the community, Australia is heading for real trouble. There must be a rethink about what is happening to the senior citizens of Australia.

If the Hawke Government insists on domiciliary nursing and the home-care scheme, which has a great deal going for it in many ways, it must also realise that the schemes cannot be implemented overnight, that it is not appropriate for all elderly citizens, and that nursing homes play an important part in geriatric care and housing. Thousands of terrified, old people are both lonely and scared about their future and how they will cope under the present circumstances. They do not understand the system well enough. It is hard enough for the people who are experts in the provision of housing for geriatrics to understand what they are supposed to be doing, let alone the elderly who now do not really know what will happen to them as they get older.

Surely we owe our senior citizens—our elderly Australians—a better deal. Have we become so subservient to Government direction or to the philosophy that we should be told what we should do that we no longer have the guts to object or to insist that changes be made? If being a senior citizen in Australia is a problem, our elderly are being treated as third-class citizens. We should think very seriously about the meaning of being old in Australia. At the moment it means that our parents are being penalised and treated in a way in which none of us would like to be treated. The prospect of that happening to us when we get old must terrify us.

Disqualification of Horse, Fine Cotton

Mr SHAW (Wynnum) (12.8 p.m.): Today, Queensland is being put on the map nationally because of the discussion that is taking place on racing throughout our nation and throughout the international racing scene. Unfortunately, the discussion is not of a positive nature. People are discussing the laxity of racing controls in this State. Although fears have been expressed, the rumours that abound at present are not fully justified. The Opposition believes that the position will not be cleared up fully, that answers will not be given and that the speculation will not end until a proper and full investigation is carried out into the whole miserable affair. The affair is being likened to a Damon Runyon story. Perhaps it would be more appropriate for older persons to call it a Carter Brown story. The story is full of mysterious blonds, big money and colourful characters with strange names. The matter goes on to the more serious aspects of real threats of murder and bashings. Some persons have been bashed because they have some knowledge of the whole miserable affair. In the light of some of the rumours and the stories that abound, it would not be surprising if the head of Fine Cotton ended up in some witness's bed.

The Minister has hoped that the matter will go away. He has avoided answering quite realistic and reasonable questions. I have no doubt that, because he does not want the matter to reflect badly on racing, he has tried to put the lid on it. He is quite genuinely concerned for the good name of racing in the State. However, the irrefutable fact is that the good name of racing will be damaged until such time as the entire facts are revealed and, most importantly, until action is taken to ensure that such a ring-in affair will not occur again. It is timely to remember that it is not the first instance of this sort of thing happening in Queensland.

The fact that people have nearly got away with this sort of thing before and that it is well known that certain people are able to rig races in Queensland further encourages people to attempt this sort of thing in Queensland. Whilst it may well be, as the Minister has indicated, that in the full flush of time the people behind it will be shown to have come from interstate, the fact remains that they were encouraged to attempt this fraud in Queensland because they believed they were more likely to get away with it here.

Presently two investigations are under way, one being conducted by the stewards of the Queensland Turf Club and the other by the police. Both of those investigations have different aims and it is fair to say that neither of them is the most appropriate way in which to conduct an investigation. The police have set out to investigate with the aim of laying charges against those who have committed an offence against the law. The stewards have set out to enforce their club discipline. Both of those inquiries will be conducted in accordance with the powers that are granted to those bodies. In the case of the stewards, they can conduct their inquiry only within the bounds of club discipline.

In my opinion the two inquiries are in conflict. Although the Minister has made a plea for people to come forward and speak to the police—to make themselves available to the police—people are unlikely to do that if they think there is any chance of their being subsequently charged with some minor misdemeanour. For that reason the Opposition's call for a royal commission into this affair is justified and, in fact, is the only way that the questions will be fully answered.

That people before the stewards' inquiry are able to refuse to answer questions, that the stewards are unable to force people to appear before them and that the stewards are unable to subpoena people to produce evidence that is very relevant and indeed essential to their inquiries, has been clearly demonstrated. As a result, they are hamstrung.

The Minister and the Government are appearing to maintain their opposition to a royal commission. The hard-heads in the Government are no doubt arguing against a royal commission because, historically, royal commissions have a habit of turning up a great deal of information that Governments do not want brought forward. If the Minister and the Government are to maintain that stand, I urge them——

Mr Hinze: I did not say we are not going to see one; I said that that was the case at this particular time.

Mr SHAW: I will return to that matter if I have time.

If there is to be no royal commission, I urge the Minister and the Government to offer an amnesty to people who may have been guilty of a minor misdemeanour—I stress "minor"—and who at present may be reluctant to come forward to the police through fear of some action being taken against them. That would encourage witnesses to come forward. What also needs to be stressed—the Minister has already made an offer—is that those who come forward will be given police protection from people who might be inclined to carry out their threats of bashings and to take other unlawful action against those who came forward.

People genuinely fear that if they do come forward and tell what they know, they will suffer repercussions. I am not terribly closely involved with the racing scene, but I was advised in a friendly manner, "Make your statements, but, whatever you do, don't get too close to the action, because there is a very real risk of repercussions."

I hope that the Queensland Turf Club inquiry can continue. I am sure that the stewards and the club will want to take appropriate action to ensure that such a thing does not happen again. A prerequisite of that action is to know all the circumstances of what happened on this occasion.

A further inquiry is certainly needed to establish whether the rights of punters were protected. Everybody saw headlines in the newspapers saying that a million-dollar loss to book-makers was saved; but the question that has not been addressed is whether it was necessary for the punters to sustain the losses they did. It seems that the punters were in a no-win situation, particularly if, as has been suggested, there was a second sting involved.

It is remarkable that the horse which came second was beaten by only a very narrow margin by a ring-in horse that should have won by a mile. The people involved in the unusual running of the second horse were in a very well-protected position indeed. It

appears that they were in the position of knowing that their horse had a very good chance of winning, as it very nearly did, and having the second line of defence of knowing that if the horse was beaten they could notify the stewards that there had been a ring-in involved and still have their horse declared the winner. As I said, they seem to have been in a very satisfactory position indeed.

I stress also the inadequacy of the penalties that the stewards are able to impose following the inquiry, particularly when they are viewed against the gravity of the crimes that have been committed. The Minister is trying to keep the lid on things at present—I stress, with the aim of protecting the name of racing—but I fear that, by his doing that, the opportunity may be lost to conduct a full inquiry—a royal commission or whatever—at a later date. I admit that the Minister has at least said that the Government will look at the situation if the stewards do not come up with the answer.

Time expired.

Mr DEPUTY SPEAKER (Mr Row): Order! Before calling the member for Mirani, I would like to ask whether the new duties of the honourable member for Brisbane Central require him to wander round the Chamber all morning.

Mr DAVIS: No. I am sorry for looking bored, but I'll settle down.

Mr DEPUTY SPEAKER: I thank the honourable member.

Plight of Sugar Industry

Mr RANDELL (Mirani) (12.19 p.m.): I rise to discuss a matter of great importance, that is, the plight of the Queensland sugar industry, which, as everyone knows, is suffering the worst recession in living memory.

I want to speak about the Federal Government's record of broken promises and its refusal to do the slightest thing to help the industry. Even worse, it seems intent, whether wittingly or unwittingly, on doing everything it can to bring this great industry down to a level where it has only a very slim chance of survival.

At present, all that is enabling the industry to remain afloat is the family farm and the dedication of people who are prepared to work long hours and damned hard just to try to remain viable and see the present crisis through.

Approximately 7 000 cane-growers in Queensland grow cane along almost the entire length of the coastline. Hardly one town or city in the coastal belt is not affected in some way by the economic state of the sugar industry. Cairns, Innisfail, Ayr, Mackay, Proserpine, Sarina and a host of other little towns are affected in some way by the industry. What a great contribution it has made to the economy of this State and nation.

In the years 1980-83, total sugar earnings were in excess of $3,800m. Over the years earnings have declined steadily. The following figures will give honourable members the picture—

Year	Return $
1980	1,250m
1981	945m
1982	786m
1983	820m

Because of the present extremely low world market prices, the 1984 season gross returns are expected to run at 5 to 10 per cent lower than the 1983 season figures, even though the 1984 season production is expected to improve over the weather-affected 1983 season production. The expected return for cane-growers for the 1984 crop is approximately $20 a tonne from the No. 1 pool. Experts estimate that it costs $18 a tonne to get the crop to the factory. The comparison with previous years' returns is as follows—

Year	Return $
1980	32.76
1981	24.31
1982	20.70
1983	21.54
1984 (estimated)	20.00

Mr Eaton: What about the farmers further out who do not get that?

Mr RANDELL: Why does not the honourable member support them? I have not heard one word of support from Opposition members.

Despite the small domestic price increase recently announced, the average return to the industry in the 1984 season, in real terms, is likely to be the lowest price ever received. World market prices are at their lowest ever level. For the information of those who do not understand the industry, I will quote a few figures on returns to growers on world market prices. To save time, the figures will be approximate.

If the London daily price is quoted at £82, because of currency changes and conversion to dollars by way of a complex formula and the deduction of costs and charges, approximately $78 per tonne is left. I hope that the member for Mourilyan is listening to these figures. The grower gets approximately two-thirds of that price, that is, $52 a tonne. Honourable members should realise that I am talking about tonnes of sugar.

Mr De Lacy interjected.

Mr RANDELL: The honourable member should keep quiet. He has had his turn.

It takes about seven tonnes of cane to make one tonne of sugar, so the return to growers on the world market price is about $7.40 a tonne of cane. It should be remembered that it costs about $18 a tonne to get the cane to the factory. Queensland growers are very fortunate in having special overseas markets and their domestic market to bolster returns. However, as I stated, the returns barely cover cost of production. Despite this disastrous result, the Hawke Government is ignoring reassurances of the past and doing absolutely nothing to help. It is ignoring the promises made by the ALP.

To prove my point I read from "The Cairns Post" of 28 February 1983, a statement attributed to John Kerin—

> "Labor will sympathetically consider any request for an industry loan and/or an underwriting scheme to include the 1982 crop. While many aspects must be sorted out, we believe any underwriting scheme should be based on industry returns over the previous five years."

That is the end of the question. What do the farmers see in 1984? No underwriting scheme and nothing for them in the Budget! The Federal Government has decided not to match the $5m approved by the Queensland Government, which has already given in excees of $25m. That proves that the Queensland Government cares about the industry.

Notwithstanding the critical situation of the industry and the desperate need for assistance—assistance that is wanted now, not in six or 12 months' time—the hypocritical attitude of the ALP is in line with the broken promises and bashing of the rural sector that seem to be part of ALP policy and make-up. Perhaps the kindest thing I could say about Mr Kerin is that he comes to Queensland and listens; and perhaps he returns south and tries. However, the runs are not on the board and he has failed to do anything for Queensland growers. He has done the biggest con job I have ever seen. He has

conned the industry people into keeping quiet while the real power-brokers in Canberra make decisions that savagely disadvantage rural people. I understand that Mr Dolan, the ACTU president, virtually wrote the Budget papers.

Mr Eaton: What did Anthony do for the cane-growers when he opened the sugar conference?

Mr RANDELL: Honourable members opposite should listen. They could do a little bit to help. I have not heard any members of the Labor Party say a word in support of the industry. I have heard them levelling criticism, but they should be supporting me rather than badgering me.

Opposition Members interjected.

Mr RANDELL: I hope it goes on record that the members for Cairns, Mourilyan and Mount Isa are not supporting the sugar industry or the thousands of workers who depend on it.

Queensland has 30 mills, and one could only guess at the capital value. Suffice it to say that they represent a major investment by many companies that are entitled to make a fair return on their investment. This is a guess, but I suppose that, on average, about 200 people would be employed in each of those mills. So, it could be said that 6 000 people work in the mills. On a family basis, that figure could be multiplied by three. Therefore, in that area, 18 000 people are directly dependent on the sugar industry. I wonder how many people would be engaged in providing the back-up services rendered by small business.

As I have said, Queensland has 7 000 cane farms. Once again, on a family basis, 20 000 to 25 000 people could be dependent on the sugar industry there. If field workers, harvester crews, railwaymen, transport operators and so many others are included, I would not be surprised if in excess of 100 000 people are involved directly in the sugar industry. Who could accurately estimate the number of other people indirectly involved in shops, small business, and so on? I ask: What is the ALP, the party that supposedly supports the working man, doing to help those people at this time? It would be laughable if it was not so serious.

Mr Hawke talks about job-creation programs and the millions of dollars that he is pouring into non-producing areas to create jobs. What about some of those millions of dollars being used to safeguard the jobs and the livelihood of the farmers and the workers in the sugar industry? Where do the members of the State ALP stand on this matter? As I have said, I have not heard one word about the contempt that Mr Hawke and Mr Kerin pour on the workers, particularly those in north Queensland.

Opposition Members interjected.

Mr RANDELL: Opposition members are badgering me today, and that will be reported back to the people in the north.

I have not heard one word of protest about the Federal Government's decision not to give one more cent to tide this great industry over this slump. Make no mistake—regardless of the attitude of the Federal Government, the industry will overcome this slump. I challenge Opposition members to get out and support the Queensland Government in its efforts to try to get the Federal ALP Government to change its mind and give aid to a great industry.

Mr Hamill interjected.

Mr RANDELL: The member for Ipswich would not know. He has never worked in his life. He would not know what a stick of cane looks like. I note that he is heckling from other than his usual place.

Aid should be given to the sugar industry in its time of need to allow workers to retain the jobs that are so necessary to maintain a decent and deserving standard of living. Opposition members would not know anything about that.

The Federal Government has the idea that 25 per cent of farmers must go out of the industry. I completely reject that idea. Heavens above! What a tragedy! Everything possible must be done to keep families on the land. This nation cannot afford to let them go off the land; but if some must go, they must be assisted to go with dignity and a just reward for their years of work. They must not be forced off their farms like dingos, as the Federal Government wants. They must not be forced off the land as rejects and lose all that they have worked to achieve for many years. If that happened, that would please Opposition members right down the line. From what I have heard this morning, I know that I will not get any support from the Opposition.

Mr De Lacy interjected.

Mr RANDELL: After what the honourable member said in this Chamber yesterday, I am amazed that he has the gall to speak up again. The way in which he attacked the monarchy and the family will be put all over north Queensland.

I ask the House to support me in my efforts to get help from the Hawke Government to keep this great industry going so that it can continue to make its contribution to the wealth of this nation.

Voluntary Assistance to Professional Services

Mr YEWDALE (Rockhampton North) (12.28 p.m.): The subject-matter that I wish to raise in the debate on matters of public interest is the safety of Queenslanders and the lack of qualified personnel to maintain that safety.

At the outset, I refer to a segment on the "State Affair" television program a couple of weeks ago in which representatives from the ambulance service, the Police Department, the fire-fighting service and the nurses' organisation expressed grave concern about the professionalism of their organisations that were being supplemented by volunteers. Their arguments were quite valid. They do not believe that the volunteers throughout the State, who from time to time supplement the professional services, are qualified to provide those services because they are amateurs. The people in the professional organisations are concerned at the way in which their professions have deteriorated as a result of the attitude adopted by the Government.

I wish to deal specifically with air/sea rescue operations in Queensland in comparison with those in other States. I am advised that Queensland is so far behind the other States, especially New South Wales, that it is not funny. The Queensland Government usually subsidises and provides equipment for voluntary organisations such as sporting clubs, charitable groups, the life-saving movement, and community and service organisations, which do a very good job with the personnel and equipment available to them.

Queensland suffers from the disadvantage of having a very long and sparsely populated coastline from Coolangatta to Cape York. The New South Wales coastline is more heavily populated and is much shorter from border to border. I will use New South Wales as an example because of its rescue operation facilities and its very strong community support. The element within the community that goes out onto the ocean unprepared and performs acts of carelessness and stupidity will never be eliminated. However, people who are fully prepared and equipped may run into inclement weather or huge tides and suffer mechanical break-downs on their vessels. They, too, may need help from rescue services.

The helicopter service and its back-up service that are provided in New South Wales for people in need, particularly on the ocean, are very important. My information is that the State Government in New South Wales has, over a period, trained people who are described as paramedics for rescue services. Qualified divers are also available.

In Queensland, a plane is used to spot a vessel in trouble. Once it is spotted, rescue boats go out to the stricken vessel to tow it back to shore and to save those on board. In New South Wales, a complete rescue team is sent out to the vessel by helicopter. The helicopter is not used to spot vessels. Divers are dropped from the helicopter into the ocean to take on board persons from the water or vessel. That is carried out in the usual method.

Mr Simpson: We do that.

Mr YEWDALE: I ask that the member for Cooroora wait for me to finish. A paramedic is waiting in the helicopter to treat the person the moment he is secured.

Mr Simpson: We do that.

Mr YEWDALE: The member for Cooroora says that is done in Queensland. That may be so in a limited or isolated way but, in New South Wales and some of the other States, it is an in-depth process. Parochialism does not enter into this argument; it is a fact of life. Queensland is so far behind New South Wales that it is not funny. I am sure that other honourable members have spoken to members of voluntary organisations within their electorates, as I have.

Mr Simpson: They came up here to learn from our organisations.

Mr YEWDALE: That is not factual. Queensland is so far behind New South Wales that it does not matter. People who are conversant with the coast of Queensland will confirm that.

Queensland is not training enough personnel in rescue work. This State relies too much on amateur volunteers and on semi-professional or semi-skilled personnel who provide their services on a voluntary basis.

If I might get political, I mention the Premier's Air Wing. Every few months, or every 12 months, he talks about buying another aircraft or another helicopter. On the pretence of needing aircraft to ferry himself and Ministers all round the State as part of the Government's propaganda program, the Premier has a number of aircraft at his disposal. Those aircraft are used by the Premier in an attempt to ensure that after the next election the Government again occupies the Treasury benches. Those aircraft, instead of providing a service to the National Party Government of Queensland, could be used to render service to the people of Queensland.

Government Members interjected.

Mr YEWDALE: Ask Joe Brown out on the street what he thinks about the matter. He will agree with me whole-heartedly. He would sooner know that his family could be rescued from the sea by helicopter than have the Premier or his Ministers flying up and down the coast in one of his aircraft or in a helicopter.

Mr Elliott: They go to any emergency; it does not matter who is in the plane. At one stage they dropped the Premier at a venue and left him there, and they went off and did their job. That shows how much priority is placed on emergencies.

Mr YEWDALE: I do not know of any recorded instance in which that has occurred.

Mr Elliott: It has occurred in a number of instances.

Mr YEWDALE: Let the honourable member bring them forward. Let him assure me that all of the facilities offered by the Premier's Air Wing are available to the people of Queensland at any time. Of course, that is not the fact. Half the time the Premier's aircraft is not even in Queensland. On many occasions it is in Victoria or carrying Hancock around Western Australia. So how the hell can it be made available in Queensland? How do the people know where it is at any given time?

Queensland almost totally lacks expertise in air/sea rescue work. People who possess such expertise will back up my statements.

Mr Elliott: You will support the new one. They are buying a twin-engined one.

Mr YEWDALE: Nothing that the National Party Government of Queensland does in expending its funds would surprise me. The Government is not concerned about the safety of the citizens of Queensland and the large number of tourists who visit Queensland in the winter months. Many of those tourists spend time along our shores. A large number of them bring their own boats with them. If anything happens to them on the water, they are in danger. No matter how much the Government might argue about the matter, the cold, hard fact is that, compared with the rest of Australia, Queenslanders are amateurs in air/sea rescue work.

Recently, I saw a segment on television concerning the police and ambulance services. Members of those services volunteered to go along to the television channel and be questioned in depth about their concern at the attachment of volunteers and amateurs to professional services. They expressed concern at the fact that such attachment would react to the detriment of the community. However, the Government's attitude is that it will continue to use volunteers.

Time expired.

Flea Markets

Mr WHITE (Redcliffe) (12.38 p.m.): I rise to comment on a matter that is causing growing concern to the small-business community, namely, the operation of flea markets. They are getting out of hand. In many instances, sellers at flea markets are nothing more than de facto retailers.

Many stall-holders are selling a wide variety of new merchandise ranging from boats and cars to the latest fashions in women's wear, travel goods and fruit and vegetables. You name it, it is on sale.

Nobody has any great objection to the operation of flea markets in a traditional sense—that is, for the sale of second-hand merchandise, goods of the type usually found at a jumble sale, arts and crafts, and items of that nature. Retailers in strip shopping centres and in regional shopping centres must face the fact that people are opening as store-holders in flea markets on Sunday mornings and operating as de facto retailers. I suspect that in some instances that would be in contravention of the Factories and Shops Act and that some de facto retailers may encounter problems with the Health Act.

I was given a copy of a letter written by a retailer to the Redcliffe City Council. The letter, from Zelows Travel Goods, states—

> " 'Flea Markets' have been a concern to me for some time, but the operation at Kippa-Ring Shopping Village is the present concern.
>
> My feeling on this type of selling should go back to what they were when they were first started and run by Service Clubs with second-hand goods e.g. White Elephant Stall, Trash & Treasure, Jumble Sale etc.,
>
> On checking Kippa-Ring last Sunday I was amazed to see that there were two stalls selling new Handbags and Travel Goods. I don't mind opposition but it is illegal for me to trade on Sunday."

Those are the sort of problems that have arisen in that area. The letter continues—

> "Last Monday I contacted the Department of Labour and Industry and was told it was not their concern, and to be in touch with you.
>
> I then phoned your office and was informed that they were only concerned with the food and health aspect of the operation.
>
> I am writing this letter to express my disappointment in this type of retailing that is creeping into our way of life.

If the Council keeps on giving permits to this type of organization I feel our quality of lifestyle and standard of shopping conditions will take a giant step backwards. Also if this is allowed to continue we won't need shopping centres in the future, perhaps we could demolish some and erect tents and sell from them, and then what about our workers conditions.

I hope in any future permit, the Council has a close look at what these stalls are selling and how harmful they are to existing shops and tenants."

I am pleased that the Minister for Industry, Small Business and Technology is in the Chamber. A number of Ministers should get together to resolve the problem. This morning I stressed the point that I do not think that any fair-minded person has any objection to the traditional role of flea markets, that is, the sale of merchandise by charitable or other approved organisations. However, flea markets are not only affecting the sales volume of a number of legitimate retailers but also placing retailers in a situation in which they will have to make a judgment about the employment of staff.

The legality of flea markets is brought into question. Do they comply with the provisions of the Factories and Shops Act, the weights and measures regulations, and so forth? Legitimate retail traders are paying large rents. They are conforming with trading hours requirements and with the regulations and legislation of Governments at the local, State and Federal levels. However, the traders must put up with the present situation. It is no secret to the Queensland Parliament that small business employs approximately 60 per cent of the work-force in Australia. It is true that large enterprises develop and go on to create other employment.

In my possession I have a letter from a solicitor who represents a group of retail fruiterers. It states—

"On Sunday the 19th instant representatives of our client association witnessed ten large trucks selling fruit and vegetables to a crowd of approximately ten thousand people."

The letter further states—

"The continued acceptance of these activities of the Flea Market will cause severe damage to the businesses operated by our clients, hardship to those proprietors and possible significant loss of employment to the employees of those businesses."

What I am talking about is not an isolated problem and is one that is growing. The time has come for the Government to have a serious look at these operations. I know that a number of people have sent correspondence to the Minister for Employment and Industrial Affairs (Mr Lester). I am not quite sure whether the Minister for Industry, Small Business and Technology is aware of the matter, but I know of his deep interest in small business. If anybody in the Government has shown initiative and interest in small business, it is the responsible Minister, Mr Ahern.

I draw the attention of the Government to the difficulty and I hope that the various responsible ministries, such as Industrial Affairs, Health and Police, will consider the matter. It is a difficult area that does not have an easy solution. However, some form of control, approval or regulation is necessary.

In conclusion, I hope the Government will seriously consider the problem. I reiterate that the operation of flea markets in their traditional sense ought to continue, but there ought to be some form of regulation in respect to the type of merchandise that is sold so that the legitimate trader does not have to put up with people who are trading not only illegally but also are not conforming to the various regulations and not making a contribution to the small business economy.

Aboriginal Housing

Mr PRICE (Mount Isa) (12.46 p.m.): In relation to housing the 1983 annual report of the former Department of Aboriginal and Islanders Advancement stated—

"A high priority is placed on the provision of adequate housing for the State's Aboriginal and Islander citizens, and the Department is responsible for the

administration of a number of special housing programmes to provide for Aborigines and Islanders both on and off Reserves.

The programmes include both the purchase of established homes in urban and rural areas outside reserve Communities, as well as a major construction programme for new homes.

Adequate family housing is essential to the long-term social and economic well-being of all Queenslanders including, of course, the Aboriginal and Islander people. In reviewing the extent of progress to date, there is no doubt that substantial advances in meeting housing demands have been made. A measure of progress lies also in the fact that virtually all of the new houses on the remote Communities have included the local people in construction.

Overall, . . there has been a moderate expansion in the provision of Aboriginal and Islander housing throughout the State with a further $6.828 million being provided by the Commonwealth Department of Housing and Construction."

At this point I must particularise expenditure on Aboriginal housing in the north west of the State, the most remote area and region most affected by the tyranny of distance from the capital and this august body. In relation to housing at Doomadgee I again quote from the report—

"The supply of adequate housing is a continuing priority for the Community.

Two modular duplex residences were delivered to the Community at the beginning of the year to provide much-needed accommodation for the smaller family unit. These units, together with three recently supplied modular homes, are being constructed solely by resident labour.

During the year, 12 homes supplied to the Community under the previous year's housing programme were completed and occupied. These homes also were erected by the local community work force and are a welcome addition to Community resources."

Presently six of those homes still have to be completed and six more are already allocated. One must be thankful for small mercies.

The department provides 101 houses for Aboriginal and Islander families in the city of Mount Isa and 49 in the country townships of Dajarra, Boulia, Bedourie, Cloncurry, Julia Creek and Camooweal. This year, two transitional houses were constructed at the Wulleberi reserve in Mount Isa by Cherbourg's prefabrication section. The purpose of those houses is to provide home-maker counselling to Yallambee and Orana Park residents who wish to make the transition to suburban life-style. The department's report reflects the Government's concern and the priority that it gives to this matter, but the need in comparative terms is beyond measure. In Australia, 17 000 houses are required for Aboriginal housing alone.

The population of Mornington Island is 800-plus with 100 dwellings—a ratio of eight to one. Fortunately, some of the homes are elevated on stilts, which provides additional living areas and the only air-conditioning available. The three-bedroom houses are basically of poor quality. They are constructed of chipboard and fibro with no insulation, and provide little more than basic shelter in a cyclone-prone region.

Housing is one of the island's major concerns, combined with poor water supply, inadequate sanitation and lightweight electrical reticulation that is outmoded and beyond the control of the electricity grid controlling the power supply of every other Queenslander. The Far North Queensland Electricity Board refuses to even answer correspondence on the question, and the Minister for Mines and Energy (Mr Gibbs) uses the lame-duck excuse to the Islanders that as their community is what is termed a closed community, it cannot expect the same rights to electricity supply as other citizens.

Doomadgee is certainly the most deprived community in Queensland. Even $5m and a bulldozer might not solve the problem. It is controlled by this Government. It has a population of 1 200-plus with 100 to 120 dwellings—a ratio of 10.5 to one. Members

might say that that ratio is not much worse than that of Mornington Island, but at least Mornington Island has three-bedroom cottages courtesy of past cyclones. There are no Darwin cyclone regulations or authorities there, which could lead to another story of poor construction and inadequate planning.

Doomadgee, however, has one-bedroom horror homes, 60 per cent of which are constructed from corrugated iron. They are impossible to clean. There is no furniture to speak of, mattresses on the floor, lean-tos against external walls, one light if the residents are lucky, one outside tap and no doors or windows.

The area is prone to flooding and, although it has the worst disease risk in Queensland, it is serviced by a first-aid post that has been condemned twice by the Works Department as a hospital and patched beyond belief to house a weekly visit by the Royal Flying Doctor Service.

Although there are 10.5 people for each one-bedroom shanty, the Local Government Department, which administers local government areas covering most of the State, condones another department's flagrant violation of the Local Government Act. The Government's answer is a self-proclaimed departmental priority to build six—or is it two or three—houses a year. I doubt that that could contain the natural birth rate of the settlement.

The potential for a State-wide health risk is enormous. The people are struggling to maintain some semblance of a community health centre, but I fear that they are fighting a losing battle. Should the outpost not be able to contain a contagious outbreak, the natural interaction amongst north-west communities could spell disaster.

The housing priority must be elevated. I ask the Government to re-examine its role in that area. The self-help community brick-machine mentality is fine if the community is already adequately housed but when the world notices—the areas I have mentioned are becoming increasingly popular as tourist Meccas—then something must be done. I cite two examples. An article in "The Courier-Mail" of 27 April 1983 stated—

> "The Human Rights Commission has strongly criticised Aboriginal housing in northern Queensland.
>
> The commission chairman, Dame Roma Mitchell, said yesterday the situation would have to be looked at in relation to the Racial Discrimination Act.
>
> She said many Aboriginals lived in dwellings that could not be called houses.
>
> . . .
>
> Efforts were being made to improve the situation, using the conciliation processes under the Racial Discrimination Act."

In "The Courier-Mail" of 10 January 1984, another article stated—

> "Some Aboriginal people at Yarrabah were living in houses not fit for a dog, a National Aboriginal Conference representative, Mr Mick Miller, said at the opening of the 11th annual state conference of the Aboriginal and Islander Catholic Council yesterday.
>
> 'Over 50 percent of the homes at Yarrabah have been condemned. Some of them you wouldn't even put your dog in, yet the people are expected to live in them . . .'
>
> Mr Miller said it was also a shambles at Weipa . . ."

One could substitute Doomadgee for any of those places. It is unbelievable. A recent visit by the former Leader of the Opposition (Mr Wright) to Doomadgee elicited the remark that he had travelled world-wide, including visits to Africa and the infamous American Deep South, but had never seen anything to compare with the degrading human habitation at Doomadgee.

Mornington Island needs 100 houses and Doomadgee needs 200. It is simple to say but impossible to achieve under this Government's pittance of an allocation. The $5m and the bulldozer are needed.

For a start, the Government could look at Gunpowder, the township that once had a population of 200 people. It has, within a short distance of Doomadgee, sheds that are easily demountable and 60 or more "Planet" modular-style houses, which are easily carried. I am told that the township is to be auctioned very shortly and that the houses are sound. A purchase of those houses in bulk for use at Doomadgee and Mornington Island would alleviate suffering and degradation that this State's citizens should never have to suffer.

Hospital and Educational Facilities, Toowoomba

Mr McPHIE (Toowoomba North) (12.56 p.m.): I draw the attention of the House to the need in Toowoomba for hospital and educational facilities. Toowoomba is the largest inland city in Queensland, and is second only to Canberra in Australia. Toowoomba has a population of 80 000 people and a supporting population of over 100 000 in the immediately surrounding rural areas. At the moment the hospital and educational facilities are barely adequate and need expansion and development.

For some time I have been trying to obtain a new general services wing at the general hospital. It is sorely needed. The Government has certainly been generous in the provision of wards and other facilities, but the town is now long overdue for a significant building to replace the scattered and barely adequate facilities presently available.

The hospital has one of the best schools of nursing in the State. The school of nursing at the hospital should be one of the prime facilities available for the new program to transfer nurse-training to the tertiary institution level.

Better facilities are needed in Toowoomba for old people. This State-wide need is poorly supported by the Federal Government. The State will have to do the best it can to provide what is needed through State allocations.

The Toowoomba Hospitals Board is also responsible for the Oakey Hospital. Although Oakey is in the Cunningham electorate, it is of interest to me because expansion has been taking place recently. A further allocation of funds is needed at Oakey to complete timely and needed developments at the hospital.

The second major hospital in Toowoomba is the Baillie Henderson Hospital. It seems to be little known, even in Toowoomba. It is big and is situated on spacious grounds. Unfortunately, the buildings are old. To date, the Government has not been able to provide a significant program of new buildings. Naturally, the repair and maintenance program has been well undertaken by the Minister for Works and Housing and the Minister for Health. However, more facilities are needed, in the same way as I am sure they are needed in other areas. Nurse-training is also carried out at the hospital.

Toowoomba has a wide variety of public and private schools and education units. Big development and a recognition of the tremendous potential of the Darling Downs Institute of Advanced Education are needed. This institute leads Australia in a number of fields. It can quickly, adequately and very capably match the demand made by the Minister for Industry, Small Business and Technology for education units in Queensland to bring forward, for commercial use by industry, some of their better research products.

Toowoomba will shortly have a new TAFE college which, I hope, will become a leader in TAFE education in Queensland. It is to be developed on the Toowoomba showground site which will become available following next year's show. The Royal Agricultural Society is moving to a magnificent new site at Glendale.

Mr DEPUTY SPEAKER (Mr Row): Order! Under the provisions of Standing Order No. 36A, the time allotted for the debate on matters of public interest is now expired.

Sitting suspended from 1 to 2.15 p.m.

BEACH PROTECTION ACT AND ANOTHER ACT AMENDMENT BILL

Second Reading—Resumption of Debate

Debate resumed from 5 April (see p. 2539, vol. 294) on Mr Goleby's motion—

"That the Bill be now read a second time."

Mr EATON (Mourilyan) (2.15 p.m.): In his second-reading speech, the Minister for Water Resources and Maritime Services covered many matters with which the Opposition whole-heartedly agrees. However, there is some concern about the Bill as a whole.

Members have been told that the alterations that are suggested to the present Act are in the best interests of the State as a whole. The Minister referred to the importance of Queensland's beaches, particularly to the tourist industry. In addition, many people relax in the areas along the Queensland coast that are administered by local authorities.

I refer to that part of the Minister's speech in which he said that the role of the new authority will be to advise and supply information to local authorities. Local authorities are already handicapped because all Governments are giving to them the authority to raise money for their own projects. Local authorities along the coast and also inland are finding it very difficult to borrow the money that is required, particularly at the present high rates of interest, to meet the needs of their areas.

Many problems will arise when this Bill becomes law. The Government, through the Beach Protection Authority, will instruct local authorities to serve notices on people along the Queensland coast or on some of the islands off the coast. A good example is Amity Point on Stradbroke Island. People owned land at Amity Point long before the Beach Protection Act was introduced. They complied with the legislation that was in operation at the time. The new legislation will create a totally different situation for those people. I have been informed by the Minister that the Government has offered leasehold land to those people at Amity Point who have lost some of their land, and I compliment the Minister on that action. At the time those people obtained that land, the legislation providing for a tolerance area between the front of their properties and the water marks was not in existence. A similar situation could apply to many other people throughout Queensland.

As I have said, there are some areas of concern in the Bill. Queensland has one of the longest coastlines of any State or country in the world. If the Government is to do the job properly, it will have to provide money by way of grants or, in some instances, by way of loans at very low rates of interest.

Beaches and also houses have been lost in many areas along the Queensland coast. Previously, there were several houses at Tully Heads in north Queensland. When I visited the area a couple of years ago I found that all the houses had gone. Because of seasonal conditions, such as storms and cyclones, the mouth of the Hull River at Tully Heads changes from time to time. That is something that has to be looked at.

Last year, the Minister introduced a Bill rather hurriedly for the Gold Coast Waterways Authority. An area of land had been submerged, and it reappeared. Despite the fact that it was freehold land, under the new legislation the people no longer have any claim to that land that was once under water.

Although that happened in the past, it cannot be said with any certainty that similar situations will not exist in the future. Although the Opposition is against some sections in the Bill, it is hoped that the legislation will work as intended in the best interests of Queenslanders, as outlined by the Minister for Water Resources and Maritime Services in his second-reading speech.

The Bill is restricted to the local authorities that have sections of coastline within their boundaries. Although the Queensland Government is the first Government to

introduce beach control legislation, other States have set examples by providing money and carrying out projects. For example, in the northern part of New South Wales, groynes and retaining walls have been built. A lot has been done to preserve Australia's beaches in their natural state.

I have already mentioned Tully Heads in far-north Queensland. An erosion problem is commencing at Bramston Beach. Unfortunately, it is occurring right in front of a well-known and prominent tourist resort. I am sure that if the erosion is not arrested, that area and north Queensland will be detrimentally affected. Many people visit Bramston Beach and enjoy its comforts and pleasures. I am referring particularly to the coconut plantation village. It is the only one of its kind in Australia and I would not like people to be deterred from staying there. The State Government and the local authority will have roles to play in arresting the erosion problem.

Other provisions in the Bill cause me some concern. A small erosion problem may be let go because the money needed may not be available. When the serious nature of the erosion is realised, the restoration cost usually has increased and may have more than doubled, and the local authority is forced to make a tough decision to borrow money. However, the rate-payers may not be able to service the debt. Local authorities face many problems and if this Bill is not administered properly, and if the Government is reluctant to play a greater role, local authorities will be placed in serious difficulty.

When the Beach Protection Authority identifies an erosion problem, a notice will be sent to the local authority, which must take action. If the local authority initiates a program to arrest the erosion problem it qualifies for a subsidy of only 25 per cent from the State Government. Although that subsidy could be of assistance in some restoration projects, other local authorities will not be able to afford to commence the project; on the other hand, they cannot afford to let the erosion continue. In other words, some local authorities will be in a catch-22 situation. I understand that the Government has no intention of making money available for this specific purpose. Local authorities are saddled with a good deal of responsibility under this Bill. However, the Opposition does not doubt for one moment the ability of local authorities to carry out the instruction issued by the Beach Protection Authority if money is available at a low rate of interest.

Mr COMBEN (Windsor) (2.24 p.m.): I support the comments of the member for Mourilyan and repeat that the Opposition is opposed to certain sections of the Bill.

I was interested to read the comments of the then Premier, Mr J. C. A. Pizzey, when the original legislation was introduced. He stated its objectives as follows—

> "This Bill breaks new ground in legislation in this State, in that for the first time it is proposed to regularise procedures for the protection and maintenance of our ocean beaches for future generations. The prime purpose of the Bill is to set up a statutory authority whose duty it will be to ensure that all measures necessary for the preservation and restoration of beaches are taken, and that actions damaging to beaches are controlled and prevented where necessary."

Those are very fine words uttered by a leader in this Chamber. However, the Act has never contained the means by which "all measures necessary for the preservation and restoration of beaches are taken" and by which "actions damaging to the beaches are controlled and prevented where necessary."

Even the Minister, in his second-reading speech, said that the Beach Protection Authority is—

> " essentially an investigation and advisory body. It investigates the erosion problems along the Queensland coastline and provides advice on dealing with these problems to the relevant local authorities."

It is certainly strange that, although the Act has been described as a protective Act, it has no teeth. Even the Bill has no teeth.

Once again, the State Government is passing the buck to local authorities; it accepts no responsibility. Furthermore, no much-needed finance is provided by the State Government. What is provided amounts to chicken-feed. Only $1.7m is being allocated, and it is supposed to be sufficient to enable the authority to carry out a whole range of measures, such as advising local authorities, other organisations and the public.

The authority is continuing to implement its broadly based research program. It is carrying out field experiments at the research station near Currigee on South Stradbroke Island and at field trial areas between the Gold Coast and Cairns. The results are being used in the authority's advisory programs. So the $1.7m will not go very far.

From the authority's annual report it is apparent that, to maintain surveillance along the whole 7 400 km of Queensland's coastline, the Beach Protection Branch has a staff of eight engineers, three agricultural scientists, one computer-systems officer, one experimentalist—whatever that is—one field officer and four administrative staff. That number of staff does not seem to be sufficient to enable the branch to carry out necessary work to ensure the preservation of Queensland's coastal waterways and beaches.

Virtually no money is provided for the implementation of the recommendations made by the Beach Protection Authority. The Minister dealt with the recommendations fairly extensively. He said that they cover a wide range of topics, including coastal processes, buffer areas, building set-back requirements, storm surges, wave behaviour, dune stabilisation, and beach restoration and protection. However, no money is provided for the implementation of those recommendations. As occurs so often with National Party legislation, the Government sets up a very nice framework but it does not have any substance to it. I liken legislation such as this to a house of straw, which the big bad wolf can blow down without any trouble at all.

It is incredible that, in his second-reading speech, the Minister said—

> "It is important to note that the implementation of any beach protection works is a local authority responsibility, subject, of course, to a subsidy payment of 25 per cent from the State Government for approved works."

What the Government is saying, in effect, is that a need exists for beach protection work to be carried out but that the local authorities will have to find the money. The Government also says to the local authorities, "If you cannot find the money, hard luck. We will give you only $1 for every $3, anyway." That is not the role of a Government, particularly in relation to a natural resource that is of paramount importance to the State.

In the Beach Protection Authority's publication "Queensland Beaches", reference is made to the serious erosion problems that exist at many beaches. Some of those beaches have been referred to by the Opposition's shadow Minister for Water Resources and Maritime Services. The examples that are given include Keppel Sands on the Capricorn Coast, which is one of the major tourist centres in central Queensland, Machans Beach in the Mulgrave shire, Urangan and Hervey Bay. I would have thought that the Minister for Education would ensure that real money was spent in that area. However, that is not so. Virtually no sand is left in that area.

The 1979 edition of "Capricorn Coast Beaches" reported beach erosion problems in the Livingstone shire and recommended protection measures. I was unable to find out whether the recommendations contained in that report had been implemented in any way. I will be interested to hear the Minister's reply on that matter. It will show once again the hollowness of the legislation if a five-year-old report has not been implemented. Additional reports on the Mulgrave shire, the Northern Beaches, the Sunshine Coast, Hervey Bay, Mackay, Bowen and Townsville regions are being prepared. It is wonderful that something is being done. However, if money is not provided, it can be forgotten.

The erosion of Gold Coast beaches is probably one of the most worrying aspects of matters coming within the ambit of the Beach Protection Authority. Many people who

reside on the Gold Coast have complained to the press about the groynes that have been constructed. People had said that the groynes are grotesque. The Government is spending hundreds of thousands of dollars and receiving absolutely nothing in return. In one report in the press, under the heading "Premier seeks aid for beach erosion", the Premier is reported to have approached the Federal Government. However, before he went to Canberra he said that he was not confident of success. He said that the council required $30m, that it proposed to contribute 20 per cent, and that the State and Federal Governments would each contribute 40 per cent. In fact, the State Government has not contributed a substantial amount of money. That is regrettable.

The Opposition agrees with the provision in the Bill that provides for plans to receive statutory recognition as erosion-prone area plans and for local authorities to keep those plans permanently open for public inspection at local authority offices. That is very good. The Bill requires local authorities to obtain the views of the Beach Protection Authority prior to a local authority applying for the approval of the Governor in Council. That also is good.

Under the Act, the Beach Protection Authority may direct a local authority to serve on the owner of land situated in a beach erosion control district a notice requiring that land-owner to take certain action to protect his land from wind erosion by, for example, the planting of vegetation. That power will be encompassed in the activities of coastal management.

Some problems are encountered where the Bill transfers from the Beach Protection Authority the final decision-making power in respect of buildings, the opening of roads and the subdivision of land and places. Such power will be transferred to the Governor in Council. That will leave the authority to function in an advisory capacity. That means that the Government can now override totally any decisions made by the Beach Protection Authority. It will be a decision of Cabinet. It will be a decision by some people who want to see that their own pet desires are pushed forward. The Beach Protection Authority's recommendations may not be listened to at all.

The Bill transfers also from the Beach Protection Authority to local authorities the power to grant or refuse permits for the purpose of controlling certain activities on any unoccupied Crown land in an erosion-prone area. One wonders whether that is not also pandering to local pressure groups because the National Party is aware that certain people are getting on particularly well with local authorities and the local authorities are looking after the local concerns. As a result of change the local authority will be able to say, "That is OK."

Overall, most of the changes are very good, but in many cases it seems that a change has been undertaken for the convenience of the National Party. The reconstituted Beach Protection Authority increases local authority representation from one to four. However, there is no representative from the National Parks and Wildlife Service. Because the Bill specifically covers such sensitive, fragile areas as coastal dunes and inland waterways, a good idea would have been some representation from that service to advise the Government on why some areas should be preserved in a better way than others.

Although the Opposition opposes certain sections of the Bill, most of the proposed changes are to be welcomed. The Opposition supports such parts of the Bill.

Mr McELLIGOTT (Townsville) (2.36 p.m.): I join with other Opposition members in debating the Bill and, of necessity, I will refer to some matters that have already been covered. As the Minister indicated in his second-reading speech, the authority has a largely investigative and advisory role. The Minister mentioned also that Queensland was the first State to pass special legislation for the protection of beaches. I have no reason to doubt that and I congratulate the Queensland Government for taking that initiative.

Nobody in the House would doubt the importance of preserving the State's beaches for tourism as well as satisfying the increasing desire of people in Australia to live on the coastal belt. I cannot say whether that is a direct result of the nation's attractive beaches, but clearly the availability of attractive beaches, with all their accompanying recreational opportunities, provides an improvement in the quality of life for those who live in the coastal regions.

I agree with those honourable members who have preceded me that the authority appears to need additional statutory powers. Although as a party the Opposition basically opposes overregulation, clearly the State's beaches are such magnificent assets that they require maximum protection. A discussion of this matter can be lumped in with the discussion that has occurred in the House during the week, and in fact has been debated nationally, on the subject of soil erosion generally. A clear need exists for a co-operative effort involving all three tiers of Government to ensure that the nation's land mass, including its beaches, receives the necessary protection.

As unfortunately happens on so many occasions, much of the responsibility for actual performance in this matter falls back to local authorites. The member for Mourilyan has already mentioned that local authorities do not have the funds to undertake works of this type. It would be fair to say that most local authorities would take some convincing that it is their direct responsibility.

Nevertheless, as I mentioned earlier, it is somebody's responsibility—it has to be somebody's responsibility! Because of that, some sort of national body, or at least a feeling of national co-operation, is required to ensure that the nation's beaches are properly protected.

Most members realise, I am sure, that the legal and practical aspects of beaches are quite complicated matters. As I understand it, land below low-water mark is the responsibility of the Department of Harbours and Marine, that above high-water mark is under the control of local authorities and, where the beach is in a designated harbour board, that land is the responsibility of the local harbour board; so three bodies have a level of control.

In my electorate—I am sure that it occurs in other electorates also—quite an explosion of small commercial hiring activity, from jet skis to catamarans, is taking place on the beaches. Quite an extraordinary fact is that anybody who wants to establish such a business requires the blessing, if not the legal approval, of three separate authorities. In my experience the Department of Harbours and Marine and the local harbour board have simply opted to raise no objections rather than to approve or reject.

Again, the responsibility for making the final decision has fallen on the local authority. Local authorities would argue that within their area they ought to have that sort of responsibility; but an interesting legal question will arise, if and when an unfortunate accident occurs, as to just whose responsibility it was to make the decision to allow that commercial activity. To my knowledge, that matter has yet to be decided.

I refer briefly to a problem that arose on Magnetic Island, which may still be unresolved. It relates to a proposed development at Nellie Bay. The experts said that the proposed development, which includes a small boat marina, posed no threat to the beaches in its immediate vicinity, but the Beach Protection Authority established that the marina and the associated breakwater had the potential to cause damage to the beach on the opposite side of the bay. As the Minister clearly pointed out, the authority has only an advisory role. Its advice to the Townsville Harbour Board and the Townsville City Council was that some damage could occur—I emphasise the word "could"—but it was apparently not prepared to make a definite statement.

As is required in developments of that type both the harbour board and the city council were given the opportunity to comment on the development and, in particular, on whether it would have any deleterious effect on the immediate surroundings. Both authorities were in the position of having advice from the Beach Protection Authority

that damage could occur, but neither authority had the expertise to determine with certainty that damage would in fact occur. Those circumstances ought to be covered in the Act, perhaps by future amendment to provide more statutory teeth to the Beach Protection Authority. Certainly the authority needs to be able to say that, because damage will occur, a development should not go ahead. As I said, the example of Magnetic Island indicated that at present no authority has that statutory responsibility. The Beach Protection Authority does have the expertise, or I assume it does, but neither the city council nor the harbour board has people on its staff who can say with certainty that damage will occur. I am not sure how the problem has been resolved. My latest information was that each authority was trying to come to some sort of conclusion.

I note from the Minister's speech that a tremendous amount of research has been undertaken, and I imagine that a massive quantity of information about the behaviour of our beaches has been gathered. Even as laymen we understand that any sort of construction on or alteration to beaches can have very serious repercussions, some of which cannot always be predicted. It appears that the authority has collected a huge volume of information, which I am sure will serve us well in the future. However, like other Opposition members, I am concerned that no authority has the statutory responsibility to actually use the information and make the hard and fast decisions that will need to be made if our beaches are to be properly protected.

In closing, I again congratulate the Government for introducing legislation to protect our beaches. I congratulate it also for involving local authorities in the way it has and endorse the introduction of buffer zones to protect coastal dunes from destruction by man. But more teeth are necessary to ensure that our beaches do receive the protection that we all know they deserve.

Mr STEPHAN (Gympie) (2.45 p.m.): It gives me a great deal of pleasure to support the Bill, particularly bearing in mind that Queensland has been endowed with a magnificent array of sandy beaches and a climate which makes them an all-year-round attraction. However, these beautiful, sandy beaches are erosion prone. The public generally and the Government are becoming much more aware of the need to protect these erosion prone beaches.

I well remember the public discussion concerning the Noosa/Cooloola area. The whole of that area, up to 30 or 40 miles inland, comprises a fair amount of sand. At one time, it was part of the sea. The sea gradually receded and the area is now part of the mainland. However, it is not stable; it is always shifting. If it can be stabilised to ensure that none of it is lost, it will be a move in the right direction.

Comprehensive investigations of the area have shown that a great deal of work needs to be done. Indeed, a great deal of work has been done. The work undertaken to prevent beach erosion along the coastline has been very expensive, but it has been fairly successful. In this context I think of the work that has been done in the Noosa area and what could have happened if nothing had been done.

The Beach Protection Authority is essentially an investigatory and advisory body. It works in conjunction with various local authorities. In my area, the local authorities have shown that they are ever ready to co-operate in every way. However, their resources and expertise are limited. The Beach Protection Authority and the local authorities must co-ordinate their activities to ensure that none of the land that has been gained over a long period is lost.

A volunteer coastal observation program, in which members of the public collect data on beach conditions, plays its part in the Beach Protection Authority's comprehensive investigation program. Local councillors, particularly, value the work done by this voluntary organisation.

The power conferred under this Act should not be abused. The Bill redefines the term "coast" as any tidal water other than the main sea. In effect, the authority is empowered to carry out investigations and prepare coastal management plans in respect

of land adjacent to bays, estuaries and other types of coastline as long as it is situated within 400 metres of the high-water mark of any tidal water as well as land situated below high-water mark. Many of the estuaries extend some distance inland. The 400-metre distance from the high-water mark means that a very large area of land is brought under control which might not otherwise have been. It should be remembered that this land, too, is very prone to erosion because of the activities of land-holders and other people. However, private land, much of which is used for the growing of sugar-cane, fruit and other agricultural purposes, should not be encroached upon. I should like to be assured that the power conferred by the legislation does not harshly restrict the right of the private land-holder to do as he wishes with his land. Whether land encompasses coastal dunes or hillsides, erosion must be controlled. That matter needs to be watched very closely. As I said earlier, the Government must ensure that the power is not abused.

The other matter that needs to be considered is the construction of buildings in close proximity to beaches. The Act requires the approval of the Beach Protection Authority in respect of all buildings to be constructed in a beach erosion control district. This Bill, however, provides that the building applications to be considered by the Governor in Council will be only for buildings that can be constructed with the consent of the local authority. The approval of the Governor in Council will not be required for buildings with as-of-right uses under a town-planning scheme. Local authorities approve applications for the construction of as-of-right buildings, and there is no problem.

I know that the Minister knows that those two matters need to be watched closely. As I said earlier, I commend him for introducing this Bill. Any action that is taken to give a little more protection to Queensland's coastline and to its heritage is to be commended.

Mr FITZGERALD (Lockyer) (2.51 p.m.): The Minister's committee has looked at various beach erosion problems along the Queensland coast. There are no beaches in the electorate of Lockyer. Most people who live in that area holiday at the beaches, including the electorate of Cooroora.

The Queensland coastline is changing all the time. That was evidenced by legislation that was introduced last year to provide for the sand movements at the southern tip of South Stradbroke Island and The Spit on the mainland at Southport. The same thing is happening on Moreton Island. Natural changes have been occurring along our coastline for some time.

Many people use our beaches for recreational purposes. Recently people on bikes and in four-wheel-drive vehicles have unfortunately been using beach dune areas for recreational purposes. I can understand people wanting to enjoy the outdoor life. I know the feeling of freedom that they get when they visit our beaches.

I commend the Government, which I believe was the first in Australia to introduce a beach protection policy. That was not unusual, because Queensland has many beaches. In fact, it is noted for its very fine beaches. Quite early in the piece, the Government realised the tourist potential of Queensland. Wishing to preserve its tourist image, as early as 1964 it took steps to do so by commissioning the Delft Hydraulics Laboratory to carry out tests along the Queensland coast. As a result, the Beach Protection Act came into force on 1 July 1968. That Act set up two authorities: the Beach Protection Advisory Board and the Beach Protection Authority. In the light of experience, it has been decided to disband the Beach Protection Advisory Board and to transfer its powers to the Beach Protection Authority.

Under the Bill, the powers of the Beach Protection Authority have been extended, but people who wish to build in foreshore areas will no longer have to go through the authority.

It is important that the foreshores be protected, and the Bill provides restrictions to 400 metres above the high-water mark of the main sea and for land below the high-water mark, which means that inlets and bays also are covered under the Bill. Development

of the areas round the foreshores can affect the beaches, and local authorities, with State Government subsidies, have done much to protect the dunes. In the last financial year, the Queensland Government contributed $1,692,000 to the Beach Protection Authority so that it could carry out its functions.

It is important that heed is taken of mistakes. I am referring to building on unstable foreshores. I know that it is easy to be wise after the event, but as long as lessons are learned from early mistakes and no further building is allowed on the foreshores, large areas of grassed or timbered land will exist between the buildings and the beaches.

Mr Simpson interjected.

Mr FITZGERALD: As the member for Cooroora said, it is acceptable to build on rocky headlands. I have in mind a beautiful spot near Noosa; I wonder whether the honourable member has bid for any of the lots auctioned in that area. At Burleigh bluff, and other places on the Gold Coast, magnificent rocky outcrops make very stable building sites. If that land is held by private enterprise, it will not need protecting. However, unstable areas must be protected for the future.

The Bill amends the Canals Act also. It provides that approval for canals must be considered by the authority and then by the Department of Harbours and Marine. The Bill tidies up the legislation and has come before the House in the light of experience that has been gained by the Beach Protection Authority, since its inception in 1968 as a result of pioneering legislation for Queensland. I am sure that there will be no opposition to the amending Bill, which will do much for the protection of our coastline and magnificent stretches of sandy beaches.

Hon. J. P. GOLEBY (Redlands—Minister for Water Resources and Maritime Services) (2.58 p.m.), in reply: I thank honourable members for their contributions. The legislation amends two Acts that have been in existence for almost 20 years. The Beach Protection Authority has played a very important role in beach control and the consideration of problems associated with such a long coastline. Queensland has a coastline of 7 400 km. Under this legislation, the authority is responsible for it. Since the introduction of the legislation the 20 research stations installed along the coast have produced invaluable data for the authority and for the Government.

The honourable member for Mourilyan referred to the role that local authorities play in the protection of the foreshores. He voiced concern about the amount of funding that local government has put into that work. No-one is better equipped than the local authorities to oversee and be responsible for the foreshore protection work that is carried out along the entire coastline of Queensland.

A very large number of the inhabited areas, settled areas and beach resorts along the coastline are on local authority reserves. That means, of course, that the local authorities are in control of those areas and have the prime interest in ensuring that they are protected.

The amendments that I will be moving at the Committee stage are the result of scrutiny of the Bill by local authorities. They have a very important role to play. Naturally, they would like to see more funds made available to them. However, they realise and appreciate that they are being given the front running in this matter. As I say, it is a domestic issue in many instances, so the local authorities are quite happy to accept responsibility for it.

It must be remembered that a very large proportion of Queensland's coastline is privately owned and that it is the responsibility of the private land-owner to accept responsibility for that land and to protect it against erosion.

The honourable member for Mourilyan referred also to the problems associated with erosion at Amity Point. As Amity Point is in my electorate, naturally I am well acquainted with the problems there. The erosion at Amity has not happened only recently; it has been going on for over a hundred years. At a steady rate, Amity Point

is being washed away. Approximately 20 years ago, at a sale of land on which rates were still owing, many allotments were passed in because they had been washed into the sea. It is interesting to note that some of those allotments were owned by a former Treasurer, Sir Thomas Hiley. He and other land-holders suffered the same fate.

The interesting aspect about the erosion that occurs at Amity Point is that the cost of preventing the erosion is much higher than the value of the land. On the Gold Coast, where serious erosion has occurred, the local authority carried out the reclamation work and the area was declared a benefited area. The land-holders pay off the cost involved, as it is added to their rates. Unfortunately, that could not be done at Amity Point. A couple of years ago, the estimated cost of restoration work there and of carrying out piling, which was considered to be the only suitable means of arresting the erosion, was far in excess of the value of the land. For example, the piling was valued at $2,000 per metre.

As the honourable member for Mourilyan said, the Government is exploring the possibility of offering the land-holders at Amity Point leased land at another site in lieu of their land that has been eroded. That matter will be given serious consideration by the land-holders.

I should mention that on a previous occasion the land-holders at Amity Point were made a similar offer. As was understandable, they decided that they would wait and see what happened. They thought that the erosion might have been arrested by natural causes and that the beach would start to build up again. They kept their options open.

The honourable member for Windsor expressed concern at the Bill and claimed that it did not have teeth. The authority's major role is that of an advisory body, and that is the role that it will play. Honourable members will have noted that the advisory board, which has been in existence for a lengthy period, will be disbanded. In return for that, local authorities will be given greater representation, at the ratio of 1 to 4, on the authority. Of course, the authority will comprise representation from along the coastline of Queensland.

As I said at the outset, members of local authorities take a very keen interest in what is happening in their local authority areas and, in many instances, they have a greater realisation than the Government of the problems that occur along our coastline.

I thank the member for Townsville (Mr McElligott) for his remarks on the work that has been done by the Beach Protection Authority and for his recognition of the fact that the Queensland Government was the first in Australia to introduce such legislation.

The member for Gympie (Mr Stephan) said that the previous responsibility of the Beach Protection Authority related only to external foreshores and not the internal waterways, bays, estuaries and so on. The legislation provides for the close scrutiny by the authority of areas of erosion that occur in the still-water areas along Queensland's coastline. The Government is aware of the erosion that takes place in those areas from time to time. Amity Point could be included in that category. It is located in what is called a still-water area inside Moreton Bay.

The 400-metre area of responsibility is most important. I can understand why the member for Gympie issued a warning that common sense must prevail. The responsibility for the 400-metre area relates primarily to other than zoned areas. Town-planning recognition of areas zoned for residential purposes, business purposes, or whatever the case may be, takes precedence. Nevertheless, whether an area comes under a town plan or not, the local authority is still the authority that controls buildings on the land. Everything must be done in accordance with the Building Act.

The member for Lockyer (Mr FitzGerald) referred to the work done by the Beach Protection Authority during the last two decades. A great deal of valuable data has been collated. The Government, the Department of Harbours and Marine and the authority will use that data in making future decisions. When one deals with the exposed foreshores

along Queensland's coastline, no matter where development is to take place, common sense and a certain degree of caution must prevail.

The member for Gympie referred to the Noosa area. Honourable members are aware of the wonderful job that has been done through rehabilitation there. Gold Coast beaches have suffered a great deal of erosion as a result of cyclonic weather. Although the storm in April was not classified as a cyclone, it produced some of the worst winds that have been experienced in south-east Queensland since 1954. Tremendous damage was caused along the coastline as a result of that cyclonic storm. A great deal of erosion occurred on the Sunshine Coast, Stradbroke Island, the Gold Coast and in the Northern Rivers district of New South Wales. Fortunately, in most of those areas, as nature would have it, the beaches are rebuilding.

Once again, I thank honourable members for their contributions.

Motion (Mr Goleby) agreed to.

Committee

Mr Randell (Mirani) in the chair; Hon. J. P. Goleby (Redlands—Minister for Water Resources and Maritime Services) in charge of the Bill.

Clauses 1 to 44, as read, agreed to.

Clause 45—Amendment of s. 54; Offences generally—

Mr GOLEBY (3.11 p.m.): The Local Government Association of Queensland has had an opportunity to study the Bill and is generally in favour of its contents, although the association has expressed concern that the requirement of the Bill for local authorities to refer to the Beach Protection Authority draft town-planning schemes or proposed amendments to existing town-planning schemes in respect of land situated in a coastal management control district or in an erosion prone area might cause delays.

This provision in the Bill is considered crucial to the aims of the legislation and it is not expected that any undue delays will occur as a result of this most desirable requirement. With greater representation on the Beach Protection Authority, local authorities will be in a position to ensure that any problems in this regard are quickly ironed out.

The association has also expressed concern that the proposed transfer of certain regulatory controls to local authorities, for example, the damaging of vegetation, will place on the local authority difficulties in respect of financing the policing of the controls. I consider the transfer of these regulatory controls to local authorities to be appropriate, as local authorities having officers on the spot in the locality are in a better position to control any undesirable activities taking place on unoccupied Crown land situated in any erosion prone part of the area of the local authority.

The association also raised some concern at certain administrative processes, which will no doubt be overcome by the close co-operation which exists between the Beach Protection Authority and local authorities.

The association has requested that an amendment be made to clause 45 of the Bill to allow complaints in respect of certain specific offences to be made by any person authorised by the chairman of the local authority instead of the provision in the Bill which requires the person to be authorised under the seal of a local authority. It is accepted that this would facilitate the processing by local authorities and I therefore move the following amendments to the Bill—

"At page 22, line 37, after the word 'writing' insert the words—

'(either generally or in the particular case)' ";

"At page 22, lines 40 and 41, omit the words—

'by any person authorized under the seal'

and substitute the words—

'upon the complaint of any person authorized in writing (either generally or in the particular case) by the chairman'."

Amendments agreed to.

Clause 45, as amended, agreed to.

Clauses 46 to 60, as read, agreed to.

Bill reported, with amendments.

Third Reading

Bill, on motion of Mr Goleby, by leave, read a third time.

MENTAL HEALTH ACT, CRIMINAL CODE AND HEALTH ACT AMENDMENT BILL

Second Reading—Resumption of Debate

Debate resumed from 22 August (see p. 74) on Mr Austin's motion—

"That the Bill be now read a second time."

Mr MACKENROTH (Chatsworth) (3.16 p.m.): Before I address myself to the contents of this Bill, I want to voice the Opposition's objection to the fact that it has been brought on for debate today. The Bill was introduced and read a first time only last Wednesday night. Although I am sure that the Minister will say that a similar Bill was introduced last year and allowed to lie on the table so that not only members of the Opposition but all Queenslanders could look at it, I have found that the new Bill has 79 changes from the legislation that was introduced last year. Recommendations were made to the Minister by over 30 people or organisations. If one takes 20 per cent of the 160-odd copies of the Bill that the Minister claimed were sent out, over 30 submissions must have been received. The people involved would certainly not have had the opportunity of seeing a copy of the new Bill to ensure that their submissions on the earlier Bill had been taken into account by the Minister.

The legislation should certainly not be made political. There is no need for it to be used as a political tool by either the Government or the Opposition. It should be considered very seriously and not rushed through this Parliament simply because the Government has no other business. Unfortunately, that is the position in which members have been placed. Five Bills on the Business Paper were brought over from the April session, and if they had been debated this afternoon this Bill would not have been debated until after the coming two-week recess. There is no necessity to rush the Bill through today. It could have been allowed to lie on the table to enable all interested persons to consider it. Opposition members have sent copies of the Bill to a number of people but their opinions have not been forthcoming at this stage simply because it is impossible in such a short time to elicit reasonable and responsible submissions on a Bill of this magnitude. The Government is not being responsible in pushing the Bill through today. It is not good enough for the Government to say that it invited comments over a year ago and that, having considered those comments, has introduced this Bill.

As I said, I have been able to find 79 changes to the earlier Bill. In his second-reading speech the Minister said that in preparing this Bill the Government had to consider a great many people, but I do not think that the rights of individual Queenslanders have been considered by the Government judging by the way the legislation is being rushed through today.

Although it did surprise me, I did hear of a very strange occurrence only a couple of hours ago. I understand that a number of individuals wanted to enter the public gallery to hear this debate, but a policeman stopped them from entering because they did not fit into the norm of society—their hair was of a different colour or they did not

dress in the same way as the rest of us. The policemen have the powers that we are debating—powers to decide that others do not fit in with the norm.

Mr McPhie: They have wigs and masks on. They should not be allowed in here.

Mr MACKENROTH: They are not wearing wigs and masks.

Mr McPhie: You should go out and have a look.

Mr MACKENROTH: If I had a mask I would put it on the honourable member. It would do a lot for him.

Mr DEPUTY SPEAKER (Mr Row): Order! I remind the honourable member for Chatsworth, all other honourable members, and the people in the gallery, that the rules applicable to the gallery are displayed clearly on a notice board outside the entrance to the gallery. The rules set out the requirements. I do not think that the police or the attendants in the gallery have any authority to vary those rules.

Mr MACKENROTH: I accept your word, Mr Deputy Speaker, although I have not seen the rules.

Once again, what is the norm? Who wrote the rules? Who decided what should be the norm for someone to sit in the gallery? Someone sat down and decided what was normal. If someone fits that description, he is normal—the same as the rest of us. If he does not fit in, he is not normal and has no right to sit in the public gallery to listen to the debate in Parliament. That is ridiculous.

The Government is virtually saying that a person who suffers from some mental illness is not normal; that he is not the same as the rest of us. Who is to say whether anyone is sane? I am sure that, if a person from Wolston Park were to sit in the gallery, he would wonder why he was in Wolston Park.

Mr Davis: Particularly if he sat above the Opposition.

Mr MACKENROTH: If such a person sat above us he would see the Government members.

That is the type of problem that members should be trying to overcome. The Minister tried to cover it when he said that we have to be very careful with this legislation but, on reading his words and witnessing his actions, I question that.

A number of provisions in the Bill need much better consideration. I know that the Minister will say that members have had over a year to consider the provisions, but they have not had more than a year to consider them in conjunction with the amendments placed before the Parliament last Wednesday. I think firstly of the Patient Review Tribunal, which represents a change in name for the review tribunal that was to be established. The Opposition agrees with certain amendments relating to that tribunal and applauds the Minister for including words in the legislation to the effect that a District Court judge shall be the chairman. Again, the Opposition congratulates the Minister on including the provision that the tribunal will have to look at cases.

Members of the Opposition are concerned that the legislation does not provide that a person may have legal representation. Rather, it is provided that if the tribunal does not want a person to have legal representation it may prevent him from doing so. I know that the Minister said that, since 1962, no need has arisen to stop people from having legal representation. If that is so, why is it necessary to include the exclusion provision in the legislation? Why was it necessary to include the provision that a person may be barred from having legal representation if the tribunal so decides?

When a person is detained against his will, his liberty is being interfered with. I believe that most people in mental hospitals are being held against their will. Perhaps some of them do not know whether or not they should have their liberty.

Certainly some people will fight to try to get out, and their cases will have to be considered by the Patient Review Tribunal. The Government should be saying to those people, "If you want legal representation, you are entitled to it. If there is some way in which you are able to put your case better to the Patient Review Tribunal, whether it be by legal representation or representation by a social worker, you should be able to have that representation. If that is the case, the reference to the tribunal stopping representation should be taken out of the legislation.

If somebody in Queensland goes through a "Stop" sign this afternoon and is booked by a traffic policemen, he can pay a fine of $10 or $20 or go to court and have his case put by a legal representative. Yet in this legislation the Government is taking away the right of people to have somebody put their case. They are not being allowed the freedom that most of us enjoy. It is important that those people should have the right to be represented before the tribunal if they so desire. At the Committee stage, the Opposition will move to try to delete that provision from the Bill.

I now turn to the Mental Health Tribunal. Under this legislation, this will be a completely new body. Although the Opposition can see some benefits in having the tribunal, it has many misgivings. Last week, when the Minister introduced this Bill, he referred to the now famous Walsh case to try to justify the setting up of the Mental Health Tribunal. I do not believe that the Government can use a well-publicised case to put its point of view. Under any system of justice, one needs to look much deeper than what is a popular reason for doing something.

The setting up of the Mental Health Tribunal will have far-reaching ramifications for the legal system in Queensland and throughout Australia. Under the legislation, people will not be able to use the same defence. The Minister might argue that that is not so, but I believe that to be the case.

Shortly, I shall quote from an article written by Ian Campbell, a senior lecturer in law at the Queensland Institute of Technoloy, and published in the Criminal Law Journal. It refers to the setting up of the proposed Mental Health Tribunal.

However, before I do that, I shall refer to what the Minister for Health said on 22 March 1983, when he introduced the earlier Bill. He said—

> "That conflict of expert opinion is not to be found in the basis of psychiatry or in medicine, but is the direct result of the principles of the adversarial system itself. It is well known, and indeed obvious, that defence lawyers canvass for opinions until they get one that suits them and their case, and if one asks enough psychiatrists or enough doctors, one is almost assured that one will eventually get an opinion that suits the way one wants to run the case. I must draw the attention of honourable members to the very nature of the adversarial system and protest against the denigration of the expert opinions of psychiatrists."

Last year the Minister said that one of the reasons for setting up the Mental Health Tribunal was that it would get away from the position where psychiatrists put differing points of view. That is what happens now. It is not easy to put an argument based on psychiatry. There will be two psychiatrists on the tribunal, both of whom will be appointed by the Government. They will make the decisions.

In an attempt to protect the expertise of psychiatrists, the Minister intends to take them out of the court-room. If two economists are asked their opinions, there will never be agreement. Perhaps the same can be said of the opinions of psychiatrists, because psychiatry is not an exact science. That is why people should argue their case before a court; the defence puts up a case, the Crown argues against that case and the jury makes the decision. This Bill short-circuits that system.

Under this legislation, the Crown, once it has been notified that a defendant may use mental illness as a defence, has the right to go to the Mental Health Review Tribunal and ask for intervention in the case before it comes before a court. That means that the Crown knows exactly what the defence will be.

A defendant must place all of his evidence before the tribunal. Although the legislation states clearly that the findings of the tribunal cannot be used in court, it does not say that the evidence or information brought before the tribunal cannot be used by the Crown in the court case. If the tribunal decides that a defendant was not suffering from mental illness, he goes to trial. Although the findings of the tribunal cannot be made known to the jury, it would be very easy for the Crown to get across to the jury that the Mental Health Review Tribunal found that the defendant was sane. The effect of the legislation will be that an avenue previously open to the courts will be closed.

The Government has sought to introduce the legislation in a very slick and sneaky way. Because people do not understand fully the ramifications of the Bill, it is not being discussed in the community. However, when people do become aware of the provisions of the legislation, there will be a big outcry.

As I stated, members of the Opposition are very disappointed that this legislation has not been allowed to lie on the table for a period longer than one week. We had hoped that the Bill would not be brought on until after the forthcoming two-week recess. A delay in proceeding with the Bill would have given Opposition members an opportunity to seek the views of the community on the Bill.

The Government does not want to know the views of the people. I ask the Minister to tell me whether he has sent copies of the Bill to the 30 persons or more who made submissions to him. Has he asked them whether they are happy with the provisions in the Bill? Has he taken their submissions into consideration?

Standing Orders do not allow me, having moved the adjournment of the debate on this Bill last Wednesday, to move a further adjournment of this debate. However, another Opposition member will move that the debate be adjourned for a period of one month, so that Opposition members can attempt to have the legislation not stopped but delayed for one month so that people in Queensland are able to consider it. I would ask the Minister to consider the Opposition's proposal. If, as he has stated, he wants to deal with this legislation on a non-political basis, he will support the Opposition motion for the further adjournment of the debate.

Mr PREST (Port Curtis): I move—

"That the debate be now adjourned for a period of one month."

Question put; and the House divided—

Noes, 40

Ahern	Goleby	Muntz
Alison	Gunn	Newton
Austin	Harvey	Powell
Bailey	Henderson	Randell
Bjelke-Petersen	Hinze	Simpson
Booth	Jennings	Stephan
Borbidge	Katter	Stoneman
Cahill	Kaus	Tenni
Chapman	Lane	Turner
Cooper	Lester	Wharton
Elliott	McKechnie	
FitzGerald	McPhie	*Tellers:*
Gibbs, I. J.	Menzel	Littleproud
Glasson	Miller	Neal

Ayes, 29

Burns	Lickiss	Warner, A. M.
Casey	Mackenroth	White
Comben	McElligott	Wilson
D'Arcy	Milliner	Wright
De Lacy	Prest	Yewdale
Eaton	Scott	
Fouras	Shaw	
Goss	Smith	*Tellers:*
Gygar	Vaughan	
Innes	Veivers	Davis
Knox	Warburton	Palaszczuk

Pair:

Harper — Lee

Resolved in the negative.

Mr HENDERSON (Mount Gravatt) (3.45 p.m.): Mental health legislation in the State of Queensland has not been static. Indeed, it is one piece of legislation which has been continually reviewed and continually updated. The 1937 Act, Queensland's first treatment Act, was totally rewritten in 1962 and amended in 1964. In 1974, the Act was again totally rewritten.

The present legislation is very much more enlightened and, I feel, significantly different from the mental health legislation of the United Kingdom and other States of Australia.

One of the important areas in which it differs from other mental health legislation is that liability for detention applies to the person and not to a gazetted or approved institution. Thus, the psychiatric care of a patient who requires detention can be carried out in private hospitals, public hospitals, psychiatric hospitals or institutions designed for special purposes.

The next most important area of difference in this legislation is that any person who is detained as a result of an application by a relative or authorised person can be discharged from liability to detention by the person making the application. I stress that the only bar to such a discharge is a medical certificate that the person is not only mentally ill, but dangerous.

A Mental Health Review Tribunal was established 20 years ago and has continued to be a safeguard of great value. In passing, I direct the attention of the House to the fact that only now have recommendations been made in the State of Victoria that a similar tribunal be set up.

In the light of those statements, why is there a necessity for the extensive amendments to this legislation? I will not attempt to deal with all of the reasons. Instead, I will concentrate on the matter of civil commitment.

The most frequently used procedure for exercising the compulsory powers contained in this Act is where a concerned relative recognises the need for treatment and, although the patient refuses treatment, the patient is amenable to medical examination. Under these circumstances, an application made by a relative and supported by a medical certificate allows the patient to be compulsorily detained in an appropriate hospital. This principle is largely unchanged, and this is readily understandable because the principle works eminently satisfactorily. What has been changed is the mechanism whereby the patient is actually conveyed to and admitted to hospital.

The implications of the provisions in the amendments are quite extensive. The responsibility is not now on the relative, but on an authorised person, that is, a person of some professional standing and a person who is aware of his duties and responsibilities under this Act. This inevitably means that authorised persons will be available throughout the whole State and, despite the tyranny of distance, the statutory requirements now ensure that there will be available, even in isolated communities, a nurse or a social worker who is an authorised person.

When the Bill was previously before the House, the clause dealing with the procedure for conveying the patient involved a medical practitioner, but this was shown to be impracticable as medical practitioners, particularly in busy practices or at hospitals, have a full work-load and they are not necessarily able to undertake such responsibilities.

It is, however, important to ensure both that the patient is in good hands and that the relative is effectively supported. The use of an authorised person in this situation will avoid the temptation to involve members of the Queensland Police Force, who are also extremely taxed. It is recognised that a policeman in uniform may upset the patient and make things even more difficult, especially where transportation of the patient is involved.

Police have, of course, defined responsibilities where a relative is unwilling to make an application or where the patient refuses to consult with a medical practitioner. Under these circumstances, the procedure is for a person to make application to a justice, who,

in most instances, is a clerk of the court, for a warrant to have the person apprehended under the provisions of the Act.

There are quite important amendments to this section. Any policeman executing such a warrant will now be accompanied by both a doctor and a special kind of authorised person called a "designated authorised person". That will ensure that the kind of rather extraordinary and aberrant occasions which were reported in the media some two years ago will not recur. Both the doctor and the other professional person will have the opportunity to communicate directly with the person who is the subject of the warrant, and the warrant will not be executed if, in the opinion of either of them, the person is not mentally ill or, if he is mentally ill, he does not require admission to hospital for inpatient treatment.

That is a tremendous improvement on the previous legislation and will ensure that the procedure for admission as a result of a warrant is always justified. If the warrant is not executed, a report on the whole matter must be given and the Director of Psychiatric Services can make further inquiries and investigations as to why the unnecessary warrant was first issued.

The role of a policeman in apprehending people without a warrant is also much improved. The police officer now must form an opinion not only that the person is thought to be mentally ill but also that he represents a danger either to himself or to others if he is not admitted to hospital. This section will relieve the police of having to make decisions in borderline cases and will certainly remove the possibility that the Mental Health Act can be used as an alternative to charging a person with a simple offence.

The provisions in regard to the duration of authority for detention have also been radically changed. Any person subject to action under this Act must be fully assessed on admission and, if a second medical certificate is not forthcoming within three days, the patient will be discharged from compulsory detention. I repeat that any person subject to action under this Act must be fully assessed on admission and, if a second medical certificate is not forthcoming within three days, the patient will be discharged from compulsory detention.

Ms WARNER: I rise to a point of order. I am sorry to have to interrupt the honourable member's speech, but it has come to my attention that a number of people who have good reason to want to attend the public gallery are waiting downstairs in the foyer. Mr Deputy Speaker, if you so desire I can read out their names and the reasons why they wish to attend to hear this debate. The first person, Julia Reid, has a particular interest in this area as she is a student at the University of Queensland——

Mr DEPUTY SPEAKER (Mr Row): Order! I cannot accept the honourable member's point of order.

Ms WARNER: Mr Deputy Speaker, can you——

Mr DEPUTY SPEAKER: Order! I am not prepared to accept the honourable member's point of order. I will explain why if she wants me to. The rules relating to admission to the public gallery are clearly defined and can be seen outside the entrance to the gallery. In addition, the occupant of the chair has the discretion to clear the gallery at any time for any reason. That question does not arise in relation to this debate. There has been no personal reflection on the member for Kurilpa, so I cannot accept her point of order.

Mr DAVIS: I rise to a point of order. This is a matter of freedom of speech. People have come here to hear the debate on the Bill and they have been denied that right. I believe that the Minister——

Mr DEPUTY SPEAKER: Order! What is the honourable member's reason for rising? Did the honourable member rise to a point of order?

Mr DAVIS: Yes, I did.

Mr DEPUTY SPEAKER: I cannot accept a point of order on the basis raised by the honourable member.

Mr DAVIS: I want it noted that I raised a point of order.

Mr DEPUTY SPEAKER: Order! I call the member for Mt Gravatt.

Mr HENDERSON: If that certificate is given, the patient may remain detained for a total of up to 21 days only. Any further extension must be on the medical certificate of a psychiatrist. Such a certificate must state two things, namely, that the person is suffering from a kind of mental illness that requires detention and that the person ought to be detained. As well, the psychiatrist is required not only to have examined the person but also to have consulted with other people in whose care the patient is placed. The first extension of detention beyond 21 days is for a further period of three months rather than the 12 months allowed under the present Act. Thereafter, detention can be extended for periods up to 12 months.

Two matters need to be considered carefully here. First, and most important, the patient ought to be treated in order to ensure his recovery at the earliest possible date. Medical and other professional manpower must not be diverted into making repetitious certificates and giving evidence before tribunals. It must be applied to the treatment of the patient. On the other hand, the patient must never become lost in the mental health system. Various provisions of the Bill ensure that both of those important principles are respected.

As I stated at the beginning, the Mental Health Review Tribunal was a landmark in mental health legislation in this nation. Now, a further step has been taken. The Mental Health Review Tribunal has become the Patient Review Tribunal, which will not only receive applications from patients, but also, on each occasion when the detention of a patient is extended beyond the first three weeks, automatically review the case.

I repeat, Mr Deputy Speaker, that the Mental Health Review Tribunal has become the Patient Review Tribunal, which will not only receive applications from patients, but also, on each occasion when the detention of a patient is extended beyond the first three weeks, automatically review the case.

That, undoubtedly, will have the direct effect of reducing the number of people who are compulsorily detained under the legislation. It also provides a clear, objective review by competent people who are not directly associated with the treatment of the patient.

Members of the tribunal represent the community. They represent both the legal and the medical professions. More importantly, they represent the growing levels of tolerance within the community towards mentally ill people. The constitution of the tribunal is sometimes overlooked by those who would argue that the patient who has made the application ought to have legal counsel. What most of the advocates for the provision of legal counsel seem to forget is that the tribunal does not act as a judge or as a jury. The tribunal is the investigative body, and it is the tribunal that is charged with the responsibility of asking questions and receiving satisfactory answers.

It is the members of the tribunal who are in a position to question the proposals by the patient or the patient's relatives. It is they who are in a position to question the advice given by the professionals who are making reports. It is they who can make searching inquiry into the social environment that would surround the patient should he be discharged. It must be recognised that people such as those who constitute the tribunal are as well informed and as capable of making searching inquiry as is any legal counsel. It cannot be stressed too much that the ability to make a searching inquiry is not a competence that resides solely in members of the legal profession.

It is time that mental health was recognised as a health issue and not as a legal issue.

I will leave comments on other matters raised by the amendments for my colleagues, but I do congratulate the Minister on dealing with a most sensitive subject, one which is of great importance to a surprisingly large proportion of our population.

Mr GOSS (Salisbury) (4 p.m.): I also join with the honourable member for Chatsworth in submitting that the debate on this legislation should be adjourned in the public interest. I say that because, as has already been stated, numerous changes have been made to the draft legislation. The legislation, in its previous form, was introduced some time ago; but, because of the large number of complex and detailed submissions that were made and the large number of changes which, as a consequence, have been made to the legislation, there is a need and indeed a duty to consult further with those groups, not for the same length of time that has already elapsed, but for a month. That would be adequate.

I have spoken to people who have an interest in this field and to various professional groups that have greater specialist expertise than I have, and they have said to me that, between last Wednesday and today, there has not been adequate opportunity for them to assess the extent to which submissions have been accepted or rejected, either wholly or partially. It is a shame that, after this long period of consultation during which so many submissions were made, so much detailed care and thought went into examining the legislation, and changes were made, the final product is being rushed through in a week. "Rushed through" is a fair description, given the period involved and the complexity of the legislation. Unfortunately, it makes something of a farce of the so-called consultation involved. The consultation was admirable up to that point. In my view, to deny the last stage of the proper level of consultation is to erode the whole process.

This area of mental health raises many complex questions to which there are no easy answers. What is mental illness? That would seem to be basic to this problem and that question has not been adequately answered by this legislation. I am not saying that it is an easy problem to overcome or that there is a ready answer. An adequate attempt has not been made to start to list the criteria and to start to establish a definition upon which the legislation can work.

What is the meaning of "dangerousness"? How can one predict it? It is not adequately dealt with.

As for the proper model for processing these cases and whether it is the legal model or the medical model, I am of two minds. I agree with some of the comments made by the honourable member for Mount Gravatt. I do not think that the matter should be purely or basically a legal model because I do not think that lawyers have the whole approach. By the same token, the medical profession does not have the whole approach. What is needed is a combination, a sensible balancing of the two. There should be more balance in this legislation. Certainly there has to be a medical input and medical assessment at the start, but there should also be proper legal safeguards, and I do not believe that they have been dealt with.

There are so many grey areas and difficult questions. One example that highlights this matter in a slightly humorous way is the category of so-called voluntary patients who are told that if they try to leave they will be regulated. One is reminded of the popular song of a few years ago by the American rock-and-roll group, The Eagles, which contains the lines, "You can check out any time you like but you may never leave." That is why other people and I call these patients, "Hotel California patients"

My personal involvement in this area, in a concentrated way, is probably limited. It started with Johnston's case, which came before the Supreme Court and the Full Court of Queensland a few years ago. To my knowledge, that was the first time that section 70 of the Mental Health Act had been used by a lawyer to enable a patient to be allowed to leave a mental health institution.

Mr Johnston had been detained for many years at the Queen's pleasure, notwithstanding numerous recommendations by the Government-appointed doctors that he was

no longer suffering from the symptoms of mental illness and should not be detained further. It was recommended that he be discharged, and he was told by a succession of Government psychiatrists that he was fit to leave. Each time his case came before Executive Council, it was rejected. It raised serious questions about the efficacy of the legislation and the appropriateness of the medical model that is being urged upon the community.

Although Johnston's release was resisted vigorously by the Government through the Crown Law Office and the Department of Psychiatric Services, at no time did the Department of Health argue the merits of the case. It did not attempt to suggest that Johnston should be released; it did not suggest that he was dangerous or mentally ill. Not one scintilla of evidence, in the form of a medical report, for example, was produced at the court hearing.

A legal argument was mounted by the Department of Health in an attempt to persuade the court that it did not have jurisdiction. The argument was that, irrespective of Johnston's mental health, he should be kept until the department said that he could go. The department was saying that it could be trusted; but Johnston's case, like so many others, demonstrates that trust cannot be placed in that sort of system. I am not reflecting on the Minister personally; I am talking about that sort of system.

Mr Austin: That has changed now. This new Bill changes all that.

Mr GOSS: Indeed. In due course, I will make some criticism of what is being done to section 70. I am speaking about the approach that depends on the arbitrary whim or discretion of people, whether it be Executive Council or others.

Mr Austin: In the court case that you are talking about, didn't the appeal court say that the judge decided that the man had to be detained for some other reason?

Mr GOSS: No. In the end result, the Full Court of Queensland upheld what the court had said in the first instance, which was that he should be discharged.

Mr Austin: No, it didn't; unless I am thinking of a different case. What about the second case that your firm became involved in? You lost that one, didn't you?

Mr GOSS: No; the patient lost. That is what the Minister should remember. Under this system, it is not the protagonists and it is not the good Dr Urquhart or the Minister who lose; it is the poor suckers in Government institutions who are not getting a fair go before the Mental Health Review Tribunal. That tribunal waltzes the patient in and says, "How are you today? Goodbye.", and out the patient goes after a two-minute consultation. That is the system that I am talking about. Under this legislation, that problem will be perpetuated. For the Minister to talk——

Mr Austin interjected.

Mr GOSS: The Minister is trying to avoid general criticism.

Mr Austin: Your problem is that you have a pecuniary interest in the matter.

Mr GOSS: The Minister has said that I should tell the Parliament that I have a pecuniary interest in the matter. That is untrue and offensive, and I ask him to withdraw those words.

Mr AUSTIN: I withdraw.

Mr GOSS: I remind the House that before this exchange began, I said that I did not make my criticism of the Minister or Executive Council. I was speaking particularly of the Johnston case; and Johnston was successful. It is disappointing that the Minister responded in such a way. I was criticising the arbitrary approach that does not place sufficient emphasis on the due process of law and does not provide safeguards.

In that case, the existing section 70 worked properly. It is a nice, neat form of statutory habeas corpus for the mentally ill, and it should be maintained. I am suspicious and concerned as to why the Minister's advisers wanted to change it. It seems to me that it is so that the Minister's department and his advisers can prevent people such as Johnston from getting out again and save the department the embarrassment that it suffered in the handling of the Johnston case.

As I say, the response in terms of Johnston's case at an individual level and that in terms of what the Minister has done with section 70 cause concern as to the preparedness of the people administering this area to act in accordance with the spirit of the law. It has been clearly demonstrated that further consultation should take place with the people who have expertise and an interest in this area. Furthermore, there is a need for clear safeguards and clear rights of patients. The Government has not done enough in this legislation.

I turn briefly to the matter of regulation and whether the doctor knows best. What must be understood is that when a person is classified and labelled as mentally ill and in need of attention, that person loses many of his or her civil rights, which include the right of free movement, and the right to work, to choose and mix with one's friends, to have full family support, and to consent to treatment ranging from drug therapy to electroconvulsive therapy and psychosurgery.

That some mentally ill people require attention without their consent is beyond question. It ought to be very easy for people to seek treatment voluntarily for a mental illness. However, people should be detained for the purpose of treatment only as a last resort when all other alternatives are exhausted.

Fortunately, mental illness is no longer regarded as a state of mind in which one is possessed by demons and the like. I would hope that it is now considered as being similar to physical illness, such as heart disease. In a case involving a medical illness, it is never considered that the patient should be treated compulsorily, even if that is for his or her benefit. However, in many ways, the reverse is the case in the administration of mental illness.

Compulsory treatment in a mental hospital is what is termed euphemistically as regulation. However, neither the Act nor the Bill provides an adequate definition of mental illness. I suppose that that is the position generally in comparable legislation in other States. Where a definition is given, it is a circular one. For example, as I understand it, the Victorian Mental Health Act defines "mentally ill" as "to be suffering from a psychiatric or other illness which substantially impairs mental health"

Very often, this strutting, partisan Queensland Government says that it is doing the job, no matter what it is, very well. However, in this respect, what it should be doing is attempting to define or even limit the scope of mental illness.

I turn now to the onus of proof. It is a misconception to compare mental health with the criminal law and to draw analogies from the latter area. Unless mentally ill people are involved in crimes, they are not criminals. It is interesting to note that, although many criminally dangerous people come before the courts on charges involving the most serious offences, the Crown is still required to prove its case beyond a reasonable doubt. That must occur before the accused person can be denied his liberty and sentenced to a term of imprisonment.

The community has perceived that on balance it is better not to breach basic civil liberties of individuals than to play it safe and have looser tests for incarceration. However, as I mentioned, under the Mental Health Act people do lose substantial liberties based upon quite imprecise tests for regulation and an unclear onus of proof. Because the tests are not clear, it is very difficult to make an assessment as to what the onus of proof should be.

The tribunal—the court or whatever else it may be—should make specific psychiatric findings of fact that establish the behaviour that requires regulation or detention. The

test for regulation should perhaps be that the behaviour is such as to cause serious harm to the patient—I stress "serious"—or serious harm to others.

A start should be made on defining the indicia for such criteria and specifically widening the scope of the behaviour which by itself should not cause the patient to be classified as sufficiently mentally ill to require regulation. Loose tests and wide discretion are not tolerated in relation to other forms of detention, so why should those basic standards be varied in the case of mental health?

To deal with the matter briefly from the patient's perspective—it seems that there exists in the mental health field what I would describe as an arrogance that prohibits an acceptance that patients may at different times have need for access to different professional groups. In the mental health field there are a number of professionals from whom it is possible to seek assistance—for example, psychiatrists, doctors, nurses, social workers, psychologists and occupational therapists. Those disciplines collectively fit under the one umbrella of the Government's Health Department. It could be argued that no-one should have a monopoly in that area even if only for accountability reasons.

I repeat my previous comments about the need to have some checks and safeguards in that very important area. The difficulty that has been experienced is that although patients may feel that they have a right to access to outside advocates, whether they are lawyers, social workers or family members, the mental health system does not really recognise it to the same degree. The patient finds that he does not have the problem of finding an appropriate external person to assist him, but initially he has to deal with the lack of any specific legislative assistance to enable him to effect his purpose in obtaining such aid.

Once the patient has approached such an advocate, which professional is he to approach? The choice probably depends upon a number of factors. Firstly, the patient must recognise the need for help. He must rely on his own knowledge, or advice from a friend or other person. The most obvious time when a patient may think that he needs assistance is in relation to involuntary detention. One must also examine the perception built up by the patient about various professionals who might help. The legal profession has been identified as being in a position to help in matters such as loss of liberty and civil rights. Other professionals, such as social workers working particularly in legal settings, community-based social workers and voluntary self-help groups may not be so easily identified by patients but they may often be more appropriate to approach in certain circumstances.

The availability and accessibility of professional personnel to patients is also crucial. That remains a problem for the patient not only because the Act and the proposed legislation do not in my view specifically address the patient's need or wish for such assistance but also because lawyers have, to date, in this State only minimally responded to the need for such legal access. That lack of response may result from the fact that lawyers have had experience only with the adversary model. They may feel uncomfortable with that different field. It is a field of practice that is not common to most lawyers.

While the debate continues between the need for a legal or judicial model on the one hand and a medical or treatment model on the other hand, the patient misses out. More work needs to be done on the appropriate model or combination. For either model to monopolise denies patients in the area of both treatment and justice. That dilemma is not a problem for the patient; it is a dilemma for those people who make the laws and who work in that area.

More work needs to be done on the matter of mental illness. A test referred to in the legislation is whether the patient can be released, having regard to the interests of his own welfare and the protection of other persons. I have doubts about the suitability of that test. The predictability of dangerousness has naturally been the subject of much study by psychiatrists, sociologists and criminologists. One prominent school of thought is that it cannot accurately be predicted. I think that that is correct. Where that has

been attempted it has been found that most of those persons not released, because of fear of their potential dangerousness, could in fact have been released with safety.

The High Court first addressed itself to that question in the case of Veen v. The Queen. I understand that that was the first case in which the High Court granted special leave to appeal against sentence. Mr Justice Stephen, as he then was, at page 307 of the Australian Law Journal Reports, said—

> "No doubt the whole question of prediction of behaviour in the future is a most difficult one. Its very difficulty is in itself a potent reason against undue weight in sentencing being given to the protection of the community from what is predicted as the likely future violence of the convicted person. Predictions as to future violence, even when based upon extensive clinical investigations by teams of experienced psychiatrists, have recently been condemned as prone to very significant degrees of error when matched against actuality; Professor Norval Morris provides striking instances in *The Future of Imprisonment: Towards a Punitive Philosophy* (1974) 72 Mich. L.Rev. 1161, at pages 1164-1173. A later study by Steadman and Cocozza, 'Psychiatry, Dangerousness and the Repetitively Violent Offender' (1978) 69 Journal of Criminal Law and Criminology 226, reaffirms Professor Morris' scepticism concerning psychiatrists as predicators of future violent behaviour."

Mental illness is a most important subject and more work should be done on it.

I have already mentioned the arbitrary nature of much of the administration and the law in relation to mental illness. The Minister can correct me if I am wrong, but I am informed that approximately 6 000 medical practitioners are registered in Queensland. My assessment is that most of them would have a very limited knowledge of and training in psychiatry. Each has the power to order compulsory detention, yet it is left to each individual doctor to place his or her own interpretation on the meaning of "mental illness", which brings me back to the importance of doing more work in this area.

Can honourable members imagine circumstances in which the Criminal Code simply stated that it was an offence to act "dishonestly", that it was left to each proliceman in the State to place his own meaning on that term and that each and every policeman had the power to sign a warrant authorising the detention of anyone whom the policeman assessed to be acting dishonestly? No-one would have confidence in that sort of a system.

According to some estimates that have been given to me, each year as many as 5 000 people are detained under the mental health system. In the past, relatively few have made it to the tribunal. I was told that in the year ending 30 June 1981, only 46 made it to the Mental Health Tribunal. That is an example of the sorts of problems that have occurred in the past and that will quite easily occur in the future unless better legislation is brought before this place. Therefore, it must be true to say that in nearly every case of detention the interpretation of the term "mental illness" was left to the admitting or treating doctor.

The other reason why I consider the Bill to be arbitrary is that it does nothing to expand upon or make uniform the criteria for detention under the present Act. The definitions and the tests are vague in the extreme and vary too much. The legislation is arbitrary also because it contains no adequate or reasonable statement of patients' rights. If such a statement was contained in the legislation, it would provide admitting and treating doctors with much guidance as to the approach to be applied and lead to a greater uniformity of approach when people were detained. What is wrong with the Bill being arbitrary is that it leads to a state of affairs in which each patient is dependent upon the will or discretion of his arbiter, the doctor.

When one speaks about the legal model, one should go back to a very important and basic principle, that is, the rule of law. The phrase contrasts the supremacy of law with the supremacy of arbitrary power. The notion is that the freedom of the citizen will be secured only if all persons in the community are equally subjected to the same

body of stable law and not the arbitrary whims of a ruler or ruling class. Perhaps I would do best if I used the following words, with some abridgement, of Dicey—

> "No man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land. In this sense the Rule of Law is contrasted with every system of government based on the exercise by persons in authority of wide, arbitrary, or discretionary powers of constraint. It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness, prerogative, or even of wide discretionary authority on the part of the government."

The next aspect of the legislation with which I wish to deal relates to problems inherent in the very nature of psychology and psychiatry. It is fair to say that psychologists see problems in this area. I have been furnished with an article by Litwack, Gerber and Fenster, which was published in the "American Journal of Family Law". I propose to read it into the record. It states—

> "We readily concede that psychological theories should be treated with suspicion by any Court before which they are proffered. Apart from the problems of insufficient specificity, a psychological 'theory' is just that—an unproven set of assumptions. Thus, even if a theory were constructed which specifically addressed and evaluated the various custody alternatives that prevent themselves in difficult cases, the theory would remain of uncertain merit until confirmed by empirical data."

Government Members interjected.

Mr GOSS: I notice that Government back-benchers become very uncomfortable when the subject of mental illness is being discussed, and I am not surprised. That article concluded—

> "Neither a Theory's comprehensiveness and formal elegance, nor the prestige of its author, is any reason to credit it with validity. More is required."

Lastly, I want to deal very briefly with the subject of people involved in criminal proceedings. This is a very difficult matter, but the mechanism that is being sought—probably by Crown prosecutors who have had some difficulty in recent cases and have come up with this fairly severe solution—is a very sad development and one which we should oppose. I refer to the invasion of a person's rights in the way that is proposed by the Mental Health Tribunal, including the invasion of the right to silence and the power to obtain evidence, examination and so on by force. That is a very sad development in our law and should be opposed absolutely. There is no room for such a provision in this type of legislation.

Unfortunately, trials such as the recent one involving the boy Walsh are often trotted out as a justification for action of this sort, but that sort of extreme case is just that—extreme. It does not warrant this sort of general reaction, the result of which is that the rights of the great majority of people suffer through their being put through the mill of the Mental Health Tribunal, where people's rights are invaded to a considerable extent, so that the occasional, extreme case may be solved. If that sort of tribunal is to be established, it should be restricted to crimes of extreme seriousness such as murder or the more extreme sexual offences. Under the Bill, it would seem that someone involved in an offence of petty theft could be referred to the Mental Health Tribunal, even though there is no remote possibility that he could have available the defence of insanity. What about family members who may be hostile having the right to refer people to that tribunal? It is much too dangerous. It involves serious intrusions into the rights of citizens, particularly people who are before the courts on charges which may range from serious to minor. As I say, there is no place for the provision. It should be omitted altogether.

Mr BAILEY (Toowong) (4.28 p.m.): It is interesting to follow the honourable member for Salisbury in this debate, even though he did make some facile and snide

remarks about the Government back bench when it comes to the problems of mental health. The reality is, or course, that the Government shares identical concern with the Opposition, even though some Opposition members feel that they have some sort of priority in being critical of how things are done.

There is no doubt that the question of mentally ill persons and their involvement in criminal proceedings is of great importance. Perhaps the most notable example in recent times that has led to enormous contention is the case of Hinkley, the world-be assassin of President Reagan.

Despite what Opposition members have said, this Bill represents the most advanced and enlightened approach to such grave matters. The criminal law contains many provisions that certain actions or omissions constitute offences. Taken literally, if a person does or omits to do something, he or she commits an offence. However, in the British system of justice that has been adopted and adapted in Queensland, there is no criminal responsibility or liability to punishment when such an act or omission is done by a person who by virtue of mental illness lacks the capacity to understand what he is doing.

The Queensland law is a variation of the common law principle that there cannot be a guilty act unless there is a guilty mind. However, the law has not been unduly kind towards persons who are not criminally responsible on the basis of insanity. I am sure that all honourable members have to agree with that.

Section 647 of the Criminal Code insists that such persons, when acquitted of an offence, must be detained in some safe place until Her Majesty's pleasure is known. In effect, there can be a quite indefinite detention that is not capable of being challenged in any court. A discretion rests with the Governor in Council, and he is not accountable to anyone.

Before a person can be brought to trial, he or she must be fit to plead; that is, to be able to understand proceedings and to give proper instructions. When a person is found to be not fit to plead, once again he or she can be ordered to be kept in custody until he or she can be dealt with according to the law.

A third situation arises in which persons may, because of unsoundness of mind, become incapable of understanding proceedings during the course of a trial. In that circumstance, if so found by the jury, the court is required to order the person to be kept in strict custody, once again until that person can be dealt with under the laws relating to insane persons. Not infrequently, such a person who has done an act which is, or is likely to be, the subject of a charge, is found to be suffering from mental illness and requires prolonged medical treatment and attention relative to such treatment before that person reaches the stage of being fit to plead.

Some persons never reach that stage but others can be regarded as fit to plead after months or years of constant treatment. When such persons are fit to plead, the trial can take place. On occasions, persons have been treated for long periods and have been awaiting trial, but the prospect of trial has caused considerable mental disturbance and agitation to the extent that they have committed suicide.

When a violent act is done, as in the case of a gruesome killing, there is a natural public revulsion and a feeling that the person doing the act should be punished. Members of the public often feel that unsoundness of mind is an easy excuse—in other words, an easy way out.

Even when a person is charged with an offence and found not guilty on the basis of unsoundness of mind, lay people have a natural reluctance to discharging such a person, and included in this context are Ministers of the Crown who, together with the Governor, have responsibility for exercising a discretion.

There may well be a distrust of psychiatrists who, in some quarters, are suspected of giving ready-made opinions favourable to an accused. By virtue of the indefinite

period of detention in the event of insanity being successfully raised as a defence, there is also considerble aversion and real reluctance to raising that matter as a defence except in extreme circumstances. No flexibility is allowed to the court and the Governor in Council must make a determination based largely upon recommendations that he obtains from psychiatrists.

The Governor in Council may be reluctant to accept such recommendations when they favour an early release. The natural fear is that such persons, having done a violent act, may well repeat the performance, and the Crown does not wish to take the responsibility.

No human being or body of human beings is blessed with omniscience. It would be nice if one could foresee the future and be satisfied.

Obviously a great need exists to balance the interests of the community and the interests of the person concerned. The community has a definite interest in seeing that criminal acts are punished. However, it is unjust to punish people who are not responsible for antisocial acts that would normally be classified as criminal. Such persons, if they are violent and disposed to violence, should not be released into the community as long as there is any real risk that such violence may be repeated. In many cases, of course, that violence is really only directed against the particular individual who may have been murdered or substantially injured.

Until 1974, when the Mental Health Act of that year was enacted, there was no real mechanism for monitoring the situation of persons who were charged with offences but had not by virtue of mental illness yet been brought to trial. In Part IV of that Act, procedures were established to ensure that a patient was not overlooked, and the question of whether he could be brought to trial was monitored by having the case considered at regular intervals by the Governor in Council. The Governor in Council had the options of continuing the prosecution if the person was fit to plead, of discontinuing proceedings, in which case any further detention would solely be on the basis of mental illness, or of deferring the matter for a further period when it would again be reviewed.

However, no change was made in regard to people who were detained at Her Majesty's pleasure. Provision was made, though, for release on parole or for leave of absence if the Governor in Council did not see fit to discharge the patient. These provisions, in their time, were quite a significant step forward and put Queensland well to the forefront in treating the unfortunate persons who became involved with the criminal law by virtue of some mental infirmity. However, it did become clear that the situation was far from ideal. It became necessary to rethink and consider even making fundamental changes. The Bill accomplishes such changes.

The basic concept to be kept in mind is that persons who are not criminally responsible should not be treated as criminals and should be removed entirely from the sphere of criminal law. There should be no necessity to go through the charade of a trial in order to acquit the person, with the consequence that he or she be detained indefinitely.

The question of criminal responsibility should be ascertained as soon as possible after the particular action which would normally give rise to a criminal charge. If he or she were not criminally responsible, there should be no further criminal proceedings. If the person were criminally responsible, the next question would be whether it was fitting that such a person be tried at that time, having regard to his state of health at that time.

In order for the defence of insanity to have operation, it must exist at the relevant time and not be something which arises subsequently. However, people may become mentally ill even though they were of sound mind at the time of doing a particular action. They should not be tried when a trial would be a factor in significantly affecting their mental health.

In order to assess criminal responsibility, it is imperative that there be a proper means of achieving it. The means proposed in the Bill is a Mental Health Tribunal. It

will consist of a Supreme Court judge who alone will constitute the tribunal, but he will be assisted by two psychiatrists who can assess the evidence in relation to the mental health and criminal responsibility of the person concerned.

The tribunal will not make any determination as to criminal responsibility unless the facts are not substantially in dispute. If the tribunal considers that the person is not criminally responsible, a charge will not proceed. Rights of appeal are given, particularly to the person concerned. The tribunal will endeavour to obtain evidence quickly, and it has the power to require appropriate examinations. Full legal representation will be available.

The person whose mental health is under consideration will not be prejudiced in any way as to any existing right. Regardless of the findings of the tribunal or of the Court of Criminal Appeal, he is, if he so desires, entitled to proceed to trial even in a case in which the tribunal or Court of Criminal Appeal, as the case may be, finds that he is not criminally responsible.

Rights of appeal are given to the person concerned and, in limited situations, to the Crown. Where criminal responsibility is found, the tribunal makes a determination on fitness to be tried having regard to the circumstances, particularly the state of mental health of the individual.

If, as a result of the finding of the tribunal, whether as to criminal responsibility or fitness to be tried, a person is detained in a hospital, he is not left to languish there. His condition is reviewed promptly and regularly and, in the case of a person not criminally responsible, he can be released on an order of the Patient Review Tribunal, which will be presided over by a judge of District Courts. There is a right of appeal against any finding of the Patient Review Tribunal to the Mental Health Tribunal.

If a person is considered unfit to be tried, his condition will be regularly monitored by the Patient Review Tribunal, which is required to make recommendations about him. If, at the end of 12 months, there is no reasonable prospect of the person becoming fit to be tried, the tribunal must make a recommendation to the Governor in Council. The Governor in Council may discontinue proceedings or defer the matter further. A limit of three years is imposed within which a final decision must be made.

It is not possible in this debate for me to give a comprehensive review of all of the provisions in the legislation. The Bill provides for a humane manner of dealing with persons who are mentally ill. It ensures that, as far as possible, only those people who are criminally responsible are dealt with as criminals. That is the basic criterion of the Bill.

In a case in which there was no lack of responsibility at the time of the relevant event but mental illness has come on subsequently, measures have been taken to ensure that mentally ill persons are not brought to trial unless and until it is fitting that that should be so. The intention of the Bill is to deal in the most appropriate way with people who are not criminally responsible by virtue of mental illness or who, as a result of mental illness, cannot or should not be brought to trial.

The Bill ensures that the public interest is protected, because persons who are considered to represent a danger to the community because of mental illness are detained and given necessary treatment. The interests of persons detained because of some association with the criminal law are protected, because their mental state is constantly monitored. When it is considered that they can be released in safety to themselves and other persons, that will be done.

The Bill does away with periods of indeterminate detention, because release depends upon the decision of the tribunals, which will be well qualified to make the necessary determinations in the interest of justice and the individual. No rights are to be denied and no rights will be taken away. The Bill provides full rights of appeal against decisions of the Mental Health Tribunal or the Patient Review Tribunal. The Government is keen

to do justice and wishes to ensure that justice is seen to be done. The provisions of the Bill are intended to carry out that ideal.

The Minister for Health and the Minister for Justice and Attorney-General, who had the foresight to prepare this legislation, must be complimented—not abused—for their understanding and compassion and for their interest in the protection of the patient and the public alike.

Mr GYGAR (Stafford) (4.44 p.m.): The Liberal Party cannot support the Bill at this stage.

Mr Bailey: That is nothing unusual.

Mr GYGAR: Perhaps if the honourable member for Toowong thought about the Bill he would see the reasons why. If one understands the Bill, one does not need prepared scripts to talk about it.

The Minister for Health made a great play about the time that has been given for the consideration and examination of the Bill. Perhaps he can explain why, if it has taken so many years to draft, it must be rammed through the House in a week. It is a complex Bill; it impinges upon basic rights of freedom, upon the process of law and upon one of the most delicate areas of health services—pyschiatric care. Why is there a need to rush it through?

I do not think that anyone could maintain that the Bill is other than complex. The proposals put forward are profound. In general terms the Liberal Party supports the thrust of the Bill; what it does not support is that it will ride forward with defects that could be corrected if the time was taken to consider them, if there was time to consult and, most importantly, if there was time to listen.

The Minister's second-reading speech makes great play of the fact that many copies of the Bill were distributed and that extensive and thorough submissions were received. Naturally, the people who made those extensive and thorough submissions thought that they would be taken on board. What the Minister did not say was that many of those submissions, which he acknowledged were extensive and thorough, were completely ignored. The people who made those submissions need, want and have a right to look at this Bill—not the draft—to see what it means now. They have the right to know what will happen.

The Bill contains many matters that cause concern, I am sure that, upon mature reflection, the Minister, his department and even the Government would be prepared to take submissions on those matters on board. I shall deal with some of those matters, particularly those that relate to the civil side of the Bill. My colleague the honourable member for Sherwood will be dealing with the criminal side, which, too, calls for clarification.

A great deal more explanation is needed in relation to the Patient Review Tribunal if the provisions covering it are to be accepted. The tribunal will be given extensive powers and control over the freedom and liberty of people who are alleged to be suffering from mental illness. Later I shall talk about just what mental illness is supposed to be.

If the Patient Review Tribunal has those powers, one would expect that some basic rules of natural justice would govern its hearings, the conduct of its procedures and what is to occur. For example, one would think that a person who can be deprived of his liberty by the tribunal would have the right to be advised of the functions of the tribunal and of the availability of legal aid. He does not have that right. One would think that people who are to appear before the tribunal would have the right to meet privately with legal, medical and other advisers. They do not. One would think that the person and his expert advisers would have the right to full copies of all reports that might be used before the tribunal. They do not. One would think that the person's doctor would have the basic right to request information on what drugs have been used to treat his patient. The Bill does not guarantee that right—certainly not before the

Paient Review Tribunal. Reference will be made to what occurs at the later tribunal, the Mental Health Tribunal, but at present I am dealing with the Patient Review Tribunal, as that is where it all starts. None of the rights to which I have referred are enclosed in the Bill. On the contrary, some appear to be specifically excluded.

One would have thought that, when hearings take place, the person would have the right to cross-examine on the evidence that is used against that person. One can only say "used against that person", because it will be used to justify that person's detention against his will. One would think that the prosecutor (how else can a person who seeks to detain someone against his will be described?) would be required to present his evidence first and have that evidence tested and challenged. One would think that the person would have the right to know what is alleged against him and what he has to disprove in front of that tribunal. The Bill does not guarantee that that will happen.

The onus of proof before this tribunal must be unacceptable to everyone. I shall not go into arguments about the balance of probabilities or beyond reasonable doubt, because the Bill does not even get to that stage. It requires that the person prove himself to be sane. I would challenge 50, 60, 70 or even 99 per cent of members in this Assembly to appear before a tribunal and prove that they are sane. That would be an impossibility. The mere fact that we walk through the doors of this place would be evidence against us. The test simply is not realistic. How does anyone prove that he is sane? Yet that is what a person appearing before the tribunal is required to do. The Division of Psychiatric Services does not have to prove that a person is dangerous; the person must prove that he is not dangerous.

I will not refer to Veen's case or to the judgment of Mr Justice Stephen that were mentioned by the member for Salisbury. I will not refer to the predictability of violence. It cannot be predicted. It is an unrealistic and impossible test. I can understand why people talk about such matters. I can understand why psychiatrists think that the Bill is terrific. Psychiatrists deal with subjective judgments. We are talking about laws that deal with the deprivation of liberty of people. Those laws must deal with objective truths and objective realities. This Bill does not do that.

Where in our law is there a requirement that a person must prove that he is not something so that he will not be locked up, perhaps for life? The law requires that people are not deprived of their liberty without having to meet some objective criteria of action undertaken or intentions expressed. The Bill contains no such requirement.

When one refers to welfare and social break-down, this Bill is very defective. I understand that the Human Rights Commission is not an organisation that is popular with the Queensland Government, but it has produced many documents of great value. One of them was a report on the ACT mental health ordinances tabled on 29 October 1982. The report dealt considerably with social welfare and when people should be detained for their own good or for their own welfare. The phrase "for their own good" should make members shudder a little. How many outrageous acts have been committed in the course of history because they were done for a person's own good? Those words alone should ring alarm bells in the ears of every member of this Chamber. What does "for their own good" mean? If a person wants to live an unconventional life-style, and if he does not have an attachment to property rights and other things that the normal community does, must he be detained for his own good until he aspires to a brick-veneer house in the suburbs with a two-car garage? Verifiable facts, not subjective judgments, must be the basis upon which people are detained for that purpose. The only real verifiable fact that we should look for is the ability of a person to maintain himself in a minimum functioning state in society. If he is able to do that and he does not wish to be detained, why should he be detained because Big Mother knows best and wants to put him away for his own welfare? Whether a person is admitted does not depend on any objective test; it depends on the interpretations and opinions of the doctors who will sign the certificates. That is not good enough.

The tribunal will be comprised of a judge and two assessors. What is the role of those assessors? Why are they needed? Before the abolition of the death penalty, a judge of the Supreme Court could make life-or-death decisions. He can make commercial decisions of such import as to ruin or destroy lives. He does not need two accountants to advise him about company frauds or two social workers to advise him about the rights and wrongs of civil litigation. Why does a Supreme Court judge who, sitting alone, has the power to handle everything else need two people whispering in his ear and giving him secret evidence, which is not open to publication, testing or cross-examination, to tell him, "Judge, that is what you ought to do."? Who cares what was said in the body of the court? Who cares what was tested in cross-examination.

I had thought that our legal system—our system of justice—had progressed beyond the stage when anonymous figures could whisper in the ears of judges and change decisions of courts of law, yet the Bill reintroduces them. It was a good idea; I acknowledge that; I can see why psychiatrists would say that judges need expert help and that judges need friends of court. However, if they need friends of court, let them stand in the court and openly display their wares, say what they want and say what they believe, having those beliefs tested and heard in the open. It was a good idea but one which, upon reflection, I am sure the Minister will not want and will eventually be forced to change. If the Minister had taken a little longer with the legislation and listened a little harder, he would have changed them.

The legislation states that an appeal to the Mental Health Tribunal from the Patient Review Tribunal is final and binding. In other words, the patient is locked out of the courts when, at his initial hearing, he was not allowed legal representation and his own doctor was denied access to the reports. Under the Bill, it is conceivable that the patient's own doctor in an independent review could find his patient starry-eyed and staring at the ceiling, but not be entitled to know what drugs had brought about that condition or what treatment he had been subjected to—in other words, why indeed he was that way. No rights at all are embodied in this legislation and yet, from that little Star Chamber, a patient has one appeal, with no access to the Full Court, the High Court or anything else. There is no right to have that detention tested in a superior court.

Unfortunately the Bill embodies the principle that a mental patient has fewer rights than any other citizen in any other circumstances. A hold-up man who guns down half a dozen innocent citizens has more rights than a person accused of aberrant behaviour under this Act. The legislation controls liberty—by providing for the incarceration of people for, perhaps, indeterminate periods. Why must they be locked out of the courts?

In his second-reading speech, the Minister went to great lengths to say what dastardly people lawyers were and how they interfered with proper administration. He ended with a quote from a Mr Schreiner—

> "But if he is a mentally ill person and needs help and treatment, then he should receive it and should not be deprived of his right to treatment."

Nor should be be deprived of his equal rights under the law. Why have mental patients fewer rights than bank-robbers, murderers and rapists? There is no justice in that.

Other details should have been corrected. Part of the legislation deals with prescribed treatments. If treatments are to be prescribed, why cannot the things that cannot be done to a patient without his written agreement be prescribed in the legislation? I can think of the things that I would like to see there, as I am sure many other people can—electro-shock treatment, coma and subcoma insulin therapies, behaviour modification and aversion therapies. Surely they will be precribed. At least, I hope they will. I do not know, because the Bill does not say. Are the regulations that will prescribe those treatments to be brought down before the Bill is proclaimed or after? Why are they not in the Bill? Surely they are basic. There is no reason for them not to be in the Bill. I would have thought that a complete and open approach would have put them there. I would have thought that, on reflection, the Minister would have seen that they ought to be included in the Bill.

I would go a little further, however. Any patient who is competent—and we have to draw a line here between competent and incompetent patients—should have the right to refuse any medication, and regime of treatment, if he wishes.

Mr Littleproud: Who draws the line between competence and incompetence?

Mr GYGAR: If the honourable member would look a little more closely at psychiatric services, he would see that the line is relatively easy to draw, that very many of the patients held under the provisions of the Mental Health Act are deemed to be competent people. The incompetents, the ones who are quite plainly totally incapable of managing their own lives——

Mr Littleproud: Who would draw that line?

Mr GYGAR: The honourable gentleman seeks desperately for red herrings, but they are just not there.

Mr Littleproud: No, I don't; I want the explanation.

Mr GYGAR: It is a simpler judgment to make than many of the judgments being thrown on psychiatrists under this Bill.

A competent patient should have the right to refuse medication if he is in no imminent danger. I just make that as a basic point. What is wrong with that? Even an incompetent patient who refuses medication should be entitled to some simple due-process procedure. It does not have to be a drawn-out court case; perhaps a second opinion would be a sufficient due process; but some process should be evolved.

Again, I have to applaud the sentiment behind this Bill. It is a brave experiment. I believe that most in the community would support what the Minister is trying to do. Even members of the Opposition have given some indication that they believe the thrust of the Bill is valuable. But there are details—important, critical details—which have been overlooked. They would not have been overlooked if it had not been for this mad rush to legislation. What will go wrong if this Bill, for which we have waited so many years, is delayed another two or three weeks? I doubt that the world will come to an end if there is a delay of three weeks. But I doubt very much whether Queensland will get good mental health legislation if this Bill is rammed through the House today. The procedures up to now have been fairly good—fairly open, fairly consultative—so why is there the need for change? The members of the Liberal Party cannot support the ramming through of this Bill, because we deem that important matters of detail, critical for the welfare of patients and public alike, need to be addressed before this House can endorse these amendments to the Mental Health Act.

Mrs CHAPMAN (Pine Rivers) (5.2 p.m.): There will always be those who choose to criticise legislation by labelling it as repressive or imputing to those who administer it paternalistic or custodial attitudes. It is sad that, almost without exception, the critics themselves are the ones who have the negative attitudes.

The Bill is an extensive one, but it is based on the simple premise that mental illness is a condition which often robs the patient of the ability to make sound judgments with respect to his own treatment. That leads the State to exercise its parens patriae responsibilities and to provide for treatment against the will, albeit the defective will, of the patient.

Having accepted that responsibility, the State must ensure that every practical safeguard is provided against the capricious or thoughtless use of compulsory powers. The majority of the Bill is given over to providing those safeguards.

I must emphasise, however, that the most basic of all safeguards is the humanity and concern of treatment personnel. One must realise that any patient is in constant contact with not only doctors but also nurses, psychologists, social workers, chaplains and a host of others, and there is simply no possibility of collusion existing between

such a group of people. Certainly the emphasis is on the treatment and return of the patient, not on the continuance of compulsory powers. Apart from the treatment personnel, the first line of statutory safeguards lies in the official visitors. They play an important role. The amendment now proposed provides for professional input into this role from disciplines other than medicine.

It is worthy of note that the Minister intends to take administrative action to ensure that in psychiatric units of general hospitals, and in those private hospitals that provide treatment services for the psychiatrically disturbed, official visitors will also be appointed. That will ensure that certain undesirable features which occurred some little time ago at some establishments in New South Wales will not occur in Queensland hospitals.

The new Patient Review Tribunal will play an expanded role. Some individuals and organisations that have been critical of the Mental Health Review Tribunal have been either ill-informed or mischievous in claiming that the tribunal is without power. The power to discharge a patient has always been provided in the Act. Until now, the tribunal has had the power to order the director to discharge the patient. The director has had the responsibility to either carry out the order or appeal against the order to the Supreme Court. I emphasise that the power to discharge has always been there.

Amendments have been made to the section to apply the same test to compulsory detention as is applied throughout the whole of the Act. The amendments also set out quite clearly the powers of the tribunal to order discharge, transfer, or the granting of leave, and to make other recommendations on whatever the tribunal sees fit.

If a patient is aggrieved by the finding of the tribunal, no matter what that finding might be, avenues of appeal are set out quite clearly in the Act. Indeed, any finding of the tribunal will have to be published and sent to all those people who are involved in the patient's compulsory detention.

A further safeguard is the reduction in the period of detention. In the first instance, it is a reduction from 12 months to three months. That will ensure a more frequent review of the patient and, if detention is extended, the Patient Review Tribunal will automatically and statutorily review the circumstances of the patient. No longer will it be necessary for a patient to make application to the tribunal, although the opportunity for the patient to make such an application has not been removed. The hospital administrator, however, will automatically make application whenever detention is extended.

The present Act sought to ensure that a doctor will always be present when the police are executing a warrant to compulsorily detain a patient. In fact, that has not always been the case. The Act is to be amended to ensure that no warrant will be executed unless the police officer is accompanied by both a medical practitioner and another professional person, who will be a designated authorised person.

A patient will not be compulsorily admitted to hospital unless he or she is both mentally ill and needs in-patient treatment. If the patient is willing to undertake out-patient treatment, and that will be sufficient for his care, action will be taken to ensure that such treatment is available, and the patient will not be compulsorily admitted to hospital.

The creation of the Mental Health Tribunal constituted by a Supreme Court judge assisted by two psychiatrists is a tremendous step forward in the care of people who are mentally ill and involved in criminal proceedings. This is a judicial system, and I emphasize that the Mental Health Tribunal will proceed in the same way as any other court. Of course, its findings will be appealable, and that is so different from the present situation in which matters are handled by the Governor in Council.

The Governor in Council has been restricted in the kind of evidence that he has called before him and in the way in which that evidence can be called. There are no such restrictions on the Mental Health Tribunal. The findings of the Governor in Council were not appealable. The findings of the Mental Health Tribunal are appealable. All of

this is accomplished without robbing the person of his right to seek trial by jury if he so desires. The matter is now quite open and accessible.

What is sometimes not realised is that, if a person has been admitted compulsorily, he can be discharged by the treating doctor or by the hospital administrator. If a person has been admitted on the application of a relative or authorised person, unless he is dangerous, he can be discharged by that relative or authorised person. The question of whether a person is dangerous is, of course, appealable to the tribunal. All patients have clearly defined rights to be visited by their private medical practitioners or by others, such as psychologists and legal advisers. These amendments make it abundantly clear that although a person is subject to compulsory admission, he has access to all such people.

Finally, the prescribing of certain treatment is a further advance. This State has not been troubled by the kinds of irresponsible treatment that has been given elsewhere; but now the law is able to state definitely that certain kinds of treatment will not be carried out. In extraordinary circumstances, certain treatment may be allowed, but only if the patient and his treating medical practitioner seek that treatment and the Director-General of Health, after consulting with a high-powered committee, gives his consent.

The community can be assured that all reasonable safeguards have in fact been included in this new legislation.

Ms WARNER (Kurilpa) (5.12 p.m.): I rise in this debate to try to answer some of the arguments that have been put forward. Of course, many of the points that I intended to make have already been made. I congratulate the member for Pine Rivers on delivering an excellent brief. It really highlighted the reasonable sorts of things that can be said about the Bill, but in no way did it address the problems that will be created by this legislation.

It seems to me that the whole Bill needs to be explained more thoroughly. The confusions within it need to be ironed out. As a number of members have said, perhaps the reason for the apparent deficiencies in the legislation—we cannot be absolutely certain that they are there—is that inadequate time has been allowed to consider the legislation, even though the Minister acted quite responsibly when he introduced the legislation last year.

It is a shame that this turn of events has occurred. I hope that it will not be repeated with the draft Family and Community Development Bill that was introduced by the Minister for Welfare Services, Youth and Ethnic Affairs, and which will come before this Chamber later this year. We have been given a great deal of time to review that draft legislation. If we are not given sufficient time to review the legislation, after all the submissions have been considered, in many ways we will be none the wiser. The whole process will be marred by a slap-dash procedure at the end, which is unnecessary and, to some extent, will reduce public confidence in the legislation. I hope that the Government takes notice of the number of times that the Opposition and the semi-Opposition—the Liberal Party—raise this point, because it is undignified and raises unnecessary doubts in the minds of the public.

I refer now to the most innovative section of the legislation; the Patient Review Tribunal. A number of problems are associated with the tribunal. The Minister for Health has suggested that the process of appeal to such a tribunal will be speeded up, and that is an excellent step because, at the moment, patients face dreadfully long delays. However, the deficiencies of the tribunal are that patients do not have the right to know the evidence that is placed before the tribunal; access is not available to hospital files; patients do not have the right to appoint solicitors of their choice and cannot invite to the tribunal relatives of their choice. These matters are left to the discretion of the tribunal itself, and that is unnecessary and raises questions of whether natural justice is being done in circumstances in which a person's liberty is at stake.

A persistent problem for mentally ill patients is that hostile relatives may attend hearings of the tribunal instead of relatives in whom patients have confidence. For a mentally ill patient, confidence is very important. Confusion is common in the field of mental health. Society does not know what mental illness is and, in many cases, the patients do not know what they are suffering from or why they are being detained and treated. It seems to me that the Bill is confusing and leaves a lot to be desired. However, I understand that clarity cannot always be achieved in this science.

It seems to me that the normal, ordinary judicial procedures of the right to cross-examine, the right to know what the evidence is, the right to have a solicitor of one's choice, and the basic principles of the justice system could be reflected within the Patient Review Tribunal without any difficulty. I cannot understand why those principles have not been included in the Bill. In the Minister's reply, he may explain these deficiencies.

I turn now to a philosophical problem. As has been pointed out by other members, the subject of mental health is a fairly inexact notion of what is considered to be normal and healthy or unhealthy in society. Any behaviour that is not normal can be called a mental condition or disorder; sanity as opposed to insanity. As the member for Stafford said, many people would hesitate to put themselves in the very difficult position of trying to prove sanity.

The Bill does not provide an adequate working definition of what it considers to be mental illness for the purpose of detention of patients. That means that the Patient Review Tribunal has little guide to follow except for a fairly tautologous statement about what is considered to be common practice in the eyes of the medical profession. The Patient Review Tribunal does not have any advantage in trying to work out the circumstances under which people should be detained or the circumstances under which they should have their liberty.

The other aspect of the legislation concerns compulsory detention and compulsory treatment, both of which constitute a fairly major problem. Within the psychiatric profession a great deal of controversy exists as to what constitutes proper treatment and what constitutes improper treatment. Anyone who listened to debates over the past 10 years as to the advances or otherwise in psychology and psychiatry would realise that nothing in those areas is simple. Unfortunately, the Bill does not lend any kind of clarity to what is already a confused situation.

Another deficiency in the legislation is that still no distinction is drawn between an intellectual handicap and drug dependence. Honourable members have covered quite well the whole matter of the Patient Review Tribunal and the function of the Mental Health Tribunal.

An aspect that I consider to be one of the worst is that concerning the right to informed consent to treatment of any particular nature, which does not appear in the Bill. That right to informed consent cannot be seen to be a total right. One can envisage a situation in which emergency treatment may well be necessary. However, if such emergency treatment by drugs or electroconvulsive therapy is to be given, the facility should be provided for a judicial review of the suitability of that treatment if the matter is in dispute between the patient and the medical staff. The legislation ought to include such a right; it does not.

I remind honourable members of the problems that are associated with the types of treatment that are under consideration. The treatment is not trivial; in many instances, it is as severe as a major operation. In hospitals, patients who are told, for example, that they need to have a kidney removed have the procedure explained to them by their doctor. The doctor explains to the patient what will need to be done and what the alternatives are. The patient then has the right to say whether or not the operation will take place. It seems to be a simple process to explain to a patient what will be done, what the possible side-effects are and what the success rate is.

I refer particularly to electroconvulsive therapy, which is a fairly controversial form of treatment. It has a number of side-effects. As I understand it, it is used mostly in cases of depression, but some psychiatrists recommend it in treating other conditions, such as schizophrenia.

I consider electroconvulsive therapy to be quite barbaric and unnecessary. Other treatments can be used in its place. There is a lack of knowledge of why it has certain effects that it does have. It is supposed to cheer the patient up. The lack of knowledge concerning its effects gives cause for some doubt about that form of treatment.

One side-effect of electroconvulsive therapy is amnesia. It is said that amnesia accompanies every seizure. Of course, treatment is given at the time of seizure. That, in itself, is an indication of what that treatment entails. The seizure occurs at the time when the treatment is given and at the time when the anaesthesia is used in conjunction with the ECT. In many cases there are some memory defects which vary in severity and duration. They are dependent upon the age of the subject, the intensity of current used and the position of the electrodes. I understand that, when that method is used, aged persons, in general, suffer a worse reaction than young persons.

In 1979 Max Fink wrote a book on the use of ECT. He said briefly that the effects are amnesia, organic mental syndrome, confused state, fracture, fear, panic or death. If such side-effects can result from treatment in a mental hospital, the least one can do is ask somebody who is depressed whether he wants to undergo that particular treatment. If we are concerned about mental health and the possibility of curing people who are said to be suffering from some type of mental disorder, that seems to be a basic right in our society.

The other problems that are associated with treatment being given in a compulsory or arbitrary manner revolve round the dangerous drugs that are used in the treatment of mentally ill patients. It seems to be fairly reasonable that people should be asked whether they would prefer to feel the way that they do feel. In many instances patients are not violent. However, they feel very unhappy about their mental condition. Many drugs that are used are depressant drugs. Unfortunately, those drugs produce side-effects. If patients are to participate in their own treatment, those side-effects should be explained to them. If there is to be any success with that process, I believe that it would be necessary to obtain consent from the patient.

The taking up of those issues in the Mental Health Bill makes one wonder whether they have been examined in any detail. One wonders whether professional persons have been consulted about the problems that exist.

The whole question of mental health in our society and whether or not mentally ill people ought to be treated in some way that is significantly different from the way in which other patients are treated is raised by the discrepancies within the legislation. Unfortunately, the legislation does not come up to scratch.

Under section 53 of the existing legislation, patients have the right to send letters to politicians or to their lawyers. The proposed legislation does not appear to contain such a provision. That takes away a right. Its removal may or may not have been accidental; I suspect that it was. That provision may have been omitted because the legislation has been rushed through in one week so unnecessarily. It could be reasonable to give patients the right to write letters or to receive letters from persons other than politicians and lawyers who may in many instances not be the best persons with whom patients should communicate when they are distressed.

The major problem with the Bill may very well be the fact that it has been rushed through rather than any maligned motives or intentions. Because of that, at this stage the Opposition cannot ascertain whether all of the matters raised in public submissions on improvements to the Mental Health Act have been considered and, indeed, whether or not this piece of legislation is the best one that the House could have at this time. Having listened to the debate in the House, I suspect that it is not and that a matter

of two weeks' hiatus would give the House a considerably better piece of legislation, one in which the people of Queensland and the Parliament could have more confidence. Maybe that would take away some of the fear that currently surrounds mental institutions in the State and some of the fear that is entailed in the whole question of mental illness and insanity.

Mr SIMPSON (Cooroora) (5.30 p.m.): I rise to support the legislation which, in my opinion is not being rushed through the House. The evidence is that a great deal of consultation has been undertaken to try to find a solution to many of the problems associated with mental health.

Mr Menzel: The honourable member who just spoke has rushed out of the House.

Mr SIMPSON: Yes, she was in a hurry. I guess when you have got to go, you have got to go.

Mental health is a problem for the entire community, which has a responsibility to those who are mentally ill, whether it be because of an infliction from birth or something that has surfaced later in their life. Some mentally ill people are harmless to others and some suffer from depression, whereas others carry a threat of injury, even fatal, to both themselves and others.

Mr Comben: You will put us to sleep in a minute.

Mr SIMPSON: From their interjections, Opposition members are not concerned about the seriousness of the matter but about whether the legislation is being rushed through.

The Bill results from the input from very many organisations of dedicated people throughout the State who are really concerned, just as the Government is concerned, about this problem in the community. Unfortunately, the Opposition does not share the same concern.

I do not doubt that, at some later time, as knowledge and techniques are improved, the opportunity will arise for the legislation to be refined and improved. At the moment the Government believes that the legislation should be delayed no further so that the mentally ill in the State can be advantaged by the amendments contained in it. Unless people have experienced the effect of mental illness on individuals and their immediate families, they cannot appreciate it. Those who have not been confronted with the problem should be very thankful for that. However, all responsible citizens should try to find a solution to the problem, which is what the Government is doing.

Because nobody can ever be sure of the cause of mental illness, the problem will never be totally solved. One can only deal best with it from the known facts and on the best advice available. The Government has to build into legislation mechanisms such as a Mental Health Tribunal, which provides an opportunity for people to be assessed and, when the people disagree with that assessment, a means of appeal.

People often make judgements in hindsight. That is obviously the easiest way to make judgments, but it is not fair to those people who have had to try to solve a very difficult problem in the first place. One often hears of people who should be protected from themselves and other people and remain in the community. Many of them would have been assessed by professional people, having due regard to their freedoms and rights. A number of people who were regarded as having the greatest minds in the world had problems. That shows that the line between brilliance and insanity is very fine. All people need to be very sympathetic to the problems of the mentally ill and, in a co-operative spirit, they should try to find a solution to those problems by introducing the very best possible legislation. That is what the Minister has set out to do, and I commend him for his efforts in that regard. Members should enter into the spirit of the legislation for the good of the community.

Mr INNES (Sherwood) (5.36 p.m.): As was indicated by the member for Stafford, I will be directing my attention towards some aspects of the legislation that relate to the criminal law. But at the outset I should say that it is recognised by all members that the problem of mental illness is a grave and complex one. Perhaps this legislation might have been better approached in the manner adopted by the House of Lords when dealing with similar legislation.

When the Minister introduced the original Bill last year he cited the remarks of the United Kingdom Secretary of State for Health when introducing a similar Bill into the House of Lords. The Secretary of State said—

> ". the Government's mind is not closed to any reasonable proposals. We are not bound to party lines on this legislation This is a non-political Bill."

One would have thought that they were sentiments in keeping with the gravity of the subject under discussion.

Because two revolutionary sets of proposals have been put to this House within 10 years members can gain some insight into the complexity of the subject. Again, I will use the Minister's words when dealing with that part of the original Bill with which I will deal specifically—

> "I have already adverted to the laudable struggle to divorce provisions for the proper care and treatment of the mentally ill from the concept of criminality. There is, however, an arena where mentally ill patients are involved in criminal and like proceedings.
>
> This very difficult area is dealt with in a special part of the Mental Health Act which operates in conjunction with certain provisions of the Criminal Code.
>
> A great deal of attention has been given to this subject and the 1974 Mental Health Act revolutionised the concepts of the mentally ill person involved in criminal proceedings at a time when many other jurisdictions were not prepared to grapple with the problem."

So in 1974 a revolutionary attempt was made to grapple with a central part of the Bill before the House. Nine years later, in March 1983, the Minister said with regard to the legislation—

> "The Bill that lies before us today is a far-sighted piece of legislation going far beyond the mental health legislation in other States of this Commonwealth and, indeed, in other English-speaking countries throughout the world."

So members are involved in debating revolutionary legislation of a type which apparently has not been canvassed or embraced to date by any other English-speaking jurisdiction in the world. One would have thought that, as a consequence of those important words, the steps that are taken and the changes that are to be made would be the best that could be devised and that a great deal of caution about the proposals would be shown because, although revolutionary in 1974, they apparently did not work and were so revolutionary in 1983 that no other English-speaking country had decided to adopt them.

Until last week, the course taken by the Minister was proper and commendable. When something as revolutionary and as sensitive as mental health and mentally affected criminal behaviour is being tackled, consultation must involve the concept of hastening slowly and be at the widest possible level. In the Minister's words, we now have legislation that registers the influence of the psychiatrists. This is a Bill devised and supported in the interests of the psychiatric profession. That was said when the Bill was introduced last year. I must point out that it was not the concern of lawyers that prompted reform of the health legislation.

The Minister said—

> "I must point out that it is not the lawyer's concerns that have prompted reform of mental health legislation. The psychiatric profession itself has been anxious to ensure that legislation is brought into line with current concepts of treatment and civil rights."

Apparently that is civil rights as seen by the College of Psychiatrists.

If we are acting in the interests of professionals such as psychiatrists, and what they propose overlaps an area that has been the traditional area of operation of another profession, I should think that the fullest possible consultation would take place with that kindred profession. That has not happened.

Earlier, consultation took place with the Law Society and the Bar Association. According to my information, those two bodies totally supported the concept of a mental health tribunal to deal with those cases in which there was really no substantial contest between prosecution and defence that the person was, for criminal purposes, insane. The idea was to have some fairly summary, convenient, unpublicised proceeding in which a person's insanity could be confirmed quickly, so that the cost of getting together a court and a jury, with the attendant publicity and trouble for the Government and the community generally, would be avoided. I should think that would be an area of no real contention.

That was the genesis of the support given by the professional bodies representing a profession that knows more about the criminal law than does—I say this with respect—the profession of psychiatry. That is not to say that the law considers psychiatry an irrelevant profession. To the contrary, the Criminal Code of Sir Samuel Griffith was in advance of its time, and used in those days modern, enlightened concepts that refined the then McNaughten rules, the first set of coherent rules dealing with the question of mental capacity and the criminal law.

Mr Davis: Sir Samuel Griffith is one of your favourites.

Mr INNES: Yes, he is a favourite. He was a great man in any terms, and a highly intelligent one.

Since that time, the criminal law and the legal profession have used the psychiatric profession and its skills and talents wherever that has been relevant or necessary. But what I found about the psychiatric profession—and I say this with no disrespect to them—is that psychiatry is not an entirely exact science.

Earlier this afternoon, an honourable member said, "Well, psychiatry is just a matter of health; mental health is a matter of health. It is, therefore, a health matter; it is not a legal matter. It is just like an appendicitis or some other physical ailment." It is not like that. It is not susceptible to the same clinical identification and diagnosis.

Those honourable members who have not accepted scripts or assistance from the Minister's department to make speeches in this House, who have been involved in criminal law processes, both for the prosecution and for the defence, and who have used psychiatric evidence, know that psychiatry is not an exact science. Frequently, the diagnosis is based upon a version of facts that is presented by the subject himself or by the family of the subject. There is the danger of that version being wrong, which is what concerns me and other members in this Chamber, including my colleague the member for Stafford. Unless one has a textbook case, the basis of a diagnosis by the psychiatric profession, of all the medical specialties, should be tested, canvassed and be open to question, examination and public scrutiny.

The recent tragic Walsh trial has been mentioned in this House. I suggest that it will not assist the course of justice to have proceedings before a tribunal which deal with matters of diminished responsibility hidden from the public. If, as has been stated in the House, some people entertain disquiet and concern about a trial held in public, how much more suspicious are they going to be about a trial that takes place in secret? Perhaps a person will never come to trial because of something which, no doubt it will be said, is cooked up between people in the know or in the old-boy club. That is why the justice system operates in public. That is why there are people in the public gallery of this Chamber.

Laws cannot be made or judged in public. When a person's mental health stops being a matter of his private concern—that is, when it is totally proper for it to be dealt with in private, albeit with the safeguards created by a hearing before a tribunal of some independence—and moves into the public arena, when a person with a mental affliction starts affecting other people or their property, that is the time when the public should insist that matters be heard in public, or be made as public as possible. That is where matters can be tested by the prosecution or by the defence.

To my knowledge—if I am incorrect, I ask the Minister to say so—the Bar Association and the Law Society, which met with his advisers, showed a significant interest in this subject and were prepared to endorse and support some proposals and amendments, have not been consulted during the last week and have not had time to call their bodies together. It was important for them to see the results of the Minister's deliberations and consultations.

Mr Austin: The Bar Association did not even put a submission in after I introduced the Bill.

Mr INNES: But the Bar Association did meet with the Law Society and, as I understand it, what the Law Society says is what the Bar Association substantially believes.

I have said in this House before that often, with professional bodies, one is dealing with total volunteers. The Law Society has a secretariat, and often matters are left there. What the Minister did up to last week was totally laudable and supportable, but what has happened in the last week is what has gone wrong. The Minister made a decision, which he has the right to do, about what submissions he would accept. But people did not have an opportunity to see the end result—the specific proposals—to suggest that they could be further refined or that they were substantially wrong.

The Liberal Party adopts that attitude. It will not oppose the legislation; but it will not support it. The Liberal Party agrees with attempts to reform the law in this area, but it does not and cannot support the amendments in their present form. It will not be seen to oppose the Government, but it will not be seen to support the Bill and approve of it.

I turn now to the areas of particular concern. The Bill provides for the setting-up of a Mental Health Tribunal.

Mr Mackenroth: This will be called the Liberal shuffle.

Mr INNES: The ideas and what is said are important. I am talking about ideas, not about political shiftiness or point-scoring.

With the Mental Health Tribunal, a judge will be advised, not openly but off record, by two assessors who are psychiatrists. That notion is not supportable. As the member for Stafford said about more personal situations, what the psychiatrists say should be on record. Of course, the psychiatrists should take part in the tribunal.

If, as the Minister for Health says, lawyers can shop round until they find a psychiatrist who is prepared to give an alternative opinion, how much more important is it that the area of dispute not be dealt with in private without testing it with an alternative viewpoint? Is it to be said that psychiatrists are charlatans who are prepared to give dishonest opinions? I know from my own experience that psychiatrists differ in opinion because they study an inexact science. The Liberal Party cavils at that provision.

There is great merit in the proposal by the Law Society and the Bar Association that, when both sides agree that a person is afflicted with insanity, it would be better if that conclusion could be arrived at at an informal or more summary process and a trial avoided.

The vexed area is diminished responsibility. In the Walsh trial that was a telling factor. It is said that, for there to be diminished responsibility, a person must be afflicted

with a short-term mental disability. If ever anything needed testing in the open, especially in the area of criminal responsibility, it is in the area of diminished responsibility. The test to determine whether a person should be visited with the full consequences of his actions or whether he has a defence must be held in the open so that the public can be satisfied that the test was made openly and not clandestinely.

I have seen psychiatric reports prepared for the purpose of criminal proceedings in which the psychiatrist, before the trial, actually addresses the matter in issue. The psychiatrist sometimes ventures an opinion of whether or not the accused is guilty. The statements made to a tribunal by a psychiatrist, who talks to members of the family and with the defendant himself, will be admissible in any subsequent trial. That does not conform to any concept; it revolutionises the justice system, because of the special concerns of psychiatrists and the Department of Health. That attitude cannot be maintained. That matter should remain within the criminal courts. If a person has his own version of the facts, in which he says that he was afflicted with temporary insanity, he should say that in public—in a trial in the criminal court—and it should not happen secretly where it is hidden from view.

Under the Bill, the Crown can insist that a person subject himself to a psychiatric examination. On the version of the Walsh case put forward by the honourable member for Lytton—he claims that his remarks were taken out of context—someone claimed that a defence was dreamed up in a pub, and everybody knew that the defence would be diminished responsibility or temporary insanity. Under the Bill, that would give the Crown law officer the right to take the person off for a compulsory examination and compulsory reports, which might deal with every fact at issue in the trial and be made compulsorily admissible in the trial. That is not on.

This legislation has been approached from the psychiatrists' viewpoint; it has forgotten about the important public principles of our whole system of justice. I realise why the Governor in Council would rather not make the decision himself. In certain circumstances, that is fine; it is good to create tribunals for certain purposes. However, I warn the Minister against taking the tribunal into the very area in which it is necessary that the public see that justice is done. He should not compel people to put themselves into a situation in which gross unfairness can occur because of the view—perhaps the completely wrong view—of a professional such as a psychiatrist. Not all psychiatrists are of totally impeccable judgment. Both the Minister and I can vouch for that.

Perhaps an even greater injustice is done in relation to simple offences and committal proceedings. A number of members have claimed that it is easy for the defence to plead insanity. I point out to those honourable members that every lawyer is taught that he should not raise the plea of insanity unless he is absolutely forced to do so as a last resort. A person who is charged with a lesser offence and who pleads insanity could, instead of being sentenced to a determined period of two or perhaps even five years, be detained at pleasure, which could involve a longer term of detention than that imposed for the commission of the most serious crime.

In committal proceedings, defendants who are afflicted with some mental disorder but who are not necessarily insane instruct their lawyers, "Please do not use the plea of insanity." The Bill, however, converts such defendants into involuntary people who are activiated into pleading insanity by others who pull the trigger. It is all wrong. Because of the complete uncertainty and open-ended nature of the potential punishment of confinement, people simply do not use the plea of insanity.

In all those circumstances, many of which go right to the very core of our system of justice and public order, and public respect for that system, I ask the Minister to reconsider the matter and to consult with the two bodies to which I have referred, as well as to take on board the remarks made by honourable members. My purpose is not to impede or delay the Bill. I should like the Minister to think again for three or four weeks about the very important matters that honourable members have raised today.

Sitting suspended from 6 to 7.15 p.m.

Hon. B. D. AUSTIN (Wavell—Minister for Health) (7.15 p.m.), in reply: I must say that I am concerned that a number of members suggested that the Bill is being rushed through the House. Those members of this Assembly who have held their positions for some time would be well aware that the proposed amendments to the Mental Health Act have been under consideration by me for approximately four years. Many lengthy submissions have been received by me. The opinions expressed in those submissions were well considered, thoughtful and thorough, and they have been considered carefully by my officers, by the Solicitor-General and by me.

It must be noted also that before the original Bill was presented many organisations were given the opportunity to make submissions. By and large, the amendments are the result of the opinions and comments received. Surely it is not necessary to consider now the amendments that have stemmed from those submissions.

The honourable member for Chatsworth and other members raised a number of matters. I will deal in general with most of the matters that have been raised.

In my opening remarks, I said I was concerned that an opinion had been expressed that the legislation is being rushed through the House. If the Government had not wanted the opinions of the public to be considered, it would not have advertised publicly in the press and would not have held public meetings throughout the State of Queensland. The comments have been considered and some of them have been incorporated in the amendments. It is not only idle but mischievous to suggest that the matter should be deferred again and again.

This legislation has been the subject of wide debate in the community. When members of Parliament place legislation on the table and ask for public comments, as has been done in this instance, those comments should be taken on board by the people who drafted the legislation and by the Government. Eventually, the time will come when the members of this Assembly will have to decide what they will and will not accept. I am sure that the members in this Chamber would find objectionable the suggestion that bodies outside this Parliament ought to determine the laws of this State.

The Bill was first introduced into this Chamber in March 1983, almost 18 months ago. People who have not been prepared to make submissions during the last 18 months have found that they need more time to consider the legislation.

It has been stated that legislation of this nature should not be based on hard cases. No-one is more aware than I am of the cliche that hard cases make bad law; but any reasonable person would be well aware that this Bill is the culmination of years of work and extensive discussions.

Recently, a young man was found not guilty on the grounds of unsoundness of mind at the time of an assault on his neighbour. That matter has been canvassed in relation to this Bill and in relation to the general concern about the question of criminal responsibility. The statement made by Mr Sturgess, as reported in "The Courier-Mail", sets out the facts as he saw them in relation to the case involving Peter Walsh. I am advised that Mr Sturgess is thoroughly convinced that the concept embodied in this Bill of a tribunal to deal with the question of criminal responsibility is one that is deserving of support.

As I said in my introductory speech, these amendments are by no means an erosion of the rights of the citizen, but they are a device to ensure that only those who can be held criminally responsible are treated as such. Although it is clear that the determination of criminal responsibility is not always best considered by a jury in the setting of a criminal trial, the rights to trial by jury have been assiduously preserved.

If there can be criticisms of the trial of Peter Walsh, they must be criticisms of the procedures that presently exist, not of those involved in the proceedings, and I include Mr Sturgess in that statement. The provisions of the Bill will ensure that the question

of criminal responsibility on the grounds of unsoundness of mind will be a matter seriously considered by a Supreme Court judge assisted by two expert psychiatrists. In most cases, that process will not only do away with the necessity for criminal trial but also replace the provisions already existing in the Mental Health Act where such determinations can be made by the Governor in Council. It will allow for the matter to be heard at an early date while the person is still mentally ill and it will do away with the necessity to subject to the rigors of a criminal trial persons who are clearly not criminally responsible, which can only be described as a travesty of justice. In the case of Peter Walsh, it would have allowed the whole question of the person's mental state to be explored by both the prosecution and the defence before a Supreme Court judge, without the overtones of the defence electing to use the mental state of the defendant as a defence against conviction.

In relation to the Mental Health Tribunal—a Supreme Court judge is to be the arbiter. There is nothing novel in determining the quality of material fit to be determined and, indeed, this is the role of judges in every jury trial. The House already has sufficient confidence in Supreme Court judges to place the responsibility on them for determining issues that are raised before the tribunal. In any case, adequate avenues of appeal exist to protect the interests of all concerned.

The psychiatrists are appointed to assist the Supreme Court judge and there is nothing novel in this procedure, either. The Medical Assessment Tribunal, constituted under the Medical Act, has worked extremely well for many years. Like this tribunal, that tribunal is constituted by a Supreme Court judge. The tribunal has two medical practitioners who sit as assessors with the Supreme Court judge. The tribunal is therefore able to be fully informed with respect to the medical and psychiatric facts, which are of the greatest importance in making effective determinations. The role of the psychiatrists is therefore to ensure that the facts are fully explored and understood. The determination is made by the judge alone. It must be clearly pointed out that the psychiatrists assisting the tribunal do not give opinion. Nor do they give evidence. That is left to the patient, the patient's legal representative, the Crown and the Crown's representative. The psychiatrists are there to explore and to make the evidence of other persons crystal clear.

The jurisdiction of the tribunal has also been raised. The Bill sets out the way in which the Mental Health Tribunal will proceed. It provides for rules of practice to be made for the tribunal. These rules have not been set out in the Bill itself for the very good reason that, in this field, the rules may need to be amended or changed from time to time. No-one can question the competence and the integrity of a Supreme Court judge in making such rules, but those rules will need to be sanctioned by the Governor in Council by Order in Council. Such rules will be known and understood by all parties concerned and can be amended from time to time as the needs of the tribunal become clearer with the implementation of this legislation.

The Queensland Law Society commented that there may be a denial of natural justice in that the person in respect of whom the proceedings have been instituted may not always be present. There is no intention to deny any natural justice, nor is any natural justice denied. The persons concerned may not be capable of understanding the proceedings. In the light of the fact that the person is mentally ill, this is very understandable. In some ways criticism of this matter actually denies the reality of mental illness. Those who have questioned this clause repeatedly admit that the person should not be present in court if he exhibits gross misbehaviour or proven physical illness. How then can it be contended that a person who is mentally ill should, in spite of the type of mental illness, always be present in the court? Such criticisms demonstrate an incapacity to grasp the reality of mental illness and a complete ignorance of the nature of severe mental illness.

One of the great virtues of the Mental Health Tribunal is that a determination can be made while the person is severley mentally ill and need not await the sometimes endless procedures of that person having to recover from his mental illness before the facts of his criminal responsibility are determined. Records show that persons who have

recovered from a mental illness are put under enormous strain by the present system and in some instances that strain has resulted in their untimely death by suicide. It must be noted that legal representation of the person concerned, as well as of others, is quite clearly explicit. This is a matter that does not appear to be appreciated by some who have made comment on the Bill.

References to the tribunal have also been raised. The Bill sets out the people who can make application to the Mental Health Tribunal. This is a matter of some contention by some people, particularly the Queensland Law Society and the Queensland Council for Civil Liberties, but it is a sad fact that the fundamentals of the criminal justice system do not meet the needs of mentally ill persons. The question to be resolved is that of criminal responsibility and the legislation makes it quite clear that this is a matter of prime concern to the administration of justice.

Some objection has been raised to the person's nearest relative being able to make such an application. It is unfortunately true that mental illness often imposes an unbearable burden on relatives. Such people have considerable rights and concerns in these matters and ought to be able to have the matter examined by the Mental Health Tribunal.

Criticism of the role of the Crown law officer—the Attorney-General or the Solicitor-General—to have matters raised before the tribunal is completely unjustified. What would be raised before the tribunal is the question of criminal responsibility. It is the Crown, through the officers of the Solictor-General's Office, that is concerned with the administration of the criminal law and in this regard is the representative of the community. It is completely inaccurate to suggest that the Crown would seek to have matters raised before the tribunal for the purpose of obtaining evidence.

It is imperative that evidence be obtained, and, in any case where unsoundness of mind is likely to be an issue in the trial, the community has a very real interest in knowing the state of mind of the individual and having the question of criminal responsibility fully probed, whether before the tribunal or elsewhere. It cannot be over-emphasised that the view expressed by some people that the proper forum for deciding the matter of unsoundness of mind or diminished responsibility lies with a judge and jury is not valid. The tribunal is in a very much better position to make such determinations. However, in spite of this, a person's right of trial by jury has been preserved.

Much emphasis has been placed by the Council for Civil Liberties on the concept that, although the Mental Health Tribunal provides a very valuable procedure in regard to major crimes, it should not deal with other crimes, and indeed has exemplified its intention by reference to shop-lifting. It is of the greatest importance to point out that, although that is an offence which may be dealt with summarily and in some cases ought to be so dealt with, the offence could be the first indication of an underlying mental illness. If that is so, the person needs to be diverted from the criminal justice system and should have access to treatment for such underlying conditions. It is important, therefore, to ensure accessibility to such treatment services rather than risk conviction and punishment when a mental illness is the basis for his action.

I now turn to the mental health review tribunals. The constitution of the Patient Review Tribunal is substantially different from the constitution of the present Mental Health Review Tribunal. It will be noted that there is now statutory provision for a judge of the District Court to be chairman of the tribunal, and the same professionally qualified person described in the definition of official visitors is now being built into the constitution of the tribunal. There are also other machinery amendments consistent with the change in the constitution of the tribunal.

A very interesting and thoughtful submission on this matter was made by the voluntary agencies which pointed out that it was not only professionally qualified people who should be represented in the constitution of the tribunal. Indeed, the tribunal as it is presently constituted allows for the appointment of a person who is not so qualified.

The new constitution does not exclude the appointment of a person who is not qualified professionally, and voluntary organisations can be assured that when consideration is being given to the appointment of the tribunal their views will be considered.

The powers of the tribunal have been greatly extended in relation to mentally ill persons involved in criminal proceedings. The powers, duties, functions and responsibilities of the Patient Review Tribunal in respect of such persons are now contained in Part IV of the Act. Other sections apply to those people who have been civilly committed. The powers of the tribunal have been recast, making the secion more positive, and applying the same test to detention as will apply throughout the Act.

The Law Society, the Legal Aid Commission and other bodies have pointed out that in the previous Act the same test did not apply throughout, and this could have led to some inconsistency. The matter has now been remedied. The same bodies have also raised the question of legal representation. Amendments have been made to spell out quite clearly that counsel or a solicitor may be present at a tribunal hearing if the tribunal so determines. The question of legal representation is very important. I referred to that matter when I introduced the Bill. I must reiterate that the tribunal is inquisitorial and not adversarial. Even when legal representation of the patient or any other party is allowed by the tribunal, the role of the legal representative will be to assist the tribunal in the inquisitorial mode and is not provided for the purpose of cross-examination or examination-in-chief.

The tribunal is so constituted that each and every member of the tribunal must satisfy himself that he has all the information available to him that is necessary for him to determine the question whether the patient has the ability to survive effectively in the community rather than be detained in hospital. These are questions which are determined on facts which are not questions of law and which can best be determined by the questioning by members of the tribunal rather than by legal representation. In that matter the submission of the Australian Association of Social Workers was of great value. It will be noted that provision exists not only for the possibility of legal representation but also for authorised persons and for other persons determined by the tribunal to attend tribunal hearings. The tribunal in the past has been, and certainly the new tribunal in the future will be greatly assisted by informed social workers and other professional staff, just as it is very reliant on information provided by the medical profession.

Provision is made for the patient or persons acting on behalf of the patient to appeal against the findings of the tribunal. Under the Act as it presently stands, the director has the opportunity to appeal to the Supreme Court against the findings of the tribunal when the tribunal orders the discharge of a patient who, in the opinion of the director, ought not to have been discharged. Such an appeal will in future lie to the Mental Health Tribunal. The new position is well accepted and has not been the subject of any submissions.

The honourable member for Salisbury raised the matter of section 70. The amendment to section 70 is to make a Supreme Court judge who is experienced in these matters to be the Supreme Court judge who deals with such matters. It is also to ensure that the judge will have access to the expert opinion of the psychiatrists assisting him. The result will be to obtain the best of both medical and judicial opinion.

The much-raised Johnston case was not one in which a person was detained under the terms of the Mental Health Act. He was detained under legislation relating to persons incapable of exercising control over their sexual instincts. I repeat that he was not detained under the Mental Health Act. Therefore that case is not pertinent to the Bill. The Bill provides extensive and effective appeal provisions.

The honourable member for Salisbury also adverted to the prediction of dangerousness. Someone has to decide what is dangerous. Let us look at the facts. In the last five years, over 100 persons have been discharged from the Security Patients' Hospital. Only 16 patients have been detained for those five years. Of those 16, 10 have been detained for

more than 10 years. Only one person on leave from the Security Patients' Hospital has committed a serious antisocial act. The prediction of seriousness is therefore very good, despite the so-called scientific papers that the honourable member said that he had.

I point out that there seems to be the suggestion in the comments made by some honourable members that the Health Department, departmental officers and psychiatrists admit as many patients as they possibly can to the psychiatric institutions. To set the minds of honourable members at rest I refer to figures on the admissions to Wolston Park, Baillie Henderson and Mosman Hall in the last five years. Wolston Park has shrunk from 1 200 to 750 beds; Baillie Henderson has shrunk from 750 to 480 beds and Mosman Hall has shrunk from 225 to 184 beds. That is a clear indication that it is not the Government's intention or policy to put people in mental institutions. On the contrary, it is the Government's policy and intention to get as many people as possible out into the community to perform an effective role.

The honourable member for Salisbury also spoke of persons who "made it" to the tribunal. All persons who have made application have been heard. However, we are not satisfied with this process, and have made it a statutory requirement under the new legislation that all persons who have their detention extended beyond three weeks will be reviewed by the tribunal.

The honourable member for Salisbury also quoted from a scientific paper. He should well know that even a person with the least scientific background would not ask a reasonable person to accept proposals made by a single, unsubstantiated author.

The honourable member for Stafford raised several questions. I refer specifically to the point he made about examination. Section 54 expressly sets out that a patient can be examined and visited by his own doctor, his own solicitor or any other professional person of his choosing, and can discuss this matter with the treating doctor. All reports and documents are fully available to the tribunal and, after all, who else would need to be so informed? The references to proving insanity are so far from the truth that they are really a little funny. The Patient Review Tribunal is not a court. It has to decide whether a patient is still mentally ill or has recovered and can successfully adapt to community living.

The honourable member for Stafford suggested also that perhaps the legislation had something to do with the Star Chamber. His comments reflect his Star Chamber mentality, but that is not the tenor of the legislation. In discussing tribunals, he has obviously confused the two tribunals. His mistakes are too numerous to mention. He also questioned whether, in fact, Orders in Council would be laid on the table of the House. The Act is quite explicit. The term is "proscribed" not "prescribed". In other words, it is done not by way of regulation, but by Order in Council.

The matter of the finality of the Mental Health Tribunal was also raised. The Bill spells out quite clearly that the findings of the Mental Health Tribunal in matters referred to it will be final and conclusive. This matter has been considered at great length. The criticisms that have been made are not really relevant.

It will be noted that the Bill ensures that a person may, upon his trial, raise his mental condition as an issue. The right to trial has been spelt out very clearly. If a person elects to be tried by a jury, of course that finding will be appealable in the usual way. It will simplify matters if various findings of the Mental Health Tribunal are set out and how appeals can be made against those findings.

In the first place, the Mental Health Tribunal can hear appeals from the Patient Review Tribunal. There is no appeal beyond the Mental Health Tribunal, as the matter would have been heard by a Supreme Court judge. However, it is pointed out that the hearing will be in terms of section 70 of the Act, which provides that the procedures of the Mental Health Tribunal shall not be construed to prejudice any other remedy available to, or other proceedings by, or on behalf of, a person who is claimed to be

unlawfully detained. Quite obviously, therefore, a person who is aggrieved by such findings could resort to the procedures of habeas corpus.

The Mental Health Tribunal can find that a person is of unsound mind. This finding is appealable by the person to whose mental condition that decision relates if the matter was referred to the Mental Health Tribunal by the Crown law officer or the director. If the person himself has made reference to the Mental Health Tribunal on this basis, of course he would not wish to appeal against such a finding.

The Mental Health Tribunal can find that a person is not of unsound mind and is fit for trial, in which case the person will proceed to trial and the process of law is quite clear. The Mental Health Tribunal may find that a person is not of unsound mind but is not fit for trial, or it can find that the facts are in dispute and the person is not fit for trial.

This finding is appealable in the Court of Criminal Appeal. The Mental Health Tribunal may find that the facts are in dispute and that the person is fit for trial, in which case the matter will proceed to trial and the normal appeal provisions will pertain.

The Mental Health Tribunal may find that a person was suffering from unsoundness of mind, whereas the person to whom the decision relates may consider that he was not of unsound mind but suffering from diminished responsibility. This again is appealable in the Court of Criminal Appeal.

Finally, the Mental Health Tribunal may have found that a person was suffering from diminished responsibility, but not of unsoundness of mind. That decision would be appealable in the Court of Criminal Appeal by the Crown law officer if that officer considered that the person ought to be tried. In other words, the avenues of appeal are extensive.

The limitation of 28 days for the lodging of an appeal is not unreasonable, and the proceedings of court cannot, and must not, be allowed to continue in an indefinite way.

The honourable member for Kurilpa made some comments which indicated to me that she was confused about the legislation. The confusion, if any, exists in the minds of those who have not studied the legislation. The tenor and context of the legislation have not been changed by the amendments. The amendments have clarified and simplified the original Bill but have not altered the major thrust of the Bill.

The honourable member talked at great length about the mysteries of psychiatric treatment. It can reasonably be stated that psychiatric treatment is scientifically based, as is most other medical treatment. I can assure her that treatment such as ECT is used far more frequently with patients other than those who are compulsorily detained. The need to be compulsorily detained is to ensure that even more consideration is given to that patient.

In respect of the section on correspondence—as I have already pointed out, there is no restriction on what can be posted or to whom. How another two weeks would help solve the matter that she has raised, I simply cannot understand.

The honourable member for Sherwood gave a considered response to the Bill. However, I must disagree with his point that the Bill is being rushed through. It certainly is not. Any piece of legislation that has been under consideration for four years is not, what I would call, being rushed through.

The Bill has not been devised by psychiatrists. It is the product of long consultation with many professions. It appears that the honourable member has not understood that, where the facts are in dispute, it would be unsafe for the Mental Health Tribunal to make a determination.

Other honourable members who made very significant contributions were the honourable members for Mount Gravatt, Toowong and Pine Rivers. Those honourable members displayed a significant degree of understanding of the legislation. They have

shown in their speeches that they really and truly have some sympathy for the people who are suffering from mental illness.

The honourable member for Cooroora, very properly, has drawn the attention of the House to the real tragedy of mental illness and how it deserves the co-operation and understanding of all members in the House.

Finally, I pay tribute to one of my departmental officers who is due to retire in the near future. I refer to Dr Gordon Urquhart, the Director of Psychiatric Services of the State Health Department. He has devoted many years of effort, skill and knowledge to the development of mental health legislation in Queensland.

Dr Urquhart has made a long-term special study of mental health legislation in other countries and the other Australian States. He has travelled extensively overseas to acquire first-hand experience of the operation and effects of a wide range of mental health legislation. His research has been exhaustive and comprehensive on an international scale.

Dr Urquhart has consulted extensively with health professionals, community representatives, lawyers, administrators and individuals in assisting with the preparation of the Bill. He has always been motivated by the humane desire to ensure the best possible care and treatment of the mentally ill in an atmosphere that preserves dignity and human rights and protects legitimate community interests.

I commend the Bill to the House.

Question—That the Bill be now read a second time (Mr Austin's motion)—put; and the House divided—

Ayes, 40

Ahern	Goleby	Menzel
Alison	Gunn	Muntz
Austin	Harvey	Newton
Bailey	Henderson	Powell
Bjelke-Petersen	Hinze	Simpson
Booth	Jennings	Stephan
Borbidge	Katter	Stoneman
Cahill	Kaus	Tenni
Chapman	Lane	Turner
Cooper	Lester	Wharton
Elliott	Lingard	
FitzGerald	Littleproud	*Tellers:*
Gibbs, I. J.	McKechnie	Randell
Glasson	McPhie	Neal

Noes, 28

Burns	Kruger	Veivers
Campbell	Mackenroth	Warburton
Casey	McElligott	Warner, A. M.
Comben	McLean	Wilson
D'Arcy	Milliner	Wright
De Lacy	Price	Yewdale
Eaton	Scott	
Fouras	Shaw	*Tellers:*
Goss	Smith	Davis
Hamill	Vaughan	Prest

Resolved in the affirmative.

Committee

Mr Booth (Warwick) in the chair; Hon. B. D. Austin (Wavell—Minister for Health) in charge of the Bill.

Clauses 1 to 13, as read, agreed to.

Clause 14—Amendment of s. 15; Powers and proceedings of Tribunals—

Mr MACKENROTH (7.49 p.m.): As I indicated at the second-reading stage, I intend to move an amendment to this clause, which deals with the Patient Review Tribunal. Opposition members believe that anyone who appears before the tribunal should be able to be represented either by a solicitor or by any other person he wishes to have represent him. The arguments that I would use now are the same as those that I put forward at the second-reading stage. Honourable members can read them to see what they are.

I move the following amendments—

"At page 9, lines 12 and 13, omit the words—

'in such manner as the Tribunal may determine' ";

"At page 9, lines 16 and 17, omit the words—

'determined by the Tribunal'

and substitute the words—

'nominated by the patient' ";

"At page 9, lines 18 and 19, omit the words—

'determined by the Tribunal to be warranted; and'."

Mr AUSTIN: I have already canvassed a number of matters in the clause to which the honourable member has referred. The determination of the assistance to the patient is the responsibility of the tribunal. Why the Opposition does not accept that the tribunal should be chaired by a District Court judge, I do not know. I do not know of any District Court judge who would not want to help the patient. Who else can assist the patient? The tribunal is best placed to determine how a patient needs help and to see what help can be provided.

As to the second amendment—nearest relatives and other relatives have a real interest in the health and safety of a patient and, indeed, in their own safety. The relatives have rights, too. A patient should never have the right to deny access of a relative to the tribunal.

As to the third amendment—I have canvassed the matter ad nauseam. I do not propose to go into it any further.

Mr MACKENROTH: I am surprised at what the Minister said. We referred to everybody's rights. We referred to the rights of the judge who will chair the tribunal. We referred to the rights of the relatives. No mention was made of the rights of the patient. Although no reference was made to his rights, I think that we should have referred to them. If a person in a mental institution appears before the tribunal and it considers whether he should be released, that person should have the right to be represented by a solicitor. The chairman of the tribunal should not have the right to decide whether that person will receive legal representation. That person's civil liberties have already been taken away by his being placed in a mental institution. All of his rights will be taken away completely if he cannot nominate a solicitor to represent him.

The Minister stated that since 1962 no-one's request for a solicitor has been refused. Why is that provision needed in the Bill. If no request for legal representation has been refused in the last 22 years, why is it important for that provision to be included in the Bill? I cannot see any need for such a provision to be included in the legislation. The legislation could be amended without changing what the Minister wants to do. It is not a political matter; it is a question of whether we want to give that right to those persons. The reference to the person not being able to nominate a solicitor could quite easily be taken away. The legislation that is before us could be amended. The reason why the Government does not accept the amendment that I have moved is based purely and simply on political grounds.

Mr GYGAR: I wish to canvass in a wider form the matters referred to by the member for Chatsworth. I can see no reason why the word "may" has been deemed necessary by the Minister. If there is no fear of legal representation, why is the limitation "in such manner as the Tribunal may determine" used rather than clarifying the matter in the Bill.

I wish to raise two other issues in clause 14 and, in particular, I refer to lines 36 to 40 on page 9 of the Bill, which contain a provision that the director may apply for an extension of the period in which he may appeal against a determination by the Mental Health Tribunal or, indeed, where he may refrain from complying with the orders——

The TEMPORARY CHAIRMAN (Mr Booth): Order! I ask for less noise in the Chamber. The honourable member for Stafford is trying to make a specific point and I suggest that honourable members pay him the courtesy of listening.

Mr GYGAR: Whereas a limitation is placed on the right of appeal of a patient, the director appears to have an almost unlimited right to an extension of time. It appears that during that period he need not comply with the order or he may appeal against the order. I ask the Minister to explain why that latitude is allowed to the director when it is deemed that it is not necessary that it be allowed to the patient who, I would think, has an even greater interest in the compliance of the director with the directions of the tribunal than he himself does.

At line 29 on page 8 of the Bill, proposed new subsection (6) is in the following terms—

> ". . the Tribunal—
>
> (a) if it is satisfied that the patient is not suffering from mental illness . ."

That brings me back to the matter of onus of proof. As much as the Government tries to avoid it, that is what it is all about. The tribunal has to be satisfied that a person is not insane. In other words, it has to be satisfied that the person is sane. I again ask the Minister: How many people in the broad community would be happy to appear before a tribunal and seek to prove that they are sane?

Honourable Members interjected.

Mr GYGAR: From the interjections, I gather that many honourable members feel that their colleagues would have problems in that regard. Would it not be equally acceptable if the following wording had been used—

> "(a) if it is not satisfied that the patient is suffering . . "?

That states that the tribunal has to be satisfied that something is wrong rather than be satisfied that something is not wrong. Some honourable members obviously feel that the point is a little pedantic, but in fact there is a distinct difference between having to prove that a person is sane and having it decided that the person is not insane.

Mr Hinze: Just act naturally.

Mr GYGAR: The Minister makes light of it, but it really is a problem.

I can see no reason for the choosing of those particular words. I can see no advantage for the psychiatric profession or for the status of the administration of the Bill in seeking to reverse that onus of proof. I would have thought the logical path to follow would have been that, if the tribunal was not satisfied that the person was suffering from mental illness, he ought to be released. Why is it drafted the other way round?

I put those simple questions to the Minister. Why is there this reverse onus when it would appear to me on the surface that it would be equally acceptable in psychiatric practice to put it the other way? Why, if legal representation is not to be denied, is that doubt put in the Bill that it might be? Why does the director have a greater latitude in

the determination of whether or not he will appeal than the patient does, when surely the patient is the person with the most interest in this matter?

Question—That the words proposed to be omitted from clause 14 at lines 12 and 13 (Mr Mackenroth's amendment) stand part of the clause—put and agreed to.

Question—That the words proposed to be omitted from clause 14 at lines 16 and 17 (Mr Mackenroth's amendment) stand part of the clause—put; and the Committee divided—

Ayes, 40

Ahern	Gunn	Miller
Alison	Harvey	Muntz
Austin	Henderson	Newton
Bailey	Hinze	Powell
Bjelke-Petersen	Jennings	Simpson
Borbidge	Katter	Stephan
Cahill	Kaus	Stoneman
Chapman	Lane	Tenni
Cooper	Lester	Turner
Elliott	Lingard	Wharton
FitzGerald	Littleproud	*Tellers:*
Gibbs, I. J.	McKechnie	Randell
Glasson	McPhie	Neal
Goleby	Menzel	

Noes, 26

Campbell	Mackenroth	Warner, A. M.
Casey	McElligott	Wilson
Comben	McLean	Wright
D'Arcy	Milliner	Yewdale
De Lacy	Price	
Eaton	Scott	
Fouras	Shaw	*Tellers:*
Goss	Smith	
Hamill	Vaughan	Davis
Kruger	Veivers	Prest

Resolved in the affirmative.

Question—That the words proposed to be omitted from clause 14 at lines 18 and 19 (Mr Mackenroth's amendment) stand part of the clause—put and agreed to.

Clause 14, as read, agreed to.

Clauses 15 to 26, as read, agreed to.

Clause 27—New ss. 28A to 28E—

Mr MACKENROTH (8.7 p.m.): During the earlier debate, I canvassed the Opposition's aversion to this clause, which, by new section 28A, establishes the Mental Health Tribunal and its powers. I referred to the fact that a person could be taken before the tribunal by the Crown law office. I pointed out that such a person will not get proper justice, which he now gets in the courts. I, and other Opposition members, outlined the fears that we held. Although the proposed Mental Health Tribunal is good in some ways, we will not support its establishment. Because of the way in which the tribunal is set up, and because it is so complicated, the Opposition intends to oppose the clause completely.

Mr GYGAR: Mr Row——

Opposition Members interjected.

THE TEMPORARY CHAIRMAN: Order! When we are dealing with a matter that could affect the lives of people, it is only fair that the honourable member should be given the opportunity to be heard.

Mr GYGAR: I again direct the Minister's attention to lines 33 and 34, and to lines 37 and 38, in which reference is made to two psychiatrists who are assisting the court. I again ask the Minister about the nature of the assistance that the psychiatrists will give. If they are to be friends to the court—in other words, if they are there to provide psychiatric advice to the court—why is it necessary for their advice to be secret? Why does not the Bill provide that they take their place, as they ought to do, to be heard and give their opinions in public so that they may be subject to test? That really is one of the most worrying provisions in the Bill. I think that everyone would acknowledge that there is a strong case for expert advice to be given to judges who have to make decisions on technical matters. Surely there can be nothing more technical than the state of mental health of a person before a tribunal. Why, then, will they be whispering in the ears of the judge, instead of openly standing up and saying, "This is what we believe. This is why we believe it. This, we believe, is the course of action that should be taken."?

Mr AUSTIN: I understand that one honourable member is totally opposed to the clause and that the other one has raised several questions.

Clause 27 defines in the terms of the Criminal Code certain terms; but, in addition, it defines "fit for trial". The Queensland Law Society and the Queensland Council for Civil Liberties are the only respondents who still persevere with the notion that mental illness ought to be defined. I will not go into this matter again.

One cannot define illness. What one can define, and what is defined in this clause, is the legal notion of unsoundness of mind. That notion and its corollary of diminished responsibility are important matters and must be defined in precisely the same terms as they are defined in the Criminal Code.

A number of other respondents have indicated quite clearly that they realise that mental illness cannot be defined and have expressed satisfaction that there is a clear differentiation between the concept of mental illness and the concept of unsoundness of mind.

What this clause makes abundantly clear is that the Mental Health Act is in addition to, and in aid of, the Criminal Code and does not substitute for, or derogate from, the provisions of the Criminal Code.

The confusions between mental illness and the concepts defined in this clause were canvassed by me in introducing the Bill and need not be repeated, but I must emphasise that our concern here is to make explicit and crystal clear that the role of the Mental Health Tribunal is to determine criminal responsibility. If that criminal responsibility is total, the person is returned to the criminal justice system. If criminal responsibility is absent, that is, the person suffers from unsoundness of mind, the patient is treated as a mentally ill person. If the criminal responsibility is partial, then in regard to a charge of murder, for example, proceedings will continue on a charge of manslaughter.

The new concept of "fit for trial" is not to be equated with the term "fit to plead". In commenting on this definition, Mr Justice Kirby, who made a significant submission on the Bill, has wondered why it has been decided to include this definition in mental health leglislation and why it has not been thought preferable to leave it to the Criminal Code and the common law.

The reason is quite simple. Although fitness to plead may well be a concept of the Criminal Code and common law, the concept of fitness for trial is not. It is very necessary that mental health legislation is specific in this matter.

The honourable member for Stafford referred to proposed new section 28B. This new section is concerned with the setting up of the Mental Health Tribunal. The Supreme Court judge is to be an arbiter. As I said previously, there is nothing novel in determining the quality of the material fit to be determined, and, indeed, this is the role of judges in every jury trial.

I believe that this Chamber has sufficient confidence in Supreme Court judges to place the responsibility on them of determining issues that are raised before the tribunal. In any case, adequate avenues of appeal exist to protect the interests of all concerned.

The psychiatrists are appointed to assist the Supreme Court judge, and there is nothing novel about that approach. As I said earlier—I do not think that the honourable member was present, and I ask him to refer to my previous remarks—a similar system exists for the Medical Assessment Tribunal.

Mr GYGAR: Given the Minister's response, can I ask him to clearly define for the Committee the role that these two assistants will play in a hearing? What position will they take in the court? How will they present their advice? Will that advice be given openly? Will it be subjected to examination? Will it be secret advice, unknown to the person whom it affects? Or, as I hope, will it be presented in open court and be subject to discussion and examination? How will it be presented? How is this assistance to be provided to the judge?

Mr AUSTIN: I went into those matters earlier, and I refer the honourable member to my previous remarks.

Question—That clause 27, as read, stand part of the Bill—put; and the Committee divided—

In division—

Mr CAHILL: I rise to a point of order.

The TEMPORARY CHAIRMAN (Mr Booth): Order! I will take the honourable member's point of order when the division bells have ceased ringing.

Order! The honourable member for Aspley may now take his point of order.

Mr CAHILL: I was under the impression that one of the voices that called "Divide" was that of the honourable member for Stafford. He has now left the Chamber. I seek the guidance of the Chair as to whether a member can call for a division of the Committee and not be present when the vote is taken.

The TEMPORARY CHAIRMAN: Order! I heard plenty of calls for a division but I cannot confirm or deny that I heard the honourable member for Stafford call. Therefore, the chair will have to presume that the honourable member for Stafford did not call "Divide".

Ayes, 40

Ahern	Gunn	Miller
Alison	Harvey	Muntz
Austin	Henderson	Newton
Bailey	Hinze	Powell
Bjelke-Petersen	Jennings	Simpson
Borbidge	Katter	Stephan
Cahill	Kaus	Stoneman
Chapman	Lane	Tenni
Cooper	Lester	Turner
Elliott	Lingard	Wharton
FitzGerald	Littleproud	*Tellers:*
Gibbs, I. J.	McKechnie	Randell
Glasson	McPhie	Neal
Goleby	Menzel	

Noes, 26

Campbell	Mackenroth	Warner, A. M.
Casey	McElligott	Wilson
Comben	McLean	Wright
D'Arcy	Milliner	Yewdale
De Lacy	Price	
Eaton	Scott	
Fouras	Shaw	*Tellers:*
Goss	Smith	
Hamill	Vaughan	Davis
Kruger	Veivers	Prest

Resolved in the affirmative.

Clauses 28 to 63, as read, agreed to.

Mr GYGAR: I rise to a point of order.

Hon. B. D. AUSTIN (Wavell—Minister for Health): I move—

"That you do now leave the chair and report the Bill without amendment to the House."

Mr GYGAR: On a point of order, Mr Booth, I draw your attention to Standing Orders 155 and 157. It is with regret that one must refer the honourable member for Aspley, a new member who is not acquainted with Standing Orders, to those Standing Orders. I draw your attention to the fact that with reference to your previous ruling——

The TEMPORARY CHAIRMAN: Order! There is no point of order.

Mr GYGAR: Mr Booth, on a point of order——

The TEMPORARY CHAIRMAN: Order! There is no point of order.

Mr AUSTIN: I rise to a point of order, Mr Booth. I have already moved—

"That you do now leave the chair and report the Bill without amendment to the House."

Motion agreed to.

Bill reported, without amendment.

Third Reading

Bill, on motion of Mr Austin, by leave, read a third time.

The House adjourned at 8.26 p.m.