Tuesday, 16 November 1993

The SPEAKER (Hon. J.E. Delzoppo) took the chair at 2.6 p.m. and read the prayer.

DISTINGUISHED VISITORS

The SPEAKER - Order! I welcome to the Speaker's Gallery a delegation from the United Kingdom branch of the Commonwealth Parliamentary Association led by Sir Jerry Wiggin. You are very welcome. Many honourable members of the Victorian Parliament have accepted the hospitality of your branch from time to time and we are very conscious of the debt we owe to you and your colleagues. I understand that the delegation is attending question time in this House and will attend question time in the other place this afternoon. There will be an opportunity for honourable members to meet the members of the delegation throughout the afternoon.

SPEAKER'S RULING

The SPEAKER - Order! On Thursday, 11 November the honourable member for Coburg raised a point of order relating to the conduct of question time and asked me to review my ruling of the previous day when I stated that questions regarding statements made by either Ministers or members outside the House may not be asked. The 21st edition of *May* states at page 288:

> *Statements outside Parliament.* The Prime Minister may be asked whether statements made outside Parliament by Ministers of Cabinet rank or Ministers with specific responsibilities on public occasions represent the policy of the government, but questions about statements so made by other Ministers are not in order ... Recently, questions have occasionally been allowed when Ministers have made statements elaborating new policies in public speeches outside the House, or in a broadcast or on the texts of such speeches when these have been officially distributed.

Because of the different structure of the Cabinet in the United Kingdom, the application of this practice would apply to all Ministers in the Victorian government. The restrictions that would apply to questions relating to statements made outside the Parliament are the same as for other questions. May states at page 285:

> *Questions to Ministers.* Questions addressed to Ministers should relate to the public affairs with which they are officially connected, to proceedings pending in Parliament, or to matters of administration for which they are responsible ...

May states at page 289:

> *Ministerial responsibility.* Questions to Ministers must relate to matters for which those Ministers are officially responsible. They may be asked for statements of their policy or intentions on such matters, or for administrative or legislative action.

During the point of order the correctness or accuracy of reports in the media was raised. It is quite clear that questions that seek such an answer are out of order. May states at page 289:

> Questions asking whether statements in the press, or of private individuals, or unofficial bodies are accurate or asking for comment on statements made by persons in other countries (unless the statement is a message from another government to Her Majesty's government) are not in order.

It appears that the two issues were crossed during the debate on the point of order; therefore I uphold the point of order raised by the honourable member for Coburg.

ABSENCE OF MINISTER

The SPEAKER - Order! I advise the House that the Treasurer will be absent today due to illness. Any questions addressed to the Treasurer will be handled by the Minister for Finance.

QUESTIONS WITHOUT NOTICE

GUN LAWS

Mr BRUMBY (Leader of the Opposition) - Will the Minister for Police and Emergency Services assure the House that, regardless of the recommendations made by the Firearms Consultative Committee, there will not be any easing of Victoria's gun laws, including any moves to abolish the gun register and gun permits or to relax any restrictions on self-loading rifles?

Mr McNAMARA (Minister for Police and Emergency Services) - I thank the Leader of the Opposition for his question and I wish him all the

best for the ensuing week. I hope he has more luck this week than he had on Friday night with the ALP administrative committee - 20 votes to 10 really shows that the committee has little confidence in his performance.

The SPEAKER - Order! The Minister will come back to the question.

Mr McNAMARA - To the contrary, Mr Speaker, I believe the moves made by the Victorian government have the confidence of the Victorian public. The people on the extremes of both sides who have been criticising the activities of the government do not reflect the views of 95 per cent of the general community. I have advised both sides, those avidly for firearms and those strongly against them, to take cold showers and wait until they hear the results!

Honourable members interjecting.

The SPEAKER - Order! Question time cannot proceed with a barrage of interjections. Honourable members should listen to the Minister in silence.

Mr McNAMARA - I have suggested that both sides take cold showers and wait until the Firearms Consultative Committee produces its report. The Premier and I are of the same view, that no measure that will place the community at risk will be accepted by the government. Our prime concern is to ensure community safety. We want to build on the improvements that have taken place in recent years and to further enhance community safety. As to the recommendations of the Firearms Consultative Committee, I suggest all parties wait and see what they are; we will assess them then.

VICTORIA'S CREDIT RATING

Mr FINN (Tullamarine)-Will the Premier inform the House of the independent evaluation of the Victorian economy by the international rating agency Standard and Poors and what it means for the Victorian community?

Mr KENNETT (Premier) - The community and many honourable members will now be well aware that on Sunday night Standard and Poors removed its negative watch on Victoria's credit rating. The value of that removal is twofold. Firstly, it gives the community significant confidence that the government of the day has policies in place that are improving both the economic and the social fabric of our society. Secondly, it gives the community the benefit of a substantial reduction in the cost of the money that we must roll over - that is, our current debt. This financial year Victoria must roll over about $9.23 billion. Over 10 years the savings on that will be about $400 million, which is a tangible result for the Victorian community. The other thing to bear in mind - quite obviously the opposition is not interested - is that next financial year we must roll over about $7 billion. If we hold this position without improving it, that will probably increase our savings beyond $400 million to somewhere in the order of $600 million over the next nine years.

That major announcement is welcomed by this side of the House. It clearly proves the value of the policies the government has put in place. It also shows that those who sit in judgment of Victoria's performance have confidence in the government's ability to stick to the program it has announced, unlike the previous government. It is also important to note that together with the announcement a number of good economic performance indicators have recently been released which clearly show that Victoria has been outperforming New South Wales, the most populous State in Australia, as well as showing growth in retail sales, dwelling approvals, domestic demand growth, export growth and so on.

It is too early for the community to relax and not continue to give 100 per cent support to the government in confronting the challenges with which we are faced. But it is clear that for the first time in probably 11 years the economic indicators are showing that the economy has bottomed out and possibly has just slightly turned the comer. The next 4 to 5 to 6 years will be important in driving home the changes that we have put in place, in consolidating the reforms and, ultimately, in creating new opportunities for the broader community. Those opportunities will soon become visible and tangible as we start an extensive building program on major State assets, especially those associated with the Agenda 21 program.

After 14 months the Victorian community can see that the rapid changes have been worth while. But more importantly, although it has been to our advantage we should not believe the reform program is complete-far from it. We have taken one step out of 100. We intend to continue to deliv;?r good government with clear goals and objectives, which will ultimately increase the savings that are represented in the Standard and Poors decision to remove our negative rating.

STATEMENTS BY PREMIER

Mr COLE (Melbourne) - In view of the seriousness of the charge of perjury will the Attorney-General investigate the apparent discrepancies in statements made by the Premier on oath in an affidavit dated 12 November 1985 and comments he made in the House on 20 October this year, to determine whether action will be taken against the Premier for perjuring himself in the Supreme Court; and if not, why not?

Mrs WADE (Attorney-General) - This is another of the honourable member for Melbourne's trick and trivia questions. I am not aware of the issues to which he refers. If he has any concerns about breaches of the law, he should refer them to the police - in the same way as everybody else in the community.

CHELTENHAM PRIMARY SCHOOL STUDENTS

Mr WELLS (Wantirna) - Will the Attorney-General inform the House of the action she intends to take to strengthen police powers in light of the recent sex attacks on two young schoolgirls?

Mrs WADE (Attorney-General) - I thank the honourable member for his relevant question. The sex offences committed against young children at a primary school last week are matters of grave concern to the government. They are a disturbing aspect of the society in which we live. Although no government will be able to ensure there are no such attacks in the future, it is important that we react to situations of this kind. As the Premier said in answer to a question last week, it is important that the government addresses this situation to the best of its ability.

It has been brought to my attention that the police are unable to take any action when they find a known convicted sex offender loitering near a school or other place where children congregate. I have been advised by the police that it is not unusual to find known sex offenders in those circumstances, observing children outside a school or at a bus stop or even, on occasions, taking photographs of children. It is obviously unsatisfactory that the police can do nothing to deal with the situation unless an offence is committed.

Since the incident I have considered the matter carefully. I will introduce amending legislation to provide for a new offence relating to a person convicted of any one or more of a range of offences, including sex offences against children or adults and an offence involving the possession of child pornography. It will become an offence for such a person to loiter in a public place where children congregate. That offence will be confined to those with a history of sex offences who loiter in public places without having some legitimate activity to pursue. I hope such legislation will proceed without delay. I will be moving a House amendment to the Crimes (Amendment) (No. 2) Bill to introduce that new provision. I trust it will have the support of both sides of the House.

I do not suggest that that provision will stop the problem of sexual attacks on children. It may be that not many people will be charged under the new offence, but no doubt it will assist the police to deal with this disturbing activity. At least they will have the power to require people to leave the vicinities when they are causing problems. Children and their parents have rights and the government is prepared to act to preserve those rights.

ROXBURGH HEIGHTS HOUSING DEVELOPMENT

Ms MARPLE (Altona) - My question, which is directed to the Minister for Natural Resources, concerns the Roxburgh Heights housing development. Will the Minister table all documents that detail the contractual arrangements between Melbourne Water and the Master Builders Association of Victoria?

Mr COLEMAN (Minister for Natural Resources) - The issue raised by the honourable member for Altona was recently addressed by the Minister for Energy and Minerals. The information is available and, if the honourable member provides me with details of what she requires, it will be provided to her.

WOMEN IN PUBLIC POSITIONS

Mrs McGILL (Oakleigh) - Will the Minister responsible for Women's Affairs infonn the House of the priority given by the government to attracting suitably qualified women to public positions?

Honourable members interjecting.

Mrs WADE (Minister responsible for Women's Affairs) - I do not think the Leader of the Opposition wants to hear the answer to this question! The key point to be understood is that the

government does not simply talk about a fair go for women - it acts to give women a fair go.

Honourable members interjecting.

The SPEAKER - Order! I hope the Leader of the Opposition is aware of the Standing Orders, that when the Speaker is on his feet the honourable member is to remain silent.

Mr WADE - In acting for and on behalf of women, the government can be contrasted with the previous government and with the Leader of the Opposition. The Leader of the Opposition has been giving a great public performance about getting more Labor women into Parliament. He has been talking about calling a special conference to get more women into Parliament. On 11 August, on a talkback program, in response to a caller - -

The SPEAKER - Order! The Minister is not answering the question. The matter she is raising is not relevant.

Mr WADE - I am contrasting the position of this government in acting on behalf of women with the position of the Leader of the Opposition who talks about acting on behalf of women, but does nothing. By way of contrast I direct the attention of the House to what the Leader of the Opposition said to a talkback radio caller:

> I am very confident, Dorothy, that in December this year when the Labor Party holds pre-selections for various marginal seats around Victoria that we will have more women standing as candidates for the Labor Party and more women in winnable seats standing for the Labor Party - -

The SPEAKER - Order! While the Minister may make a passing reference to other matters, the answer she is giving is not central to the question asked. I ask her to return to the question.

Mr WADE - Dorothy said she was impressed by the position of the Leader of the Opposition! But it is the government which is acting on behalf of women. Although there are fewer Labor women in Parliament, there are now more coalition women members than ever. After the next election, it now appears that there will be even fewer Labor women in Parliament!

The government recognises that although more coalition women than ever are now in Parliament there are still insufficient numbers to ensure that all issues affecting women receive appropriate consideration and that all life experiences of women are properly represented.

The government is not grandstanding on the issue. It has taken steps to alleviate the imbalance by establishing the Victorian Women's Council, which has 16 members from throughout Victoria. The members come from throughout Victoria, from different age groups, and they have very different life experiences and different areas of expertise. The council has the full support of the government. Recently the Treasurer and the Minister for Community Services attended the council to give briefings and answer questions.

The government has produced a Women's Budget and, as a result, each area of government must consider its operations and how best to implement coalition policies for women. It is an important tool for measuring the responsiveness of government to the needs of women.

In addition, numerous women have been appointed to various senior positions where decision making occurs. The Law Reform Advisory Council has a majority of women members. Professor Trang Thomas has been appointed Ethnic Affairs Commissioner, and three of the seven members of the Victorian Gaming Commission are women. They are but a few examples of the senior positions to which women are being appointed. Furthermore, Victoria now has two women judges in the County Court, a female Master in the Supreme Court - and yet only one year ago those courts had no women appointed.

Unlike the Leader of the Opposition, who is not prepared to stand up for women against factional powerbroking and self-interest on behalf of the socialist left, one would like to know - -

Honourable members interjecting.

The SPEAKER - Order! It is impossible for the Chair and other members of the House to hear the reply. I ask the House to hear the reply in silence and I ask the Minister to round off her answer.

Mr WADE - The government is acting to give women a voice in major decision making in this State.

LEEDS MEDIA AND COMMUNICATION SERVICES PTY LTD

Mr THWAITES (Albert Park) - My question is directed to the Minister for Finance. Is it a fact that for government expenditure on advertising in this financial year, Leeds Media and Communication Services Pty Ltd is currently receiving a commission of 2.75 per cent for media placement, which is more than the amount of 2.5 per cent that was tendered by the company Total Media (Aust) Pty Ltd for the master media buying contract?

Mr I. W. SMITH (Minister for Finance) - I invite the honourable member to put his question on the Notice Paper and I will provide him with a detailed answer.

TELECOMMUNICATIONS SERVICES

Mr HYAMs (Dromana) - Will the Minister for Finance inform the House what cost savings the government has achieved as a result of new arrangements entered into in telecommunications services?

Mr I. W. SMITH (Minister for Finance) - Following the answers of the Attorney-General and the Premier, here is more good news, so the opposition can switch off. What the government inherited - -

Mr Brumby interjected.

The SPEAKER - Order! I do not know how many times I have to warn the Leader of the Opposition that he may not continually interject across the table.

Mr I. W. SMITH - The government's inheritance in telecommunications was nothing short of a typical Labor administration muck-up. The former government had arranged for a portion of Telecom Australia facilities to be purchased by Vistel Ltd, which was wholly owned by the State government. The theory was that Vistel would shortly be able to encompass all the telecommunications arrangements for the whole of government, not only to make a profit but also to provide services at a lower cost than Telecom.

In spite of interest-free money going to Vistel, such an outcome was not realised over its four years of operation, to the point where only 10 per cent of the telecommunications traffic of the government went through the Vistel network. On reviewing the arrangements, we found them to be totally ineffective and inefficient.

Arrangements were entered into and a new strategic alliance was formed with Telecom. That led to negotiations producing a strategic partner agreement with Telecom. The effect is that the government is able to mandate to Telecom - except for mobile phone coverage, to which I will refer in a moment - all the government telecommunications services and to have Telecom repurchase the segment of its communications that were acquired by Vistel. That enables Vistel to pay off $10 million of the moneys borrowed to purchase the Telecom capacity.

The private automatic branch exchange (PABX} systems that were purchased will be retained by the government and rented to agencies at a 25 per cent reduction, which will benefit some agencies. It is cost effective to do so, because, to rent PABX systems from Telecom would mean that the amounts to be paid over a two-and-a-half-year period would more than pay for the cost of the PABX systems.

Under the new arrangements, the government has just received its first rebate cheque of $3.6 million. In a full year it is expected that an additional $6 to $7 million will be received. The rebate was able to be negotiated because of the quantity of telecommunications business that has been aggregated by government. No single agency could negotiate with that type of market clout. By combining all the government agencies we have been able to negotiate these most satisfactory deals which will bring in more than $10 million worth of benefit directly paid back to the Department of the Treasury. The arrangements with Telecom enable other forms of telecommunications facilities to be updated. When fully implemented that will provide further savings of about $10 million a year to the government. The arrangements made with Optus Communications - -

Honourable members interjecting.

Mr I. W. SMITH - I can understand the opposition not being interested in good news: the muck-up it engineered has now been corrected for the benefit of taxpayers. I can understand why the opposition is not interested in the explanation. Optus has been the successful tenderer for the mobile phone network. Agencies that wish to

mandate Optus can do so and receive the necessary rebates in that way.

DEPARTMENTAL PERFORMANCE AGREEMENT

Mr ROPER (Coburg) - I refer the Minister for Health to clause 2 of the performance agreement for the secretary of her department which was dragged out of the government last week and which says that the officer will:

> Take all lawful/conventional measures to enhance the reputation of the Minister for Health and Community Services (Mrs Tehan) and of other portfolio Ministers as appropriate.

What criteria are being used to determine whether Dr Paterson has achieved this goal so that he receives an additional $40 000 on top of his already princely $220 000, and who assesses whether he has used those lawful and conventional measures appropriately?

Mrs TEHAN (Minister for Health) - One of the attributes of this government was to place those responsible for the administration of government services on contracts and subject them to performance-related outputs in respect of what they were being paid. The 13 key departmental heads are on contracts and they will be judged according to the criteria outlined. It is pre-eminent and essential that there must be working arrangements between the policies set by the government and the Minister in each department and the administrative performance that is the responsibility of the departmental head. Unless one has cohesion between government policy and administrative control and organisation, one will not bring about the successful outcomes that this government has already achieved. The agreed performance criteria between the Premier and the departmental head, through his Minister for Health, are to assure the people of Victoria that we will treat more patients in our public hosfitals than ever before.

The government is currently well on track towards reducing the uracceptable level of waiting list that was growing cmsistently under the Labor government. It will ensure that there is a wide, comprehensive range of psychiatric services, all of which we are on target to perform. The details of the performances required by the government from the administrative head are spelt out in all the documentation that has been produced by the Department of Health and Community Services over the past 12 months. It is obvious that the strength of the government is with the close working arrangement between the head administrators and the government.

Honourable members interjecting.

The SPEAKER - Order! Conversations across the table during question time are disorderly.

Mrs TEHAN - A pre-eminent requirement to success is that there be cohesion and cooperation between government policy and administration and that is precisely the focus of the performance contract for my departmental head. The government is pleased not only that it has a policy that Dr Paterson is comfortable in working towards - -

Mr ROPER (Coburg) - On a point of order, Mr Speaker, I raise the relevancy of the Minister's answer to a specific question. I asked the Minister what criteria would be used to determine whether Dr Paterson had achieved the goal of enhancing by lawful and conventional measures the reputation of the Minister and who would make that judgment. Although the Minister can answer the question as she deems fit, she should relate her answer to the specifics of the question.

The SPEAKER - Order! The honourable member for Coburg knows full well that the Chair cannot direct a Minister or any member to reply in a particular way. At this stage I believe the Minister is relevant. Should the Minister stray from the question I will bring her back to relevancy, as I have done previously with Ministers today.

Mrs TEHAN (Minister for Health) - I agree, Mr Speaker, that my comments are relevant, but for the benefit of the honourable member for Coburg I will try to be a little dearer.

The basis on which I was appointed as Minister for Health was set out clearly in the government's health policy. We entered into a contract with the head of the Department of Health and Community Services to ensure that the government's policy is carried forward. If and when Dr Paterson does that, he enhances both my position and the position of the government and ensures that he is fulfilling his contract to carry out government policy.

HOSPITAL WAITING LISTS

Mr ASHLEY (Bayswater)-Will the Minister for Health inform the House how public waiting lists

are calculated in Victoria, whether the methodology is accurate and how it compares with methodologies used in other States?

Mrs TEHAN (Minister for Health) - Over the past few days some community concern has been expressed in the media about public hospital waiting lists. Victoria is well positioned to be subject to any investigation by any person or party of how its waiting lists are calculated and whether the information provided is accurate and relevant.

An advisory committee of eminent surgeons led by Mr John Clarebrough and Mr Brian Collopy has arranged, through negotiations with hospital administrators and specialists working in hospitals, to ensure not only that the information and statistics on waiting lists are accurate but also that they are available in a form of categorisation that is an example for the rest of the country.

Victoria is leading Australia in the manner in which it has categorised patients on public hospital waiting lists. The Commonwealth government is now showing considerable interest in how many people are on waiting lists and how they should be counted. It has asked a federal clinical group to examine how the waiting lists are calculated in Victoria and to use the same methodology.

The government has regularly made available to the Commonwealth those statistics. I have suggested to the Federal Minister for Health, Senator Richardson, that rather than recounting the number of people on waiting lists he should establish why there are so many people on waiting lists in our public hospital system. The Federal Minister should focus on addressing the problems faced by people on waiting lists rather than seeking a recount. The government is certainly willing to assist the Federal government and has already delivered that information. It is willing to negotiate with the Commonwealth and the States to ensure the accuracy, comprehensiveness and manner of updating and keeping accurate records of people waiting to get into our public hospital system. We want that information to be available to other States or to a national database.

I am prepared to share with other States and the Commonwealth the government's success in reducing the number of people on the waiting lists, but that is the basis for another question.

DEPARTMENTAL PERFORMANCE AGREEMENT

Mr ROPER (Coburg) - My question to the Minister for Health relates to Dr Paterson's enhancement of the Minister's reputation. Will the Minister advise the House why the number of outpatient and casualty services in Victorian public hospitals this financial year is expected by her departmental head to fall from 8.59 million to 7.5 million? Will she explain the reasons for the reduction and advise what additional services those one million people will receive in lieu of the services that her budget cuts are removing?

Mrs TEHAN (Minister for Health) - The honourable member for Coburg asked a precise question that I am happy to answer. There is a much more important component to the question than the mere reduction in the number of outpatients presenting to public hospitals. What Victoria has not had for many years - and what is desperately needed and what we are working on - is an improvement in arrangements for primary care provision for people so that they can access services much earlier, more effectively and with greater access to an integrated health service.

We have had funding from the Commonwealth for pre-eminent services in our hospital system. We have not had an opportunity for many people to be treated in community health centres or by general practitioners and by other forms of primary care to prevent them having to access expensive hospital treatment.

One of the main problems in addressing the need for a much better organised and comprehensive primary care system is the ridiculous Commonwealth-State funding arrangement in this country. I intend to raise this matter at the next meeting of health Ministers and I hope heads of government will take up the issue in the near future. We have the ridiculous situation where the highest level of government - the Commonwealth - funds primary care and State governments are predominantly responsible for secondary and tertiary health services, when it should be the other way round. We have an opposing hierarchal system for government funding and provision of services.

As a result, there is a significant amount of so-called cost shifting but, more importantly, a huge amount of administrative cost, finance and wasted administrative skills in trying to prevent that cost shifting. It is important to focus on an improved

basis for primary care that is funded appropriately and monitored through the States and perhaps some direct payment under a case-mix - -

Mr Sercombe interjected.

The SPEAKER - Order! I have warned the Deputy Leader of the Opposition several times that he may not pose questions across the table to the Deputy Premier. If he does it again, I will take action against him.

Mrs TEHAN - In conclusion, if those funding and organisational arrangements between Commonwealth, State and local government are improved, we will have a much better chance of having an appropriate level of primary care which will create a far better health system for all Australians.

DEPARTMENT OF AGRICULTURE

Mr A. F. PLOWMAN (Benambra) - Will the Minister for Agriculture advise the House whether he has investigated claims that corporate services in the Department of Agriculture have been featherbedded and what action he is taking to ensure that services are being maintained in the agriculture industry?

MrW. D. McGRATH (Minister for Agriculture) - I assure the House that there is no featherbedding of administrative services in any government agencies, particularly in the Department of Agriculture. In fact, the department has reduced the number of people working in corporate services from 126 on 30 June 1992 to 73 on 30 October this year, which is effectively a 42 per cent reduction.

Over the same period the number of staff employed by the Department of Agriculture has fallen by some 15.6 per cent. The focus within the department has been on research and extension programs, which the farming community has been very satisfied with. The cost of corporate services as a percentage of the overall departmental payroll fell from 6.3 per cent in June 1992 to 4.4 per cent in October 1993.

Some concerns about the issue have been expressed in recent weeks by the honourable member for Werribee and other opposition members. It appears they are unable to distinguish between corporate services, agricultural developments and works and services initiatives. The works and services initiatives have been placed under corporate services and include additional accommodation at Epsom, near Bendigo, to facilitate the housing of head office staff who were transferred to Bendigo by the previous government. Money has also been set aside for new buildings at Knoxfield, Tatura, Kyabram and Werribee.

If we consider only recurrent expenditure, corporate services funding has been reduced by 12 per cent while agricultural development funding has been reduced by only 1.8 per cent. The agricultural policy subcommittee, the Department of Agriculture and I are focussing on research and extension programs. Through the work of the Department of Agriculture very good results are being obtained across all industry sectors, including grains, wool, dairying, meat and horticulture. We will continue to push that line and make sure that we assist farmers to either make a dollar or save a dollar.

WOMEN'S BUDGET

Ms GARBUTT (Bundoora) - I direct to the attention of the Minister responsible for Women's Affairs the Women's Budget, which reveals that the government has abolished the women's employment branch, which monitored the impact on women of all legislation. What steps is the Minister taking to reverse the Budget decision and to ensure the continuation of that vital work for women?

Mrs WADE (Minister responsible for Women's Affairs) - Some members of the opposition and their supporters seem to hold the view that there should be no changes following a change of government and that any change is necessarily a change for the worse. They believe that, unlike previous governments, the present government should not be allowed to restructure organisations to make them more effective and efficient. The opposition thinks that everything should have remained as it was when the previous govemmert was voted out of office.

The government does not agree with that point of view. It is looking at ways of improving all areas of government administration by making them more effective. As the Minister for Agriculture just said, the government is intent on ensuring that the people who remain on the public sector payroll actually deliver services to all Victorians instead of merely filling in paper and using taxpayers' money in ways that do not effectively deliver services. It is well known that the previous government spent much more than other State governments in providing equivalent services. That is not good enough.

Changes have to be made to ensure that that does not continue.

As I said when I introduced the Women's Budget, the government has had to deal with the problems left behind by the previous government. In providing services to women the government had to start a long way behind what should have been the starting line. The Women's Budget sets out the current position. It is not necessarily where we want to be in the future. The budget is a basis for the future: it tells us where we are going, defines the priorities for each area of government and sets out programs for women that are to be delivered - and women's employment is a very important part of that.

However, it is unfortunate that because of the previous government's overspending cuts have to be made in some areas of government to balance the Budget. The Women's Budget is a good start. It is about telling us where we are now and about planning for the future. I make the point that the Office of Women's Affairs did a splendid job in preparing a totally new format for the Women's Budget in a relatively short time.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 17

Mr PERTON (Doncaster) presented *Alert Digest* No.17 on Gaming Machine Control (General Amendment) Bill, Equal Opportunity (Amendment) Bill (No. 2), Public Sector Superannuation (Administration) Bill and Nurses Bill, together with appendix.

Mr PERTON (Doncaster) - I move:

That the report and appendix be laid on the table and be printed.

Mr ROPER (Coburg) - I express the concern of members on this side of the House - I have expressed the same concern to the Chairman of the Scrutiny of Acts and Regulations Committee - that the desire of concerned groups to present evidence to the committee on at least two of the measures it has reported on in some detail has not been met.

The Australian Nursing Federation made it clear that it wished to give the committee the benefit of its advice on the Nurses Bill but was told there was insufficient time. In addition, many organisations, including women's groups and groups representing disabled people and others wished to give the committee the benefit of their advice on the Equal Opportunity (Amendment) Bill (No. 2) but met with the same response.

By and large the committee works pretty well. However, time should be made available during sessional periods to ensure that community organisations that have good grounds for wishing to give evidence have the opportunity of doing so. I understand the pressures on the committee given the government's legislative timetable, but in those two instances the groups I mentioned did not have the chance to give the committee the benefit of their advice. When witnesses were able to give evidence on the crimes legislation, for example, the government and Parliament had to reconsider at least some of the original provisions.

The reports we have received may well have been strengthened if we had been able to hear evidence on those two matters. I ask the government to ensure that, in developing its legislative program, it gives opportunities for groups to give evidence, if they so wish, on major Bills.

Mr PERTON (Doncaster) (By *leave)* - For the benefit of honourable members, I point out that there was an opportunity for public access to both Bills referred to by the honourable member for Coburg. In regard to the Equal Opportunity (Amendment) Bill (No. 2), the committee took both written and oral evidence from scores of organisations. As to the requests for a public hearing referred to by the honourable member for Coburg, in each case the letters were nothing more than bland requests for public meetings or public hearings, and in each case I wrote to the organisations calling for public hearings and indicated that the committee would be more than happy to take matters in writing and, if necessary, to conduct public hearings.

Honourable members reading the report on the Equal Opportunity (Amendment) Bill (No. 2) will find that it is the result of a thorough examination of the Bill and that the Attorney-General had the ability and the time to respond to the committee's critique on costs and to make a positive change for the better.

In regard to the Nurses Bill, Ms Belinda Morieson wrote a letter, as mentioned by the honourable member for Coburg. I spoke to her and indicated that time was short for the committee, but a large part of her comments was incorporated in the

report. The Minister for Health also took the time and trouble to respond to the committee and her responses are also contained in the report.

The committee has taken evidence on the Crimes (Amendment) Bill (No. 2); it is considering the measure and will report to Parliament next Tuesday. I understand that honourable members would like more time for more deliberations, but in view of the timetable of the House, the committee has done a good job.

Motion agreed to.

LAW REFORM COMMITTEE

Restitution for victims of crime

Mr COLE (Melbourne) presented interim report of Law Reform Committee on inquiry into restitution for victims of crime, together with appendices, submissions and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

PAPERS

Laid on table by Clerk:

Greyhound Racing Control Board - Report for the year 1992-93

Mental Health Act 1986 - Report of the Community Visitors for the year 1992-93

National Tennis Centre Trust - Report for the year 1992-93

Pharmacy Board of Victoria - Report for the year ended 31 December 1992

Planning and Environment Act 1987 - Notices of approval of amendments to the following Planning Schemes:

Ballan Planning Scheme - No. LIO

Collingwood Planning Scheme - No. LS

Doncaster and Templestowe Planning Scheme - No. L58 Part 1

Fitzroy Planning Scheme - No. L21

Knox Planning Scheme - Nos L62 Part 1, L64

Lillydale Planning Scheme - No. L108 Part 1

Malvern Planning Scheme - No. LIS

Nunawading Planning Scheme - No. L48

Prahran Planning Scheme - No. L39

Preston Planning Scheme - No. L44

Springvale Planning Scheme - Nos L54, L.57

Strathfieldsaye Planning Scheme - No. L9

Yackandandah Planning Scheme - No. LIS

Victorian Relief Committee - Report for the year 1992-93.

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Building Bill

Planning and Environment (Amendment) Bill

Messages read recommending further appropriations for:

Electricity Industry Bill

Public Sector Superannuation (Administration) Bill

BUSINESS OF THE HOUSE

Program

Mr MACLELLAN (Minister for Planning) - I move:

That, pursuant to Sessional Order No. 6(3), the following Orders of the Day, Government Business, relating to the following Bills be considered and completed by 4.30 p.m. on Friday, 19 November 1993:

Public Sector Superannuation (Administration) Bill

Nurses Bill

Gaming Machine Control (General Amendment) Bill

Equal Opportunity (Amendment) Bill (No. 2)

Juries (Amendment) Bill

Transport (Amendment) Bill (No. 2)

Chattel Securities (Amendment) Bill

University of Ballarat Bill

Mr ROPER (Coburg) - I say at the outset that some honourable members have been inconvenienced by the government's decision for Parliament to meet on Friday without being given the normal notice, particularly as the previous advice from the Leader of the House had been that Parliament would be meeting for at least another three weeks.

In regard to the legislative program for this week, the first five Bills listed require substantial deliberation in Committee. Given the number of Bills of importance, the opposition hopes there will not be a repeat of what has occurred twice so far this session when proposed legislation has simply been passed without any debate. It would be unfortunate if there were not opportunities for the Bills to be considered in Committee, and the opposition hopes there will be such opportunities.

Mr BAKER (Sunshine) - I support the remarks of the honourable member for Coburg. The program includes several complex Bills that have attracted significant wide-scale attention in the community, not the least of which is the Bill listed first for debate - that is, the Public Sector Superannuation (Administration) Bill. I place on record that this morning I received a list of no fewer than 145 amendments to go with that Bill - that has been bettered only by a certain Water Bill that was considered by this House last session.

It is beyond the realms of fantasy to suggest that anybody, including members of the opposition - good as we may be - and people in the community who are involved and will be affected by the measure, could understand all the changes without adequate consideration. The direct footprint or consequence relating to the superannuation Bill totals some 400 000 people in the Victorian community, not to mention the knock-on or ripple effect of their dependants and associated families and the various organisations whose input would have been most useful. I refer not just to the union movement but also to pensioner associations, which have a special interest in this Bill. They should have been given time to make some reasonable comment on such a host of amendments.

It is an indication of the inadequacy of the relevant Minister's office and the inadequacy and incapacity of the Minister. All honourable members are aware of that - it is common knowledge in this place that he is inadequate and incapable, and there are 145 amendments suggesting that. I was not even granted the courtesy of a phone call.

Some 145 amendments are listed along with a series of Bills that, as the honourable member for Coburg said, are of great significance, moment and consequence for the Victorian community. The Acting Leader of the House has arbitrarily decided the program for the week and is saying to the opposition, "Well, we do not care how you handle it; we do not care how significant the Bills are. You fix them; it is up to you. We will just shovel them all in because we do not care. We are running this show and you will have done unto you what we want to do without quibble, debate, opposition or discussion". The government is not allowing the opposition time to consider the relevant difficulties in the Bills listed in the government's program. It is a shame; it is a disgrace and it is scandalous!

Dr VAUGHAN (Clayton) - I also desire to speak briefly on this motion concerning the business of the House. I am concerned about the procedural impediments that will prevent debate on General Business, Notice of Motion, No. 40 on the Notice Paper.

Mr Cooper inter1ected.

The SPEAKER - Order! The honourable member for Mornington is interjecting from out of his place.

Dr VAUGHAN - They will prevent the honourable member for Mordialloc explaining to the House how documents came to be stolen from files held by the Victorian Government Solicitor's office, how those documents came into his possession and why he abused the forms of the House to misrepresent these documents.

Mr MACLELLAN (Minister for Planning) - On a point of order, Mr Speaker, I direct to your attention the fact that the grievance debate scheduled for Wednesday morning will accommodate the matter raised by the honourable member. The government is anxious to give the honourable member for Clayton every facility to join in the debate and put every question he wishes to raise. The debate about the program for the business of the House does not relate to the matter the honourable member is raising in relation to general business. Time for debate on general business is ordinarily avaifoble on Wednesday morning. Under the government's program for the week, the grievance debate will be held on Wednesday. Nothing in this motion has any effect on the time available for general business.

Dr VAUGHAN (Clayton) - On the point of order, Mr Speaker, this motion concerns the business of the House in the most general sense as well as specifically government business, and I ask you to rule that there is no point of order.

The SPEAKER - Order! The motion before the House allows for a debate on whether the number of Bills set out in the program for the ensuing week is appropriate. I uphold the point of order raised by the Acting Leader of the House.

Dr VAUGHAN - I express my concern at the existing and proposed procedural impediments to prevent General Business, Notice of Motion, No. 40 being considered during this sitting week. Those procedural impediments will prevent me expressing, for example, appreciation to the Minister for Education for facilitating my access to a file of the Directorate of School Education last Friday afternoon and they will prevent me informing the House in detail of what I learned from a quick perusal of that file, for example, that the education department sent mail to an' address at which I no longer lived.

The SPEAKER - Order! The honourable member is trying the patience of the Chair. He must stick to the motion before the House.

Dr VAUGHAN - I am doing my best to do that and I am concluding my remarks. I express my disappointment at the fact that I am unable to inform the House how the education department sent mail to me at an address at which I no longer lived or formed the view that I could not be traced for the best part of a decade. During that decade my name and address were listed in the telephone book, they were on the electoral role, and I was a member of this House for most of that time. All of that was at a time when my current address and the address of my parents was known and held on file by the department.

There are procedural impediments to prevent my informing the House that one of the letters sent to me by the Minister - -

The SPEAKER - Order! The honourable member is continuing to try the patience of the Chair. I inform him that he has 1 minute left in which to make his remarks on the motion.

Dr VAUGHAN - I will not try the patience of the House for more than 1 minute, I assure you, Mr Speaker, but one of those letters did suggest to - -

The SPEAKER - Order! The Chair will no longer hear the honourable member for Clayton.

Motion agreed to.

PUBLIC SECTOR SUPERANNUATION (ADMINISTRATION) BILL

The SPEAKER - Order! As a statement has been made under section 85(5)(c) of the Constitution Act, I am of the opinion that the second reading of this Bill is required to be passed by an absolute majority of the House.

Government amendments circulated by Mr I. W. SMITH (Minister for Finance) pursuant to Sessional Orders.

Second reading

Debate resumed from 28 October; motion of I. W. SMITH (Minister for Finance).

Mr BAKER (Sunshine) - This complex Bill represents the greatest upheaval or shift in direction and focus of the State Superannuation Fund since the inception of the first schemes in the mid to late 1920s.

I suggest that the Minister at the table has, if nothing else, firmly guaranteed his place in history by the way he has handled - dare I say mishandled - this piece of legislation throughout a tortuous several months. That is the attitude the Minister took right from his first fumbling attempts to call a joint sitting of the Parliament to give a lecture - with overheads - on the topic of State Public Service superannuation. Those of us who were here on that vainglorious day will recall that the lecture went a long way towards putting the vaudeville back into Victorian politics and brought significant embarrassment rather than great credit to anybody who takes seriously his or her position in this House.

The Minister's performance in respect of this legislation has not improved. He has stumbled and bumbled his way towards the tacky, ill-considered, illogical and quite unjust excuse for legislation that we have before us today. It is not the legislatim we thought we were going to have. This morning the opposition was advised that there are not 10, 20 or 50 amendments but 145 amendments, and no time for interested parties or the opposition to consider

them. The courteous and democratic convention of Parliament is that when you go over a certain level of amendments, especially in relation to a complicated Bill with wide-ranging effects, you withdraw and redraft the measure. I acknowledge that that level has been breached in the past, and by people on my side of politics, one example being the debate on the Water Bill when the then opposition quite properly raised the need for the Bill to be redrafted so that everybody could start with a clean copy. The Minister could have negotiated with the opposition to do that but, just as he refused extra time and attempted to turn the Parliament into a circus for his own political ends by trumpeting a range of absurd propositions, he has since shown himself to be totally lacking in any sense of courtesy.

I frequently muse on how often people from the conservative side of politics who claim the advantage of having had a privileged background break the common courtesies and conventions that have been established in the Westminster system, not only in this Parliament but also in Federal Parliament and other Parliaments around the country. We have become used to such behaviour, as has the community, because privilege runs on its own cushion of arrogance and nobody typifies it more than the Minister for Finance. This cannot be his Bill: he does not have the intellectual capacity, the wit, the rigour or the disciplinary training to have produced it, because he was brought up in a privileged position and did not have to worry about getting a decent education. He was sorely embarrassed when he came before negotiators on behalf of past and present working men and women. Time and again I have heard that he did not understand the mathematics and the mechanics of the scheme and that, early in the development of the negotiations, his advisers showed they were less limited in their ability to handle the difficult and sensitive issues involved than the Minister.

In the end the Treasurer, the self-proclaimed high priest of the economic rationalism that drives all the government's economic activities with no regard for sensitivity or honouring agreements, had to take over. Despite the blues in the party room - and there were serious blues, but only in relation to proposed changes to Parliamentarians' superannuation, which was and still is the most privileged and generous area of superannuation under the scheme - and despite the gloss the Minister has put on proposed changes to the Parliamentary scheme along with the other schemes, Parliamentarians, myself included, are not getting done over in the same way as retirees and the people coming through the system now who have expectations of decent benefits and a comfortable existence at the end of their working lives. I will go into that in more detail before the day is out.

This complex Bill will have wide-ranging effects. It will have a direct effect on some 18 to 20 per cent of the Victorian work force and beyond them a ripple effect that should raise alarm and even fear in all Victorian workers, past and present, across the class structure and the age profile in both the public and private sectors. The Bill reaches out to frighten the aged, and that is its most dreadful, arcane, sinister and insensitive characteristic. It reaches out to those who, having retired after productive service to the community, believed their final years would offer some modest peace, relaxation, fun and, above all, security. There are 60 000 retirees who fit that category, and they live mainly in the southern and eastern suburbs of Melbourne, where they have secured reasonable homes and enjoyable lifestyles along the beachfront.

Those retirees are rightfully very annoyed about the Bill, because its most heartless feature is that it attacks them. It virtually says to the 60 000 retirees, 'We will rip up the contract many of you made 40 or 60 years ago. We will welsh on the commitment made by previous governments".

The Bill has been rushed on for debate today in the form of a Byzantine puzzle or - dare I say, in the language of my electorate of Sunshine - a s a dog's breakfast. The Minister proposes to move 145 amendments - all gobbledegook and Byzantine nonsense! How can the retirees understand the implications of the amendments in the time available? What if mistakes have been made in the printed amendments? The opposition has had a chance neither to run a slide rule over the documents nor have experts examine the amendments. That has happened not only because the Minister is an inadequate administrator - everyone knows that - but also because his strategy is all about intent and design.

The Minister has virtually said, "Let's get it on. Crunch it through in association with a whole range of other complex, highly emotive and sensitive Bills in the hope it will be buried by Christmas". He says, "The old people will not worry about it. No-one will worry about them; they are not in a union any more. They are long gone. Don't worry about them. They may make a little noise, but it will die down over Christmas and we will have accomplished our evil objective".

I hope the Minister has brought a thermos, a hamper and a camp stretcher with him today, because it will be a long night - in part because of the discourtesy he displayed in regard to the forms of the House. The Minister does not treat opposition members the way I always treated opposition members when I was a Minister. That is widely known in the House. I never behaved in the way this Minister has behaved. More importantly, it will be a long night primarily because the opposition does not intend to let this legislation pass lightly or without any noise. The Minister is in for a very long night.

At the outset, I lay down firmly, albeit fairly dramatically, some of the main bases for my opposition to and criticism of this dreadful piece of ill-prepared and ill-conceived legislation. The Bill attacks everyone's nan and pop in retirement, at the most vulnerable point in their life cycles. It presents the ugly face of the Kennett government to a degree that goes beyond any other decision it has made to date. The legislation threatens 60 000 elderly citizens in the most heartless and unprincipled fashion by interfering retrospectively with and enforcing a diminution of their benefits. It does that in various ways that I shall detail later.

The Bill's blackest aspect is the precedent it establishes: it attacks everyone's nan and pop - it could be mine or yours, Mr Acting Speaker. Superannuation is very important. Everyone now knows that I was raised by my grandfather, who worked in the ways and works branch of the railways. He rode his bike across the flat to work - day shift one week, afternoon shift the next week or night shift the following week. He never bought a car unless he had the money to pay for it, because he would never buy anything on the never-never. He was doing that in his 60s. But, because he did not wear a white collar and work in the office, and even though he was a master fitter, he was not allowed into the superannuation scheme.

Then superannuation arrangements started to change. I remember the night about 10 years before his retirement when he came home and said, '1've got my superannuation!" A lot of beer was drunk that night, dare I say. It was a cause for much celebration. He even took a few extra units of superannuation to build his pot. Then he got presbycusis - it was called industrial deafness in those days. But he still had a small pension which gave him a little security and something extra to look forward to during his retirement.

The trouble with this Bill is that it tramples all over that notion. My grandfather had every faith that the deal would be honoured. He knew what the contract was; it never occurred to him that it would ever be dishonoured - and so it is with about 60 000 retirees. The ghost of my grandfather is with them - and that is why I am so annoyed!

Recently when I was examining this issue I came across a story about a traditional public servant who could be described as archetypal or, I suggest, the mean or the mode. I am sure the Minister understands that mathematical term because the mode is the average, the one that most commonly occurs. That man was not a high flier or a mandarin in the Public Service. He had worked diligently at his work station. He had faithfully served the government of the day of whatever persuasion and had risen to the rank of an ADM 6 or 7. He was very cautious with his money. He was thrifty. He did a little work at the weekends here and there - all strictly legitimate - to put some cash away. He raised his family so they would have better lives and jobs.

He and his wife had a house on the bay; they had bought it in their early days. It had a nice garden where they spent much time. They did not take many holidays. However, they knew that when he retired they would have superannuation - a modest chance to have a little extra fun or reward for having put up with his diligence - with a diminished salary and conditions - in the service of the State.

He retired, and they bought a car and a caravan with which to have a holiday. They drove to Queensland, staying in caravan parks, and had a great time. Unfortunately, within a year he died. Because he had some accounting skills that were required as part of his job in the Public Service, his widow had had nothing to do with handling the money. She sifted among his belongings, which had been neatly organised. He had arranged his will and a range of other things including a simple financial statement detailing their financial position. The most important component in his view was his superannuation book. It had a yellow sticker on which he had written, "Open here, love".

She opened the book and saw an arrow down the page, to where he had written, "This is us". She was able to look at that and ostensibly know precisely what the benefit would be, because they had talked and dreamed about superannuation. It was their

security and their stanchion in life, apart from each other.

But, the Bill is the first step in the Minister saying to that poor lady, and all those like her, "You do not have that security, your husband told you incorrectly". The Minister will change it just a little at the margins, here and there. The Minister is saying, "You will not receive your indexation in quite the same way but it will not be a lot in the scheme of things".

The disability benefit will be dragged back, and no-one will have the right of redress to the Supreme Court. The final benefit for people corning through the system will not be calculated on their final salaries, as one would have thought it would be. That is what people were told when they joined the scheme, sometimes at the age of 15, 16 or 17 years, which was the custom for many of these people - they started as messenger boys on their bikes, or whatever, and they had the expectation that the deal would hold. It was part of the package; it was part of the ethic; it was part of the culture; it was their staff and hope for the future.

This Bill says no! The government says, "No, we are sorry, we have to maintain the fiction of an ongoing public financial crisis because it suits us politically, and we are going to rip that benefit off you. We are going to remove it, tamper with it, and worse, we are going to engender a sense of fear in that old lady, and a lot of old ladies like her, and a lot of old men - people who have behaved and worked decently and productively all their lives. And we will put the spectre of the vulture on their shoulders by suggesting that we may be back if we don't get enough".

To all those people out there, and beyond them to their dependants, as well as to the people in the private sector, the government is sending the message, '1f the government can do it and if the government is prepared to do it, why shouldn't it?" Approximately 400 000 people are involved directly in the schemes. The flow-on effect reaches their dependants, who have an interest in what happens to nan and pop and who, of course, in time will have an interest in whatever happens when the will is read - that is an important and most useful part of family life these days. The actual interest in the matter could build up to something like 1.5 million people.

Government members should heed that. These people are not necessarily Labor voters. I would suspect that in the usual case most of them would tend to be on the conservative side of politics. lbat is the nature of their history and their past, and we are all victims of our histories and pasts. I do not care about that, but honourable members opposite should care. The honourable member for Benambra, a man of privileged background, for example, is one who should care. Government members opposite should be showing an interest, because many of the citizens who are seriously affected are in their electorates, not Labor electorates, because they live in the marginal seats in the southern and eastern suburbs.

This Bill is the worst possible kind of breach of faith I could imagine, because it welshes on a contract of life. These people made contracts and built their whole lives on those contracts. One can't go back after one has invested one's whole life. There is no chance of changing one's mind if the person with whom the deal is made - namely, the Victorian government - welshes on that deal.

The Victorian government is welshing on the deal. The basis of the deal was that faithful employees of the State were prepared to put their trust, their labour and their faith, as well as their own funds, and a significant proportion of their own funds in many cases, into these schemes. As part of the deal all that had to be honoured was the book I described with the arrow saying, "Love, this is us," so that when '1ove" came to that day and had a look at the book, he or she would know that that is where he or she was, that that security and entitlement was there and that the deal would be honoured.

The Bill is retrospective. lbat is the worst form of legal interference. The moment one mentions retrospectivity in the business community - which is usually represented by the other side of politics - it gets very toey. And I hold dear the principle that retrospectivity should not apply. It is a principle of law and legislation that is inviolate in my view, and I suspect in the views of most of the Minister's colleagues. This Bill is retrospective. It might be retrospective in minor ways; nevertheless, it defies that convention and principle of no retrospectivity. It retrospectively welshes on a compact or agreement entered into, as I said, in some cases 40 to 50 years ago under which public servants accepted lower wages and conditions in favour of secure, comfortable and enjoyable retirement with a modest buffer for some minor self-indulgence to compensate for hard and thrifty working lives.

That is the nature of the equation. That was the basis of the deal. Everyone understands that. The community understands that. The community may have a grizzle about public servants and may make jokes about them carrying cups of tea, but everyone understood that the compact was that public servants got lower wages and had worse working conditions because at the end of the day they would have a slightly more generous superannuation scheme.

For all those reasons taken jointly, severally and cumulatively, this legislation is dishonourable in the extreme. It breaches the Federal government's occupational superannuation standards, so it is illegal. It cannot comply with the new Commonwealth superannuation Bill that is due to come into effect in July next year, so it will be illegal - that is, unless the Minister manages to convince the Federal Treasurer to get an exemption. Lots of luck, because members of the Victorian opposition will not be advising him to take that position, and I am sure neither will the pensioner groups and the trade union movement, who have attempted to explain the situation to the Victorian Minister-he is a bit slow.

They tried to explain the dangers of this course and their concerns. The Minister has not listened to one thing they have said. There is not one amendment, as I understand it, not one concession to the major points they made, which are obviously logical. These people are not red-raggers and radicals, they are pensioners, everybody's nan and pop. They went to see the Minister; he listened like a wooden Indian, and did nothing. He has taken no responsibility at all. He has gone, "Crunch". He has said it will be all right, that the government will take $5 billion, that he wants $5 billion here and another $5 billion there, and that everyone will have to toe the line because the government has the numbers.

The government says, "We run this place and we have to get back a AAA rating". The government thinks it has to impress some foreign-based credit rating agency to decide Victoria's performance because Dad and Dave - the Premier and the Treasurer - went on a magical mystery tour of the United States. They picked a really good time to go - just before President Clinton's inauguration! Imagine who saw them in the finance capitals of the world. They would have been lucky to have seen the janitor! The word that came back was that they saw nobody of any consequence. The people they visited had never heard of Victoria, yet the Premier and Treasurer were marketing their stock - the Treasury Corporation of Victoria and bonds! They even want to do it again! It is terribly funny. If it were not so sad it would be low farce. Imagine who saw them! Pictures came back of them being driven around in a big black car. God was in heaven and all was at peace!

Because they are so blinkered and limited in their backgrounds and understanding, neither the Premier nor the Treasurer have an understanding that Victoria could have a AAA rating and still have 200 000 people out of work and 60 000 pensioners on superannuation schemes. A AAA rating will not change a thing, and this Bill will not change a thing. The community does not want public finances to be fixed up by picking on everybody's nan and pop, and it will not change the Victorian economy one jot. For all those reasons this Bill will meet the same fate as the ill-fated industrial relations legislation introduced by the Minister for Industry and Employment.

I would like to see the legal advice the Minister for Finance has - surely even he bothered to get some legal advice - about retrospective changes to the accrued benefits of pensioners and members of the superannuation scheme complying with the Federal Occupational Superannuation Standards Act and the superannuation supervisory levy, because my advice is that they will not. I have glimpsed a letter from the Federal Treasurer, Mr John Dawkins, that says the changes will not comply with that legislation. The Minister was told that, yet he does not believe it. The Federal Superannuation and Insurance Commissioner has told the Federal Treasurer that the provisions of this Bill cannot apply under the Federal legislation. The House is going through this low farce and charade for nought because the Bill will be blown out of the water, and so it should be because its principle is wrong, and it is ridiculous for the Minister to even consider it.

The Bill also establishes the concept of superannuation savings accounts, a notion that is subject to criticism. It basically means that people coming through the scheme have the option - or perhaps there is even some form of coercion - to play a hand in investing their own money. The mathematical mechanism for those sorts of accumulated funds are put simply, and I am sure the Minister understands them - a chicken farmer would really understand them! It means that a person will need to earn 4 per cent above average weekly earnings to get the same multiples as a person who has been in a scheme for 30 years and

who commenced on $30 000, which is a multiple of about six.

Papers from top people in the AMP Society suggest that that has not been done over the past 15 to 20 years and that accumulation and superannuation saving funds which are run like a bank accounts will not produce the same yields as a balanced fund run by trustees. The pressure will be present in some cases to produce negative returns. That means poor public servants will be investing their share of the money, taking their 9 per cent enforced by the Federal government's guarantee scheme, and ending up with a retirement income that is not worth a jot. They will have no security. That is a serious problem, and I will go into that in some mathematical detail for the edification and elucidation of the Minister as I get further along the track.

The Bill will also ensure that future retirees in that category will not have adequate income maintenance. For the first time public servants coming through the system will not have adequate income maintenance. It also means that several classes of people will be working side by side and any notion of perceived equity will go out the window. I will provide tables to the House - the Minister and the Speaker have seen them - which show the differences between the case of someone joining the new scheme on 31 December on the same level and pay scale and someone who joins the day after.

Those two people may work side by side throughout their careers, yet the government is prepared to allow someone who joined on 31 December to get $80 000 and the person who joined on 1 January to get only $50 000. Where is the equity in that? How can a work force be run on that basis? One beneficiary will receive six times the amount the other receives when they retire. The other person will be battling on the actuarial assessments of approximately 3.6 per cent - that is, assuming the earnings on his or her investment exceeds average weekly earnings by approximately 3 to 4 per cent per annum throughout those 30 years.

The employee takes the risk. That is the big difference between defined benefits schemes and accumulated fund schemes - the government or the employer takes the risk in defined benefits schemes and the employee takes the risk in accumulated fund schemes. This is the third leg of the trifecta, so to speak, for knocking off the traditional notion of public servants being apolitical and making a career out of serving the government of the day.

It started with the Pitts. I am sure the Minister at the table, cultured as he is, knows all about the Pitts. I always thought Pitt the Younger was the superior, and I would be interested in hearing the Minister's view on that. Pitt the Younger had a little more nous, and I see that the honourable member for Springvale agrees with me. I believe it was the old bloke that invented Chatham House rules, because they were the Earls of Chatham, Mr Acting Speaker, as you would know, and I digress for a moment.

From the time of the Pitts the notion of a career in the Public Service was established. They were the keepers of the history; they were the people who made the bridges across governments beyond elections. They were the people who were able apolitically, clinically and as objectively as possible to organise for those major projects that ran across election time scales.

Mr Acting Speaker, you know that it can take up to 10 years from the time of commissioning a power station or dam to the time of handing it over, so we need a Public Service to provide the continuity.

The government hates public servants. It really wants them all to go home. There are curious contradictions with the government: it brays about having small government; it does not think there is anything that the government should do yet it talks about nothing else but government when it talks about the economy - there is the first inconsistency - and it legislates all the time. Joe Stalin never legislated as much as this mob! I think this is about my 10th Bill this session. Stalin would be most amused - absolutely delighted - with this mob.

We have the Treasurer - the self-styled chief economic rationalist - and he has had about seven Bills in this Parliamentary session. He can't stop! He gets the itch: '1 feel another Bill coming on". The trouble is that they have consequences for people, so the notion of the career public servant is now dead and buried forever, and that is alarming for all of us. I do not know how it can possibly be replaced because the notion of tenure has gone: that was the first one that bit the dust. We now have the notion of compulsory dismissal, and the well defined, albeit rather boring and fenced-in notions of progress through levels of promotion have disappeared. Those earlier notions were clearly defined: they were part and parcel of the package - the notion that you

served the members of the government of the day, even if they were clods; even if you did not agree with them, you served them and you gave effect to whatever crazy ideas they happened to produce at the time, and finally, most important of all, there would be a retirement benefit that was a little more generous than those available elsewhere.

The Victorian Public Service had the most generous retirement benefits scheme of any Public Service around. We did not introduce that; it was not the previous government that did that. Let the House understand why the financial problem has occurred here; despite the blather of the Minister and his colleague, I do not think they really understand it.

In the beginning there was 1926: the government of the day started a defined benefits scheme and decided to pay for it on an emerging cost basis. Once upon a time there was 1926, and so it grew and grew in the way of defined benefit schemes, but it took a long time to mature because many of the early entrants were 15 and 18 years of age at the starting point of their careers, and they worked through until they were 65: that was the standard retirement age at that time. Then in the 1960s - and I am not saying this to lay the blame; I am saying it to do away with the fantasy or fiction that the Minister and his colleagues have attempted to create that suddenly this became a problem in the 1980s because of the maladministration of the Labor government, because the truth, the history and the logic are not there - the Bolte government upped the benefits and indexed them. It was a Liberal government - the Bolte government - that provided the indexation, and because they were paid on an emerging cost basis the costs did not build for a long time. They started to take off in the 1980s because taking 1926 from 1980 means that the big payouts were starting to come up because it had been kicked along.

Until the Labor government came to office nobody had made any attempt to calculate the contingent liabilities; it was not an issue. For two reasons someone decided they had better calculate them quick smart, and the first reason was that as the mechanics of the scheme started to bite, as a proportion of outlays it became quite significant; it became really serious. For the 10 years from 1982 it went from something like 3 to 4 per cent of Budget outlays to 8 to 9 per cent, with the projection that unless something is done about it through to the end of the decade the figure will be something like 12 per cent of Budget outlays, and that is too much. The level of the unfunded liability was computed - and once again this depends on which actuarial assessment you make; I noticed in the Victorian Commission of Audit report that the commission prepared A, B and C cases, which is six standard deviations apart, from optimistic to pessimistic - and the range was from $12.5 billion on the one hand to $19 billion on the other. But most people - and the Minister has used this figure - take the assumption that it is around $17 billion, and that is a heck of a lot! It was never counted.

The other reason, and probably one of the main reasons for the current situation - and this shows the effects of the international credit agencies on public finances in this country and elsewhere - is that the international credit agencies were not around until the mid to late 1980s, and they count contingent liabilities. So they counted in all the accident compensation schemes and superannuation liabilities, and it was very convenient for the then opposition to lump all that debt in and create the impression that somehow or other the evil socialists had done all this.

That notion is not true; it is seen to be not true when you examine the facts, and it is certainly not true in respect of this case, but the one-liners have always been with the other side in that regard. If you throw up numbers that sound like 500 million Tattslottos, you worry people.

The government is still using that fiction and still hiding behind the credit agencies. It is using that fantasy to continue with a heavy ideologically inspired strategy, and beating up nan and pop is part of it. That is the worst feature I have seen: going out and beating up everybody's nan and pop! The government is creating a situation for people working side by side doing equivalent jobs where, because one started at the end of December and the other started the next day, they will have widely differing benefits.

What form of social cohesion and harmony or disharmony will that create in the workplace? The Bill's clear message to all of us - and particularly to the elderly - is that nothing is untouchable. The government does not see anything as being sacred. No deal has to be honoured entirely. There will always be a reason to change and to welsh. So people cannot deal with the government, because no deal is incapable of being dishonoured in the eyes of the Kennett government.

This says to all in the community and particularly to pensioners that the government believes it can say,

"Having done this, we need only come back again if we wish to tamper with your benefits again. What is to stop us? We will try this one and if we get it past the Federals, who knows, because that is what we want to do". We all know that.

The Treasurer was silly enough to let it be known that he wanted to wipe out indexed benefits. Within two or three years, that would have left most below the poverty line. Why would anyone trust the Treasurer? He is trying to get under the gate in a variety of ways. Private sector employers would think, '1f the government can do this to public sector workers, why can't we do the same?" I point out that some private sector schemes in the oil and air industries now provide comparable or better benefits than will be enjoyed by new entrants to our public sector scheme.

In my opening remarks I said that the most arcane feature of the legislation is that it plays the bully on existing public servants. The government states in the Bill in a bare-faced way - and this is what the government said to the trade union movement - "We want 50 per cent of people from the revised scheme to come off pensions because they know that the lump sums are there to go". I have been seeing this for a long time.

When I was working on accident compensation schemes in the Treasury it always interested me that when insurance companies and lawyers said that you were better off with a lump sum - they campaigned for lump sums - I knew the victim was getting done. One did not have to be a fancy mathematician or economist to work that out. One could tell that someone was getting done, and so it is with this legislation. By moving people off pensions and luring them with a pot of gold, they are being done. It costs the government less, especially given that people tend to live longer these days.

Many young people - some not so young, perhaps a little foolishly-will be persuaded to take lump sums rather than indexed pensions. The Treasurer would have knocked indexation off. In a day of vaudeville, the Treasurer was to show slides at a joint sitting. It was to have been the best show in town at the top end of Spring Street - talk about vaudeville; talk about bringing the Parliament into absolute contempt and odium!

The government is saying, "We want 50 per cent of them over, and we want them over by a set time". The date given in a table is 1 November 1994. The government is saying, '1f we don't get 50 per cent of them over by that date, we will up contributions to the point where people cannot afford to stay in the schemf?s they are in at the moment. We will whack contributions up so that for younger people with families it will mean the difference between being able to keep going and not being able to, so they will have to leave. They will be forced out". That will affect young families who are paying off houses, those with perhaps a couple of kiddies and only one income because someone is at home with the children. That is the government's intention.

In his second-reading speech the Minister said he expected to save $5 billion by the turn of the century - the end of the millennium - on changed benefits and a further $5 billion through the reduction in staff numbers. So the Treasurer is going for a saving of $10 billion. He must be taking it from somewhere. Even if people do not want to believe me, they must realise that he is getting it from somewhere; he is getting it from greatly diminished benefits and from the redundancy program that the government has proceeded with in the most dreadful way.

I will put on record the main features of the package. The government proposes to make that $10 billion in savings through a reduction of benefits, staff reductions and debt repayment. The purpose of the $1.4 billion repayment was to maintain the fiction that there is still a current account deficit. That was a useful double banger for the government, but I do not have any quibble with paying that money back.

As a prospective Treasurer, I would not be interested in dipping my hands into those funds. I give that undertaking. I admit that the problem with reducing funds the way the previous government did is that it reduces earning potential. At the very least, for an unfunded liability of that size, based on my computations the very minimum in the pot should be $3 billion or, one hopes, $4 billion or more, earning a reasonably attractive, modem rate to try to meet costs as they emerge.

The main feature of the Minister's package - package mark V; the one that has finally got h e r e - is that the existing defined benefit schemes will be closed to new entrants except for operational workers in the emergency services - that is, police, State Emergency Service workers, fire brigade people and so on. The opposition has no quibble with that. The new entrants will join accumulation schemes providing benefits at the level required by the Commonwealth superannuation guarantee charge, which rises to an employer contribution of

9 per cent of salary by the year 2000. Those schemes are to be fully funded within an agency's own funds.

That is all very well, but the government is working towards ensuring that it pays only the minimum provided under the Commonwealth scheme, rising from 5 to 9 per cent by the end of the millennium. Members of the old revised scheme and the State Superannuation Fund will be encouraged to transfer to the 1988 new scheme, which the previous government introduced, forsaking some accrued benefits in return for a 100 per cent lump sum. The government estimates that 50 per cent will be making that transfer on what is euphemistically described as a voluntary basis.

I seek leave to have incorporated in *Hansard* a table that illustrates my argument.

Leave granted; table as follows:

TABLE 1

STATE SUPERANNUATION FUND <REVISED SCHEME}

EMPLOYEE CONTRIBUTIONS

AGE	% OF SALARY TO 30.4.91	INCREASES (1) 1.5.94-31.10.94	INCREASES (2) 1.11.94 - ON	INCREASE (1)	INCREASE (2)
	%	%	%	%	%
15-29	3	5	8	2	5
30-34	3.5	5.5	8.5	2	3
35-39	4.5	6.0	8.5	1.5	1
40,44	5.5	6.5	9	1	3.5
45-49	6.5	7.5	9	1	2.5
50-54	7.5	8.0	9.5	0.5	2
55-ON	8.0	8.5	9.5	0.5	1.5

Mr BAKER - Honourable members will see that the percentage of salary paid until 30 April 1991 is given through various age groups ranging from 15 to 29 through to SO-odd. The table shows that the contributions made by workers in the revised scheme who are in the 15 to 29 age group will increase from 3 per cent to 5 per cent on 1 May 1994, and if they want to remain in the scheme on 1 November 1994 they will have to contribute 8 per cent, which is a further increase of 5 per cent.

To a young couple with two small children who have just taken out a housing loan and who have only one income because the wife has stopped work to look after their children, that increase will mean the difference between being able to meet their bills and not being able to do so. As a result of the increase that contributor will have to leave the scheme-that is what the Minister has in mind - and move to the scheme with a lower benefit. By doing so the contributor will be moving into what I describe as a superannuation savings account with a lower benefit. The contributor's disability rights will be greatly diminished unless he or she buys units in amounts of $50 000 and they will be taken out of the contributions, which will be reduced as the units increase. The disability provisions people need for that time of their lives will rob them of their long-term benefits, which is a dreadful result.

I have some actuarial computations relating to the case I have cited of a person who begins work on 31 December and another who begins on 1 January. I have produced details of the way in which they will contribute. The new members are both aged 30 years and propose to retire at 60 years of age. Their starting salary is $30 000.

I seek leave to have table 2.1 incorporated in *Hansard.*

Leave granted; table as follows:

TABLE 2.1

NEW MEMBER (AGE 30 • RETIRE AT 60) • STARTS ON $30,000

CONTRIBUTES S% SALARY + S.G.A. CONT OF 9%

AVERAGE INVESTMENT RATE ABOVE A.W.E.	MULTIPLE 10% S.G.A.	QUEENSLAND 15% S.G.A	(2 YEARS) 20'I, S.G.A.	(Admin & (D & D) (Cost (Assumption
0% p.a.	3.93	3.80	3.60	
l'I, p.L	4.55	4.39	4.17	
2% p.a.	5.30	5.11	4.85	
3'1, p.L	6.20	5.99	5.68	
4'1,p.L	7.30	*1.0S*	6.69	

Mr BAKER - The table shows the case of a person contributing 5 per cent of salary plus an SGA content of 9 per cent. It is necessary to examine the average investment rate of that superannuation savings account above average weekly earnings, from which is deducted the multiple in administrative, death and disability assumptions of 10 per cent and an average investment rate above average weekly earnings of 4 per cent to reach 7.3 per cent.

I now seek leave to incorporate table 2.2.

Leave granted; table as follows:

TABLE 2.2

NEW MEMBER (AGE 30 - RETIRE AT 60) - STARTS ON $30,000

NO CONTRIBUTION - ONLY S.G.A. CONT. OF 9%

AVERAGE INVESTMENT RA'IE ABOVE A.W.E.	MULIIfLE OF E.A.S. (2 YEARS) 10% S.G.A.	15% S.G.A	20% S.G. A.	(Adm.in&) V (D&D) (Cost) (Assumption
0% p.a.	2.43	2.29	2.15	
1% p.a.	2.81	2.66	2.50	
2% p.a.	3.28	3.10	2.91	
3% p.a.	3.83	3.62	3.41	
4% p.a.	4.51	4.26	4.01	

Mr BAKER - This table shows no contribution other than the SGA of 9 per cent and does not include the employee's 5 per cent. The equivalent figure is 4.51 per cent. That is a significant difference, which will mean there will be two classes of superannuants. If people decide they want to invest their own money or want to advise the trustee about how their money should be invested, and they are not good at it, their money may end up down the chute! They may end up with a negative amount, and the old idea that if superannuation is compulsory fewer people will need to go on age pensions will be proved a myth, unless the investments are handled properly.

I have a copy of a paper delivered by Bruce Rafter, the General Manager of Corporation Superannuation Services, for National Mutual Corporation. It is entitled *Can we bank on superannuation savings accounts for retirement income.* Mr Rafter and his backroom people have run some analyses on comparisons between balanced funds and superannuation savings accounts through the 15 years to 30 June 1993. Obviously he has a vested interested in arguing against the banks running these funds because that suits his firm, but that is hardly seen as being on my side of politics. He produced a chart that shows that balanced funds have outperformed cash portfolios by 1.6 per cent during that 15 years. He also makes the point that this differential is abnormally low because it has been affected by the comparatively poor performances of the equity markets over the past five years. We are all aware of that.

The second figure he produced shows the effect of eliminating that past five years from the comparison, and for that period the gap between the balance and cash performance widened to 4.1 per cent. *He* says that National Mutual separately undertook another study comparing the results of balanced portfolios for a number of fund managers against 10-year bond yields and its conclusion was that balanced portfolios had outperformed bond portfolios by approximately 2.5 per cent over an extended period. The database for this analysis extended back to 1967.

He also made an analysis of the retirement accumulations for two different people working within these two parameters and found that a comparison of accumulations at retirement and after 20 years indicates that 25 per cent of the difference between superannuation savings accounts and superannuation funds results from the bank charges imposed on SSAs. The conclusion is that, despite the claims that are made about compulsory superannuation schemes - this is alarming and we must consider it - those who fund their superannuation through a superannuation savings account will have a significantly higher dependency on age pensions than those who use other superannuation funding vehicles.

As a result, Mr Rafter believes that on average funds currently invested in accordance with a member's choice - the Minister is proposing that there be an element of choice - will not have the same potential to pay retirement benefits as those invested by trustees employing professional staffs. We should take that on board.

I direct to the Minister's attention the work of Professor David Knox of the University of Melbourne, which appeared recently in the quarterly bulletin of the Institute of Actuaries of Australia. In the article Professor Knox concludes, firstly, that given a retirement age of 65, a 12 per cent contribution rate paid for 40 or 45 years would provide a reasonable pension ranging from 40 per cent to 57 per cent of final salary for a male and 33 per cent to 47 per cent for a female. He says:

> The Federal government is correct when it states that a 12 per cent contribution is sufficient to provide a reasonable retirement benefit.

He then suggests we should look at other figures that show, for example, that early retirement has a devastating effect on the final outcome. Because there are fewer years in which to accumulate benefits and because the pension has to be paid over a longer period, a reduction in the retirement age from 65 to 60 years cuts the amount of the pension by between 13 and 17 per cent of a person's final salary. Retirement at 55 years of age reduces it even further. Yet the Professor makes the point that early retirement is a one-way trend - that is, it is inexorable.

Worse still, people are starting work at a later age so have a shorter time in which to accumulate funds. There is a serious danger than even without the government's jackboot-like unjust and inequitable behaviour the next generation of retiring public servants will not have an adequate form of income maintenance. They will have to either find other work, do odd jobs or go on the aged pension. At the end of productive and useful lives they will have nothing for their retirement.

I ask the Minister for reassurance. Firstly, he has attacked benefits and introduced retrospectivity, particularly for pensioners. The age specified for disability benefits will be moved back to 60 years, indexation will occur annually rather half-yearly, and the right of appeal to the Supreme Court will be removed - which will apply to everyone covered by the Bill. Contributors with quibbles about the way their entitlements or moves from one fund to another are being handled are done in.

The change from using final salary to using final average salary in calculating benefits is clearly retrospective for people who are currently employed in the public sector and who are in the existing schemes; and it is contrary to the requirements of the federal occupational superannuation standards legislation. The opposition has received advice from the Federal Treasurer that the Minister will go down on this issue. As was the case with the Minister for Industry and Employment, the Minister for Finance will be made to look a fool - i n his case, an even bigger fool than usual, which is hard to conceive! The Minister has been set up by his inability to handle complex issues of this kind. He should have listened to the people who came to see him. He will fall flat on his face - and then he will have to come back here and listen to me again. If the Minister were not so naturally arrogant, I would almost feel sorry for him because of the incapable way in which he has handled the legislation.

In relation to the benefits that may be provided by a superannuation fund regulation 17(d) of the Occupational Superannuation Standards Regulations - the overarching and overriding regulations - states:

(i) the governing rules must not be amended in a way that would have the effect of:

(A) reducing the amount of a benefit calculated on the basis of contributions to the fund and earnings on those contributions, that has accrued, or become payable, to a member before the amendment; or

(B) reducing the amount of a benefit, other than a benefit referred to in subparagraph (A), that is, or may become, payable to a member in relation to a peribd before the amendment; and

(ii) the benefits that have accrued, or become payable, to a member of a fund must not otherwise be reduced.

It then provides for exceptions that require, among other things, the Federal Insurance Commissioner to approve of any reduction in writing. The opposition has been told that the Insurance Commissioner has advised the Federal Treasurer that he will not allow the Minister for Finance to trample on the rights of pensioners and people coming through the existing system. I am sorry the Minister cannot take any more and is leaving the Chamber - j u s t as I am getting warmed up! I now have to deal with the Minister for Small Business, whose eyes tell me he knows a lot about superannuation!

What sort of advice does the Minister get? I heard from the people who were involved in the negotiations with the government that not only was the Minister a bit slow on the uptake - they used a less kind expression - but the standard of advice in the last couple of days before the Treasury became involved was appalling.

This has been done in the most heartless and insensitive way. It picks on nan and pop at their most vulnerable stage of life. The community will remember - I am sure nan and pop will remember - that the government has welshed on the deals, the contracts for life, that many people made when they were 15, 16 or 17 years of age. They have honoured those contracts. They have put up with low wages and bad conditions; and they have had to be more thrifty than most. They have not had the holidays and advantages that many people in employment elsewhere have enjoyed, but they have assumed they would have the benefit of generous superannuation schemes at the end of the day. But according to the Bill that is no longer so.

I understand at least 10 State retiree organisations have banded together to form the Combined Council of State Retirees. The Combined Pensioners Association of Victoria has lent assistance to its cause and has passed a resolution expressing concern about the Victorian government's attempt to reduce State pensioner entitlements. That is not a radical statement. The group is certainly not a radical organisation; its members are not marching behind the red flag. But when they went to see the Minister and his wazirs nothing happened; they were shown the door. The government does not care about them because they are old. It has to save $5 billion - and it does not care how. The government does not believe those people are its problem. But it is wrong: they will be a problem!

If they decide to organise themselves - if they talk to their families and their families talk to other families - t h e Minister for Finance, old Blunder Boy, may end up causing his government great electoral harm. No-one will put up with old people being done in the eye when they reach retiring age. I

believe no honourable member would want that to happen to his or her elderly folk. Certainly members of the opposition do not want that to happen! Government members should be ashamed of what they are proposing to do.

We have a few questions for the Minister for Finance - and I will never forget the dairy Bill! The Minister has overseen the drafting of a discourteous, arrogant and heartless Bill. I hope he has a long night ahead of him, because we intend to see just how much he knows about it. There will be no tomcatting tonight; the Minister is in here for the long haul! It will seem like industrial imprisonment for him - but not for me. The Minister is a bully; he is taking a big stick to people both old and young in an inconceivably heartless way - and we will hang him out to dry on it!

The Minister thinks the union movement has buckled under. He thinks he has done a deal with the Trades Hall Council that allows him to bray about his having the unions under control. But the Minister has failed to understand that the unions are absolutely sure that under the Federal government's occupational superannuation standards and superannuation industry supervision legislation retrospectivity will be done away with. That will mean the pensioners' case will be taken up federally because elderly people need to have their rights preserved.

The problems faced by new members coming into the scheme under the ridiculously iniquitous conditions outlined in the Bill are fights for another day. Because the government is not hiring anybody, that is not an issue at present. But as new members come into the scheme-sooner or later the government will want some new public servants, even though its dislike of them is obsessive - the labour movement, which I am proud to represent in this place, will take a close interest in the way those people are treated.

We will not formally oppose the Bill - that does not mean we support it - because the trade union movement has negotiated the agreement. We will be most amused to see the consequences of future legal action, which we will strongly support. The opposition will stand by the old and new members of the fund. The government has not heard the last of this issue. There will be a continuing campaign against it in marginal electorates if it proceeds with its intention to beat up old people. We will not stand for it. We will make so much noise that the oncers on the government back bench will be crying buckets of tears.

Mr MICALLEF (Springvale) - I compliment the shadow Treasurer on his detailed response to the Bill. It was an excellent contribution full of all those technicalities one expects a shadow Treasurer to come out with in debating a Bill that will affect ordinary working people - especially those who have been paying into superannuation schemes and who have expected to retire on pensions that will enable them to maintain the quality of life they have been used to.

I believe superannuation schemes should be seen as part of the social wage. Workers who pay into superannuation schemes often do without the little extras and give up some of the ready cash they need - especially those with families and those paying off mortgages - to put something away for their retirement. I have received many letters from schoolteachers and public servants in my electorate - even in downtown Springvale - who have retired or are on the verge of retiring. Some have been very aggressive because they believe that as a Parliamentarian I am responsible for any changes to their superannuation entitlements.

The reaction has been so aggressive and hostile that I have had some difficulty explaining that the proposed changes are not of the opposition's making. The changes are of the government's making; they will affect our quality of life, our wages and conditions as well as community and other services. The government is placing a burden on the working people of Victoria.

Mr W. D. McGrath - Don't be nasty!

Mr MICALLEF - I am not being nasty; I am stating the facts. By saying it has inherited massive debt and the problems of the unfunded liabilities the government has been vindictive.

Mr Finn interjected.

Mr MICALLEF - The incoming Labor government inherited the superannuation scheme; it changed it in 1988 with the support of the then opposition. The scheme the government seeks to change now is fundamentally the province of conservative governments. The government should be held to account for the fact that it introduced a scheme that it now believes has run off the rails.

Historically superannuation has been for white-collar workers. Only in latter years have blue-collar workers been part of superannuation schemes. When workers retire they should look forward to a social wage. When the first scheme was introduced in 1926 public sector workers did not always have the best job. They often worked longer hours, received less attractive pay and did more tedious work. Under conservative governments public sector workers eventually received better wages and conditions; the spin-off was that they received increased payments into their superannuation schemes. The shadow Treasurer gave examples of people who have moved to Queensland to enjoy their retirements. That has been compounded: 100 or more Victorians are leaving the State every week. Many are taking their superannuation with them. That is another reason why the government may want to get back at them.

Victoria has 60 000 retired former public sector employees on superannuation benefits. That means it has a significant proportion of retired people. I have had many conversations and received much correspondence from retired people asking me to take up the subject of superannuation at my first opportunity - I am now taking up that opportunity.

The aim of the Bill is to reduce unfunded liabilities. We heard a lot of talk about them being $17 billion, $18 billion and so on. The final figure is $19 billion and growing. It was claimed that unfunded liabilities would increase to $28 billion by 2013. The argument is that those costs have to be contained. The real question is whether the government contains the costs equitably.

The first fund was established in 1926; and as at June 1992 there were 34 public sector superannuation schemes. Rationalising the funds make a lot of sense. The overlapping of administration and the centralisation of investment powers to get better returns is a good move. Such issues can be better coordinated and more effectively carried out in a single fund. The 34 superannuation funds have about 300 000 members. However, they are losing membership at a fast rate because many public sector workers are being given early retirement packages. Those members are currently affected by the government's desire to significantly amend the superannuation scheme.

Mr I. W. Smith - The honourable member for Sunshine said 600 000. Who is right?

Mr MICALLEF - If the honourable member for Sunshine said 600 000, who am I to question such wisdom? I bow to his greater mathematical skills. The funds were reaching maturity in the 1980s. Those who went into the scheme in 1926 and had a 50-year working life looked forward to their superannuation. A lot of those people retired in the 1970s. In the 1980s early retirement schemes, retrenchments and so on were introduced. People retired with disabilities which increased demand on the funds. Increased lifespans have also made an impact. We all know that only the good die young; therefore a lot of conservative politicians live to ripe old ages. Some former conservative Prime Ministers are making statements about the Federal Mabo legislation intimating that sections of the population are inferior. It is the conservative politicians, who seem to live forever, who make such outrageous statements.

Significant pressure was placed on superannuation funds. In 1982 3.4 per cent of Budget outlays was spent on superannuation and in 1992 it increased to 8.9 per cent. That position, which created problems for the Treasurer and Minister for Finance, had to be addressed if the government were to be considered credible.

The former Labor government introduced a new superannuation scheme based on lump sum payments, which were considered to be useful in lowering costs. That approach has also been taken in the workers compensation area where workers have been taken off the system by offering lump sums. The governments also used that mechanism in the superannuation area by allowing the fund to reduce its long-term commitments by paying out its members. That was one of the changes introduced in 1988.

The coalition government has said it needs to save $10 billion and it will do that by reducing benefits. The shadow Treasurer, in a chart that was incorporated in *Hansard,* pointed out how certain moneys will be saved by increasing employee contributions. Superannuation will be less attractive to workers if they are forced to increase their contributions. It will also be more difficult for those with family and mortgage commitments to maintain their eligibility and membership of those funds.

The provisions will affect retrospectivity, disability entitlements and indexation. The indexation of pensions, which will occur annually instead of twice a year, is another attack on the quality of life of

several hundred thousand beneficiaries of the State superannuation scheme.

Changes to the disability considerations mean that somebody entitled to $200 000 or $300 000 under the new rules may be lucky to get around $50 000, so the benefits to the superannuation proposal are not anywhere as attractive as under the old scheme.

The passage of the Public Sector Management Act last year provided for workers to be sacked with four weeks notice; if they do not take a reasonable job offer they can be retrenched without superannuation entitlements. These provisions are all part of the package of changes to various pieces of legislation that will affect the superannuation payments for which the government is responsible. Workers do not have a pleasant outlook and will have to fight the government for any superannuation benefits.

As the shadow Treasurer said, the advice he has received indicates that the Bill is in breach of the federal Occupational Superannuation Standards Act and section 109 of the Constitution Act which provides for federal legislation to override State Acts. Similar to the government's industrial relations legislation, which is being challenged everywhere and is found to be wanting, the provisions are a mess. I refer the House to the latest $8 increase that was granted by the Australian Industrial Relations Commission and the mechanism for delivering that to Victorian workers on employment contracts. It demonstrates that what may have appeared to have been a good idea in the conservative party room is an absolute shambles when it is included in proposed legislation of this size with its plethora of amendments.

The government is trying to get its hands on the money. It is knocking workers around by introducing retrospective provisions relating to death and disability allowances, redundancies and so on. It is sad to see.

Although the Labor Party does not oppose the Bill it is not happy with it. The trade unions were put in an awkward position. Hundreds of thousands of Victorian workers have taken industrial action over the proposal. More than 50 000 of them were on the front steps of Parliament House the day before this memorable agreement was signed by the Minister for Finance. I suggest the unions were forced to come to an agreement on the basis that if they did not the government would move even further than it has. The trade unions were in a bind and made a tactical decision that they believed was the correct one at the time. However, they are now expressing concern about some aspects of the agreement and the opposition will take up those concerns during the Committee stage of the Bill.

People who retired on fully indexed pensions in the 1970s, those on early retirement who now have increased life spans and pensioner and superannuation groups will be up in arms. The activities of those people and the pressure that they will impose on the government will be severe. I hope the government takes into account some of their concerns because those people have made a significant contribution to this country. They should be respected and acknowledged for their contributions rather than being downgraded in status.

The Minister should consider that issue and carefully examine some of the opposition's amendments while the Bill is between here and another place. The proposed legislation will seek to reduce the unfunded liabilities by an estimated $5 billion by the end of the decade with a further reduction of $5 billion through staff reductions and debt repayment. The government is obviously on target with its staff reduction program because thousands of workers have been put off the public sector payroll which means that fewer workers will be taking up superannuation entitlements in the future. Given the fact that public sector employees are on four weeks notice and that their uncertainty and morale is low, many workers will be thinking twice about contributing to superannuation schemes.

Overseas countries like Italy can run effective national superannuation schemes. We should be expanding our superannuation schemes rather than winding them down because they take the pressure off the federal social security system and diminish the extent to which the Federal government has to maintain pension payouts. That is certainly the way togo.

People should be encouraged to belong to superannuation schemes rather than having to worry about whether they can afford it. Full indexation should be maintained, not taken away - and there should be half-yearly not yearly adjustments. I understand benefits will be based on a person's average salary over the final two years of employment rather than the final salary at retirement. That.means that a public sector worker who, in his or her last year, reaches a classification that carries with it a significant wage increase will

lose a good deal of the benefit he or she would have enjoyed.

That is another way of lowering benefits, because few situations will arise where workers will have their wages reduced in the last years of their working lives. One can only surmise that with the present government nothing is impossible - especially if some workers actually benefit from a clause that is meant to lower benefits overall!

Small funds will be amalgamated under a new board to be called the Victorian Superannuation Board, which will have equal numbers of worker and government representatives. Workers should be involved in the management of the superannuation funds they pay into. Superannuation funds can play broader social and economic roles in the community-so where workers invest their funds is very important. Some of the major car plants in the United States of America have been saved because of the investment decisions of superannuation funds. I am not suggesting that the government should do the same thing, but workers should play a part in the administration of the Superannuation Board so that the decisions that are made benefit Victorian industry, commerce and workers.

The retrospectivity provisions, the adjustment from half-yearly to annual computations, the tightening of definitions and the reduction in disability pensions all add up to significant decreases in benefits. The pressure to join the new scheme - under threat of significant increases in contributions - will again affect the 15 to 29-year-old age group and reduce long-term benefits. Members risk being transferred between schemes with no right of appeal. The rights of members to take their cases to court is being taken away.

It is sad that the government has cut off the option of legal redress in cases where workers believe they have been disadvantaged. Political considerations need to be taken into account. The government has to come to terms with the unions. Although agreement exists, union positions come under review from time to time.

An honourable member interjected.

Mr MICALLEF - Take that up with the government! With the exception of those employed in local government and other agencies, new members will be in a different scheme, which I do not think has been agreed to. I believe that in the near future the unions will seek clarification of those sorts of issues - and pensioners will become increasingly militant and better organised.

Although the opposition does not oppose the thrust of the Bill, it will take up many of those issues at the Committee stage. We oppose any element of retrospectivity and we oppose the removal of the right to legal redress. The shadow Treasurer will certainly take the offensive on those issues. As he pointed out, we are in for a long night because we will be asking many questions of the Minister for Finance. We look forward to his responses and to his taking into account some of the concerns raised during the debate.

Mr LONEY (Geelong North) - I welcome the opportunity to comment on the changes contained in the Public Sector Superannuation (Administration) Bill. As has been pointed out by previous speakers, this substantial Bill is backed up by an almost equally substantial list of amendments - some 40 pages. The Bill is one of a pair of bookends, the other being the Employee Relations Act, which was introduced last year. The Bill is likely to suffer the same fate of irrelevance as the Employee Relations Act. However, the Bill represents the most significant change to Victorian Public Service superannuation since the introduction of public sector superannuation in 1926. The Bill certainly attacks the fundamentals of the 1926 legislation.

It is important to reflect on the reasons for the introduction of public sector superannuation - of a type that is often described as generous. One of the reasons was that public sector workers were generally paid much less and had to work in less favourable conditions than their counterparts in the private sector. Anyone who has spent any time at all in a Public Service position would know that that is generally true. Many of the working conditions that public servants have had to endure over many years would not have been tolerated for 1 second in the private sector. Public sector workers generally do not receive the fringe benefit tax perks that those in the private sector have been allowed to pursue over many years. Those perks have been brought to heel somewhat over the past decade by the Federal government, but they were never attacked previously and were allowed to run unchecked by conservative governments.

The public sector superannuation scheme also recognises the contribution that public sector workers make to the general community for its

benefit and interest. In some ways it also recognises the cost to public sector employees of providing that service and the cost of long and faithful years of service to the public of Victoria.

Superannuation was generally recognised as one of the two saving graces of employment in the public sector. The two saving graces were the twins of security of tenure and a superannuation payout at the end of service. It is disappointing to note that those twin attractions of the Public Service have been devalued by this government.

Whereas payouts, redundancy schemes and so on are referred to in the private sector as golden parachutes, in the public sector the superannuation scheme was often referred to as the golden handcuff because it effectively ensured that people remained in the public sector and did not take their skills across to the private sector. For many years it was structured in such a way that the only real benefit of the scheme was to see it through to retirement age. Indeed, until recent years, if you left the service early and wanted to take your superannuation entitlement, all you received were your contributions, or a lesser amount than your contributions because there was a deduction for accounting. Therefore, once they had been in the Public Service for some time, people were in many ways forced to continue in the Public Service by the golden handcuff of superannuation.

It is also worth commenting on the late arrival into this place of 145 amendments to the Bill. That is a significant number of amendments by anybody's count. The amendments were prepared without any reference to the opposition and without any opportunity of examining them prior to the debate today. They were brought in in such a manner that I believe the Minister's responsibility to Parliament has been abrogated. They were introduced in an arrogant and high-handed fashion totally dismissive of the role of Parliament in not just passing proposed legislation but in scrutinising it and doing its job properly. There is no way that one can adequately address 40 pages of amendments while sitting in this Chamber during the course of the debate.

As a consequence, the Committee stage of the Bill later this day will continue interminably as members of the opposition attempt to find out what each of the 145 amendments will mean and whether any of them make substantive changes to what we previously believed to be in the Bill or to the agreements we believe have been entered into by the Minister and various other people. We have had no opportunity to find out how the amendments will affect the proposals that were agreed upon between the Minister and the public sector workers through the Victorian Trades Hall Council.

The changes will affect many hundreds of thousands of workers in Victoria and their families. In many ways the changes represent the undermining of both the work and the dreams of those many hundreds of thousands of people. The changes are being made with callous disregard for the people who are supposedly being represented. They are being made essentially by a backroom deal, in silence and under duress.

When the proposed changes were first floated, there was a huge outcry in the community. I doubt that there is one member in this place who did not receive numerous letters from public sector workers about the proposed changes to superannuation. Originally there was a so-called joint sitting where the proposals were to be presented to honourable members, with no opportunity for debate. It was simply to be a statement: there was to be no chance to question or oppose or to find out what the changes would mean. The government proposed simply to make a statement, close the sitting and that would be the end of it. We all remember how farcical that turned out to be!

It is important to take note of the elements of the agreement which has supposedly been reached and which has resulted in this Bill and the amendments. It is an agreement that both the Minister and the Premier have lauded. We recall the day they stood up in this place and talked about "responsible unionists" - something that must have been very difficult for them to do because they really do not believe in it.

What were the principles behind the agreement? So far as the "responsible unionists" are concerned, the key feature was that the agreement would cover existing members only and that the situation of new members would be negotiated on and addressed at a later date and that it would not involve retrospectivity. It is clear that this Bill breaches both elements of the agreement and, as I have said before, honourable members can only guess at the effects of the 145 amendments they are being asked to consider.

Why is the government doing this? The government is very much caught in the trap of its own self-induced hysteria based on its perceived need to

please international credit agencies like Standard and Poors before anyone else - certainly before pleasing any Victorian workers. The Bill is based specifically on estimates of the unfunded liability of the Victorian scheme.

That unfunded liability has been estimated at between $12.6 billion and $20.9 billion. The industry figures suggest that the most realistic estimate is somewhere towards the upper level of that. It is also based on the fact that the industry has estimated those unfunded liabilities to continue to move outwards in the medium term. The bulging of the exposure of the employer is a particular feature of pay-as-you-go superannuation schemes. It is not limited to this State's superannuation scheme, as one might expect from the rhetoric of the Minister and the Premier; it is a feature of all pay-as-you-go superannuation schemes.

It is time to destroy some of the myths about the Victorian scheme. The first myth to destroy is that the Victorian superannuation scheme was created by the Labor government between 1982 and 1992. The pay-as-you-go scheme was created by a conservative government in 1926. It is a total furphy and a complete red herring to keep running the line, by inference, that the scheme was created between the years 1982 and 1992.

Many of the most generous features of the scheme were introduced by conservative governments, for example, full consumer price indexation was introduced by the government of Sir Henry Bolte.

Mr Finn interjected.

Mr LONEY - He was not one of the people involved in politics between 1982 and 1992, and I hear the honourable member for Tullamarine say that we had money then. Apart from the fact that debt as a proportion of the gross State product was twice as much under the Bolte government as it is now, the honourable member for Tullamarine shows that he generally does not understand the scheme because the unfunded scheme was a creation of his colour of government.

Other factors that have contributed to the unfunded liability since 1926 include early retirement provisions and, of course, the superannuation deals that resulted from the wages accord. The high levels of inflation throughout the 1980s also put a strain on the scheme, and a wider group of people within the public sector were joining up for superannuation coverage under the scheme.

One group that was covered by the scheme after 1982 - I stand here and proudly defend that - was women. Under previous Liberal governments married women were forced to resign from superannuation schemes. Once they were married they were shunted off into their own little schemes. If they wanted, they could join the married women's superannuation scheme which provided lesser benefits than the full scheme. Women were allowed entry into the State scheme only after 1982, and that is something I would hope nobody in this place would condemn.

It is also a fact that since 1926 the only government that has attempted to address what was happening with the scheme was the Labor government. In 1988 it introduced a new scheme based on lump sum benefits only. As has been pointed out a number of times by the Minister and others on the opposition side, lump sum schemes cost less than pension schemes. The former Labor government introduced what became known as the revised scheme, which was closed off to all new entrants and which cut drastically the government's exposure for new employees. Government contributions under the new scheme fell from an average of 20.5 per cent of a member's salary to between 7.8 per cent and 11.3 per cent.

Having spoken about the myths and furphies promoted about Victoria's superannuation scheme, I shall make some comments on the Minister's proposals, which have been paraded in here and dressed up as being reasonable. In fact, a number of clauses in this scheme will have drastic consequences for many people. There will be substantial costs for those electing to stay in the current scheme, and I do not think the Minister will deny that it will substantially push up contribution costs.

The vaunted voluntary transfer of people to new schemes - it has been estimated that the 50 per cent of members of the current scheme will voluntarily move to the new scheme - is based on the Minister's knowledge that the changes to the current scheme will force people out of it and into the new scheme with substantially reduced benefits. They will move across to the lump sum scheme not because they have made a decision that is truly voluntary but because they have been forced to because of the costs.

Disability entitlements will be substantially reduced to $50 000 which on anybody's analysis is a mean and miserly amount, and no pension right will be

included in the entitlements. The government is ruling off the books and writing off the people who receive disability entitlements.

The change to the salary cakula tion will also disadvantage many people because it is to be calculated on the salary over the final two years rather than the final salary. That will be a great disadvantage to many people.

It will particularly disadvantage those people who have worked their way up through the Public Service and taken promotion in their final years. As the honourable member for Springvale said, there may be the odd instance where there is an advantage in having the final two years average rather than the final salary, but it is hard to think of one and I am sure it was not the Minister's intention to give anyone an advantage. The Bill has been designed purely to reduce the pension entitlements to be paid out to superannuants. Another feature of the legislation is the retrospective adjustment of the consumer price indexation of pensions on an annual basis instead of a half-yearly basis. This will disadvantage pensioners, who rely very heavily on their pensions, in being able to match the cost of their ordinary day-to-day living requirements.

The decision by superannuation funds to introduce consumer price indexation was a recognition that without indexation, the living standards of superannuants on pensions would fall further and further behind the cost of living, and that if they were on a pension for many years, as one hopes they would be, they could end up with their pensions being worthless or below the level necessary for survival. Consumer price indexation is an important part of pension entitlements, and we should ensure that it is applied very carefully indeed.

The Bill provides for the removal of the right of appeal to the Administrative Appeals Tribunal or the Supreme Court. This is not the first time the government has introduced this sort of measure. In fact it is becoming a disturbing trend. Nearly every piece of legislation introduced by this government has contained the removal of the right to appeal against government decisions. Bill after Bill, whether it b€ in respect of local government or education legislation, has provided for the removal of the right of appeal. The government has no concern for the rights of the people.

The Bill also provides for a change to the debt and disability entitlement, which will be based on service to age 60. That is a significant reduction of benefits from the current arrangement.

These things mean the new superannuation scheme will be the least generous of any scheme in Australia, with the exception of the new scheme in New South Wales, and we all know how heavily that has been criticised.

The changes to the Parliamentary scheme have been held up by both the Minister and the Premier as a shining example of self-sacrifice, but the public is entitled to know that is a misleading picture. It will have a negligible effect on most frontbench members of the government. Recently we had a briefing with members of the superannuation fund about the changes to the scheme and how it will operate, and we were told that the take-out payment to anybody who came into this place before 1998 would hardly be affected.

Mr I. W. Smith - T h a t is absolutely untrue!

Mr LONEY - They suggested that some people could actually be better off. It has been paraded as a wonderful piece of self-sacrifice, but those people who shouted the loudest about self-sacrifice are the very people who are most protected from its effects, and they are not among the least privileged in Victoria.

Mr Cooper - What do you call Jim Kennan?

The ACTING SPEAKER (Mr Richardson) - Order! The honourable member has less than 2 minutes before his time expires. I ask honourable members to remain silent.

Mr LONEY - Thank you, Mr Acting Speaker. The Bill has its share of contradictions. As has been mentioned by several opposition speakers, many of the clauses will be challenged. The provisions of section 109 of the Constitution Act will mean that federal superannuation provisions will override the legislation in a manner similar to the way federal provisions overrode the Employee Relations Act and made it largely irrelevant. This is another piece of blockbusting, vindictive legislation and it will go the same way as the Employee Relations Act.

Mr LEIGHTON (Preston) - The honourable member for Mordialloc should not yell so loudly because he will require his Parliamentary pension after 1996! Unfortunately for him, the temporary member for Tullamarine will not be here long enough to earn a pension. He will fall four years

short and will have to rely on the sort of lump sum to which this Bill condemns many Victorian workers.

Like my colleagues, I do not formally oppose the Bill. However, I place on record that this is a lousy deal for the 400 000 Victorian public sector employees and pensioners who have retired and their immediate families, bringing the number of people affected to about 1 million.

The Bill will prove to be the Achilles heel of the government. It will bleed on this issue as heavily as it bites. I have only to look at my own electorate to see that people are retiring to retirement villages on the Mornington Peninsula. If I were the member for one of the Frankston seats I would be particularly nervous. That is why I say the honourable member for Mordialloc will enjoy his pension sooner than he thinks.

Many of the 400 000 Victorian public servants have retired to areas regarded as marginal seats. They will not forget or forgive; they will have their opportunity in 1996! The government has attempted to introduce a quick fix on superannuation. The legislation will fail because, as the honourable member for Sunshine explained, the Victorian government will run foul of the Federal superannuation requirements. If it comes to the crunch on the setting of national superannuation standards the Federal government's position will prevail.

It has been dearly established that superannuation is considered to be an industrial relations matter, or at least a condition of employment. Just as the government's Employee Relations Act will ultimately prove to be meaningless, so, too, will this Bill - they run contrary to Federal legislation.

I wish to dispel the myth that the superannuation problem was created by Labor during the 1980s. Labor governments first tried to rein in the unfunded liabilities. Much of the damage was done by our forbears in the 1920s when generous schemes were established. In those days it was possible to qualify for a full pension after one year's membership of the Public Service. The defined benefit schemes established in those days were not based on government contributions; the government's contributions were deferred until the retirement of members. That arrangement was attractive then because the day of reckoning was delayed.

Unfortunately, by the 1980s and 1990s the day of reckoning had arrived. The honourable member for Sunshine said that many who entered the scheme at 15 or 18 years of age worked until the retirement age of 65. Governments thus had about 50 years to catch up with their contributions.

During the 1960s the Bolte government further increased the benefits of the State superannuation scheme, particularly by granting full indexation. The only attempt made during the 1960s and 1970s to rein in any benefits was in 1963 when it was decided that an employee must have 20 years service to gain full benefits; that limit was increased to 30 years in 1969.

As I recall from my time in the public sector, in 1975 what was then termed early retirement was introduced so that an employee could retire at age 60 on slightly reduced benefits but at no great expense to him or her. Many with whom I worked, especially those in the mental health field, realised that virtually nothing was to be gained by working until age 65. It was better for them to retire on two-thirds salary at age 60 than to receive 70 per cent of salary upon retirement at age 65.

During the 1980s an attempt was made to deal with the ballooning problem. The Labor government established the Rowe committee, which conducted an inquiry in 1984. In the latter 1980s an attempt was made for the first time to quantify the unfunded liability figure that had been published annually. It is important to understand that one of the major changes introduced by the Labor government in 1988 was the new-scheme concept. Under what was known as the revised scheme, an employee who retired at age 65 after 30 years service could receive a pension of 70 per cent of final salary indexed for life, and similar provisions applied in the event of retirement through disability or on the grounds of ill-health. In 1988 that scheme was roped off.

The so-called new scheme was based on a lump-sum payment. The difference between the two schemes was that the revised scheme was based on employer contributions of about 20 to 21 per cent of salary while the former scheme stipulated that approximately 7 to 11 per cent was to be paid into the scheme by the employee. The superannuation problems were not inherited from the 1980s but from the 1920s, and were exacerbated during the 1980s. The first serious attempt to deal with the problem was during the 1980s.

The government has made much of the fact that it has an agreement with the Victorian Trades Hall Council. I have many friends and know a number of former colleagues who work in a number of different uruons, occupying different political positions across the spectrum. I am aware of the agony that the trade union movement went through prior to the signing of such agreements. I question whether an agreement in the true sense actually exists. A gun was held at the heads of the unions; they were told, "Sign here or you will be hit with something even worse". The unions did what would be natural in such circumstances and based an agreement as much as was possible on the protection of their members.

As the honourable member for Sunshine said, the trade union movement has set the government up because the opposition and those in the trade union movement are aware that the Bill contravenes the accrued benefits provisions of the Federal legislation; the contributions of employees cannot be altered without their approval. It will take the actions of only one former employee - even an employee who is not a member of a union - to challenge the legislation in the courts, because it will fail.

The agreement signed by the government and the Trades Hall Council makes one appreciate that the government recognises it is on shaky grounds in meeting the Federal requirements. The agreement contains a rather half-hearted attempt by the Victorian government to head off legal action to challenge the validity of this Bill by using Federal legislation. The first principle in the agreement states:

> **The parties will use their best endeavours to ensure that no action by them prevents any Victorian public sector superannuation fund from continuing to be a complying fund under the Occupational Superannuation Standards Act and its regulations and any successor legislation. Where one of the parties believes that a proposed action by the other will cause one of these funds to become a non-complying fund, the parties will jointly make a submission to the Insurance and Superannuation Commissioner and accept the decision, provided the commissioner has made the decision in accordance with the Act or its regulations and in accordance with current standards of statutory interpretation.**

That type of agreement can neither override Federal legislation nor sign away the rights of people to challenge it. The government hopes to prevent the Trades Hall Council from challenging the Bill because of the Federal legislation, but there is no way known it can prevent any one of the former 400 000 contributors from mounting a challenge.

I point out as well that some time after the implementation of this measure the government will presumably be trumpeting that it has cut the unfunded liability by $10 billion. That will be far from the case. It should be on record that $5 billion - that is, half the likely cut in the unfunded liability - will come purely and solely from the sacking of public servants and public sector employees and from the overall reduction in the size of the public sector; so, half the reduction in the unfunded liability will not be as a consequence of these actions but as a consequence of the government's massive downsizing of the State public sector.

One important thing to say about not only Public Service employment but also employment in the wider public sector is that traditionally public employees had received lower wages and had certain other constraints placed on them. They have had less capacity to obtain over-ward payments - in fact, virtually no capacity - and very little capacity to engage in outside employment, such as part-time jobs on the weekend or at nights, because of the various requirements in the Public Service Act. They accepted that situation and committed themselves to service to the community.

In return they enjoyed two main features that did not necessarily apply to the rest of the work force. Firstly, they had permanency. There was this very strong notion that, subject to satisfactory performance, an employee could expect permanency for the duration of his or her working life. That notion has well and truly gone out the window with the Public Sector Management Act. Secondly, Public Service and public sector employees could look forward to relatively generous superannuation arrangements, particularly in the days when there was very little provision for superannuation in the private sector except for top managerial positions. That has now gone out the window as well. In fact, with the latest changes to public sector superannuation some private schemes are more generous than the accumulated benefits scheme being provided by the government under this Bill.

In that sense public sector employees have the worst of both worlds: they no longer have permanency and they no longer have decent superannuation schemes, yet at the same time, because they are in the service of the government and the community,

certain restrictions apply to their conduct that do not necessarily apply to private sector employees.

The government, in its brave new world of employee relations, has trumpeted the concept of contracts but, just as we have seen under the Public Sector Management Act that contracts can be tom up and employees dismissed with four weeks notice, here is yet another example of the government trampling all over any notion of having a contract. I take the view that when one enters employment and agrees to certain conditions, those are the conditions one expects will continue to apply; however, that is no longer the case with superannuation. I take the view that the various superannuation benefits public sector employees had to look forward to at the time of their retirement could be seen to be part of their contract of employment - another contract this government has tom up.

I refer briefly to some of the most dramatic changes in the entitlements of public sector employees. Firstly, for existing pensioners there is retrospective adjustment, in that instead of indexation taking place twice a year it will now occur only annually. That may be only a modest change. I do not have a crystal ball. I do not know what future consumer price index movements will be. Nevertheless, it is a loss of a benefit, and there are plenty of retired people living along the Momington Peninsula and in the sand-belt seats in the south-eastern suburbs who will see it as a loss of benefit that they have done nothing to deserve.

Up to now, if one had 30 years of service and retired on a pension of 70 per cent of one's final salary, the calculation was based on one's salary on the day one retired. I imagine that in some cases people who had last-minute promotions retired a few days later, but the change this government is making will mean that the salary on which the pension is calculated will be based on the last two years of service, which could lead to a quite dramatic cut in benefits. It will depend on just when people receive their promotions. If they have their major promotions half way through that last two years, they will suffer a loss there, and if there have been substantial CPI increases, again they will be penalised, because their pensions will not reflect the real situation at the time of retirement.

Existing members of the revised scheme - the one that provides for a pension - will be under enormous pressure to shift into the new scheme, the one created in 1988. The government says it will be a voluntary decision for each individual contributor, but one has to look only at the agreement signed with the Victorian Trades Hall Council to see the real situation. Schedule 3 of that agreement makes it quite clear that, if 50 per cent of current contributors to the revised scheme do not make that "voluntary" decision to move into the new scheme, the government will increase the level of contribution each employee has to make. That is a threat hanging over their heads, and it is a very good example of how this Bill will run foul of the federal legislative requirements.

New members will be the big losers. As the honourable member for Sunshine pointed out, two people could work alongside each other, with the same classification, doing the same work and receiving the same salary, the only difference being that one started a day after the other, during which time the revised arrangements came into play, so that the second person will be at least $100 000 worse off.

Basically, all the government will contribute is what it is required under the federal legislation to contribute, which will rise to 9 per cent by 2000. In important areas such as the areas dealt with in this Bill, cover will be reduced to $50 000, and there will be no pension. The pay-out will depend very much on the successful investment or otherwise of the funds during the time people are covered by the scheme. I shall conclude with that point.

The Bill moves completely in the opposite direction not only from standards established nationally in the federal superannuation legislation but also in various State schemes, and it is directly contrary to the whole philosophy this nation and this community now accepts: Australia no longer has the capacity to provide for everybody through the social security system at the time of their retirement because of the ageing of the population.

The notion that employers and employees contribute jointly to superannuation schemes so that upon retiring people can have a decent quality of life based on their superannuation benefits now has bipartisan support across the country. That will not be possible under the system established by the Bill; the opposite will be the case. People will have low standards of living and ultimately - j u s t as this government has done with other legislation, such as WorkCover - people will have to revert to relying on social security payments when disabled, ill or aged.

Up to 400 000 Victorian public sector employees and superannuation pensioners and their families will not forget the actions of the government. In some ways this Bill has a greater capacity to bite politically than any other legislative changes introduced by the government in the past 12 months. The opposition will exploit that to ensure that people do not forget it come 1996.

Mr HAMILTON (Morwell) - This is an extremely important debate. The Bill has occupied a great deal of the Minister's time in the past six months and it is disappointing that no member of the coalition is prepared to argue the government's side in this debate.

I support the remarks of the shadow Treasurer, the honourable member for Sunshine. He may not understand or be able to explain much about mandamus, but he certainly showed that he has a fair knowledge of superannuation and how it works. To be perfectly honest, I do not really understand much about how superannuation works. The only time that most of us hear about superannuation is when massive headlines appear in the paper about a superannuation payout to a politician, and politicians from either side are fair game in those circumstances. I do not denigrate the importance of the Bill or the work that went into it; I recognise the work of the Victorian Trades Hall Council negotiating team, the Minister for Finance and his officers. It has been a fairly strenuous time for all parties concerned, and the result that was reached was probably the best in the circumstances.

Mr I. W. Smith interjected.

Mr HAMILTON - I am prepared to recognise the great deal of work done by all sides in getting to this stage.

Mr I. W. Smith - A number of your colleagues have said similar things.

Mr HAMILTON - But that does not mean this Bill is a perfect result. I am worried that the House is unaware of the proposed amendments. Although some of them probably only correct typographical errors and so on, it would have been in the interests of a sensible debate if all honourable members had known what was included in the amendments.

A debate on superannuation should be put in context. Most workers, especially those in the public sector, believe superannuation is a part of their salary package. Part of the culture of the work force is that wages are lower because workers and employers make contributions towards retirement of the workers. To date, and probably into the future due to the superannuation policies of the Federal government, workers were encouraged to invest in superannuation schemes rather than look forward to receiving only the aged pension - that is, workers have directly financed their own retirement packages. Opposition members do not have a philosophical problem with that, just as I am sure government members do not. The only problem some opposition members would have is that some workers believe that because they pay taxes all their working lives they should be entitled to an aged pension.However, given the demography of the Australian population, that is not a sustainable position unless taxation is increased.

This Bill is necessary because the community is aware that th liability of the aged pension is increasing. That unfunded liability could have been addressed by increasing taxes, but very few governments before this one liked increasing taxes. This government certainly has not been afraid to increase taxes; it has whacked 10 per cent on to State Electricity Commission and water charges and has introduced the infamous State deficit levy. My telephone has been ringing constantly because people have become aware that what they thought was a one-off charge will now continue. There is, however, a limit to how much tax people are willing to pay, notwithstanding the fact that Australia is one of the lowest taxed communities of all Organisation for Economic Cooperation and Development countries.

This Bill should be seen as part of the continued attack on workers' conditions since this government came to power. That commenced with the abolition of the 17.5 per cent leave loading, which was considered to be a large saving. However, that has cost workers as well as the tourist industry, because the extra money that workers would have had in their pockets to spend on vacations is no longer there. That leave loading - a benefit that workers had enjoyed and worked for - w a s not 17.5 per cent of the entire salary of a worker; it was only 17.5 per cent of the worker's holiday wages, which amounts to about 2 per cent of a worker's salary.

The government also demolished the State award system in one fell swoop which directly affected workers' rights and conditions, and in the next couple of weeks the government will hit those people affected by WorkCover. From 1 December thousands of Victorian workers will be thrown on

the scrap heap as their WorkCover benefits cease. 1bat attack on workers is something the community has every reason to feel angry about. Another petty attack on workers last week was the removal of three public holidays.

So we have all of those workers' hard-earned rights attacked by the government; we have seen a deterioration in their working conditions, and the argument has been that there is no money.

1bat is not quite true, because at the same time as we have seen this attack on workers' salaries, conditions and superannuation - which is very much a part of it and has to be seen in that context - we have seen increases in the salary packages of specially identified people, some within the Public Service. Certainly there have been newspaper reports about new contracts and salary packages of $300 000 a year for heads of government departments, and compared with the salary of the average worker in the Latrobe Valley that is one heck of a lot of money! 1bat is the size of the packages that people are getting as they take so-called voluntary redundancy packages (VDPs) because their services are no longer required by the State Electricity Commission (SECV) or the Directorate of School Education or the local hospital. If a public sector worker receives a VDP of $300 000 to last for the rest of his life, he reckons he has done pretty well. Yet there are obvious examples of people whose tax is the equivalent of their salary package for one year, for heaven's sake! One wonders how those two things can be compared. The contradiction is that some people are doing extremely well out of what the government is doing, but the average worker seems to be doing badly.

Because the Latrobe Valley has the third or fourth highest number of public sector workers in Federal electorates across the nation, we are very much aware of any government actions that will affect public sector workers. Some 32 per cent of workers in the Latrobe Valley are public sector workers, so the Public Sector Superannuation (Administration) Bill will affect them, and because the changes will have negative effects it becomes a matter of concern.

When one looks at the scheme in June 1992, a little over 12 months ago, one sees that there were 34 public sector superannuation schemes other than local government schemes in Victoria, so there was one heck of a mess! I recall that when the negotiations were occurring and reports were coming in from the negotiating teams, there was a very large scrabble of superannuation schemes. The problem was that they were all different. Many of them were fully funded, some were partly funded, and some were unfunded. The real problem for the government was not with the fully funded schemes such as the SECV superannuation scheme but with the unfunded schemes.

Mr I. W. Smith - It is $156 million short.

Mr HAMILTON - It should have been fully funded--

Mr I. W. Smith - It should have been, I agree.

Mr HAMILTON - It was not until we got - -

The SPEAKER - Order! If the Minister continues he will close the second-reading debate.

Mr HAMILTON - The information is appreciated by the speaker, Mr Speaker. Last year there were some 19 active schemes; some had been closed and therefore were not getting new members in, so there was still a stack of schemes around, and that matter needed to be addressed because of the need for uniformity across the scheme.

One of the schemes of particular interest was the emergency services superannuation scheme, which was put in place because of the additional stresses placed on emergency service workers such as members of the Police Force, the ambulance service and other people working in the emergency services area. 1bat was a recognition that they had special working conditions, and part of the recognition of the conditions that had been fought for by the unions in those areas of government activity was an attractive superannuation scheme so they could retire early on a relatively generous payout when compared to an ordinary worker's superannuation scheme.

Other speakers in this debate have said that something like 400 000 workers, which is about 20 per cent of the Victorian work force, are covered by State superannuation schemes and they will be affected as well as some 60 000 pensioners under State superannuation schemes.

There have been, as there always are when one starts listening to the economists, a fairly wide-ranging number of estimates as to what the so-called unfunded liabilities were, and they seem to be stretched depending on who is making the argument. I am not sure anybody ever understands economics or accountancy: it is a bit like

superannuation schemes - it depends on what snapshot in time one takes - but something like $20.9 billion was a pessimistic view of the unfunded liabilities and the optimistic view was some $12.6 billion. The industry generally accepted a view somewhere in the middle of that range, and it was that $19 billion was the unfunded liability which the Bill is designed to address, but over a period of time - I believe by the year 2000 - $6 billion will be reduced from that unfunded liability and another $5 billion in another few years. They are substantial reductions, but they are obtained by changing the scheme dramatically.

The main feature is that we are going to close off all the old schemes so that there will be no new entrants. In the Latrobe Valley community in particular, if the government and I think the government was wise enough not to take such action, and the negotiators negotiated their way through it - made an attack on the current schemes and the entitlements of, for example, the SECV workers, an unholy mess would have been created and it would have been one sure way of having massive industrial action from the SECV workers in the Latrobe Valley.

Given the massive changes they have experienced in all other aspects of their working lives this would have been the trigger, and I think to the credit of the government it recognised that it had to be careful about knocking over the accrued entitlements of SECV workers.

However, that begs the question of what is going to happen to new workers, though in the State Public Service there is no doubt that it is not a major problem at the moment. The real problem with the State Public Service is for any new people to obtain a job at all, let alone what superannuation they will be entitled to. It is not an immediate problem, but I am forever optimistic: I believe there is and always will be a need for public servants. Despite some of the unkind criticisms that have been made of public servants they are an extremely important part of our society and of the community that I represent. It is the public servants' dollars that keep our shopkeepers, the accountants and lawyers and the whole service sector in business, so they are important in my book, and I have no problem in representing the public sector as strongly and as actively as I can.

Sitting suspended 6.30 p.m. until 8.5 p.m.

Mr HAMILTON - Before the suspension of the sitting I was remarking on the difficulty public servants have keeping their jobs, let alone worrying about being part of the new superannuation scheme. Over the past 12 months 7500 teachers and thousands of nurses have lost their jobs. One can add to that the 15 000 SEC workers who have lost their jobs. All told some 33 000 public servants have lost their jobs - and we are still counting. Why, then, should people be concerned about what is happening with superannuation?

No-one seems to want to take on the new scheme. That is because of the actions of the government over the past 12 months. With awards gone and the threat of contracts, public servants have the fear of God in them. If they are injured, WorkCover throws them on the scrap heap. Why have these things happened? It is probably not because the government is mean and nasty or even because it is vile and vindictive; it is not because the government hates workers. These things have probably happened because of the Des Moores and Michael Porters of the world. They have told the government what it has to do; otherwise Moody's Investors Service and Standard and Poors will downgrade the State and it will end up like a country of the Third World. That is what these actions against workers' conditions are about.

The public sector was the first sector to be attacked. No doubt that will give the lead to the rest of them. There is a planned attack designed to downgrade Victorian workers. The superannuation scheme introduced by the Bill ensures that workers who still have public sector jobs will not be able to look forward to decent retirements. This last nail in the coffin is a deliberate attack on workers' conditions.

There is no doubt that public sector workers have been the first cab off the rank, and that has not happened by accident. This deliberate attack on superannuation is designed to make sure that workers cannot look forward to a decent standard of living. It results possibly not from the government's ?Olicies but from the policies instituted by overseas financiers, who seem to be driving the government and telling it what to do. There is no doubt that this will come back to haunt the government.

There have always been workers and bosses, and there always will be. But there will always be workers who are educated enough to understand what is happening to them. The workers employed on the basis of this much-reduced superannuation scheme will be aware of this deliberate plan to

knock down standards and attack conditions. They will not be fooled by the drive to make Victorian workers work for the same wages as workers in countries of the Third World.

No longer will government members be sitting on their benches saying, "What great things we have done for the country by driving workers out of their jobs, removing their conditions and ensuring that they do not have retirement benefits," while the fat cats get fatter.

Mr Leigh - What fat cats?

The ACTING SPEAKER (Mr Maughan) - Order! The honourable member for Mordialloc is out of his place and out of order.

Mr HAMILTON - The proposal for the new State superannuation scheme is part of a deliberate and concentrated attack on workers. The government will rue the day it has done this, because there will be a revolt. Workers will demand a fair share of the cake. They will not sit back and watch record profits being made, people being sacked, conditions being reduced and retirement benefits they have worked for and deserved for 50 or 60 years being destroyed.

Mr HAERMEYER (Yan Yean) - We have now heard from six or seven consecutive speakers from the opposition benches but not one single speaker from the government side of the House. I do not know whether they are embarrassed by the Bill or whether they do not have the mental capacity to deal with the issues it contains. It is a sad reflection on government members. It is about time the government members who have been lax and tardy in their contributions to debates in this House since October last year - -

Mr Leigh interjected.

Mr HAERMEYER - As usual the honourable member for Mordialloc has his mouth in overdrive and his brain in reverse. Government members have been extremely tardy in their contributions to most debates since October last year. This is another manifestation of that. One wonders what they do to earn their pay!

Mr Leigh - Work!

Mr HAERMEYER - All the honourable member for Mordialloc seems to do is smear people and drop buckets on them.

Mr Leigh - You could be on the list!

Mr HAERMEYER - I look forward to it. It is important to understand the origins of the Bill and the context in which it comes before the House. Some six months ago there was an interesting incident when the Premier ran to the newspapers saying that he had suddenly discovered that the State superannuation schemes had unfunded liabilities. Obviously the Premier, who has come to us as the economic saviour of the State, did not bother to read the Nicholls report, although he said he did and that he had agreed with the findings and that it had told him all he wanted to know about unfunded liabilities in the State's superannuation system. The Premier had a great revelation about unfunded liabilities. He told us what everyone else seemed to know.

The State does have unfundea liabilities in its superannuation funds that are estimated at between $20.9 billion and $12.6 billion. The most common estimate is approximately $19 billion. Clearly, according to contemporary standards it needs to be dealt with. In the past, not only in this State but around the Commonwealth and among most governments in the Western World, it has been accepted that most superannuation schemes operate on the basis of unfunded liabilities. However, today it is commonly accepted that superannuation schemes should be funded.

The State had 34 superannuation schemes, but only 18 are currently open to new members. Those 34 funds cover almost 300 000 workers. Most of the funds are based on emerging costs - in other words, no money has been put aside for them.

Mr Leigh - You didn't put any aside!

Mr HAERMEYER - Are you going to contribute or are you going to continue to sit there and interject as you normally do? The honourable member for Mordialloc seems to sit during most debates and interject, but he has nothing constructive to contribute in his own right.

Mr Hamilton - Only after dinner!

Mr HAERMEYER - Before he goes back to port and coffee in the dining room. As I said - -

Mr LEIGH (Mordialloc) - On a point of order, Mr Acting Speaker, I do not drink port.

The ACTING SPEAKER - Order! There is no point of order.

Mr HAERMEYER (Yan Yean) - Most State superannuation funds are based on emerging costs, which means that the costs of pensions or lump sums are met as they occur - there is no accumulated provision. Clearly, these days we are moving towards accumulated funds.

As well as the 300 000 workers covered by the schemes to which I have referred, there is also a knock-on effect on schemes in the local government sector that are linked in some way to the entitlements in the State sector. That brings the coverage of these superannuation funds to 400 000 workers, or almost 20 per cent of the work force. Of course, 60 000 pensioners and a large number of private sector workers are also affected by the flow-on of entitlements in the State superannuation system.

So, a substantial proportion, possibly up to 30 per cent, of the Victorian work force will be affected by the legislation, which requires more discussion and open debate than has occurred in the community. It also needs to be debated more widely in Parliament. Government members have probably had little opportunity to prepare their contributions to the debate on it, otherwise we would have heard from them.

Mr Seitz - They have been gagged!

Mr HAERMEYER - They may have been gagged. I suspect that may be the case. The Premier had his great revelation about unfunded liabilities in the superannuation schemes and, as usual, he blamed the former government, but the reality is that unfunded liabilities were not created by the former government. In fact, superannuation schemes in Victoria have been unfunded since the 1920s.

Mr Leigh interjected.

The ACTING SPEAKER - Order! The honourable member for Yan Yean is entitled to be heard in silence. I ask the honourable member for Mordialloc to remain silent.

Mr HAERMEYER - Thank you, Mr Acting Speaker. The most generous and extravagant entitlements under the superannuation system were introduced by the Bolte government. We all know how the Premier feels about Henry Bolte and his Queensland alter ego, Joh Bjelke-Petersen. He sees them as his political role models and heroes. It was the Bolte government that provided the generous aspects of the superannuation schemes that currently prevail in this State.

During the 1970s the entitlements under superannuation schemes were compounded by full indexation of pensions based on the consumer price index, superannuation guarantee legislation, high inflation and increased life expectancy. When the Premier made his revelations about unfunded liabilities he made a big deal in the media and said in Parliament that he would fix the problem. Then came the Minister for Finance, who is a notorious double-dipper in the State Parliamentary superannuation scheme.

Mr LEIGH (Mordialloc) - On a point of order, Mr Acting Speaker, as you well know, the Standing Orders do not allow members to cast reflections on other members. I suggest to the honourable member that if he wishes to take that sort of approach he need only talk about Pauline Toner and many others. He should not continue in that vein.

The ACTING SPEAKER - Order! There is no point of order. I warn the honourable member for Mordialloc. I have been patient with him, and I ask him to remain silent.

Mr HAERMEYER (Yan Yean) - The Minister for Finance turned the House into a three-ring circus by introducing slide shows and the media - the only thing missing was a marching band. It was an absolute farce! We were promised legislation within a matter of weeks but it is now more than six months since the government made that promise - it has since discovered that it opened Pandora's box when it moved into this area. The Bill is a can of worms, and its drafting is full of holes! That is why the Minister has distributed 145 amendments to a Bill he introduced only a couple of weeks ago. The Bill is ill considered and some of its provisions operate retrospectively. Retrospectivity in a Bill that affects superannuation is - -

Mr I. W. Smith - Where is the retrospectivity?

Mr HAERMEYER - I will come to that in a moment. A Bill on superannuation that is retrospective in any way is totally unconscionable and possibly contravenes the Commonwealth superannuation legislation.

Government members interjecting.

Mr HAERMEYER - I will come to that shortly. The Bill has some particularly pernicious effects. Pensioners, a vulnerable group in the community, are severely affected and have been frightened by the legislation. People who have provided an honest and solid contribution to the community over many years deserve to live comfortably with dignity and peace of mind and to retire without continual doubt being cast over the security and certainty of their income. They do not deserve the uncertainty and anxiety this Bill will inflict on them.

As to retrospectivity, firstly, the adjustment under which indexation will be applied yearly rather than six monthly has retrospective application; secondly, disability entitlements are subject to a much tighter definition than existed previously and the specified age is lowered from 65 to 60; and thirdly, superannuation is now calculated on a contributor's average salary over the final two years of service rather than on final salary.

Mr I. W. Smith - That is prospective!

Mr HAERMEYER - Except that most people who joined the government work force would have joined it in the expectation that the current arrangements would remain in place.

Existing members of the State government superannuation funds are also affected. Firstly, there is pressure on them to join the new accumulated scheme with the threat of a significant increase in contributions - it is between 2 and 5 per cent for contributors in the 15 to 29-year age group - which is effectively a reduction in benefits. No matter how the government tries to explain it, that is a reduced benefit.

Secondly, there is a transfer of risk. Whereas previously the risk involved with the investment of the fund was borne by the employer in the form of the government, a statutory authority or other government agency that administered the scheme, it is now borne by the member. That is potentially a reduction in superannuation entitlements.

Thirdly, there is no right of appeal to the Administrative Appeals Tribunal or the Supreme Court. People's legal rights to redress have been ground into the dirt by this jackbooted government, a theme that recurs time and again in government legislation. The government is removing people's rights to appeal against its administration of the legislation.

I suppose the group that is hit hardest by the legislation is new entrants to superannuation schemes. Their disability entitlement is reduced to $50 000. They have no pension entitlement. Whatever happened to the idea of retirement income? An average investment of 4 per cent above average weekly earnings is required to match the investment made by existing members. Therefore, when a new member who works beside an existing member of a superannuation scheme retires, he or she will be either worse off or will have to contribute at a higher rate than the existing member.

Mr Hamilton - It is related to how much you contribute.

Mr HAERMEYER - Exactly. The government is effectively reducing entitlements! The government is offering new members a similar benefit to people who are covered under private schemes.

One might say that is reasonable. But because public sector employees have not been offered the same immediate rewards as have been available to those in similar positions in the private sector, they have usually been compensated by being given greater security in employment and in retirement. That is the reason for the generosity that government superannuation schemes have bestowed on public sector employees. It is interesting to note that the Bill will make the Victorian sector the worst compensated public sector for superannuation and retirement benefits of any State in Australia, with the exception of New South Wales.

The Bill has a number of problems, the first of which is retrospectivity, which I dealt with earlier. I believe that makes the Bill open to challenge before the Insurance and Superannuation Commission and the Industrial Relations Commission. Secondly, the Bill cuts across aspects of the new superannuation industry supervision legislation, which requires funds to be at arm's length from employers and holds trustees accountable for investment performance. It asks pensioners, ordinary workers and new entrants to public sector superannuation schemes to make major sacrifices.

What sacrifices are members of the government making? It is understandable that government backbenchers have not had a say; they have been stomped on their party room. The newer members of the government will be most adversely affected by the new superannuation arrangements. The Premier, the Minister for Finance and senior Ministers have not had to make any sacrifices. If one

takes away the windfall from the Commonwealth government tax changes for superannuation benefits, no sacrifice whatsoever is required on their part; they will not be 1 cent worse off!

Mr I. W. Smith - You are poorly briefed.

Mr HAERMEYER - We were briefed by a representative of the Minister's department and a representative of his office. Maybe the Minister should look at his own staff appointments.

Retirement incomes should be seen as investments rather than costs or expenses. Retirement incomes have an important role to play in helping the community cope with the increasing cost of social security benefits as a consequence of an ageing population. There is an ever-increasing number of people of retirement age, while the proportion of the population in the work force - whose taxes are required to support those who have retired - is decreasing.

It is absolutely essential that we provide stable and sustainable incomes for those who have retired. Retirement incomes also increase savings, which represent sources of funds for investment in productive projects and enterprises. Thirdly, people deserve some sort of security in their retirement and old age. They deserve to live in peace, comfort and dignity without having to worry about future sources of incomes and how they will make ends meet, keep a roof over their heads or feed themselves.

I agree with the government about the need to restructure Public Service superannuation. It needs to be restructured in the context of a proper retirement incomes policy, not simply as a government cost-cutting measure, which this has become. It is absolutely important that the government revisits the Bill and considers the need for a retirement incomes policy rather than ripping the guts out of the future income or retirement income entitlements of ordinary workers - while the Premier and the Minister for Finance are sacrificing not 1 cent.

Mr SEITZ (Keilor)-When all this superannuation business was started by the then Leader of the Opposition, now the Premier, I took the liberty of writing to one of the governments in Europe that I know has a national social security scheme paid for by the workers. I wrote to the German government and was paid the courtesy of being sent the details of its scheme not only in German but also in English so that I could understand it. Germany's scheme gives its people dignity, respect and security, which is why the model has been adopted by other European countries. The scheme was developed by a country that lost everything in the second world war. The country has been rebuilt and the German government has been able to give its senior citizens decent pensions on which to live instead of the social security handouts Australian pensioners are given.

Australia has two different classes of superannuation. One is provided voluntarily by people in private enterprise who have paid into their own superannuation funds. The other is the State system, which provides for people who opt to take jobs in the Public Service. In most cases their superannuation contributions have been compulsory; and public servants have accepted lower incomes without overtime in return for security and secure livelihoods in retirement.

A number of members of this House made that choice by joining the public sector and working for government or semi-government departments. Other people went into private enterprise, fended for themselves and paid their own superannuation. I wonder whether we should now have a legislative measure to cover farmers because each farmer considers his farm to be his superannuation fund. He sells it to his son, another member of the family or someone else and expects to live on the proceeds.

The retrospectivity in the Bill is especially repugnant to me. Take the case of a person of 30 or 40 years who is working for the railways in a middle-management position. He does not know where to turn to under the new scheme because each week he will be asked to pay an extra $100 out of his pay. He has commitments to meet, his house to pay off and his children to educate. He has planned his expenditure based on his current take-home pay. What is he to do?

If insufficient employees transfer to the new scheme those in the revised scheme will be forced into the new scheme. They will have to pay increased contributions and start all over again.

Years ago people went into the scheme because they wanted security. There is no pension in this country; it runs on social welfare handouts. Superannuation is the European style of social security, which is funded through one's working life. Because of that one has peace of mind when one retires. It is not that one is a lesser person for having to go onto smaller

amounts; one should be able to live according to the lifestyle to which one is accustomed.

We should be building one nation and contributing to our nation. Other countries have been able to look after their people. The State should contribute and be involved. Those who are already in the revised superannuation scheme should not be forced into the new scheme. Earlier an honourable member interjected to say that John Halfpenny agrees with the new provisions in the Bill. Some trade unions agree, because they negotiated the best conditions they could for their members. When a gun is held to one's head, one has no option. The Bill has 145 amendments which shows that it has not been thought through correctly.

Instead of applying indexation increases twice a year the government wishes to apply them only once a year. Such measures create uncertainty in the community. Superannuation should be for the people who have contributed over their working lives. They have made commitments and are entitled to be comfortable in their retirement.

If one establishes a business or owns a farm, at the end of one's working life that business or farm becomes one's superannuation lump sum. Those people make deliberate choices. It is a matter of culture and we must do the right thing by our workers; they should live comfortably in retirement after contributing to superannuation schemes. The Bill should be explained more fully to the people who will be directly affected. The government should not be saying, "We must look at the deficit". The approximately $17 billion deficit was known to the former Labor government. By the year 2013 the deficit will have increased to $27.4 billion. The scheme was never previously funded by the government. The talk about unfunded liabilities was a tactic used by the government to generate fear and get people, including some of my trade union colleagues, to accept the superannuation changes.

The government must be conscious of its responsibility to the Victorian people by communicating and discussing the issues. It must not adopt a jackboot mentality; people will not go along with that approach. Australia is supposed to be one of the developed countries, but its living standards are slipping back. Why should those who have worked all their lives not live to enjoy the comfort they expected their superannuation investment to generate? I could not afford to pay into a superannuation fund when I was in private industry. I had a wife and two children. I had to pay off a house and a car. But I made the choice because I believed in a system of national insurance to pay for my old age. I went without many luxuries. Many in private industry concentrated on building up their businesses or farms as superannuation benefits - they were a retirement fund.

Changes should be made for the future. They should not be ideologically driven to push everybody on to the Federal government for handouts - commonly referred to as pensions. They are not pensions - they are welfare payments, because one has to declare one's income and assets. The sooner the whole of Australia wakes up to the need for a self-funding retirement benefit fund the better off the country will be. Under such a system no government can make changes at whim.

In European countries retired people are known as retired teachers or whatever. In this country when one retires one is colloquially called a pensioner. The President of Greece is about 78 years of age and he is still running the country. What do we have in Australia? As soon as one is more than 55 years of age one is placed on the scrap heap without status. That mentality and attitude must be changed.

It is important that people do not rely on social welfare payments. Department of Social Security officers want to know every detail about a person and every cent that one earns must be accounted for - there is a report every fortnight or month on such issues. The government should amend the arrangements for superannuation funds by gradually building up the level of contributions. Then when people retire they can keep to a similar lifestyle that will not be altered by legislation. It is important that there be a set system so that new governments cannot take office and change the superannuation arrangements. I encourage Victorians to contribute not only the compulsory levy required in private industry but also an additional amount so that the funds they will receive in their retirement will not be at the whim or wishes of politicians or ideologically driven political parties who want people to make sacrifices. It is important that adequate entitlements be provided to support workers after they retire and that the government and the community carefully examine their position.

The people who have been involved in the negotiations leading up to the introduction of the Bill are earning regular incomes. They do not understand the effects of the superannuation changes on retired workers or those on social welfare handouts. They have no empathy for those

people or their future requirements because they have regular incomes, superannuation benefits and dignity.

Most European countries that were ravaged by the second world war established systems that required workers to contribute to national superannuation schemes which are, using our terminology, pension funds. No-one can touch those funds. On retirement those people receive the same incomes they received when working. The amounts are adjusted by consumer price index increases, which gives them the dignity and status to continue their lifestyles. People from European countries can afford to travel to Australia and tell their friends and relatives that their lifestyles and standards are better than those of Australians who retire on social security benefits. Many migrants who are eligible have opted to receive the pension payments from their own countries because those payments are higher and provide better standards of living.

The Minister for Finance and the government should consider more than just the power they have in both Houses that gives them the opportunity of pointing the gun at the heads of workers and saying that what is best for them is best for Australia. People living in this region of the world must do all they can to keep their standards of living at a high level. At present those standards are slipping. The Bill will not halt the decline.

The government's approach of raising the spectre of unfunded liabilities is an attempt to hoodwink the community because superannuation schemes have always been unfunded. No government has ever paid its full share of superannuation payments. The government has simply transferred book entries from one column to the other in an attempt to convince the community that the changes should be made and that it should remain silent on the issue.

Mr I. W. SMITH (Minister for Finance) - We have heard some amazing contributions from the opposition. I thank the honourable member for Morwell, who seemed to understand the intent of the Bill better than the remainder of the opposition speakers put together. The shadow Treasurer, the honourable member for Sunshine, was critical of me personally, which I felt was out of character with his normal benevolent nature. I thought his criticisms were unjustified because when the proposed legislation was introduced I offered the shadow Minister for Finance, Mr White, and the honourable member a full briefing, whenever they wished. The offer was followed up by numerous telephone calls from my office to the offices of Mr White and the honourable member for Sunshine. Last Thursday they finally agreed to a full briefing, which the honourable member for Sunshine then cancelled. He was also advised last Thursday that he could have full access to the proposed amendments.

Mr Baker - They arrived this morning!

Mr I. W. SMITH - But the offer was made to the honourable member last week. Had he not disappeared last Thursday and cancelled the full briefing he would have had - -

Mr Baker - I didn't cancel the briefing. That is an absolute lie. Will you apologise? I didn't want your silly briefing.

The ACTING SPEAKER - Order! I ask the honourable member for Sunshine to remain silent.

Mr I. W. SMITH - By interjection the honourable member for Sunshine said he did not cancel the briefing.

Mr Baker - I have better advice than you do, and it shows.

Mr I. W. SMITH - The honourable member says he did not require a briefing. Therefore, when he commenced his speech today he should not have complained - -

Mr Baker interjected.

The ACTING SPEAKER - Order! The honourable member for Sunshine will remain silent.

Mr I. W. SMITH - The honourable member criticised the government for not giving him a briefing. Now he has the hide to admit that he did not want the briefing. The two statements are totally inconsistent.

Mr Baker - I never asked for a briefing.

The ACTING SPEAKER - Order! The honourable member will remain silent.

Mr BAKER {Sunshine) - On a point of order, Mr Acting Speaker, let the record show that I never asked for a briefing. I did not want it because the Minister and his advisers are incompetent.

The ACTING SPEAKER - Order! There is no point of order.

Mr I. W. SMITH (Minister for Finance) - The honourable member cannot have it both ways. He criticised the government for not offering a briefing and for not making the proposed amendments available.

Mr BAKER (Sunshine) - On a point of order, Mr Acting Speaker, nowhere in the record does it show that I criticised the Minister for not offering me a briefing.

The ACTING SPEAKER - Order! There is no point of order.

Mr I. W. SMITH (Minister for Finance) - The criticisms offered by the honourable member for Sunshine are not valid because last Thursday the honourable member had the opportunity to have full access to the proposed amendments. There are so many amendments because of the nature of the development of the proposed legislation.

Mr Baker - Your incompetence!

Mr I. W. SMITH - The honourable member is casting aspersions on me. Because it is after dinner and out of character I will not take a point of order except to say that he had full access to the proposed amendments, which he refused.

While negotiating the legislation with Trades Hall Council officers and their advisers after it was introduced a number of small technical refinements were necessary to give effect to the intent of the agreement signed by the Trades Hall Council and the government. There is nothing sinister in the process at all. Although the honourable member for Yan Yean pretended to support the Bill, he spent his entire contribution criticising it. He blamed the delay in debating the Bill on the government. The delay was caused simply because of the initial request of the Trades Hall Council to have full discussions and negotiations with the government. The government agreed to that and allowed the discussions to run their full course. Although they were not in any way truncated arbitrarily both the Trades Hall Council and the government knew they would come to an end sometime. Nothing could have been fairer or more reasonable.

For some reason the people who briefed the honourable member for Sunshine and his colleagues have misunderstood or misconstrued the intent and actions of the government at those detailed and long discussions. That is why there are so many amendments. The government could have easily pushed down people's necks whatever it wanted. But in the most conciliatory tones it sought to involve the interest groups as much as possible.

Yet another fallacious argument put by the honourable member for Sunshine was that the Treasurer and I were at odds. That is totally untrue. I do not doubt for a minute that the honourable member for Sunshine has a cross-eyed mole somewhere in the Treasury echelons who may have seen pieces of paper floating around from jaundiced, disgruntled and neglected former Labor Party supporters. I have no doubt the honourable member for Sunshine gets those sorts of readings from people, but to allege that the Treasurer and I - or for that matter any member of the government and I - were at odds at any time over the import, purpose and detail of the Bill is totally wrong.

Mr Baker - He took it because you bungled it.

Mr I. W. SMITH - It has not been taken over by anybody else. The allegations made by the honourable member for Sunshine have utterly no foundation and, as usual, are totally incorrect. In his rantings the honourable member for Yan Yean claimed that the Premier and I would be not 1 cent worse off as a result of the amendments to the Parliamentary superannuation scheme. Nothing could be further from the truth.

From the date of the commencement of the Act, all members of Parliament will have their future benefits reduced by 25 per cent or thereabouts, depending on what category they are in. The only members who will have their benefits reduced by slightly less than 25 per cent are those with fewer than 8 years service. So the honourable member for Yan Yean, like the rest of the members of the opposition, has been poorly briefed on the details of the Bill. I do not wish to prolong my response by being similarly derogatory.

Mr Baker - Tell us about the amendments. What are the amendments - -

Mr I. W. SMITH - When we move into Committee you can have whatever explanation on the amendments you like. You could have had it last Thursday or at any time since.

The SPEAKER - Order! The honourable Minister will address the Chair and the honourable member for Sunshine will remain silent.

Mr I. W. SMITH - You can have the explanations when we move into the Committee stage, when we will run through the amendments.

Mr Baker - You sure will!

The SPEAKER - Order!

Mr I. W. SMITH - I have already explained - it has failed to register - that there are so many amendments because of the attitude of the government - -

Mr Baker interjected.

Mr I. W. SMITH - It is due to the attitude of the government in trying to honour its commitment to the interest groups, particularly the Trades Hall Council, and in negotiating its way through a very difficult issue. Along with other opposition speakers the honourable member for Sunshine made great play of the fact that the problem was not caused by the Labor Party during its 10 years in office. No-one has ever said that it was, but the opposition denies that it has been the greatest single cause of the problem. The Labor government certainly exacerbated the situation early in its time in office by extending the proportion of public sector workers covered by superannuation from two-thirds to 100 per cent. It chose to ignore the recommendations of the Rowe report on superannuation. Instead of reducing benefits for future employees and future benefits for employees not already covered, members of the previous government made good fellows of themselves and covered everybody with the wondrous scheme made available in 1984. It increased coverage to the rest of the - -

Mr Baker interjected.

Mr I. W. SMITH - Nobody is pretending that that is not so. If you had been listening you would have heard me say that the previous government dramatically exacerbated the problem not only by increasing the proportion of the work force covered from two-thirds to 100 per cent but by adding 35 000 employees to the public sector. That exacerbated the problem we are trying to deal with.

The honourable member for Morwell was so right when he said that Parliament has a simple choice. Superannuation can be funded from a growing percentage of the Budget. That has risen in 10 years from 3.6 per cent to about 7.8 per cent - and it would have been 9 per cent had the government not paid back contributors' money to the tune of about $1.3 billion, which will be paid back in this financial year. But the honourable member for Morwell is right. Parliament has a simple choice - lower superannuation benefits for contributors or more taxes. We do not have a money tree to rip branches and leaves from. It is a choice between lower benefits or more taxes.

The government could have easily ducked the problem for another four years - may even be longer - and pretended that a problem did not exist. But by the end of the decade superannuation payments would have taken up at least 12 per cent of the State Budget; and depending on inflation and Budget revenues, the figure could have gone as high as 18 per cent.That is unsustainable. There is no other responsible way to go.

I am grateful that at least one speaker from the opposition, the honourable member for Morwell, had the wit and the honesty to see it and admit it.

The SPEAKER - Order! I am of the opinion that the second reading of the Bill requires to be passed by an absolute majority. As there are fewer than 45 members present, I ask the Clerk to ring the bells.

Bells rung.

Required number of members having assembled in Chamber:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1

Mr BAKER (Sunshine) - I remember the dairy Bill.

Mr Steggall - Do you?

The CHAIRMAN (Mr J. F. McGrath) - Order! The dairy Bill has no relevance to the Public Sector Superannuation (Administration) Bill and I invite the honourable member to return to that Bill.

Mr BAKER - Just for a moment my gaze caught the visage of the honourable member for Forest Hill and, like a nightmare, the dairy Bill came back to me - it was double jeopardy!

In his response to the second-reading debate the Minister for Finance made some minor effort to try to convince Parliament and the broader community that he was conciliatory in the way he went about consulting with the community and the opposition on the purpose of the Bill.

In regard to his consulting the opposition, the facts are contrary to those he stated: I never received a telephone call from his advisers. I did not want to discuss the purpose of the Bill with either the Minister or his advisers because I had excellent and constant information suggesting that the Minister was incapable of handling the detail of the Bill. When he came before the negotiators, either the trade union movement or the various vested interests from the community who were called before him, the Minister did not know the answers to the specific questions put to him. Because of his lack of disciplinary training, he could not understand the mathematical mechanics that relate to complex issues of this kind and, in the early stages of the meetings, neither could his advisers. The Minister did not know; he had very poor advice on the purpose of the Bill and the consequences that would flow from it. Therefore, when he made vague offers of briefings over the past two weeks I declined and went elsewhere.

I went to people who have had long experience in the trade union movement to discuss the purpose of the Bill. I also went to colleagues of mine from the Melbourne University business school who are actuaries and discussed it with them at some length. Unlike the Minister, they and I could at least discuss at some raised level the mathematical mechanics involved in this issue.

Let us get it straight: the purpose of the Bill is to rip $5 billion - that is the figure on the Minister's own say-so - out of the pockets of Victorian public servants, past and present, by the tum of the millennium. Its secondary purpose is to pick up a further $5 billion as a consequence of debt repayment. That includes the $1.4 billion that popped up in the Budget to maintain the fiction of a current account deficit as well as the effect of the government's redundancy program in the public sector.

In his rather unfortunate response to the second-reading debate, the Minister showed an absolute lack of rigour and detail in dealing with the comments of the opposition. However, the one thing he said when he was trying to grapple with the concept of the way these schemes work was that the previous government added to the numbers of public servants and extended the coverage - all that is true - and therefore exacerbated the problem.

Based on the Minister's own logic, if you take 25 000 - it looks like being closer to 30 000 - people off the Public Service payroll and out of the schemes, obviously there will be a massive reduction in the contingent or long-term liabilities of the funds. Therefore, to tum his own expression back on him, the Minister cannot have it both ways in logic. The question hanging in the air is: given that the government has taken these steps, why did it not allow that adjustment process to occur? The reason is rooted in ideological obsession, in the same way as just about every other major economic and industrial initiative it has brought before Parliament in the past 14 months is rooted and seeded - I use the term advisedly - in ideological obsession.

The government has tried to maintain the fiction of a continuing, ongoing, contiguous economic crisis; and within the cloak, the fog, the fugue and the noise of that, it wants to continue beating up people financially. The Bill achieves that effect. As I said earlier, it beats up everybody's nan and pop - 60 000 grandparents who are pensioners out in the southern and eastern suburbs of Melbourne, those in the sand belt areas who managed to make homes 30 or 40 years ago, bring up families, do the right thing, work productively in the Public Service for lower wages and conditions and make deals with the governments of the day that they believed would be honoured.

The deal was that they would accept those lower wages and conditions in return for a slightly more generous superannuation scheme. Pensioners would be able to enjoy retirement with a sense of security, of having a little bit extra for relaxation, minor self-indulgences and a little bit of sparkle and fun in their lives.

The Minister, who comes from an entirely privileged background and does not have to worry about these things - he would never have met any of these people and would not walk across the road to talk to them - has already had his hands in the till once for the most beneficial scheme of all and is back for a second chop. He has the audacity and the effrontery to come before this Parliament and the Victorian community and do these people in. It is some of the most disgusting behaviour I have seen in my days in and around public life.

This afternoon the 145 amendments to be proposed by the government were circulated. The amendments have been looked at in the limited time available and they contain major glitches, problems and inconsistencies. Complete sections of the Bill are to be omitted including the provision to force the Parliamentarians scheme - the most generous of superannuation schemes - to cough up for the front-end 15 per cent.

I do not know whether the Minister and his advisers have examined the amendments closely, but it appears that the effect is to omit that provision. I do not know what has happened in the Liberal Party room. I know there were problems, but that stinks. If that is the purpose of the amendments and if this Minister and the government have tried to slip them in under the gate, there is a serious problem. The opposition wants some answers.

There are amendments upon amendments upon amendments in this legislation. It is unbelievable. I have not seen anything like it in this Parliament in the time I have been here and I have never seen - -

Honourable members interjecting.

The CHAIRMAN - Order! This is an absolutely disgraceful performance by a Parliament and if honourable members cannot behave better, they should think about leaving the Chamber. I will not tolerate that sort of behaviour.

Mr BAKER - The purpose of the Bill is to retrospectively take away the benefits of the pensioners, to retrospectively lay the cloak of fear upon them, and interfere with the fun and sparkle they were promised at the end of their days and to welsh on the deal. They will not forget this government for that, and neither will the opposition.

I shall deal with the way the Bill achieves that. Taken individually they appear to be only small items. For example there is the small item of moving the disability allowance back to 60 years of age; there is the small item of changing the indexation of benefits from half-yearly adjustments to annual adjustments; and there is the small item of the section 85 provision that has become a standard in all government Bills, removing redress to the Supreme Court and the Administrative Appeals Tribunal. Once again that provision is included in government legislation, and it is being inflicted on pensioners and all people in the schemes to which the Bill applies. There is also the small item of the assessment of superannuation benefits being based on the average salary of the final two years of a person's employment rather than on the final salary.

The opposition wants assurances from the Minister, and it is prepared to stay here for a long time to examine him on this. I want to see tabled the legal advice on which he has made these decisions. I want the legal advice showing that the Bill complies with the Federal Occupational Superannuation Standards Act. Members of the opposition want to see the legal advice the government has - I would like to see it tabled - advising it that the Bill is not a direct diminution of accrued benefits of people who are pensioners on the one hand and people coming through the scheme and near to becoming pensioners on the other hand. The advice to the opposition and to the Federal Treasurer through the Superannuation and Insurance Commissioner is that it is.

The Minister at the table must understand that the case will be taken up and that in all probability the government will lose. Then where will it be? We have gone through this charade, creating fear and loathing among these people, but the question hangs on the purpose of the Bill. What is the government's intent? "Purpose" is a word synonymous with "intent".

What is the evil, sinister intent behind the legislation? It is to create a precedent that says, 'We do not care whether you made a deal 40 or 50 years ago. We do not care whether you are in retirement and looking for what the Italians call the third phase of life, when you are entitled to have something a little bit better. We will look over your shoulder and we may be back again".

We want an indication from the Minister that he has received legal advice. We will go through the Bill clause by clause, in great detail and with great delight, some sense of verve and - dare I say it - zeal, because this is an important Bill and the opposition does not support it.

Mr A. F. Plowman - Will you be supporting it?

Mr BAKER - Certainly not! The trade union movement made an agreement in the knowledge that it was dealing with a buffoon and decided that, firstly, it would take him to the federal authorities and expose him for the buffoon he is; secondly, that it would ring a fence around people in the existing schemes, which he was silly enough to fall for; and, finally, that when new members came on board it would fight for their conditions and show its

concern for the pensioners. They are the critical people at stake and the Minister will pay for the principle that is involved in picking on them.

Mr TANNER (Caulfield) - That was a disgraceful contribution by the honourable member for Sunshine. He has made assertions about the Minister and the government in respect of the intent of the legislation. The reasons for the legislation are the decade of maladministration by the Labor government, of which the honourable member was a Minister, the financial situation the State finds itself in and Victoria's public sector superannuation schemes, which would be a burgeoning liability if action were not taken to resolve the situation caused by 10 years of Labor administration.

The honourable member mentioned the evil intent of the legislation, but the real intent is to try to resolve the financial situation facing Victoria. I could gild the lily and talk about the legislation in the same terms as the honourable member for Sunshine; but rather than going to those lengths I will talk about maladministration. The honourable member has let down the House and the Victorian public with his contribution tonight. He and his colleagues have had nearly 6 hours to make sensible contributions, and the honourable member's comments about the number of amendments the government has proposed show that he has conveniently forgotten that it was a regular occurrence for 200, 300 or even 500 amendments to be proposed by the previous government.

The honourable member's complaints about the 145 amendments to this legislation call into question either his credibility or his memory. The Labor government commonly argued that its amendments were a reaction to community concern, consultation or the discovery of what needed to be done to improve its legislation. Tonight the honourable member stood up, condemned the 145 amendments to this legislation and forgot that during 10 years of Labor maladministration it was commonplace for legislation to be brought forward with 200,300 or 500 amendments and for the opposition to have very little time to consider them.

The honourable member then complained about the reaction of the House to his comments. That reaction was minor compared with the reaction of the then opposition when faced with 500 amendments at short notice. I suggest that the honourable member get to work with his colleagues and, instead of complaining about the 145 amendments to the Bill, remember the practices of this Parliament under the Labor government. When I came into Parliament it was considered a disgrace if there were 20 or 30 amendments to a Bill. I can assure him that after 10 years of Labor government I am inured to the notion of many amendments to a Bill. The honourable member for Sunshine was a member of a government that regularly required the House to deal with hundreds of amendments.

He mentioned the Trades Hall Council's view of the legislation. If his comments are true, the Trades Hall Council ought to hang its head in shame. The reason for the legislation is sad and disappointing, but the reality is that if the government is to be financially responsible it has no option but to introduce the measure. In coming years it will save the government and the community billions of dollars. It is not good enough for the opposition to wring its hands today. It should wring its hands when remembering the past 10 years, which brought the finances of the public sector to this state.

The Minister for Finance was faced with a difficult situation, but through negotiation with the Trades Hall Council he has introduced legislation which it has assured the government it will not oppose. The honourable member for Sunshine was coy about that. When pressed by members of the government about the opposition's reaction to the legislation he was only prepared to say the opposition would not support it. He hedged; he was coy. I put it to the honourable member for Sunshine that he was saying the opposition will not oppose the Bill. Is that the situation?

Mr Baker - Yes.

Mr TANNER - Despite the honourable member's emotional words about the Bill he says the opposition will not oppose it! That is the depth of the opposition's outrage about the legislation. It will not oppose it. Presumably the Bill will pass without a vote against it. That calls into question the depth of the opposition's sincerity and the truth of the honourable member's remarks about the view of the Trades Hall Council, which has negotiated with the government over several months.

Mr Seitz interjected.

Mr TANNER - What did you say?

The CHAIRMAN - Order! The honourable member for Keilor has been in this place long enough to know that outbursts like that are

unacceptable. The honourable member for Caulfield has the call.

Mr Seitz - I apologise.

Mr TANNER - It is disappointing that it is now necessary to adjust pensions according to yearly indexation statistics. However, I am sure most pensioners will accept that as a small contribution for the maladministration of the State during the past 10 years. The Minister carefully considered how the effects of the legislation on the Victorian community could be minimised. The Victorian Trades Hall Council said it will not oppose the legislation. Despite the oppositions's rhetoric and the comments of the honourable member for Sunshine, I presume the Bill will not be opposed. The Minister for Finance should be congratulated for grappling with a difficult situation and producing a solution that, although not everyone's desire, is acceptable in today's severe financial circumstances.

The CHAIRMAN - Order! Before the honourable member for Springvale contributes to the debate, I remind the Committee that the Chair has been extremely tolerant with the honourable members for Sunshine and Caulfield in what has really been a wide ranging second-reading debate. That has now finished. I now expect honourable members to confine themselves to clause 1.

Mr MICALLEF (Springvale) - I hear what you say, Mr Chairman, but one must reply to the comments of the honourable member for Caulfield. He raised the level of debate in the Chamber - not by quality but by decibels! Although he made a lot of noise, he said nothing.

The government must be responsible for its actions. When outlining the purposes of Bills, the government cannot say the reason is 10 years of mismanagement. Conservative governments were the architecl of the public sector superannuation schemes. The Labor government attempted to amend the schemes but ran into trouble because of the conservative forces controlling the Upper House. The government must take some responsibility for its actions.

The point made by the honourable member for Caulfield about the 145 amendments is absurd. He said that the Labor government introduced legislation and followed it with a greater number of amendments, but such actions were justified. A Bill of this importance, which attracts 145 government amendments, should be re-drafted and re-examined. The retrospectivity provisions will reduce benefits. As the honourable member for Sunshine said, the return of the disability allowance to age 60 is not acceptable.

The CHAIRMAN - Order! The honourable member for Springvale is tending to stray to other clauses. He should confine his remarks to clause 1.

Mr MICALLEF - It is sad if retrospectivity is to be subject to control by the proposed Victorian Superannuation Board. An improvement in administration may be positive, but the government's intent is to reduce by $10 billion benefits to members of superannuation schemes. It may be acceptable to amend the rationale associated with superannuation, but the provisions in the existing Acts should be consolidated so that those who enter the new scheme will have their previous benefits mirrored. The Minister should take those issues on board and respond to the concerns expressed by the opposition about the 145 amendments. The Minister does not seem to know which way to go.

Mr BAKER (Sunshine) - On a point of order, Mr Chairman, I thought the Minister would have responded to comments made about clause 1. The record should show that he has not responded. Further on clause 1, if I may - -

The CHAIRMAN - Order! On clause 1 only.

Mr BAKER - I should like the Minister to answer the questions I put to him. Does he have legal advice to suggest that this legislation fits within the requirements of the Federal Occupational Superannuation Standards Act? Will he make it available? Those are reasonable questions. The Committee process is supposed to elicit such answers.

Is the Minister concerned about that? Has he received legal advice on whether the purposes of the Bill defy the Federal sexual discrimination legislation? Does he have legal advice about whether the Bill will fit within the requirements of the proposed Act designed to supervise the superannuation industry? Those questions are critical and must be discussed up front, because they will be the subject of much debate later.

Given the broad terms of the purposes of the Bill, will the Minister explain from where the $5 billion will come? What are the mathematics? Will he give a detailed explanation of how that $5 billion is

constituted? Will the $5 billion come from the pockets of the workers, and particularly from the pockets of pensioners?

As to the specific details of the Bill, the opposition is happy to remain in this place for a long time, because the Minister has made no attempt to provide any details. He has produced the amendments only recently and has treated the opposition with absolute discourtesy.

The CHAIRMAN - Order! The Chair will not continue to hear the honourable member for Sunshine if he makes a rambling contribution on the tardiness with which he suggests the amendments were introduced. He must return to clause 1.

Mr BAKER - I am talking of the purposes of the Bill, as you know, Mr Chairman. A purpose of the Bill as specified in the Minister's second-reading speech is to reduce the future liability of the superannuation funds by the tum of the millennium by some $10 billion. The only detailed information the Labor Party has is the broad-brush proposition that $5 billion will come from reduced costs, which basically means the government's hand in the worker's pocket. We understand that. We would like some detail about which schemes are involved. What is the contribution analysis? I am not sure whether the Minister understands the expression; it is a business school expression. Where are you really getting it from? What are the component bits? How will it break down?

The second $5 billion the Minister mentioned in his second-reading speech relating to the purposes of the Bill is to come from redundancies and debt reduction. I would like some specified analysis from the Minister to explain the situation. I would like some analysis of and a little further detail on how that works. Does it mean that the $1.4 billion the government put back in the Treasurer's Budget will add to whatever the pot is and bring it to $3 billion, and that there will be interest earnings on that through time to the end of the millennium? What are the numbers on that? What are the mathematics? Can the Minister give some detail? He is right on top of this Bill, so we have heard from every source.

I apologise, Mr Chairm , I am getting a little carried away. But we want some details. Those are not all the details we want.

Honourable members interjecting.

Mr BAKER - Lie down, dogs. It is all right. We do not mind. We are here to represent the interests of 400 000 people. That is the effect and the consequence of this Bill. This man, the Minister, controls the future benefits - -

Mr LEIGH (Mordialloc) - On a point of order, Mr Chairman, as I understand the custom of the Chamber, the shadow Minister should be addressing the Chair and not continuing his references to the Minister. I suggest you ask him to address the Chair.

Mr BAKER (Sunshine) - On the point of order, Mr Chairman, the custom as I understand it is that if a member uses the third person, which I did, it is assumed that the member is speaking through the Chair, and that is what I am doing.

The CHAIRMAN - Order! I do not uphold the point of order, but I remind the shadow Minister that rambling around as he is doing invites interjections and tends to indicate that he is not addressing his remarks through the Chair.

Mr BAKER - Through you, Mr Chairman - and I thank you for your wit and your wisdom, as always - we want some specific detail. We do not want noise. The Minister is very good at making noises. It is a bit like beating a hollow drum; it makes a lot of noise but there is a lot of emptiness. We want flesh on the bones of this matter. Many people have significant direct and indirect interests in this matter.

I shall again run through my requests concerning the purposes of the Bill. We have to train the Minister because we have a long way to go. We have the 145 amendments that the Minister has produced and there are questions on all of them. Let me serve that notice to the Committee. Those amendments have been dumped on us. This is a bit like comparative conditioning in psychology - that is the way you train pigeons: punishment and reward. The punishment will be that we will go for a long time. We want answers.

We want answers to these questions: does the Minister have the legal assurance that the Victorian Parliament has not got itself into something that it cannot handle, that it has not done something that is quite illegal across a range of national legislation? If so, will he make that assurance available to the opposition? Where will the amounts of $5 billion come from? What is the contribution? Whose pocket is it coming out of? Where will the first $5 billion

come from? How does he account for the second $5 billion? What interest rate assumptions has he made? What earning rate assumptions has he made through to the end of the millennium?

The CHAIRMAN - Order! The honourable member's time has expired. I call the Minister for Finance.

Mr I. W. SMITH (Minister for Finance) - Mr Chairman - -

Honourable members interjecting.

Mr Seitz - Mr Chairman - -

The CHAIRMAN - Order! The Minister has the call. The honourable member for Keilor will resume his seat.

Mr I. W. SMITH - It is clear that the polls published today have had a strange effect on the honourable member for Sunshine.

Mr BAKER (Sunshine) - On a point of order, Mr Chairman, on the question of relevance, I know the Minister's trouble - I know he has bungled this Bill and is embarrassed in front of his colleagues - but I asked specific questions that did not relate to polls. We do not want a soliloquy from the Minister on how he views the polls - he probably cannot understand them. Will he please tell us about the Bill?

The CHAIRMAN - Order! There is no point of order.

Mr I. W. SMITH (Minister for Finance) - The very purpose of offering the honourable member for Sunshine briefings over the past fortnight, and in particular last Thursday - -

Honourable members interjecting.

Mr I. W. SMITH - Now the honourable member is asking a whole series of questions to which he could have had the detailed answers. The government is quite satisfied on the basis of its legal opinions that the Bill will achieve the purposes outlined in clause 1.

Honourable members interjecting.

The CHAIRMAN - Order! The honourable member for Sunshine has exhausted his opportunity to speak on clause 1.

Mr MICALLEF (Springvale) - The Minister's response is offensive to the Committee. The debate on Bills passed by this Parliament make it clear that the Committee stage of the debate is to allow the Minister to explain the intent of the clauses, particularly the clause that sets the basis for the interpretation of the Bill. That is very important. The Minister's response is disgraceful. The Minister does not understand the issues or the questions that have been asked. He is seeking to hide behind the fact that a briefing was offered to members of the opposition. That is not good enough. The Minister must be able to explain the purposes of the Bill he is responsible for, or he should resign.

Mr I. W. SMITH (Minister for Finance) - I would have been happy to explain the clauses, but I was asked a question. The answer was given but the honourable member for Springvale just did not hear it. The interesting tactic adopted by the opposition on these clauses will backfire because there will be virtually no debate at all on the clauses as other Bills must be debated throughout the week and it is highly unlikely that this Bill will be brought on for further debate before 4.30 p.m. on Friday.

The CHAIRMAN - Order! The time under Sessional Orders for me to interrupt business has now arrived.

Progress reported.

The SPEAKER - Order! The time appointed under Sessional Orders for me to interrupt the business of the House has now arrived.

ADJOURNMENT

The SPEAKER - Order! The question is:

That the House do now adjourn.

Changes to VCE

Dr COGHILL (Werribee) - I wish to direct a matter to the attention of the Minister for Education, who is not in the Chamber at the moment. I certainly hope he is listening to these comments and will respond in the House at the appropriate time. The Catholic education system is concerned about the suggested changes to the Victorian certificate of education under consideration by the Board of Studies. I raise the concerns of the Catholic Education Office in response to representations made to me today, including those from one of the most prominent and highly esteemed principals in

the Catholic education system, whom the Minister for Education no doubt knows.

I understand the matter being considered by the Board of Studies, and not necessarily as a result of Ministerial direction or intervention, is the introduction of new objective tests to provide objective scores. Those tests will be undertaken at the end of the second semester and will comprise two tests: one dealing with mathematics and science and the other with humanities. For some reason the results of these narrow, specialist tests will be used as anchors - that is the term that has been used - against which common assessment task (CAT) grades are to be measured. It is then proposed that a global score for all studies related to the objective test results will be provided on a scale of O to 50.

If that were not enough, it is also proposed that the overall ranking for each student, expressed as a percentile, be reported on the VCE statement. That proposed structure of the VCE is unacceptable to the Catholic education system, as it should be unacceptable to the Minister and every fair-minded person because it will do away with the great advantage, conceded by the government, of a proper and broad assessment of each student's completion of the VCE rather than a narrow, and in this case, artificial numerical score that will take away from the great value of the VCE, which has been of tremendous value to employers and academic institutions.

Mentone Body Corporate Management

Mr LEIGH (Mordialloc)-On 5 October I raised with the Attorney-General a matter concerning Mentone Body Corporate Management. A resolution of every member of the body corporate decided to remove the manager, Mr Michael Pritchard, but he refused to attend a meeting called by the body corporate to remove him. Unfortunately, Mr Pritchard has continued to harass members of the body corporate and has now written, through a solicitor, to Mr Nunan threatening to take legal action against him for daring to stand up for his rights as a member of the body corporate.

On 5 October I gave figures to the House showing that. Mr Pritchard was o rcharging. Mr Pritchard's solicitor has written to me saying that he had the right to do as he wished. Although I am not calling for legislation on this matter, it does seem that Mr Pritchard is doing himself a great disservice. I brought this matter to the attention of the House because Mr Pritchard has hung up on me on the two occasions I have attempted to speak to him.

Ms Kirner interjected.

Mr LEIGH - The honourable member for Williamstown can laugh, but it is not funny when body corporate members are being ripped off. Her attitude is typical of the phoney attitude of the Labor Party.

Ms Kirner interjected.

Mr LEIGH - You are a phoney, Joan. Mr Pritchard calls his service a paralegal service, and I ask the Attorney-General whether an organisation that has no backup legal service can rightfully call itself a paralegal service. I believe Mr Pritchard is misrepresenting himself, and although the Labor Party may laugh, it is a serious matter when old people are being threatened with law suits by a man who wants to control the body corporate.

Mr Micallef - He is probably from your political party.

Mr LEIGH-Rubbish! He is more likely a member of the Australian Labor Party. This man has taken a Stalinistic approach to dealing with these local communities. He is bullying those people and it is unacceptable. I hope the Attorney-General can investigate whether Mr Pritchard is within his rights to call the Mentone Body Corporate Management a paralegal service?

Richmond Secondary College

Ms KIRNER (Williamstown) - I raise with the Minister for Education a matter of great importance to both the Minister's integrity in the system and to the Richmond Secondary College. Four weeks ago the people of Richmond Secondary College and the Department of Education entered serious and good-faith negotiations over the future of Richmond Secondary College. Those negotiations were led by Russell Collier, the regional manager of the area, and were based on the decision of the department to create - this is an excellent idea - - the Melbourne Girl's College on the Richmond college site, thus preserving the buildings, which are too good to be sold off.

Richmond Secondary College was prepared to move to another site providing a mainstream coeducational secondary college was maintained.

Occasionally those negotiations went off the rails because of heavy-handedness of certain members of the department, nevertheless, they were kept on track several times by the intervention of the Parliamentary secretary and Russell Collier.

I am extremely concerned, as is Richmond Secondary College, that those negotiations are not going ahead in good faith. It appears a writ has been issued to Mr Stephen Jolly, one of the occupiers, to ask him to vacate the site. There have been no good-faith negotiations since last Friday when Richmond Secondary College signed a statement of its intentions. I believe that at least two other institutions involved in the negotiations have had their interests satisfied and it looks as though Richmond Secondary College has been left out in the cold.

Will the Minister guarantee that those negotiations will continue in good faith and that the parents, teachers and students are not forcibly evicted from the college? If they are, I assure the Minister that it will be on his head and not on the heads of the parents, teachers and students whose only crime in this matter is to defend their school.

I am convinced that the matter was at the point of resolution through the good work of the Parliamentary secretary, Mr Russell Collier, and the parents and students of the secondary college. I ask the Minister to ensure that these matters of negotiation in good faith continue and that there be no forcible ejection of the parents, teachers and students.

St Georges Road Primary School, Shepparton

Mr KILGOUR (Shepparton) - I raise a matter for the attention of the Minister for Education, and it is not supporting the type of rabble that was being supported by the previous speaker - -

Honourable members interjecting.

Mr Haenneyer - We are all concerned about our kids; it is not rabble!

The SPEAKER - Order! The House will come to order.

Mr KILGOUR - I wish to support the very positive people of the St Georges Road Primary School, Shepparton who are keen to take over the premises that will be vacated by the school's support centre, which will be closing at the end of the term.

The school support centre is located on the site of the St Georges Road school, and I have received representations from the principal, Mr Ron Wilkinson, for whom I have a high regard and who I believe is one of the best principals I have come across in primary school education. Mr Wilkinson and the school council have offered what I believe is a very exciting program for the future of the buildings that will be vacated at the end of the year.

The St Georges Road Primary School would like to take over the building, which would allow it more room to provide, in particular, science and technology classes for the primary school which can link into the science and technology centre to be opened next year at the Shepparton South Technical College. It would also like to be able to continue the library, which is available to schools throughout the district, at the St Georges Road Primary School.

The music program that is currently being run at the school is being conducted in a converted sports building, and better facilities are needed. If the school could use the buildings currently being used by the school centre it would have more room for matters such as Koori education, a demonstration classroom, integration courses, photography, reading recovery programs, a maths task centre and office space for use by other schools. I am impressed that the school has been prepared to offer its facilities such as office space, library and conference room to other schools from the area. The school is not looking just after itself but wants to continue to offer services to schools throughout the Goulburn Valley, and I ask the Minister to consider seriously the possibility of the St Georges Road Primary School taking over the Shepparton school support centre that will be closing. I am sure the principal and the school council will do a tremendous job of using those facilities if the Minister can make them available.

Diamond Creek Primary School

Mr HAERMEYER (Yan Yean) - I direct the attention of the Minister for Education to the impact of funding cuts on the Diamond Creek Primary School. I will pre-empt some inane interjection or point of order from the honourable member for Mordialkc: yes, I am going to read from a letter and yes, you can read it later on.

The SPEAKER - Order! The honourable member will do well to address the Chair.

Mr HAERMEYER - The president of the Diamond Creek Primary School council has written to me, and I will refer to a couple of extracts from the letter:

> We cannot support or condone government budgetary action that is slowly eroding the opportunities open to our students through the State school system. By closing schools and reducing funding, the whole fabric of our school society is undermined. Our children are put into larger classes, they have fewer curriculum opportunities, less access to teachers, learning, and specialist programs.
>
> Already our school has lost the equivalent of 5.5 teachers since this time last year and our enrolments have only dropped by 23 students (from 312 to 289). Effectively we have had to manage without four teachers and this has meant loss of specialist programs such as PE, music, reading improvement and art/craft, which in the past have provided our children with a broad encompassing curriculum.

I can well understand the concerns that were raised earlier by the honourable member for Shepparton, because this story seems to be repeating itself in schools right across the State. The letter goes on:

> Changes to the employment of emergency teachers due to funding cuts has continued to cause concern in our school. Parents continue to express their anger over the "split class" situation that comes into play when a teacher is absent and no CRT is available. Active learning in this less than satisfactory situation is reduced and once again our children are disadvantaged...
>
> We care about our school and the education of our children and implore you to rethink current policies that have already cut $230 million from education with indications that a further $145 million will soon be withdrawn.

The week before last I raised a similar issue with the Minister regarding the Apollo Park Primary School and he said that it was obviously a problem the school had with its own management. As we heard from the honourable member for Shepparton earlier, he has been having similar problems with the school in his electorate. I am getting the same message from schools right across my electorate. This is not a problem with the management of schools or the management of individual schools; it involves the government's education policy. Could it really be that it is the government's education policy rather than the management of schools that is at issue here? Is everybody wrong and is the Minister right? I ask the Minister to start addressing these issues and looking at the real concerns that schools have about their--

The SPEAKER - Order! The honourable member's time has expired.

Femtree Gully bus service

Mr LUPTON (Knox) - I direct the attention of the Minister for Public Transport to the bus service that operates between Box Hill and Upper Ferntree Gully. The service operates six days a week; however on a Saturday morning and early afternoon it suddenly terminates at Morack Road, Nunawading. All there is at Morack Road is the Nunawading tip and a milk bar. I am concerned that the Knox City and Ferntree Gully shopping centres and the William Angliss hospital are not being serviced by this bus service.

I have no doubt that there is a genuine need for people to travel from Box Hill to Knox City shopping centre, but for some unknown reason every second bus service from early in the morning until mid-afternoon has been stopped. It may be only for historical reasons, but there is a definite need for the residents of Box Hill to go to Knox City: it is one of the largest and best shopping centres in Victoria.

The William Angliss hospital in Upper Femtree Gully is also devoid of public transport, because with the service terminating at Nunawading people are able unable to go from Nunawading to Ferntree Gully without a great deal of trouble. I find it very confusing that for some reason this service was curtailed many years ago and has not resumed.

I bring this matter to the Minister's attention for urgent consideration to see whether the service can be reintroduced - or started - because I find it amazing that any service should stop at the Nunawading tip. The residential area continues for quite a way, and 5 kilometres further up the road there is the shopping centre I referred to earlier, yet under the previous government the service stopped at a tip, which is probably where the Labor government stuck all its constituents anyhow!

I bring this matter to the Minister's attention and ask him to consider whether he can extend the service

on to Knox City shopping centre, Ferntree Gully and the William Angliss hospital.

Sydenham Primary School

Mr CUNNINGHAM (Melton) - I direct the attention of the Minister for Education to the Sydenham Primary School, which is positioned on the busy Keilor-Melton Road. A recent decision downgrades the school from No. 2 to No. 5 in the priority ranking for new school constructions. Parents and the school council are anxious to see the school relocated to a nearby site; they are appalled at the dangerous conditions at the present site.

VIC ROADS figures reveal that 15 000 to 18 000 vehicles use the Keilor-Melton Road each day. Traffic volumes of this magnitude usually justify a divided highway, but that is a long way off. Although there is traffic supervision, it is still inappropriate and dangerous to cross that busy road. That is a major concern of the parents and the school council.

Another concern is the downgrading of the new school construction. Letters from the Department of Education advise that planning and enrolment figures demonstrate a need for the school to be operative by 1994. The downgrading from No. 2 to No. 5 in priority will not ensure completion on time.

This area of Sydenham is developing at a massive rate. It is the fourth largest growth area outside Pakenham, Plenty Valley and Werribee. Some 120 students are currently enrolled, with 163 enrolled for next year. West Sydenham Primary School, a few kilometres down the road from Sydenham Primary School, has now amalgamated with Toolern Vale Primary School, which is approximately 20 kilometres away. Therefore, further pressures will be put on Sydenham Primary School from this area and from massive growth in the Bellview estate, Banchory Grove, Sugargum estate and other estates that are starting to expand in addition to the normal Sydenham expansion.

I ask the Minister to ensure that the planned new school will be constructed at the earliest opportunity, that its priority ranking will be adjusted in line with normal enrolment criteria and, more importantly, that he ensure safe access to education facilities for both parents and children in the vicinity.

Floods in north-eastern Victoria

Mr JASPER (Murray Valley) - I refer the Minister for Agriculture to the recent devastating floods in north-eastern Victoria and the Goulburn Valley and in particular to the recovery program that is in train. The House and the Minister will be aware that the government put in place a program to assist people who have been affected by floods. An initial hardship grant of $700 was provided. There are also grants up to $5600 each designed to assist with accommodation requirements, contents and structural damage. Furthermore, primary producers and residents in country areas - those who were in the path of overflowing streams and rivers - have been devastated by floods in north-eastern Victoria, especially in the Goulburn Valley.

On a number of occasions the Minister visited north-eastern Victoria and the Goulburn Valley. Last week he visited Shepparton and came to my electorate of Murray Valley. He met with a number of fruit growers and dairy farmers who have been absolutely devastated by the floods and who are now looking to re-establish themselves and recover from the aftermath of flooding. Now they have to apply to the Rural Finance Corporation. To achieve grants at 4 per cent interest rates, they must apply on the basis of need. I understand that assistance will be maintained for about five years, when the situation will be reviewed.

The difficulty, about which the Minister will be aware, is that many primary producers were unable to avail themselves of the initial grants provided to people whose homes in cities and towns in the north-eastern Goulburn Valley and in some cases in farming areas had been flooded. Some people's livelihoods have been affected.

I seek from the Minister some consideration of direct financial assistance being made available to people whose sources of income have been removed and who can apply for money only through the Rural Finance Corporation when grant money is unavailable to them. The difficulty is that the Federal government will not provide any assistance until $31.4 million has been spent by the government.

Bayside Secondary College

Ms MARPLE (Altona) - I refer the Minister for EducaJon to Bayside Secondary College, which is made up of three separate campuses and is an

exciting and innovative centre of education for secondary students from Altona and Williamstown.

The college has successfully consulted with the community and the former government to create an outstanding example of four schools being amalgamated into one college with three campuses. The college has a good record of consultation. Therefore, when it became involved in the recent quality provision task force process with Williamstown High School, that institution believed it was preparing a report that the Minister would use in making his decision. The outcome was that no change would be made to the college or to Williamstown High School.

The quality provision task force process was undertaken with the assurance that input from people outside that process would not be received. It is therefore disappointing to read a newsletter from Williamstown High School thanking various people for their assistance in achieving that outcome. One such person was the honourable member for Ripon, who is the Parliamentary Secretary to the Minister for Education. Another was Mr Robert Lamb, a former Ministerial adviser who apparently fought on behalf of the school from the Rialto building!

I ask the Minister: what was his Parliamentary secretary doing behind the scenes at the Rialto? How was Robert Lamb involved in the process and why? What was a parent with a vested interest in the outcome doing helping Williamstown High School at Rialto?

It would appear from these actions that, under this government, so long as one is a friend of the government the quality provision task force process is open to exploitation. Is the quality provision process even more of a sham than most of us believed? I ask the Minister to assure us that that is not the case.

Bachelor of Applied Science

Mrs PEULICH (Bentleigh) - I ask the Minister for Education to refer a matter to the Minister for Tertiary Education and Training in another place. It concerns a constituent, Ms Amany Shweta, who has completed the academic requirements of a Bachelor of Applied Science course in the field of medical laboratory science at Royal Melbourne Institute of Technology.

According to the course handbook, the course requires in-service training to be completed before graduation in an approved laboratory for a minimum period of 12 months. Unfortunately, Ms Shweta, like several of her peers, is unable to find either paid or voluntary placement in a hospital, research laboratory or pathology service in either the public or the private spheres.

The student raised the matter with the head of the department, Mr Ralph Crean, and nothing appears to have been done to resolve the matter. Clearly it is an enormous problem for young people. It is further exacerbated by the general employment conditions in the community. Ms Shweta has been searching for work experience for well over two years.

I ask the Minister to investigate and take appropriate action, firstly, to ensure that the course is changed to ensure that students can finish the course requirements without being disadvantaged, and secondly, to investigate what can be done so that Ms Shweta and students facing this problem can complete their courses and graduate, with the opportunity - one hopes - of at least beginning to look for work. This young lady comes from a hardworking, non-English speaking family background. It is an absolute shame that she is disadvantaged even further. Even before they leave the doors of their educational institutions they are disadvantaged. I hope the Minister can take appropriate action.

Erica Primary School

Mr HAMILTON (Morwell) - I direct the attention of the Minister for Education to a decision to close the Erica Primary School and transport students to the A.G. Robertson Primary School at Rawson. Parents at Erica have asked that the case be re-examined. They believe the Minister has been serious in his commitment to take a personal interest in the results of the quality provision task force. Their letter states in part:

> I think that unfair weight was given to the question of site assessment which was only one aspect of the whole issue [of quality provision].

There is so much left out of the site assessment report that it is useless - in fact it is dangerous. The parents have asked that the Minister examine the site report, which they believe makes the wrong recommendation. The letter continues:

> The removal of a viable, historic and positive community school in favour of one of the relocatables on the basis of this would seem an unjustifiable

conclusion. I think the Erica Primary School hardly had a fair hearing.

The community has asked me to direct this matter to the Minister's attention believing that he is genuine in his commitment to look at each case on its individual merits. The parents have made an excellent submission, which I believe the Minister has received. I ask that he and his office carefully examine the submission and that the decision be placed on hold.

I understand from the local regional office that the Minister may take a personal interest in it and assess it fairly and justly so that the right decision is made on behalf of the people of Erica.

Responses

Mr HAYWARD (Minister for Education) - The honourable member for Werribee referred to the Board of Studies, the Victorian certificate of education and assessment matters. These are essentially matters for the Board of Studies. I understand the matters the honourable member raised are proposals. I will take up the matter with the Chairman of the Board of Studies, Mr Howard Kelly, particularly in view of the comments made by the Catholic principal. I will ask Mr Kelly to ensure that the Board of Studies takes the honourable member's comments and those of the Catholic principal into consideration. I will also ask Mr Kelly for a response and I will get back to the honourable member.

The honourable member for Williamstown referred to the people who are currently on the site of the former Richmond Secondary College. The government has announced that it intends to establish a world-class girls school on the site, and I am sure the honourable member supported that - as I believe every honourable member will. It is an excellent proposal.

It is essential that the proposal go ahead and that those on the site vacate it at the earliest opportunity. The interests of students appear to have been forgotten. It appears that people are playing all sorts of political games that have nothing to do with the interests of the students. All honourable members should put the interests of students first, and no honourable member, including the honourable member for Williamstown, could believe the interests of students have been served by what has occurred on the Richmond Secondary College site over the past few months.

The honourable member for Shepparton asked about a school support centre that is currently adjacent to and more or less on the same site as the St Georges Road Primary School in Shepparton. This afternoon I had the opportunity to speak with the principal of that primary school and a nearby school, who put a well-prepared presentation to me, which I am studying. I am seeking further advice on the matter and will at the earliest opportunity get back to the honourable member and the principals.

The honourable member for Yan Yean referred to the Diamond Creek Primary School and the 1994 staffing levels. There is no reason why schools need to reduce their programs or increase class sizes if teachers are prepared to increase their face-to-face teaching hours each week. I spent some hours this evening going over the 1994 staffing figures in great detail and comparing them with those of other States. The Victorian figures will be generous compared with the Australian average. We should never forget that the only reason why it has been necessary to make the Budget reductions in the service departments, including education, is the disgraceful mismanagement of the former government and its vandalising of the Victorian Budget.

The honourable member for Melton asked about the Sydenham Primary School and the need for its relocation. It is in the school construction program. I shall be happy to look into the matter. I will request details and ascertain when that proposal can be put into place. I will get back to the honourable member for Melton as soon as I can.

The honourable member for Altona referred to the Bayside Secondary College, but I do not know whether she was seeking information or playing some other game. I am not sure whether she was dissatisfied.

Ms Marple interjected.

Mr HAYWARD - I do not know.

The SPEAKER - Order!

Mr Leigh interjected.

The SPEAKER - Order! Some members never learn!

Mr Leigh interjected.

The SPEAKER - Order! I warn the honourable member for Mordialloc.

Mr HAYWARD - As the honourable member for Altona pointed out, there are no changes in the school's arrangements. I do not know whether she was dissatisfied and seeking some change. If so, perhaps she would be good enough to advise me of it. That decision was made, as were all the decisions, on educational grounds. I would have thought that if the honourable member were dissatisfied with the decision and she wanted a change she would have told me about it. I reviewed the documentation carefully, and it appeared that no change was justified on educational grounds, so it was my decision that there should be no change.

The honourable member for Bentleigh asked about a course at the Royal Melbourne Institute of Technology and asked me to refer the matter to the Minister for Tertiary Education and Training in another place, particularly concerning the Bachelor of Applied Science course and problems with its structure. I am happy to take up the matter with my colleague in another place. I will ensure that a response is made to the honourable member for Bentleigh at the earliest opportunity.

The honourable member for Morwell referred to the Erica Primary School and, as always, he was sincere in seeking information and properly representing his electorate. I will look through the documentation in the light of his comments and get back to him at the earliest opportunity.

Mr BROWN (Minister for Public Transport) - My colleague the honourable member for Knox raised the desirability of extending an existing Saturday bus service in his area to better service his community. For more than a year we have been addressing many of the problems left by the former Labor government in the transport portfolio. This request astounds me, because the service runs through the electorate that was represented by a former Minister for Transport, the well-known Steve Crabb. When one considers that the Labor Party was in office for a decade, one would think that with all the huffing and puffing Steve Crabb did he would at least have fixed up public transport in his own area and the electorates that immediately abut it.

It defies logic to have a bus service terminate at a rubbish tip on any day of the week. Although there is a milk bar at the stop, I cannot imagine commuters buying Mars bars and depositing the wrappers at the tip just because it is a convenient spot.

Five return trips on the route between Box Hill and Upper Ferntree Gully terminate at Morack Road, Vermont South, some 4 kilometres short of Knox City shopping centre. I will ask the Public Transport Corporation (PTC) to investigate fully the desirability of agreeing to the request by the honourable member. I understand an initial approach was made recently to Ventura Buslines Pty Ltd, which operates the service. In acknowledgment of the fact that the honourable member is active in pursuing better public transport, not only in his own electorate but generally, I will ensure the request is examined speedily to determine whether we can right yet another wrong that the former Labor government left behind.

There is no doubt that we are improving the public transport system. I was delighted by the decision handed down by Commissioner O'Shea of the Australian Industrial Relations Commission concerning the recent dismissal of a PTC employee for what could be described only as chronic absenteeism. The commissioner vindicated the stand taken by the PTC and the government in dismissing that employee. If we want public transport, including buses, to run on time, we cannot tolerate members of staff simply not turning up or not notifying the appropriate person that they will be absent without bona fide reasons.

The government will continue to improve and remedy the problems of the public transport system with the cooperation of both its employees and contractors such as Ventura Buslines. Accordingly, I shall be happy to take up the request to determine whether the extension can be agreed to.

Mr W. D. McGRATH (Minister for Agriculture) - The honourable member for Murray Valley raised concerns on behalf of farmers and business people in his region who have suffered as a result of the recent floods. Having visited the area three times I can understand those concerns. I reiterate that the Department of Agriculture has placed additional animal health officers in the area to work with farmers and help resettle animals on farms. Nutritional officers are available to advise farmers on the correct rations and dry matter that dairy cows in particular need to be fed to maintain full production.

We have also arranged rural finance at the concessional interest rate of 4 per cent. A farmer

taking an allocation of $50 000 at 4 per cent - many will request larger loans of up to $100 000 to restore fences laneways, channels and so on - will effectively receive a grant of $10 000 over a five-year period because of the concessional rate. On my most recent visit to the area I spoke to dairy farmers and fruit growers. I also received a deputation of people from Numurkah in my office in Melbourne; and without giving any commitment about any assistance that might be forthcoming, I said I would be prepared to consider their submission.

A Federal government task force went to Benalla last week and undoubtedly had discussions with various interest groups. However, I have not yet had any indication of financial assistance from the Federal government.

Mr Jasper - Why not?

Mr W. D. McGRATH - The honourable member for Murray Valley asks why not. Under the disaster relief program the State must spend $31.4 million before the Federal government becomes involved. Yet under the rural adjustment scheme, the Commonwealth has made an additional $10 million available for drought relief in Queensland.

The Federal government should consider providing unemployment benefits for two or three months to dairy farmers who are not receiving any income because they have had to place their cattle with other farmers due to their farms being inundated with water. I have already written to the Federal Minister for Primary Industries and Energy, Mr Simon Crean, asking that he consider a special circumstances provision for those people under the rural adjustment scheme. To date I have received no reply from the Minister on that matter.

It will be some time before dairy farmers are able to recover. I believe many are re-establishing pastures by sowing their paddocks with millet undersown with clover. If over the next six to eight weeks conditions are favourable, pastures should be strong enough to allow cattle to be brought back, which will ease the concern and trauma felt by dairy farmers. Fruit growers, particularly in Shepparton, have also suffered from the effects of the floods. They will take longer than dairy farmers to recover because the loss of fruit trees means no production for four to five years.

We will continue to work through these matters with local communities. I pay tribute to local organisations and government agencies for their work in the affected areas. I have invited the State managers of the relevant financial institutions to a meeting with the Deputy Premier and the Minister for Community Services to ensure that they treat the people who have debt loads to carry with compassion, consideration and understanding. It is hoped that by Christmas significant repairs to flood-damaged areas will have begun and that farmers will be on the road to full recovery.

Mr MACLELLAN (Minister for Planning) - The honourable member for Mordialloc referred to Mentone Body Corporate Management, a supposed paralegal service. I shall direct that matter to the attention of the Attorney-General and see if between the Attorney-General and I we can obtain a suitable answer for him.

House adjourned 10.50 p.m.

Wednesday, 17 November 1993

The SPEAKER (Hon. J.E. Delzoppo) took the chair at 10.4 a.m. and read the prayer.

CRIMES (AMENDMENT) BILL (No. 2)

Mrs WADE (Attorney-General) - By leave, I move:

That, upon the Crimes (Amendment) Bill (No. 2) being committed, I will move -

> That it be an instruction to the Committee that they have power to consider an amendment and new clause to provide for a summary offence of loitering by a sexual offender.

Motion agreed to.

PETITIONS

The Clerk - I have received the following petitions for presentation to Parliament:

Eastern Victorian Air Ambulance Service

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the citizens of Gippsland Province, South Eastern Province, North Eastern Province, and the Central Highlands Province, sheweth objection to any proposed termination of the Eastern Victorian Air Ambulance Service, Helimed I. It is a vital rescue medical service to all our regions and particularly for remote rural areas which would take an alternative service over the "Golden Hour" to respond, which may prove fatal for the injured victim.

Your petitioners therefore pray that you take all action possible to ensure that this "Life-line" service is not lost to the community and visitors to our regions who may require urgent medical treatment.

And your petitioners, as in duty bound, will ever pray.

By Mr Hamilton (16 signatures)

Maroona Consolidated Primary School

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the State of Victoria, being the present and future parents of the Consolidated Maroona Primary School sheweth that we will maintain and continue enrolments and/or provide future enrolments to the Maroona Primary School if it is retained on its current school site for 1994 and beyond.

Your petitioners therefore pray that we be acknowledged and given serious consideration when the final decision is being made regarding the future site of the Maroona Consolidated Primary School.

And your petitioners, as in duty bound, will ever pray.

By Dr Napthine (18 signatures)

Psychiatric nursing

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

We the undersigned being residents in the State of Victoria do humbly pray that when considering the Nurses Act 1993 members do allow that the Bill is amended to ensure that general nurses are not afforded the right to practice psychiatric nursing whilst they have no training in this specialised field of nursing. We believe that if afforded this right the community will be placed at risk and patients will not receive the care they so rightly deserve.

And your petitioners, as in duty bound, will ever pray.

By Mr Leighton (153 signatures).

Dookie Maternal and Child Health Centre

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the Dookie and Currawa district community in the State of Victoria sheweth that:

The Dookie Maternal and Child Health Centre Inc. will be adversely affected by the proposed budget cuts to the Maternal and Child Health Centre service.

Your petitioners therefore pray that the Dookie Maternal and Child Health Centre be able to retain the same level of service on the grounds that:

1. the Maternal and Child Health Centre provides excellent service to rural parents and children.

2. Dookie is an expanding community and needs this service.

And your petitioners, as in duty bound, will ever pray.

By Mr Kilgour (70 signatures)

Laid on table.

PAPERS

Laid on table by Clerk:

State Electoral Office - Report for the year 1992-93

Statutory Rules under the following Acts:

Dentists Act 1972 - S R No. 210

Pharmacists Act 1974-SR No. 211

LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mr MACLELLAN (Minister for Planning).

TT-LINE GAMING BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mrs WADE (Attorney-General).

GRIEVANCES

The SPEAKER - Order! The question is:

That grievances be noted.

Mr SERCOMBE (Niddrie) - The Australian community and the Victorian community, as part of the wider Australian community, have been horrified in recent times by the grisly events associated with the Belanglo State Forest in New South Wales.

The deaths of several backpackers in the Belanglo forest and the existence of a serial murderer in New South Wales and possibly elsewhere in Australia highlight a number of serious police issues that the Minister for Police and Emergency Services should consider, particularly - -

The SPEAKER - Order! There is too much audible conversation. I ask the House to come to order.

Mr SERCOMBE - What we have just witnessed fits in with the revolting phenomenon that I understand the Classification of Films and Publications (Amendment) Bill is intended to deal with! At the Australasian Police Ministers Conference in Perth next week the Victorian Minister will have an opportunity to take an important lead on a number of matters which the Victoria Police have been at the forefront of but which, in the light of recent events in New South Wales, require all Australian police forces to become involved in more systematic and cooperative ways.

I direct to the attention of the House a report in the *Sunday Age* of 25 October 1992 prepared by Kevin Norbury and headed "Police fear truckie is mass killer". The article reported Detective u erintendent George Davis as saying that police m five States had discussed the possibility that a truck driver prowling the highways of Australia was a psychopathic serial killer. Among other things the report referred to the finding of the first two missing backpackers - the British couple who were found in the Belanglo State Forest - which might be linked to the finding of other bodies elsewhere in Australia, including Victoria.

More than 12 months ago Superintendent Davis was reported as saying that a bid to establish a national centre to coordinate reports of missing people had been unsuccessful. He said Victoria planned to set up a centre for the analysis of violent crime and to encourage other States to lodge reports of serious crime and missing people with that centre. However, we still do not have the cooperative national approach that was flagged. We still do not have an adequate national response to the sharing of intelligence on serious violent offences. That is why e are requesting that the Minister take up these issues forcefully at the Australasian Police Ministers Conference.

As I said before, the Victoria Police have been at the forefront of advocating a national centre for the analysis of violent crime. The crime department of the Victoria Police has said that it intends to use techniques developed by the Federal Bureau of Investigation (FBI) to identify and apprehend violent

serial criminals. These highly dangerous, mobile, repeat offenders elude identification because their crimes frequently cross jurisdictional boundaries; and often the cases are investigated as isolated incidents. Currently Australia has no efficient networking system or a data collection plan to coordinate investigative efforts. It is the intention of the crime department of the Victoria Police, with the capable guidance of Detective Minisini, to establish a Victorian centre for the analysis of violent crime.

Given the experience of violent offenders and their capacity to cross State boundaries and move from one jurisdiction to another, probably to avoid detection, a Victorian approach in isolation is not satisfactory. It needs to be associated with proper procedures in other State police forces. Australia is yet to experience horrible incidents to the extent seen in the United States of America, where Ted Bundy is suspected of 36 serial murders and another person is suspected of 33 murders. However, Australia is not immune from such horrific crimes. For example, Raymond Edmunds, who has committed offences in a number of States, is believed by investigators to be responsible for at least 32 rapes and 2 murders. The Sydney "granny" murders are notorious examples of serial murder. The infamous South Australian Truro murders are recalled, as are the Tynong North murders in Victoria, which I understand are still unresolved. All these incidents are alarming to the community. By their very nature they consume massive police resources, as we have seen from media coverage of the Belanglo Forest investigations.

The rape and murder of a young woman in Western Australia in 1987 illustrates the need for cross-jurisdictional involvement in such investigations. The woman's killer was eventually tracked down through informal information given to police about offences in Queensland with a similar modus operandi. The murder in 1987 in Queensland of a child, Sian Kingi, was solved by comparing information about the modus operandi of other abductions. The criminals who were arrested for that murder had operated in Victoria, New South Wales and Western Australia.

That illustrates why a more systematic and appropriately organised national information and intelligence-sharing system must be established. An enterprise such as that can be reasonably expected to produce earlier information and earlier arrests. As I said earlier, Victoria took the lead under the former Labor government - and it is fortunate that this government has continued to support the initiatives of the Victoria Police crime department. However, the Minister must aggressively pursue this matter at the national level.

It is vital that parochial State police boundaries do not inhibit the creation of an effective national centre possibly under the aegis of the Australian Bureau of Criminal Intelligence or a similar organisation. The principal functions of the Australian Federal Police and other Commonwealth law enforcement agencies - mainly involving fraud and drug-related offences - are not necessarily related to the interest State police forces have in solving the violent offences of murder, rape and armed robbery, as well as the other types of crime to which I have referred.

They are matters that require State police forces to coordinate a national approach - but not just under the umbrella of the Commonwealth. I am not suggesting that all police information be shared. Given the record of corruption in a number of police forces, it would be inappropriate to create a situation where all police information was shared. But the investigation of serial murders requires a national response to coordinate information about modus operandi, criminal profiles and so on. We cannot afford to allow parochial State police boundaries to stand in the way - and we simply cannot wait another year.

One of the lessons to be learnt from the grisly investigation in the Belanglo Forest concerns the situation New South Wales police officers have reportedly found themselves in. They have had to go to the Australian Federal Police to consult a database that contains information about a type of .22 calibre firearm that has been associated with at least some of the murders. Because they do not have adequate firearms register information New South Wales police had to seek access to an Australian Federal Police database that was established during the investigation of the murder of Commissioner Winchester. In recent days we have witnessed the disgraceful spectacle of the coalition government - in particular, the Minister for Police and Emergency Services - allowing discussion and speculation about the possible watering down of gun laws.

Yesterday during question time the Minister appeared to contradict what the Premier had said earlier about there being no changes when he failed to rule out the possibility of the firearms register being removed. He failed to support what the Premier had been reported as saying about there being no changes to Victorian gun laws. As I have said, given the experience of the New South Wales

Police Force, which had difficulty in obtaining access to information, it is clear why a gun registry is required. It is widely known that the firearms register has administrative and technical problems. However, the solution is not to abolish it, which some of the Minister's political friends want. The government should address the administrative and technical problems and, as the Minister has implied in comments of his I have read, seek to bring other States up to the Victorian standard of firearms control. That would be an important step in achieving a coordinated national effort - -

Honourable members interjecting.

Mr SERCOMBE - I am pleased to hear the Minister acknowledging that that is his objective. He has a funny way of going about that, especially when he contradicts the Premier on such an important issue. I have referred to the *Sunday Age* story about Detective Superintendent Davis and the lack of an adequate missing persons information network among Australian law enforcement agencies. In light of the serial murders in the Belanglo State Forest, that is a matter the Minister ought to pursue with considerable vigour next week - in conjunction with other State colleagues. Those ghastly and horrific crimes have deeply disturbed all Australians. They are matters that require a coordinated national approach. We cannot allow parochial interests to stand in the way; the States need to take the lead.

It would not be appropriate if the Commonwealth were to be the lead agency. It is an area that requires law enforcement agencies across Australia to show considerable maturity. The interests of all Australians are involved. The cost of establishing a national centre for the analysis of violent crime pales into insignificance when compared with the large amount of resources that are consumed, particularly by State police forces, in investigations of the type we have seen in the Belanglo State Forest. I offer the Minister the support of members on this side of the House in his efforts to achieve those objectives.

Mr TURNER (Bendigo West) - I grieve for the temporary Leader of the Opposition, the Honourable John Brumby, because he does not seem to understand that the people of Victoria will not be conned.

The electors of Bendigo West and Bendigo East have not forgotten the Leader of the Opposition, who was their Federal member until a few years ago. The Leader of the Opposition has been up to his old tricks. Bendigo West had the distinction of holding the first of the current Labor preselection battles only a few days ago. I was shocked when I read the *Bendigo Advertiser* headline of 9 November, which reads "Cameron, a 'new breed' of Labor runner". The article says:

> Thirty-year old lawyer Bob Cameron will contest Bendigo West for Labor in 1996 as one of a breed of "Baby Bombers" -

"Baby Bombers" are the words -

> Opposition leader John Brumby hopes will revitalise the party.

But he is not even sure that the party will be revitalised:

> Mr Brumby hit on the football analogy to hail the unopposed preselection of Mr Cameron, whom he described as "an excellent candidate".

Mr Brumby is also reported as saying:

> "Like Essendon's 'Baby Bombers' premiership side, the new Labor team going to the next State election will be a blend of youth and experience which doesn't know when to give up and believes you can always win".

They were the words of the Leader of the Opposition. But he is trying to con the people of Bendigo and the electors of this State. The truth is that at the last election Mr Bob Cameron stood for Bendigo East, and he was soundly thrashed by the current Minister for Community Services. Mr Cameron previously stood for North Western Province and was also absolutely thrashed. At the last State election he peddled the policies of the guilty party and was rejected by the people. In football terms he would be lucky to get a game in the seconds.

I decided to do an analysis of the so-called Baby Bombers because many people in the community and some members of the House would be a little upset about the Leader of the Opposition's comparing the team on the other side to the magnificent Essendon Football Club, which performed miracles last season. In making the analogy, as a true football follower would, I made up a team sheet similar to the team sheets compiled before major games, on which there are spaces for critiques of each player. The so-called revitalised Baby Bombers - the team of the guilty party - makes interesting reading.

Time will not permit me to comment on every player, but I shall run through the main players on the other side. The full-back line consists of the honourable members for Geelong North, Sunshine and Dandenong; the half-backs are the honourable members for Preston, Northcote and Pascoe Vale; the centres are the honourable members for Footscray and Coburg and the deputy Leader of the Opposition; the half-forwards are the honourable members for Thomastown, Springvale and Carrum; the forwards are the honourable members for Williamstown, Albert Park and Morwell; the rucks are the honourable members for Geelong North and Melbourne; the rover is the honourable member for Richmond; and the honourable members for Mill Park and Melton are on the interchange bench. All honourable members will know that the side has a non-playing coach - the Leader of the Opposition.

I tried to be very fair and honest in making my critiques, as the previous Leader of the Opposition would know. I found it very difficult to put the players in their correct positions; it took a great deal of research. However, the full-back picked himself. The honourable member for Sunshine is a 49-year-old full-back recruited from the guilty party. This fellow can kick with both feet. He may be looking for a position further up the field, but he has signed on for 1996.

The centre half-back was an easy selection because all honourable members know the honourable member for Northcote is a former Bendigo boy who was well known for his football prowess a few years ago. He is a 44-year-old left-footer recruited from La Trobe University Football Club and a member of the guilty party. He is elusive, hard to follow, darts from flank to flank, had a poor season in 1993 and has signed on for 1996.

There has to be a tactician in the centre - so the honourable member for Coburg picked himself. He is a 48-year-old, long-serving centreman who kicks with both feet. He has played in many positions with the guilty party since 1973 - he has been around for a while! He is a master tactician but he has lost a yard. He has announced that he is hanging up his boots in 1996. I might add that he has been a good club man.

Centre half-forward is a very important position on the football field so I had to put a lot of thought into who should fill it. But once again, the player picked himself. Because a bit of height is needed I selected the honourable member for Springvale, a 52-year-old member of the guilty party recruited from Noble Park. He is a centre half-forward who kicks only with his left foot - and only defensively at that. His problem is that he suffered a few suspensions in 1993, but he has signed on for 1996.

As all honourable members know, using the analysis of the Leader of the Opposition, full-forward is an important position. We all have rising stars in our midst, but this one picked himself: I refer to the honourable member for Albert Park. He was a prized recruit from South Melbourne in 1992. This 38-year-old comes with a big reputation as a high-flying full-forward, but he is yet to excel. It is rumoured that he is coaching material that kicks with both feet.

I will mention a few of the people on the flanks, because they are also important. The forward pocket picked herself fairly easily - the honourable member for Williamstown, a former coach recruited from the guilty party. Unfortunately that player has lost a yard in recent years; she spends most time in the forward pocket. When off field, this 55-year-old left footer is club entertainment officer. She will stay on in 1996.

Every good side has a good captain. But, with a non-playing coach we had to select a captain from the field. That distinction goes to the Deputy Leader of the Opposition. This 48-year-old captain kicks with both feet. He had a short stint with the guilty party; he commenced in 1988. He is a tricky winger, who lacks pace. He lacks a yard or two, but has a unique ability to weave from side to side. He has signed on for 1996.

Let us consider another half-back flanker. The honourable member for Pascoe Vale is a 39-year-old specialist, who was recruited from the guilty party. He has a reputation for cracking bones and plays straight ahead. He is to stay in 1996.

Time will not permit a full critique of the entire team; however, team sheets are available for interested honourable members. The honourable member for Geelong North is the 45-year-old ruckman; he picked himself for that important position. That left footer was recruited from Geelong in 1992, but he is yet to hit top pace. He faces a hard pre-season program for 1996. For ruck-rover I went for the honourable member for Melbourne, a 33-year-old hard-hitting left footer. His weakness is that he cannot kick with his right foot at all. Off field he is the players' legal adviser; he is tipped to be placed in 1996.

For rover I went for the diminutive honourable member for Richmond. This 38-year-old can kick only with his left foot. He is a close-checking rover who plays close to the ground. He was recruited from the guilty party and is a certainty for 1996.

Let us consider the non-performing coach, the Leader of the Opposition. This 40-year-old non-playing coach was recruited at great expense at the start of 1993 from the Canberra Amateurs. He is having trouble getting into this code and has yet to show tactical abilities and leadership. He is rumoured to be under pressure from several local juniors and a senior hit man from another place. He will be battling to retain his position in 1996.

Because the Leader of the Opposition is new to the job, some new assistant coaches and advisers need to be recruited. There are only 27 members, and if honourable members scan the team sheets they will realise no-one is left! I thought of a few names - some will mean something to some people and others will mean nothing. Assistant coaches and advisers will be Robert Ray, Timothy Bell Caffin, Fabian Reid and Steve Gibbons.

To finish off the side, I shall mention the four players who have not been given guernseys. I thought about this for a while. Four opposition members feature in the league's draft for 1996: the honourable members for Werribee, Bundoora, Altona and Clayton. Although it is all rumour, it is said that there are some problems with pre-selections on the other side of the House; so these members are candidates for the 1996 draft. The club secretary and treasurer, John Halfpenny, although long serving, is tipped to have been losing numbers and relevance since 1992. He could certainly be replaced by 1996.

The Leader of the Opposition was elected to the Federal seat of Bendigo in 1983. When that occurred the unemployment rate was around 10.5 per cent. By September 1992 in my electorate of Bendigo unemployment was 15 per cent; in Eaglehawk, 17.5 per cent; in Morang, 16.4 per cent; in Castlemaine, 16.4 per cent; and, in the Shire of Bet Bet, a massive 30.4 per cent.

On a more serious note, what a farce this Baby Bombers hoax is for the people of Victoria. Fancy a new Leader in this place going around the electorate trying to convince Victorians that they have a magnificent team. If one goes through the team, a few failings can be found. Firstly, 20 members of the team will still be there in 1996; they were members of the guilty party that wrecked the State's finances.

All we have heard from the temporary Leader of the Opposition since he has been in this place is mud-slinging and muckraking. That is unfortunate, because government is a serious matter in Victoria: people are looking for something better. They will not be conned. The Leader of the Opposition has made no mention of policy, unemployment or hardship in the community. He has not grieved about the mess in which the State was left.

Mr Acting Speaker, you know you have a place on the interchange bench. However, members on the other side of the House need to do a little soul-searching, particularly the temporary Leader of the Opposition, who I understand faces considerable pressure from his own numbers. If he were a centre half-forward and looked over his shoulder, he would not find much behind him. He has real problems. It is time the Leader of the Opposition got real about this. He is in the big league now. He was knocked back by the Canberra Amateurs, and I invite him to adopt a new approach towards this place.

Ms KIRNER (Williamstown) - I thank the honourable member for Bendigo West for his speech. I assure him that the opposition has no trouble with being described as the Baby Bombers. However, it resents a little being described as the Baby Bombers by someone who clearly does not understand football. He does not understand the Baby Bombers and does not support them. I suggest that he makes exactly the same analysis of his own side. He would find that that team is as close as is possible to the West Coast Eagles: they had one flashy try at the premiership and won. But, because they forgot the fundamentals of community liaison, social justice, equity and proper investment, they lost the next premiership and will not win another for a long time.

The people of western and inner Melbourne and members of the safer chemical storage task force are genuinely alarmed. They have come to the view reluctantly that the government is not serious about relocating Coode Island to Point Wilson. They assert - I believe correctly - that the Minister for Industry Services has no commitment to the relocation. I believe he has given some encouragement to the complex remaining at Coode Island because of the significant amount of money correctly spent on its upgrading. He has been quartered by the less responsible members of the chemical industry who do not want to invest in their own futures and in Victoria's future. They do not want to spend money not only to guarantee the

safety of the people of Melbourne but also to ensure that Victoria has a world best practice chemical industry that we all know is an industry of the future.

The Minister for Industry Services is the only Minister in the current government who has brought his talents as a shadow Minister to his portfolio and remained a shadow Minister! Clearly the Minister was tempted not to go ahead with the relocation of the chemical complex, and that is why he sent a note to his counterpart in Canberra saying he would agree to having the armaments complex located at Point Wilson. An armaments complex next to a chemical storage facility! What a stupid idea!

The Premier, quite correctly, pulled the Minister for Industry Services into line and said, "No, it is not possible to collocate the armaments complex and the chemical storage complex at Point Wilson". He was absolutely correct in economic, environmental and political terms. I hoped because the Premier came out strongly - as he often does - that the Coode Island chemical storage complex would be relocated to Point Wilson, but nothing has happened. The next action by the Premier, which was enlightening, was his appearance on Neil Mitchell's show just before the Broadmeadows by-election when he made great play of the fact that the Federal government was about to stop the Coode Island facility being relocated to Point Wilson. That proposal was undermined by the Federal Minister for Defence, Senator Robert Ray, who said that if the Victorian government wanted to relocate the Coode Island chemical storage to Point Wilson it should say so and that the Federal government would wipe Point Wilson as a possible location for the armaments complex. I thought that was a great offer. I thought that was what the Premier was looking for, but we have not heard anything since. The Premier has taken no action to put an end to the frustration of the people of Victoria and give the chemical industry some certainty. The Premier speaks with a forked tongue. He is not prepared to invest in the transfer of the Coode Island chemical storage complex to Point Wilson; if he were, he would have accepted Senator Ray's offer.

Strange things have happened on the Coode Island issue. I shall go back a little because the history is important. If people do not learn from history, they tend to make the same mistakes. Surely we do not want the same mistakes made on Coode Island. In 1990 the then coalition spokesman on the environment, now the Minister for Conservation and Environment in another place, said clearly that in government the coalition would close Coode Island and transfer the complex, but he did not say to where, for how much or when. He said only that Coode Island would be closed. The people of the western suburbs asked: where, how much and when? Throughout the election campaign, even though the present Minister visited the western suburbs on a number of occasions - to no avail, because he actually increased the vote for the ALP - he gave no assurances.

We had the terrible fire at Coode Island in part I believe and acknowledge - it was acknowledged at the time - because we had not acted quickly enough. But I cannot believe we now have a government that has a clear action plan for Coode Island based on the Landy report, which was agreed to by both parties - the schedule is four years: two years for planning and two years for its implementation - and it is now 20 months into its first two years in power, yet the government is again risking a Coode Island explosion, with the accompanying risks, by failing to implement the recommendations of the Safer Chemical Storage Task Force. The brilliant Landy report was completed after enormous public consultation; 300 submissions were made.

Why is the government not going ahead? Why has the government's submission, which was prepared months ago and which recommended relocation and advertising for private sector proponents, not been implemented? Why has Cabinet not made a decision? It is interesting that the submission proposes a cutback in the cost of the public sector component from $100 million to $50 million. Why has the government not gone ahead with the simple community right-to-know legislation, which was a recommendation of the report? It has introduced far less important legislation but it has not gone ahead with the right-to-know legislation because that goes against the policy of the government. As it does with many important issues, the government says one thing and does another. It says it wants to relocate the Coode Island storage facility, but it is doing everything possible to ensure that it does not happen.

One of the things governments do when they want to halt an issue and destabilise the group making recommendations is to have a review. We have a first-class report, which was agreed with nationally and internationally, but the government said it will hold a review. Three months ago it employed Alan Oxley to undertake a review for the task force secretariat. His report has been waiting ever since

then for government discussion. The government is so committed to progress on this issue that it will not even give the chairman of the task force a copy of the review, let alone give the public a copy of it. Why has it been sitting on the Oxley report for three months? It is because the government does not want to go ahead with the Coode Island chemical storage relocation. It wants to destabilise the task force so that it cannot get on with the job.

You, Mr Acting Speaker, the Minister for Small Business, who is at the table, and I know that no expressions of interest can be called for when the matter is under review and no clear decision has been made on the site because no private sector person worth his or her salt would apply. We also know that the Federal government is about to make a decision on the armament complex site. We hope Point Wilson will not be the site, because that would be a tragedy. I made that clear to the Federal government and in a letter to the Prime Minister, Mr Keating. I am not letting the Federal government off the hook on this! It knows what this means to the people of the western suburbs, and if that is the case surely the Premier of this State also knows, otherwise he used the people of Victoria, and especially those in the western suburbs, during the by-election campaign.

I ask the Minister for Small Business to give a commitment that the government of which he is part will ensure that a decision is made to relocate the Coode Island chemical complex to Point Wilson, that it will release the Oxley report and that immediately the Cabinet submission is determined it will call for expressions of interest. If that is done we will have completed the first two-year timetable. I seek the implementation during the next sessional period of the rest of the reporting process, involving community-interest information legislation and the setting up of a semi-private authority to work on the issue.

If it sounds to you, Mr Acting Speaker, as though I am frustrated and slightly angry about this issue, you are right - I am! The people of the western suburbs have had enough of the prevarication and forked-tongue speeches that have taken place on this matter. Not only am I frustrated and angry, I also understand a leading member of the task force, a most respected person in the chemical industry, has just resigned. He is frustrated and the chemical industry is frustrated; they want a best-practice base for the chemical industry in Victoria because they know it is an industry of the future.

The people of Melbourne know that if the things I have asked for are not carried out their environment is at risk. Yet I suspect the Premier and the Minister for Industry Services are smiling and thinking, 'We are getting away with this one. If we leave it long enough we will not have to shift Coode Island". I tell them now that they do have to shift the Coode Island chemical storage facility. They promised they would do it, they have the money to do it and the people of the western suburbs and of Melbourne generally deserve that that shift should take place before another government has an accident at Coode Island on its head.

Mr LEIGH (Mordialloc) - I grieve about a couple of matters. When I look at the people who are casting stones in this House at the moment I wonder whether they have any right to crawl out from under their rocks until after they have examined what they have been doing in the past few days.

When the honourable member for Clayton was Chairman of the Privileges Committee he was also doing things that in my view no ordinary citizen would have got away with, and that demonstrates what was going on in the Labor Party at the time.

In the past few weeks the Leader of the Opposition has made a series of baseless allegations against the Premier. I suppose he has received his just deserts because, if you can believe the opinion polls, as of yesterday, even after what he has had to go through, the Premier's rating has gone up whereas that of the Leader of the Opposition has gone down - it is now sitting on 28 per cent. Remembering that the former Leader of the Opposition, the Honourable Jim Kennan, took the jump and the cash when he got down to 18 per cent, the Leader of the Opposition has 10 per cent to go!

There is no doubt in my mind, considering the way the opposition is behaving at the moment in missing the real issues that affect the State - -

Ms Kirner interjected.

Mr LEIGH - The former Premier had her chance in government and mucked it up. It is easy for her to interject. One has to ask whether the Leader of the Opposition is as pure as he is made out to be. I do not believe he is. We all know - -

The ACTING SPEAKER (Mr Cunningham) - Order! The honourable member for Mordialloc should be aware of Standing Order No. 108.

Mr LEIGH - I am aware of it, Mr Acting Speaker. Everyone knows that the Leader of the Opposition was the former Federal member for Bendigo. Everyone also knows that after his electoral defeat his mate the Federal Minister for Industry, Technology and Regional Development, the Honourable Alan Griffiths, said to him, "Good on you mate, I will look after you. I will give you a job," and subsequently made him a Ministerial minder at whatever salary and with whatever employment package came with that position.

The real backer of the Leader of the Opposition is none other than the former taxi driver and the real number-cruncher of the Labor Party, Senator Robert Ray, the Federal Minister for Defence. Senator Ray is the only person I know who, while a member of Parliament, lived in a housing commission arrangement in Clayton and had a chauffeur-driven limousine. Yet the men of propriety on the opposition benches want to tackle the government over things that have happened in Victoria.

The fact is that he became the Leader of the Opposition because after Senator Ray wiggled his little finger the minnows decided to choose him and he jumped from one House to another. This silver-tailed Brumby, the man born with a silver spoon in his mouth, who went to Melbourne Grammar--

Mr THOMSON (Pascoe Vale) - On a point of order, Mr Acting Speaker, the honourable member should be aware of Standing Order No. 108, which states that a member shall not use offensive or unbecoming words in reference to any member of the House. The reference to "silver-tailed" is clearly offensive and unbecoming, and the honourable member for Mordialloc should know better.

It is also the custom and practice in this place that members refer to other members by their electorates and not by name. The honourable member for Mordialloc is clearly in breach of that practice. If the honourable member wishes to refer to other members, he should refer to their electorates.

The ACTING SPEAKER - Order! I do not uphold the point of order. I remind the honourable member for Mordialloc, however, that he should not contravene Standing Order No. 108.

Mr LEIGH (Mordialloc) - I did not take that point of order when the honourable member for Williamstown was speaking. I could not be bothered. I had better things to do.

When the Leader of the Opposition, the honourable member for Broadmeadows, was a Ministerial minder for his friend, Dear Alan, Senator Ray had said, "You have to look after our mate. This boy is going somewhere". He did not have to fight for his job like the former Premiers John Cain and the current honourable member for Williamstown; the Labor Party moved him from one seat to another at a cost of $300 000 to the taxpayer! They think that is all irrelevant because it was not their money!

Through freedom of information procedures and other sources the Federal opposition is seeking from Mr Griffith's office access to material concerning the honourable member for Broadmeadows. The people in Canberra are doing everything they can to stop David Connolly, including other members of the Liberal Party such as Bruce Reid - the man who beat the honourable member for Broadmeadows - from gaining access to information about the honourable member for Broadmeadows, this man of high virtue, when he was a Ministerial minder. Everyone knows that when Labor was in office in Victoria there was much rorting of the system by Labor minders. Some received lots of money when they left the job after 16 months or so.

Opposition members interjecting.

Mr LEIGH - Opposition members may interject, but when the former government was in power its Ministerial minders were on the honey tree. The opposition knows that Ministerial minders in Canberra are also on the honey tree and I wonder whether the honourable member for Broadmeadows, when he thought he would never again be a member of Parliament, behaved in the same way as all the other Ministerial minders behaved when Labor was in power.

I challenge the honourable member for Broadmeadows and other opposition members, if they are so pure, to say why the Federal opposition is having great difficulty obtaining access to material. My challenge to this man of perfection is to allow the Federal opposition access to the documents. He was using taxpayers' money!

Honourable members interjecting.

Mr LEIGH - What is the major allegation made about the honourable member for Broadmeadows when he was a Ministerial minder? As I have said in this House on numerous occasions, there are little birdies in the Labor Party who come to talk to me about various people - and I listen to them!

The allegation made to me was that on at least one occasion a Ministerial minder on Dear Alan's staff may have been involved in the misuse of a VIP jet. I am fascinated; I want to know whether that allegation is true, especially in view of the allegations made by the Leader of the Opposition against the Premier. The Leader of the Opposition has not provided any substance to back up his claims. Yesterday he dropped the issue-although I hope he will return to it.

Mr Thomson interjected.

Mr LEIGH - Good. Allegations have been made about the misuse of a VIP jet and perhaps cars and travel. If the Leader of the Opposition is so pure, I ask him to telephone his mate, Dear Alan, or perhaps Senator Ray since he pulls the strings up there and say, "Mate, let them look at the file because I am so pure".

Mr Micallef interjected.

Mr LEIGH - The honourable member for Springvale knows that when Senator Ray says, "Boo", he and the rest of his crowd run around and hide in their electorate offices!

Mr Thomson - How would you know?

Mr LEIGH - I know about the number of Labor members of Parliament who have ended up with black eyes after your meetings! I challenge the Leader of the Opposition to make a telephone call to Canberra and to allow my Federal colleagues unrestricted access to files that detail his activities when he was a Ministerial minder. Let us see whether he is so pure. Do you, the honourable member for Pascoe Vale, believe the Leader of the Opposition is pure?

The ACTING SPEAKER - Order! The honourable member for Mordialloc will address the Chair.

Mr LEIGH - Does he believe it? I think not, because the honourable member for Pascoe Vale, like the honourable member for Albert Park, would be happy if he were exposed.

In the few weeks since dear John - the honourable member for Broadmeadows - came to this place and said, "I will lead you and drive the government into the ground", he has conducted smear campaigns. However, the government went up in popularity and the opposition went down - if you believe the polls.

Mr Thomson - Just like the New Zealand government went up!

Mr LEIGH - Never mind! The Leader of the Opposition made assertions about others. He has such high standards; although he certainly does not appear to have high standards in relation to the honourable member for Clayton. He has accused me of gaining documents by criminal intent or some description, which he is not prepared to say outside the House.

Honourable members interjecting.

Mr LEIGH - Do you know where I got it from?

The ACTING SPEAKER - Order! The honourable member for Mordialloc will address the Chair.

Mr LEIGH - What faction do you think gave me the document?

Opposition members interjecting.

Mr LEIGH - Wait for it! I do not have substantial proof-although I have the registration number of the vehicle - but about 30 minutes before we found the documents a senior figure of the ALP Socialist Left was seen leaving the back entrance of my office. I do not want to go further, because a number of other factions are competing to give me more material. It is important that I bring some of these matters to the attention of the House. If documents were illegally obtained - I would never illegally obtain them - -

Mr MICALLEF (Springvale) - On a point of order, Mr Acting Speaker, I ask you to advise the honourable member for Mordialloc that misleading Parliament is a very serious offence and that he should be careful about what he says under privilege. He has a responsibility to tell the truth.

The ACTING SPEAKER - Order! The honourable member for Mordialloc is responsible for that. At this stage there is no point of order.

Mr LEIGH (Mordialloc) - I know they would love to find out who it is, but I cannot tell them. The amount of information I have on some of my illustrious colleagues - -

Mr Haermeyer - Mr Acting Speaker, I direct your attention to the state of the House.

Quorum formed.

Mr LEIGH - It is disappointing that the honourable member for Yan Yean left the Chamber after he called a quorum. In conclusion, I promise the ALP that in the next few months a number of opposition members in this Chamber, who are on the outskirts of the Labor Party and from whom I have information, will stay here - and the information is not in my office in case anyone was thinking about a Watergate!

Ladies and gentleman, as the honourable doctor found out, I have better stuff than that for the coming months and I assure you that every time you guys start with something - -

The ACTING SPEAKER - Order! The honourable member will address the Chair.

Mr LEIGH - I assure you that you will be - -

The ACTING SPEAKER - Order! The honourable member's time has expired.

Mr ANDRIANOPOULOS (Mill Park) - I join the grievance debate today to correct some assertions made in this House by the honourable member for Tullamarine and the Minister for Planning during the adjournment debate on 10 November. As honourable members will recall, the honourable member for Tullamarine in his normal sleazy manner - -

Mr FINN (Tullamarine)-On a point of order, Mr Acting Speaker, I find that comment from the worm opposite offensive, and I ask him to withdraw it.

The ACTING SPEAKER -Order! Will the honourable member for Mill Park withdraw that unparliamentary language?

Mr ANDRIANOPOULOS (Mill Park) - I withdraw. The honourable member for Tullamarine in his usual colourful way raised allegations about the grant given to the St Albans North Environment Action Group in 1990 through the auspices of the Western Region Commission. The honourable member asserted that the action group was a mysterious organisation and that, indeed, the Western Region Commission was nothing more than a Swiss bank account.

Mr Finn - I didn't say that. Now you are misleading Parliament.

Mr ANDRIANOPOULOS - The Minister for Planning and the honourable member must take responsibility for the remarks they made in the House.

Mr Finn - Read *Hansard.*

Mr ANDRIANOPOULOS - Each concocted a story to be presented to the House to malign both organisations. It is only fair that an opposing view should be put to the House, particularly as during that debate the Minister for Planning invited me to make my views known and to make comments about the matter. I do so with much glee.

I inform the honourable member for Tullamarine and the Minister for Planning that the St Albans North Environment Action Group is composed of about 60 individuals who have lived most of their lives - some for more than 20 or 30 years - in a particular area of St Albans. Unfortunately that group has a problem in that its members live next door to a light industrial estate. For as long as I care to remember conflict has arisen between the residential and industrial uses. It first became a problem in 1986 when noxious industries were opening up in the area. I refer in particular to panel beating shops that opened next door to residences.

The group, which has been described as mysterious, has been mentioned in this place on at least seven or eight occasions. I believe the first time the matter came to public light was when it was mentioned by the honourable member for Mornington in 1986. Subsequently it has been mentioned by me on numerous occasions and also on one occasion by the honourable member for Wantirna. Publicity about the group has appeared in local newspapers such as the *Keilor Messenger,* the *Real Estate News* and the *Western Independent,* which are distributed in the electorate of the honourable member for Tullamarine. Only an imbecile like the honourable member for Tullamarine - -

The SPEAKER - Order! The honourable member may not use unparliamentary language. I ask him to withdraw.

Mr ANDRIANOPOULOS - I withdraw. The honourable member for Tullamarine should be aware of the Western Region Commission.

Mr Finn - I am, you fool.

Mr ANDRIANOPOULOS - The honourable member has admitted it himself.

Mr Micallef interjected.

The SPEAKER - Order! It is not the first time the honourable member for Springvale has been in trouble with the Speaker while he is on his feet. The honourable member for Tullamarine used an unparliamentary expression, and I ask him to withdraw.

Mr FINN (Tullamarine) - I withdraw.

Mr ANDRIANOPOULOS (Mill Park) - The Western Region Commission is a highly respected organisation with a long and proud history of achievements in the nine municipalities which make up the commission in the western suburbs of Melbourne. It was formed in the early 1970s and has been responsible for many achievements in the west, including campaigns to get better services and to coordinate the nine municipal councils in the area.

That model has been copied by the other Victorian regions. The attacks by the honourable member for Tullamarine and the Minister for Planning have been condemned by all sectors of the western suburbs community.

Mr Finn - Who?

Mr ANDRIANOPOULOS - The Western Region Commission for one has called you a fool, and earlier you admitted it. On numerous occasions the honourable member for Tullamarine has made wild accusations about the City of Keilor and issues within that city. If one examines the honourable member's allegations, it is not extraordinary to find that they stem back to a particular individual who opened a panel beating shop next to a particular housing estate in 1986. I am sure the name of Peter Zukanovic has been heard in this place on numerous occasions.

It is important to state that the study to which the honourable member for Tullamarine alluded last week, the *St Albans North Neighbourhood Study,* which cost $3000, has gone a long way to resolving the conflict in that neighbourhood. In 1990 the City of Keilor set up a consultative council that involved the local community, businesses and traders in the city, councillors, politicians and the individual concerned who gave the information to the honourable member for Tullamarine. Subsequently in May this year the City of Keilor adopted the policy to resolve the problems in the area.

I congratulate the honourable member for Keilor for playing a role in that process. He has been actively trying to attract industries that would be more compatible with the residential aspects of the neighbourhood than some of the existing noxious industries. The honourable member for Tullamarine should take note that the activities in the area have been ongoing for a long period. Why would he not? That is a fundamental question that must be addressed, and I shall address it. The honourable member for Tullamarine relies on one source for his information, Peter Zukanovic. That person was first mentioned in 1986.

Mr Finn interjected.

The SPEAKER - Order! I have warned the honourable member for Tullamarine on several occasions and I will not warn him again. He is to remain silent during this debate.

Mr LEIGH (Mordialloc) - On a point of order, Mr Speaker, I understand that it is customary for members to address the Chair. It is clear that the honourable member for Mill Park is not talking to you, Mr Speaker. Hansard cannot record gestures, and I suggest you ask him to address the Chair.

The SPEAKER - Order! There is no Standing Order providing that members should face the Chair when they are addressing the House. However, a Standing Order provides that members shall address the Chair in the third person, which I believe the honourable member for Mill Park is currently doing.

Mr ANDRIANOPOULOS (Mill Park) - In 1986 the honourable member for Mornington relied on information from this individual regarding a permit. The House subsequently heard how this individual was unable to resolve the problems he was having with his business and the breach of the conditions of the permit issued by the City of Keilor. Peter Zukanovic entered the political arena by becoming a councillor of the City of Keilor. That happened under extraordinary circumstances. On his first attempt he was defeated by his running mate. On a subsequent occasion he was successful by running a host of donkey candidates; he managed to get through only on preferences. During his three years as a councillor he failed to resolve any of the planning difficulties.

Honourable members interjecting.

The SPEAKER - Order! The Chair will not tolerate the barrage of interjections. Once again I ask honourable members to remain silent.

Mr ANDRIANOPOULOS - The House later heard how during the early hours of the morning this individual made threatening, abusive and sexist telephone calls to residents in the St Albans North area. That was documented in this place. Peter Zukanovic has not offered an explanation for that activity.

Later the House heard from the honourable member for Tullamarine about some allegations of Mafia involvement in the City of Keilor. His only reliance on any evidence on that day was a statutory declaration signed by one Peter Zukanovic and witnessed by the honourable member for Knox. I will not allege any conspiracy about what happened - -

The SPEAKER - Order! The honourable member has 2 minutes.

Mr ANDRIANOPOULOS - I will not allege any conspiracy, but it seems odd to me that there is a whole series of Liberal Party members - -

Honourable members interjecting.

The SPEAKER - Order! The honourable member for Mordialloc will observe the usual traditions when going past the Chair.

Mr ANDRIANOPOULOS - I will not allege any conspiracy, but it is interesting to note the involvement of Liberal Party members with this individual. It is not only the member for Mornington, it is the member for Tullamarine; it appears also to be the Minister for Planning, and to a lesser extent the honourable member for Knox. They also have close links to this individual, and they simply go out of their way to concoct - -

Mr LUPTON (Knox) - On a point of order, Mr Speaker, I take strong offence at the reference to me by the honourable member. I signed and witnessed that document as a justice of the peace. I totally reject the allegations against me. They are totally incorrect. The honourable member should be made to withdraw and apologise.

The SPEAKER - Order! I ask the honourable member for Mill Park to withdraw the imputations against the member for Knox.

Mr ANDRIANOPOULOS (Mill Park) - I withdraw, Mr Speaker.

This House has been told that there will be a police investigation into the allegations made by the honourable member for Tullamarine in his sensationalist claims of Mafia involvement in the City of Keilor. I would welcome such an inquiry, as I would welcome a much wider police investigation into all issues pertaining to this matter, including an investigation into the issue of permits - -

The SPEAKER - Order! The honourable member's time has expired.

Mr PESCOIT (Minister for Industry Services) - The honourable member for Williamstown has given me the best opportunity for a long while to explain to both the opposition and the public at large and to reply to several myths the opposition has peddled from time to time about the coalition government's commitment to safer chemical storage. I thank the honourable member for Williamstown for this great opportunity to respond to her contribution to the grievance debate.

I thank her for nothing in the way she handled this issue when she was the Leader of the previous Labor government. Several points the honourable member for Williamstown mentioned during her contribution - if I can call it that - were totally wrong, and I take this opportunity, having jotted down a few notes of the statements she made, to put these issues to rest.

First and foremost let me say that the government inherited a process that was half-cocked. In response to a major problem and as a result of Mr Landy's excellent report, the former Labor government established a task force. There is nothing wrong with the way Mr Landy reported. He and his committee did a good job, but they did not necessarily ask the right questions because they were not requested to doso.

Furthermore, the setting up of the task force was completely incompetent. The former Premier, the honourable member for Williamstown, wrote letters to a series of people asking whether they would join 'he task force, which had no status within the normal government structure. I do not refer to the status of being high or low in pecking order, it had no status in the structure of government. It was not a statutory authority. This incompetent former Premier wrote to these people asking them to do a specific job.

In recent months the coalition government has been endeavouring to work out the best way to proceed, but before getting to that point I shall deal with the famous letter the former Premier says I wrote to Senator Ray about the East Coast Armaments complex (ECAC).

This is the first opportunity I have had to say publicly what is in that letter, because the *Age* has been getting documents from people - the *Age* never knows where they are coming from - and quoting selectively. I shall read the pieces the *Age* has not quoted - and let me say categorically that this letter to Senator Ray was written at the Premier's instruction. The letter, dated 25 May 1993, reads:

> In summary, we are keen to explore the possibilities of having the armaments complex established in Victoria. We believe that, with the presence of the Benalla ADI plant drawing upon Mulwala for input, and the presence of Point Wilson as the primary east coast shipping point, Victoria is a logical location for the ECAC. We believe this would be to the mutual benefit of the State and the Commonwealth.
>
> I believe there is a real potential for some beneficial synergy to exist between necessary infrastructure development for the West Point Wilson chemical storage facility and any developments for transhipment -

note: "transhipment" -

> of material in relation to a proposed armaments complex. It may be that the best option is to have the armaments storage complex at a location some distance from Point Wilson (perhaps at a point closer to ADI Benalla) with ingress, egress and buffer storage at Point Wilson.

So, that puts paid to the nonsense people have gone on with, claiming I said we should have an extensive armaments complex there and the chemical storage there. That is absolute rubbish. The Labor Party knows it, because the former Premier, who cannot lie straight in bed - -

The SPEAKER - Order! That expression is unparliamentary. I ask the Minister to withdraw.

Mr PESCOTI - I withdraw, Mr Speaker. This particular former Premier knows it, because she and members of her Labor government have seen copies of the letter, but they have quoted it selectively and the parts I have just quoted have not previously been quoted.

I go now to the further issues that were raised by the honourable member for Williamstown. Firstly, she spoke of the commitment by the coalition when in opposition to support the move of the chemical complex to Point Wilson. That is correct. She also talked of the fire that occurred at Coode Island and said it was terrible. That is correct.

What she failed to say was that for many months the Labor government had a safety report on which it did not act, so when Coode Island had the fire the safety precautions were not in place because the Labor government had let people down - it had had a report on safety precautions at Coode Island for quite some months. The incompetent Labor government had a report saying that the safety procedures at Coode Island were insufficient; but it did not act.

Honourable members interjecting.

The SPEAKER - Order! The honourable member for Williamstown will remain silent.

Mr PESCOIT - The honourable member talked of a Cabinet submission. It is true that a Cabinet submission came to my office. It came from the Safer Chemical Storage Taskforce. It was written to me and was accompanied by a letter from the chairman of the task force, which as I have said before has no particular status in the government structure. It is a task force that is serviced by a secretariat that is within the control of my Ministry. Every Cabinet submission in my Ministry comes through the head of my Ministry, but not this one; this one came direct. When he receives a proposal for a Cabinet submission, any Minister obviously asks his department to check on the submission. So that process starts. At the same time - -

The SPEAKER - Order! The honourable member for Yan Yean made an imputation against the Minister. I ask him firstly to withdraw and secondly to cease interjecting. All the honourable member has to do is to stand up - -

Mr Haermeyer - I do not understand the imputation.

The SPEAKER - Order! All the honourable member has to do is say "I withdraw, Mr Speaker".

Mr HAERMEYER (Yan Yean) - I am happy to withdraw, Mr Speaker, but I still do not understand what imputation I made.

Mr PESCOTI (Minister for Industry Services) - The task force complained to me and said, "We have a position within this government where we are reporting to you, but we are not a statutory authority. We want to know what our status should be within the government", so the government appointed a consultant to look at this issue. The information that the honourable member for Williamstown has is incorrect. The report was received in my office yesterday, but I am being told that the report has been around for some months. It has not; it was received yesterday. I have been told further that the task force has not been able to look at the report. No wonder, because it was received only yesterday, and the letter from the task force chairman to me asking to look at it - which seems to coincide with the attack from the honourable member for Williamstown - was written last week.

Ms Kirner interjected.

Mr PESCOTI - We have all been asking for it for weeks, and here we have the opposition, through the honourable member for Williamstown, saying that we should drive the government because of the timetable she sets.

When this kind of project is being looked into, if there is a Cabinet submission on the one hand and a task force analysis on the other, it is better to wait until they can be worked in together rather than taking the sort of ad hoc approach that the honourable member for Williamstown took when she was Premier of the previous government.

She says that she is frustrated and angry about the move. If the honourable member for Williamstown had set up the proper processes initially it would have been a lot faster. The honourable member says the task force is frustrated. Everybody is frustrated! It is a huge project and the government's commitment to it continues. There has been no change, and because the wrong process was undertaken initially the government was required to have it reviewed by the Oxley Wertheimer inquiry. When the government has received the report it will *be* analysed. The government has told the task force that it can have a copy of the report, and the whole process will go on.

1bis incompetent former Premier is telling the House that there are problems with Coode Island, but she and the others who were with her should look at what was going on when the guilty party was in government: what was it doing about Coode Island? Not long after the last election the honourable member for Footscray asked, 'What's happening about Coode Island"? People from the other side of politics are constantly asking what is happening about Coode Island.

I remember giving a reply to the honourable member for Footscray, and at the time I had a letter from the Mayor of Footscray asking me about the question and threatening that if I did not give a reply about the government's commitment a public meeting would be held. I wrote back and said, "You ought to hold a public meeting. You ought to inform the residents of Footscray about the risk that is there because it has been downgraded - - ! '

Ms Kirner interjected.

Mr PESCOTI - The honourable member for Williamstown says, "They know".

The SPEAKER - Order! The honourable member for Williamstown will remain silent.

Mr PESCOTI - They have never been told the truth as to what the risk is. They were told that there was a huge risk, but who has analysed the risk?

Ms Kirner - The Landy report.

Mr PESCOTI - The honourable member for Williamstown says that the Landy report assessed the risk. She should read that report.

The SPEAKER - Order! I have asked the honourable member for Williamstown on several occasions to remain silent. She has defied my ruling, and I ask her to keep silent.

Mr PESCOTI - It is a pity that I do not have more time so I could go through what happened - -

An honourable member interjected.

Mr PESCOTI - No, time here in this Chamber - so I could go into the issues that were raised by the honourable member for Williamstown. The government is getting on with the job. It is setting things in place so it can analyse carefully all the considerations about moving the chemical plant to Point Wilson. Those are the considerations that were put forward by the Landy report that the task

force has been looking at. The task force has the same timetable and the same objectives as the previous government had. The government is moving towards the move to west Point Wilson because that was the commitment that was made before the election: it is the commitment that was made as a result of the fire at Coode Island.

Once again it comes up, as it does all the time, that for some reason the government is not going to do something. The government is doing something, and it is doing it in a far more responsible way than it was done by the previous Premier, the honourable member for Williamstown.

Mr BRUMBY (Leader of the Opposition) - On behalf of rural Victorians I grieve today in respect of the massive deterioration of living standards and services in rural Victoria.

I grieve about how the Kennett government, the government of the day, has turned its back on rural Victorians. The government - with the full cooperation, cognisance and support of the National Party - has set about systematically destroying the very heart of Victoria's rural communities, and there has hardly been a whimper from country, provincial or National Party members of the coalition government.

Earlier I heard the contribution of the honourable member for Bendigo West - the mouthpiece for the Premier in central Victoria - as you set about ripping down every decent investment that was made under the previous Labor government. I will come to what you did with the Department of Agriculture - -

Honourable members interjecting.

The SPEAKER - Order! As honourable members are aware, often the grievance debate arouses certain passions, and it is difficult to control the debate. The Leader of the Opposition would assist the Chair greatly if he used the third person and addressed the Chair.

Mr BRUMBY - I will come to the honourable member for Bendigo West and his contributions to economic development in central Victoria in a moment, but I want to start by returning to last year before the State election when the coalition, now the government, released its policy headed "Regional development" - what the then opposition was proposing to do for country Victoria. What it said was that it would hand back the resources and opportunities that people in country Victoria needed to make a bright future. What a farce - what a joke! Instead of the government handing back, it has been taking back! Hundreds of millions of dollars was ripped out of country Victoria. Last May when the Minister for Regional Development in another place was asked in question time to name one positive initiative that the government had taken for rural Victorians, after 10 minutes of guffawing and splattering, he could not name a single one.

To save the skin and the reputation of the Minister, a few weeks ago he came forward with a nine-point plan for investment and employment growth in provincial and rural Victoria. What an empty, shallow document! It is a document cover with no contents, because the document means nothing for country Victoria. All the Minister for Regional Development has done in 13 months after promising specialist treatment - and we all know what specialist treatment he means - -

Honourable members interjecting.

Mr BRUMBY - We all went to Mildura, and we all know what specialist treatment means down there! Specialist treatment means no schools, sacked councils, cuts in health services, cuts to hospitals, cuts to agricultural programs - that is what specialist treatment means!

All we have heard from government members representing provincial areas of Victoria is the Premier's mouthpiece, the honourable member for Bendigo West, supporting the policies put forward by the government.

Honourable members interjecting.

The SPEAKER - Order! The interjections from government benches are disorderly. I shall take action against government members who persist with interjections.

Mr BRUMBY - The honourable member for Bendigo West spoke earlier in the debate. I did not hear all of it - I did not miss much, did I?

Honourable members interjecting.

Mr BRUMBY - Instead of speaking about the issues facing country Victoria you parroted government policies.

The SPEAKER - Order! The Leader of the Opposition must learn to address the Chair in the

third person. The Standing Order is designed to ensure order in the House.

Mr BRUMBY - Thank you for your guidance, Mr Speaker. I was saying that the honourable member for Bendigo West did not speak at any length about the government's decision to back down on the relocation of the Department of Agriculture. That decision would have been worth $220 million to the Bendigo economy over 20 years. The Greiner and Fahey governments of New South Wales, with the assistance of National Party and country members in that State, relocated the New South Wales Department of Agriculture to Orange. They had the guts to implement a decent policy. The honourable member for Bendigo West let down his community and let the government get off the hook. As I said, that decision alone would have returned $220 million to Bendigo over 20 years. What a disgrace and what a shameful performance!

On top of that many schools have been closed. Decent schools such as those at Barkers Creek, Laanecoorie, Gravel Hill and Long Gully have been dosed by the government without a whimper from the honourable member for Bendigo West.

The Maldon Hospital has had its budget reduced by 28 per cent. I doubt if that hospital can survive. Ballarat Base Hospital is a similar story. The headline in the *Ballarat Courier* is "District health centres have budgets slashed". The report refers to cuts of 16 per cent, 18 per cent and 20 per cent to district health centres. Did the House hear from the honourable members for Ballarat East or Ballarat West? Where were they when these stories unfolded? They did not stand up for their communities.

The facts will show that small country hospitals have borne the brunt of the cutbacks in the health budget. The Corryong District Hospital has had its budget slashed by 20 per cent. The Warracknabeal District Hospital budget has been slashed by 45 per cent; Koroit hospital, 34 per cent; and Wimmera Base Hospital by 23 per cent. Hospitals cannot survive those cuts in their budgets and will be forced to dose.

Earlier this year members of the shadow Cabinet visited Mildura because that community was crying out for help. The people were not receiving any representation from their local member, Ministers or the Premier. The shadow Cabinet travelled up on the *Vinelander*. Everyone can remember the commitments made by the coalition about the *Vinelander* - the promises of the honourable member for Mildura and of the Premier: 'We will keep the *Vinelander;* we will fund and improve the network". Where is the *Vinelander* today?

Opposition Members - Dead!

Mr BRUMBY - I t is dead and buried. It has withered on the vine. It has been terminated by the government. That is why the shadow Cabinet went to Mildura, and it will go back there again. Of course, the *Vinelander* is not the only service to suffer. What has happened to the Dandenong-Leongatha railway line?

Opposition Members - Terminated!

Mr BRUMBY - What has happened to the Ballarat-Dimboola line?

Opposition Members - Terminated!

Mr BRUMBY - A n d what has happened to the Cobram-Shepparton line?

Opposition Members - Terminated!

The SPEAKER - Order! Will the Leader of the Opposition pose his rhetorical questions to the Chair rather than to the members behind him?

Mr BRUMBY - The Bairnsdale line has also closed. The concern of everyone in country Victoria is about jobs. The largest generator of jobs through the 1990s will be small business, yet the offices of the Small Business Development Corporation in country Victoria have been dosed. The budget for the local enterprise development initiatives have been cut. That is why the State Budget shows a reduction in funding grants for country Victoria of $45 million! When these matters were raised in Parliament the Deputy Premier, who was Acting Premier at the time, could not respond to questions about the government's action of slashing $45 million of investment opportunities for country Victoria.

The government has wrecked one of the few decent industries left for rural Victoria, tourism.

Mr Leigh - Who wrecked it?

Mr BRUMBY - You know what they say about the honourable member for Mordialloc - -

The SPEAKER - Order! Before the Leader of the Opposition goes any further, I ask the House to come to order.

Mr BRUMBY - Members say, "Is that the truth or did you hear it from the honourable member for Mordialloc?"

Mr Leigh interjected.

The SPEAKER - Order! I listened carefully to the expression used by the Leader of the Opposition and I believe he has reflected on the honourable member for Mordialloc, so I ask him to withdraw.

Mr BRUMBY - I withdraw. No other industry has suffered more than tourism from the government's policy. The funding for tourism centres servicing local industry and country Victoria has been slashed. Cities and provincial centres such as Wodonga, Shepparton, Wangaratta, Ballarat, Horsham, Bendigo, Mildura, Lakes Entrance, Geelong and Warrnambool have suffered. All of those centres have been assisting tourism in the local communities, but the government has slashed or terminated their funding.

Mr Hamilton - Why?

Mr BRUMBY - I do not know why the government has done it. Perhaps it hates country Victorians. However, there are alternatives. Although the government is busy slashing services to rural Victoria it has been wasting hundreds of millions of taxpayers' dollars through the voluntary departure packages. Do you know how many Victorians are leaving the State every day?

Mr Cunningham - One hundred a day.

Mr BRUMBY - The honourable member for Melton is correct. Victorians are pouring over the border heading to Queensland, and many of them are taking their voluntary departure packages with them. Approximately $800 million of Victorian money paid as voluntary departure packages is heading north in the backs of station wagons to Wayne's World in Queensland. That money could have been used to benefit country Victoria.

The 3 cents a litre levy imposed on diesel fuel is a disgrace. Approximately $70 million a year is being lost because the large interstate transports are filling up in New South Wales instead of in Victoria. That is another $70 million that could have been used in country Victoria.

Also, $200 million in voluntary departure packages was offered to people over the age of 55 years - people who would retire anyway within a few years. That is another $200 million wasted which could have gone to country Victorians. What about the millions and millions of dollars wasted on glossy leaflets? There has never been a government that has wasted so much money on promoting itself. That money could also have gone to country Victoria.

What about the money wasted on legal fees and Queen's Counsels in an attempt to stop workers moving to federal awards? Employers and employees have voted with their feet and have shifted to federal awards - that means $10 million was wasted by the government which could have gone to country Victoria. Money was also wasted on appointing four additional Ministers, Parliamentary secretaries and the jobs for the boys this government has been so good at providing. What are the extra Ministers doing? They are certainly not providing any service to regional Victoria.

There are serious needs in country Victoria which the government is not addressing. It is cutting services. Instead of wasting massive amounts of money it could have provided money to country Victoria for decent education, health, and transport systems and a regional development and industry policy.

Mr FINN (Tullamarine) - Mr Speaker, - -

Mr Andrianopoulos interjected.

Mr FINN - I have no intention of spending a great deal of time on the comments of the honourable member for Mill Park. Just let it be said that the quality of the job he was doing representing the residents of the western suburbs is shown by the fact that he is now the member for Mill Park, well away from where he was previously. That is what the locals thought of him!

I wish to address a couple of matters causing deep concern and distress to constituents in my electorate of Tullamarine. The first concerns a former member of this House who, it would appear - evidence has been shown to me to prove it - is using the office and resources of a current Parliamentarian for blatantly party political purposes. I refer to the former member for Coburg in this place, Mr Peter Gavin.

Mr DOLLIS (Richmond) - On a point of order, Mr Speaker, I know this debate is a free-for-all, but

at some stage even you, Sir, will have to pull the honourable member up on the basis of some decency and fairness. He cannot use this House as a garbage truck for throwing about every accusation his mind can come up with. It is about time the honourable member dealt with the positive - -

The SPEAKER - Order! There is no point of order. I remind the honourable member for Richmond and the House that the grievance debate is a wide-ranging debate. If any imputations are made against members of this House I will certainly intervene, but at this stage, there is no point of order.

Mr FINN (Tullamarine) - In recent months I have been shown a number of letters that have been signed by this gentleman - I use the term very loosely - Peter Gavin. The letters are from a wide range of sources and they have been faxed from the office of an honourable member for Melbourne North Province in another place, Donato Nardella. It appears to me that the resources and office of that honourable member of the Upper House are being misused by Mr Gavin for his own political ends. I have been told by a number of constituents that he has given out Mr Nardella's address and/or telephone number as a contact point for him in pursuit of his preselection in the electorate of Tullamarine for the next election.

Mr HAERMEYER (Yan Yean) - On a point of order, Mr Speaker, I suggest that the honourable member for Tullamarine is making imputations against an honourable member for Melbourne North Province in the other place, Mr Nardella. I therefore suggest that you, Sir, pull him into line.

Mr PESCOTI (Minister for Industry Services) - On the point of order, Mr Speaker, you have already ruled that this is a wide-ranging debate. The fact is that serious accusations are coming to light here and the honourable member for Tullamarine should be free to continue.

Dr COGHILL (Werribee) - On the point of order, Mr Speaker, the Minister suggested this was a free-ranging and, by implication, unrestricted debate. In fact, the debate is constrained by the Standing Orders in the same way as are all the other proceedings of this House. Those Standing Orders clearly require that there should not be reflections against a member of another place.

Indeed, Sir, you would be very familiar with the even broader restrictions that are applied on comments in the House of Commons as recorded in *May,* by which you are guided, which certainly extend beyond members of the other place to a number of other categories of persons. On those grounds, I believe you should uphold the point of order.

The SPEAKER - Order! I uphold the point of order to the degree that imputations against another member in this place or the other place are out of order. The honourable member for Tullamarine may proceed with his remarks, but he must be careful not to impugn or attribute motives to members of the other place.

Mr FINN (Tullamarine) - Thank you, Mr Speaker. I can assure you that I certainly would not wish to attribute motives to any other member of Parliament.

The news that I have delivered to the House today should not come as any surprise to any honourable member or, indeed, any member of the community because this gentleman, Peter Gavin - known throughout my electorate as the grub, as I have mentioned previously - has in the past used a Parliamentary letterhead. I shall table it for the benefit of any honourable member who would like to see it. It is clearly marked with the logo of the Australian Labor Party and contains the words, "Peter Gavin MP - Working for Tullamarine". This was at a time when he was the honourable member for Coburg! The first part of the letter states:

> Dear Resident,
>
> I have been selected by the Australian Labor Party to contest the new electorate of Tullamarine at the next State election. I have therefore set up an office in Sunbury from which I am now working for Tullamarine.

The letter is dated 26 July 1991, more than 12 months before the State election that even saw the seat of Tullamarine come into existence. Therefore, he was working for something that did not exist. I gather from the Honourable David White in another place that Mr Gavin is still at it. It seems that certain resources are now being used not just for party political purposes but for intra-factional party political purposes.

One of the biggest blues in the history of mankind is brewing in my electorate between David White and this gentleman, known as the grub, for the preselection for Tullamarine. Why they would go to so much trouble to fight for the right to be defeated

at the next election is beyond my comprehension. I would be happy with either of them. These gentlemen are so concerned about the future of this State that they put on a bitter fight in the full view of the public. I do not think young children should be subjected to the sort of bitter infighting, brawling and vicious abuse that is currently occurring within the Labor Party in Tullamarine.

Mr Leigh - What are they saying?

Mr FINN -Unfortunately, it is not Parliamentary.

Honourable members interjecting.

The SPEAKER -Order! I warn the honourable member for Yan Yean once again.

Mr FINN - I cannot tell the House exactly what has been said, but I can say that on the morning that nominations closed, Mr Gavin telephoned David White and sought an assurance that Mr White would not be standing for preselection in the seat of Tullamarine. That assurance was forthcoming, and 3 or 4 hours later he nominated for the seat. I do not know whether that says more about Mr Gavin or Mr White!

Given the circumstances in which the opposition finds itself, one almost has to feel sorry for the Leader of the Opposition: not only does he find himself in a position where he is known throughout the length and breadth of Victoria as Mr 28 Per Cent but he is also in a very difficult position in other areas. After the polls were released yesterday I walked around the building and I must say there were so many whispered conversations going on in various corners between various members of the Labor Party that I found it difficult to find a comer of my own. It does not augur well for the future of the Leader of the Opposition, and I believe it is only a matter of time until he no longer holds that position. Although he has been referred to as the temporary Leader of the Opposition in this House, that may be somewhat of an understatement. I do not think he has too much time left, and if honourable members can get money on him going before Christmas I advise them to take it.

The second matter that I raise with the House today concerns my very dear and close friends at the Keilor City Council. The Mayor of the City Keilor, Cr Ciro Lombardi, has attacked me this week. I find that extraordinary. He says that I am:

> conducting a smear campaign against the City of Keilor and its people.

I want to assure the House that nothing could be further from the truth. I am going in hard and fighting for the people of Keilor because dearly their council will not. The council is an extraordinary group of people. Take the situation in Melrose Drive where some of the people have lived for more than 35 years and some of whom have fought for justice and a fair go. I have mentioned this issue in the House a number of times over the past 12 months.

Not only are those people not getting a fair go from the Keilor council but I now find that the Keilor council and particularly Cr John Pascuzzi, the former mayor - the man known in the Keilor council as the ego on legs - is persecuting the good, honest and hardworking people of Melrose Drive, Tullamarine, as a way of getting at me. How pathetic and juvenile! How stupid is this man that he could misuse and abuse his position as an elected official in order to treat people in this way? How low can this particular gentleman go?

I give the House the case of the *Keilor City News*, a newspaper the Keilor council found necessary to put out around the middle of last year, if my memory serves me correctly. It is a regular publication reaching the entire municipality. Ratepayers' funds are being expended on what can be described only as a cheap - or perhaps not so cheap - propaganda sheet. The twisted and warped views of certain Keilor councillors are trumpeted via this journal, and one must ask why the council found it necessary to do that.

The council says it has not had a fair go from the local papers. I wonder why. Could it be because the Keilor council is incompetent? Could it be because the people of Keilor have had enough? Could it be that the journalists who work on the local papers are more in touch with the people than the councillors are? Could that be the case? You could put your last dollar on that.

Mr Cole interjected.

The SPEAKER -Order! The honourable member for Melbourne is out of his place and disorderly.

Mr FINN - The local papers are reporting the events of the Keilor council accurately as displayed on the front page of the *Community News* this week. Under the headline, "Keilor council chambers

ejection" there is a story about the latest bunfight in which the council is involved.

It might be easy for people to say that I have a particular beef against the Keilor council, but I am quick to point out that it is not a personal beef with the people of that city, and I am not the only one. To his credit, in the past the Deputy Leader of the Opposition has vigorously attacked the Keilor City Council. It is not very often that the honourable member does something right, but on this occasion he has and I congratulate him on that. Even this week the honourable member for Pascoe Vale, who unfortunately is not in the House at the moment, wrote a letter to one of the local papers basically backing up what I have been saying all along. The last two paragraphs of the letter read - -

Mr Mildenhall - Mr Speaker, I direct your attention to the state of the House.

Quorum formed.

Mr FINN - I suggest that the honourable member for Pascoe Vale is correct, for a change, in supporting my view that the Keilor council is a pack of dills. I strongly suggest to the Minister for Local Government that this Christmas he give the people of Keilor a big present, that he put on his Santa suit and instead of picking the sack up he give it to the Keilor council! I suggest to the Minister that the Keilor council should be sacked immediately. At the very least it is incompetent and at the very worst it could be anything. The Minister should give the people of Keilor a giant present for Christmas.

The people know there is something wrong with the Keilor council and they want it out; they want a fair go, they want justice and they want truth to prevail. I believe the appointment of an administrator to the City of Keilor to look after the people of Keilor at the local government level is the way to go. The Keilor council should be sacked and it should go now.

Mr LEIGH (Mordialloc)-On a point of order, Mr Speaker, earlier when the honourable member for Yan Yean called for a quorum, he left the Chamber when the bells started to ring. As I understand, Sir, if a member calls for a quorum he must remain in the Chamber. I am not sure what you can do other than suggest to the honourable member for Yan Yean that in future if he wants to call for a quorum it is courtesy, if nothing else, to remain in the House.

The SPEAKER - Order! Although I agree with the point of order raised by the honourable member for Mordialloc, there is little the Chair can do about it at this stage. It is an offence against the House for an honourable member to call for a quorum and then disappear.

Mr MILDENHALL (Footscray) - Rather than the slime, sleaze and buckets that have been thrown around in this place by members on the opposite side, I wish to grieve about a substantive issue. It is an issue of real concern to my community and the wider community in inner and western Melbourne - I refer to the fate of the mentally ill.

A growing body of evidence has appeared over the past few months of a substantial wind down in resources, a cut back in services and a growing crisis among both the clinically based and the community-based services for the mentally ill. The manifestation of that is a growing concern among a wide range of community providers, observers and official spokespersons who have brought this deepening crisis to the attention of the government. Typically, the government treated the warning firstly with denial. It then tried a cover-up and tried rearranging the deck chairs as the *Titanic* slowly sank.

Several issues highlighting this matter have been brought to my electorate office. One was from a group called Support for Relatives of People with a Psychiatric Disability, which says in a letter addressed to me:

> It has saddened us to hear that so many beds are being closed at Footscray Psychiatric Hospital as enough patients have already been turned away during a crisis causing much distress to the sufferers and their families.
>
> We are sure that you are aware of the homeless people wandering the streets or living in substandard conditions, but there are also many more who are not in the public eye, who are being cared for in the family home by loving, worn-out elderly parents or spouses who have no life of their own as a psychiatric illness can cause much distress and trauma within the family unit.

A recent article headed "Hospital assaults spiral" in the *Western Independent* states:

> Nursing staff at Footscray Psychiatric Hospital say assaults by patients on staff have spiralled since government cuts took effect a year ago, with an assault occurring once a week ...

> Nurses who contacted the *Western Independent* ... said a female nurse recently had her collarbone broken by a patient while trying to put out a fire lit by the patient.

The article says the change in roster from two days on, two days off requires a staff increase of 20 per cent but that this increase had not been provided and:

> Subsequently agency staff were called in and might be responsible for an entire ward.

The nurses are quoted as saying:

> Previously there was one staff member to four patients. Now the ratio is one to six ...

Recently my electorate office received a distressing call from one constituent who said, "We are in desperate straits in this household. My brother is locked in his bedroom and he is in a really bad way. I have called the psychiatric hospital and asked for emergency assistance and there is nothing they can do because there was no bed available. He was released early from his previous treatment at the hospital but there is no way the hospital can assist". Upon making inquiries my office heard anecdotal evidence suggesting that, because of the lack of a 24-hour crisis team in the western suburbs, the only recourse for the family was to call the police. Had they done so this person who is physically and mentally ill would have been treated like a criminal, taken away and locked up.

My office has investigated the level of service provision in the western and inner urban areas and, despite the Minister's public statement that there will be no reduction in psychiatric services, by December only 40 beds will be available at the Footscray Psychiatric Hospital, which is the only service for the 350 000 people who live in the western suburbs. Before the change of government 56 beds were available and at the moment 48 beds are available. The number of available beds will be cut by a third despite the Burdekin report and other indicators that suggest there is a growing need for psychiatric services.

Community-based services have had a steady reduction in available staff and the hours of service. The number of social workers and psychologists in the assault ward of the local community mental health service (CMHS), which has 1200 registered clients, has been reduced. A year ago the service had 3.6 psychologists, but now has 2.7. It had 3.5 social workers but now has 2.5, and by late December it will have 1.5. One of the reasons for the cutback is the crisis in all-hour services, which are called for in a range of reports. The all-hour service will be established, but instead of the service being able to respond with new resources to a crisis that has been identified by a range of groups throughout the community, others have been cut back. The information I have suggests that it will also be established as half a service, that it will have no access to medical officers and that it will put some of the officers - the officials from the community-based services - on all-night services.

The cuts to the inner north community mental health services have been even more dramatic. The number of psychiatric nurses at the Ellery Clinic in Carlton has been cut from four to one, and the number of social workers has been cut from 1.5 to half a person. It had 0.8 of an occupational therapist but now it has none at all because the occupational therapist went on leave and was not replaced. There were 8.3 clinical staff, but now there are 3.5. The mobile rehabilitation team has been reduced. Recently the team was axed, but it had a great deal of community support and there was enough of an outcry for somebody to write a letter to the *Age.* Immediately after the publication of the letter, which criticised the Minister, the team was reinstated. If only the people with disabilities, who are least able to articulate their views, could write letters to the *Age,* some of the services might be retained. The story is the same for the psychiatric and community treatment team and the homeless persons program in the inner north community mental health service, in which the clinical staff has been almost halved from 13.3 to 7.5.

The community is calling for a fair go. The author of the letter from the Support for Relatives of People with a Psychiatric Disability group points out that the present level of expenditure for the western region is $25 a head compared with what she understood to be the State average of $79 a head. The annual report of the community visitors scheme, which probably has better access to information than the support group, says the figure is not $25 but $22.50 a head for the western region and that the State average is $41 a head. There has been a dramatic shortfall in spite of the fact that the needs in the western region have been highlighted in a range of reports.

A member of the Burdekin committee, Mr David Hall, agreed that the western suburbs were facing a crisis and the annual report of community visitors said that growth rates of the western psychiatric

services catchment areas are among the highest in the State.

The report also lists the urgently required psychiatric services for the western sector as requiring two 20-bed community units, a 24-hour crisis assessment service, rehabilitation services, extended care services, forensic services and six additional services.

A typical reaction by this government was revealed in an article on the community visitors scheme in the *Age* of 13 November. It said that a volunteer watchdog group that had spoken out about sexual and physical abuse has been threatened by a State government review. The government recently stopped reappointing many of the volunteers, reducing staff by up to 20 per cent.

This is the same reaction the government had to the Fogarty report, which pointed out the alarming statistics on child abuse in the western suburbs. At first the government sat on the report. Then it rearranged the deck chairs. The government denied that the problem existed. It brought in staff from other regions to paper over the cracks. The question remains unanswered: will the government make a significant effort to reduce the level of crises that is bedevilling the child protection area?

The Minister for Health is attempting to snuff out dissent. She is snuffing out the community visitors scheme and is denying that there is a crisis. The Minister has attacked the unions and community groups that brought those matters to her attention.

The issue is not just about resources; it is also about priorities. In framing a Budget a government has a range of choices. This government listens to Standard and Poors but does not listen to the community. It does not care about the western suburbs. It has set out to systematically destroy and wind back urgently needed psychiatric services in an area that needs them the most.

Mr McLELLAN (Frankston East) - The matter I raise in the grievance debate concerns the wider community and follows on from a matter I raised last week about tow truck licensing in this State. I referred the House to a person with more than 20 criminal convictions, some of them serious, who was granted a tow truck drivers licence for a probationary period of three months. I suggest that a three-month probationary period for a person with such a record is too short and that he should be required to behave himself for at least 12 months.

Another person who has applied for a tow truck drivers licence has had more than 60 convictions since 1986, including assaulting police, burglary, assault with a weapon and so on. His record of convictions is as long as one's arm. I hope he is not successful in his application. He is the last person who should be granted a tow truck drivers licence.

Last week during the debate I recall that an honourable member interjected that perhaps such people are eminently qualified to take part in the industry. If they are not suitable for tow truck drivers they would be well qualified to be painters and dockers!

In the 1960s the Bolte government introduced legislation to get rid of the thugs and standover men in the tow truck industry and was successful. For many years people had been harassed after having traffic accidents. The last thing you want after having had an accident is to have a large group of bruisers attempting to get your signature. Honourable members will recall the methods of intimidation that were used to obtain such signatures. The original legislation provided for a code of behaviour to ensure that only responsible people would be granted licences.

In the early 1980s the former Labor government introduced an allocation system which was successful in overcoming many of the abuses in the tow truck industry. It is common knowledge that many accidents are still not reported and that the predatory system of spotter's fees is rife in the community. Unless an accident is reported, it cannot be allocated. People associated with the industry have suggested that at least 40 per cent of accidents are not reported. It is obvious that the industry has not cleaned up its act and that the tricks and shenanigans are still in vogue. One wonders whether the licence testers at VIC ROADS are policing the industry adequately or whether it has been decided that they can do nothing to improve the industry and the issue has been placed in the too-hard basket.

It should not be necessary for any member of the community, whether it be one's husband, wife or child, to be injured by one of these thugs for the government to address the issue. I should hate to see that happen in Victoria.

Unfortunately, similar issues have been raised about the taxi industry. Recently the Crime Prevention Committee, in reporting on the taxi industry, raised questions about VIC ROADS and what should

happen in the industry. It is on the public record that many taxi drivers have criminal convictions. Although the crimes may not all be serious, I express concern that some of them have convictions for sexual or other serious offences. In the past when parents asked their children how they were getting home and were told they would take a taxi it was considered okay. Unfortunately, that is not the position today.

An article in today's *Herald Sun* referred to a County Court sentencing judge as having said:

> that women who believed taxis were "a refuge from danger on the streets" might need to think twice.

What a disgraceful indictment of the Victorian taxi industry by a County Court judge! What should be done to get someone to take notice of the state of the industry?

I also express concern about the hire car industry. Many people employed by the hire car industry are not fit and proper people to drive those vehicles. I wonder whether anyone monitors the licensing of hire car drivers. It is important that there be a proper system in place to protect people who are placed in a one-to-one situation.

The driving school industry is another example of a one-to-one position where the learner-driver is alone in the car with the instructor. Similar to passengers in taxis and hire car vehicles those people are at the mercy of the so-called responsible person behind the wheel. They can be attacked or abused and little is done about it. Unfortunately, those are not isolated incidents; they occur regularly. I wonder how far the industries will go over the next few years before something is done about them. It is high time that an independent inquiry was established into VIC ROADS, perhaps a police or judicial inquiry of some kind. It amazes me that honourable members can sit in the House, allow those incidents to occur and do nothing about them.

Ms MARPLE (Altona) - I raise in the grievance debate the funding of Victorian hospitals. I will refer the House specifically to the Monash Medical Centre in Clayton but I believe the problem is more widespread. I am sure honourable members will hear more from the general public about experiences similar to the one that I had about two weeks ago.

The Monash Medical Centre provides a wonderful service to the people of Victoria. We should be grateful to those who made the decision to transfer it from the centre of Melbourne, making its services available to the large population in the Clayton area. Two weeks ago my three-year-old grandson came down from country Victoria to have surgery at the hospital; he had to stay there for seven days. The surgery was successful and the nursing was all that one could wish for.

Despite this there are contrasts with a previous visit to the same hospital four years ago, when my first grandson died at birth. The staff were supportive and cheerful and took pride in their hospital. Although it did not cross my mind at the time, I now recall how clean the hospital was. When I visited the hospital two weeks ago it had the general atmosphere of a second-class place. It looked grubby and run down and there was no evidence of high spirits and cheerfulness among the staff.

The whole family was involved in young Patrick's stay in hospital - parents, grandparents, aunts and uncles - which is in strong contrast with what happened when I had to take my children to hospital. Nowadays families are encouraged to be part of and supportive of the services provided by hospitals. Patrick's parents were able to stay at McDonald House. I find it a little unusual that money provided by a fast food chain is used for services involving people's health. Nevertheless, it is a wonderful service for country people.

Although it is important for families to be involved, I issue a word of caution: we do not want our hospitals turned into places where family and friends give the primary care. We must ensure that families and friends have support roles - rather than taking over the caring roles of professionals, as has happened in hospitals in other parts of the world.

When I walked into the hospital I found that it was not as clean as I remember hospitals once being. That may have been simply my perception, but over the seven days I noticed that the corridors were dirty and the floors had a generally grubby look. After discussions with the hospital staff I learnt that the observable cleanliness I referred to is known as the cosmetic look. I wonder why the cosmetic look is not considered to be a good measure of whether things are as clean as they should be.

The family all ended up with gastroenteritis! It reached the stage where my grandson was isolated, as were all the young children in his ward. I told my daughter-in-law I felt Patrick would be better off at home because if he stayed he would only be

re-infected. I also went down with gastro, which is not the most pleasant of experiences. Patrick's mother and father, his young sister, his other grandmother and his aunt all had gastroenteritis at different times. It makes you wonder why that happens in a hospital.

An article on gastroenteritis appears in today's *Age.* It is interesting that most cases are caused by a viral infection that was first discovered and described after study done at the Royal Children's Hospital in Melbourne. It is a common stomach and bowel infection often associated with vomiting and diarrhoea and usually runs its own course over several days. However, it can be serious if the fluid loss is severe enough to cause dehydration. That is extremely worrying when young children are involved.

On a global scale gastroenteritis is a massive problem. About five million people die from it each year, most of them children in underdeveloped countries. Most deaths are due to dehydration, inadequate fluid replacement and circulatory collapse. I am not suggesting that we are going down that track. But a grievance debate gives us the opportunity to raise issues we believe are important enough to warrant consideration. I am concerned that what I experienced a couple of weeks ago may be more prevalent than we believe. We must be on our guard.

After making inquiries I found out that the hospital has had a 25 per cent cut in its $5 million cleaning services budget, not an unsubstantial cut by any means. During the time I was there I observed that the floors looked dirty, but I was assured by the staff that they only looked dirty. I do not claim to be an expert on keeping areas brilliantly clean, but the comers of the ward looked grubby to me - whether I had my glasses on or off.

The whole area looked generally depressed. Old posters had not been removed; new information was not put up on notice boards. The base of a syringe that had been used not for an injection but to make sure that medicine was adequately given to a small child was left on a window ledge for two days. I do not think I have ever seen that in a hospital before. Not once did I see a cleaner - a n d that is the first time ever during my visits to hospitals over many years.

I do not believe cutbacks in cleaning staff should be made. In future we must make sure our hospitals not only are clean but look clean, because we are affected by our surroundings. If that were not the case, we would not come to work looking smart and we would not bother to make sure we were clean and our surroundings were clean. I am pleased to say that the surroundings in Parliament are well cleaned - but I think Queen Victoria needs a brush up!

My inquiries show that Monash Medical Centre has cut back on cleaning from four days to two. I believe we need to speak up about that before cleaning services are reduced to only one day a week. The people in charge of the cleaning talked to me about the importance of dusting, particularly the need to dust each ward separately to reduce the risk of spreading infection from one ward to another. I am pleased about that and hope the situation continues to improve. I know that Monash Medical Centre has adopted that method and I hope other hospitals follow its example.

I believe the cutbacks in hospital cleaning services have gone too far. As they say about justice, it is important not only that it be done but that it be seen to be done. In this case it is important to ensure that the deaning is done as well as the books supposedly show it is being done. It is also importan• that people feel happy in their surroundings, because that is part of the healing process.

I am pleased that families are now welcome in our hospitals and that they are seen as having a part to play in the healing process. However, I again caution the House that we must never go down the track of handing over all responsibility for primary care to families and friends. For a start, not everybody has family and friends! Our professionals have important roles to play, which I am glad our hospitals still acknowledge. Nevertheless, I warn the House and the public that we could be heading down the same track as that followed by third world countries or even the United Kingdom.

I know that hospital budgets must be handled carefully and managed well to ensure that all members of the public get the best value for their money. However, I am always surprised by the modem thought that clever budgeting and good management means sacking people. In hospitals all over Victoria, such as the Altona Hospital in my area and the hospital in Benalla where the other half of my family lives, it is important to make sure that the cutbacks do not result in wards which are unclean and through which infection is able to spread.

Hospitals must be not only free of infection but also cosmetically clean so that both the staff and the general public feel confident about the roles they have to play. The present government stands condemned for turning a hospital we were all so proud of into a hospital we now feel uncomfortable about.

The unfortunate thing is that it is happening throughout the State, the idea being to force us out of public hospitals. But those are not the right tactics at all. We should be proud of our public hospitals, and I hope we will continue to be proud of them. The hospitals should be proud of the cleaning services which they have offered over the years - and which they should continue to offer.

Mr A. F. PLOWMAN (Benambra) - I grieve about Federal government road funding, which is an issue that affects every Victorian. I feel particularly concerned for the people I represent, who are predominantly country Victorians. The Federal government regards taxes on fuel as an easy way of collecting revenue.

In this year's Budget federal fuel tax revenue is expected to increase by $1.4 billion, which means it will exceed *$7* billion in a full year. Of that *$7* billion, only $1.7 billion is to be allocated to roads. It is ironic that although the tax was instituted as a means of collecting money for road funding, only $1.7 billion of the *$7* billion to be collected is allocated for that purpose. The other irony is that although Victoria will contribute 27 per cent of the *$7* billion - in round figures about $2 billion - it will receive only 19 per cent of the money allocated to roads. In round figures that amounts to only $360 million for roads in both metropolitan and country areas.

I have two concerns. The first is about the restrictions placed on the State by the Federal government, which affect where and on what roads the funds are to be spent and which projects are allowed. The second concerns the extraordinary imbalance between the amount of money we contribute and the amount we get back. In fact this year the amount will fall from $360 million to $245 million - a reduction of 32 per cent - at a time when Federal taxes are increasing. It does not make any sense to me.

An examination of the $2 billion Victoria contributes to the Federal tax shows that only 5 per cent is actually returned to the State as funding for roads. I point out that worse is to come. Currently we receive 19 per cent of the revenue returned to the States. But because of the arrangements made by the Federal government concerning allocations to the States, over the next five years that allocation will fall to 13 per cent. Although 5 per cent is an extremely small proportion of the $2 billion we contribute, in five years that will drop to 3.7 per cent. It seems incongruous that the reductions are happening when Federal taxes are increasing. One of two things must occur: either the formula for allocating federal tax revenue to the States must be changed so that Victoria receives an increased allocation or a greater proportion of the revenue must be allocated to road funding Australia-wide.

The tax was instituted to fund road making and road improvements. Any honourable member who has recently travelled throughout country Victoria and into southern New South Wales will still see a vast difference between the standard of roads in Victoria--

Mrs Wilson interjected.

Mr A. F. PLOWMAN - Ours are much better; quite right. Many of the improvements happened during the Bolte era, when a greater proportion of tax revenue was put back into Victorian roads. It is imperative that something be done quickly about the deteriorating state of our roads, not only in Victoria but in New South Wales - and the present system of federal funding cannot cope with the rate of deterioration.

There are two basic issues. The first is that unless the present system of Federal funding is altered, we will end up with an ever-deteriorating road network, which will result in enormous increases in costs for all industries, particularly those in country areas. There has been a vast increase in the amount of traffic generated by the timber, livestock and other rural industries.

More importantly, all those industries rely totally on suppling other industries, predominantly by road. Unless something is done to redress the situation over the next 5 to 10 years, the road systems of Victoria will deteriorate to such an extent that the infrastructure will not carry the traffic demanded by those industries that are currently still earning 40 per cent of the country's export earnings.

The second part of my concern relates to the cost of fuel. The State and Federal taxes on every litre of fuel sold amount to just under 40 cents a litre. Recently, price discounting wars drove the price of

petrol down to 55 cents. That means, with taxes removed, the real price of fuel fell below 20 cents a litre; the actual price of fuel became much less than the cost of production.

In real terms fuel is very cheap but, given the extent of the taxes levied, consumers are still paying high prices. Governments cannot have it both ways. Either fuel taxes are reduced or a greater percentage of those taxes should be used on the roads for which the taxes were originally designed.

One thought strikes me as totally ironic in the fuel pricing debate - and I do not want to go into other aspects of that debate. When fuel discounting drove Melbourne prices down to 55 cents a litre, fuel could be bought at exactly that price 600 kilometres north of Brisbane. Total inequity reigns in Australian fuel prices for country and city users and the extent to which those taxes are used for road funding.

I conclude by highlighting that the reduction in road funding from $360 million to $245 million this year represents nearly a one-third reduction compared with past allocations. I find that intolerable. On behalf of all country people and Victorian road users I suggest that the Federal government reconsider the allocation of taxes to the State and reconsider the percentage of the tax allocated to road funding across Australia.

Dr COGHILL (Werribee) - In the last few minutes of debate on the motion that grievances be noted, I should like to comment on the severe erosion of standards of government in Victoria and, in particular, the absence of standards in critical areas of government performance, accountability and administration. The place to start is the topical issue of conflict of interest.

I do not want to discuss the particular instance that has been debated recently, but I direct attention to the fact that a number of times now the Premier has been invited publicly and in the Chamber to advise what he believes should be the standard to be observed by himself and by the government and what he believes should be the relationship between private pecuniary interests and public duty.

As members of the House will recall, on no occasion has the Premier answered on that issue; on no occasion has he attempted to define what he believes are the rules and proprieties that should exist in the relationship between an individual's private pecuniary interest and his public duty, whether as Minister, Premier or in any other capacity. The invariable response of the Premier has been to avoid and divert attention from the issue. He has done that in two ways.

His first tactic was to assert - it is only an assertion - that he has done nothing wrong, without attempting to define what is right and wrong in the relationship between private pecuniary interest and public duties. His second tactic was to attack his questioner, the person who raised the issue with him. In my case he did that on two occasions. If anything, by using counterattack as a form of response and endorsing my preselection opponent, he has done me a favour, but I will not go into that.

The matter of concern to the community is that the Premier continues to be unable to define the relationship that should exist between private pecuniary interests and public duties. Last week the Treasurer made the extraordinary assertion that it did not matter if, in the instance raised with him, a public servant made some use of his public position and the public resources available to him for private purposes. That is the seed of the sort of corruption that is seen at its most serious in the banana republics of the world. Presidents in such places use their public positions to enhance their family fortunes.

Exactly the same issue was raised in Queensland and exposed by the Fitzgerald Royal Commission; exactly the same issue was exposed in Western Australia by the Royal Commission into Commercial Activities of Government and Other Matters otherwise known as the WA Inc. Royal Commission. That case involved members of my own party - and I make no defence whatsoever of them. The royal commission report speaks for itself.

That is the issue at stake. However, it appears from the Premier's response that he does not understand that practices that exist in private business are not appropriate for government. He and the government are acting in the public interest for the common good of the people of Victoria. They are not acting on behalf of companies in which they might happen to be major controlling shareholders or directors. The government is acting in the interests of the community of Victoria as a whole in a position of trust. It is incumbent on members of the government not to use their public office to benefit themselves privately even though in some instances the beneht may be fairly minor and indirect.

The principles that have been laid down and developed over centuries in democratic systems such as the Westminster system dictate that people holding public office - Premiers or Ministers - must maintain clear and separate distinctions between the activities they carry out in their official positions and their private pecuniary interests. As soon as they cross that line, they are heading down the same path that was taken in Queensland, which was exposed and condemned by the Fitzgerald Royal Commission. It was also the path taken in Western Australia, which was exposed and condemned by the WA Inc. Royal Commission.

The problem appears to be that the Premier simply does not understand. The response he has made on this issue is exactly the same as the response he makes on any other issue that he does not understand or when he does not have the information at hand to respond. He either attempts to divert attention by referring to some extraneous matter or attacks the person who has raised the question with him. That has been the invariable response of the government.

Time and again the government has been exposed as not having any sense of qunimum standards, whether they be standards of accountability and conduct of Ministers or standards of rights and freedoms for individuals. The Scrutiny of Acts and Regulations Committee has exposed plenty of breaches of rights and freedoms by the government - for example, in schools. The answer to question on notice No. 47 by the Minister for Education shows that the government has no minimum standards that it wishes to see applied to educational outcomes in Victoria.

The SPEAKER - Order! I interrupt debate and advise that at 2 p.m. the question will be put.

Sitting suspended 1 p.m. until 2.5 p.m.

The SPEAKER - Order! The question is:

That grievances be noted.

Question agreed to.

ABSENCE OF MINISTER

The SPEAKER - Order! I advise the House that the Treasurer will be absent today due to illness. The Minister for Finance will be Acting Treasurer.

QUESTIONS WITHOUT NOTICE

LEEDS MEDIA AND COMMUNICATION SERVICES PTY LTD

Mr THWAITES (Albert Park) - I refer the Minister for Finance to his comments in the House on 18 May when he said that the tender by Leeds Media and Communication Services Pty Ltd for the master media buying contract was slightly more than half that of the nearest other tenderer, and I also refer the Minister to his comments in the amended *Hansard* when he said that the tender by Leeds Media was the lowest overall, and ask: will the Minister inform the House, here and now, whether he has any knowledge of whether the commission for Leeds Media at the current levels of government advertising is in fact more than the commission tendered by - -

Honourable members interjecting.

The SPEAKER - Order! I advise the honourable member for Albert Park that questions should be short and succinct, with no more fact than is necessary to support the question.

Mr THWAITES - I ask the Minister if he has any knowledge of whether the commission for Leeds Media at the current levels of government advertising is in fact more than the commission tendered by Total Media and, if so, will he inform the House whether that is the case?

Mr I. W. SMITH (Minister for Finance) - I thank the honourable member for Albert Park for his interest in this matter, and I invite him to put the question on notice.

Honourable members interjecting.

The SPEAKER - Order! I remind the House that it is wasting its own time and question time.

MABO LEGISLATION

Mr RYAN (Gippsland South} - Will the Premier inform the House whether he has had time to evaluate the Commonwealth's position on Mabo and, if so, will he outline the Victorian government's response?

Mr KENNETT (Premier)-I am sure all members will be aware that yesterday the Prime Minister, Mr Keating, in Federal Parliament introduced the Native Title Bill 1993, with an explanatory memorandum and his second-reading speech. Yesterday afternoon we received a copy of the legislation and my officers have been examining it. I have seen it briefly.

It is true to say that the legislation is complex but unfortunately it is not well drafted. In that respect both the Commonwealth and the States will face further administrative difficulties unless the problems are quickly overcome and amendments are introduced into the House of Representatives this week or next before the legislation passes into the Senate for its deliberations.

Further, it is my view that it would be preferable for there to be complementary Federal-State legislation, but in the light of developments since the Council of Australian Governments meeting was held in June, that has not been possible. I make the point that the Victorian Parliament has passed its legislation and what is contained in the Prime Minister's legislation is close to what was originally put to the Prime Minister at the COAG meeting in Melbourne.

My government has consistently taken the view that, although it does not necessarily like or agree with the decision of the High Court, we as a community are bound to accept that decision and work within its framework. That is why we produced the legislation.

Ms Marple interjected.

Mr KENNETT - It was because of the need to work within legislation that the Victorian Parliament was recalled earlier this year to pass the Land Titles Validation Bill. I have publicly made it clear to the Prime Minister, and more recently privately, that certainty is essential to Australia's economic future and that the debate on the Mabo legislation should not be prolonged. It would be desirable if the legislation in a correct and amended form passes Federal Parliament before Christmas, but in order for that to happen the administrative difficulties and one or two other areas about which we have real concerns must be dealt with.

I also make the point that some months ago I said to the Prime Minister that I did not believe it was constructive to enter into public debate on the legislation until we saw it. It has now been handed down.

There have always been a few elements that we considered crucial in addressing the Mabo legislation. The first was an adequate definition of native title. In our legislation we refer to native title as customary title. My assessment of the Commonwealth Bill in the brief time I have had to examine it is that it is similar to our own legislation in that respect and, therefore, I think we can live with that important ingredient of the legislation.

The second element is the question of validation of titles before 1 January 1994. In so far as we in Victoria are concerned, the Bill appears to meet most of our requirements. The third element, which is contained in the Federal legislation, relates to physical connection with the land claimed for native title. Again it appears that the Federal government's legislation meets our requirement, put at the COAG meeting and subsequently, that a physical connection with the land claimed should be a consideration in determining whether a claim should actually be granted.

Another issue we mentioned was the role of States in being able to use their own courts or tribunals for the purpose of hearing claims and for land management. Victoria has argued strongly for the use of courts, whereas Queensland argued for tribunals. It would appear that so long as the Commonwealth recognises, in our case, the court system and, in the cases of other States, the tribunal system as meeting the criteria and agrees to deal with our claims and our land management system, the proposed Commonwealth Bill goes a long way to meeting our requirements, although a few areas of detail will need to be clarified as soon as possible by amendment in the House of Representatives.

The fifth point is the issue of forum shopping, where a group claiming title can decide whether to apply to a Victorian court, a Queensland tribunal or to the Federal Court. We have always argued that matters of title are the responsibility of the State concerned, and therefore those in Victoria who wish to make claims, as is the case with non-Aborigines, should use our legal system.

At the moment the provision concerning forum shopping means that the Aboriginal community or an individual per se may make a claim and decide whether to use a Federal or a State process. We disagree with that because of our belief, which I think is shared by most Premiers, that title is a State responsibility.

The last issue I wish to touch on briefly - -

Ms Marple interjected.

Mr KENNETT - I thought this was a fairly important matter. I am sorry the honourable member for Altona seems to consider it to be less important.

Honourable members interjecting.

Mr KENNETT - The honourable member for Dandenong North said by interjection, "You have been going 8 minutes". This is an issue - -

The SPEAKER - Order! I ask the Premier to resume his seat. The House will come to order. The House is using up its own valuable question time. The Premier will be heard in silence.

Mr KENNETT - This issue has been before the community for months, or even for 200 years, and I would have thought that 8 minutes was not a long time to listen to a considered response on the Federal government's legislation. The next issue is the question of compensation. Victoria and all other eastern States and, I think, Territories have consistently asked for and argued that where compensation is payable before, in this case, 1 January 1994, because Mabo is a decision of the High Court and the legislation is a Federal government responsibility, the compensation should be picked up by the Federal government. That is not contained in the legislation and will differ very much for different States and Territories.

The claims on Victorian land may not be as great as claims on land in Western Australia or Queensland. But if those States have to pick up financial responsibility for what may happen down the track, you run the risk of potentially fundamentally bankrupting those States. We argue strongly that the question of compensation must be dealt with in the legislation and provision made for compensation payable before the Federal legislation proceeds to the Senate for ratification.

The legislation as presented yesterday is the result of a great deal of work. As I have indicated previously, there are a number of areas on which we can reach an accommodation. The government is prepared to try to resolve the issue of the legislation as quickly as possible in the national interest. But if the questions of forum shopping and compensation cannot be dealt with, as well as some minor amendments to ensure that the Bill is actually workable, we would oppose its passage through the Senate in the short period ahead of us. In other words, we make it clear, as we have done in the past, that we are ready to find a national solution.

Much of what we have argued and legislated for is contained in the Federal Bill. There are, nonetheless, a couple of outstanding major issues and a number of administrative issues that must be resolved.

Mr Roper interjected.

Mr KENNETT - Eleven minutes - that is right! Let me go on, Mr Speaker, because at one stage the honourable member used to work for the Aboriginal community and was its representative. Here we have a most important piece of legislation and the honourable member is worried only about the question of time.

Unlike opposition members, we have as a government and on behalf of the people of Victoria taken the question of the Mabo issue, both the legislation and the broader issue, very seriously. Time is not a factor. What is a factor is the goodwill of Parliament and the community in working together to try to resolve the issue.

The government will continue to do that even though the opposition in Victoria continues to want to be part of the process and, by its interjections today, dearly sends a message to the Aboriginal and non-Aboriginal communities that its members do not have the maturity to be part of the process.

Government Members - Hear, hear!

USE OF GOVERNMENT CAR

Government members interjecting.

The SPEAKER - Order! I warn government members that I will take action against them if they continue to interject.

Mr BRUMBY (Leader of the Opposition) - I refer the Premier to his comments made in the House on 10 November, when he said he was not aware of any occasion since he became Premier on which he had used government cars for private business related to companies which he or members of his family have had or have an interest in, and I ask: does the Premier stand by his comments and, in particular, can he assure the House that he has not used government cars to transport documents or other materials to the office of KNF Advertising in Burwood?

Mr KENNETT (Premier) - Can I just say again that the opposition raised these allegations almost five weeks ago. The community has given you the thumbs down! Your own party has given you the thumbs down!

Honourable members interjecting.

Mr KENNETT - Mr Speaker, to date on the charge that I have misused my office as Premier there has not been one scintilla of evidence. What is happening now and what was happening yesterday is a massive fishing expedition. The honourable member is hoping that something will come forward that will help charge him up and prove the claim he made four weeks ago. I can only suggest that the honourable member get back to the issues that concern the people of Victoria.

Government Members - Hear, hear!

Mr KENNETT - What he has not come to understand yet is that he may have the office of Leader of the Opposition but he does not have the authority. The authority comes from character. You may have the title but you do not have the character to lead!

Honourable members interjecting.

Mr BRUMBY (Leader of the Opposition) - On a point of order, Mr Speaker, on the question of relevance, I asked the Premier particularly to say whether or not he had used government cars to transport documents or other material to KNF Advertising in Burwood. Have you? Answer the question? Have you used government cars? Answer the question!

The SPEAKER - Order! I have had occasion in the past to advise the Leader of the Opposition that he may not address questions to Ministers in the first person. He is in breach of the Standing Orders. On the point of order, the Chair is in no position to direct a Minister how to answer a question. If the Premier should become irrelevant to the question posed, I will pull him up. I ask the Premier to conclude his answer.

Mr KENNETT (Premier) - I know the Leader of the Opposition is disappointed, as is the *Age* group. You have been trying almost on a daily basis to prove up your original allegations! If the honourable member is using as the base core of this question a call to 3AW this morning - is that what you are using?

Mr Brumby - No.

The SPEAKER - Order! The Premier, through the Chair.

Mr KENNETT - I can only suggest again to the honourable member that he produce one piece of evidence.

Mr McNamara - Put up or shut up!

Mr KENNETT - As I said earlier, this is a Leader who leads from the rear.

The SPEAKER - Order! The Premier may not use his answer to debate the merits or otherwise of the Leader of the Opposition.

Mr McNamara - There are no merits.

Mr KENNETT - Certainly we were not debating his merits - we have not discovered any yet! We will continue with the business of governing. Let the Leader of the Opposition continue to prove his absolute irrelevance to the people of Victoria and Australia.

GOVERNMENT REPRESENTATION IN GERMANY

Mr McLELLAN (Frankston East) - Will the Premier inform the House of the Victorian government's latest commitment to ensure effective representation in overseas export markets, particularly Europe, for Victorian companies?

Mr KENNETT (Premier) - Again I reinforce the urgency with which the government is working to re-establish confidence and investment in Victoria to build on the substantial international investment already in this State. As honourable members well know, Victoria has a network of Agent-General offices representing the State around the world. Significant export and trade opportunities exist for Victoria in Europe, Scandinavia and increasingly in Eastern Europe.

Therefore, it is essential for the Victorian government to have the highest quality representation in Europe to promote Victorian businesses. It is with that in mind that my colleague the Minister for Industry and Employment, who returned today from overseas, and I have been reassessing the operation of our Frankfurt office.

The government has appointed a senior German businessman with strong Victorian links, Mr Franz Dorr, as the director of the Victorian Government Business Office in Frankfurt. Mr Dorr, who has been a Victorian resident for 30 years, was the senior officer in charge of the German company Lurgi (Australia) Pty Ltd in this country for a number of years. Mr Dorr is German by birth and returns tonight to relinquish his responsibilities with Lurgi after 41 years. Rather than sending an expatriate Victorian-Australian to Germany, the government has decided to use the skills of a German with business experience and contacts to give the government entry into areas where it is looking to do business in the future.

Having worked in Australia from 1966 to 1993, and having been appointed managing director of Lurgi in Australia in 1974, Mr Dorr is a senior businessman. I am grateful that, in accepting this post, he has decided to make himself available to work for and to assist the State that was his home for so long.

I understand that the Leader of the Opposition is not interested in this particular appointment; that is understandable because it is good news and looks to the future. Mr Dorr has been active in developing Australian-German relations and was recently awarded the Order of Merit by the German government in recognition of his activities.

Mr Dorr is with us today; I place on record the government's thanks for his offer to serve. I hope as Mr Dorr looks around the Chamber he will recognise that while my government is appreciative of his ability to serve, the opposition is bereft of vision and fails to understand the need to expand Victoria's opportunities overseas. The government's Frankfurt office will be a very important link for Victoria and, I suspect, Australia. I trust and hope that with Mr Dorr's appointment the advantages to Victoria will continue to grow as we develop our opportunities around the world.

Government Members - H e a r , hear!

ROXBURGH HEIGHTS HOUSING DEVELOPMENT

Mr DOLLIS (Richmond) - Will the Minister for Planning table all documents that detail the contractual arrangements between the Urban Land Authority and the Master Builders Association of Victoria in relation to the Roxburgh Heights housing development?

Mr MACLELLAN (Minister for Planning) - I will discuss the matter with the Urban Land Authority and ask whether it has any documents it can make available.

LANGUAGES OTHER THAN ENGLISH

Mr TRAYNOR (Ballarat East) - Will the Minister for Education inform the House of government policies to improve the learning of languages other than English in Victorian schools?

Mr HAYWARD (Minister for Education) - I am sure every honourable member shares my view that it is absolutely essential we do everything possible to add value to students' time at school. One important way of doing that is to help them learn languages other than English (LOTE) in a quality way so that when they finish their education not only will they be fluent in other languages but also they will have a strong understanding of the culture of the countries involved.

That is important for improving Victorian and Australian international competitiveness and for students. Strong evidence suggests that students' work opportunities will be significantly enhanced if they can speak languages other than English. The House will probably recall that early this year I announced a Ministerial Advisory Council on Languages to be chaired by the honourable member for Warrandyte. The honourable member for Malvern is also a member of that council together with teachers from government, Catholic and independent schools. I pay tribute to members of the council who have worked diligently and with high quality effort. I thank them for their work.

Today I released the council's language strategy plan, which contains a number of major recommendations for the improvement of the learning of LOTE in Victorian schools. The recommendations of the council, which I have accepted in principle, include all schools teaching students in years preparatory to year 10 a language other than English by the year 2000, and with a special effort to encourage and increase LOTE education in years 11 and 12. The education of students in years 11 and 12 is very much involved with the subjects they choose for their Victorian certificate of education. Another recommendation I have accepted is the priority employment of teachers of languages other than English.

Honourable members interjecting.

The SPEAKER - Order! The level of conversation is far too high. The Chair is having difficulty hearing what the Minister is saying and I am sure other honourable members are, too.

Mr HAYWARD - It is a shame that opposition members show such a lack of interest and commitment to students. When in government they never understood the importance of foreign language learning in our schools. They did nothing effective to increase the quality of the learning of languages other than English in our schools. The dreadful sounds that are coming from the other side of the House reinforce that. It is an absolute disgrace what they did to education!

Honourable members interjecting.

The SPEAKER - Order! I remind honourable members that they are wasting their own question time. I remind the honourable member for Altona that members who continue conversations when the Speaker is on his feet have been named.

Mr HAYWARD - Honourable members opposite are irrelevant; we will not bother with them. The significance of this measure is that for the first time in Australia a coordinated approach to foreign language teaching for all sectors of education - government, Catholic and independent schools - will be introduced. We all have a strong responsibility to students in foreign language teaching. It was ridiculous that a coordinated effort at a local level between all sectors of education for language teaching was not implemented in the past. It provides the opportunity to share the expert skills of language teachers across all sectors.

The government has made a significant commitment to increasing the number of teachers it provides to schools specifically to teach languages other than English. The number of primary teachers allocated for that purpose will rise from 131 this year to 218 next year. The number of secondary teachers allocated for that purpose will rise from 12 to 258.

Importantly, the government is committed to a balanced approach to foreign language teaching in our schools: in other words, a balance of Asian and European languages will be achieved. In the early stages it may be necessary to put additional effort into Asian language teaching because of the dreadful imbalance that exists in government schools. That is a reflection of the mismanagement of the Labor Party when in government.

Recent government initiatives such as providing satellite dishes to all schools will increase their ability to deliver high quality foreign language teaching to students and will also provide the opportunity for expert language teachers in schools to share their skills with students in other schools. It is clear that an increase in the teaching of foreign languages - not only in terms of numbers but also in the quality of language teaching - will assist students to complete secondary school fluent in languages, and that is important to the State, to Australia and to individual students.

STAFFING FORMULAS

Mr SANDON (Carrum) - Will the Minister for Education assure the House that the impact of the new staffing formulas he will be issuing this week will not lead to increased class sizes, reduce curriculum choice or a reduction in services for students?

Mr HAYWARD (Minister for Education) - That is a dorothy dixer for which I thank the honourable member. It is clear from an examination of the staffing formulas that if teachers are prepared to slightly increase their face-to-face contact time with students, there is no need to increase class sizes or to cut important programs. That is important, because at present face-to-face teaching time in Victoria is relatively low by Australian standards. It is also clear that the 1994 formulas will be generous by average Australian standards.

FINANCIAL MANAGEMENT BILL

Introduction and first reading

For Mr STOCKDALE (Treasurer), Mr Maclellan introduced a Bill relating to financial management to repeal the Public Account Act 1958 and the Annual Reporting Act 1983, to make consequential amendments to other Acts and for other purposes.

Read first time.

AUDIT BILL

For Mr STOCKDALE O'reasurer), Mr Maclellan introduced a Bill to provide for the Office of Auditor-General and the audit of public accounts, to amend, and repeal, the Audit Act 1958, to repeal or amend certain other Acts and for other purposes.

Read first time.

NURSES BILL

The SPEAKER - Order! As a statement has been made under section 85(5)(c) of the Constitution Act, I am of the opinion that the second reading of this Bill is required to be passed by an absolute majority of the House.

Government amendments circulated by Mrs TEHAN (Minister for Health) pursuant to Sessional Orders.

Second reading

Debate resumed from 21 October; motion of Mrs TEHAN (Minister for Health).

Mr ROPER (Coburg) - This legislation is a dangerous and backward step both for the safety of patients and for the future quality of the nursing profession in the State. An acceptable and balanced process that has developed since 1923 is being replaced by a tame cat Ministerial-appointed board which will have powers subject only to the Minister's whim and which can be directed by the Minister to effectively take any action she so wishes.

It is possible for a tyrannical Minister and head of department - certainly, that is starting to be said about both - to have unprecedented powers and to ensure that by the appointment of a yes-person board it will be possible for the government, under the definition of misconduct, to discipline and even deregister nurses who take any action that does not meet with the approval of either the Minister or Dr Paterson. This legislation destroys the independence the Victorian Nursing Council has traditionally had since 1923 and will ensure that the Nursing Council will be subject to the whim of the government.

The attitude of the government to health and welfare professionals has clearly been set out by the head of the health department in several of speeches in which he made it absolutely clear that he believes health professionals are working for their own benefit rather than for the benefit of their patients. He has developed an unhealthy obsession with rice bowls, suggesting that health professionals are more concerned with their rice bowls than they are with patient care, which is an interesting comment from someone whose rice bowl has been filled 10 times over by this Minister and the government.

In addition to the problems the future board presents to the quality of care and to justice in Victoria, it will allow nurses who are simply not adequately trained and experienced to carry out a variety of treatments and attentions to patients in areas such as psychiatry and midwifery where the lives of patients can be placed at risk.

The opposition does not oppose changes in the Nurses Act, but what the opposition favours is genuine reform and improvement. The opposition's amendments to the nursing Act would be based on democracy, equality and fairness and, indeed, that was the basis of the process started by the previous Labor government in 1989. I draw to the attention of the House the detailed report issued by the Labor Minister for Health at that time, Caroline Hogg, on the registration of health practitioners. She said that the basis of registration is the most direct, effective and least restrictive method of dealing with the serious risk to the mental and physical wellbeing of the community; and the benefits to the community will clearly outweigh the potential negative impact of legislation that would be the basis for regulation.

Page 3 of that report on the terms and conditions for regulation set out several principles that were the result of a framework in the joint Law Reform Commission-Regulation Review Unit report. It said, firstly, that the proposed system of regulation must benefit the public. The opposition will demonstrate during the debate that on that test there are severe weaknesses in this measure. It said, secondly, that the proposed system of regulation must be the most effective way of correcting problems; that is not the case in this Bill. It said that occupational regulation should be the minimum necessary to alleviate problems, and the benefits of occupational regulation must outweigh its costs.

No-one suggests that the nursing profession should not be the subject of occupational regulation but any legislation must satisfy the criteria for assessment set out in the report released by Mrs Hogg. They are, firstly, whether unregulated practice will harm public health safety or welfare; whether existing protections are insufficient; whether there are any alternatives to regulation; whether regulation will reduce existing problems; whether the occupation is well defined; and whether the occupation possesses knowledge, skills and abilities that are teachable and testable.

The report released by the then Minister for Health said that each registration Act should state that the purpose of the registration is to protect the public by creating and maintaining adequate standards of practice for health practitioners. That is not what the Minister's second-reading notes mean when they

state that the primary purpose of registration is to protect the public. The Minister goes on to say "rather than promote the interests of the profession concerned". Unfortunately the Minister's legislation has achieved not that stated aim.

Regulation of the nursing profession has a long history in this State. Proposed legislation first came to this House prior to 1920 and the aim of the legislation that was finally introduced in 1923 was expressed, according to the *Hansard* of that time, in these terms:

> The measure, if passed, will give the public additional protection, inasmuch as people will be sure that every nurse is qualified for the work she is called upon to undertake in private houses as well as in the different hospitals.

It is worth remembering the use of the expression "the work she is called upon to undertake". At that stage nursing was seen very much as a female profession. The opposition will be discussing during the course of this debate the way particular forms, qualities and qualifications of nursing relate to that original purpose.

By way of an aside, it is interesting also to read the debate on the original legislation about the way members of the community would know whether a nurse was registered. The first proposal was that nurses would wear a particular badge. It was put to the then Minister, Major Baird, that there should also be a uniform. It is something I do not think any Minister would now say, but his comment in answer to the question, 'What is the difficulty in regard to uniform?" was, "They say that a certain uniform might suit the complexion of one nurse but not another". Later, after there had been a change of Ministers, it was suggested that a badge would not be enough and nurses should also wear a form of headdress. When asked whether that condition be set by Parliament the new Minister, Dr Argyle, said, '1t would be improper for a mere man to attempt to do that. It will be left for the board". He also talked of the high cost of laundering uniforms.

This legislation should be carrying on the traditions of independence and quality that were started in 1923; it does not. Instead, it promotes the interest of the government. Part of the problem with the legislation is that the process that brought the legislation to Parliament is flawed. There has been a lack of consideration for the views of various expert bodies in the profession and the legislation should have had a significant level of public discussion after it was tabled in this place. It has not, and even the Scrutiny of Acts and Regulations Committee of this Parliament was not able, because of time constraints imposed by the government, to respond to the requests that came before it.

The Australian Nursing Federation (ANF) in a letter to Mr Perton, the Chairman of the Scrutiny of Acts and Regulations Committee, made the point that the proposed legislation so seriously departs from the existing and accepted provisions currently regarding nursing as to contravene natural justice principles and civil liberties and to jeopardise public interest and the delivery of patient care. Because of that it said:

> Due to the far-reaching implications this piece of legislation will have upon individual nurses, the profession collectively and in the public interests, I request an urgent meeting to put before you in detail our objection to the provisions in this proposed Act.

The ANF was told by the chairman of the committee that there would not be time for evidence to be given to the committee. I believe that was a serious error made by both the government and the committee, which should have had adequate time to consider the matter and report to Parliament. Merely sending the ANF's letter to the Minister and then printing parts of that letter with her comments is not an adequate scrutiny of the legislation.

It is not only the Australian Nursing Federation that has adopted a view of concern about this process. The President of the Royal College of Nursing, Australia, Victorian Chapter, Mrs Stevens, wrote to me on 5 November also expressing the membership's serious concerns in relation to the Nurses Bill 1993. The letter further states:

> Specifically, those concerns relate to the lack of response to initial consultations with the profession and the inadequacy of the consultative process.
>
> Most evident is the fact that very little change has been made to the Bill, despite numerous submissions made by various groups and organisations representing the nursing profession. Clearly the process of consultation has been inadequate, and it now appears that the State government is keen to rush the Bill through Parliament.

Regrettably Mrs Stevens is right. This is the kind of legislation that used to be introduced and given a reasonable time for community and professional discussion before it was proceeded with. Often it

was the kind of legislation that was encouraged to be laid over between sessions.

Mrs Stevens went on to tell me:

> In its current form, the Nurses Bill 1993 is not acceptable to members of the nursing profession. The time available between the second and the third readings of this Bill is insufficient to consult with membership.

She then requests that there be a deferral to allow meaningful consultation to occur.

The view of the College of Nursing - a professional organisation that hardly has a reputation for radical or extreme behaviour - has been reinforced not only by unions representing nurses in the State but by many individual nurses as well.

Among the many letters that I have received in respect of this matter was one from a Ms Barbara Dann of Mooroopna, a country district in the electorate of the honourable member for Shepparton, again asking for more time for the legislation to be considered. Her concerns - and I will be dealing with them - were specific to midwifery, and they were as follows:

> Firstly the undemocratic process of determining board membership and the potential that this presents to Ministerial influence. Secondly public safety is not protected by this Bill in that there is no requirement that those providing care are qualified and competent to do so. Thirdly there has been no recognition of the history and worldwide practices of the separateness and independence of the profession of midwifery.

The concern at rushing the legislation through and the type of legislation is reflected throughout the nursing profession in Victoria. As I said before, no-one is suggesting that there should not be change. No-one is suggesting that the previous Victorian Nursing Council did not need changing: it was recognised that the council was too big, and anyone who wishes to see the size of the council, which was 29 members, can look at section 4 of the existing Nurses Act, which sets out the composition of the council.

However, the membership ensured that a broad-ranging viewpoint was available to the council, to the government and the community. It allowed for people generally representing nurses and nurses representing strands of nursing to be on the council.

Certainly the opposition does not oppose the idea of changing the size and composition of the VNC, but its replacement will be a council that will be appointed at the whim of the Minister: a Minister who, in her second-reading speech, presented Parliament with an appalling view of democracy. Parliament should be reminded of what she said. The Minister said:

> that the nursing profession would prefer to elect some members of the board ...

However, she then said:

> it is considered that elected members could be perceived to be beholden to those who elect them. Any suggestion of a conflict of interest could have the unfortunate consequence of undermining public confidence in the board.

I put to the Minister two matters in relation to that statement. Firstly, it is a quaint view for an elected member of this House to suggest that the process of election will automatically undermine public confidence; and secondly, to suggest that the elected members of the VNC have undermined public confidence.

Dr Napthine interjected.

Mr ROPER - I suggest to the Minister and even to the honourable member for Portland, who may understand some aspects of this issue, even though nurses do not believe he does, that the community has very significant levels of public confidence in the nursing profession and the council.

It is significant that the government has deliberately departed from a process of election and appointment that governs many other health registration boards. Certainly the memberships of some boards are all appointed while others are part appointed and part elected. If the government is adopting a new principle I wonder where that places such boards as the Pharmacy Board of Victoria, the Dental Board of Victoria and the Dental Technicians Licensing Committee, to name but three, the memberships of which are not simply appointed at the whim of the Minister.

I direct the attention of the House to section 4 of the Pharmacists Act, which sets out the membership of the Pharmacy Board. It says firstly:

> (a) one shall be a registered pharmacist -

and it goes on to list the activities in which that pharmacist will be engaged -

> nominated by the Minister from a panel of at least three names submitted to him by The Pharmaceutical Society of Victoria;

The section provides that one - and again there are different categories of person - shall be drawn from a panel submitted by the Pharmacy Guild of Australia (Victorian Branch); another from a panel submitted by the Pharmaceutical Society of Victoria; another by the Society of Hospital Pharmacists of Australia (Victorian State Branch); another from the Salaried Pharmaceutical Chemists Association, and that:

> five shall be registered pharmacists elected as prescribed by the registered pharmacists.

What could be further from this measure than the Pharmacy Board or the Dental Board? In the case of the Dental Board, section 4 of the Dentists Act provides that:

> Five members of the Board shall be dentists appointed after election by the dentists of Victoria and the remaining two members shall be dentists appointed without election.

Similar provisions apply in the dental technicians legislation.

The Minister for Health says she will call for nominations from the profession for appropriately qualified nurses. However, often individuals appointed to hospital boards have not even had the courtesy of contacting the boards about being members; they have gone straight to the Minister and her party and been appointed. Indeed, concern is expressed by the nursing profession that people appointed to the Nurses Board will be yes-men and yes-women whose prime qualifications will be support for the government and membership of the Liberal Party. That is the prime qualification for new appointments to hospital boards.

Not only is it the case that the Minister will appoint at her whim all the members of the Nurses Board without either an election or a requirement to consult with the organisations concerned, but clause 68 will allow members of the board to be removed at the whim of the Minister through the Governor in Council. The same applies for an acting member of the board. That provision will seriously restrict the independence of board members because they will know that at any stage they can be removed by the Minister. That process will introduce the fear of reprisal into the operation of the nursing profession.

As if those problems were not enough - the Minister being able to appoint the board without any election or consultation and to remove a person from the board without giving reasons - the board must consult with the Minister and have regard to the Minister's advice in carrying out its functions and exercising its powers. That means if the board receives advice from the Minister about a disciplinary matter or the accreditation of a course or any other matter it must have regard to the Minister's advice.

Clause 65(1)0) states that when so requested by the Minister the board must give to the Minister any information reasonably required by the Minister. That may relate to the individual circumstance of a particular nurse. The Minister appoints, dismisses, directs and may call for any information without hindrance. The Minister may make regulations with no suggestion that there should be advice or consultation with the board. Regulations may be introduced about which the board can have no say at all. At any stage the government can do what it wishes in so far as the nursing profession and individual nurses are concerned.

The first concern of the Australian Nursing Federation in its letter to the Chairman of the Scrutiny of Acts and Regulations Committee was the abolition of a nurses board with elected members and its replacement by a Ministerially appointed board. The letter states that that is a denial of the democratic process which has been the right of the profession since its introduction. It is significant that the committee said that may be a denial of rights and referred the issue to Parliament. The reality is that the independence of the former Victorian Nursing Council, now the Nurses Board, which has been in place for 70 years, is being attacked by the legislation - indeed, not just being attacked, but being ended.

To prevent that and to ensure that other improvements are made to the legislation I move:

> That all the words after "That" be omitted with the view of inserting in place thereof the words "this Bill be withdrawn and redrafted to provide that - (a) half the board membership be elected nurses; and (b) patients continue to be protected by ensuring that there is specific provision for nurses practising in areas of speciality such as psychiatry, midwifery, and maternal

and child health to have appropriate qualifications and clinical experience".

The opposition believes that some members of the new board should be elected. If the government is so averse to the idea of an election, as it seems to be, at least there should be a statutory requirement for the government and the Minister to consult with the various professional groups that traditionally it has had to consult with, but the government does not wish to do that.

Dwing the Committee stage the opposition will move a number of amendments the aim of which is to reduce most of the extreme elements of the Minister's power. The opposition wants to introduce basic procedural protection against political manipulation of an allegedly independent body. The opposition believes there should be a number of protections against the political manipulation of the Nurses Board by the government.

I tum now to the next area of concern that the nursing profession has about the legislation: the clumsy and dangerous handling of registration. The legislation will allow nurses without adequate qualifications and clinical experience to practise in areas where they can do considerable harm to patients. It will be possible under the legislation for inadequately trained and experienced nurses to deliver babies, to treat psychiatric patients, to take care of the intellectually disabled and to advise mothers about the health of their children.

The House need not take my word about those concerns. I received a letter from the convenor of the School of Nursing of Victoria, Ann Woodruff, from the Victoria University of Technology, who is extremely concerned about provisions in the Bill. Ms Woodruff wrote to me:

> We were notified yesterday that there seems to be a misapprehension about the nature of the safe areas of beginning practice of graduates from pre-registration general nursing courses currently conducted in Victoria.

She continues:

> Therefore we do not believe that graduates of three-year programs are prepared upon first registration to practise in areas of psychiatric and mental retardation nursing, which would seem to be the consequence of entry to the A Register upon graduation.

She then states:

> The Heads of Schools of Nursing, Victoria, ask that the dangers to both consumers and graduates of inadequately prepared nurses being registered to practise in psychiatric and mental retardation nursing be raised in debate.

I mentioned earlier the reasons for Acts for the registration of health professions. Those reasons relate not to the professional interests of a group of people but to the protection of the people who require their services.

The letter to me from the Heads of Schools of Nursing, Victoria, makes it clear that they do not believe there will be adequate protection. The Heads of Schools of Nursing did not write just to me; they also wrote to the Parliamentary Secretary to the Minister for Health, the honourable member for Portland. They said to him - and he took no notice of it:

> The present pre-registration nursing courses in Victoria cannot be described nor function as comprehensive programs, as their three-year duration prepares graduates only to begin practice in acute care, extended care and community nursing.

The letter goes on to say to the honourable member for Portland:

> Our failure to obtain a four-year pre-registration program, together with the introduction of direct entry tertiary courses in psychiatric and mental retardation nursing, caused us to limit the teaching hours in these areas. Additionally, due to the introduction of these new tertiary programs it was found to be not possible to obtain sufficient clinical placements to support the psychiatric and mental retardation theoretical content of the proposed four-year curriculum.

The letter advises the Minister's Parliamentary secretary, and presumably he advised the Minister for Health accordingly, that:

> We, therefore, do not believe that our present pre-registration general nursing courses adequately prepare graduates to enter beginning practice in these areas, and cannot be described at this time as "comprehensively" educated in the accepted sense as "beginning practitioners in the areas of general, psychiatric and mental retardation nursing".

It would be hard to find a stronger condemnation of a part of legislation than that contained in the letters

to me and the Parliamentary Secretary to the Minister for Health.

However, that was not sufficient for the government to take note of it, and it has ignored other advice as well. Representatives of the Australian Nursing Federation said to the Scrutiny of Acts and Regulations Committee:

> The collapsing of multiple registers, which in the past have regulated and appropriately restricted nurses to specific areas of practice, transfers the onus of regulating nursing practice from the regulatory body to the individual and will result in increased liability for both the nurse and the employer.

That matter was specifically taken up with the Minister's officers when the committee discussed the Bill with them. The officers responded by saying on behalf of the government that patients will now be protected because of the employers' duty of care. I shall make it clear what that means in effect. It means that people will be protected after the disaster; the lack of care comes after the disaster, whether it be in psychiatry, midwifery or the other areas. According to members of the nursing profession the standard of patient care will decline. One may well ask how that is in the public interest in terms of the tests that I mentioned earlier.

I shall refer to the various areas of nursing, and firstly to psychiatric nursing. The secretary of the Public Sector Psychiatrists Association of Victoria, Asger Sturup, wrote to me on 11 November saying:

> Despite the rhetoric of the Hon. Marie Tehan's presentation speech it seems that the Bill opens the way for inadequately trained nurses to work with psychiatric patients. This has the potential to put both nurse practitioners and their patients at risk. I know that many generally trained nurses feel uncertain and threatened by this possibility.

The association had earlier written to the Minister for Health on 8 November expressing similar concerns and stating:

> Of particular concern to the association is the possibility under section 60 for nurses listed under division one to be eligible and available to work at all levels as psychiatric nurses without adequate, formal, specialised training in psychiatric care and treatment.

The letter continues:

> this could lower the standard of specialised care available for patients in need of psychiatric treatment. Potentially could lead to both inadequately trained nursing staff and their patients being put at risk especially where dangerous patients may be involved.

That is a vigorous statement from a normally conservative professional association. The association informed the Minister that well trained and competent professional nurses were needed for the treabnent and wellbeing of psychiatric patients. It states:

> Anything short of that level of expertise raises serious concerns as to the potentially dangerous situation that may arise involving the health and safety of both nurses and patients.

The association said it would be happy to discuss the matter with the Minister and her advisers in more detail.

It is not only psychiatrists who are concerned about the change. In a detailed letter, the Health and Community Services Union - -

Mrs Tehan interjected.

Mr ROPER - Now the Minister attacks the union. Presumably she also attacks the psychiatrists, the ANF and the nursing profession as a whole - that is, all those who have expressed legitimate concerns about the effect of this Bill on patient care.

In a letter to the Minister dated 28 October, the Health and Community Services Union made clear that it had concerns - -

Mrs Tehan - Who signed it?

Mr ROPER - It is signed by Kaye Williams, who is the State secretary as well as a member of the Nursing Council.

Dr Napthine - That's what happens when you have elected members.

Mr ROPER - I take up the interjection of the honourable member for Portland, who says that that is what happens when you have elected members.

The DEPUTY SPEAKER (Mr J. F. McGrath) - Order! I inform the honourable member for Portland that interjections are disorderly and I advise the

honourable member for Coburg that he should ignore them.

Mr ROPER - Not only is it a disorderly interjection, Mr Deputy Speaker, but it is a disgraceful point of view to suggest that nurses who have been elected by other nurses to the nursing council have not adequately carried out their responsibilities to the nursing profession and patients in this State since that process was introduced.

I direct to the attention of the honourable member for Portland the details of the letter. He may denigrate individual union officials as critics of the government in this area, but he cannot dismiss their cogent arguments that the government has this legislation wrong in a number of significant aspects. The letter states:

> The implication of such legislation is that nurses who have, and shall have completed the current undergraduate general nurse education program up until 1995 are de facto comprehensive-generic trained nurses capable of practising safely and efficiently in any of the current branches of nursing including psychiatry and intellectual disabilities. Of course this is not the case.
>
> The Bill implies that such nurses shall be capable of entering psychiatry and commence practising as an independent practitioner at any level within the psychiatric nursing structure without supervision and able to perform the full range of duties ordinarily performed by three year trained psychiatric nurses.

It continues:

> Moreover, the Bill suggests that such general trained nurses may not only enter at any level within the structure and practice, but may also practice unsupervised in any area of psychiatry, eg, community, forensic, child and adolescent etc.

The Health and Community Services Union, supported by the psychiatrists and nursing educators in the correspondence I read earlier says:

> The current undergraduate program does not adequately prepare such graduates to perform as independent practitioners outside the specific area of nursing to which they are specifically trained. The consequences of the Bill as it stands is that psychiatric patients who would be entrusted into the care of such nurses would be receiving a diminished standard of care due to the lack of appropriate preparation and training. You would be aware of this particular point was strongly emphasised within the Burdekin report.

The union expressed its concern for the welfare of patients and also for the health and safety of members employed in the psychiatric services in Victoria suggesting that:

> these nurses themselves would be placed at risk as a result of the inadequate undergraduate or postgraduate preparation in psychiatry.

That is the view of the nurses, psychiatrists and teachers, and they have conveyed that to both the opposition and the government. That should be of great concern to members of this House, and similar concerns have been expressed about intellectual disability services as well.

Midwives have also expressed great concern about the effects of the Bill. The legislation says that a person cannot describe himself or herself as a midwife without the appropriate qualifications and registration, but it does not in any way suggest that people who are not midwives cannot carry out the duties and responsibilities of midwives as long as they do not call themselves midwives.

The concerns of members of the profession were demonstrated in the letter I quoted earlier from Ms Dann of Mooroopna in which the author, a midwife, points out:

> Under this section I could legally obtain work in the area of psychiatric nursing (division 3), yet I have minimal education and competencies in that area. Surely this does not protect public safety.

In relation to midwifery she states:

> Whilst this section makes it an offence for a registered nurse to call themselves a midwife, it does not prevent an enrolled nurse or any other member of the public who is not a nurse calling themselves a midwife. This is dangerous to the child-bearing population and offensive to midwives.

Here again the professional organisations have been consistent in their ringing of the alarm bells for the government.

I received an extensive submission from the Australian College of Midwives Incorporated (ACMI} dated 12 November and I understand that the government also received it. The letter was signed by Margery Priestley, the State president, and

Maxine Reid, the State secretary. Their concern is not simply for midwives but more importantly for the safety of their patients and offspring. The letter refers to the *Final Report: Review of Registration for Health Practitioners (December 1990, Health Department Victoria),* which states:

> the purpose of a registration Act is to protect the public "by creating and maintaining adequate standards of practice for health practitioners".

The college of midwives say:

> We do not believe that this Act fully meets the criteria as there appears to be no prohibition on non-nurses and non-midwives practising in clinical settings.

The college points out to both the opposition and the government that:

> With the discontinuance of clinical speciality registers, we anticipate that there will be problems regarding risk management and legal liability because nursing specialities, particularly psychiatry and midwifery, require specific skills.

The letter adds to what has already been said in relation to psychiatry:

> The undergraduate education program as it is currently formulated does not produce a "comprehensive" nurse as some persons will insist on believing. The graduates of these programs, as well as those conducting such programs, aclcnowledge that a three-year undergraduate nursing course can only produce a beginning generalist practitioner.

It then goes on to warn the government:

> There is a risk of utilising nursing staff inappropriately, with no attention given to skills level or clinical expertise. This concept is further compounded in today's economic climate where professional intimidation could be used to force nurses to undertake duties that they are not educated in or experienced enough to perform.

That raises the dependence of the government on the duty of care of the employer. Must we have both mothers and babies damaged even to the point of dieath for the government to understand that it is reducing the protection that has been provided in tlhis community for a long time?

In an addition to the submission that I received today the college refers to clause 60 and the effects of registration divisions:

> It appears to the ACMI, Victorian Branch, that this clause will allow general nurses to practise across the specialties of midwifery and maternal and child health nursing without the postgraduate qualifications or clinical skills (provided they don't call themselves "midwife"...
>
> A Nurses Act should clearly state the areas of practice for various categories of nurses as a matter of public protection. There is nowhere in the Act that defines areas of practice. We emphasise again that the new nursing graduate is not a so-called comprehensive nurse and does not have the knowledge or skills to function beyond the area of general nurses without undertaking further qualifications.

In the letter I received today, Margery Priestly, President of the Australian College of Midwives, adds to her concern about the lack of training and experience of the comprehensive nurse.

I direct to the attention of the Minister the letter of 17 November, which states:

> Current undergraduate nursing programs are designed to produce a beginning practitioner in general nursing only. Curricula allow for a maximum of 40 hours of theory in maternity nursing with 1-2 weeks of clinical experience as observers in a maternity unit i.e. no "hands on" experience. This does not produce a registered nurse knowledgeable enough or sufficiently skilled to work in areas of midwifery or maternal and child health, even under supervision.
>
> I understand some universities are considering dropping maternity nursing from the undergraduate nursing program because of timing constraints and difficulty getting appropriate placements in clinical settings even for observation. Victoria University (Altona campus) does not include maternity nursing in their nursing curriculum.

That should alarm all members of this place because under the legislation it will be possible for a person to carry out the role of midwife without the training and experience required, so long as that person does not call herself a midwife.

The letter states that it is the professional opinion of the Midwives College that "nursing graduates from current undergraduate programs are not comprehensive nurses but beginning practitioners in

general nursing only". That should concern all honourable members. It certainly concerns the opposition.

The same concerns have been expressed in relation to maternal and child health nurses. These highly experienced nurses provide a crucial level of advice and assistance to mothers of young children. The legislation will result in employers being left to determine whether those skills are required for future appointments. One of the government's significant aims in its approach to changing the standard of maternal and child health services in Victoria is to reduce the cost, and the Bill has the potential to achieve that. People who do not have the appropriate qualifications will be able to take jobs in the area of maternal and child health care.

The various professional organisations are expressing concern about psychiatric nursing, intellectual disability nursing, midwifery and maternal and child health nursing. In respect of mothercraft nursing, correspondence from Miss Anne Holloway, the Acting Head of the Department of Child-Care Studies at the Swinburne University of Technology, states:

> We feel there has been insufficient discussion of the implementations if preschool mothercraft nurses are unable to be registered after 1995. We feel the Act is being rushed through Parliament and we encourage you to do whatever is possible to delay the proceedings.

Those involved in the teaching and training of nurses are drawing the matter to our attention, and they have the support of the union that represents mothercraft nurses. In a recent letter Mr John Neil, the State Secretary of the Australian Liquor, Hospitality and Miscellaneous Workers Union, points out that the union's representations for mothercraft nurses have been effectively ignored because the legislation introduced by the government no longer provides for the registration of mothercraft nurses. Mr Neil says that will have an effect on the quality of child-care that is delivered to families.

The Department of Child Care Studies at Swinburne University, the union that represents nurses and individual teachers are raising the same issues. A facsimile from Ms Jennifer Fisher, a teacher at Box Hill College, states:

> Professional registration of these nurses is a powerful check balance for quality care as well as allowing them to be eligible to work in hospitals and allied health settings.

Dr Napthine interjected.

Mr ROPER - The honourable member for Portland does not like the fact that teachers see the existing' system, which he wants to change, as a powerful check to ensure that children receive quality care. Another group of teachers and professionals and their representative organisations is expressing concern about the legislation.

Further consideration needs to be given to the arrangements set out in the legislation for the way in which practising certificates are provided for qualifications that may be regarded as equivalent. I do not necessarily have the same concern about the registration of nurses with overseas qualifications, but I understand the concern of a number of nursing organisations that if the board is totally under the government's thumb, as the legislation provides, there could be some unfortunate registrations.

It is desirable to provide for restricted registrations. When I was the Minister for Health the then government introduced those kinds of provisions for the medical profession. The proposals were opposed in the Legislative Council but were finally adopted after the ethnic communities had made their views known to members of the Liberal and National parties. If there is inadequate provision for dealing with professionally qualified people from overseas and interstate and some students who are currently in training - -

Mrs Tehan interjected.

Mr ROPER - The Minister says no. I hope the course coordinator at the faculty of health and behavioural sciences at Deakin University who wrote to me on 27 October also wrote to the Minister, because he pointed out that the legislation would prevent part-time students from joining the register and that it would affect students who have already submitted their entry forms for the 1994 courses. The legislation needs to be amended to overcome that problem.

There is a more basic problem, which I have described: the third area of concern - the first being the fact that it is now a totally appointed board and the second being that it will allow nurses without adequate training and experience into areas of practice - is the issue of discipline.

That should also be of concern to members of the House. The proposed legislation will introduce substantial new arrangements. Clause 3 defines "unprofessional conduct" as:

(a) professional conduct which is of a lesser standard than that which the public might reasonably expect of a registered nurse; or

(b) professional misconduct; or

(c) a charge of an indictable offence or of an offence which affects the nurse's ability to continue to practise which has been found proven or of which the nurse has been convicted.

The issue of professional conduct is a profound reason for the continuation of regulation in the health professions. The opposition is concerned about the three forms included in the Bill. The first is that the government could have made a better fist of satisfying the recommendations in the final report of the review of registration for health practitioners which referred to four areas relating to disciplinary matters. The report states:

(a) the practitioner is careless, incompetent or has demonstrated a pattern of substandard practice; or

(b) the practitioner has been convicted of an indictable offence, or an offence against the relevant board's Act or an offence against the Drugs, Poisons and Controlled Substances Act 1981, which reflects on the practitioner's ability to continue to practise, or in any of the above circumstances a charge is found to be proven but the court does not enter a conviction; or

(c) the practitioner is guilty of unprofessional conduct; or

(d) the practitioner is guilty of infamous conduct in a professional respect.

Although they are the recommendations of the review panel, the Bill deals with only certain aspects. The Australian Nursing Federation conveyed to the government and to the Scrutiny of Acts and Regulations Committee its concerns. The first is the abolition of the common-law test of objectivity of what would be expected of a reasonable nurse and the replacement test of the standard expected by the public. Honourable members may be asking members of the public to make evaluations which they are not qualified to make.

The Minister's response referred to a recent medical negligence case, but I do not believe the detail of that case deals fully with the concerns that the ANF has raised. The Scrutiny of Acts and Regulations Committee noted the Minister's response and said that it may lead to a reduction in rights. The opposition is concerned not so much about the reduction of rights in this clause but rather that it could lead to a situation where a nurse is not appropriately judged, which could affect patients as well.

The opposition's greatest concern is that when it asked the Minister's officers whether the term "professional misconduct" could cover an industrial situation, they were not able say "No". It is obvious that the government has deliberately removed section 23C(2) of the Nurses Act, which states:

> A nurse is not guilty of professional misconduct only on the ground of action taken by that nurse pursuant to an industrial dispute.

The fact that the government has deliberately omitted the provision from the legislation speaks volumes for what the government means by "professional misconduct" and also what the underlying aim of the Minister and the head of her department is in this proposed legislation. The government intends to use the Nurses Board to interpret "professional" in a way that will enable the Minister to take actions against nurses who engage in industrial action.

Dr Napthine - Rubbish!

Mr ROPER - The structure of the board, the way in which the Minister can direct the board and the fact that the government has deliberately removed the provision that protected nurses if they took industrial action demonstrates the real purpose of the government. The opposition believes it will be only a matter of time before the provisions are used in a way that has not occurred in Victoria in its recent history.

I am sure many honourable members do not appreciate industrial action being taken by nurses. When I was Minister for Health I was on the other side of such industrial action. Although governments and the community can feel annoyed about such action, it should not result in the introduction of legislation that removes provisions that protect nurses if they take industrial action.

Mrs Tehan - If they neglect their patients in the course of such action.

Dr Napthine interjected.

Mr ROPER - The Minister says that they neglect their patients.

Mrs Tehan - I said if they neglect their patients.

Mr ROPER - The honourable member for Portland said they neglect their patients when they take industrial actions, which should be an offence.

Dr Napthine - I said it shouldn't be a defence.

Mr ROPER - The Bill clearly sets out the government's intentions.

Dr Napthine - Absolutely. It shouldn't be a defence.

Mr ROPER - He says, "Absolutely, it should be an offence". That means the honourable member for Portland, the Minister and the head of the Department of Health and Community Services will use these new arrangements if nurses take action as a result of the Budget cuts that the government has introduced, cuts that have already affected the role performed by nurses in caring for their patients.

Mr Doyle - Shouldn't the patients always come first?

Mr ROPER - With this government patients do not come first. Patients come after Budget targets. Patients come after the head of the Department of Health and Community Services looks after the public relations program of the Minister for Health.

Over the years the Nursing Council has adopted the practice of making it clear that no legislation should interfere with the rights of nurses to take industrial action. Unfortunately, that is exactly what this legislation is designed to do. The opposition also expresses concern about aspects of disciplinary provisions. The government should provide a better definition and description of "incapacity". It is important that there be a redrafting of the provision to remove uncertainty.

The opposition also believes the disciplinary process should be improved. In each of the three areas of the process the person who is the subject of an action is not given adequate protection in that there are no time limits. It would be useful if, during the Committee stage, the Minister made clear her intentions regarding suspension, investigation and hearings, because it is possible that the hearings will drag on and problems will arise because a time limit is not included. I ask the Minister to consider that matter.

I also ask that the rights of appeal be readdressed. When panels are set up by the new board, it is not guaranteed that those panels will contain a member of the nursing profession whether they are set up by board members or set up under clauses 47 and 48. The opposition also believes when panel members are drawn from the board or from outside the board a registered nurse should be a member. The opposition also believes appeals to the Administrative Appeals Tribunal should be subject not only to a determination of a formal hearing but also to a finding of a formal hearing.

Earlier I mentioned that there were problems with the definition of incapacity, and the opposition believes more specific attention should be paid to a nurse who is habitually intoxicated or has an habitual addiction to a drug of dependence. It has been suggested to the opposition and the government that words similar to those in the existing legislation would be more appropriate and less open to misinterpretation at a later stage of the disciplinary provisions. The opposition has a number of concerns about the definition.

The opposition also draws to the attention of the Minister and the House the discretion under clause 9 of the Bill which allows the board to impose any conditions, limitations or restrictions on registration that it considers appropriate. It is also concerned about clause 14 which relates to the total discretion to refuse registration on any ground. Those two situations should be subject to natural justice and fairness. A situation will always arise when for good reasons a person is refused registration, but I am making the point that the amendments being made and the powers provided for in the Bill do not provide adequate protection for a person who could be affected.

The last point I make arises from concerns now confirmed in the amendments the government intends to make to the legislation to prevent the planned abolition of the midwives regulations. It will be interesting to hear the Minister and her Parliamentary secretary justify putting back into the legislation something they did not believe should be there in the first place.

Dr Napthine interjected.

Mr ROPER - The honourable member for Portland says that they are sunsetted. If they are

sunsetted, why were they not necessary a month ago and necessary now? On something that suits one group - namely, obstetricians - the government consults and makes changes, but when it considers crucial matters that affect the quality of training and experience in the nursing profession the government ignores the views of the profession and those engaged in its teaching and practice.

I understand the concerns of midwives who have contacted the opposition today saying that the government intends to prevent the deregulation of midwifery practice. I look forward to hearing the government's justification of that move.

In closing the second-reading debate the Minister said that the Bill will ensure the continuing provision of high-quality nursing care in Victoria. The opposition is not so confident about that. It believes the government should look at three areas if that particular wish is to become a reality: firstly, the composition of the board itself; secondly, appropriate training and experience for people working in various specialist areas - I have pointed out to the House the concerns that educators have in this matter; and, thirdly, the further improvement of disciplinary procedures.

This legislation should have been laid over until the next session so that the nursing profession and those involved in it could discuss it over the Christmas period. The Bill should not be rushed through Parliament. If the government insists on rushing it through, it will experience the wrath of the nursing profession and over time the wrath of patients who will find that conditions have deteriorated.

The Bill is driven by the government's determination to control all aspects of health care and health services in this State; by the government's desire to use legislation and any other method to reduce costs by allowing less qualified, less experienced people to perform tasks that are currently carried out by professionals; and, finally, by its contempt of the democratic process which has ensured that the nursing profession has been represented by its elected members and by people representing the various interests in the health field.

The legislation does away with that, which should be condemned. I commend the reasoned amendment to the House. We will move amendments during the Committee stage that will make the Minister more accountable to Parliament and to the people of Victoria in her dealings with the new Nurses Board.

Mr DOYLE (Malvern) - Although the honourable member for Coburg started speaking only an hour ago, it seems a lot longer to me!

I have listened to a number of speeches by the honourable member for Coburg, and the hyperbole of his opening remarks was uncharacteristic. He accused the government of tyranny, destruction, government by whim and government by obsession. I point out the woolly inconsistency in the latter two, given that a whim is completely directionless and an obsession is about as directed as you can get! But let's put aside that contradiction. The honourable member for Coburg showed that he does not understand how a responsible government works. He is comfortable with the Labor stereotype that describes the present government's processes as tyrannical, destructive, whimsical and obsessive.

A further woolliness crept into his argument. Even if I can forgive the woolliness of language, I cannot forgive woolliness of argument. This again has to do with the hyperbole in which he cloaked his arguments. He described the powers the Bill gives to the Minister as outrageous, draconian and appalling. In the latter part of his speech he expressed concern about the way he claims the Minister will be able to direct the new Nurses Board, particularly in matters of discipline. The honourable member for Coburg has a somewhat selective memory. Under section 15 of the current Act we find some very interesting matters. In talking about the powers of the Minister, section 15(1) states:

> If any dispute or question arises in respect of any action or decision of the Council under this Act affecting the duties or responsibilities of any statutory or non-statutory body, the Minister shall after due inquiry determine such dispute or question and the Minister's determination shall be final.

Section 15(2) says:

> All the powers rights and authorities conferred or imposed on the Council (whether by this or any other Act) shall whenever the Minister deems fit be exercisable by the Minister, and when so exercised shall (if so ordered by the Minister) supersede any action decision order direction or notice of the Council.

Honourable members interjecting.

Mr DOYLE - No, they are not draconian provisions at all. Subsection (3) suggests the honourable member's outrage was nothing but a sham:

> Every officer of or person employed by the Council shall at all times give effect to any order or direction of the Minister.

When listening to the honourable member expressing outrage at the Bill's widening of the Minister's powers I was somewhat at a loss to work out how those powers could by widened - and the answer is that they cannot. That is as wide as you can go. Despite his supposed outrage I doubt that in the three years the honourable member for Coburg was the Minister for Health he spent much time thinking about limiting the powers he enjoyed! He said the Bill gives the Minister the widest possible power. That woolliness of thinking characterised his contribution.

I said the honourable member does not understand the processes of government. I shall clarify that by saying he does not understand the processes of either the present government - I hope the honourable member for Portland has time to amplify that - or earlier governments. For example, he talked about the holding of elections as a right the Nurses Board had enjoyed since its inception. I think he will find that in 1923 Major Baird appointed the members of the board through the Governor in Council. That is an interesting comment on his claim about a right enjoyed by the board since time immemorial. If one reads the *Hansard* of the day one finds that that is not so.

Although I understand the opposition's role, we need to consider what the Bill does, not what it might do, what the opposition thinks it will do or what some people fear in their worst imaginings. The Bill gives the 1958 Act a modem statutory framework. It establishes a nurses registration board, sets up a new registration scheme and fairly and reasonably establishes a process for dealing with nurses whose capacity to practise is in question. Contrary to the claims made by the honourable member for Coburg, the Bill institutes disciplinary procedures which are consonant with the principles of natural justice. I will address something the honourable member for Coburg neglected throughout his contribution. The Bill has been introduced to protect the public.

Although the Minister ably spelt that out in her second-reading speech, that point seems to have been passed over. The provisions dealing with the registration, professional conduct and fitness to practise of nurses are designed to protect the public. As the honourable member said, the Bill does that by replacing the Victorian Nursing Council with the new Nurses Board. The board will comprise 12 members, 9 of whom will be nurses, 2 of whom will be community members and 1 of whom will be a lawyer. The board will be responsible for the registration of nurses, and if necessary, will inquire into the professional conduct of nurses.

When talking about the new board the honourable member for Coburg again resorted to comfortable Labor stereotypes. One of the big questions he failed to ask himself was: why do we have professional registers? Or, what is the nature and purpose of registration? Failure to ask and answer these questions shows why the honourable member for Coburg completely missed the point.

The purpose of professional registration is to protect the public - and that is what lies at the heart of the Bill. Professional registration is not designed to promote the interests of the profession concerned. But the honourable member did nothing more than simply recite the relevant sentence in the second-reading speech and assert that it was not so - and then he flew on to the next point. He said the legislation would not achieve its aim of protecting the public. I listened for the reasons - but they were not forthcoming. His argument was nothing more than assertion. I will explain why the aim of the Bill is the legislative protection of the public, because that is particularly important.

The Bill safeguards the public interest by regulating nurses in ways similar to the regulation of other health professionals, and in doing so it enhances the status of nurses as health professionals - and so it should. We value our nurses and the work they do very highly. In regulating the nursing profession the legislature is rewarding and recognising the contribution that nurses make to our community. What does "safeguard" mean in extremis? What does it mean for the Nurses Board? It means the board must have the power to investigate allegations of misconduct in ways that are fair and reviewable. I was disappointed by the honourable member for Coburg's neglect of one of the amendments, which further enshrines those aspects.

I now refer to a central ideological notion that the House has dealt with in a number of debates. It centres on the questions: why not elect members of boards? Why make appointments? We on this side of the House believe appointments are the best way to constitute a range of boards - from the Board of Studies to the Totalizator Agency Board. Why? The answer is expertise. The board will work because people who can do the job will be appointed to it.

The honourable member for Coburg spoke about elected members and what they bring to the process. But he did not discuss the fact that because members are elected, inevitably they must address and listen to their constituencies. As the Minister said in her second-reading speech, in the worst cases - and this may happen - members will have constituencies to which they are beholden.

Perhaps I can forgive the language of the honourable member for Coburg, but I cannot forgive the concept behind what he said when discussing what would happen if nurses were elected. In the words of the honourable member for Coburg, when nurses are elected they represent nurses, which is exactly the point the government is trying to make. The honourable member for Coburg said that elected nurses would represent "strands" of nursing, and that is exactly the reason why they should not be elected. They are not there to represent nurses or strands of nursing; they are there to safeguard the public interest. To me that is critical because, if board members fall into the trap of being beholden to their constituencies, to the people who elected them, they undermine confidence in the board they serve. That cannot be allowed to happen because of the importance of the integrity of the board. The government emphasises that the members appointed to the board will contribute a broad range of skills and expertise, but it is not just a process of appointment out of the blue.

Honourable members interjecting.

Mr DOYLE - That is conveniently forgotten as is evidenced by the interjections. I know interjections are disorderly, but I cannot help taking up those earlier repetitive, if somewhat bovine, interjections of the honourable member for Footscray.

After nomination from the public or from the profession of appropriately qualified nurses, the matter of board appointment is then for the Minister's consideration. Input from the profession and from the public is powerful, but the Minister then appoints the board for its expertise. That process obviates the difficulties I outlined earlier, where such an elected board could be beholden to a constituency. While there is certainly powerful input from groups such as nurses and the public, constituency difficulty is obviated - and that is a great strength.

I tum to the register. As all honourable members know, seven branches of nursing are represented on the present council: general, midwifery, maternal and child health, psychiatric, mental retardation, State-enrolled and mothercraft nursing. The honourable member for Coburg did not go to the heart of why registration should be streamlined. Instead he intimated that any change that does not accord with his ideology must be wrong.

Registration must be streamlined because of the demands of multiskilling. That is no less so in the nursing profession than anywhere else. Demands are made for the removal of restrictive and outdated work practices and for mutual recognition. Although those aspects were spelt out in the Minister's second-reading speech, they were ignored by the honourable member for Coburg.

Let us consider the nature of work today in nursing or any other profession. What is the key for the employer, for the workplace and for the professional involved - the employee? It is, in a word, flexibility. That is why the registration system must be streamlined, and that is what the Bill brings about. Training, not just in nursing but in all areas, is moving in that direction. A broad basic education is needed so that specialist expertise can be overlaid.

I was nonplussed by the example of psychiatrists drawn by the honourable member for Coburg. If I understand it correctly, before one can practise as a psychiatrist one must gain a broad basic education as a medical practitioner, and then specialise: gain an overlay of specialist expertise. If I remember correctly the honourable member for Coburg suggested that this is perfectly all right for psychiatrists, but for some reason is not all right for nurses. The logic of that escapes me. If it works in the profession of psychiatry, why would it not work in the profession of nursing?

Changes presently occurring, whether historical, professionally practical or societal, now dictate that changes must be made to the way we register mental retardation nurses, mothercraft nurses, psychiatric nurses, midwives - or whether we register them at all. That is taken up by the Bill in a way that will take health professionals forward rather than backwards. The Bill recognises the changing needs and emphases in health. I also direct the honourable member for Coburg and all other men.l:>ers of the House to a powerful point made in the Mu-lister's second-reading speech: no person will suffer disadvantage because of changes to registration in the various branches of nursing.

I should like to examine the role of the new board. Why is it important that that role change? Why is it

timely that the Bill should come to the House now? Historically the Victorian Nursing Council has had extensive power in supervising the conduct and content of nursing courses. When nursing education took place in hospitals that was entirely appropriate, but what should be the role of the board when the study of nursing is now a higher education course?

In her second-reading speech the Minister said - and the Bill makes it clear - that, because the board has the expertise, it should certainly accredit tertiary sector courses for registration and it should still regulate hospital courses such as those for State-enrolled nurses. The Bill reflects the changes happening in health and nursing education. The board also reflects those changes. That can only be good for the nursing profession.

In referring to the central provision of the Bill, which is the protection of the public, I take up a point of the honourable member for Coburg. It is important that there are relevant, fair inquiries into the health and professional conduct of nurses. In my estimation the Bill provides an admirable balance between the powers of the board to investigate efficiently - there is no doubt that the board needs that power - and the necessity for inquiries to be fair to all.

I was somewhat disappointed with the rather hysterical reaction of the Australian Nursing Federation (ANF) to the Bill. As the honourable member for Coburg said, that was echoed in *Alert Digest* No. 17 of the Scrutiny of Acts and Regulations Committee. The honourable member for Coburg referred to some of those points, and I will take them up.

A number of outlandish allegations were made by the ANF and they need to be answered. The allegations were repeated in *Alert Digest* No. 17. The first allegation was that if the Bill is passed persons could be investigated without their knowledge. The matter of whether people are advised about being under investigation is neither in the Bill nor in the current Act There is no change to the current Act in this way. I make a point about notification. The honourable member seems not to have read clause 36(c) of the Bill, which deals with the establishment and notification of an informal hearing. Subclause (c) speaks of serving a notice on a nurse by registered post, which complies with clause 38. Further, clause 38 is headed "Notice of an informal hearing". It deals with the requirements of a notice under clause 36. It must state the nature of the hearing and the allegations, the time and place of the hearing, whether the matter will be determined by formal hearing, the differences between formal and informal hearings, the right to representation at the hearing and that nurses are entitled to be present to make submissions - and so the requirements continue. I am not sure how that squares with being investigated without that person's knowledge. It seems that those two provisions constitute not only adequate but also exhaustive notification.

The second claim was that if the Bill is passed nurses may be forced to have examinations by doctors nominated by the Secretary to the Department of Health and Community Services. It is stated that if the board decides it needs to investigate a nurse's ability to practice there must be a request for a medical examination. That suggests that the doctor has to be agreed to by both the board and the nurse. I am not sure how that squares with the doctor nominated by the Secretary of the Department of Health and Community Services. It is suggested that the Bill will allow nurses to be subject to far-reaching investigations without representation. I have just pointed out that there are two levels of hearing, formal and informal, and I direct to the attention of the honourable member and the ANF clauses 39(b), 46(b), 41 and 42, which cover that matter entirely.

I also direct the attention of the honourable member to the amendments currently before the House, particularly with reference to the Administrative Appeals Tribunal, which he ignored in his contribution, as if the amendments did not further strengthen the appeal provisions to the AAT. That refutes any suggestion that one could be subject to far-reaching investigations without representation.

The point that struck me most forcibly was the suggestion that one could be deregistered solely for having an incapacity as determined by the board. That is the role of the board; that is what it is there for. To deny it that ability would be as if one had some investigative mechanism to protect the public interest but then refused to allow an investigation. It would be ridiculous if the board, having found allegations to be substantial and true, was able to do nothing about it. The conduct and fitness of professional nurses has to be able to be investigated properly and the board must be able to deregister if necessary. That does not obviate the right of appeal tothe AAT.

A suggestion that made no sense at all was that any course could be recognised as equivalent to a nursing course, which would mean that non-nurses

would be able to work in nursing jobs. That is breathtakingly wrong, because in clause 6, which deals \\ith qualifications for registration, subclause (1) states:

> A person is qualified to be registered in division 1 of the register if that person -
>
> (a) has successfully completed a course of study accredited by the board; or
>
> (b) i\ the opinion of the board, has a qualification that is substantially equivalent ...

I will not read on but I recommend that members of the opposition read that clause. Can honourable members imagine any situation where nine me ?fa board who are nurses would give accreditation to a course that does not provide adequate training? It is beyond belief that the opposition suggests that that could be so. Of course, the board will not provide accreditation for courses t e non-nursin courses. It will ensure proper trauung and education for nurses that is properly approved. A number of submissions on these matters was made to the Scrutiny of Acts and Regulations Committee.

The Bill makes a number of sensible provisions. Clause 35 provides that health professionals will not be deterred by threat of litigation from reporting nurses who are unfit to practice. Why? Because we must protect the public.

Clause 54 will not allow a nurse whose practice has been restricted or who has been deregistered or suspended to continue to practise just because notice of the board's actions has not been communicated. Why? Because the board must be able to communicate without threat of action for defamation against it.

Clause 75 contains a good faith provision for any member of the board or keeper of the register to give protection for personal liability for people carrying out functions conferred by statute.

In conclusion I come back to the year 1958: I want honourable members to consider 1958. It was a year that makes those on this side of the House feel great pleasure because in 1958 the Bolte government was returned with a majority of 39 seats and the Menzies government was also returned. It has a certain cachet! It was the last year in which the Nurses Act was substantially revised. I want honourable members to consider what 1958 means to us today and why we are here. In 1958 the Clean Air Act was passed in this House. It was the first legislation to deal with air pollution in Australia, which was a at leap forward for our society. Qantas made its inaugural around-the-world flight. Australia was connected for the first time by telex to Britain the United States of America, Japan and Canada.' Monash University was established. There were fewer than 10 million people in Australia. I regret to sa"f that Collingwood won the Grand Final, but I will not dwell on that.

Mr Mildenhall interjected.

Mr DOYLE - The honourable member for Footscray asks, "What is the point of all this?" I am happy to explain so that even he will understand. We now live in a different world. Imagine how today's medical, health professional and technological world would seem to someone from 1958. It would be unrecognisable, yet the Nurses Act dates back to 1958. The updating of the Act with provisions that will take health professionals into the next century is timely.

It is crucial to remember two things that the Minister said in her second-reading speech. Firstly, no person is disadvantaged as a result of the changes, and secondly, all nurses currently registered will have their names included in the appropriate division of the register.

The final thing I wish to say arises out of the exchange on both sides of the House when the honourable member for Coburg was speaking. Although a lot of the exchange that took place was disorderly interjection, the honourable member for Coburg demonstrated the fundamental misapprehension of his side of the House about the Bill. The Bill protects the public. What does that mean? It means that patients are put first. Every provision of the Bill strives to that end, and that is how it should be. I commend the Minister and I commend the Bill.

Ms GARBUTI (Bundoora) - The Nurses Bill will not advance health services in this State indeed, t will put th m t risk. The Bill is not in the public interest and 1t will cause a deterioration in health standards. This Minister has presided over some enormous cuts to health services. The Budget Papers show that the Department of Health and Community Services receives just over 25 per cent of the Budget allocation, but its services must suffer just over 50 per cent of all Budget cuts. That comment was made proudly by the secretary of the department. I cannot understand why he would

boast about that because it certainly does not enhance his Minister's reputation.

There have been cuts to hospital funding and to community health centres - my community has felt the impact of those in both the Eltham and Diamond Valley community health services. There have been cuts to ambulance services, family planning clinics - they have been changed, cut and rearranged; the one in Greensborough has been dosed - and inappropriate changes to child and maternal health services. The Sudden Infant Death Research Foundation, the Nursing Mothers Association of Australia and the Playgroup Association have had their funding cut, and in the meanest move by the government the Grey Sisters lost $45 000 in funding.

From the biggest funding areas to the smallest self-help groups, there has been a consistent pattern of cuts to health support systems. Now the government is attacking nursing standards. Thousands of nurses have be pushed out the door with redundancies and now their standards are being attacked.

I have received a large number of letters from local people about the changes to the Nurses Act, and I shall read their views because it seems that they have not had much chance of an airing. This sort of Bill, which makes major amendments to the Act, in the past would have lain over between sessional periods so that everyone could examine it and make their comments, and then the government could give it further consideration. That has not occurred. There is a rush to get the Bill through.

The rush is such that 57 amendments have been tabled today without sufficient time being allowed for their consideration.

The letters written to me follow four main themes. The first is a lack of consideration of the writers' views. Ms J. Firth of Henry Street, Greensborough states:

> It is quite clear that the Minister for Health has largely ignored the criticisms made of the draft of the Act. Myself and my nursing colleagues are extremely concerned as the Act is open to wide interpretation and possible abuse.

That is a common theme. In her letter Christine Harding of Kelvin Avenue, Montmorency says:

> this Bill has been formulated with minimal or no consultation with members of the nursing profession.

Dr Napthine interjected.

Ms GARBUIT - She wrote to the *Age*, but she also wrote to me. It is addressed, "Dear Mrs Garbutt". If you want to establish the bona fides of the letter, Ms Harding lives just around the corner from me. Ms Harding's second comment goes to the heart of the Bill because it concerns the appointment of the new Nurses Board. Ms Harding is concerned that it will be a tame, "Yes, Minister" board because the Minister will appoint and direct the board. In the letter she addressed to me - I do not have a copy of the letter she addressed to the *Age* - Christine Harding also says:

> ... I am particularly concerned that the elected members of the Victorian Nursing Council would be replaced with a Ministerially appointed board. There is absolutely no guarantee that such a board would in any way be representative of the views of a cross-section of nurses in this State.

Ms Harding goes on to make a telling point:

> It is unlikely that this board would be able to function free of political interference given that the board members will be specifically chosen by the Health Minister.

Other letters I have received also reflect that view, which is a major concern of nurses. Branka Blatancic of 4 Marie Court, Bundoora states:

> How can one ensure that this board will function without political interference?

Will the Minister answer that question directly for my constituents' sake? The third point raised in most of the letters is that of ensuring natural justice for nurses facing disciplinary procedures. The writers believe that not notifying a nurse that he or she will be under scrutiny and the lack of an appeal mechanism represent a denial of natural justice.

Dr Napthine interjected.

Ms GARBUIT - I am simply reflecting what is contained in the letters sent to me. All the correspondents are concerned that in taking industrial action they could face disciplinary procedures.

Another of my constituents has written to me saying that the investigatory and disciplinary procedures in the Bill will deny nurses natural justice. She says it is outrageous that a nurse cannot appeal a decision without going through the courts.

The fourth ground of concern is that the elimination of separate registers for nurses with different qualifications will mean that anyone can practice in any field. My constituents are concerned that allowing nurses to operate in a number of different fields of expertise will lead to a diminution of services.

I have also received letters from hospitals that serve my area. Miss Ellen Hardie, Director, Nursing, at the Heidelberg Repatriation Hospital outlines the same concerns I have already mentioned. She comments in particular on the move to a change in registers:

> In nursing it is not an issue of restrictive work practices but rather the education programs are different and entry level is different. For example, in division 1 the general nurse, midwife and maternal and child health nurse have different educational requirements.
>
> The current undergraduate program does not have a comprehensive curriculum. This is mainly because the present three-year degree does not allow sufficient time. Graduates are not theoretically or clinically prepared to provide nursing in all settings ...
>
> It is of major concern that the public will not be protected if nurses are able to practice outside their area of registration.
>
> ... the problems mentioned above could result in unqualified and inappropriately qualified nurses caring for the community.

That is a common thread running through all the correspondence I have received.

Today I received by fax a letter from Robyn Thompson, an independent midwife who operates in Altona under the name Melbourne Midwifery Specialist Services Pty Ltd. Ms Thompson talks about the role of midwives and says:

> that midwives and consumers of their care are recognised by government and ... practise their skills without the domination of obstetricians.

She is concerned to ensure that they maintain their position. She then puts it in a broader setting and says:

> The world acknowledges that home (as one option) is a safe place for women to birth with the continuous care of a midwife. Midwives working within the hospital system are totally controlled by obstetricians, women's rights are eroded. The *Birthing* Services *Review Victoria 1990* recommends that women have the right to choose midwives care.

Ms Thompson is concerned to ensure that that situation continues and that a specific register is established that allows women to be confident of the qualifications and experience of the persons they choose to attend the births of their children, whether at home or in hospital.

The honourable member for Coburg referred earlier to a letter I have received from the course coordinator of the Bachelor of Applied Science (Intellectual Disability) course at the Faculty of Health and Behavioural Sciences at Deakin University. The writer expresses concern for students who are currently enrolled or whose applications are in the system at either Royal Melbourne Institute of Technology or Deakin University. The coordinator is worried that some students who are already undertaking courses and those who have applied for entry to courses in 1994 will not be able to obtain registration as mental retardation nurses. I seek, as did the honourable member for Coburg, reassurance from the Minister on that point.

Had more time been available to allow the Bill and amendments to be properly considered - perhaps between sessional periods - those issues may have been picked up and the Minister would have been able reassure the House that they would be dealt with. One unfortunate consequence of rushing through legislation is that that sort of comment must be made.

The Australian Liquor, Hospitality and Miscellaneous Workers Union is concerned that the Bill will make a mess of the Children's Services Centres Regulations 1988, as the mothercraft nurses register is used to decide who can work in child-care centres. It includes not just people qualified in Victoria but also people from interstate and overseas, as well as those returning to the industry who possess older qualifications. The union is concerned about the impact of the changes on the industry. This issue could also have been clarified by the Minister if there had been more time for the people involved to consider the matter.

I shall now consider maternal and child health nurses and the impact of the Bill upon Victoria's excellent maternal and child health services. At present nurses working in that area hold three certificates - namely, the general nursing certificate, the midwifery certificate and the graduate diploma in maternal and child health nursing. It takes seven to eight years of training to become qualified in that field of nursing.

Maternal and child health nurses are a much-valued and experienced resource in our community. They provide an excellent service which is already under threat by the inappropriate changes announced by the government to take effect from 1 January next. Maternal and child health nurses provide extensive services for mothers and their babies when they are most vulnerable. They provide counselling, information and guidance on a whole range of issues and problems, including everyday commonsense approaches to child rearing.

Australia has one of the highest rates of immunisation of infants, largely due to the role of those experienced and qualified nurses. Victoria also has one of the highest breast feeding rates in Australia. The nurses are also vitally involved in detecting child abuse and in offering preventive services; they offer referrals to agencies that can deal with family or financial counselling.

When I talk to various non-government agencies they say a large percentage of their referrals come from maternal and child health nurses who regard those agencies as a means of assisting and supporting mothers with problems. They provide advice on a whole range of matters including those I have already mentioned as well as others such as advice on safety in the home. They offer medical and non-medical counselling services.

However, those nurses have now been placed under threat by the inappropriate changes suggested by the government which will fund only part of the existing service and will leave the remainder for local government to do with as it likes. Some councils are considering dropping the service and others are considering changing it. Some councils are considering offering only the Healthy Futures program. Any such changes will mean that maternal and child health services as we know them will cease to exist.

At a Heidelberg meeting the Municipal Association of Victoria posed a range of six options that councils could consider in response to the government's Healthy Futures program. Already that excellent service, which has a worldwide reputation, is under threat.

Now the Bill will impose another threat; it contains nothing to prohibit nurses working in areas for which they are not registered and appropriately qualified. General or mothercraft nurses - or any other nurses with general or inappropriate training - will be able to work in the maternal and child health service. Certainly the government's funding agreement for the Healthy Futures program talks about having maternal and child health nurses work for that program, but there is no mention about any changes to be made in future years.

There is nothing to stop councils employing nurses with other qualifications for their sections of the maternal and child health service. That service is being placed under threat by the government which has not properly thought through the changes.

Already some focal government authorities have sought to use mothercraft nurses for maternal and child health work because they are cheaper to employ. The Bill imposes no legislative requirement to stop anyone moving down that path more quickly, thereby further threatening the maternal and child health services.

Already councils have criticised the changes in a number of ways. Parents have taken to the streets to criticise the service because they are concerned about the changes and the fact that the government will fund only one part of that service, leaving the most valued parts for councils to do with as they wish.

I was interested to read a submission from Dorothy Scott, senior lecturer in the School of Social Work at the University of Melbourne. In commenting on the change, she states:

> In the light of my research and clinical experience I have deep fears that the Healthy Futures program will destroy the core features of the current service. The three fundamental features of the Victorian maternal and child health service, and those which make it one of the finest services of its type, are:
>
> > the emphasis on primary prevention;
> > its non-stigmatised image; and
> > its ready accessibility.
>
> By restricting access to the service through the imposition of a limited number of consultations all Lluee of these features are severely jeopardised.

That is the sort of jeopardy that the service already faces because of the imposition of the Healthy Futures program. I was interested in a letter about funding from the City of Moorabbin to the Minister for Community Services. The council says that 66 per cent of the total time of nurses will be taken up with the Healthy Futures program, but that the government will contribute only 40 per cent of the total cost of the service. The City of Waverley has refused to distribute a brochure promoting the Healthy Futures program because it does not wish to misinform people.

Mrs TEHAN (Minister for Health) - On a point of order, Mr Speaker, I know your discretion allows wide ranging comments on the legislation, but the House has heard pages of the honourable member's contribution and certainly minutes of what is an important debate are being taken up with consideration of the Healthy Futures program as it relates to the maternal and child care service. That is not explicitly relevant to the legislation.

The SPEAKER - Order! The Minister has raised a point of order and I ask the honourable member for Bundoora whether she can relate her remarks to a clause of the Bill.

Ms GARBUTT (Bundoora) - I was talking about the elimination of separate registers for nursing qualifications - one being maternal and child health nurses. I was talking about how their roles will change because of the Bill and other government changes.

The SPEAKER - Order! If the honourable member is speaking on a clause of the Bill, she is in order.

Ms GARBUTT - I was about to wind up my remarks. Because of the government's ill-considered and inappropriate changes to that service, the way it is funded and the changes to nursing qualifications, the changes in the Bill will provide a further threat to the maternal and child health service.

However I return to my main criticism: there should not be a combination of registers. Appropriate qualifications and experience must be recognised thereby protecting the public from those offering health services for which they are not trained or for which they are inappropriately educated or experienced. That summarises the threat to the public health system in Victoria.

Dr NAPTHINE (Portland) - I support the Bill and reject the reasoned amendment moved by the honourable member for Coburg. The honourable member for Bundoora followed a similar pattern to that of her colleague the honourable member for Coburg. Similar themes ran through their speeches. Those themes were: firstly, the lack of consultation considerations; secondly, concern about the way the board was to be structured under the Bill and the associated Ministerial power; thirdly, concern about natural justice issues; and fourthly, concern about the perceived elimination of separate registers. However, they failed to understand that the government has moved to provide divisions in a separate register.

I was disappointed with the honourable member for Bundoora, who said that she was putting forward the comments of her constituent Christine Harding. Ms Harding fails to understand the legislation and the honourable member for Bundoora should have explained to her constituent what it was about. Instead she trotted out the same old story. When she was attacked by interjection she said that she was only saying what her constituent said. It is the responsibility of members of Parliament to inform people about legislation, not to repeat what their constituents tell them. Clearly if she had read the legislation she would have understood that what her constituent said was irrelevant.

I shall address the four issues raised by the two opposition members because they highlight what a good Bill this is and what a step forward it is for the nursing profession. It is a big step forward for the nursing profession: they will be treated as true health professionals. That is one of the major achievements of the legislation. It is an insult to nurses for the opposition and others who have vested interests in the nursing profession and unions to argue that nurses need prescriptive over-regulated professions and that they cannot be treated as health professionals in the modem world. I thought that is what the nursing profession was looking for.

I am proud to say that I have been involved with this legislation, which recognises nurses as true independent health professionals in the 1990s. Departmental officers have carried out excellent work over a number of years and months on the legislation which goes to show the time frame involved in the consultative process. The persons involved were: Pauline Ireland, Rosemary Bryant and Jenny Fraser. They worked tirelessly on the legislation for a considerable time.

The Bill addresses the first point made by the honourable members for Coburg and Bundoora that somehow the legislation has come out of the blue and has been introduced and rushed through in a matter of weeks without proper consideration. Nothing could be farther from the truth, and they know it. That is the most disappointing aspect.

In 1988 a report on the study of professional issues in nursing was commissioned. It was a health deparbnent document produced by the Labor Party when in government. In 1990 a review of the Nurses Act was made and an option paper was prepared by the then Labor government. When in government the Labor Party recognised that the 1958 Act was inadequate for the 1990s and 2000. Yet opposition members now pretend little or no work or consultation has taken place on the legislation.

The government has undertaken extensive consultation, building on the work of the previous government. One can examine reams of submissions made to the government in response to the draft proposals sent out in June. Submissions came from a wide range of bodies in the nursing industry and other interested parties. I can list the groups that responded. Many spent considerable time with me in my role as Parliamentary secretary. They also spent time itemising their concerns with the coalition health Bills committee. Under Labor consultation is about giving in. On this side of the House consultation involves listening, working through the issues and making the right decisions for the people of Victoria, not giving in to factional interests or unions. This government is about listening and taking on board the important issues raised. It does not necessarily give in on every issue, it gets it right for Victoria.

We consulted with the Victorian Nurses Council, the Australian Nursing Federation on at least 4 occasions, the Mothers and Midwives Action, the Health and Community Services Union, the Royal Melbourne Institute of Technology and Deakin, the Australian Catholic, and Victoria universities. We also consulted with the Maternal and Child Health nurses special interest group, the Australian Nursing Federation, the Royal College of Nursing, the Victorian Senior Psychiatric Nurses Association, the-Association of Directors of Nursing, Victoria, the College of Midwives, the Victorian Hospitals Association, the Australian College of Mental Health Nurses, the Statewide Child Care Advisory Committee, the Health Services Commission and the Australian Liquor, Hospitality and Miscellaneous Workers Union who represent mothercraft nurses as well as individual hospitals, directors of nursing, individual nurses and others interested in nursing.

The considerable consultation has been prolonged. As a result, a number of changes have been made. The size of the board was to be 10, but it has been increased to 12. There will now be nine nurses on the board of 12. As a result of the consultations that took place the president and deputy president of the board will now be nurses. The sensible suggestions that were made by groups have been adopted. A number of amendments are the result of sound submissions by individuals and groups, including the Australian Nursing Federation, the Victorian Nursing Council and the letter to which the honourable members for Coburg and Bundoora referred from Deakin University concerning students who may not complete their courses by 1995.

Mr Seitz - Mr Speaker, I direct your attention to the state of the House.

Quorum formed.

Dr NAPTHINE - Why does the Act need to be changed? It was explained very well by the honourable member for Malvern. Victoria has a 1958 Nurses Act which is 35 years old; it is fundamentally out of date for current nursing practices. It is outmoded, over-prescriptive and an insult to the modem Victorian health profession of nursing. Something had to be done about it.

The 1958 Act reflects the times in which the Bill was passed. An example of the prevailing attitudes towards nurses can be found in the second-reading debate in *Hansard.* The Speaker at the time was Mr Shepherd, the honourable member for Ascot Vale, a Labor member. I am not suggesting *Hansard* reflects only Mr Shepherd's attitude; it reflects the community attitude towards nurses in 1958 when the Bill was passed. It states:

> I observed that there was considerable competition between the teaching and nursing services for the brightest girls in this State to enter those professions. Of course, there is much competition among young men to take eligible young women out of those services.

That encapsulates the attitudes that can be seen right throughout the 1958 debate on the nursing profession. The attitude then was that young girls needed protection and prescriptive legislation was required for the industry in which they operated. That is not reflective of the nursing profession in the

1990s. The nursing profession in the 1990s is a skilled, well trained and well educated profession made up of forthright people of the highest calibre who are delivering a good service to the community. It is not appropriate for them to be covered by the old-style prescriptive legislation that applied in 1958.

Indeed, back in 1923, when the original Bill was passed, attitudes were even more prescriptive. In passing, I point out to the honourable member for Coburg, who seemed to suggest that in 1923 the nursing board was an elected board, that that is not so.

Mr Roper - I did not suggest that.

Dr NAPTHINE - The honourable member for Coburg suggested there had been 70 years of democracy in that board, and that is not right because in 1923 the nursing board was a board appointed by the Governor in Council, just as under this Bill the board will be appointed by the Governor in Council, because the Governor in Council will look for the right expertise for the board. Only later did the nursing board become an elected board.

The honourable member for Coburg referred to the 1923 debate, which alluded to the matter of uniforms - whether nurses should wear uniforms; whether they should wear headdresses; and whether they should wear badges, and if so, what type. There was debate on whether the badge to be worn should be different for nurses who had gone to training school as opposed to nurses who had learnt their skills in the practical field of hospital training.

Quite clearly over time changes have been made to nursing, and this Bill needs to reflect those changes. The 1958 Act provided for 29 members of the Nursing Council. That is an unwieldy number and the council was unworkable. That was so even in 1958 when the government made it clear that the board was too large and its numbers needed to be reduced.

The House must also see that the changes needed today are in line with the changes in the profession. Nursmg education has been changed. It was basically skill-based hospital training; it is now very much a tertiary education sector, where it is treated as a true and proper health profession. Even State-enrolled nurses are now moving from training in hospitals to TAFE training. Mutual recognition has had a significant effect on the operation of nursing in this State.

As I said before, there has been a significant increase in medical terminology, technology and specialisation that must be accounted for. To those people who maintain that distinct registers should be kept for every type of specialty in nursing, I make the point that that has changed over time.

In 1958 special registries were kept for tuberculosis nurses and mental health nurses - the need for that no longer exists. Specialisation is increasing, but there is no need to encapsulate that in different registries or register divisions. We need a register that provides for the registration of qualified nurses and can report in issue of annual certificates the various qualifications people have acquired, so that employers and individuals can readily understand whether a nurse has suitable qualifications for employment.

To suggest otherwise is to suggest that the directors of nursing or hospital selectors of nursing staff merely look to see in which register a nurse is registered, and assume that if he or she is registered on a particular register he or she should be employed irrespective of personal qualifications, experience and skills. That is nonsense, but that is what the opposition would have one believe about the way registries are structured.

The other significant change in the profession is its increasing independence. In 1923 there was great ·reference in the debate to the role of nurses in assisting the "good medical men out in the field". The attitude was that the nice young nurses would assist the medical men. In 1958 there was still that element in the debate suggesting that the role of nurses was to be bright young girls who assist the medical men in their duties. Those attitudes are totally and utterly irrelevant in the 1990s. Nurses, whether male or female, are independent health professionals who deserve to be treated as such by this Parliament and this legislation.

The second issue the Labor Party raised in opposition to the Bill is the structure of the board. The fundamental question is whether the board should be elected or appointed. Members of the opposition made the elementary mistake of claiming that the board should somehow be democratic and representative, which completely misses the point of its role. The honourable member for Malvern made the point extremely well when he said that the role of the board is not to represent nurses or individual strands of nursing like midwives, coronary care specialists, the ANF, psychiatric nurses, and so on; it is not about representation, it is about protection of

the public and making sure the board has appropriate qualifications and expertise to run a register and to deal effectively with nurses who do not meet the standards required of them. It is not about democracy and representation - those notions are totally inappropriate when considering the structure of the board.

Honourable members interjecting.

The SPEAKER - Order! I remind the honourable member for Coburg that he was listened to in silence. I ask him to extend the same courtesy.

Dr NAPTHINE - I refer the honourable members for Coburg and Melbourne to a review of the Nurses Act that was produced by the Labor Government in December 1990. It says:

> It has been argued that there are some disadvantages associated with electing members to statutory registration boards and that the election of board members is inconsistent with the principle of co-regulation in the public interest. It has been suggested that election of members may add to the impression that registration boards are self-regulatory bodies, for the benefit of the professional groups being regulated rather than for the benefit of the community. Further, it has been argued that elected members may be seen as representatives of those who elect them, whereas the role of board members is to act in the public interest and not on behalf of any particular lobby. In other words, there is a danger that elected members could have a real or perceived conflict of interests. That risk would be minimised if all members were appointed.

Honourable members interjecting.

Dr NAPTHINE - From the Labor Party! It is quite clear that a better board that will act in the interests of the public would be achieved if its members are appointed for their expertise.

The honourable member for Coburg was concerned about the influence on the board of the Minister for Health. He said the Minister would be all-powerful and able to influence the board. Again, members of the opposition have failed to read the existing Act. Section 15 of the Act deals with the powers of the Minister. The honourable member for Malvern read out those powers. I shall paraphrase them. Basically, section 15 says that all powers and authorities conferred in the council shall, whenever the Minister deems fit, be exercised by the Minister, so the Minister can completely replace the board and do anything the board can do. In any dispute or question, the Minister can intervene and "the Minister's determination shall be final". Subsection (3) says:

> Every officer of or person employed by the Council shall at all times give effect to any order or direction of the Minister.

Under current legislation the Minister can do anything he or she likes with the board. I understand the Honourable David White in another place, when Minister for Health, threatened to use these powers. The Labor Party is well aware of the powers of the Minister under the Act. To suggest that the proposed legislation, which reduces the influence and powers of the Minister, is somehow handing over to the Minister the powers of the board is ludicrous and has been shown to be ludicrous.

The other issue raised by the opposition was natural justice. It was said that the Bill denies natural justice to nurses. There are two areas in which nurses may come to the attention of the Nurses Board for action. The first is in the case of health problems which may affect their fitness to practise and hence place the public at risk; the second is where their conduct is unprofessional.

The bottom line is whether the public is at risk. I will go through some of the procedures that are involved to show how comprehensive the natural justice provisions are. Clause 25 deals with health matters. It provides that before the board can commence any investigation it must believe that the ability of a nurse to practise may be affected due to the nurse's mental or physical health, incapacity, or alcohol or drug dependency. The board must believe that for a start, so if a vexatious report is lodged the board can refuse to act on it.

If the board believes that there is a matter that needs to be followed up clause 26 provides that the nurse must be notified in writing and given advice as to the nature of the complaint by registered post. The nurse must then undergo a medical examination but has the right to choose a doctor who is agreed to between the nurse and the board; The nurse has the right of access, except under unusual circumstances, to the reports from that doctor.

Clause 29 states that following the outcome of the preliminary investigations the board must ask the nurse whether she or he is prepared to agree to - and note the words "agree to" - alter the way she

or he practises nursing; or the imposition of conditions, limitations or restrictions on her or his registration; or the suspension of her or his registration for the period of time specified by the board.

U as a result of the preliminary investigation further action is needed - for example, if the nurse does not agree to undergo the medical examination or will not abide by an agreement - the matter must go to a formal hearing where the nurse is represented and where natural justice will prevail.

In regard to unprofessional conduct, the board must first assess whether any complaint should be dealt with by it or by the Health Services Commissioner, so the Health Services Commissioner is there from the start. The board makes a preliminary investigation and if there is a need for any further investigation it can be done in either a formal or an informal way. The lesser charges are dealt with in an informal inquiry which should be a user-friendly type of inquiry to try to help the nurse in the best way possible.

The Bill states in clause 38 that for an informal inquiry notice must be given in writing and that the nurse can choose whether she wishes to proceed with the informal inquiry or go straight to a formal inquiry. At an informal inquiry the nurse is not permitted to be represented but is able to be accompanied by someone: a relative, friend, union representative - one of those people can attend the inquiry.

The outcome of an informal inquiry, which deals with less serious charges, may be a finding that the nurse must undergo counselling, be cautioned or be reprimanded if it is found that there is a case to answer, so it is a user-friendly approach to try to help nurses deal with difficulties.

In terms of natural justice, if at any stage during the informal inquiry the nurse wants the inquiry to be stopped and transferred to a formal inquiry this must be done. At the formal inquiry the nurse has the right to legal representation, so there is no doubt that the legislation is comprehensive and provides protection for the nurse involved.

In respect of formal hearings, as well as being entitled to legal representation the nurse must be formally notified and all the appropriate procedures must be gone through. If that is not enough to justify a clear tick of approval on the natural justice case, the big tick of approval comes in clause 57, which provides that the nurse has the right of appeal on all the decisions in respect of formal or informal inquiries, health matters, and registration or deregistration.

The system is an excellent one providing for fairness, equity and natural justice. Any suggestion by any nurse or nursing union that the legislation does not provide that is tantamount to misrepresentation and is not fair to the legislation before the House. It is quite clear that the Bill provides coverage for natural justice.

The honourable member for Coburg suggested that amendments should be made to allow the retention of the defence contained in the principal Act, inserted by the Labor government, for nurses charged with unprofessional conduct namely, that a nurse cannot be found guilty of professional misconduct only on the grounds of having taken part in industrial action. That to me reflects the position of the opposition: it is there to protect the Australian Nursing Federation and the union, not to protect the interests of patients. The opposition is saying, by suggesting that change, that if at 11.59 p.m. in a hospital ward manned by nurses where a strike is due to begin at midnight a patient has a cardiac arrest and the nurses start cardiopulmonary resuscitation on the patient, on the dot of 12 midnight they desert the patient and the patient dies, the nurses should not be able to be charged with professional misconduct. It is scandalous and outrageous to provide that sort of defence, because the government says quite clearly that the Bill is about putting people and patients first. It is about protecting the interests of the public - that is what the legislation is all about, so the government will reject the amendment proposed by the opposition.

Mr Haermeyer - Mr Speaker, I draw your attention to the state of the House.

The SPEAKER - Order! The honourable member for Yan Yean has called for a quorum. A quorum is present.

Honourable members interjecting.

Dr NAPTHINE - I think the honourable member for Yan Yean has passed the test to be the Leader of the Opposition.

The other criticism made of the Bill is the construction of one register with five divisions. Clause 60 provides that nurses registered in division 1 can work across all registers, and it is implicit that

nurses registered in divisions 2, 3, 4 and 5 are restricted in their practice. That does not seem to have been understood by the opposition. To make it clear the government will move amendments to the powers of the board to allow it to make that explicit so that there will not be any suggestion that psychiatric nurses will be able to deliver babies, which is utter rubbish and was put forward as a misinformation campaign by the opposition.

The government's move to have a single register with subdivisions will bring Victoria into line with other States. It reflects modem nursing practice where comprehensively trained nurses come out of training institutions and then specialise, but there is no need to have those specialities as a subdivision in the register. It is like the case of medical practitioners: they come on to the register as medical practitioners, not neurosurgeons or physicians. They come onto the register as doctors and then, according to their skills, experience and professional expertise they work in areas that are relevant to them. 'fl.tis is what happens in all health professions and it is about time it happened to the nursing profession. To do anything less is an insult to the profession of nursing, and this is what the opposition is putting forward and the ANF is supporting. I think its members ought to know.Clearly the government must reflect the 1990s in the year 2000 so that nurses will be entered on the register on the basis of their qualifications, and where they are employed in the industry depends on their skills, experience and postgraduate qualifications. A duty of care will be placed not only on the nurses' employers but on the nurses as health professionals about where they work.

The SPEAKER - Order! The honourable member's time has expired.

Mr THWAITES (Albert Park) - I support the amendment moved by the honourable member for Coburg. The honourable member for Malvern in his speech justified the legislation by saying that the Nurses Act was enacted in 1958. I think he also referred to Qantas flights and other matters in 1958.

It is an odd comment from the honourable member for Malvern, whose views on education and other matters demonstrate a longing not for 1958 but for the 1850s.

The opposition does not oppose a new Bill per se. It may well be that since the Nurses Act was enacted in 1958 it is appropriate to introduce a new Bill, but the opposition objects to this Bill and its provisions, and I shall demonstrate why.

The Minister for Health is a lawyer by training, as I am. She is a professional, and so are nurses. The role of lawyers in the community is important, as is the role of nurses. If lawyers act properly they can improve the lives of citizens, as can nurses. If lawyers act improperly or incompetently people suffer. The system of regulation for nurses is different from the system of regulation of the legal profession under which the Minister was happy to operate for so many years. Indeed, the Minister has not, so far as I am aware, raised criticism of that system of regulation. It demonstrates the double standards of the government.

The Minister wrote to the honourable member for Doncaster, the Chairman of the all-powerful Scrutiny of Acts and Regulations Committee, on 12 November. Her letter stated, in part:

> the primary purpose of a registration board is to protect the public, rather than to further the interests of the profession being regulated. It is not the role of the board to act as a representative body.

Of course, the Minister's representative body, the Law Institute of Victoria, has both those roles: it regulates the profession and acts as a representative body. It is the union for the legal profession. In all the years the Minister has been a member of that body, no complaint or claim has been made that there ought to be a different system of regulation. It is a clear demonstration of the hypocrisy of the government.

The Bill demonstrates a Big Brother attitude to nurses. It is an attitude that the government does not have for other professions: it has picked on nurses. It is about government control and attempts to undermine the professional standards of separate branches of the nursing profession. It is about an attempt to stop people from working as nurses because they may have different political views or be union activists.

The honourable members for Coburg and Bundoora talked eloquently about the problems caused by the elimination of the separate registers and education and standard qualifications in the Bill. I shall not talk about those areas in detail, but I shall refer briefly to the education requirements.

Clause 6 deals with the qualifications for registration. It does not specify what qualifications

are required. It remains to be seen what courses will be accredited by the Nurses Board and how that will be done. The Minister has not given any details of what should be in the courses.

Clause 99 provides that the statutory rule that governs the existing course will expire in December 1995. We do not know what will happen after that; we have not been told. It is conceivable, for example, that an advanced course for State-enrolled nurses may be deemed to be substantially equivalent to the current qualifications undertaken by registered general nurses. We do not know whether that will be part of the accreditation process. The public does not know because the Minister has not said. The legislation should not be supported until the opposition and the public have been told what is to be the content of the training courses; what are to be the criteria on which the accreditation is to be granted.

The Minister should agree with my view because she adopted that view previously. During a debate in another place in 1991 the then shadow spokesperson for health, now the Minister for Health, spoke during the debate on the Dental Technicians (Amendment) Bill and said:

> for a number of reasons I shall outline, our party does not support the legislation in its current form. We are not convinced that an appropriate course of action has been agreed upon. Information about the training course has not been made available to Parliament, to our party or the public ...
>
> The Bill refers to a prescribed course of training having been satisfactorily completed. We do not have any details about the proposed course of training. We have not seen the regulations and we have not been briefed by the department on those details. It is our position that the legislation will not proceed until we have seen an outline of the prescribed course of training.

I commend the Minister for those comments, but they apply equally to this legislation. They are apposite to the legislation. If it is appropriate when in opposition to hold up legislation on the basis that prescribed courses have not been indicated to the public or the opposition, it is appropriate to adopt the same course now.

I turn now to the objections by the nursing profession and I shall deal firstly with registration, conditions, limitations on registration, the refusal to renew registration, and investigations.

The registration provisions are contained in clause 7. The clause will regulate entry into the nursing profession. It acts as a gate through which any person who wishes to become a nurse must pass.

The board may refuse registration in certain circumstances under clause 7(2). Indeed, the board may also refuse to renew registration under the provisions of clause 14. The circumstances under which the board may refuse to grant registration are broad, vague and uncertain. They are marked by a lack of consistency.

The first ground set out in clause 7 on which the board may refuse registration is that the character of the applicant is such that it is not in the public interest to allow the applicant to practise as a registered nurse. I acknowledge that there is a similar character requirement in the existing legislation. I should have thought now is the appropriate time to remove that provision, because provisions of that type are uncertain. How do we determine what is meant by character, by the public interest in a particular case? What criteria will be used?

I am concerned that the provision will be used inconsistently to keep out of nursing those who the board feels may have a character which is not the type of character required in nursing. I recall a case where the New South Wales Bar Council kept out of 'that profession Wendy Bacon, a journalist, who wanted to be a barrister. She was kept out of the profession basically because she continually wrote articles in newspapers and elsewhere criticising the bar profession. That was an outrageous imposition. It is outrageous to restrict people's freedom to practise their profession.

In their references on various occupations, the Law Reform Commission and the Regulation Review Unit have made comments about the use of a character test in occupational regulation. The Law Reform Commission's report on the Estate Agents Act states:

> The aim of these provisions -

that is, the provisions relating to character -

> is obvious, but not all of them are necessary. If the key justification for screening people is to establish their honesty and fairness, then the criteria should directly relate to those qualities. There should be reasonably specific criteria as to the kind of conduct or misconduct which indicates that a person is undesirable, not vague

> tests of "character". The uncertainty of the present criteria leaves the way open to inconsistency, and the possibility that people may be unable to obtain licences to work as agents for reasons which are not clearly related to protection of the public.

Similarly, in its report on inquiry agents, the commission states that it does not:

> accept that allegations about character or reputation provide a sound basis on which to make judgments concerning a person's entitlement to become an inquiry agent or guard agent.

It also states:

> As the inquiry noted in its report on process servers and commercial agents, "denying a person a particular means of earning a living is a serious deprivation of civil liberty", even when done to protect the public against significant risks. It should only be done if the risk of misconduct is clearly established.

There are no clear guidelines in this Bill about how the character test will be applied and whether it will be applied consistently. I am concerned that it could be applied, for example, to keep out a union activist, or someone else that the members of the board, who are all appointed by the Minister, believe is not an appropriate person to take part - -

> Dr Napthine interjected.

Mr THWAITES - I shall come to that. The problem is that this board of people, appointed by the Minister, may seek to use the character test to keep out people who are union activists or people they otherwise do not support.

I also refer to the report to which the honourable member for Coburg referred - that is, the health department's report on its review of registration for health practitioners. At page 12 it states:

> The interim report supported the principle that standards required for registration should be the minimum standards to ensure safe competent practice and argued that any irrelevant pre-registration requirements as a condition precedent to registration be eliminated. Registration should not unnecessarily inhibit the entry of practitioners to the work force.

In my view the character provision in the Bill, which is broad and which contains no criteria, does exactly that - it unnecessarily limits people entering the workforce.

By contrast, paragraph (b) of clause 7(2) states that the refusal may be made if:

> the applicant is unfit to practise as a registered nurse because she or he is an alcoholic.

In contrast to paragraph (a), that is a proper provision. It clearly states that the person who is refused registration is unfit to practise. That is a very different and much narrower test than simply saying someone has a bad character and it is therefore not in the public interest for him or her to be registered.

Paragraph (c) contains yet another test:

> that the applicant has been convicted of an indictable offence.

However, the paragraph does not say that that person should therefore be unfit to practise, nor does it say that because of that indictable offence it would not be in the public interest for that person to practise. The paragraph provides an additional test. Therefore, as well as the public interest, we have the test of it affecting the applicant's capacity to practise.

I am simply pointing out that there is a further test. There is the public interest, the effect on the applicant's capacity to practise and the applicant being unfit to practice. Paragraph (f) contains yet another test:

> that the applicant's competency in speaking or communicating in English is not sufficient for that person to practise as a registered nurse.

We are now talking about sufficient competency. I am concerned that this paragraph could be applied in a discriminatory way, in the same way that the old dictation test was used to keep certain people out of Australia. This test could be used in a similar way to keep certain qualified applicants out of the nursing profession and perhaps be used against nurses from particular ethnic groups or geographical areas.

The tests for registration are uncertain, and that will give rise to unnecessary legal disputes. They are very broad and involve not one test that can be easily understood but four separate criteria. That will make the gate easier for some people to get through than for others. It could lead to favouritism and could be used against political opponents or unionists.

I tum now to clause 9, which deals with conditions, limitations or restrictions on registration. It provides that the board may impose any restriction or condition on registration. That is a completely unfettered and broad discretion. The Bill contains no criteria on how the board is to apply its conditions and how those conditions are to relate to the improvement of nursing in Victoria. Once again it could effectively stop a person from working as a nurse when that person would have no real idea about the basis on which he or she is being prevented from entering that occupation. Clause 14 allows the board to refuse to renew a registration. That is also an extremely broad and unfettered power.

Part 3 relates to investigations into registered nurses. The Bill allows the board to conduct what is called a preliminary registration in respect of, firstly, the professional conduct of the nurse and, secondly, the health of a registered nurse. In regard to professional conduct, one needs to refer to clause 3, which defines "unprofessional conduct". It states that "unprofessional conduct" means:

> (a) professional conduct which is of a lesser standard than that which the public might reasonably expect of a registered nurse.

I emphasise that that test is based on what the public would think and is not the same as what would normally be applied in law - t h a t is, an objective test as to what a reasonable person in the position of nurse would do in a particular circumstance. It is wuair to place nurses in a completely different position from people in other professions.

In reference to the legal profession, if the Minister were challenged by a client about her conduct, the test would not be based on what the public thought but on what her fellow solicitors thought about her conduct. Indeed, sections 2A and 2B of the Legal Profession Practice Act make it clear that the issue of professional misconduct is to be determined according to what a solicitor in that position would regard as professional misconduct.

The definition of "standards breach" in section 2B of that Act states that it means conduct by a solicitor in a professional capacity which would be regarded by a solicitor in good standing to be unacceptable or unprofessional behaviour. That is totally different from the situation in which the poor old nurse is placed: she does not have her conduct assessed by a reasonable nurse but by the so-called reasonable member of the public.

To give an example, if the Minister were charged with negligence or if a claim of negligence were brought against her, she would presumably bring along to court another solicitor to say that her conduct was reasonable and that it was not negligent. The Minister expects a nurse to go along and not have another nurse give evidence that his or her conduct has been reasonable. The Minister regards it as reasonable for some member of the public to say that in his or her view the nurse's behaviour was not what you would expect from a nurse. That is totally unfair.

Who is this member of the public? Who will be the expert in the conduct of nurses? Will they be objective? Is it going to be Des Moore from the Institute of Public Affairs (IPA)? Who will say what is appropriate conduct? It may well be that Des Moore or someone else from the public, or the honourable member for Portland, will be ready to get up in court and say that it is unreasonable for a nurse to take industrial action and it is therefore professional misconduct. That is very different from the situation whereby the Minister would be judged by her peers. It is unclear how that provision will work.

I will give another example from my own profession - that of a barrister. I would have thought most members of the public would think it unreasonable that barristers cannot advertise their fees, yet if a barrister were in the witness box he would say that it is reasonable to restrain barristers from advertising their fees and if he does so he is in breach of the ethics of the bar. The point I make is that a different test of conduct applies to varying professions, and a different test has been applied by this Minister to the nursing profession.

The consequences of the Bill are extremely serious. Under clause 47, if the board finds that there has been unprofessional conduct, it is defined as a serious breach of professional conduct and the board can impose a fine of $10 000 and can cancel the registration of the nurse so that the he or she can lose his or her career as the result of a test that would not be applied to any other profession.

Section 23C(2) of the Nurses Act provides:

> A nurse is not guilty of professional misconduct only on the ground of action taken by that nurse pursuant to an industrial dispute.

It is interesting that that provision has been removed by the Bill. Presumably that indicates that the

Minister is using the Bill to say that nurses who take industrial action against the action of her government in undermining the health care system in this State, for example, are thereby guilty of professional misconduct. Presumably once again she will get an expert from the State Audit Office or the IPA to come along and say that it is professional misconduct.

I shall now refer to the notification of preliminary investigations. The honourable member for Malvern attempted to say that there is notice and referred to clause 36, but that notice does not apply until after a preliminary investigation and after a nurse may have been suspended. It is a misnomer to call those investigations preliminary only. In fact, the outcome of a preliminary investigation can be that a nurse is suspended. That is, a nurse may lose his or her job and source of income without notice and without any chance to state his or her case. It appears that the government has introduced a fundamental breach of natural justice because it is saying that a nurse can be suspended and lose his or her career without any notice and without any opportunity to state his or her case.

The grounds on which the board can proceed are extremely broad. Clause 25(l){b) allows the board to set up a secret preliminary investigation if the nurse has what is defined as an incapacity which affects her ability to practice. The words "incapacity" and "ability of the nurse to practise nursing may be affected" are very broad and could apply to almost anything.

Clause 38 refers to informal hearings that are provided for and under that clause there is no right to representation. The nurse can be reprimanded, and that can affect his or her career. The government says the nurse can ask for a formal hearing, but that is not much of an alternative because the remedies available for a nurse at a formal hearing are much more severe and the formal hearing is conducted in the full glare of publicity. Most nurses opt for an informal hearing even though they have no representation.

The honourable member for Portland put great reliance on the right to appeal to the Administrative Appeals Tribunal (AAT). To that I say: it is a bit late after you have already been suspended. A nurse may well find that he or she has been suspended, is out of work for months and has lost thousands of dollars and the government says it is all okay because the nurse is entitled to a hearing before the AAT. The government is limiting the resources to the AAT, so the delays at the tribunal are becoming longer. My understanding is that it takes at least six months to get a case before the tribunal. The reliance the honourable member for Portland places on the AAT is misplaced because any nurse will be forced to wait for at least six months to have the claim properly adjudicated.

The Bill includes no provisions for back pay or apologies, and the nurse will be the one who suffers. At the AAT the nurse will probably be up against government representatives or others who will have legal counsel. No doubt the nurse will need legal counsel, which will result in additional costs. That is another loss that the nurse will suffer.

Through the Public Sector Management Act the government is threatening the independence of the AAT so that any member of that tribunal can be put on contract and sacked. Recently one member of the tribunal has been sacked for no reason. It is not much of a remedy, and if the honourable member for Portland knew how the system really worked, he would realise that.

The provisions establishing the Nurses Board demonstrate the double standards of this government and the Minister. Other professions have a substantial representation, either elected or nominated, on boards governing their professions. The Law Institute of Victoria consists entirely of members of the legal profession; the bar comprises solely members of the legal profession; five out of eight members of the architects board are nominated by architects, but the Minister seems to be indicating that it is time that that changed. There will be no amendment to the Legal Profession Practice (Amendment) Act in that regard during this session, and if the Minister is indicating that that will happen, I hope the Attorney-General will come into this House and have the honesty to say that. I am sure her friends in the Law Institute will be very interested.

Four members of the estate agents board are nominated by real estate industry groups, and chiropodists and chiropractors have significant numbers of people from their professions either elected or nominated by the group themselves on their boards.

This is a case of double standards because the government is making all the appointments to the Nurses Board and will control all the positions. It seems there is one law for one group and one for another. The discipline of the legal profession is in

the hands of lawyers, not in the hands of outsiders. If the Minister and the government are genuine, let them apply similar provisions to other professions.

Mr MILDENHALL (Footscray) - The Western Hospital in my electorate is a significant employer of nurses, and many of my constituents will be directly or indirectly affected by the legislation. My concern echoes the concerns of previous opposition speakers, particularly the honourable member for Coburg, but I should like to cover several major points: the process of the Bill's development; the composition and options for the composition of the board; protection for the public, which has been widely mooted by government speakers as the fundamental purpose of the Bill; the adequacy of training for those who undertake specialised roles in nursing; the legality of the Nursing Council's present operation; and the approach the Minister is taking with this legislation.

The honourable member for Malvern waxed lyrical about the 1958 legislation, but I agree with him that some landmark legislation was introduced that year and this Bill amends several of those important measures. It is interesting to reflect on the process behind the development of the Bill, given its significance. One of the frequent criticisms of the Bill is the lack of consultation that took place. The government says extensive discussions have been held since 1989. While it is true that discussions were initiated by the previous government, the processes of the previous government and former Liberal governments differ in one essential characteristic, which was outlined by the honourable member for Portland: this government is directly and deliberately imposing its will rather than seeking agreement. I have considered the way a significant education measure in 1975 was handled by the then Minister of Education, Mr Lindsay Thompson. He proudly stood up in this Chamber and said the Bill represented agreement among all the major parties after discussions over some 18 months. Clearly the consultation process leading up to this Bill and information that resulted from the activities of the previous government enabled this government to be in possession of a number of views from the field, but it listened with only one ear.

I have examples of the consultation process that took place. A constituent of mine, Professor Woodruff, who is prominent not because of her residential status but because of her position as a professor of nursing education at the Victoria University of Technology, has commented that the haste with which the Bill has finally arrived in Parliament is a continuation of a disturbing pattern that sees legislation that affects nursing practices rushed through with only a short time in which comments may be made. She acknowledges that wide consultation took place in earlier times but was moved to comment that the present Bill does not take cognisance of the comments received in response to the legislation at that time.

The Minister is taking refuge in the earlier efforts of previous governments. In a letter in today's *Age* the Minister says in response to the view that little or no consultation has taken place:

> Nothing could be further from the truth. A departmental review of the Nurses Act 1958 was begun in 1989 ... there has been consultation with colleges of nursing, directors of nursing, and a range of peak bodies, including the Australian Nursing Federation and the Victorian Nursing Council.

I have another example of the government's consultative process. In response to her concerns Professor Woodruff received a letter from the Parliamentary Secretary to the Minister for Health, the honourable member for Portland. In my former life I was a public servant, and I believe this letter is a classical example of the type of consultation that has taken place. It states:

> Thank you for your comments. We have drafted the Bill. We have been very careful. Here's a copy of it. We are confident it is a good Bill. If you have any more specific comments please forward them on.

It does not say, 'We have listened and taken note". It is a classical example of this government's consultative process compared with the consultation undertaken by the previous government and former Liberal governments.

One of the principal concerns raised by previous speakers is the composition of the board and the difference between the board and the former Victorian Nursing Council. Honourable members would agree that, given the extraordinary range of activities and functions of the board, the composition of the previous council was appropriately constructed and nominated by the participating organisations. The recently tabled annual report of the Nursing Council shows that it was responsible for conducting research, funding publications and the promotion of nursing. It was not concerned merely with regulation, control or the

protection of the public; it had the function of promoting the whole profession.

How the new board with its more constrained functions should be appointed is a vexed question. As one of the previous speakers said, discussion papers by the previous government canvassed the philosophy of how one would appropriately appoint representatives. The rationale the government has provided is that it is all about expertise. It is not about looking for nominees of particular organisations because the government is moving away from that model. If one is to move to an alternative, expertise-based model to one that has representatives with a broad range of experience and expertise, one must ask why the Bill does not say that.

Why does the Minister not say in her second-reading speech that the government is seeking a range of experiences of people to advise it on the operation and functions of the Nurses Board? It would have given the community valuable guidance if the Minister had said the government was looking for special expertise, a higher range of skills or experience that nursing practitioners in a range of areas could bring to bear in advising the Minister and in conducting the board's investigations and regulatory activities.

The downside of the approach taken by the government is that it does not identify appropriately or publicly defend its goal and it does not specify the expertise of the people it requires. The government does not hold itself accountable to recruit and appoint that expertise. It leaves the requirements extremely broad.

The honourable member for Malvern referred to the Totalizator Agency Board and the opposition, rightly, argued that despite the Minister's protestations in the House that she wanted expertise, the Bill and the second-reading speech did not say that. Without any of that guidance it lends itself open to the accusation or fear by many groups that the government is looking for compliant people who could be hand-picked because of their potential to agree with the government's activities, election promises and priorities in policy areas.

Another issue of concern has been raised with me by the former representative of the Australian Medical Association (AMA) on the Victorian Nursing Council. He is not a representative now because the Nursing Council membership expired on 9 November. He was advised by the AMA legal officer not to continue his participation on the executive committee of the Nursing Council. The Nursing Council executive is continuing its wide range of activities, including investigations and registrations, even though its members are no longer members of the council. Section 10 (2) of the Nurses Act, which deals with the executive committee, states:

> U any member of the executive committee ceases to be a member of the council or resigns or is removed by the council from the executive committee for any specified reason the member shall cease to be a member of the executive committee ...

An interpretation of the existing legislation indicates that at present the executive committee does not have any legal status. This should be of concern to the government and anyone involved with the Nursing Council's present activities. Section 10 (3) states:

> Subject to the foregoing, members of the executive committee shall hold office until the first meeting of the council after a periodical appointment of members of the council and a new executive committee shall be appointed at such meeting.

I understand that the government has taken some comfort in clause 3 as a result of an interpretation that members of the executive committee can continue in their activities under existing legislation until the election of the new board provided for by the Bill. I should have thought a literal and direct interpretation of the existing legislation is that executive committee members are no longer eligible to hold office and that the intent of the clause is to provide some status for executive committee members in the event of there being periodical appointments to the committee.

The status of executive committee members continues only until the initial meeting of the new Nursing Council. If the AMA's view is correct, the continuing activities of the Nursing Council may be without legal status. I should have thought that would have serious ramifications for any challenge to the current registration or investigation activities of the council. In responding to the second-reading debate I seek the Minister's comment on that issue.

The most serious concern that members of the nursing profession and the public have about the Bill is its failure to achieve the objective sought by the government-that is, the protection of patients. Clause 60 deals with the effect of registration in

division 1. It provides that the general three-year trained nurse may do the work usually done by persons registered in any other division of the register without being registered in that division.

There are a number of difficulties with that provision. I have been advised that there is a current oversupply of division 1 and division 2 nurses who would be tempted to try to find work in the more specialist areas of qualification. A second difficulty is that there is an assumption behind the Bill that the current pre-registration generalist courses are comprehensive courses and adequately prepare someone for those specialist areas. I am advised by Professor Woodruff from the Victoria University of Technology, particularly with the preparation for psychiatric and mental retardation nursing, there is a significant shortcoming in the level of exposure to the clinical learning practice and theory for that area of specialisation in general nursing courses. When nursing educators failed to put in place a four-year program for general training, most clinical learning practice and theory in the psychiatric and mental retardation area were removed from the general courses to more adequately structure those courses, especially as specialist courses were available for those seeking careers in the mental retardation and psychiatric fields.

There is strong opinion within the nursing profession on this issue, and it is backed up by New South Wales research which shows that 70 per cent of students in New South Wales considered themselves deficient of knowledge and skills in mental retardation and psychiatric nursing and ranked their choice of career in this specialist area as the last of ten preferences for future practice.

Mr Perton - Give us the source.

Mr MILDENHALL - I am ready and willing to provide those references to the honourable member for Doncaster, but I know he is not seriously interested in the matter and is just seeking to disrupt the proceedings of the House.

Mr Perton - You don't know that. Go on, give it to us.

The SPEAKER - Order! The honourable member for Footscray should not be tempted to answer interjections.

Mr MILDENHALL - If the honourable member for Doncaster wants to broaden his education with some general reading he should consult *New South Wales Nursing Students' Attitudes Towards a Career in Mental Health* by Stevens and Delhunty.

The amendment moved by the honourable member for Coburg seeks to reinforce the interests of the public so that an appropriate level of specialisation in psychiatric and mental retardation nursing preserves the high degree of professionalism in those areas.

Nurses who engage in postgraduate courses to prepare themselves for work in this specialist area are exempt from HECS payments, but the regulations for those exemptions are such that if division 1 nurses are separated from their practise in those areas of specialisation that exemption will be lost. Although government members have spoken about the moves to stimulate professionalism in the profession, the Bill will result in deregulation, privatisation and non-professionalism.

This morning during the grievance debate I detailed the impact the reduction in the number of professional and adequately trained psychiatric nurses was having on the system, particularly at the psychiatric hospital in Footscray. Some of the manifestations of poorly trained nurses who have not previously been exposed to more dangerous wards and high ratios of staff to patients is leading to increased incidents of violence, a perceived reduction in the quality of nursing and a general lack of confidence in the quality of services provided in the State system.

The deregulation that will result from the Bill will sit alongside those resource reductions, cutbacks in services and attempts by the Minister for Health to impose greater control over independent and outspoken bodies and those who disagree with the policies of the government. That will result only in the disheartening and disappointing pattern of government attempts to reduce resources and the quality of services, and comments contrary to the government's intentions, and any sources of dissent will be subjugated and snuffed out.

Mr RYAN (Gippsland South) - It is my pleasure to join in debate on the Bill, which will have an impact on a truly honourable profession. It is relevant to refer to the proud history of nursing in Victoria. In my research of materials for this debate I noted that the first training of nurses in Victoria was conducted at the Lying In Hospital and Infirmary for Diseases of Women and Children established in 1856.

Mr Seitz - Mr Speaker, I direct your attention to the state of the House.

The SPEAKER - Order! I ask the Clerk to ring the bells.

Bells rung.

Mr Perton - You whacker!

The SPEAKER - Order! The honourable member for Doncaster will withdraw that remark.

Mr Perton - I used the word whacker.

The SPEAKER - Order! It is an unparliamentary expression and the honourable member will withdraw it.

Mr PERTON(Doncaster) - I withdraw.

Mr PHILLIPS (Eltham) - On a point of order, Mr Speaker - -

The SPEAKER - Order! I cannot hear the honourable member until a quorum is present.

Quorum formed.

Mr PHILLIPS (Eltham) - On a point of order, Mr Speaker, I seek a clarification of your ruling. Last night in your presence I was called a whacker and told to sit down by the honourable member for SWlShine. I did not take offence at that and you did not ask the honourable member for SWlShine to withdraw. I ask why the use of the word "whacker" appears to have been dealt with inconsistently?

The SPEAKER - Order! The Chair has to make judgments from time to time. It is possible that I did not hear the interjection or the word used. In this case, given the silence of the House, I heard the word. I judged it to be unparliamentary and asked the honourable member to withdraw it.

Mr RYAN (Gippsland South) - The first of the courses conducted by that fine institution commenced in 1861-62. In 1884 the hospital became the Hospital for Women; and in 1954 it became the Royal Women's Hospital. It has a proud history of delivering medical services of the highest quality. In Victoria the training of nurses commenced under the direction of Dr Gerald Featherston and his wife - and material shows that the same training methods were used for the next 40 years! It is interesting to note that the training of nurses was controlled by hospital by-laws. My research material also shows that the by-laws were frequently reviewed by the hospital as the quality of the training courses improved.

The Victorian Trained Nurses Association was formed in 1901. It subsequently became known as the Royal Victorian Trained Nurses Association and in 1934 changed its name to the Royal Victorian College of Nursing. In 1902 training courses for nurses came under the auspices of the Victorian Trained Nurses Association. The Nurses Regulation Act was not passed until 1924, which was the first time a State government passed legislation dealing with the nursing profession generally.

Since then various measures affecting the nursing profession have been passed, culminating in the Bill before the House. The point of my going through the history is to show that, as with all professions, this proud profession is continually evolving. The same is true of the legislation that regulates the nursing profession. It, too, has evolved over the years - and the Bill is evidence of that process.

My own family has a close association with the nursing profession. My sister, Genevieve Tobin, is a nurse; my aunt, Eileen Dowling, is a nurse; and my cousin, Cathy Hastings, is a nurse. I have received a number of submissions on the Bill at close quarters! Last Monday at my Sale office I received a deputation from four nurses from the Maffra Hospital - one of the many deputations I have received on the Bill. I am grateful for the contribution they have made to assist me in framing my comments on the legislation.

Members of the opposition have raised a number of issues, some of which are reflected in the material distributed not so much by members of the nursing profession as by certain union entities who claim to be speaking on behalf of the profession. I will deal with those issues in turn. The first concerns the so-called omnipresence in the Bill of the Minister for Health and what that means for the nursing profession. I mentioned those issues in passing to the honourable members for Portland and Malvern, who kindly read to the House some of the material I had intended to direct to the attention of honourable members. I shall reflect on that when next I follow them in debate!

I will deal with the constitution of the new Nurses Board. I will not dwell on the details, which come down to these. Clause 64 establishes the board and clause 65 deals with its powers, functions and

consultation requirements. It is significant that clause 65(1)(e) deals with the board's functions as they affect the accreditation of courses which provide qualifications for registration purposes and which provide qualifications in addition to those required for registration. The Bill clearly intends that the board have regard to the postgraduate courses in which nurses will be able to enrol once they have completed their training for general registration.

Clause 66, which deals with the membership of the board, is supposedly contentious. The clause says that the board shall consist of 12 members. It says that nine members must be nurses, one must be a lawyer and two must be people who are not nurses. Clause 69 says that both the president and the deputy president of the board must be registered nurses. Those provisions can be compared with the 1958 Nurses Act.

Section 4 of the principal Act deals with the Victorian Nursing Council and its establishment. Subsection (1) says:

> There shall be a council to be called the Victorian Nursing Council consisting of 29 members appointed by the Governor in Council.

I repeat, the Act says that those members are to be appointed by the Governor in Council, who may at any time remove any member of the council. Let's get that straight. Section 4 of the principal Act says that a council member may be appointed and removed at any time by the Governor in Council. Section 4(2) says that the 29 members of the council are to include 12 registered general nurses, 1 midwife, 2 psychiatric nurses, 1 mothercraft nurse, 2 State-enrolled nurses (SENs) and 11 others. In other words, 18 of the 29 are to be nurses, 12 of those 18 being elected.

I will not prolong the debate by raising the public policy aspects and the importance the government attaches to the appointment of board members - as opposed to their being elected from the ranks of the nursing profession. As has been said by many other government members, the issue is about looking after the public, which the profession so proudly serves. It is not about the union representation of nurses; and those who claim that it is are simply not right.

Section 7(1) of the Act says:

> The Minister shall from time to time appoint a chairperson of the Council.

At present, therefore, the Minister has the power to appoint the chairperson. Section 9(1) states:

> The council shall act as an adviser to the Minister on all nursing matters.

Section 9(2) says that the council shall advise the Minister on general nursing policy matters. It also sets out a range of areas on which the council is to provide advice to the Minister. The crucial factor is that section 9(3) of the principal Act makes specific reference to the fact that in carrying out its function the council has to have regard to consultations with the chief general manager.

Sitting suspended 6.30 p.m. until 8.3 p.m.

Mr RYAN - Before the suspension of the sitting, I was examining the provisions of the 1958 legislation, particularly as they reflect upon the current powers of the Minister. Section 9(3) states:

> In carrying out its functions the council shall from time to time consult the chief general manager in regard to the existing and proposed activities of the council and shall have regard to the chief general manager's advice.

The chief general manager is defined in section 3 of the Act as being "the Chief General Manager of the Department of Health". That means that individual is the head of the health department and is directly responsible to the Minister. Under the 1958 Act the council and its activities are subject to the direct influence of the Minister by yet another means.

If that were not enough, let us move to the final provision of relevance to this issue, section 15. This section relates to the powers of the Minister. Other members who have mentioned this point have kindly read out this provision in full.

Mr Seitz - Mr Acting Speaker, I direct your attention to the state of the House.

Quorum formed.

Mr RYAN - Section 15(3) of the 1958 Act states:

> Every officer of or person employed by the council shall at all times give effect to any order or direction of the Minister.

That final provision clearly indicates that under the 1958 legislation the Minister has more than enough power to have a direct influence and impact on the operation of the council, well beyond the powers

encompassed in the Bill before the House. If one takes the trouble to go through the 1958 Act and compare it with the Bill, it becomes patently obvious that, if anything, the provisions in the Bill represent a reduction in the powers of the Minister. I point out respectfully that the complaints made about the powers of the Minister are without foundation.

The second issue with which I will deal relates to the general question of registration, which has been dealt with by previous speakers. Therefore, I do not propose to go through the clauses in detail. Suffice it to say that clause 7 deals with the general issue of registration. In essence it states that any nurse who satisfies the requirements of clause 6 is entitled to be registered as a nurse.

Clause 6(1)(a) states that a person is qualified to be registered in division 1 of the register if that person has successfully completed a course of study accredited by the board. That, in tum, takes us to clause 65 of the Bill, which deals with the powers, functions and consultation requirements imposed on the board. i will not quote those provision, but clause 65(1)(e) is of specific interest and relevance to the issue of registration.

Paragraph (e) states that the board is empowered to accredit courses which provide qualifications for registration purposes and which provide qualifications in addition to those required for registration. I have already made reference to that paragraph in another context. The significant aspect is that it preserves basic registration and allows for postgraduate registration for the nursing profession.

Under the terms of clause 17, once that registration procedure is complete a certificate must be issued. The provisions of clause 17(2)(a) and (b) are relevant in this context because they require that certificates reflect the formal postgraduate education that nurses have acquired. That is in response to a significant concern of the nursing profession that, by deleting the registration system as we know it, the risk would be that completed postgraduate studies would disappear into a great amorphous mass and would not have due and appropriate recognition paid to them. The clause makes it clear that there is provision for retention of those postgraduate qualifications on the issued certificates.

Mr Haermeyer - Mr Acting Speaker, I direct your attention to the State of the House.

The ACTING SPEAKER (Mr Cooper) - Order! I direct to the attention of the honourable member for Yan Yean a ruling made by Speaker Edmunds on 14 April 1988 when he said that the Chair will exercise its discretion if there are continuous disruptions to proceedings by the calling of quorums or for other reasons. I am satisfied that there is a quorum. A quorum was called at 8.5 p.m.; it is now 8.11 p.m. There is no point of order.

Mr RYAN (Gippsland South) - Clause 92 deals with regulations that empower the Governor in Council to accommodate the sorts of concerns the profession has about being able to record postgraduate specialties on certificates. Clause 59 deals with offences and contains provisions that accommodate situations where someone lays claim to degrees they ought not properly claim. That provision protects nurses against the shams and the shysters who may lay claim to accreditation that is not properly theirs.

The provisions provide the means by which each nurse will be issued with a certificate showing the basic registration and any postgraduate accreditation, which is proper. It has been said that employers will have to make inquiries about accreditation that a nurse may claim, but what is wrong with that?

This is a Bill in the public interest. Why should the potential employer of a nurse not bear the obligation to ensure that the person employed has the proper accreditation. The provision is a laudable one. I again ask members of the profession - not those who are apparently leading them on this issue - to examine the Bill and not allow themselves to be led around. Nurses should scrutinise the Bill.

The third issue I want to deal with is natural justice. Part 3 of the Bill is divided into four areas; firstly, professional conduct; secondly, the health of nurses; thirdly, hearings, informal and formal; and fourthly, investigations. Without examining each of them specifically, the general complaint was made that there is no natural justice. The honourable member for Albert Park, who is not in the House, said that there is no natural justice, but that is absolute nonsense. The fact is that there is ample provision within those divisions for a proper hearing for any nurse who is subject to any action contemplated by the board. A nurse has every right to a formal hearing in the first instai:ice, and if he or she so desires or the offence warrants it, a formal hearing will be convened.

It has been said that at an informal hearing a nurse is not entitled to legal representation, but if one

examines clause 40, which deals with the findings and determinations of an informal hearing, one finds in40(2) that nurses may be subject to counselling, cautioning or being reprimanded. Fair din.Imm; talk about a smack on the wrist! I was a member of the committee that examined these concerns and spoke to the nursing unions and the medical profession about this issue generally. We were trying to sort the wheat from the chaff. The committee was trying to remove the stupid claims to which every profession is subject. The idea was to have an informal procedure to deal with those issues and get them out of the way, and for that purpose legal representation is not allowed although the person can take someone along if he or she chooses. However, if at any stage of the process the nurse wants a formal hearing, he or she need only say so and one will be convened. Matters can be dealt with on that basis. The complaint is utterly hollow and has no merit. The process is clear, and I do not believe there is any valid issue to raise.

Moreover, one needs to have regard to Part 4 of the Bill, which deals with the review by the AAT. The honourable member for Albert Park said that it will take too long and will be too hard. He said that there are not enough resources, but he cannot have it both ways. If the honourable member can establish that we have not properly supported the AAT, that is different; but he should not complain about the process. It is a good process and it will enable the issue of natural justice to be accommodated if a nurse has a problem with what has arisen as a result of an informal hearing. There is no lack of natural justice; to the contrary, there is plenty of opportunity for the nurse to be heard, and so there should be.

The honourable members for Albert Park and Footscray made the point that the legal profession is not subject to a structure similar to that contained in the Bill. I believe that is a valid point; I am a lawyer. I do not believe any profession is sacrosanct in this crucial issue of what is in the public interest. I have no objection to the legal profession being subject to the same sort of scrutiny as the nursing profession is now being subjected to. I say to honourable members 'Watch this space". That comment was made by the Leader of the Opposition when he failed miserably to deliver on the matters he raised, but watch this space on this issue, because the point that has been made is valid. That area justifiably bears consideration if, as a matter of consistency, we look at the performance and regulations of the professions in the public interest.

In summary, the Bill recognises the evolution of the nursing profession. I have traced the history of the profession from the 19th century. Over the years legislation coming through this Chamber has brought the profession into the 20th century, and this Bill will be a vehicle for this magnificent profession to be taken into the 21st century. I ask the members of the profession to pick up the legislation and read it for themselves. Do not rely on those who purport to lead the profession, because the advice they are giving is patently wrong. It does a gross disservice to this honourable profession.

Mr Haermeyer - Mr Acting Speaker, I direct your attention to the state of the House. There are 13 members in the House.

The ACTING SPEAKER - Order! The honourable member for Yan Yean called for a quorum at 8.11 p.m. I told him then that I was satisfied there were sufficient numbers within the precincts of the building not to warrant the ringing of the bells. I direct to the attention of the honourable member for Yan Yean to the ruling by Speaker Coghill on 28 March 1990, when he stated that a quorum was clearly present at an early stage of the proceedings and a quorum was clearly within the precincts of the building and that the bells would not be rung. There is no point of order.

Mr HAERMEYER (Yan Yean) - On a point of order, Mr Acting Speaker, there are clearly only 13 members in the House at present. There is no quorum.

The ACTING SPEAKER - Order! I have ruled on the point of order. If the honourable member intends to defy the Chair he had better be careful because I will take action against him. I have ruled on the point of order. If the honourable member has a further point of order, I will listen to him; if he wishes to discuss the same point, I will not.

Mr RYAN (Gippsland South) - Broadly the legislation will put in place a structure to serve both the wonderful nursing profe ion and the public well into the next century. The nursing profession would do well to take hold of the legislation and make sure it works. The Minister wants it to work, which is why 9 of the 12 members of the new board will be nurses. There are no demons or shadows in this measure. Those in the profession should grab hold of the legislation and use it for their own benefit.

I accept that nurses have an element of ownership in the legislation. But at the end of the day the public interest, which is the crucial issue, will best be served by the passage of the Bill.

Ms KIRNER (Williamstown) - I am pleased to speak in the debate and to be part of the changes in the Nurses Bill as they reflect three years of consultation on improving the standing of nurses in this State. I had hoped that after such intensive work I would be able to say that I thoroughly agreed with the Bill. In fact, I am disappointed by it. I have listened to the contributions made by the honourable members for Portland and Malvern. The honourable member for Malvern made his usual excellent contribution. Although I do not always agree with him, he always makes a thoughtful contribution. Both members spoke of the extensive consultations on the Bill and said we should therefore all agree with it.

I agree that the consultation was extensive. However, the Bill does not adequately reflect that consultation, particularly the consultation that took place with nurses. It is a truism that when politicians receive only a few letters they do not always act on them unless they are starkly descriptive of injustice. But when you receive literally hundreds of letters from your own constituents as well as from nurses across Victoria, you cannot simply say, as the honourable member for Gippsland South has just said, that you respect nurses and their standing while not taking any notice of what they are saying. You may disagree with what they are saying; but it is patronising to suggest that although nurses may disagree with the Bill, it will be good for them. Nurses in this State are saying that the Bill is not good for nurses. If nurses represent the pinnacle of treatment and real care in our hospitals - I believe they do, because they are more important than doctors - it is vital that the government and nurses reach agreement on the Bill. That has not happened.

I am surprised at that because, as most people know, I have a great deal of respect for the Minister for Health. I worked with her when she was the shadow Minister for conservation and was trying to persuade some recalcitrant members of her party to adopt a slightly greener conservation policy. I think she almost outdid me on consultation with the green and logging movements. As a result we eventually reached a consensus on what should happen in East Gippsland - or at least as good a consensus as you could get! That has not happened on this issue, which, as I said, surprises me. I would have thought that the quality of health care, which is significantly influenced by nurses, would be as important an issue on which to achieve consensus as were the East Gippsland issues.

As I read the Bill I wonder whether it more strongly reflects the bureaucratic overdrive that exists in the Department of Health than the Minister's own views. That is probably not accurate because I am sure the Minister would not introduce legislation at least half of which she was not behind! I say to the Minister that with just a little more work, consensus and partnership on this important issue could have been achieved.

I have received representations from nurses on the Bill, as have all honourable members. One of the clearest was from Ms Helen Clark, who, although she lives in Ascot Vale, describes herself as a constituent of mine. In her letter of 12 November she states:

> Dear Mrs Kirner
>
> I have grave concerns regarding the Nurses Bill presently before Parliament. As a registered nurse as well as a member of the general public I am angry that the Kennett government has not properly listened to the concerns of the nursing profession.
>
> There are numerous aspects of the Act that are concerning but I am particularly angry about the proposal to replace the elected Victorian Nursing Council with a Ministerially appointed board. How can one ensure that this board will function without political interference?
>
> Secondly, the abolition of separate registers for nursing specialities allowing nurses with no specific training, education or experience to practise in areas such as midwifery and psychiatry. How will your constituents feel when the newly qualified graduate is the main provider of these services?
>
> Thirdly, the Bill denies nurses natural justice in the investigatory and disciplinary procedures. The situation whereby a nurse cannot appeal a decision without going through the courts is outrageous.
>
> If the intention of this Bill is to protect the public interests, then I do not understand how the abolition of nursing practice restrictions will result in anything else than unqualified and inappropriately qualified nurses caring for the community.

As my elected representative I urge you to pressure the government to withdraw the legislation in its present form and to seek to consult with the nursing profession.

I will now deal with those three points in order. They are the three central points for the nursing profession, which is so directly associated with standards of care in our hospitals and community health centres; and they are probably the three central points of concern to the general community.

The first is the replacement of a partly elected nursing council by a Ministerially appointed board. I can understand the Minister's desire to reduce the membership of the controlling body and to make changes to the constitution of that membership; however, this is not the best resolution. As the honourable member for Albert Park pointed out, all professions of high standing have their own professional boards. Can anyone imagine doctors or lawyers putting up with changes similar to those being proposed to the Nurses Board?

Dr Napthine - Doctors do not have elected members; they appoint a board!

Ms KIRNER - But both doctors and lawyers have distinct influences on the people who constitute the respective boards or councils. If you tried to tell the lawyers of this State who should represent them in controlling their profession, they would tell you to get lost. I do not understand why we have one set of standards for lawyers and another set of standards for nurses.

I listened to a number of contributions of government members, in which they said that nurses were the pinnacle of the profession and should be regarded as true professionals and that through changes in training they had upgraded their professionalism. In light of that, I do not understand how this method of selecting a new board to replace the existing council will improve the status of nurses.

I should have thought the reasoned amendment moved by the honourable member for Coburg would have been considered by the Minister. At the very least I should have thought it sensible - perhaps the Minister will do this - to seek names from the professional body - in this case, the Australian Nursing Federation (ANF) - and make selections from those names. That is what happens in many other councils and boards.

When I said that the ANF was a professional body, the honourable member for Portland scoffed. I wonder whether he would scoff if I referred to the body representing his former professional group - that is, veterinarians - as being professional. Of course he would not! From time to time the professional organisations, which are also organisations of labour in this State, stand up to this government - but they are scoffed at and ignored.

Recently I spent some time in the United States of America. I read business magazine after business magazine, and I brought home business practice book after business practice book about re-inventing management and the latest diatribe on proper management in the private and public sectors. Every publication talks about partnerships between employers and employees. It is somewhat sad that the government has missed the opportunity in the Bill to choose a partnership on the board between employers and employees.

Dr Napthine - It is not about employers and employees, it is about a professional board.

The ACTING SPEAKER (Mr Cooper) - Order! There must be no conversation across the Chamber.

Ms KIRNER - I am happy to take up the honourable member's interjection, Mr Acting Speaker, if you agree. The honourable member for Portland and others appear confused about how to establish a combination on the board that reflects the public interest as well as the interests of employees. No-one knows more about standards of health care than nurses. If you asked me to choose whom I would talk to in a hospital about standards of care I would immediately choose the nurses. The board actually has nurses on it.

Dr Napthine - Nine.

Ms KIRNER - But they are not necessarily nurses who have the confidence of their profession.

Mrs Tehan - Neither have they not got it.

Ms KIRNER - Now I have an admission from the Minister that they may not necessarily have the confidence of their profession. That proves my earlier point that if you want a true partnership in the setting of higher standards you must examine two requirements: the group that has the confidence of its profession and the simultaneous confidence of the Minister. I do not see those two requirements being contradictory. I remain puzzled that the change to the constitution of the board - formerly

the council - does not include nominated or elected nurses.

While the Bill is between Houses I have asked the Minister for Health to examine the issue. The constitution of the board could be improved. That would provide a consequent improvement in relationships between the Minister and nurses. Therefore, the outcome of any eventual decision making could be improved. What if the new board considers that nurses have no confidence in it? The underlying principles and reforms of the whole concept are too important to be jeopardised by what I regard as a genuine grievance by nurses.

I refer to the second point raised by Ms Clark - that is, her concern about the abolition of separate registers for nurses, allowing no room for nurses especially trained in, for example, midwifery and psychiatry. I share the concern of nurses. In a number of areas a move has been made towards better general training, which I support. It is an important move but at the same time, some areas are too important to be left to generalities. I do not speak off the top of my head on this issue; I compare it with the teaching profession, which is increasingly becoming a generalist profession. I am not convinced that that is the best direction in which the teaching profession should head.

One of the worst decisions ever made on teacher training and recognition of credentials was the removal of the recognition of the infant teacher - that is, the teacher who was well trained in teaching the initial skills of reading. It is a pity this Bill repeats that mistake by not making it necessary to retain what I regard as the essential maternal and infant welfare classification for nurses who may work in that field. It is a matter not only of qualifications but of skills, the particular relationships and approaches that cannot be obtained by generalist skills.

A second concern relates to psychiatric nursing. There is no harder field of nursing than psychiatric nursing. Unless one has had experience through family or friends of the real difficulties of psychiatric nursing one does not realise the challenges it presents. In the same way, unless one has elderly parents, perhaps with a touch of senility, one cannot understand the challenges that arise in nursing the aged. It is a very difficult nursing challenge. I fail to see how making the nursing profession register a totally generalist nursing qualification rather than a specific qualification will lead to proper care and add to the public interest. I recognise that there can be genuine debate about this issue, as happens in education. I am not convinced that totally generalist registers and training series are appropriate and offer the best education to students - in this case, to nurses.

The third concern of nurses and Ms Clark is the stated denial of natural justice in the investigatory and disciplinary procedures. It seems that in its drafting of disciplinary procedures and appeals the government is consistently demonstrating an alarming tendency to move away from the principles of natural justice. I carefully examined the recommendations of the Scrutiny of Acts and Regulations Committee. As with most of its recommendations these days, one has to read between the lines. The reports say that the committee notes the possible reduction in rights and has referred matters to Parliament for debate. That means the committee cannot reach agreement. It took some time for me to work that out, but I understand from the honourable member for Coburg that that is the situation.

For two years as education Minister and, before that, as conservation Minister I was regularly involved in the process of formal and informal hearings. If I was not involved, I was informed. In one particular case I was informed of breaches of conservation discipline and in other cases of supposed breaches of teacher discipline. I agree that in most public sector areas the processes for discipline should and could be tightened. I suggest that not all sections of the Bill tighten the procedures appropriately and in ways that render natural justice to all the players. There will be more debate during the Committee stage of the Bill, but at page 27 *Alert Digest* No. 17 states:

> Clauses 38 and 45 relate to informal and formal hearings where there is an alleged breach of conduct.

It was submitted to the committee that:

> Under the proposed legislation, a nurse may be investigated without her/his knowledge. This is clearly in breach of the nurse's civil liberties.
>
> The Minister responded:
>
> It is submitted that no breach of civil liberties occurs when a person is investigated without his or her knowledge. Clauses 38 and 45 of the Bill clearly require a nurse to be notified and informed of his or her rights if a hearing is held.

That is absolutely true, but it applies to a preliminary investigation. Unless one is dealing with the police in criminal matters I contend that in civil matters it is obligatory for citizens to be advised if they are being investigated. In most cases they are still employed and going about their daily activities as though they have the confidence of the Minister and the department, yet they could be under investigation. That is unfair and an inappropriate application of natural justice. The *Alert Digest* continues:

> Clauses 39 and 42 govern the conduct of an informal hearing and provide for review of an informal hearing.

It was submitted to the committee that:

> The propo!led legislation provides for the conduct of an informal hearing at which the nurse is not entitled to representation. This is a denial of natural justice and deviates from existing legislative provisions that provide for representation in all such processes.

I was amazed to hear the honourable member for Gippsland South say that he believed as a lawyer that it was adequate to equate someone accompanying a person to a hearing to representation at a hearing. There is dearly not the same opportunity for natural justice. Certainly it is not the same in other jurisdictions. The preliminary hearings may be a hearings about people's future, employment, standing or mental health, but they are not entitled to representation.

Dr Napthine interjected.

Ms KIRNER - I will come back to that. They are not entitled to representation at preliminary hearings concerning what might happen to them in future. It might be determined that they are entitled to representation. The honourable member for Portland interjected, as did another honourable member earlier, that people can attend formal hearings. That is true. Two points can be made about that. Firstly, in trying to get any Ministry to work cooperatively it is far better if matters can be sorted out at preliminary hearings. It is important to have the best people available and, if necessary, representation at preliminary informal hearings.

Secondly, again speaking from experience, there is always a reticence - I think correctly - on the part of Ministers and the people affected to attend formal hearings. They give the final verdicts about what will happen to the persons concerned. It is not fair to offer the persons against whom complaints or investigations have been made the incentive of representation if they attend formal hearings. I suggest that it is in the interest of both the department and the persons against whom complaints or investigations are made that they be represented at informal hearings. Those informal hearings can still be handled in ways that do not make them difficult, tight hearing and review processes. I have seen hearings handled appropriately with representation.

Mr Perton interjected.

Ms KIRNER - We are having an interesting discussion so why don't you just go away or sit in your seat and listen?

The ACTING SPEAKER (Mr Cooper) - Order! The honourable member for Doncaster should cease interjecting; he is disorderly and out of his place.

Ms KIRNER - In the interests of the department, the government and the nursing profession the Bill could be improved. When reading the whole of the Bill it worries me somewhat that there is a suggestion, given the reign of fear the current secretary is presiding over in the Department of Health and Community Services, that employees in hierarchical systems should be treated judgmentally. It worries me that the Bill may not act in the best interests of the department, the people affected or the public.

It has always been my experience that legislation that removes rights and fails to give equal hearings to nurses, employees or the public leaves the people responsible for the system open to not being questioned eventually by the public. It will be interesting to see whether the Bill achieves its stated intent to lift the standard of nursing care in the public interest and also to lift the standard of the profession in its own interest. I suspect that the flaws I have outlined, together with those highlighted by Ms Clark and other speakers, will prevent the Bill from achieving the Minister's intended purpose. The Minister should examine some modifications to the hearings procedures and the membership of the board.

In conclusion, I have had difficulty listening to the contributions to the debate of government members, in discerning why they seem to define the public interest and the commitment of nurses as two different things. In my 55 years of existence I have never found the interests of nurses and the public interest to be different. I have always seen them and

experienced them as being the same. It is a pity the Bill does not reflect that.

Mr SEITZ (Keilor) - I wish to highlight several points concerning the constitution and powers of the board proposed by the Bill. The Nurses Board of Victoria will deal with nurses' conditions of employment and will act as a complaint mechanism for the profession. The Minister said in her second-reading speech that a significant proportion of the Bill deals with inquiries into the health and professional conduct of nurses and that that is the core area of the Bill. But the Bill does not explain clearly how the concerns of nurses will be met, which is petrifying nurses at present. They feel that their professional standards and their careers will be subject to inquiry and investigation and they do not know how they will be able to tell whether inquiries or investigations into their conduct are under way.

Representations have been made to me about the concerns of nurses in relation to the powers of the board. I ask the Minister to explain during the Committee stage of the Bill how those inquiries and investigations will operate, and to put nurses' minds at rest. It is of great concern to them. The nursing profession is largely made up of women, and they feel intimidated by the wording that has been used in the legislation, especially if they are to have no recourse to legal protection in the courts. They felt comfortable when their own people were elected to the board to represent them. The new board will be appointed by the Minister; although the board members may be capable people of integrity, they will be appointees of the Minister. The whole board will be beholden to the Minister and the government of the day, not to the profession.

I endorse the comments made by previous speakers on behalf of the opposition, particularly those of the honourable member for Williamstown concerning the legal, accounting and other male-dominated professions where the government has not applied similar conditions. There seem to be different standards.

The right to legal representation should be fundamental. From day one, if someone is accused of or blamed for something, he or she must know about the complaint or accusation. If someone is making an inquiry about that person or preparing a report on his or her conduct, that person ought to have access to representation and to the material being prepared about them. In the experience of people I have known, in most cases the opinions of members of boards or tribunals are formed during the process of gathering information. It is at that stage that people make up their minds about the guilt or innocence of the person who is subject to inquiry. In most cases the members of the hearing or tribunal have already prejudged the matter. The confidence of nurses will not necessarily be assisted by this legislation. It will not attract young people into the profession and will act as a deterrent to people who are fair minded and have a social conscience.

The board will be able to issue search warrants. Will those search warrants be issued against personal accommodation or just to search lockers at work, or wherever? It seems an extraordinary power to give to a board. The Bill seems to be saying that the nursing profession in Victoria is less than professional. It does not concern itself so much with the service, education and development of the profession, or the administration of the system, rather it appears to be attacking the nursing profession as a whole and nurses individually. I have received no complaints about the nursing profession or nurses' professionalism and training. The training system has been very important to the nursing profession.

The Bill also refers to matters of registrations and courses that might be recognised to the board for determination, but it does not say which courses or how they will be accredited. Will this result in a lowering of the standard of qualification in the nursing profession? How will it affect nurses who are trained in specific areas? Will they be able to move across to other specialties? The medical profession has evolved in a highly specialised way, which very much affects the training of staff and the fields in which they work.

I raise these concerns on behalf of the nursing fraternity in my region following representations that have been made to me and correspondence I have received on this issue. Another point raised is the question of how nurses will be found to be incapacitated or unable to work - what are the criteria? Will it be a strain of the arm or hand, a car injury, an injury at work or something else that suddenly denies a nurse registration in his or her profession? What constitutes "incapacity"? The criteria have not been spelt out in the Bill, which is a matter of concern to the nursing profession.

The Bill seems to attack the nursing profession rather than to develop an education and health field procedure. Is there a hidden agenda to lower the qualification standards of the nursing profession so

that under the government's employment contract arrangements cheap labour will be created in hospitals, as is the case in some European countries where patients depend on their relatives to bring them changes of bedding, clothing and even food and medicine? Is the government talking of saving dollars and cents and reducing the standards of the nursing profession? Will there be lengthy and protracted disputes and arguments about the standards of the profession we have now?

I urge the Minister to examine these points while the Bill is between here and the other place. She should take into consideration the matters that have been raised by members of the opposition before the Bill proceeds through its final stages.

Mrs TEHAN (Minister for Health) - At the conclusion of the second-reading debate I should like to make a couple of comments, certainly on the broad-ranging contributions made and on both the concept and quality of the debate. I start by saying that the whole debate on this legislation took a wrong tum with the emergence of a flier put out by the Australian Nursing Federation on 28 October 1983, which states:

> Emergency - all nursing staff, members and non-members - the State government is rushing the new Nurses Bill through Parliament.

It goes on to spell out what the ANF believed the Bill would do and what it thought the new Act would mean. The inaccuracy and misinformation, and the fear tactics exemplified in that flier show that the ANF is not a professional association. It is very much an industrial association that is using this legislative measure as an opportunity to create concern and anxiety and to spread misinformation among its members.

The basis of debate adopted by the opposition has been in line with the four areas the ANF spelt out in its flier. Fortunately, the contributions from members of the opposition were slightly more rational than the absolutely appalling and emotive ways the ANF suggested the issues about which it is concerned should be raised.

If there had been time I would have liked to address the points in the flier, but fortunately it was covered by the honourable member for Malvern in his contribution to the debate.

What is of concern to me is that the opportunity for a wholesome consideration of and debate on the Bill by members of various organisations representing the nursing profession has been lost because of the extreme position taken by the Australian Nursing Federation.

Members, including the honourable member for Williamstown, who made a very reasoned contribution to the debate, spoke of the letters that had been received on this matter. But if one looks at the letters published in the media, those that have been the basis for contributions to the debate and those sent by constituents to various members of Parliament, one sees that they all take a predictable standardised approach, which indicates that they are all part of a letter-writing operation that was seen as a protest against any move by the government to change the legislation.

The first of the four areas that was touched upon by the honourable member for Williamstown was lack of consultation. As has been agreed by the opposition, consultation on changing the 1958 Nurses Act started in 1989. When I was shadow Minister for Health one of the key issues for nurses in this State was a review of the Nurses Act. If ever a piece of legislation has been considered and reviewed, had papers written and workshops conducted on it and had committees and people looking into it, it is this measure. It was indicative of other pieces of legislation that the previous government looked to amend in its dying days, including the Medical Practitioners Act and the Optometrists Act.

The Bill to amend the Optometrists Act stayed in the House for consultation for nearly two years and no action was taken. The nurses legislation, as I said, had started to be reviewed in 1989, and when the coalition came into office in 1992 it was apparent that something needed to be done. The government started its consultation in January of this year, and over the past 11 months there has been consistent ongoing consultation with the Parliamentary secretary, with the members of the committee and with the Department of Health and Community Services.

Widespread consultation has taken place on the Bill and now the government is making a decision. That shows the contrast between the government and the former government. It talked of consultation but never did anything, even though the previous Act, as the honourable member for Malvern pointed out, was enacted in 1958, was based on previous legislation in 1923 and did not reflect the position of a professional group of health carers in the State.

The second reason for the introduction of the legislation was to recognise the concept of mutual recognition. Parliament has passed a Bill of mutual recognition and has spelt out the advantages of being able to have consistency of professional standards right across Australia. The legislation is part of the mutual recognition move and will give nurses the opportunity to have their qualifications recognised in each of the States of Australia, which will enable them to interchange and travel.

The third important reason is that it will bring the nurses legislation into line with other professional health legislation in this State. The opposition was loath to draw a comparison with the medical practitioners legislation, which has strong similarities to this measure, and future legislative change affecting other health professionals will be carried out along exactly the same lines as this legislation. This Bill is the first of the Kennett government's reforms of health professional legislation and all other similar legislation will follow this line.

The honourable member for Williamstown, as I said, made a reasoned contribution, and I would like to address the four areas that she spelt out. I remind the House that they are the four areas about which the ANF has said to its members, "This is where we can say there are problems; this is where there will be anxiety; this is where we as union officials can be seen to be doing something for our members and therefore earning the levy that you pay us" - although I understand that fewer numbers are paying that levy.

Consultation was the first issue I wanted to address, and I hope I have answered that. The second aspect was the question of an elected or appointed board. There are 29 members on the Victorian Nursing Council that we are now replacing. Fortunately no-one in the House suggested that we should have a representative board of 29 members. The reason the government has gone to an appointed board as opposed to an elected board is twofold. Firstly, it will mean that it will have a cohesive board that has been set up primarily for the protection of the public.

The government is not convinced it can achieve that unified concentrated focus on the protection of the public if its members represent various groups, agencies or peak bodies and therefore have a possible conflict of or dual interest in representing the groups that elected them - to a certain degree they are beholden to those groups - when the overriding requirement is that they represent the public.

Secondly, it is important that we have a board that will be representative and comprehensively broad but will have sufficient expertise to be able to provide nursing services to the public and take an objective view of the requirements of nurses and their disciplinary action. They are the two bases for the decision to move to an appointed board. I am willing to have it placed on the record that the appointments will be made on the bases of balance, the representation of both the private and the public sectors, tertiary and private nursing, rural and metropolitan areas, and no political affiliation - unlike the situation during the term in office of the honourable member for Coburg, when the whole of the public sector was stacked with apparatchiks of his government. The board will consist of people who will represent the public and ensure that the very high standards of the nursing profession are maintained.

The third matter I address which has been the subject of a letter-writing campaign and which was a matter of concern raised by the opposition is the question of specialties or generalists on the register. There is no doubt that the most frequent criticism made by nurses is that they should be able to be treated as health professionals; that they should have exactly the same status and role as doctors, and I support that notion.

The legislation brings nurses into exact coordination; it is an exact replica of the medical practitioners legislation because in order to be registered, nurses must have certain qualifications required by the board. They then proceed to post-registration or postgraduate qualifications, which can be noted both on the register and on the certificates that are granted to nurses. The basic registration based on the comprehensive education of nurses is the foundation for a standard of nursing that can now be maintained in this country. There will be ample opportunity for post-registration education, but the basic comprehensive education will be the hallmark and guiding criterion on which additional specialties will be based.

I do not understand how the opposition can say that in the psychiatric area the amendments will stigmatise patients and separate them from the general health system. There is now separate training for psychiatric nurses even though patients may be in the general hospital system. I assure the public that although there will be basic training,

specialties will be acknowledged. It is in the interests of hospitals and hospital managers to acknowledge specialties and place specialised nurses into the appropriate settings. To think less is to indict hospital managers, health professionals and nurses themselves, who have the choice through study and education of working in the areas in which they seek to be specialists.

The most objectionable issue raised by the Australian Nursing Federation and taken up by the opposition is that there will be a denial of natural justice because of the format of the Nurses Board hearings. The proceedings will have three components. The first is a preliminary investigation. Some complaints may be trivial or vexatious and may not proceed to an informal or formal hearing. How can it be a denial of natural justice if the board conducts a preliminary investigation to ascertain whether there is sufficient evidence to sustain the complaint? That is the fair way of proceeding.

Informal hearings will be held to hear minor matters. It is not necessary to have representation for those hearings. The hearings will save nurses being put through the expense and trauma of obtaining representation for a formal hearing. The honourable members for Portland, Malvern and Gippsland South said that the person who is the subject of an informal hearing may apply at any time for legal representation and may appeal against the decision of the board to the Administrative Appeals Tribunal.

It is disappointing that legislation which will take nurses into the 21st century and which acknowledges their professionalism and the services they have provided since 1958 is the subject of misinformation put out by the Australian Nursing Federation.

House divided on omission (Members in favour vote No):

Ayes, 54

Ashley, Mr	McNamara, Mr
Bildstien, Mr	Napthine, Dr
Brown, Mr	Paterson, Mr
Clark,Mr	Perrin, Mr
Coleman,Mr	**Perton, Mr**
Cooper, Mr	**Pescott, Mr**
Davis,Mr	**Peulich, Mrs**
Doyle,Mr	Phillips,Mr
Elder,Mr	Plowman, Mr A.F.
Elliott, Mrs	**Plowman, Mr S.J.**
Finn, Mr *(Teller)*	**Reynolds, Mr**
Hayward,Mr	**Richardson, Mr**
Heffernan, Mr	**Rowe,Mr**
Henderson, Mrs	**Ryan,Mr**
Honeywood, Mr	**Smith, Mr E.R.**
Jasper, Mr	**Smith, Mr I.W.**
Jenkins, Mr	**Spry,Mr**
John, Mr	**Steggall,Mr**
Kilgour,Mr	**Tanner,Mr**
Leigh,Mr	**Tehan,Mrs**
Lupton, Mr	**Thompson, Mr**
McArthur, Mr	**Traynor,Mr**
McGill,Mrs	**Treasure, Mr**
McGrath, Mr J.F.	**Tumer,Mr**
McGrath, Mr W.D.	**Wade,Mrs**
McLellan,Mr	**Weideman, Mr**
Maclellan, Mr	**Wells, Mr** *(Teller)*

Noes, 25

Andrianopoulos, Mr	**Marple,Ms**
Baker,Mr	**Micallef, Mr**
Batchelor, Mr	**Mildenhall, Mr**
Brumby,Mr	**Pandazopoulos, Mr**
Coghill, Dr	**Roper,Mr**
Cole,Mr	**Sandon,Mr**
Cunningham, Mr	**Seitz,Mr**
Dollis,Mr	**Sercombe, Mr**
Garbutt, Ms	**Sheehan,Mr**
Haermeyer, Mr	**Thwaites, Mr** *(Ttller)*
Hamilton,Mr	**Vaughan, Dr** *(Teller)*
Kimer,Ms	**Wilson,Mrs**
Loney,Mr	

Amendment negatived.

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1

Mr ROPER (Coburg) - I express the opposition's disappointment that in her response to the second-reading debate the Minister for Health decided to concentrate on making an unnecessary attack on the Australian Nursing Federation. In that atta(.\ she ignored the fact that a whole variety of professional people, not only nurses, have expressed their concern about the Bill. The Minister decided to set up the A N F as a straw person, and by attacking it she hoped to then justify the Bill. She ignored the teachers of nurses, the various specialty organisations such as psychiatry, midwives and

people who are concerned with child and maternal health.

Unfortunately, because of her and her deparhnent's obsession with eroding the capacity of industrial organisations to represent their members, the Minister confused her attack on the ANF with a view about the future professional arrangements for nurses in Victoria. In doing so, the Minister failed to justify how her Bill meets its supposed first purpose. As was made clear by opposition members, the arrangements for nurses are being developed differently from the arrangements for other health professionals and other groups of professionals that Parliament regulates. The Bill is not about protecting the public; it is about protecting the government and changing the way the new Nurses Board and the Victorian Nursing Council will operate and the way employers will be able to examine their employment practices with regard to nurses.

The opposition believes a repeal of the Nurses Act as provided for in this clause is necessary. However, it does not believe the Bill achieves the objectives that are set out. The honourable member for Portland suggested that a previous health Minister had attempted to pressure the Nursing Council regarding an industrial dispute. Let no-one have any doubt that under this Bill there will be no question of the Nursing Council having any capacity whatsoever to resist the government's policy on and attitude to an industrial or any other dispute.

The opposition does not believe the provision relating to registers adequately caters for the effective provision of health services. It was not the ANF that made that point in the greatest detail. It was the psychiatrists, who have no vested interest in nursing arrangements; it was the midwives, whose concern is the provision of appropriate and quality service to their patients; it was people concerned with the provision of psychiatric and other major services; and it was the very people who train our nurses. They believe the existing courses will not provide the level of expertise required in a number of specialist areas where nurses will now be able to practise.

The opposition believes a number of major improvements are required to the discipline and process arrangements, which a number of my colleagues commented on during the second-reading debate.

Cause agreed to.

aause 2

Mrs TEHAN (Minister for Health) - I move:

1. Clause 2, line 8, omit "95" and insert "96".

This is a consequential amendment renumbering sections.

Amendment agreed to; amended clause agreed to.

Clause 3

Mrs TEHAN (Minister for Health) - I move:

2. Clause 3, page 3, lines 12 to 16, omit all words and expressions on these lines and insert-

"nurse's agent" means a person who, for fee or reward, carries on the business or practice of arranging the supply of the services of nurses registered under this Act;".

The amendment defines "nurses agent", and it is interesting to note that it is the result of representations made to the government by the Victorian Nursing Council (VNC). The government had great pleasure in recognising that the amendment suggested was an improvement on the original draft. The government has extended the definition of "nurse's agent" to make it broader, and on that basis a nurse's agent now means:

a person who, for fee or reward, carries on the business or practice of arranging the supply of the services of nurses registered under this Act.

It covers nurses in registered fund agencies, health service establishments and nurses who work in private homes. The amendment is an example of a contribution made by an outside body during the consultation process being accepted by the government.

Mr ROPER (Coburg) - The opposition has no objection to this amendment, but it is a demonstration of the government's hypocrisy that the Minister emphasises that this is a proposal put forward by the VNC when the government has rejected so many of the other views presented by the council and other nursing professions. The government cannot take credit for the consultative process when comparatively few of the amendments deal with the major issues raised by various parts of the nursing profession during the three weeks since the legislation was tabled in Parliament.

Amendment agreed to.

Mrs TEHAN (Minister for Health) - I move:

3. Clause 3, page 4, lines 2 to 6, omit all words and expressions on these lines and insert-

"(c) a finding of guilt of -

(i) an indictable offence; or

(ii) an offence which affects the nurse's ability to continue to practise; or

(iii) an offence against this Act or the regulations.".

The second part of the amendment to clause 3 broadens the definition of "unprofessional conduct". It has been expanded to include committing an offence against the Act or the regulations, an indictable offence or an offence which affects the nurse's ability to continue to practise.

Mr ROPER (Coburg) - The amendment specifically refers to proposed new paragraph (c)(ii). Will the Minister provide the Committee with details of the areas that will be affected by that provision, which refers to a finding of guilt of:

(ii) an offence which affects the nurse's ability to continue to practise.

That is a broad term and could be anything from the indictable offence through to a traffic offence. In putting this amendment forward, the Minister should give the Committee examples of offences that the Nurses Board would take into account.

Mrs TEHAN (Minister for Health) - Obviously it is an offence of lesser seriousness than an indictable offence, but a number of offences could affect a nurse's ability to continue to practise. The honourable member for Coburg has asked for specific examples. Some come to mind, but isolating certain examples may give a false impression and may restrict the Nurses Board in using its discretion and concerted wisdom to decide whether or not an offence - it is of course an offence as a result of a conviction - would affect a nurse's ability to continue to practise. It is in addition to an offence against the Act or regulation, so it is a serious crime, an indictable offence or a specific professional offence under the Nurses Act or its regulations. It is an offence which would affect the nurse's ability to continue to practise.

Mr ROPER (Coburg) - The difficulty with the Minister's answer is that she has not described one offence that would come into this category, and I believe it is reasonable for the Minister to describe the style of offences that would be covered by proposed new paragraph (c)(ii). We all know what an indictable offence is; we all know what an offence is against this Act or the regulations. What we do not know is the style of offences the government is considering in the amendment. A number of offences must fit that description, and it is the responsibility of the government to describe in this House what it means.

Mr RYAN (Gippsland South) - I take up the point raised by the honourable member for Coburg that there is a vast range of offences between the two specified parameters. For example, there is a range of drinking offences such as habitual drunkenness. One could postulate the position where a nurse was coming to work and attempting to practise her profession in circumstances where she was influenced by alcohol. Clearly that falls between these two parameters. It may well be an offence involving pornography and the possession of something offensive in that sense. There is a range of offences of that nature encompassed by this provision.

Amendment agreed to.

Mr ROPER (Coburg) - I move:

1. Clause 3, page 4, line 6, after "convicted" insert-

"-

but does not include any action taken by a nurse pursuant to an industrial dispute".

The opposition moves this amendment because it is extremely concerned that the government intends to use the legislation against nurses to prevent them taking part in a legitimate industrial dispute against a hospital or the government. During the second-reading debate the honourable member for Portland and others on that side of the House put forward the clear view that any action taken by nurses in relation to an industrial dispute should be seen as professional misconduct under the definition in clause 3, which provides that such conduct is of a lesser standard than that which the public might reasonably expect of a registered nurse.

In the history of the legislation there has always been a view that industrial matters should not affect the role of the Victorian Nursing Council. As I said during the second-reading debate, when we asked the Minister's officers whether professional misconduct could include action taken pursuant to industrial disputes they were unable to give an assurance that that was not the case and the Minister did not give that undertaking when summing up so,

in the absence of both an undertaking and a dear definition of whether professional misconduct does not include action taken pursuant to industrial disputes, the opposition has no option but to proceed with the amendment.

One of the government speakers suggested that nurses would cease to provide treatment for a coronary care case, for example, because of industrial action. We know from experience in the 1970s and 1980s that the nursing profession has never done any such thing and that it has always made arrangements for emergencies. That attack on the nursing profession by the honourable member for Portland demonstrates his lack of understanding of nurses' commitment to patient care.

The respective parties may have different views of the industrial action that nurses have taken over the years. I admit I did not support a number of industrial disputes that were held by the then Royal Australian Nursing Federation, but that is a different matter. An opinion about whether the action should have been taken is different from opening up the definition of unprofessional conduct to include action taken by a nurse pursuant to an industrial dispute. The opposition believes the government's failure to accept the amendment demonstrates that the government has an ulterior motive for the legislation.

Mrs TEHAN (Minister for Health) - The opposition's amendment demonstrates as graphically as anything the difference between the government's focus on this legislation and that of the opposition. The opposition is asking the government to say that a nurse will be exempted from having her conduct regarded as unprofessional if that conduct took place during an industrial dispute. That indicates the depth to which the previous government went in protecting its union mates and giving carte blanche to any exemption for action taken in the course of an industrial dispute. It flies in the face of the whole concept of professionalism in the health sector. Unprofessional conduct is very serious. The subsection the honourable member seeks to amend refers to:

> a charge of an indictable offence or of an offence which affects the nurse's ability to continue to practise which has been found proven or of which the nurse has been convicted.

The opposition is suggesting that we exclude those actions that are taken during an industrial dispute; in other words, give carte blanche to any action, including an indictable offence, because it happens to be in the course of industrial resistance or action. I find it incredible that the amendment to a section referring to professional misconduct could be expressed in those terms.

The government is not prepared to give exemptions for indictable offences simply because they occurred during industrial action. There are ways and means of getting messages across and of providing industrial resistance, but it cannot be done when it is likely to affect one's conduct so seriously that it creates the possibility of professional misconduct. In respect of the example of putting patients at risk, the concept illustrates all too clearly that the opposition's focus is on the industrial role of a particular section of the nursing profession. It is not interested in the professionalism of the industry; it is interested only in the ANF's industrial component, which is tied closely to the Trades Hall Council. The opposition is putting an argument that I would not have expected even from John Halfpenny. The government will not exempt nurses from charges of professional misconduct because it supposedly takes place during industrial action.

Dr NAPTHINE (Portland) - I support the Minister on this point and reiterate the comment I made during the second-reading debate. A nurse should not be able to offer as a defence the argument that his or her unprofessional conduct took place during industrial action. Such conduct is very serious. It goes to the heart of the legislation, which is about protecting the public. We can protect the public by ensuring that nurses are registered and that nurses who participate in unprofessional conduct are dealt with appropriately.

The first part of the definition of unprofessional conduct is:

> of a lesser standard than that which the public might reasonably expect of a registered nurse.

The community's expectation is that nurses will deliver their professional services to a certain standard. For the most part that happens. Of the thousands of registered nurses in Victoria very few come to the attention of the board, and of those cases very few are found guilty of unprofessional conduct. It is an extremely serious matter and we should be very concerned that the public could be placed at risk because of the unprofessional conduct of a nurse. It would be a rare occurrence, but when it happens it demands the most urgent and earnest attention of the board and the community. It is

totally inappropriate for the opposition to suggest that a nurse could put the public at risk with unprofessional conduct - conduct that is of a lesser standard than that which the public expects - and defend that conduct by saying that because it occurred during industrial action it did not matter that, for example, a patient died.

The nurse cannot say that it does not matter that the patient was in pain and was not treated. He or she cannot say the defence is that it was part of industrial action and does not matter. The opposition wants to insert the provision into the Bill to give nurses that defence. It is an absolute and utter disgrace.

The government wants to introduce into the legislation the highest possible standards for the nursing profession. I am confident that the vast majority of members of the nursing profession would expect the government to impose the highest standards on their profession because it is in their interests and in the interests of the public. It is inappropriate and inconsistent with those high standards to include in the legislation the provision proposed by the opposition. The amendment would lower the standards by allowing a nurse to engage in unprofessional conduct and place patients at risk. It would allow the nurse to say to the board, "But it was part of industrial action, therefore, you are not allowed to touch me; you are not allowed to investigate, caution or penalise me because it was part of industrial action".

The nurse could say that he or she was on strike as part of action taken by the Australian Nursing Federation or the Health and Community Services Union and, therefore, it did not matter whether the patients suffered, were in pain, or died; the nurse was taking industrial and therefore could not be charged with unprofessional conduct. That suggestion is totally unacceptable to the government. I suggest it would also be unacceptable to the community. The government absolutely rejects the amendment and criticises the opposition for bringing it forward.

Mr ROPER (Coburg) - The comments of the Minister for Health and the honourable member for Portland have made it crystal clear that the government intends to use the Nurses Board against nurses who take legitimate industrial action. If anyone had any doubt about the government's intention, that doubt has now been removed. The amendment proposed by the opposition is part of the original legislation. The government has not suggested that it has caused any harm or problem. It simply wishes to remove any possibility that the Nurses Board or the government can be resisted by nurses taking industrial action.

The honourable member for Portland talked about people not being treated properly, but his government is involved in the most serious cuts to health services in the State's history. The nursing profession is being held to industrial ransom by the proposed legislation. There is nothing in the role of the profession that prevents it from taking industrial action. Although at times it has been difficult for many of us, the right of the A N F or other organisations to take industrial action must be defended in Parliament and in the community.

I did not find it pleasant in 1984 when the then Royal Australian Nursing Federation embarked on its non-nursing duties industrial campaign. However, I would not suggest for a moment that the then government should have tried to discipline those nurses rather than raising the issues in the public domain and ensuring that there was adequate public and industrial debate on those matters. It is clear from the lack of denial by the government and the positive remarks of the honourable member for Portland that it is the government's intention to catch industrial disputes within the provisions of the Nurses Bill. That is regrettable. As I said, it is not pleasant to be in government when nurses take industrial action. It is not pleasant to be in government or to be a member of the community when a variety of industrial actions are taken. The Minister and the honourable member for Portland have clearly demonstrated that they wish to broaden the existing legislation so that it catches industrial disputes.

The honourable member for Portland is nodding his head. He agrees that the provision in the existing legislation has been deliberately excluded by the government. The government is rejecting the opposition's attempt to reinsert the provision so that a nurse taking industrial action would not immediately be subject to the actions of the government under this provision.

The former Labor government did not feel it appropriate to ask the Victorian Nursing Council to resolve industrial disputes. It is not appropriate for the proposed Nurses Board to be used to resolve industrial disputes either, but that is the clear intention of the government. The government's reasons for failing to support the amendment, which

seeks to continue the existing provision in the proposed legislation, are clear.

Mrs TEHAN (Minister for Health) - I do not know whether the honourable member for Coburg is being deliberately evasive, whether he does not understand the content that he is putting forward or whether he is deliberately misrepresenting it. In his contribution he claimed that if a nurse takes industrial action it will be an offence under the Bill. That is not the case. Industrial relations debates can be held at another time and are subject to other legislation.

The government is saying that it will not grant an exemption from a charge of professional misconduct where the defence is industrial action. If a nurse decides to take industrial action that does not contemplate or make an offence, or cause professional misconduct; it is an entirely different argument and is not - nor should it be - covered by the Bill.

When the Nurses Board is formed and is considering the serious offence of professional misconduct, it will not exclude or exempt a nurse whose defence is that he or she was taking industrial action.

It is a serious claim for the honourable member for Coburg to suggest that the government, by introducing the proposed legislation, is commenting on the right of nurses to take industrial action. It is not doing that. The government is saying that if a nurse is charged with professional misconduct or with other indictable offences spelt out in this part of the Bill it is not an acceptable defence to say that he or she was taking industrial action.

Committee divided on amendment:

Ayes, 26

Andrianopoulos, Mr	Marple,Ms
Baker, Mr	Micallef, Mr
Batchelor, Mr	Mildenhall, Mr
Brumby,Mr	Pandazopoulos, Mr
Coghill, Dr	Roper,Mr
Cole,Mr	Sandon,Mr
Cunningham, Mr	Seitz, Mr
Dollis,Mr	Sercombe, Mr
Garbutt,Ms	Sheehan,Mr
Haermeyer, Mr *(Teller)*	Thomson,Mr
Hamilton, Mr	Thwaites, Mr *(Teller)*
Kimer,Ms	Vaughan,Dr
Loney,Mr	Wilson,Mrs

Noes, 52

Ashley,Mr	McNamara, Mr
Bildstien, Mr	Napthine, Dr
Brown,Mr	Paterson, Mr
Clark,Mr	Perrin, Mr
Coleman, Mr	Pescott, Mr
Cooper, Mr	Peulich, Mrs
Davis,Mr	Phillips, Mr *(Teller)*
Doyle, Mr *(Teller)*	Plowman, Mr A.F.
Elder, Mr	Plowman, Mr S.J.
Elliott, Mrs	Reynolds, Mr
Finn,Mr	Richardson, Mr
Hayward,Mr	Rowe,Mr
Heffernan, Mr	Ryan,Mr
Henderson, Mrs	Smith, Mr E.R.
Honeywood, Mr	Smith, Mr I.W.
Jasper, Mr	Spry, Mr
Jenkins, Mr	Steggall, Mr
John, Mr	Tanner,Mr
Kilgour,Mr	Tehan,Mrs
Leigh, Mr	Thompson, Mr
Lupton,Mr	Traynor,Mr
McArthur, Mr	Treasure, Mr
McGill,Mrs	Tumer,Mr
McGrath, Mr W.D.	Wade,Mrs
McLellan,Mr	Weideman, Mr
Maclellan, Mr	Wells, Mr

Amendment negatived.

The CHAIRMAN - Order! The time appointed under Sessional Orders for me to interrupt proceedings has now arrived.

Progress reported.

The SPEAKER - Order! The time appointed under Sessional Orders for me to interrupt the business of the House has now arrived.

ADJOURNMENT

The SPEAKER - Order! The question is:

That the House do now adjourn.

Bus route to Portsea

Mr BATCHELOR (Thomastown) - In the absence of the Minister for Public Transport, I direct to the attention of the Minister at the table, the Minister for Planning, bus route No. 788 which is currently providing inadequate services to the Mornington Peninsula. This service travels between Frankston railway station and Portsea and is operated by the Portsea Passenger Service. It runs

every hour and a quarter approximately 10 to 12 times a day to Portsea via Dromana, Rosebud and Sorrento. However, the service does not meet the needs of the communities it services because it is not frequent enough; is overcrowded, with people often being forced to stand up for long stretches of the journey; does not cater for the needs of the local community; and is not part of the Met fare structure.

As a result of these factors a number of problems arise, some of which I will outline. The situation with the fares is unfair and discriminatory. It is the only bus route operating from the Frankston railway station that is not part of the Met fare system. Route No. 782, which is a comparable route, goes down to Flinders and is part of the Met's zone 3, which extends to Balnarring. But none of route 788 is covered by the Met system, even though Rosebud is as far from Frankston as is Balnarring.

Another problem is that the bus does not go to the Mornington Peninsula Hospital, which is only 1 kilometre from the route. It should be possible to re-route the service a couple of times a day to cater for people who want to visit the hospital, either as outpatients or as visitors. Other problems concern the lack of coordination of arrival and departure times of this service and other services and the fact that other services leaving the Frankston railway station are not dearly identifiable.

The SPEAKER - Order! The honourable member's time has expired.

Respite care fees

Mr WELLS (Wantirna) - I direct to the attention of the Minister for Community Services respite care services. While doorknocking in the Knoxfield area a couple of years ago I met Mrs Barbara Haar, who explained her plight as the parent of a child with severe disabilities. I do not mean to patronise the parents of children with disabilities when I say that I feel for those people, whether they are looking after adults or children.

Mrs Haar explained the importance of respite care, which gives the parents the opportunity of leaving their children with community service groups so that they can have a break and recharge their batteries. Mrs Haar also explained how important it is for the parents to spend time with their other children. Caring for disabled children takes up a lot of time, which means that other members of the family sometimes feel as though they have been forgotten. I believe that respite care keeps many of these families together.

Recently Mrs Haar received a letter from the Department of Health and Community Services saying that her fees would increase to $14.10 per day. That amount covers housing and household expenses for clients in respite care. Mrs Haar initially paid $5 per day; now that has increased to $14.10. She uses the service four weeks each year - one week at the end of each term.

I have recently been told that parents who have health care cards will pay $6. I have been further informed that the reason for the increase to $14.10 is to introduce a uniform rate across the State, which is clearly commonsense. Some parents will face increases while others will enjoy a decrease. For example, I know of some families whose fees will fall from $32.50 to $14.10 a day. However, Mrs Haar and her husband only just miss out on qualifying for a health care card. Will the Minister advise me on the best way of helping Mrs Haar and her family?

Met delays

Mr THOMSON (Pascoe Vale) - I direct to the attention of the Minister for Public Transport the circumstances faced by Mr Gilbert Hennequin of Longview Street, Pascoe Vale. One morning he arrived at the Pascoe Vale railway station in time to catch the 8.07 a.m. train. Although the train arrived on time it travelled very slowly and stopped frequently, the result being that it arrived at Flinders Street station 20 minutes later than scheduled. As Mr Hen.nequin said in his letter to me dated 23 August 1993:

> This is certainly not an improvement, Mr Brown!

He went on to say that the outrageously late arrival caused him to miss his connecting train to Sandringham, the 8.41 a.m. Checking the timetable, he noticed the next available train to Sandringham departed Flinders Street railway station at 8.56 a.m. His frustration was compounded when he arrived at platforms 12 and 13 only to find the platform monitor advertising the 9.09 a.m. as the next train to Sandringham. He approached the platform staff and asked what had happened to the 8.56 a.m. service, but received no response.

Mr Hen.nequin left the platform and a short time later an announcement was made saying the 8.56 a.m. service was running 5 minutes late. He says that the Met never does things by halves: if the

public is to be inconvenienced, it is done properly! When a train eventually arrived the eager passengers boarded it, only to be told it was not the right train and that the service to Sandringham would depart from the opposite platform.

Mr Hennequin wrote to the Minister for Public Transport and received a reply. However, he has told me that he considers the response to be totally insufficient. He asks for a precise explanation of what happened to cause the 8.07 a.m. train from Pascoe Vale station to arrive at Flinders Street station 20 minutes later than scheduled. He wants to know why the staff on platform 12 and 13 are not equipped to give passengers adequate information about the reasons for train delays and why passengers are told to enter one train and then subsequently told it is not the right one. His letter to the Minister said:

> If ... every Victorian that was inconvenienced by your service complained to you directly. That way you would sense the true frustration that is felt by the public, who are paying for, not only this poor service, but also your salary.

He asks me to pursue the matter on his behalf and restore what faith he has left in the Westminster system of Parliamentary democracy. I ask the Minister to pursue the matter.

Better Roads Victoria

Mr PHILLIPS (Eltham) - I ask the Minister for Planning to direct to the attention of the Minister for Roads and Ports in another place the Better Roads Victoria program. On 9 November I received a letter from the Chief Executive Officer of the Shire of Eltham about the program. I have also received oral representations from officers of the engineering department of the Shire of Diamond Valley regarding the recent announcement by the Minister for Roads and Ports, the Honourable Bill Baxter, inviting nominations for projects under Better Roads Victoria.

Officers from the Shire of Eltham have written to me asking that I support a list of seven projects: the Hurstbridge-Arthurs Creek Road bridge replacement, called the Monash bridge; the Kinglake township strategy; the Lower Plenty bridge duplication, in conjunction with the City of Heidelberg; the Heidelberg-Kinglake road safety improvements; the roundabout at the intersection of Eltham-Yarra Glen Road and Mount Pleasant Road; the roundabout at the intersection of Cherry Tree Road; and the Research-Warrandyte Road widening at Albert Road.

Monash bridge is a single-lane bridge and its replacement or duplication will cost $1 million. The letter has the support of three municipalities - Eltham, Diamond Valley and Whittlesea - all of which regard it as a high priority. On that basis $1 million spread over three municipalities is fair and reasonable, considering the cost of bridge duplication and roadworks nowadays, which is not cheap. The single-lane bridge is very dangerous. The traffic using the bridge has doubled over the past couple of years to approximately 4000 vehicles a day. The bridge carries many heavy vehicles.

I have letters of support from a number of organisations, including the shires of Eltham and Diamond Valley, the City of Whittlesea, VIC ROADS, the Hurstbridge and District Advisory Committee, local community groups, local business people who run heavy vehicles and local members, including the honourable member for Yan Yean, whose letter supporting the duplication I have on file.

As one who has driven heavy vehicles over that bridge, I have no problem supporting the duplication and the request from the Shire of Eltham chief executive officer, Mr Rodney Roscholler. I am happy to raise the matter on his behalf.

Mr BAKER (Sunshine) - On a point of order, Mr Speaker, the honourable member is clearly referring, on his own admission, to material in a file. Could the file be tabled?

The SPEAKER - Order! Is the honourable member prepared to table the information?

Mr PHILLIPS - Although it contains only correspondence, I will be happy to table it.

The SPEAKER - Order! The honourable member's time has expired.

Sunshine Avenue, Keilor Downs

Mr SEITZ (Keilor) - I direct a matter to the attention of the Minister for Public Transport who represents the Minister for Roads and Ports in another place. It concerns a request I have received from the parish and parents of the Mary McKillop Primary School, the Keilor Downs Secondary College and the Keilor Downs Primary School concerning Sunshine Avenue.

Representatives met with the Minister earlier this year to present a submission on the need for a controlled traffic light intersection at Odessa and Sunshine avenues. VIC ROADS planners underestimated the traffic volume and capacity of Sunshine Avenue. Its construction started from both ends and met in the middle. Schools were already planned and their construction had commenced. In the opinion of VIC ROADS, Sunshine Avenue would be subject to minor usage; it would not be a major arterial road. The road has since been upgraded to an arterial road. Duplication is needed. No doubt that will happen in due course when funds are made available.

The response to the petition sent to the Minister earlier this year was that although VIC ROADS had sought alternative funding for the installation of traffic lights it had been unsuccessful. Once again I urge the Minister to investigate the matter before a fatality occurs. The schools are attended by 2500 children, most of whom have to cross the road.

I urge the Minister to fix the problem. He has had a meeting with the Keilor residents, parents and councillors. There seems to be no clear picture of who is responsible for payment. Although the Keilor City Council is not responsible for installing and paying for the traffic lights, it might be responsible for their planning. The funds will have to come from VIC ROADS. Traffic volumes on the road meet all the requirements; traffic lights should be installed before a fatality occurs.

Duplication is due to take place, probably some way down the track. I urge the Minister to convey my messages to the Minister for Roads and Ports in the other place. I ask that he reconsider the decision and the submission because traffic volume has increased rather than decreased.

The SPEAKER - Order! The honourable member's time has expired. I interrupt debate with the announcement that the wife of the honourable member for Preston has just given birth to a new son weighing 5 pounds. I am sure honourable members will join in wishing the happy couple all the best.

May Day Hills Hospital

Mr A. F. PLOWMAN (Benambra) - I direct the attention of the Minister for Community Services to the degree of support available to clients previously catered and cared for at the May Day Hills Hospital for the training of the intellectually disabled at Beechworth.

In 1988 the program of deinstitutionalisation was commenced at May Day Hills Hospital. At that stage 176 clients were housed at the centre. The process was completed last weekend when the last five clients were relocated. The majority of clients have been relocated in north-eastern Victoria in towns around the region, thus giving employment to those who have trained to work with intellectually disabled clients previously located at the May Day Hills Hospital. Twelve of the clients have been relocated to nursing homes because of their age or frailty. The balance have been relocated to houses with an average of four clients in each; sometimes houses cater for three or four clients and sometimes for as few as two clients.

The town houses that were recently opened in Wodonga are a fine example of what can be done for clients previously housed at May Day Hills. All clients participate in day activities. Many have had their families brought together by the process. One family found a sister it did not even know about. In many cases clients have been adopted by volunteer friends.

All of this reveals that the program is eminently successful. However, some months ago a fire broke out in a community house in Rutherglen and one of the clients died. That brought into question the degree of supervision deinstitutionalised clients should have in their lives. I pose a question for the Minister: is the degree of supervision sufficient to ensure that the number of such accidents is minimised?

The SPEAKER - Order! The honourable member's time has expired.

Gun laws

Ms GARBUIT (Bundoora) - I refer the Minister responsible for Women's Affairs to suggestions that the government may relax Victoria's strict gun laws. That suggestion has caused concern and anxiety to a number of women in the community. Many women's groups have expressed their concern. Will the Minister responsible for Women's Affairs get a straight answer, one way or the other, because the Premier and the Minister for Police and Emergency Services are saying different things? The Premier was reported in the *Age* of 16 November as stating:

> I am just saying to you that there will be no easing of gun laws in Victoria now or for as long as my government remains in office.

Mr McARTHUR (Monbulk) - On a point of order, Mr Speaker, I understand that the purpose of the adjournment debate is to raise matters of government administration with Ministers. I fail to see how gun control or rumours promulgated by the Australian Labor Party have anything to do with the administration of the portfolio concerned.

Ms GARBUTT (Bundoora) - On the point of order, Mr Speaker, I raised the matter deliberately with the Minister responsible for Women's Affairs because it is of great concern to women. Women's groups have been expressing concern about the issue; yet conflicting views have been presented in the House and outside by the Premier and the Minister for Police and Emergency Services. I should like the Minister responsible for Women's Affairs to seek clarification on behalf of women, who are supposed to be of interest to her.

The SPEAKER - Order! I have heard sufficient on the point of order. I do not uphold the point of order.

Ms GARBUTT (Bundoora) - After the Premier's comments were reported in the newspaper, a question in the House was asked of the Minister for Police and Emergency Services. He did not give a straight answer. He said that he would await the recommendations of the Firearms Consultative Committee and that he would make up his mind after it had reported. That contradicted what the Premier was reported as having said. In view of the concerns women have expressed about the possibility of a relaxation of gun laws, the Minister should seek to have the matter clarified once and for all. He should make a statement so that everyone knows one way or another what the government is doing.

The SPEAKER - Order! The honourable member's time has expired.

Wallacedale North Primary School

Mr MILDENHALL (Footscray) - I direct to the attention of the Minister of Education the quality provision task force process relating to the Wallacedale North Primary School, which is another botched outcome. The school community is most upset about its forced merger with Branxholme Primary School.

Mr Maclellan - With which Minister are you raising this matter?

Mr MILDENHALL - With the Minister for Education, but as he is not present I direct it to the Minister for Planning, who is at the table, if he needs to have that pointed out.

During the task force process the Wallacedale Primary School opted to annex, which was an option it was led to believe was available to it because its enrolment had fallen below the magic number of 21 to 19. It was offered annexation to Hamilton North Primary School because it offered access to higher quality education options and maintenance of its languages other than English program and because it gave Wallacedale access to the only reading recovery program in the area. The school is also a pilot school of the future.

The Directorate of School Education has sought to prevent the annexation and to force a merger using a blackmail strategy by telling parents that bus transport to the merged school and to private schools will be free but bus transport to any other State school will be at the cost of $10.50 a child a week. The closure will mean that to attend the merged school children of primary school age will be forced to spend more than an hour each way on their bus journeys to and from school.

I seek a review of the merger by the Minister and ask that he intervene and restore genuine choice for these Victorian citizens and investigate the coercion that has taken place in his name. As is usual with these cases, this process has split the local community.

Floods in north-eastern Victoria

Mr JASPER (Murray Valley) - I direct to the attention of the Minister for Natural Resources an issue I raised yesterday with the Minister for Agriculture relating to flooding problems in north-eastern Victoria. I seek further help from the Minister to assist primary producers and others who have been further affected as a result of flooding.

I direct to the attention of the Minister for Natural Resources representations from the Ovens River Management Board which were passed on to another Minister concerning the enormous problems caused to the rivers and streams within the jurisdiction of the board. Extensive damage has been caused not only to primary producers whose land abuts rivers and streams but others involved in the dairying, tobacco and horticultural industries. In fact the damage to the streams set back the programs

implemented by the Ovens River Management Board over a number of years.

The Minister and the House would be aware that a large amount of funding has been provided over a period of years for upgrading and other work along the rivers and streams to prevent erosion and to ensure that they are better managed.

I urge the Minister to visit the area as soon as possible and to meet with representatives of the Ovens River Management Board so that the problems that have developed can be discussed and a proper submission can be made after the Minister is made fully aware of the damage that has been done and can assess the assistance needed for rectification work. I seek a date from the Minister for his visit and his consideration of additional funding to be provided to the Ovens River Management Board.

Road funding

Mr PANDAZOPOULOS (Dandenong) - I ask the Minister for Planning to direct a matter to the attention of the Minister for Roads and Ports in another place. The Shire of Cranbourne is the fastest growing municipality in the State. As a result of that growth municipal road funding is a major issue, not only because of the massive residential growth but also because the community must commute to and from work and produce must be transported from the agricultural areas in the southern part of the shire. For those reasons road funding is important. Of course the main urban areas of Langwarrin, Carrum Downs, Cranbourne and Hampton Park in the Shire of Cranbourne are some distances apart, as are the rural areas. Because of the size of the municipality it is difficult for the council to fund all the road projects without the assistance of the Federal and State governments. It is important that the State government be supportive because the council places a high priority on this issue.

The council has forwarded a submission to the Minister for Roads and Ports seeking funding for projects that are all in my electorate. It is important to note that all members of Parliament representing the Shire of Cranbourne are supportive of this funding allocation, although the greatest benefits will be gained by my electorate. I urge the Minister to acknowledge the needs of the area by returning some of the 3-cent-a-litre petrol levy to the Cranbourne community. It is an important matter because many roads in the area are not safe. The Cranbourne community and the residents of Hampton Park are keen to settle a number of their road maintenance and road funding concerns. The State government can do the community a favour by returning some of the 3-cent levy to it.

Responses

Mr JOHN (Minister for Community Services) - The honourable member for Wantirna raised the important issue of respite care. I know the honourable member is concerned about respite care to relieve people caring for those with intellectual disabilities. It is one of the most important issues in the disability policy. He and others have approached me many times about concerns in this area. Yesterday he brought three families to see me about the fees payable for respite care. Many people who care for intellectually disabled family members are traumatised. They are obviously dedicated to looking after their loved ones, but they need rest and space to cope with the difficult lives they lead. In the past respite services charged a variety of fees. For example, many fees in the inner east region ranged from $1.90 a day.

In the western region fees ranged up to $14 a day. Under previous governments fees developed in an ad hoc fashion. Under the former Labor government there was no income test for low-income families to ensure that people received equity of access to the system, which is extremely important. In addition, families caring for adults with disabilities were charged up to $26 a night for respite care services. Those families were cross-subsidising respite care for children.

I recently announced changes to the fees charged for respite care services. The changes, which came into effect in October, set a standard fee for respite care - in other words, we have standardised fees. The fee, which has been set at $14.10 a night, covers accommodation, food and staff.

At the same time I announced that low-income families entitled to a health care card would pay only $6 a night for respite care. It has come to my attention that some families who do not qualify for a health care card will have difficulty in paying even that fee. Following consideration and review of this important issue I can announce that the government will extend the fee subsidy to cover families in receipt of the additional family payment set by the Federal Department of Social Security. In effect, we will accept the guidelines of that department and extend the subsidy to families who would not normally qualify for the health care card. The

government is concerned to provide people with access to respite care.

In addition, where families are in extreme financial circumstances and under stress, I have authorised regional managers of disability services in the nine regions to reduce the fees payable by such families, if it is necessary, to $2 a night in order to maintain services for low-income families.

Under the new arrangements low-income families will be required to pay equal to or less than most previous fees set for children's services. Adults requiring respite services will pay considerably less. Although families, particularly those in the eastern suburbs, will pay higher fees in some cases, the system is much fairer overall.

I emphasise that the government is committed to providing respite care services at an affordable cost to all families with a member who has an intellectual disability. The government is also committed to ensuring that low-income families have access to those services on an equitable basis.

The honourable member for Benambra raised the important issue of deinstitutionalisation. The honourable member is concerned about the needs of people with intellectual disabilities who have been relocated from large institutions to community care. The program of deinstitutionalisation for people with intellectual disabilities has been successful. As the honourable member stated so clearly, we need to provide proper support, training, nursing and adequate resources to ensure that people can reside in a community setting with the kind of support that enhances their lives.

A few days ago a chapter in the history of the care of people with intellectual disabilities in Victoria closed when the government closed the May Day Hills Hospital at Beechworth, which had been in operation since 1867. The training centre has been closed as part of a program of redevelopment of major centres for the intellectually disabled. That program has involved the gradual replacement of the approximately nine physically run-down and inappropriately large institutions with modem supported community-based care.

The previous government closed the Caloola Training Centre at Sunbury amid controversy. The current government has closed May Day Hills Hospital at Beechworth with no controversy and with great sensitivity and care. I am also pleased to advise that we are on track to complete before Christmas the closure of Aradale Psychiatric Hospital at Ararat - another old and inappropriate institution - in accordance with the coalition's promise.

The policy of deinstitutionalisation pursued by the current and previous governments has been successful. It is being accomplished with great sensitivity and efficiency. The redevelopment of May Day Hills is considered by many to be among the most successful examples of deinstitutionalisation in the country. In 1988 when the process of redevelopment commenced, the centre housed 178 residents. The majority of those people now live stimulating and fulfilling lives in the community.

The process of redevelopment involved the careful assessment of the support needs of the residents and the planning of new accommodation appropriate to their needs. The new services were planned by the staff of the institution itself, who had cared for the former residents for many years and knew their needs.

I pay tribute to the regional director of community services in the area, Mr Tom Keating, and his staff for the sensitive way in which they have pursued deinstitutionalisation in the north east of Victoria. The former Public Advocate, Mr Ben Bodna, provided an independent review of support needs to ensure that the former residents were receiving adequate support in their new homes, which was a concern of the honourable member for Benambra.

All residents of the former institutions have been provided with day programs, an essential component of their care that was missing in the old-fashioned facilities. The program has been successful for clients, resulting in a successful integration of former residents of institutions into the community. All former residents have been placed in appropriate community settings.

The redevelopment has spawned many of the innovative projects for intellectually disabled people that have taken place in recent years. The government has brought about this significant social landmark in the provision of better quality-of-life options for people with intellectual disabilities. The government is proud to have been part of a team that has brought a great deal of joy to many people by improving their options for quality of life.

Mrs WADE (Minister responsible for Women's Affairs) - It is challenging being the Minister

responsible for Women's Affairs; you never quite know where the questions are coming from. Opposition members seem to expect me to be able to answer any question relating to any portfolio, no matter how detailed.

Yesterday the honourable member for Bundoora referred to changes in the structure of the Department of Business and Employment. Tonight she has raised an issue that would have been better directed to the Minister for Police and Emergency Services. The honourable member suggested that conflicting views are held by the Premier and the Minister for Police and Emergency Services on the review of gun laws currently being carried out by the Firearms Consultative Committee.

Unlike the honourable member for Bundoora, I was paying attention in question time yesterday. I am aware that the Minister for Police and Emergency Services assured the House that he and the Premier were of the same view that no measure that would place the community at risk would be accepted by the government.

Opposition members interjecting.

Mrs WADE - I suggest that members of the opposition read *Hansard* because obviously none of them were paying attention at question time yesterday. I am not surprised considering the way they go on at question time because it is difficult to - -

Opposition members interjecting.

The SPEAKER - Order! It is late and the House will come to order.

Mrs WADE - Again, we are seeing the no-change syndrome at work in the opposition. The opposition has the view that nothing should change and that everything that it put in place should remain exactly as it was when it went out of gov,ernment. The opposition has not come to grips with the fact that it was thrown out of government because of its absolute gross mismanagement in every area.

Thexe is no doubt that in every area of government changes can be made for the better. The government has made an enormous number of changes to better protect the community from the minority of people who commit serious and violent crimes, and it will conttinue to do that.

Already the government has made enormous changes to the sentencing legislation. The previous government had in place sentencing legislation that was criticised by every law-abiding member of the community. The legislation resulted in ridiculous sentences such as nine months for multiple rapes, and the average sentence for rape was three years. This government has abolished unswom statements, it has introduced the Crimes (Amendment) Bill (No. 2), which gives police considerable powers to investigate serious crime and it is proposing to create a new offence to protect children from paedophiles.

The government's record is on the table and there is absolutely no reason for anyone to believe that it will not continue to act as the Minister for Police and Emergency Services indicated, to protect the community from the risk of violent crime.

Members of the ALP are the new conservatives in this State. They want everything to remain as it is and want no change at all in anything in Victoria. The government has demonstrated its concern for the safety of the community, and I advise the honourable member for Bundoora that she can be confident that in relation to gun laws, as with everything else, the coalition will continue to improve the protection of the community from those who seek to violate the rights of ordinary law-abiding Victorians.

Mr COLEMAN (Minister for Natural Resources) - The honourable member for Murray Valley referred to flood damage in northern Victoria and made a plea for some additional funds for the Ovens River Management Board to carry out restitution work in the Ovens and King valleys. The collective damage total from the floods for the Department of Conservation and Natural Resources is of the order of $8.6 million. That involves considerable damage to forest roads and other facilities erected on State reserves and in national parks as well as considerable damage to Rural Water Corporation structures and various non-metropolitan water board structures.

It is fortuitous that I am able to advise the honourable member for Murray Valley that I will be available on 10 December to come to the Ovens area and participate in a helicopter ride to see the extent of the damage in the Ovens and King valleys. The request from the Ovens board is a microcosm of the greater ex!"ense that must be dealt with. At present, it has not been determined whether. we can receive any funding from the Federal government's disaster

fund. When that is determined the government will be in a better position to respond to the request from the Ovens River Management Board for restitution work.

Nevertheless, as I said, I will be visiting the area on 10 December, and I hope the honourable member for Murray Valley will be able to join us in the helicopter.

Mr MACLELLAN (Minister for Planning) - The honourable member for Thomastown referred to bus services and fares on route No. 788 between Frankston and the Mornington Peninsula. I take it the honourable member was criticising some arrangements made by the former Minister.

Mr Dollis - That is not fair.

Mr MACLELLAN - The honourable member for Richmond says that that is not fair. I know the Labor government did many unfair things and I take it that the honourable member for Thomastown is complaining about the inadequacy of the timetabling and fare structure established by the former government.

I do not have the impression from the honourable member for Thomastown that he was making any complaint about changes made to this service by the coalition government. I have the strong impression that he was launching into an attack upon the former Labor government and the unfair arrangements that it made, in his opinion, for the people on the Mornington Peninsula who had access to a bus service that worked to a timetable of only one service every one and a quarter hours.

As the honourable member pointed out, it was unfair in that some people on the Momington Peninsula had access to one sort of service and fare structure and others were denied that by the Labor government and by decisions of the then Minister responsible, Mr Spyker.

Opposition members interjecting.

Mr MACLELLAN - I may be being unfair to Minister Spyker, because it may have been Mr Crabb or it may well have been the member for Coburg when he was Minister, or it may have been the late, lamented Leader of the Labor Party, who has gone into permanent exile. I do not know which of them it was, but surely during the 10 years of Labor government the honourable member for Thomastown could have raised the matter quietly and got an honest and fair deal for the people of the Momington Peninsula.

He did not do that; he is stylish and has waited 12 months to raise the issue in the House - 12 months after a coalition government is elected. He is trying to palm it off as if the problems have nothing to do with the government of which he was a member during the guilty party years.

I will undertake to refer the guilty party's inadequate transport policy for the Mornington Peninsula and unfair timetable and fare structure to the Minister for Public Transport and ask whether he can find some means of balancing the Budget to correct the mess that the Labor Party left. I am sure the Minister for Public Transport will be only too delighted to take this matter on board and make sure the government corrects the things that Labor left undone after all the mistakes it made.

That is what we are doing. It is not a commitment. I said I was sure the Minister would give a sympathetic - -

Mr Batchelor interjected.

The SPEAKER - Order! Even though the hour is late and we are looking forward to going home there is no need for the behaviour of the House to deteriorate. Interjections across the table are disorderly.

Mr MACLELLAN - I am sure the Minister will give sympathetic attention to the matter when the government has corrected Victoria's financial situation.

The honourable member for Pascoe Vale mentioned a constituent who wrote to him complaining about a train being 20 minutes late. I am sure the Minister for Public Transport will be sympathetic. Trains are late, but one of the Minister's major objectives is to try to ensure that the timetables are adhered to more carefully. I cannot imagine what sorts of letters the honourable member receives when trains are cancelled because an employee is dismissed after a number of warnings and causes a full-scale strike because he is a minor union official. In fairness, I am sure the honourable member would have written back and told his constituent that he was a great supporter of industrial action in the public transport system but that he felt it was outrageous for a train to be 20 minutes late and that station staff had not been adequately informed or polite enough to give information to a member of the public.

The government shares his view that public transport workers should be polite to the travelling public, give accurate information and try to ensure that the trains run on time. I will raise it with the Minister but, again, it is a legacy of Labor that we have inadequate equipment which occasionally breaks down. The former government decided to spend the money on things other than the adequate maintenance of public transport and left rolling stock that is owned largely by overseas investors. Naturally the Minister has a struggle to try to ensure that the necessary funds are available.

The honourable member for Eltham referred the Minister for Roads and Ports to the Eltham council's desire to have access to Better Road funds. I will raise it with the Minister and ask whether he can assist. The honourable member for Keilor referred the Minister for Education to three Catholic schools in his electorate and the need for Sunshine Avenue to have a better pedestrian crossing. Perhaps the honourable member seeks a pedestrian crossing with lights. I will ask the Minister to examine the issue.

I take it the honourable member for Keilor is making another one of his subtle attacks on the former Labor government. I am sure the amount the traffic in Sunshine Avenue has not increased so much in the past 12 months but doubtless the safety of children in Sunshine Avenue has been a matter of deep concern to the honourable member for some years. It would assist his case if he could tell the Minister how many times he has unsuccessfully raised the issue with successive Labor Ministers. If he can point out that Labor Minister after Labor Minister rejected his call for a safety measure of the importance he suggests this matter is, it will greatly strengthen his case to have the matter dealt with as a priority. If the information has just come to his attention he should make that clear, and if he has been knocked back many times, as I imagine he has, he should make that clear to the Minister. His comments are characteristic of the sorts of subtle attacks the Labor Party is making as it disowns the policies and practices of former Labor Ministers.

The honourable member for Dandenong naturally mentioned that Cranbourne is a growth area and asked that we all recognise that fact - and we do. I will refer the matter he raised to the Minister for Roads and Ports and ask him to give it sympathetic attention. I am sure the honourable member will be joined in that request by the honourable member for Cranboume. The honourable member for Cranboume might say he wishes the honourable member for Dandenong well, but I doubt that he really does.

The honourable member for Footscray referred a matter to the Minister for Education. When a member directs attention to the fact that a Minister is not here, some other Minister tries to respond on his behalf. If speakers get halfway through their remarks before Ministers become aware that they are talking about education, for example, and that the Minister for Education is absent, it is hard to obtain the details. I did not want to interrupt and ask the honourable member but I will examine the *Hansard* report, and direct the matter to the Minister's attention.

.House adjourned 11.6 p.m.

Thursday, 18 November 1993

The SPEAKER (Hon. J. E. Delzoppo) took the chair at 10.5 a.m. and read the prayer.

PUBLIC SECTOR SUPERANNUATION (ADMINISTRATION) BILL

Mr MACLELLAN (Minister for Planning) - I desire to give notice that tomorrow I will move:

> That the amendment to be substituted for government amendment No. 53 to the Public Sector Superannuation (Administration) Bill be now circulated in lieu of the amendment which was circulated pursuant to Sessional Order 6(5) on 16 November 1993 and that Sessional Order No. 6(6)(a) be applied to the proceedings on the Bill in respect to that amendment.

Mr BAKER (Sunshine) - On a point of order, Mr Speaker, I draw the attention of the House to this matter and ask the relevant Minister to give some explanation of why yet another amendment has been made to an amendment to an amendment. Will the Minister explain why this further example of incompetence has surfaced at this stage?

The SPEAKER - Order! There is no point of order.

Mr I. W. SMITH (Minister for Finance) *(By leave)* - The amendment is proposed at the request of several members of the opposition, who were concerned that the government had not adequately catered for the sex discrimination provisions of the Commonwealth Act. This particular amendment deals with acquired spouses. The honourable member has had the amendment faxed to him; and if he wishes to discuss it, I shall further explain it to him.

Mr BAKER (Sunshine) *(By leave)* - The inconsistency with the Federal sex discrimination legislation was raised by me last Tuesday during debate on the Bill. The House is entitled to some explanation. I understand that some $572 000 has been spent on legal advice to get this Bill up.

Mr Brumby - How much?

Mr BAKER - Some $572 000 has been spent on legal advice to get this Bill up.

Mr Brumby - To whom?

Mr BAKER - Freehill Hollingdale and Page.

The SPEAKER - Order! This conversation and the prompting of the honourable member for Sunshine by various members must cease.

Mr BAKER - In view of that level of expenditure, the House is entitled to know why some 145 amendments were circulated on the day the debate resumed. Also, why was this matter not picked up? It seems that for $572 000 the solicitors could not even check the Federal legislation to ensure it was consistent with the proposed legislation.

Will the Minister undertake now to further consider the Bill in Committee so that he can be asked to explain in detail the background to his amendments, including the one mentioned this morning?

PETITION

The Clerk - I have received the following petition for presentation to Parliament:

Mausoleums

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the committee of Italian Action sheweth the reintroduction of mausoleums in Victorian cemeteries. The signatories listed below are of various ethnic origins and of various religious backgrounds all of whom feel that their particular needs regarding the interment of their loved ones are not being properly catered for within Victorian cemeteries.

Your petitioners therefore pray that the Parliament take all necessary steps to ensure that the reintroduction of mausoleums takes place.

And your petitioners, as in duty bound, will ever pray.

By Mr Micallef (937 signatures)

Laid on table.

DEPUTY OMBUDSMAN (POLICE COMPLAINTS)

Operation Iceberg

Mr McNAMARA (Minister for Police and Emergency Services) presented report of Deputy Ombudsman (Police Complaints) on investigation

of leaked confidential police information and related matters "Operation Iceberg" October 1993.

Laid on table.

Ordered to be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 18

Mr PERTON (Doncaster) presented Alert Digest No. 18 on Transport (Amendment) Bill and Health Services (Amendment) Bill, together with appendix.

Laid on table.

Ordered to be printed.

WORKCOVER

The SPEAKER presented report of Victorian WorkCover Authority for quarter ended 30 September 1993 given to him pursuant to Accident Compensation Act 1985.

Laid on table.

PAPERS

Laid on table by Oerlc

Albury-Wodonga (Victoria) Development Corporation - Report for the year 1992-93

Alexandra District Hospital - Report for the year 1992-93

Alfred Group of Hospitals - Report for the year 1992-93

Angliss Hospital - Report for the year 1992-93

Anne Caudle Centre - Report for the year 1992-93

Apollo Bay and District Memorial Hospital - Report for the year 1992-93

Austin Hospital - Report for the year 1992-93

Baimsdale Regional Health Service - Report for the year 1992-93

Beeac and District Hospital - Report for the year 1992-93

Benalla and District Memorial Hospital - Report for the year 1992-93

Bethlehem Hospital Incorporated - Report for the year 1992-93

Birregurra and District Community Hospital - Report for the year 1992-93

Boort District Hospital - Report for the year 1992-93

Box Hill Hospital - Report for the year 1992-93

Bright District Hospital - Report for the year 1992-93

Bundoora Extended Care Centre - Report for the year 1992-93

Burwood and District Community Hospital - Report for the year 1992-93

Business and Employment Department - Report for the year 1992-93

Camperdown District Hospital - Report for the year 1992-93

Caritas Christi Hospice Limited - Report for the *yeat* 1992-93

Casterton Memorial Hospital - Report for the year 1992-93

Cobram District Hospital - Report for the year 1992-93

Cohuna District Hospital and Cohuna Community Nursing Home - Report for the year 1992-93

Colac District Hospital - Report for the year 1992-93

Coleraine and District Hospital - Report for the year 1992-93

Corryong District Hospital - Report for the year 1992-93

Dandenong Hospital - Report for the year 1992-93

Dunolly District Hospital - Report for the year 1992-93

Eastern Suburbs Geriatric Centre - Report for the year 1992-93

Echuca District Hospital - Report for the year 1992-93

Elmore District Hospital - Report for the year 1992-93

Fairfield Hospital-Report for the year 1992-93

Geelong Hospital - Report for the year 1992-93

Gippsland Base Hospital - Report for the year 1992-93

Gippsland Southern Health Service - Report for the year 1992-93

Goulburn Valley Base Hospital - Report for the year 1992-93

Grace McKellar Centre - Report for the year 1992-93

Hamilton Base Hospital - Report for the year 1992-93

Hampton Rehabilitation Hospital - Report for the year 1992-93

Healesville and District Hospital - Report for the year 1992-93

Heathcote District Hospital - Report for the year 1992-93

Heywood and District Memorial Hospital - Report for the year 1992-93

Inglewood Hospital - Report for the year 1992-93

Kerang and District Hospital - Report for the year 1992-93

Kilmore and District Hospital - Report for the year 1992-93

Kingston Centre - Report for the year 1992-93

Koroit and District Memorial Hospital - Report for the year 1992-93

Kyabram and District Memorial Community Hospital-Report for the year 1992-93

Kyneton District Hospital - Report for the year 1992-93

Latrobe Regional Hospital - Report for the year 1992-93

Lismore and District Hospital - Report for the year 1992-93

Lome Community Hospital - Report for the year 1992-93

Lyndoch, Warmambool Incorporate - Report for the year 1992-93

Macarthur and District Memorial Hospital - Report for the year 1992-93

Maffra District Hospital - Report for the year 1992-93

Maldon Hospital - Report for the year 1992-93

Mansfield District Hospital - Report for the year 1992-93

Maroondah Hospital - Report for the year 1992-93

Maryborough District Health Service - Report for the year 1992-93

Mental Health Review Board and Psychosurgery Board - Report for the year 1992-93

Mildura Base Hospital - Report for the year 1992-93

Monash Medical Centre - Report for the year 1992-93

Mordialloc-Cheltenham Community Hospital - Report for the year 1992-93

Momington Peninsula Hospital - Report for the year 1992-93

Mortlake District Hospital - Report for the year 1992-93

Mount Alexander Hospital - Report for the year 1992-93

Mount Eliza Centre - Report for the year 1992-93

Murray-Darling Basin Commission - Report for the year 1992-93

Myrtleford District War Memorial Hospital -Report for the year 1992-93

Nathalia District Hospital - Report for the year 1992-93

Numurkah and District War Memorial Hospital - Report for the year 1992-93

O'Connell Family Centre (Grey Sisters) Inc. - Report for the year 1992-93

Omeo District Hospital - Report for the year 1992-93

Orbost and District Hospital - Report for the year 1992-93

Penshurst and District Memorial Hospital - Report for the year 1992-93

Peter MacCallum Cancer Institute - Report for the year 1992-93

Port Fairy Hospital - Report for the year 1992-93

Portland and District Hospital - Report for the year 1992-93

Preston and Northcote Community Hospital - Report for the year 1992-93

Rochester and District War Memorial - Report for the year 1992-93

Royal Victorian Eye and Ear Hospital - Report for the year 1992-93

St George's Hospital and Inner Eastern Geriatric - Report for the year 1992-93

St Vincent's Hospital (Melbourne) - Report for the year 1992-93

Sandringham and District Memorial Hospital - Report for the year 1992-93

Seymour District Memorial Hospital - Report for the year 1992-93

Skipton and District Memorial Hospital - Report for the year 1992-93

South Gippsland Hospital - Report for the year 1992-93

Swan Hill District Hospital - Report for the year 1992-93

Tallangatta Hospital - Report for the year 1992-93

Tawonga District General Hospital - Report for the year 1992-93

Terang and District Community Hospital - Report for the year 1992-93

Timboon and District Hospital - Report for the year 1992-93

Victoria Police Force - Report for the year 1992-93

Victorian Gaming Commission - Report for the year 1992-93

Wangaratta District Base Hospital - Report for the year 1992-93

Waranga Memorial Hospital - Report for the year 1992-93

Warrnambool and District Base Hospital - Report for the year 1992-93

Werribee District Hospital - Report for the year 1992-93

West Gippsland Hospital - Report for the year 1992-93

Westernport Memorial Hospital - Report for the year 1992-93

Winchelsea and District Hospital - Report for the year 1992-93

Wodonga District Hospital - Report for the year 1992-93

Wycheproof District Hospital - Report for the year 1992-93

Yarram and District Hospital - Report for the year 1992-93

Yarrawonga District Hospital - Report for the year 1992-93

Yea and District Memorial Hospital - Report for the year 1992-93.

PUBLIC HOLIDAYS BILL

Returned from Council with message relating to amendment.

Ordered to be considered next day.

STOCK (SELLER LIABILITY AND DECLARATIONS) BILL

Returned from Council with message relating to amendments.

Ordered to be considered next day.

RURAL FINANCE (VEDC ABOLITION) BILL

Returned from Council with message relating to amendments.

Ordered to be considered next day.

TELECOMMUNICATIONS (INTERCEPTION) (STATE PROVISIONS) (AMENDMENT) BILL

Returned from Council with message relating to amendment.

Ordered to be considered next day.

ADJOURNMENT

Mr MACLELLAN (Minister for Planning) - I move:

> That the House, at its rising, adjourn until tomorrow at lOa.m.

Motion agreed to.

GAMING MACHINE CONTROL (GENERAL AMENDMENT) BILL

Government amendments circulated by Mrs WADE (Attorney-General) pursuant to Sessional Orders.

Second reading

Debate resumed from 28 October; motion of Mrs WADE (Attorney-General).

Mr ROPER (Coburg) - It is fortuitous that the House is debating the Gaming Machine Control (General Amendment) Bill. Because of its nature the Bill gives Parliament the opportunity to consider how a small amendment to the legislation will greatly assist in the survival of one of the oldest clubs in the Australian Football League. Today the Fitzroy Football Club faces an uncertain future, which should be of concern to all in Victoria who love the game of football.

The legislation provides the opportunity not to subsidise the operation of the Fitzroy Football Club with government funds but to enable the dub to receive the return on gaming machines that other clubs receive. It is not just Fitzroy; the opposition's proposal would also assist the Melbourne Football Club, the other club that does not have social dub facilities, and I know the Treasurer strongly supports that dub. A headline in the *Age* this morning was "APL looks on as Fitzroy bleeds to death". This Parliament and the government should not look on while Fitzroy bleeds to death because it is possible for the government to assist Fitzroy so that it can have a successful and permanent future. It is possible to amend the Gaming Machine Control (General Amendment) Bill for that purpose, and, therefore, I desire to move:

> That all the words after "That" be omitted with the view of inserting in place thereof the words "this Bill be withdrawn and redrafted so as to allow the Gaming Commission to declare that the amounts payable under section 136 of the Gaming Machine Control Act 1991 by certain gaming machine operators holding a general licence, are to be paid as if they are holders of a club licence.".

At present the gaming legislation provides that hotels receive a return of 3 cents in the dollar from the operation of their machines and that football and racing clubs receive 4 cents. Earlier this year the Minister for Gaming said that the government was not prepared to consider any legislation relating to a particular proprietor. The Bill makes specific provision for the Victorian Football Association and its intentions to operate a gaming venue at Essendon. This is an opportunity for the government and Parliament to assist in the future of Fitzroy and, as I said before, assist the Melbourne Football Club as well.

Because Fitzroy and Melbourne do not have social clubs, they must rent or lease hotels if they want to operate gaming machines. However, if they do they do not receive the same return from gaming machines as other AFL clubs because their social club facilities are in hotels. It will cost Fitzroy and Melbourne very dearly. I hope the government uses this opportunity to reconsider its position and changes the gaming legislation. As I said before it is bad enough that the Australian Football League is looking on as Fitzroy bleeds to death, but it would be extremely unfortunate and regrettable for the government to do so as well.

It is not the role of government to financially prop up a league club, but it is the role of government to ensure that equality exists between the various clubs in the league. That is currently not the case. The opposition hopes the government accepts an amendment to this legislation that will enable the

Fitzroy Football Club to receive the full amount that a club can receive under the gaming legislation.

I will explain to the House what a difference that will make to Fitzroy. Apart from the Essendon Football Club, which has Tattersalls machines, Fitzroy is the most successful club in terms of its gaming machine turnover. It has effectively promoted the machines at its premises at the Fitzroy Club Hotel and is currently receiving between $12 000 and $14 000 a week from the operation of its gaming machines. That is a substantial sum and has improved the club's financial situation enormously. If Fitzroy were able to receive the extra cent in the dollar that the other league clubs receive, it would mean a difference of more than $4000 a week or $200 000 a year to the club, and that would certainly act as a major protection for its future.

One member of the government referred to Fitzroy's having a $2 million problem. My understanding is, and this was implied in a carefully worded press release issued by the directors of the club last night, that the club requires financial accommodation in the order of $750 000. Over the past two years the board of directors, the players, the coaching staff and the supporters have done a great deal to try to ensure Fitzroy survives and to put it on a permanent financially viable basis. It is only in the past few months that the club has decided, and the supporters have overwhelmingly agreed, to move to Footscray. I can understand people not wanting to play at Optus Oval. As a supporter of the Carlton Football Club I will find it difficult to go to a place with that name and I will continue, as most supporters will do, to go to Princes Park.

The Fitzroy Football Club has not been able to get a better deal from Carlton for the use of Princes Park and has decided to go to Footscray, and that will significantly improve the financial position of the club because it will be able to receive a share of revenues at Footscray that it would not have received at Carlton. I do not blame Carlton for that because Carlton was very well looked after by its agreements with the AFL.

In addition, the board of directors and the club have significantly increased the range of its sponsorship. The Victorian Health Promotion Foundation and the Quit organisation have had to reduce their level of sponsorship because of their own financial situations, but the club has gone out and found other sponsors, such as the recent sponsorship agreement with the soft drink company Solo.

Mrs Wade interjected.

Mr ROPER - Here is an opportunity for Parliament to pick up the work that has been done by the club to ensure that it has a viable future in the national league competition. I think it is important that the House understand that over the past two years the club itself has not just sat on its hands waiting for something to turn up, but has taken very effective action to improve its own situation.

There is a way Parliament can assist and that is by placing Fitzroy on the same level as all the other league clubs. As I said before, it would make a difference of $200 000 a year to the Fitzroy Football Club, and that sum would be more than adequate to service and reduce its existing arrangements as it has been doing progressively over the past two years.

As I said before, it is not the role of the government to subsidise a particular football club, but it is the role of the Parliament to do what it can to ensure that a club that has 109 years of proud history is able to continue. On the field, Fitzroy players have done well over the past season. Certainly the club's administration and board table has improved significantly from the situation it was in a couple of seasons ago, and with the introduction of gaming machines the club's situation has improved even further. The additional 1 cent in the dollar that the club will receive does not sound like much, but over a year will amount to a very significant sum in the order of $200 000.

As I mentioned before, the legislation specifically provides that organisations can use Federal Airports Corporation (FAC) property and have machines. We know that the legislation is being introduced for the specific purpose of enabling the Victorian Football Association (VFA) to set up its club at Essendon Airport. The opposition has no difficulty with that action. Indeed, it had been urging the government to take that course for some time; the matter was being discussed with the FAC last October, not only in relation to Essendon but also in relation to a proposal that Ansett Airlines of Australia had for Tullamarine Airport.

The government has properly responded to the problem that existed in relation to the FAC and the VFA proposal, just as the previous government and the Parliament responded to the request of the racing dubs for special consideration when it came to their being able to have gaming machines. So on two separate occasions Parliament took specific

action on access to gaming machines: the first in relation to the racing clubs, where an amendment was moved and passed through Parliament; and the second in relation to the VFA and its proposal for premises at Essendon.

The opposition is not saying that the legislation needs to be amended peculiarly for Fitzroy, but that the Victorian Gaming Commission should be able to consider actively whether, if an organisation is operating in a community way, in a not improper way, it should be able to receive the full club amount of 4 per cent rather than the reduced hotel amount of 3 per cent.

The opposition does not want this to be regarded as an opposition versus government issue. I have talked to some members on the government side about this matter to make sure they understand it. The opposition would like to see Parliament taking this action cooperatively. That would assist the Fitzroy Football Club board enormously to finalise its arrangements and to ensure that there will be a 15-member competition next year. It is the least that the government and Parliament can do in the situation as it would be very unfortunate to allow a club with Fitzroy's history to go under without taking action. I know the Minister has previously said this should have been provided for in the original legislation. This is the second time the government has changed the legislation, and I do not find that a problem. With new legislation, changes and improvements will constantly be required.

The opposition made some other suggestions during the briefing it had with the two departmental officers about other changes that might be made in regard to gaming machines. In a new industry there will always be ongoing change, and part of that change should be to meet the original purpose of the measure: that there be a particular return rate for pubs and a different return for clubs.

As I have explained to the House before, the shorthand way that was originally dealt with was by using the licensing arrangements. In view of what occurred with the Fitzroy Football Club and what might occur with the Melbourne Football Club and other clubs around the State - not just in the metropolitan area - now is the time to change because as gaming develops in the State it is quite possible that country football clubs and various other organisations will decide that the most sensible proposal for them is not to set up their own clubrooms but to use existing licensed premises in their towns, and there are many country towns where that could apply.

The opposition is saying to the government that the club should receive the extra 1 per cent: it should receive the 4 per cent, not the 3 per cent. I ask the government to consider this proposal: there is still time in this Parliamentary session for sensible consideration, and I am sure the House can come to an arrangement on debating time if the government wishes to consider the matter further, either while the Bill is between here and another place or in the other House.

We ask the Premier and the government to take steps to give the Fitzroy Football Club a go. We hope the government will be prepared to do that.

Other parts of the legislation are important as well. The operation of gaming machines over the past 12 months has been an incredible success. The figures prepared by the Minister for Sport, Recreation and Racing show that the investments in electronic gaming machines (EGMs) as at July 1992 were $8.34 million compared with nothing, of course, for the previous 12 months. By the end of the 12-month period the turnover had become $2.716 billion and it took up 40 per cent of all forms of gambling in Victoria. In 1993 the figures already are moving towards $500 million a month, which suggests that the total amount for the year will be between $5 billion and $6 billion. That is not what could be called a failure, and the economic position of clubs and hotels throughout the State has been hugely improved as a result of the introduction of electronic gaming machines. The dubs are starting to put money into providing new facilities and activities for their members, and to provide sporting arrangements for sporting dubs.

The introduction of gaming machines has been a great success over the past 15 months. That success will continue for dubs like Fitzroy, despite its difficulties, and other clubs throughout the State. The income of dubs has increased and will increase further with government assistance.

The legislation tightens some provisions and increases the capacity of police to prosecute. It provides that gaming machines will operate on Federal Airports Corporation land. That has been a problem for some time, but it can be overcome in a number of ways. The government has chosen to overcome the problem by changing the liquor licensing arrangements so far as Federal land is concerned. There is some doubt whether the Federal

Airports Corporation has authority in these matters. Simply because the legislation states that certain functions can be conducted on Federal land does not make it constitutional. One can argue that the operation of a gaming premises is not central to the operation of the Federal Airports Corporation under Federal aviation powers, but it is not appropriate to have those legal arguments. The legislation overcomes the problem by allowing the Victorian Football Association to have its gaming premises at Essendon Airport. The legislation ensures that the gaming premises operates fairly with the other gaming premises in that area.

A concern I had when I was the Minister responsible for this area was that Federal Airports Corporation land or other Commonwealth land could be used in a way that was unfair to neighbouring gaming premises operating on freehold or State land. The legislation has overcome that problem. It would have been unfortunate if the Victorian Football Association gaming premises had offered a better rate of return to its players than the gaming premises at the Essendon Football Club or one of the large hotels in the area, such as the International. The arrangements discussed with the Victorian Football Association and the Federal Airports Corporation mean that that will not be the case. The opposition supports the football association in its efforts, just as it strongly supports Fitzroy Football Club.

Clause 19 significantly tightens the offence of unlawful interference with gaming equipment. Proposed section 149B inserted by clause 27 allows the Victorian Gaming Commission to require a gaming operator to pay reasonable costs to cover the cost of an investigation. The cost of investigation of some applicants, particularly large companies, has been substantial and the fees paid have not covered that. A fee can be set at an amount not exceeding the reasonable cost of the application.

Proposed section 18A inserted by clause 7 sets a penalty of 2500 penalty units for breaching conditions of listing on the roll. Elsewhere in the legislation where penalties have been either raised or introduced, a gaol term is combined with a significant penalty for a serious offence. If Parliament believes a large penalty should apply for a serious breach of the legislation or an attack on the propriety of the gaming industry - which we collectively want to ensure is clean - a gaol term should also be considered. Groups on the roll can be removed under certain circumstances. If people breach conditions in a dishonest way a gaol term as well as a substantial financial penalty should apply.

The introduction of gaming machines has been extremely successful and the industry should expand further. A number of clubs and hotels are considering installing gaming machines. The moratorium should be lifted so that the industry can continue to grow, as it has grown over the past 15 months. I have heard positive reports from organisations such as the Dandenong Workers Club, the Yarraville Club and the Frankston RSL Club. Clubs throughout the metropolitan area and rural Victoria have improved their facilities and, having paid off or nearly paid off the cost of the improvements, are considering further improvements for the benefit of their members and the community.

We did not expect that the benefits that many New South Wales people have from club life would come overnight, but they have come quickly in a number of areas. The industry has been operating in New South Wales for more than 30 years. Some people believed the industry in Victoria would grow in no time at all almost by magic. It has to develop, and it is doing so. The Treasurer believes it is developing very well!

Mr Weideman - Hotels have done well too.

Mr ROPER - Yes, hotels have done well and have added significantly to their employment as a result; not just because of the gaming machines, but because of other activities that have also improved. Many hotels and clubs have taken on more than 10 additional staff during the past 15 months - a significant improvement in that industry.

As well, the funds that were going to New South Wales have been diverted back to Victoria through the growth of tourism and recreational opportunities. Honourable members should consider what occurs over the Christmas period on the Mornington Peninsula - the area you represent, Mr Acting Speaker - or the Bellarine Peninsula. Clubs and pubs in holiday areas were successful over the last Christmas period and they will be even more successful over the next Christmas period.

One issue that needs to be addressed is how additional machines can be installed in holiday places on a temporary basis. I know that Tattersalls has been considering that, and the government and the Victorian Gaming Commission also need to consider it. There would be premises in your

electorate, Mr Acting Speaker, and in other parts of the State where there is a need for a certain number of machines for 9 or 10 months of a year and for additional machines during the summer period. I have certainly noticed that with the introduction of machines at Barwon Heads, for instance.

There is a need for flexibility. I do not know whether this is a good analogy, but some years ago arrangements were made for additional health services to be provided on the Mornington Peninsula during the Christmas period. For instance, additional medical staff took up appointments at Rosebud and throughout that area over the summer period. It might not be a perfect analogy, but it reflects a response to a particular need.

The same could effectively be done with gaming machines in holiday areas. That would mean a reconsideration both of the number of machines provided to particular venues and of the capacity of venues to cope with a temporary licence expansion. A venue might have 30 or 40 machines, or even fewer, during the course of the year and, providing it has adequate capacity, an additional 20 or so machines may be installed over the summer period. That would assist clubs and pubs in holiday areas and would provide additional recreational opportunities for holiday-makers as well. I ask the government to consider that issue in responding to what has been a successful industry.

Unfortunately the report of the Victorian Gaming Commission, which the opposition thought would be presented yesterday, was available only at the start of this debate, so it is not possible to review the full effect of its activities this year except to say that, in terms of turnover, activity, jobs, expanding recreational opportunities and assisting the Treasury, it has been a successful year for the commission as a result of the introduction of gaming machines, which was supported by all sides of the House and, as I understand it, continues to be supported by all sides of the House.

Mr WEIDEMAN (Frankston) - I will speak on one or two issues raised by the honourable member for Coburg with particular reference to his reasoned amendment. He indirectly commented on the Victorian Health Promotion Foundation by suggesting that because of the cut back in funding from $25 million last year to $22 million this year sponsorship provided to the Fitzroy Football Club had been reduced. I point out to him that that statement is completely inaccurate. He has misled the House. I do not know from where he would get such information.

I have been on the sports committee and a member of the board over recent years, and it is my clear understanding that the Victorian Health Promotion Foundation functions for the purpose of health promotion. Therefore, it is not a grant-making body.

Mr Roper - It is a sponsorship body.

Mr WEIDEMAN - It is a sponsorship body.

Mr Roper interjected.

Mr WEIDEMAN - I ask the honourable member for Coburg to listen to me; I listened to him carefully. I will give him a lesson on sponsorship. All aspects of sponsorship must be considered. One of the single and largest sponsorships granted by VicHealth has been to the Fitzroy Football Club - through the Anti-Cancer Council of Victoria - for the Quit campaign. It has been one of the most successful campaigns ever conducted, and even now it has a high profile.

Players with the Fitzroy Football Club understand that they have to live by that sponsorship. Honourable members may not be aware, but if a player is caught smoking he can be fined up to $2000. That is part of the commitment to the message of the Quit campaign: no puffing. In addition the sponsorship contains a performance commitment and last year the club did not improve its position on the ladder, but it is level with one or two other clubs.

Mr Roper - Nearly there.

Mr WEIDEMAN - It beat many clubs. As I said over recent years when the sponsorship arrangement has been in place it also included a performance commitment. Last year, because of the way the club was linked with other clubs, a recommendation was made to the board that the performance commitment should not continue as part of the sponsorship agreement because it made it difficult for the club. Because the football competition is much closer than it has been in the past due to drafting and other matters, a similar sponsorship agreement will be offered to the Fitzroy Football Club as was offered last year but without a performance commitment. Therefore, the sponsorship funding will be about $250 000.

In my view and the view of the sports committee, as reflected in its recommendations to the board, I can assure the honourable member for Coburg and the Fitzroy Football Club that all sponsorship considerations were based not on the money available but on the value of the sponsorship. Even if more than $50 million had been available to VicHealth, no more money would have been made available to Fitzroy under a sponsorship agreement. The foundation's role is not to support the club financially but to provide sponsorship, build support and make clear what the foundation is on about.

I have to congratulate the Fitzroy Football Club because it has been a most successful year for the Quit campaign. Full-page advertisements devoted to promoting the Quit campaign have appeared on the pages of newspapers, and photographs of the players with the Quit logo on their jumpers have also appeared on the back pages of newspapers providing promotion which would be worth hundreds of thousands of dollars. In a recent debate in the House reference was made to the Neville Norman report, which refers to benefits provided to the State worth approximately $200 million, and the Quit campaign and the Fitzroy Football Club played a primary role in providing those benefits.

The reasoned amendment of the honourable member for Coburg seems to suggest that if the hotel leased by the Fitzroy Football Club was able to keep 1 cent more in the dollar from the turnover of its 65 machines, an additional $200 000 a year would be generated. The club currently receives 3 per cent of revenue, or $600 000 a year, and if it were to receive 4 per cent of revenue, that amount would rise to $800 000 a year. When gaming machines were introduced by the previous government, members of the then opposition discussed the goodwill that would be generated in hotels operated by clubs. I was in favour of a higher percentage of turnover from gaming machines going to clubs rather than to hotels. Perhaps that aspect should be reconsidered.

Anyone who has ever been engaged in a retail operation knows that, in a marketing sense, to be successful the three aspects needed are position, position, position. No other aspect counts. In every town and hamlet, the hotel is usually situated in a prominent position. That is not the case with clubs, which are usually established on the fringe of the town where land values are not as high as in the central business district. They do not have passing traffic or people coming by their doors. In recent months some of our major football clubs - Essendon, Collingwood and others - have suggested that their clubs are not located in a favourable position.

Mr Roper - Essendon is doing very well.

Mr WEIDEMAN - Now that it is proposing to play its games at the Melbourne Cricket Ground perhaps the club building at Essendon will diminish as a club centre. The Essendon Football Club is charging the local football league $1000 to play on the Windy Hill oval on a Saturday. The club is receiving funding from its club centre yet it is charging the local league; it is milking it as hard as it can.

If a hotel operating 65 gaming machines generated $600 000 a year as its share of turnover then its goodwill would be very high, but if the hotel had 100 gaming machines and generated well over $1 million a year the goodwill of that establishment would be very high indeed.

The government and the taxpayers of Victoria receive nothing through the installation of these gaming machines - the provision of a licence was considered to be merely a grant to the hotels - and at the time I raised this issue of the State receiving no benefit from the installation of gaming machines.

The government needs to consider carefully what the honourable member for Coburg is putting forward, because other considerations must be taken into account in trying to be fair to clubs, hotels and the community. It is important not to put the clubs at a disadvantage - and here I am talking particularly about clubs such as the Melbourne Football Club.

I notice that restrictions have now been placed on the number of hotels that can receive licences to install gaming machines. If I were running one of these clubs and in the town nearby there was a hotel in a prominent position without gaming machines but another nearby hotel in the town had them, I would go to the first hotel and say, "We will enter into a joint venture and match this guy by installing gaming machines in your hotel which is in a prominent position in the town". We could well end up with all of the clubs transferring their gaming machines from their clubs to hotels, which is not what the community wants.

Mr Roper - That is not what we are proposing.

Mr WEIDEMAN - I know, but it is one of the considerations. You are talking about an individual case or about two clubs; you are not talking about the overall effects. Commonsense would tell you that a club in a bad position that has gaming machines will want to move into a hotel in the central business district where there is passing traffic and therefore the prospect of increased trade.

In talking about how some of the clubs are doing well the honourable member mentioned the RSL club in Frankston. That is a perfect example of a club with position. It is in Cranbourne Road. It is well run, but I have seen no new facilities there. The room built to house the gaming machines was built more than a decade ago when moves were afoot in the State to legislate for poker machines and gaming machines.

I remember clearly one gentleman who was promised $10 a year per machine for the rest of his life - about half a million dollars - if he could convince the then government to allow gaming machines to be installed in this State. The gentleman was actually trying to persuade honourable members to this effect, and those of us who were in this place 10 years ago will remember that he was available to speak to every member on this issue night and day whenever the House met.

Careful consideration should be given to the overall effect of the reasoned amendment. The honourable member for Coburg has not mentioned the net effect of an extra $200 000 in turnover because the expense of running the hotel and looking after the machines comes out of the gross figure, and we are talking here about a gross amount.

I am not sure what the arrangements at the Fitzroy Football Club or at the hotel are, but a net figure would become available and I can only assume from what has appeared in the press that in the order of $2 million needs to be found just to bring the club back on line with its budget, and with interest rates at 10 per cent that makes $200 000 just to meet the interest bill and not reduce any of the capital debt.

My understanding is that over the past three years the debt of many clubs has increased, and everyone is sympathetic to their situation, but to suggest that the government or anyone else should bail out the club is not a reasonable expectation of the taxpayers. However, as a person who has had some interest in sport and particularly in football, I hope a solution can be found to enable the Fitzroy Football Club to continue.

The honourable member for Coburg has not said in this debate that the $200 000 would assure the continuation of the club. He can give no such assurance and has, for example, no letter from a bank stating that if the government were to allow that extra 1 cent in the dollar to go to the club it would be accepted. As I understand it, the bank said that it requires a guarantee on repayment of the $800 000 loan but without such a guarantee it is not prepared to lend the money. In other words, it wants assets in lieu of - -

Mr Roper - They don't own the venue; it is leased.

Mr WEIDEMAN - I understand the owner of the premises could alter the licensing arrangement and make it possible for the club to obtain the 4 cents in the dollar but it is not in his interests to do that.

Mr Roper - That can't be done because of the nature of the lease.

Mr WEIDEMAN - He could ask the Liquor Licensing Commission to have that changed and then obtain the 4 cents, but it is not in his interests to do so because he would lose goodwill and other advantages that the Act gives him by having the 65 gaming machines there.

Mr Roper - I suggest you have a talk to him.

Mr WEIDEMAN - That may be the case. I can only argue from having read what has appeared in the press, and it has not been clearly spelt out, but I can assure the honourable member that full consideration was given to this matter by the Victorian Health Promotion Foundation.

The full value of the sponsorship to the Fitzroy Football Club was considered, and in no way was that affected by the fact that this financial year the foundation received $22 million. I assure him that the sports committee of VicHealth considered it carefully and valued the sponsorship at $250 000, which was the biggest single club sponsorship granted by the commission.

Our premier sport in Victoria is Australian rules football, and a big involvement through VicHealth is important. Its involvement overall is in excess of $1 million, with approximately $500 000 being given to the youth program, which has resulted in more young people in Victoria now taking up the sport rather than football clubs having declining

memberships. More youngsters are now registered in junior football and programs such as Aussie Sports and Sunkick than was the case in previous years.

The tobacco advertisement buyout money has been taken up by most of the major clubs in Melbourne and that has enabled some of them to play at the Melbourne Cricket Ground or at Optus Oval. The Essendon and Geelong clubs have certainly benefited from the tobacco buyout, and that will have to be reviewed in coming seasons.

I raise with the House my concern that we should know more about what the banks will do and about the overall effects the legislation will have on the gaming machine industry, a similar concern I raised with the former government. In my view, as happened when the Tattslotto agencies were established, there is room for concern. As a local member I was approached by certain newsagencies, and I wrote letters to Tattersalls to suggest that it would be a good gesture if newsagents were granted licences to dispense Tattersalls and scratch-it tickets. I put forward arguments on why it was in the community interest to grant these licences - to save people walking across major highways and so on - but then I discovered that the Tattslotto licence adds goodwill value to the businesses, and the newsagents were out the door before informing the local member how they would benefit if they received licences and became agencies. I later discovered that one particular business had been sold, with $27 000 being added to the sale price because of goodwill.

I was concerned initially - and I never heard anybody disagree - that the process of granting permission to hotels throughout the State to operate casino-type operations must add enormously to the goodwill value of the venues. As I said earlier, a hotel with 65 gaming machines has a turnover of $600 000. It would seem to me that if the venue had 10 times the number of gaming machines the turnover would be approximately $6 million and that in turn would increase the goodwill value for that business. When many newsagencies discovered when they sold their businesses that they could not extract a goodwill value because they had Tattslotto agencies they started up shops next door or a few doors down and moved the Tattslotto licences to those locations so that when they sold the businesses they could receive an amount for goodwill.

In recent times with the introduction of gaming machines a number of people who paid $250 000, $500 000 or $1 million for Tattslotto agencies have told me that they feel somewhat lost because of the decisions that have been made; that the government should not be in the business of creating goodwill for a business. Goodwill in such a business should belong to the people of Victoria and some value should have come back to the State through the granting of those licences, with the revenue providing benefits to the State.

Perhaps in that way a fund could have been established to help clubs such as the Fitzroy Football Club. It could have been done in a simple way with the value of goodwill coming back to the State through the Act. The fund could have helped to establish a junior sports foundation with alcohol and drug programs that may have added to the good work of the Victorian Health Promotion Foundation. There could have been a community chest type approach to helping the community rather than the installation of gaming machines providing a goodwill value to the hotel or the club.

I raised those matters when the original Bill was introduced. We have seen what has now come to fruition and the concern that has been expressed about the numbers of gaming machines in this State in clubs and hotels. In New South Wales there are 60 000 poker machines. Many clubs are not viable because of the large number of machines. The number of machines should be reviewed from time to time because we do not want to flood the market. Many people have invested a lot of money and they will be unhappy if they cannot obtain a reasonable and fair return on their investment. The government should carefully examine what is happening in this area. When gaming legislation is amended it should be in a form that all honourable members can understand; and that in turn will add to the knowledge of Parliament.

Mrs WADE (Attorney-General)-I thank the honourable members for Coburg and Frankston for their contributions to the debate. There were two parts to the contribution made by the honourable member for Coburg. He spent some time talking about the gaming machine industry and how successful it had been since its introduction in Victoria. In that context he suggested some changes which he believed would improve the industry. I am sure the Minister for Gaming will consider his proposals.

The honourable member for Coburg supported most of the amendments proposed in the Bill, including the tightening of industry regulation. However, he

asked whether the penalty was sufficient in proposed section 18A. The penalty is 2500 penalty units. The honourable member suggested it might be appropriate to also include the possibility of a gaol term in the penalty. Proposed section 18A deals with a breach of the condition of listing on the roll of manufacturers. In speaking to the proposal, the honourable member said there could be a breach of a condition which would amount to a serious attack on the propriety of the gaming industry. I will certainly bring this issue to the attention of the Minister. However, if there were a breach of a condition that involved dishonesty it may also amount to some other offence, possibly under the Crimes Act, such as obtaining financial advantage by deception. That would have to be taken into account by the Minister when considering this proposition.

The earlier part of the honourable member's contribution to the debate related to his reasoned amendment and was more focused on the future of the Fitzroy Football Club. He proposed that the Bill should include a provision which permitted the holder of a general licence in specific circumstances to obtain a return on its gaming machines similar to the returns obtained by a club. He clearly included the Fitzroy Football Club as one of those holders of a general licence. It is not clear to me who else would be included in this proposition except possibly the Melbourne Football Club. I am not clear whether his proposition included entities outside the Australian Football League.

This proposition has a long history. It was first put to the honourable member for Coburg when he was the Minister responsible for the gaming industry. No action was taken under the former government and when we debated the gaming legislation last time around it was raised again. So far no action has been taken. I have not had the opportunity to speak to the Minister for Gaming about this. However, I am advised that although he made no promises, he is prepared to examine a proposal being put forward by the honourable member for Coburg.

The contribution made by the honourable member for Frankston was interesting and ranged back over the history of the gaming machine legislation and also the objectives of the Victorian Health Promotion Foundation. He made it clear to the honourable member for Coburg that sponsorship under the foundation was not decided on the financial position of the entity receiving the sponsorship but on the value of the sponsorship in promoting health in Victoria. The honourable member also spoke of the problems of clubs competing with hotels, and particularly when hotels tend to be in more prominent positions in towns or suburbs. He cautioned the honourable member for Coburg about making changes to the legislation which might encourage clubs to convert to general licences. This is something that obviously would have to be taken into account by the Minister, and it is also important to recognise that the general licence was not forced on the Fitzroy Football Club. The football club presumably made a decision to obtain a general licence because of its particular premises, but it would have been open to Fitzroy to obtain premises and set up under a club licence. There may be some other advantages for it having a general licence and establishing it in the way that it has done. It is a complex problem. It is one we can safely leave in the hands of the Minister responsible for the legislation.

The honourable member for Frankston also queried whether the proposed amendment would provide sufficient funds to solve Fitzroy Football Club's current financial problems. Both honourable members made interesting and useful contributions to the debate.

Amendment negatived.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr ROPER (Coburg) - The opposition did not seek a division on the reasoned amendment because we hope there will be agreement on the matter. The opposition is pleased that the Minister in the other place will consider the proposition. I hope he considers it favourably.

The amending provisions relate not to any specific organisation but to the commission's being able to determine whether a club or premises is being used for the intended purposes. That is a matter on which the commission will have make a judgment. It will not automatically mean that any club - such as the Fitzroy Football Club or the Melbourne Football Club - or anyone will actually get the benefits. It will be a matter of the commission examining the purposes for which the machines are being used and ensuring that there is no possibility of the types of

private profit arrangements to which the honourable member for Frankston referred.

Clause agreed to; clauses 2 to 5 agreed to.

Clause 6

Mrs WADE (Attorney-General) - I move:

1. Clause 6, after line 24 insert -

   '"(2) The Commission or Director may authorise in writing any person who owns or operates a museum specified in the authority to be in possession of a gaming machine for the purpose only of display of the machine in that museum, being a machine that is not in operating order.'.

2. Clause 6, line 25, omit "'(2)' and insert "(3)".

3. Clause 6, line 25, after "(1)" insert "or (2)".

The amendments are the result of submissions received by the Minister from a person who runs a museum containing early examples of gaming machines. The machines are not in operation and are there for display purposes only. At present it would be an offence to display them because they do not meet the requirements of existing legislation. The Minister has agreed that that is a little harsh and has put forward the amendments to allow the machines to be displayed. Amendment No. 1 is the substantive amendment; the other two amendments are consequential.

Mr ROPER (Coburg) - The opposition does not oppose the amendments; they suggest that it is possible to make changes to the legislation on the run based on circumstances and submissions. I ask e Minister to take up with the Minister for Gaming m another place the words used in amendment No. 1, which refer to a gaming machine that is not in operating order.

useu are trying to make themselves lively and mteresting places by encouraging increased public participation. For instance, at the Spotswood museum most of the machines provide for some human interaction. I understand that the government does not want fully fledged machines operating in museums. But in a museum that has an exhibition of that sort, children and others could play the machines using tokens or whatever. I ask the Minister to reconsider the way in which the amendment has been couched to see whether it is possible to allow static machines not used for gambling to be used for museum purposes.

Amendments agreed to; amended clause agreed to; clause 7 agreed to.

Clause 8

Mr ROPER (Coburg) - The opposition welcomes the progress that has been made on this matter. While I was a Minister, Mr McMahon of Ansett Australia contacted me concerning proposals to develop a facility at Tullamarine along the lines of a similar facility in Sydney. We discussed the proposal with the Commonwealth, and I thought the matter had been resolved last September. As it turns out, it was not. A development at Essendon Airport proposed by the Victorian Football Association (VFA) was also affected. The legal toing-and-froing on the matter over the past 12 months has meant that the VFA has not been able to proceed with its proposal.

The opposition supports the VFA proposal. VFA and AFL clubs are going through difficult financial times. The Brunswick dub in my electorate was an e c llent club ... apart om its having a guernsey similar to Collmgwood s - but it met its fate because it could not pay the bills. Other clubs such as Coburg have been under substantial pressure. Anything that can be done to improve the financial viability of the VFA as a major community competition will be supported on this side of the House.

I know the honourable member for Springvale has n ongoing interest in the Springvale Football Club, Just as the honourable member for Williamstown has an interest in the Williamstown club. Over the years there has been much support on this side of the House for various VFA teams. On one occasion I was a dub delegate to the VFA board - a n d I am sure that you, Mr Acting Chairman, have been known to support Frankston on occasions.

During the second-reading debate I said the opposition was concerned about the escape clause enabling any organisation setting up on FAC property to avoid State taxation arrangements. Clubs on FAC property will be able to offer higher rates of return than will other dubs and hotels in the area because they will be able to avoid other controls that the Gaming Commission sets up. There are other_ ays of dealing with this under the licensing conditions for Tattersalls or the Totalizator Agency Board (TAB). If they wish to provide machines, they would presumably do so on an agreed basis taking into account the rest of the system. Alternatively, if the FAC were being really difficult and one wanted

to ensure cooperation, one could arrange to have perpetual roadworks set up outside a venue!

It is rare that I agree with the honourable member for Mordialloc. Last week he raised problems concerning the FAC and some planning issues in his area. I agree it is important that the State makes sure that the FAC uses its so-called powers for the constitutional purposes of aviation and does not use its status as a holder of large tracts of land to effectively avoid State arrangements - whether they be planning, gaming or whatever.

While I was Minister I received preliminary advice from Crown law officers suggesting that the FAC could not do whatever it liked simply because it had broad powers under the Commonwealth legislation. The Minister for Planning and I discussed the issue when it was raised the other night by the honourable member for Mordialloc.

The opposition does not oppose the proposed legislation. We hope it will enable the Victorian Football Association to continue its facility and assist clubs and their communities to run a successful competition. If there is still interest in the Tullamarine development, it should go ahead. The money available for investment at Tullamarine was simply not used.

Mr MICALLEF (Springvale) - I support the shadow Minister. I recently attended the Springvale Football Club's presentation night, at which members of the VFA were strenuously lobbying for an arrangement to enable them to set up gaming machines at the Essendon Airport facility.

The football association, which is under pressure to maintain its financial viability, will welcome increased funding from gaming machine operations. The same is true of the many football and other sporting dubs that are finding it difficult to stay afloat in the face of competition from other organisations and activities that are encroaching on what has traditionally been the province of sporting dubs alone. I believe the provision will satisfy the football association and that good will come from it.

Although the shadow Minister said there may have been another way around it, achieving a result is the most immediate aim. Clause 8 satisfies the concerns of the Victorian Football Association.

Mrs WADE (Attorney-General) - I am happy to pass on to the Minister the concerns for State rights expressed by the honourable members for Coburg and Springvale. State rights are not usually uppermost in the minds of those honourable members.

Mr Roper interjected.

Mrs WADE - I am pleased to have confirmed the honourable member's support for State's rights, not just in the area of gaming machines but on a wider front.

The issues raised by the honourable member for Coburg are important. It is most unfortunate that the notion of Commonwealth places has cut across the ability of the States to provide level playing fields in a number of areas. That matter was raised recently concerning the State's ability to introduce town planning legislation affecting land at Moorabbin owned by the Federal Airports Corporation.

The honourable member for Coburg said the FAC may not have the power to do everything it wants on land that is used for airports, and one trusts that is correct. The issue of Commonwealth places and land control by Federal authorities should be taken up and a better arrangement sorted out among the States and Commonwealth. After Commonwealth-State financial arrangements it is probably the next most important issue of our Federal system. It is unfair for companies in areas surrounding airports to have to compete with business enterprises, whatever their nature, that operate on favoured bases within the confines of the airports.

I understand that although the opposition is not opposing the provision it is asking for an assurance that the Minister takes these matters into consideration.

aause agreed to; clauses 9 to 32 agreed to.

Reported to House with amendments.

Passed remaining stages.

JURIES (AMENDMENT) BILL

Government amendment circulated by Mrs WADE (Attorney-General) pursuant to Sessional Orders.

Second reading

Debate resumed from 20 October; motion of Mrs WADE (Attorney-General).

Mr COLE (Melbourne) - I oppose the Bill in its entirety. It is the opposition's strong view that there is no need to change the Juries Act. The opposition is concerned about the motives behind the legislative change, and I will outline what I perceive to be some of those motives.

During the past 12 months dramatic and substantial changes have been made to criminal justice legislation. A broad range of political factors are involved in those changes, including an attempt to pander to the law and order lobby. I wish that were the reason because, being a politician, I could understand it. Sometimes these things are easy to understand, but I do not think it is understandable in this case.

The Premier, the Attorney-General and the honourable member for Glen Waverley are sincere in their belief that the government is changing for the better a criminal justice system that has served the community well for the past 100 years. Since it came to office the government has changed legislation at a rate most people cannot keep up with - indeed, many do not even know when a change has taken place. It is part of the government's desire to turn around the culture of Victoria.

There is a belief that victims of crime are suffering. There is no doubt that they have always suffered - by definition they are victims. The Law Reform Committee, of which the Honourable James Guest in the other place is the Chair and I am the Deputy Chair, tabled in this House the report of its inquiry into restitution for victims of crime. The committee undertook an extensive investigation into the issue and there is all-party agreement that we must try to arrest the problem of victims of crime not receiving adequate restitution.

We need a broad-minded and intelligent approach to a complex problem. Nothing will resolve the fundamental problems victims face; nothing will bring back a lost husband or child. The best society can do is have some sympathy for them, ensure that they are compensated and ensure that the perpetrators are brought to justice.

I make those comments in the context of how I see the broad system, and I am concerned that the government's methods, be they cumulative sentences, the disposal of unsworn statements or an increase in police powers, will not solve the crime problem the way the government thinks they will. With each wave of fresh crimes the Premier says his government has introduced harsh penalties and additional police powers. In answer to the Premier I say: activity does not necessarily equal action.

In the case of the two young girls who were molested at school, the Premier said, "This government has increased police powers and got rid of unsworn evidence". The problem of paedophilia transcends those issues; it so broad a problem that it is not enough to increase police powers. It is ironic that in such cases we can all see that the best form of protecting children at school, whether it be from playground accidents or from some pervert loitering in the area, is to ensure that the people who mind them are not overworked and do not have too many children to look after - in other words, we should not reduce teacher numbers. However, teacher numbers are being substantially reduced.

We must provide education programs to inform children about paedophiles and other problems in the community. The government is introducing legislation to ensure that it is perceived as doing the morally correct thing when in fact it is doing many wrong things and sending out the wrong messages about what is good and bad. I have never seen anybody act the way this government acts in so many different areas - for example, teaching and health. It seems to have a ruthless and harsh approach. It is not the message we should be conveying to the community. It is harsh and violent and is perpetuating the notion that this is a dog-eat-dog world.

We are changing a jury system that works well. We are changing police powers and disposing of unsworn evidence, but the government will not address the fundamental causes of society's problems. It thinks it has all the answers and it does not consult; it just acts. The past 12 months have seen a lot of action. The opposition does not question the Attorney-General's sincerity, but it worries me that people actually believe in what the government is doing. Margaret Thatcher was very sincere and I also disagreed with what she did.

I disagree with the mumbo-jumbo about changing the jury system to change society. I do not believe the Bill will resolve the problem that is supposedly being addressed. I can go only on what is contained in the second-reading speech, which says that the aim of the legislation is to eliminate the number of hung juries because of the cost. One would assume - I say assume because it is not readily apparent in the Bill, although it says "striking the appropriate balance in respect of trial

proceedings" - that an appropriate balance does not exist and that a unanimous verdict is favourable to the accused. That is a crucial point. Instead of having to convince 12 people beyond reasonable doubt you now have to convince nine. The opposition does not believe the system needs to be changed or that there is an imbalance. Evidence suggests that the system is very much on the margin.

Turning to the issue of too many mistrials, a submission by the Law Institute of Victoria states:

> Presumably this proposal is put forward to overcome or reduce the instances of a hung jury. However, the instances of hung juries are surprisingly few in Victoria. For the four-year period from 1989 to 1992, 853 trials went to verdict in the County Court in Melbourne. Of those, only 40 or 4.7 per cent were the subject of a hung jury. Because of the confidentiality that is supposed to be preserved within the jury room, we do not know, and cannot know, whether the voting was 11-1 or 6-6. The proposal may have little or no effect on any of those 40 hung jury results.

A hung jury indicates that it has been hard to establish whether the accused is guilty beyond reasonable doubt and that substantial debate about the issue has taken place in the jury room. The jury is hung because it cannot reach a unanimous conclusion. That is not a bad thing but as a percentage it is so minuscule that there is no need to worry about either injustices in too many trials or the cost to our system. The odd hung jury is not a bad thing for our criminal justice system in any event because it highlights the fact that cases must be properly deliberated and that a certain legal course may result in a hung jury. That is not to be discouraged.

The government should not introduce legislation to remove the concept of a hung jury - which is the aim of the Bill. It should not be motivated by financial considerations - either that the system is very expensive or that not too large a price should be placed on the cost of justice. I do not suggest the system should continue at any price but the price at present is not so prohibitive as to warrant the system moving from a unanimous verdict concept, even though a hung jury may be precipitated on the odd occasion.

I return to the statements I made in the debate on the unswom evidence legislation. I have given many speeches about this Bill in many places throughout Victoria. I have said the same thing many times, particularly about the recently concluded Pegasus inquiry, which was commenced by the former Attorney-General and supported by the present Attorney-General. During that inquiry analyses were conducted of the number of people found to be not guilty; that is the crucial issue in a criminal justice system. Any need for change can only be because the number of people found not guilty is out of proportion to the number actually charged. U something is wrong with the system, any change to it should be because of the number of people being found not guilty.

In those studies, 70 per cent of all people charged plead guilty; of the remaining 30 per cent, according to the Pegasus inquiry statistics, 4 to 6 per cent of people do not have their trials proceed because witnesses may have gone west or because of nolle prosequi - who knows? Approximately 50 per cent of people in the remaining 24 to 26 per cent category are found not guilty. That means between 12 and 14 per cent of all people actually charged are found not guilty. That is neither too many nor too few; it seems about right. The problem is connected with the number of people charged, which becomes another issue.

Until now juries have decided that 50 per cent of all people who plead not guilty are not guilty; I am now talking of only about 14 per cent of all people charged. The government intends to change a jury system for only 14 per cent of cases. I venture to suggest that the move would be of benefit if such action took the figure down to 10 per cent on a good day but I do not believe that will happen. Some of the good legislation on criminal trials introduced by the Attorney-General has led to incentives for people to plead guilty-although that comment does not apply to the sentencing legislation because of the difficulties involved in certain incentives. It will probably balance out in the long run.

At the end of the day a change of that magnitude in the jury system will not make much difference to the administration of justice in this State. The issue is important for those the government is trying to look after - that is, the victims. The government is saying to the victim who has suffered personal injury or had property stolert, 'We are changing the jury &/Stem because it unfairly discriminates against you". but what happens at the end of the day will not make any difference, according to my limited analysis of the issue.

Little evidence is available about the jury system although there may be much speculation and anecdotal evidence including a number of famous

anecdotes about juries. I recall one that was rather close to home when my wife was asked to attend for jury service, which she did because she was so obligated.

The court heard peremptory challenges - and I may be defeating my own argument here but I will continue the story because it is relevant. Every woman presented to the court for jury empanelment was knocked back. The only woman not rejected was my wife because she happened to be subject to the last challenge. She was empanelled - which annoyed me, not because I do not like people on juries but for other reasons!

The charge to be heard was one of assault. The jury sat in court for a week and listened to the evidence. The defence barristers had chosen working-class blokes for the jury because they thought they would understand the nature of a good brawl. The jury walked into the jury room and the blokes said, "He's guilty". My wife said, '1 do not agree; why?" The blokes said, "You don't kick in a fight; he kicked, end of story, he's guilty". The accused was found guilty in the long run - and he probably was guilty.

My point is that the barristers had gone through the process of eliminating all the women, bar one, on the basis that the women would not like someone who kicked in a fight, and that working-class blokes would not mind a kicker - that was part of their culture. And of course this was completely wrong.

Mr Maclellan interjected.

Mr COLE - The Minister for Planning asks me whether the lady liked someone kicking - no, the issue at point is that the other jury members were prejudging the issue. My wife wanted to give the accused a fair hearing - and then find him guilty!

It is important to understand that proper studies have not been undertaken. Probably every honourable member could tell a story about someone who was or who was not on a jury, or about someone who wanted to be on a jury but was challenged. However, at the end of the day the system works well.

That example demonstrates that one view of 11 jurors versus the view of the 12th will soon become the view of the 12. If the view of three or four was contrary to the remaining eight or nine, the final decision might be turned around because of a reasonable doubt.

Mr Maclellan - Are you saying Joh is not guilty?

Mr COLE - I don't know about that, but that is a good example. The guilt did not lie with Joh but with the prosecutors who allowed that juror to be part of the jury knowing full well who he was. That is how the system was then perverted. At this rate, the Minister for Planning will be guilty of causing this debate to last longer than necessary!

Another issue of concern is mistrials. The most famous in Australia surely was the Chamberlain trial which became news throughout the world: the case of a baby and a dingo, and a woman found guilty. That trial demonstrated the dangers of the use of forensic evidence, but most importantly in that case it was almost impossible to have justice done because the jury knew little about the case. I would have preferred a unanimous verdict, rather than a nine-to-three decision.

As the Attorney-General knows, recently I have been studying many things in England, one of which was its trial system. I spoke to people defending those involved in the Maxwell trial, the Guinness case and, most importantly, the Guildford four and the Birmingham six. There has been a substantial reaction in the United Kingdom to the problem of mistrials and the perceived injustices within the system.

There is no doubt that the Birmingham six case was an outrage. Royal Commissions were conducted into it. Lord Denning said, 'We couldn't possibly find them not guilty now at the Royal Commission because it would mean that we would have to say policemen tell lies". We know as a general rule that policemen do not lie, but there have been occasions where it has been known that they have gone too far to get a conviction or, alternatively, believed it did not matter. If an injustice is done, for whatever reason, it should be remedied.

In Ireland I spoke about the Birmingham six to people who gave me an unbiased view. It was such a horrendous crime - a hotel was blown up and 21 people were killed. There was an obligation to obtain an immediate conviction. I believe that is what happened: the pressure of the moment led the police to do things that they should not have done to get the six Irishmen. In many ways the criminal justice system is frail. When one interferes with it, especially with the juries, the nature of giving evidence or whatever, there will inevitably be a reaction at another time and the pendulum will swing back as it has in England.

In England legal aid is costly. It has been decided that because it is good for lawyers anybody at any time on any matter is entitled to have a lawyer at £48 an hour. I do not know why they arrived at that figure. A lot of work is being done to try to reduce the amount, but the legal aid budget has blown out. It came about essentially because there were so many injustices, mistrials and incidents of oppressive behaviour by the Thatcher government to which they had to respond, to say nothing of other intervening events. The Brixton and Toxteth race riots certainly led to measures being taken.

Lord Scarman in his report on the Toxteth riots said there had to be a substantial overhaul of the criminal justice system - and that was in 1985. They are still reeling from it because the problem has not been resolved; they have only addressed the symptoms. I express concern about that and hope it does not happen in Australia.

A society should not introduce legislation in response to a major crime every time it is outraged. Instead it should have an overall plan to respond to the general perceived issues and problems within the community. Unless we act as leaders and not merely respond to events we will be in a lot of trouble in future years.

I am not suggesting for one moment that the Attorney-General is merely responding to this or any other case she has dealt with, which I think is admirable in one sense but disastrous in another. The opposition believes one should not tinker with a system where there is no hard evidence, especially if it is so out of kilter that it is causing damage to victims in the overall case. There may be problems with individual cases, but overall the findings of the Pegasus inquiry was that about 14 per cent of all people charged plead not guilty. The overall issue is not about prisons or the process of courts - it is about the ability to catch people. That, coupled with education, is the greatest deterrent to crime. That will lead to an improvement in the social conditions of people.

In essence the clauses of the Bill are simple to understand. Clause 6 refers to peremptory challenges in criminal inquests. I do not know whether the "juriologists", or whatever they call themselves - that is right, they call themselves barristers - know what is the right or wrong answer about whether it should be a woman, a man or somebody with or without a wig. There is no real analysis, but if a person wants to object to someone with a wig he or she should have that right. If one is up for trial, why should that person not be allowed to say, "I don't like the look of that person; why can't I challenge eight people without having to give a reason?" Why can't the person say, "No, I don't like you"? I see no reason for denying them that. The opposition believes it should be trial by peers. The more people one can challenge within reason the more likelihood there is of it being a trial by peers. That is an important issue.

If I were a defendant I would not want to be in a position where I could not challenge more than three people without having to give a reason. It is often difficult to provide reasons, but anyone can say that he or she does not like the look of somebody or may feel the person should not be there. The decision to get rid of peremptory challenges to the extent of reducing them to three - -

A Government Member - It was six.

Mr COLE - If they are to be reduced it should be eight and that is then trial by peer. The opposition is concerned about any reduction in peremptory challenges or any shift in the concept of being able to challenge those people one does not want for certain reasons. It is important that we do not interfere substantially with a jury system.

Clause 7 inserts new section 47, which provides for majority verdicts in criminal inquests. That is not acceptable. I know that they exist in other places. I believe the Darwin case was used, which probably would have been the worst example because that is where the second Chamberlain trial was conducted. If it had been a unanimous decision she may not have been convicted. It highlights the frailty of the system.

In any event, it is a sensitive issue in major trials such as the Chamberlain trial when forensic evidence is being dealt with. The Attorney-General also referred to Great Britain, where it already exists. As I have already pointed out, Britain has many problems with mistrials and the denial of justice, and it would seem that, in order to prevent those problems, unanimous verdicts should be maintained. I sincerely believe that is a better system, unless the standard of proof is beyond reasonable doubt. If three jurors are opposed to a conviction it would seem that there is reasonable doubt in the mind of the jury and for that reason it should be - -

Mr Ryan interjected.

Mr COLE - I am pleased to hear that is now the case because it was not the view pushed some time ago.

Mrs Wade interjected.

Mr COLE - The coalition also said that it would not increase the tax on petrol. What is so selective about this matter?

Another issue I am concerned about is the locking up of juries so that they can deliberate on a decision. Clause 89 proposes that juries should no longer be locked up but should be allowed to go home. Although that may delay arriving at a decision, it is not something that I would go to the wire over. The opposition opposes that provision and would prefer that juries were locked up. Again the government uses an economic reason for making this change, and the opposition considers the financial grounds for doing so largely unacceptable.

Finally, I reiterate my concern that as a general rule the government is acting or purporting to change the nature of the criminal justice system to aid victims and to improve the position in which defendants find themselves so that they are collectively protected. Defendants will no longer be able to make unswom evidence and will have fewer opportunities to make challenges under a majority jury system. The diminution of legal aid will also result from these changes. I hope that does not happen, but it will probably happen in time.

Although the measures are probably motivated by a higher cause, the cause is misplaced. The Bill will not resolve the overall problem. Fiddling around with the jury system will do very little to alter the position that I put earlier. I do not believe the position needs to be altered anyway. The Attorney-General and the government should recognise that the situation is not that bad.

The system already delivers a substantial number of guilty people - about 82 per cent of people charged are found guilty - and rather than saying that everything is terrible and seeking to do something by introducing victim impact statements and other things that sound nice, the government should resolve the cause of the problems. The Bill does not address the fundamental and underlying social and economic problems in society that lead to high crime rates and the general state and condition of families. If youth crime is a problem it is because youth homelessness and unemployment is high, and that in tum inevitably leads to more street offences and problems.

Giving police greater powers, reducing the number of challenges that can be made to a jury or introducing majority verdicts will not solve those problems. They will be solved only by addressing the problem of youth unemployment and social dislocation and generally adopting a more humane approach to the whole criminal justice system, including victims. This Bill does not do that; it tinkers at the edges and interferes with something that is working quite well, but again the government is looking forward to seeking retribution from those people who might commit crimes.

Mrs ELLIOTT (Mooroolbark) - Because I have no legal background at all I could be considered to be the average common man. I find it interesting that the opposition should be concerned about this Bill. I note that the honourable member for Melbourne has none of his peers behind him and I can only assume that he has no peers.

Mr Cole - Probably because I have no peers.

Mrs ELLIOTT - That is what I said. The honourable member for Melbourne related a touching story about his wife and her experience on jury duty. On the one occasion I was called for jury duty I was rejected by peremptory challenges. I am coming to this Bill with a fresh approach and after having investigated the history of juries.

This is a reasonable and cautious Bill. It allows for 11:1 majority verdicts. In the Northern Territory the figure is 9:3 and in Western Australia, South Australia and Tasmania it is 10:2, with no observable deleterious outcome. As I said, this Bill is conservative in allowing for a majority of 11:1.

The history of juries is interesting. Once people were tried by ordeal, and I am sure all honourable members have seen films of Elizabethan times when people were hung, drawn and quartered in order to get a confession out of them and when many innocent people were put to death by means that would be unacceptable today. As trial by jury was introduced there were many species of juries. One such species of recalcitrant jurors was known as the boot-eater because the practice was to deprive juries of food, drink and fire and put them in a cart to be trundled around, often in the snow, until they agreed on a verdict. They were so called because it was believed that those jurors would prefer to eat their boots rather than disagree with the majority. A

description of boot-eaters can be found in the *Australian Law fournal,* which states:

> Sir James Stephen in his monumental *History of the Criminal Law* related, the principle of unanimity applying to juries in criminal trials in the English tradition seems largely to have been an almost accidental consequence of historical processes. They were brought into existence after the outlawing of trials by ordeal by the church in 1215. As originally conceived, they operated in a fashion where unanimity was achieved in quite a different fashion compared to the way this was still required later when the role and selection of these juries underwent fundamental change in the working of English law ...
>
> Later, the almost subliminal way juries in criminal trials were transformed to become judges of fact left the original unanimity principle intact, despite the drastically altered circumstances. In the fashion of changing without seeming or formally acknowledging such a development, so long a feature of the evolution of English-style law, more generally, the situation of "hung" juries was essentially left in a state of limbo, except for the "encouragements" -

that is, being put in carts and being deprived of food and water -

> devised to keep bringing about unanimous verdicts as Blackstone and others described them.

Dr COGHILL (Werribee) - On a point of order, Mr Speaker, I ask you to ask the honourable member for Mooroolbark to identify the document from which she is quoting.

The SPEAKER - Order! I believe she has already done so.

Dr COGHILL - She has identified the author. I ask her to identify the document and make it available to the House.

Mrs ELLIOTT (Mooroolbark) - Certainly. The author of the article "Now and Then" is Alex C. Castles. The article is contained in volume 66 of the *Australian Law fournal* and I would be prepared to offer a copy of it to the honourable member.

The SPEAKER - Order! I understood the honourable member to have already announced that.

Mrs ELLIOTT - The rationale behind the change to majority verdicts concerns the costs of jury trials - in the Joh Bjelke-Petersen trial the jury retired for 104 hours to consider its verdict - and the fact that it is easier to bribe one juror than it is to bribe two or three. The same volume of the *Australian Law Journal* reports Mr Angus Ogilvie, the then State Premier of Tasmania and an eminent lawyer, as saying in 1936 that in his professional life:

> ... he had the opportunity of observing persons who had escaped punishment, not because of any doubt about their guilt but because they had a friend on the jury".

I do not imagine that happens very often, but the possibility always exists. It is much harder to bribe or nobble two jurors rather than one.

The Victims of Crime Assistance League is in favour of the government amending the Act. It argues that in the event of re-trials caused by hung juries, victims of crime are again put through the torture of having to give evidence and being reminded of their traumatic experiences.

In an interview published in the *Australian* of 4 October 1993, Mr Frank Galbally, QC, who was the barrister of first choice for many people charged with serious crimes, is reported as saying that he:

> ... does not oppose the trend towards majority verdicts.

He is quoted as saying:

> But you do get some cranks on juries. There can be someone who is one-out and you can generally tell by observation who that probably is. An 11-1 verdict is safe enough.

The interviewer, Cameron Forbes, said:

> "Can I remind you ... of *Twelve Angry Men* -

the Henry Fonda film, where one juror held out and eventually convinced the 11 other jurors of the accused's innocence. Mr Galbally replied:

> "Oh yes, ... I remember ... but that was fiction".

The government and I believe the Bill is essentially cautious. It still allows a jury six hours to reach a unanimous decision. After that, a majority verdict is allowed. However, the trial judge has the discretion to order a jury to take longer to consider its verdict if he feels the jurors have not had enough time to adequately consider the case.

I am a great defender and advocate of justice, having been a member of Amnesty International for a long time. The Bill in no way infringes the rights of people accused of crimes. But the Bill satisfies the community's desire to ensure that the deliberations of juries do not continue any longer than is necessary-at the community's expense. People accused of crimes will still receive justice in Victoria, just as they do in the United Kingdom and those other States that allow majority verdicts.

At present the Crown has an unlimited number of peremptory challenges and an accused has eight. That gives rise to the danger that a jury will not be a jury of the accused's peers but a biased jury, taking into account the exemptions allowed because of occupation, income, pregnancy and so on. In cases where more than one person is accused of a crime, the challenges can be aggregated.

The honourable member for Melbourne is mistaken in thinking that there will be only three peremptory challenges. That was proposed some time ago by the Attorney-General's Bills committee. The Bill allows six challenges in the case of one defendant; five challenges each in the case of two defendants; and four challenges each in cases involving three or more defendants. In New South Wales and South Australia the parties are allowed only three before they are required to give reasons for any further challenges.

The Crown will be limited to the same number of challenges as the accused, which is eminently fair and reasonable. If juries are chosen at random, six challenges by the Crown and the accused should be sufficient to ensure that an accused is tried by a jury of his peers. That obviates the need to go to the expense of maintaining an enormous jury pool, which once again saves community money. I agree with the honourable member for Melbourne: money should not be the first consideration. But that represents an enormous cost, which the community is becoming increasingly conscious of - especially when a criminal trial drags on for months and months and costs thousands or indeed millions of dollars.

In New South Wales jury lock-ups were abandoned some time ago. They date from the days when jurors were put into carts and dragged around until they reached agreed verdicts. The enormous expense of accommodating jurors in hotels while they consider their verdicts - the Joh Bjelke-Petersen trial is a good example - seems unjustifiable. There is little evidence to show that jurors are got at while considering their verdicts, and the move to allow them to go home, which apparently has worked without problems in New South Wales, seems sensible and reasonable.

I would defend to my last breath the right of an accused to a fair trial. All in all - I do not think the opposition really has its heart in opposing the Bill - I believe the Bill does not pose a threat to the rights of the accused. People accused of crimes will receive justice according to the law, which is based on the British tradition - one of the finest in the world. At the same time, the community will be saved unnecessary expense. The victims of crime - w h o often feel that the perpetrators of crime are treated as victims while they are forgotten - will undoubtedly benefit from not having to endure re-trials in the case of hung juries. That is another reason for my support of the Bill.

The Bar Association made some rather half-hearted attempts to oppose the Bill, purely on the ground of precedent. The association asked: why do away with something that is 600 years old? Obviously one would not do away with a 600-year-old system unless one replaced it with something better, which the Bill is. Many of the opposition members who have legal qualifications are absent. They must agree with the Bill; otherwise they would be in the House to speak against it. I commend the Bill to the House.

Dr COGHILL (Werribee) - I support the comments of my friend and colleague the honourable member for Melbourne, who made a brilliant analysis of the issues. I support one aspect of the Bill. I am pleased to see the inclusion of clause 8 concerning the compensation to be paid to jurors. As I recall, I was the first member of this Parliament to point out that in abolishing State awards the Employee Relations Act removed the obligation on employers to pay make-up payments to employees who were selected for jury service. I am pleased that matter has been addressed, although it raises the question of whether the government believes it is equitable for employers - particularly small employers, who may find that having one member of staff absent on jury service is a significant impost. It may be more equitable for the cost of what is a community service to be borne by the community through the taxation system.

I am concerned that majority verdicts have not been properly considered by the government, the Attorney-General or the honourable member for Mooroolbark. The principal difference between the opposition and the Liberal Party, and to some extent

the National Party, goes to the heart of the way in which such significant policy issues are approached. Members of the Labor Party address issues based on reason, scientific analysis and rigorous examination, whereas on the conservative side there is a tendency, particularly among those with small business backgrounds, to make intuitive or appealing policy decisions. That has been the case with majority verdicts.

Mr Richardson - I bet you will be mentioning the new right soon.

Dr COGHILL - I thank the honourable member for his suggestion, but I do not intend to take it up. As the honourable member for Melbourne pointed out, if the government had been seriously concerned about the issue, it would have gathered, collated and presented all the facts. For example, what is the incidence of juries being unable to reach verdicts because only one juror has not agreed with the other members? What is the incidence of hung juries, which the legislation purports to address? The indications are that the government does not have the information.

I understand the information is not available to the Attorney-General or anyone else because the jury room is a dosed room. Some information ought to be made available to the community, the government and Parliament. Perhaps a study could be carried out - something more extensive than the ABC program on the Joh Bjelke-Petersen trial. That program presented evidence about one case, which we presume to be accurate. But we have no way of knowing whether we can use that case to make generalisations and we have no way of knowing about the significance of the issue that the legislation purports to address.

Even if it is accepted that a significant proportion of trials do not result in verdicts because in each of those cases one juror hangs out, where is the evidence that those jurors' doubts about the guilt of the accused are reasonable or unreasonable? No evidence has been presented to the House, and so far as I know there is no evidence on the public record about cases such as those. No evidence exists to show whether those jurors' doubts were well founded and should have been allowed to prevail or whether, as the honourable member for Mordialloc suggests, the results were products of corruption, personal associations, bribery or some other improper factors intervening in the deliberations of the juries. The government has taken it for granted that this is a serious problem that needs to be corrected - on nothing other than anecdotal evidence.

Recently the High Court of Australia expressed a view on the question. The decision may have been given after the government's intention to proceed was announced and after the Bill was drafted. I refer the House to the High Court decision in *Cheatle v. The Queen* (1993) 67 ALJR 760, excerpts of which were recorded in *Alert Digest* No. 16, in which the Scrutiny of Acts and Regulations Committee examined majority verdicts. It is worth reading excerpts of that decision into the record. It was a joint judgment of all the judges, so it was not a decision of only some judges with a particular religious background or political association.

The judges held that history, principle and authority compelled the conclusion that the expression "trial ... by jury" in the Australian Constitution precluded majority verdicts. The report states:

> The court delivered a joint judgment in which they noted that:
>
> > ... the common law's insistence upon unanimity reflects a fundamental thesis of our criminal law, namely that a person accused of a crime should be given the benefit of any reasonable doubt. It is true that there is no logical inconsistency involved in the co-existence in the law of the criminal onus of proof and majority verdicts of guilt. Nonetheless, assuming that all jurors are acting reasonably, a verdict returned by a majority of the jurors, over the dissent of others, objectively suggests the existence of reasonable doubt and carries a greater risk of conviction of the innocent than does a unanimous verdict. *As* Sir James Stephen wrote in 1883:
> >
> > "The justification of the rule, now that the character of the jury has changed from that of witnesses to that of judges of fact, seems to me to be that it is a direct consequence of the principle that no-one is to be convicted of a crime unless his guilt is proved beyond all reasonable doubt. How can it be alleged that this condition has been fulfilled so long as some of the judges by whom the matter is to be determined do in fact doubt?"
>
> The court went on to consider Australian authority, citing Evatt, J, in *Newell v.* The *King:*
>
> > ... unanimity in criminal issues has been regarded as an essential and inseparable part of that right, not a subordinate or merely procedural aspects of it.

This view was supported by the other two members of the court, Latham, CJ, and Dixon, J. Latham, CJ, said:

> ... The right to a jury is one of the fundamental rights of citizenship and not a mere matter of procedure, and so the courts have said. In *Looker v. Halcomb*, per Best, CJ, it is said: "An Act of Parliament which takes away the right of trial by jury, and abridges the liberty of the subject, ought to receive the strictest construction; nothing should be holden to come under its operation that is not expressly within the letter and spirit of the Act." ...

In my opinion, the rules of strict construction of Acts relating to trial by jury, of which I have cited an example, apply to this case; and further, the right to have only the verdict of the full 12 was an essential part of the right to trial by jury which the accused had before the amendment was made.

Having regard to the unanimous decision of all judges participating in the joint judgment of the High Court, the Scrutiny of Acts and Regulations Committee reached this conclusion:

> Based upon the unanimous judgment of the High Court of Australia in Cheatle's case, the committee is of the opinion that it may trespass unduly on rights and freedoms.

That is the heart of the matter, which was not addressed by the honourable member for Mooroolbark in her comments in the debate. One can only hope, perhaps in vain, that the honourable member for Glen Waverley will address that central issue central rather than go off at a tangent as he usually does.

The opposition is concerned about the determination of guilt beyond reasonable doubt. As the High Court has said and as the authorities on which it has relied have said, one dissenting member can be evidence of reasonable doubt. The only exceptions that one could consider are the sorts of examples quoted by the honourable member for Mooroolbark.

There may be some influential personal association or corrupt relationship between the juror and the accused. In both of those cases, there should be the opportunity for action to be taken, which does not in any sense make a case for the proposition now before us. If there is corruption, clearly the juror involved and the person offering the bribe should be, and no doubt are, liable to prosecution. That in itself should be sufficient grounds for a retrial.

It must also be considered that there is the possibility of more than one juror participating in a trial being guilty of such an offence. It seems that the same principle applies, whether it be one juror, two jurors or a number of jurors involved in corrupt activity. If there has been corrupt intervention in the trial process, that in itself should be a basis for retrial, irrespective of whether one or a number of jurors are involved.

Obviously the matter of some personal association between a juror and the accused should be addressed. I expect that in normal circumstances that would be addressed through the right to challenge prospective jurors at the time of empanelling, which is referred to in clause 6 of the Bill.

I shall return to my central concern and the unanimous view of the Scrutiny of Acts and Regulations Committee appointed by this Parliament. The fact that a view is held unanimously should be of persuasive significance to the House and the Attorney-General. By decision of Parliament, a committee was established whose responsibility is to review every piece of legislation for any effect it might have on the rights and freedoms of the people of Victoria. By rejecting or failing to accept the findings of the committee, the government is thumbing its nose not just at the committee but at the decision of Parliament - that is, that Parliament should be advised and should take account of infringements or trespasses on the rights and freedoms of Victorians or, for that matter, non-Victorians who may happen to be subject to the law of Victoria.

Evidence to date is that the government is not prepared to respect the findings of Parliament's own committee, that it is prepared to thumb its nose at the committee despite having gone to the trouble of establishing the committee by introducing legislation.

I turn to the membership of the committee. One of the government's most senior backbenchers, a highly respected and well-liked member of the Liberal Party, is the chairman of the committee. The deputy chairman is a member of the other place, the Honourable Bruce Skeggs, who also enjoys widespread respect within his own party and within the Parliament. He first served in this Chamber and is now a member in the other place. Mr Speaker, you as well as other members would be aware that the Honourable Bruce Skeggs plays a leading role not just in Victoria and Australia but internationally in

the defence of human rights through his involvement in relevant international organisations. As I understand it, he is the organiser of a conference to be held in Melbourne on Sahirday to address those issues.

The membership of the body of which he is an international board member extends to the overwhelming majority of the democratic nations of the world - t h e nations Australians like to compare themselves with - yet a unanimous suggestion from the committee, with the obvious endorsement of the honourable member for Doncaster as chairman and the Honourable Bruce Skeggs as deputy chairman, is to be disregarded and be thrown out by the government as if it were of no significance.

The amendments circulated by the Attorney-General and the contribution of the honourable member for Mooroolbark show that the government has no intention whatsoever of taking into account or respecting the report of the Scrutiny of Acts and Regulations Committee. That is particularly significant given the reliance of the committee on a decision of the High Court of Australia.

I will not comment on whether that High Court decision may have some overriding effect on State jurisdictions; I do not want to get into that area. But I suggest to the Attorney-General and to the government that the High Court has identified a fundamental principle of law which the government is prepared to cast aside as if it were of no particular significance, as if it did not matter, as if the principle of "proven beyond reasonable doubt" can be compromised and no longer applies in the criminal jurisdictions of the State, as unfortunately is the case in a number of other Australian jurisdictions.

It is a sad day for Victoria when its Attorney-General is prepared to cast aside that sort of evidence and that sort of principle. The steps she is taking may be giving her a flattering public image - she may be delighted by the report which recently appeared in the *Bulletin,* featuring the Minister for Health and her - but she has a greater responsibility than that. Her responsibility is not to promote herself but to uphold fundamental principles of law and order and fw1damental principles for the protection of the rights of Victorians.

The Attorney-General is casting aside the government's rhetoric; the government likes to mouth rhetoric, but when it comes to the test it discards its commitment to the rights of the individual to a fair trial and for guilt to be proven beyond reasonable doubt. The government does not see guilt as having to be proven beyond reasonable doubt; it is just a matter of a qualified majority.

Eleven out of twelve is a fairly substantial majority, but it is still a qualified majority, displacing this fundamental principle of law that has existed for six centuries, for good reason. It exists not just because it was fashionable six centuries ago: it exists because it stood the test of time. If it were just fashionable six centuries ago it would have disappeared long before 1855, but it has stood the test of time and exists because it is the proper test to be applied.

The proper test has to be beyond reasonable doubt. As soon as one concedes the possibility that one juror might not be able to hold reasonable doubt, one has thrown out the whole principle of guilt requiring proof beyond reasonable doubt. I hope succeeding speakers in this debate will address this issue instead of carrying on with the usual rhetoric about the level of crime, the need to control it and the need to lock people up and deal with them in other ways when guilty verdicts are returned.

Honourable members have to be concerned about a proper balance in which the test of reasonable doubt is maintained because as soon as that test of reasonable doubt is departed from we head towards the grave danger of the warm inner glow created by convicting the wrong people and necessarily, in the case of wrongful conviction, letting the real crooks continue to run around the streets and commit mayhem. I hope that is the sort of thing the honourable member for Glen Waverley will address. However, his record suggests that he will not address it - and perhaps he is incapable of it; that is for others to judge, but - -

Mr E. R. Smith - Perhaps some logic will come out soon!

Dr COGHILL - The honourable member for Glen Waverley calls for some logic to be applied to the debate. One would hope the honourable member for Glen Waverley will demonstrate that after all this time he is capable of applying logic to a fundamental issue such as this.

The SPEAKER - Order! I would prefer it if the honourable member for Werribee did not anticipate what the honourable member for Glen Waverley may or may not say in a debate when his tum to

speak comes. Speculation on that point does not profit the House at all.

Dr COGHILL - I may have been reading too much into his interjections, disorderly as they were. On this occasion I hope the honourable member for Glen Waverley will address the issue of beyond reasonable doubt versus the majority decision, because that is a fundamental change in the system of criminal law from that which has existed in Victoria to date.

It is a fundamental breach of the principles found and confirmed unanimously by the High Court. It was not influenced by the religious or political affiliation or the golfing prowess or any other quality of the judges of the High Court; it is something that they found unanimously, so judges who may have been appointed from conservative political backgrounds were as strong in their endorsement of this principle as those who are regarded as having come from progressive political or legal backgrounds.

That is the issue that has to be decided by the House, and it is because of my concern with that issue that I certainly oppose the Bill, although I support clause 8. However, I am prepared to sacrifice the clause at this stage if it means getting the legislation right because the government has clearly got it wrong. The High Court has shown that the government has got it wrong. I suspect, as I indicated in my early comments, that the government made its policy decision to proceed with this legislation, and perhaps even completed the drafting of it, prior to the High Court's decision in the case of *Cheatle v. The Queen*. I think that is likely to be the case.

If it were the case one hopes the government will defer the legislation to consider the implications of the High Court's decision and to review the direction in which it wishes to proceed with legislation. The government has not done that, and one can only regret that fact because it is not in the interests of good lawmaking that the government should proceed with the Bill at this tage.

One could hardly say, in fairness, that the Bill has been as rushed as some previous legislation; but equally one could contrast it with the many precedents by governments of both complexions here in Victoria of leaving legislation of major significance like this to lie over from one sitting period to the next. There is really no imperative for the Bill to come into operation before the autumn sitting of 1994, and one would have hoped the government would allow the Bill to lie over until March or whenever it intends the House to resume next year so that members of the community, the legal profession and the judiciary could comment further and provide additional advice to the government on the Bill before it goes through. However, for whatever reason, the government has chosen not to do that in this case, as it has chosen not to do so in other legislation where it has rushed through certain Bills.

With those comments I express my grave and genuinely felt concern, even with my non-legal background, about this proposed legislation. I hope the government will judiciously debate the question of majority verdict versus a verdict beyond reasonable doubt, and decide that the proposed legislation should not proceed in its current form.

The SPEAKER - Order! I will hear the honourable member for Gippsland South when this matter is again before the House. The Chair will be resumed at 2 o'clock, when questions without notice will be called for.

Debate interrupted.

Sitting suspended 12.56 *p.m. until 2.4 p.m.*

DISTINGUISHED VISITORS

The SPEAKER - Order! It is my privilege this afternoon to welcome to the Speaker's Gallery the Catholic Bishop of East Timor, Bishop Carlos Belo, who is accompanied by Bishop Hilton Deakin. Bishop Belo is the guest of a number of Parliamentary members of Amnesty International.

ABSENCE OF MINISTER

The SPEAKER - Order! The Treasurer will be absent today due to illness. The Minister for Finance will answer any questions on Treasury matters.

QUESTIONS WITHOUT NOTICE

LEEDS MEDIA AND COMMUNICATION SERVICES PTY LTD

Mr THWAITES (Albert Park) - I ask the Premier: is it a fact that the Minister for Finance is refusing to answer questions without notice on

Leeds Media and Communication Services Pty Ltd because he is embarrassed by the fact that Mr Paul Leeds, a long-time - -

Mr RYAN (Gippsland South) - On a point of order, Mr Speaker, this is clearly a question that should be properly directed to the responsible Minister. It is not a question that should be addressed to the Premier and as such is inadmissible in its present form. The honourable member ought to direct his question to the Minister for Finance.

Mr THWAITES (Albert Park) - The Premier is the Minister responsible for government advertising. He is the person who employs Mr Bennett, who of course is a long-time business associate of Mr Leeds. The recommendations went from - -

The SPEAKER - Order! The honourable member for Albert Park is debating the point. Does he have additional information on the point of order?

Mr THWAITES - The Premier is the responsible Minister.

Mr Kennett - Did you say I was a long-term friend of Mr Leeds?

The SPEAKER - Order! I will allow the honourable member for Albert Park to complete his question and I will judge it at the end of that time.

Mr THWAITES - Is it a fact that the Minister for Finance is refusing to answer questions without notice on Leeds Media because he is embarrassed by the fact that Mr Paul Leeds, a long-time business associate of Peter Bennett, is getting paid more for government advertising - -

Mr I. W. SMITH (Minister for Finance) - On a point of order - -

Honourable members interjecting.

The SPEAKER - Order! I advise the House that it is wasting its own question time. The Minister for Finance is entitled to raise a point of order which I will listen to in silence!

Mr I. W. SMITH - Mr Speaker, I seek your ruling on this matter. The honourable member for Albert Park has this issue before the Administrative Appeals Tribunal (AAT) where his barrister has been offered the information on a confidential basis. I seek your ruling as to whether this matter is sub judice as it is before the Administrative Appeals Tribunal.

Mr THWAITES (Albert Park) - On the point of order, Mr Speaker, unfortunately for the Minister for Finance his facts are completely incorrect. My barrister has not seen the material on a confidential basis. He has not seen it - -

Honourable members interjecting.

The SPEAKER - Order! It is not my intention to let question time continue in this vein. Has the honourable member for Albert Park finished on the point of order?

Mr THWAITES - My barrister has not seen this information.

The SPEAKER - Order! As I understand it the Chair must decide whether the matter is sub judice. I ask the honourable member for Albert Park whether he can help the Chair to make up its mind on the question of sub judice. If he can provide that advice, I will hear him; otherwise he will remain seated.

Mr THWAITES - On the question of sub judice, in many instances it has been held that hearings before the AAT - it is only a tribunal - cannot be held to be sub judice because it is not a court of law.

The SPEAKER - Order! I do not uphold the point of order. The matter is before the tribunal and it is not considered to be sub judice.

Mr THWAITES - I shall try again, Mr Speaker.

The SPEAKER - Order! I indicate to the honourable member for Albert Park that it has been a longstanding rule that only sufficient facts as to make the question clear should be used. The honourable member may not use it as a method or opportunity of presenting any other facts before Parliament - just sufficient to explain his question.

Mr THWAITES - I ask the Premier whether it is a fact that Mr Paul Leeds, a long-time business associate of Peter Bennett, is getting paid more for government advertising at the current levels of advertising than the amount tendered by other media companies?

Mr KENNETT (Premier) - This question continues a long pursuit by the honourable member for Albert Park, which involves personal slur in cowards' castle against Mr Bennett and Mr Leeds.

Mr HAERMEYER (Yan Yean) - On a point of order, Mr Speaker - -

Honourable members interjecting.

The SPEAKER - Order! The honourable member for Yan Yean is entitled to put a point of order to the Chair.

Mr HAERMEYER - The Premier is in contravention of Standing Order No. 97, which states:

No member shall use offensive words against either House of Parliament;

The SPEAKER - Order! The expression used by the Premier has been used by members on both sides of the House on a number of occasions. I do not believe it to be unparliamentary.

Mr KENNETT (Premier) - Since the government came to office it has put in place a process that has saved the people of Victoria literally tens of thousands of dollars in the way in which it contracts government promotions or government advertising. Mr Bennett is an individual of experience and extraordinary knowledge in the communications field for which he has responsibility. He went through a long process in which a number of firms contributed in order to win the government tender, because by combining the work the government is able to save the people of Victoria hundreds, if not millions, of dollars each year. At the end of the day - -

Mr Brumby interjected.

The SPEAKER - Order!

Honourable members interjecting.

The SPEAKER - Order! I have had occasion this week to warn the Leader of the Opposition that he may not interject across the table. The question has been asked and the answer will be heard in silence.

Mr KENNETT - The contract was ultimately awarded to Leeds Media and Communication Services Pty Ltd on the basis of the best deal for the people of Victoria. There were two other tenderers, I think, who were not selected - there may have been more but I think there were only two. It is obvious that since then one has become upset that it was not successful in the tender process.

I had no knowledge of Mr Leeds prior to - and I do not think I have met him since he was awarded the contract - the overall contract. The conditions and the offer that he made to the government were deemed to be the most viable and profitable for the people of Victoria. I want to put on record - given that the honourable member has raised it and has for some months been pursuing this matter and saying things about Mr Bennett, who serves this community well - that Mr Bennett is a man of experience and high reputation. It is unfortunate that the honourable member for Albert Park uses this place to slur those who give up their time and opportunities to work for the people of Victoria.

That also applies to Mr Leeds, a man whom I have not met, who has tendered in the normal process and based on the value of his tender has been awarded this contract. In terms of the honourable member's comment about the Minister for Finance and my confidence in him, or any other member of my front bench, I will say clearly that the Minister for Finance has been responsible for some of the most major changes in government administration in the past 14 months. With the Treasurer - -

Mr Baker - He is incompetent!

The SPEAKER - Order! The Premier will ignore interjections.

Mr KENNETT - You are lucky we caught you after lunch and not after dinner. With the Treasurer - -

Mr Baker - You are talking about your mates!

An Opposition Member - Some of his mates.

The SPEAKER - Order! If the honourable member for Sunshine interjects once more, I will name him.

Mr KENNETT - The Minister for Finance, the Treasurer and every Minister of this government, together with government members and the bureaucracy, over the past 14 months have put in new standards of administration which have actually saved Victoria and which were long overdue.

Honourable members interjecting.

Mr KENNETT - Honourable members on that side laugh. Within a week or two weeks of there being a change of government Moody's Investors

Service downgraded Victoria 2 percentage points because of your failures. This government and the Minister for Finance, who has played a major role, in 14 months have brought about the removal of the negative rating that was applied by Standard and Poors because of the previous government's maladministration. I have confidence in not only Mr Bennett and Mr Leeds but I also have confidence in the Minister for Finance and every other member of my team; unlike the confidence that is offered to the Leader of the Opposition by the honourable member for Geelong North.

Let us take the honourable member for Geelong North, who was wheeled into shadow Cabinet on Monday. The Leader said we - -

Mr THWAITES (Albert Park) - On a point of order, Mr Speaker - -

Honourable members interjecting.

The SPEAKER - Order! Question time cannot continue with the noise that is going on.

Mr THWAITES - My point of order relates to the question of relevance. The question related to whether with the current levels of advertising Mr Leeds was being paid more than other tenderers. The Premier is now raising matters that are completely irrelevant; he is debating the issue and he is talking about matters that have nothing to do with the government advertising contract. I ask you, Mr Speaker, to bring him back to the point.

Mr KENNETT (Premier) - The honourable member asked me whether, given his interpretation, the refusal by the Minister for Finance to answer the question raised over the past two weeks was a sign that the government is trying to avoid the question. If the opposition does not like the answer, it should not ask the question.

The SPEAKER - Order! I uphold the point of order. I believe the Premier was straying from the answer when the point of order was called. Has the Premier finished his answer?

Mr KENNETT - No, Mr Speaker, there is a lot more that can be said on this issue because clearly the honourable member wants more information. When the government came to office it reviewed the contract, part of which had been paid out and part of which had to be paid out. The greatest abuse of contracts was perpetrated by the previous government in order to avoid the tender process altogether. A typical example was where a contract had been won for $400 000 and the Labor government broke it down into lots of $49 000 so that none of them had to go to the Tender Board.

The process that this government has put in place and that Mr Bennett has put in place - the process by which the government works in association with Leeds - is designed to coordinate all government advertising expenditure so that as a bulk purchaser it can pay a lower price and therefore save the community millions of dollars.

I trust that the honourable member will continue with this line of questioning as he has been doing since he entered the Parliament. It clearly shows that the opposition cannot address or attack the government on one issue of policy: not on education; not on housing; not on transport; not on health; and not on policing. This State has an opposition that is absolutely irrelevant to mainstream Victoria. I say again: the government will continue to do what is required to make sure that it advances the opportunities of the State and its people while the opposition continues to wallow in its own preselection blues.

CITY OF MELBOURNE

Mr LUPTON (Knox) - Will the Premier inform the House of the appointment of the commissioners for the new City of Melbourne and how this will establish Melbourne as a world-class competitive city into the next century?

Mr KENNETT (Premier) - I thank the honourable member for his question, and no doubt the community will be inspired by the fact that four Victorians have offered to serve this State and start to take on board the challenges that we all have to further advance the City of Melbourne as we progress towards the 21st century.

My colleague the Minister for Local Government, Roger Hallam, today announced that leading Australian and international businessman, deputy chairman and vice-president of the International Olympic Committee, Mr Kevan Gosper, has accepted Victoria's offer to take over the chairmanship of the City of Melbourne. This choice, and his acceptance, positions Melbourne exceptionally well. What it means is that Victoria has a person not only from a strong Victorian and Melbourne base but also with international contacts. That will be important to Melbourne in the lead-up to the Olympic Games. As all honourable members

know, the competitors and others come to the country of the games prior to the event taking place in order to prepare, warm up, train and involve themselves in competitive activities.

Mr Gosper has been joined by Professor John Rose, the Director of the Graduate School of Management at the University of Melbourne. Professor Rose is a leading Victorian and Australian figure in management techniques and practices with a national reputation for his expertise.

Noted Melbourne lawyer, Catherine Walter, has also joined the commissioners. She is a senior partner at Clayton Utz, solicitors, and also serves on the board that oversees the WorkCover organisation that in recent times has been responsible for a massive turnaround in Victoria's workers compensation system. She is well qualified, dedicated absolutely to Melbourne and will bring a great deal of knowledge to the board.

The government has also been able to secure the services of the leading Melbourne and Australian accountant, Kevin Courtney, who will be able to bring not only his own expertise but also an understanding of accounting to the commission. There is one position left. As you would be aware, Mr Speaker - -

Mr Micallef - Neil Cole's free!

Mr KENNETT - The honourable member said, "Neil Cole's free". The government appointed a former Leader of the Opposition, Mr Frank Wilkes, as a member of the commission at Geelong. Mr Wilkes did a very good job and we thank him for his contribution.

I want to put on record that the government thought not of Mr Cole as a potential member of the commission but of the honourable member for Williamstown. We did not make the offer because she continues to serve as a member of Parliament. The honourable member for Williamstown was considered because I believe she has something to offer the community. It is a pity that her party does not recognise that she is a person of Melbourne.

Honourable members interjecting.

The SPEAKER - Order! The House will come to order. I advise honourable members that they are wasting question time. I ask the Premier to conclude his answer.

Mr KENNETT - If one considers the people who will form the commission, it is obvious that the government was not constrained by their political backgrounds in trying to attract four or five people with experience to take the City of Melbourne, with its new boundaries and the accents of the city, into the 21st century.

The government was grateful for the offers of the four people I have mentioned to serve on the commission. We were sorry we did not feel able to offer a position to the honourable member for Williamstown. We did not ask the Honourable David White in another place whether the honourable member for Williamstown was available. I believe at some stage in the future the honourable member will be able to serve the community in a different way. She is shaking her head. I am sorry - do you want his job - but just as your predecessor allowed Sir Rupert Hamer to open the Arts Centre, I happen to believe that there is a role for former Premiers to play in public life. As I said - -

Honourable members interjecting.

The SPEAKER - Order! The Premier should ignore interjections and conclude his answer.

Mr KENNETT - It may be said that there is a vested interest, but I assure you that is not the case. The commissioners were sworn in today. They represent a good mix of people. I trust and hope that in accepting the job they will not only have the support of the government and the people of Victoria but also that on this occasion the opposition will recognise that those four extremely talented and dedicated people will do a good job with Elizabeth Proust and her team to take Melbourne into the 21st century as a gateway to the fine State of Victoria.

SITE OF EAST COAST ARMAMENTS COMPLEX

Mr BRUMBY (Leader of the Opposition) - In light of comments made yesterday by the honourable member for Williamstown concerning Coode Island, I refer the Premier to a letter of 31 May this year written by the Minister for Industry Services to the Federal Minister for Defence, Senator Ray, proposing that west Point Wilson be considered as a possible site for the Federal government's new armaments complex.

I also refer the Premier to comments by the Treasurer on 13 July of this year that this proposal was "Not considered government policy" and I ask: did the Premier instruct the Minister for Industry Services to write the letter of 31 May to Senator Ray?

Mr KENNETT (Premier) - I thank the honourable member for his question - it comes as a great surprise to this side! If the honourable member has read the letter - y o u have?

Mr Brumby - Yes.

Mr KENNETT - You have?

Mr Brumby - Yes.

Mr KENNETT - You're sure?

The SPEAKER - Order! The Premier must address the Chair.

Mr KENNETT - If the honourable member has read the letter, which he now says he has, he would have noted that what the Minister was saying was that Point Wilson should clearly be seen as a shipping point that allows the east coast armaments complex (ECAC) to be sited at some other location, and that location is Benalla. As is stated in the last paragraph on the front page of the letter:

Perhaps at a point closer to ADI at Benalla.

I can understand that the Leader of the Opposition has blown it again.

Mr Brumby interjected.

The SPEAKER - Order! I have already warned the Leader of the Opposition. I will not warn him again.

Mr KENNETT - There is absolutely nothing inconsistent between the Minister's letter and mine. We were quite keen to have ECAC here in Victoria. We do not oppose that; in fact, we believe it would be excellent for Victoria.

Australian Defence Industries Ltd is moving to Benalla, which is in northern Victoria - as you would no doubt understand! - and it has brought about a huge investment in the State. Because it deals in armaments we think it makes sense to try to encourage the location of ECAC in Victoria at a site that produces armaments and that will therefore be secure. Point Wilson is therefore a good entry point. That is what the Minister said and that is what I have confirmed in my letter. Once again, fella, you've bombed out!

CITY OF GREATER GEELONG

Mrs HENDERSON (Geelong) - Will the Premier inform the House of the latest initiative to revitalise Geelong and provide a long-needed solution to the transport problems that exist in the centre of the city?

The SPEAKER - Order! The question invites a long answer. I ask the Premier to be as brief as he can.

Mr KENNETT (Premier) - I thank the honourable member for her question, which is obviously important to Geelong, our second-largest city.

Last Friday the Minister for Local Government, the Deputy Prime Minister - w h i c h again shows how well we are able to work with our Federal colleagues - and other local members from the Geelong area, with the exception of one, happily announced a new transport interchange for Geelong. The project is a joint initiative between the State and Federal governments and the City of Greater Geelong. The project also involves private sector cing.

The government is keen to see the development of Geelong as a major transport hub, and the bus interchange will be a major ingredient in bringing that to fruition. It will be constructed adjacent to the new Deakin University campus located in the old Geelong wool store, the historic waterfront, of which I am sure honourable members will be aware, and the main retail precinct of Geelong. The site is also within easy walking distance of the Gordon College of TAFE and the railway station.

The project will include tourist and transport information facilities, passenger transit facilities, cafes and a 500-vehicle, multi-level car park. The Federal government will provide approximately $2 million, the State about $500 000 and the City of Greater Geelong about $1.3 million.

This is another example of the ability of the Federal government and the Victorian government to work together in the interests of Geelong. It further proves this govel"!"ment's commitment to Geelong and it highlights the lack of opposition representation in Geelong.

Only this week the Leader of the Opposition wheeled the honourable member for Geelong North into the shadow Cabinet and announced that he was going to be a shadow Minister because the opposition needs representation in Geelong. It is very sad that the other shadow Ministers threw him out and said to the Leader of the Opposition, "You have no authority. The shadow Cabinet will be decided by the factions".

I want the people of Geelong to know that this sort of transport interchange and the government's daily activities indicate that it recognises Geelong's importance and will continue to do everything it can to advance the city's interests. Through the National Rail Authority, which is still in the process of being established, the Minister for Public Transport and I will be able to offer Geelong another magnificent opportunity. The authority and the interchange will have the potential to service vehicles that use the track around the coast from Queensland to Perth.

The honourable members for Geelong, Bellarine and Barwon South and the Honourable Bill Hartigan in another place have worked tirelessly to see growth in the Geelong area. I am sorry the same effort is not made by the honourable member for Geelong North, "Mr Looney", and other members of the opposition.

SUPERANNUATION BENEFITS FOR PUBLIC SERVANT

Mr HAERMEYER (Yan Yean) - I refer the Minister for Education to his comments in the *Australian* of 10 July when he said that requests by the Director of School Education for increases in his remuneration package were "inappropriate in the current economic climate". Will the Minister confirm that since Mr Spring withdrew his resignation on 9 July the Victorian government has been paying $4700 a month into a superannuation benefits account in Darwin for Mr Spring? Will the Minister inform the House why the section of Mr Spring's contract that relates to superannuation and other non-salary benefits was whited-out in a copy of the contract obtained under the Freedom of Information Act by the honourable member for Albert Park?

Mr HAYWARD (Minister for Education) - The contractual arrangements of senior public servants are confidential. Mr Spring is a very fine public servant, one of the best Victoria has. I would be so bold as to say - -

Honourable members interjecting.

The SPEAKER - Order! I will allow the Minister to complete his answer when the House comes to order. The longer honourable members interject the less time there will be for questions.

Mr HAYWARD - I would be so bold as to say Mr Spring is one of the best public servants in Australia. The remuneration he receives is appropriate for his position and the very large responsibilities he carries. I believe Victorian taxpayers have very good value for money from Mr Spring. I think his remuneration is possibly less than it should be compared with payments people in other States receive and certainly compared with payments people in private enterprise receive.

Mr BRUMBY (Leader of the Opposition) - On a point of order, Mr Speaker, the Minister for Education was specifically asked whether the Victorian government is paying Mr Spring superannuation benefits of $4700 a month. The Minister has not answered the question. I ask you to direct him to answer the question.

The SPEAKER - Order! In reply to the point of order, the Leader of the Opposition should be aware by now that the Chair has no power to direct a Minister in the way he answers a question. That is well established in the precedents of this House and Speakers before me have ruled in the same way. All the Chair can do is ensure that the Minister's remarks are relevant. A Minister may decide not to answer a question. There is no point of order. The time for questions has expired.

JURIES (AMENDMENT) BILL

Second reading

Debate resumed.

Mr RYAN (Gippsland South) - It is my pleasure to join the debate on the Juries (Amendment) Bill. I have had a long association with the operation of criminal juries in the administration of justice in Victoria. I remember my first encounter with a jury, which was soon after I entered the practice of law. Three young fellows of about 14 or 15 years of age escaped from the Turana youth training centre and made their way to Gippsland. In the course of their travels they came to a farm and as they were going through the outbuildings they came across a shotgun. They took the gun and the cartridges, and, tragically, it was at that point that the owner of the property came upon them - by accident rather than design - and challenged them. Over the years I

have wondered when the poor fellow first realised things had gone terribly wrong. It emerged that shortly after the first exchange the youths shot him. Having shot him once and brought him to the ground they stood over him, shot him again and killed him. My participation in the empanelling of the jury for one of the accused was my first involvement with the operation of the criminal jury system.

Some years later I assisted in the empanelling of a jury for the trial of a woman charged with murder. It was an extraordinary state of affairs. Some 25 years earlier she had been witness to the birth of her daughter's child. The baby was born after her daughter's association with a gentleman to whom the lass was not married. The family was of ethnic origin and the mother and daughter were concerned about the birth so the mother, who was later brought to trial, took it upon herself to drown the baby. She carried her crime in her heart, as it were, for all those years until she could not do so any longer and imparted the story to a local police officer in East Gippsland. He reported the matter and she was charged with murder.

I was involved in the empanelling of the jury for that lady's trial. While compiling examples in support of this contribution, I recalled the lady in that instance - my client - sitting in the court dock and telling me she was cold. For some reason, she asked if I could do up the top button on her jacket! She was subjected to the criminal justice system.

I could recite many other examples. One that readily comes to mind concerned a gentleman who lived at Loch Sport, near Sale. One night he heard a disturbance outside his home. He looked out the window and saw a man leaning over the front panel of his car and doing something to the engine. Taking the law into his own hands, he seized a large, sharp carving knife, went outside and, as the man continued to lean over the car, sank the knife deep into the buttocks of the man who was involved in an apparent examination of the car's engine. As it turned out, the man concerned was employed by a finance company and in attempting to repossess the car was trying to hot-wire the engine.

A government member interjected.

Mr RYAN - As the honourable member says, he had his backside hot-wired! The assailant, my client, was later subjected to the criminal justice system.

I mention those examples to demonstrate that the issue underlying the Bill is critical. The House is debating critical issues about a criminal justice system versus juries in civil matters.

Honourable members opposite have talked about the failure to consult but the original Bill, circulated for public opinion, contained a provision whereby civil juries in Victoria would have been abolished. Much consultation occurred with the Victorian bar, the Law Institute of Victoria and public interest groups. Consequently, the committee which considered that Bill under the direction of the Attorney-General decided that such a provision should be deleted.

Any assertion that the government has not widely consulted about this Bill is incorrect. I accept and adopt the comments made by the honourable members for Melbourne and Werribee particularly when they referred to the significance of the criminal jury system in the administration of justice. The operation of the criminal jury system is a fw1damental aspect of our society and indeed, it is one of the pillars on which history will judge our society. In that context, this legislation should be properly and fairly examined. It is one of the basic blocks on which the operation of our society is constructed, and I do not resile from that situation.

Having said that, it is even more relevant to examine the Bill. Specific comments have been made about the impact of the provisions in the Bill. The primary purposes of the measure, detailed in clause 1, include the change to majority verdicts for criminal trials, and that is elaborated upon in clause 7.

With respect, perhaps the honourable member for Melbourne - whose contributions I listen to, enjoy and take much from - has not properly read the Bill. The honourable member referred to a majority verdict of nine; that is not the case. Clause *7* refers to a circumstance where the majority verdict in a jury of 12 will be the opinion of 11. If for whatever reason the jury is reduced in size to 11, the majority decision will be of 10; and if the jury numbers only 10, the majority will be of 9 members.

Other provisions should be examined because of the comments made by the opposition. Many represent the checks and balances that are crucially important in this issue, particularly having regard to the recent High Court decision in *Cheatle v. The Queen* when the court commented on the unanimity of verdicts in criminal cases.

The honourable member for Melbourne referred to his research. The changes to be introduced by the Bill affect about 4 per cent of trials. The honourable member referred to Law Institute documents and said that about 40 Victorian criminal jury trials will be affected a year, representing 4.6 per cent of total jury verdicts. He said that the changes the government intends to make will impact on a small area - and I do not resile from his comment.

The honourable member then berated the government for making certain changes, including those to police powers and other measures, which he said were an attempt to tackle the problem at the wrong end. The government is going about this process in what it deems to be the best possible manner with a view to giving the public at large the best possible protection.

The change to majority verdicts is small in the scheme of things and is done for the purposes set out by the Attorney-General in her second-reading speech. In clause 7, new section 47(2) provides:

> in any criminal inquest if all the jurors after at least six hours deliberation are unable to agree on their verdict, a majority verdict may be taken as the verdict of all.

That picks up section 46 of the principal Act as it relates to civil juries. That provision is replicated, if you like, by what this Bill seeks to achieve - that is, a jury must deliberate for 6 hours before the court will call upon it to take a majority verdict. Proposed section 47(3) states:

> A court must refuse to take a majority verdict if it appears to it that the jury have not had a period of time for deliberation that the court thinks reasonable having regard to the nature and complexity of the inquest.

That provision is as a result of some protracted and involved trials in Victoria over the past few years. Some have involved complicated commercial fraud and some have involved a number of accused persons in one trial. It is for the court to decide whether, 6 hours having passed, a reasonable period has elapsed before the provision in question is exercised.

Proposed section 47(4) states:

> A verdict that the accused is guilty of murder or treason or of an offence against the law of the Commonwealth must be unanimous.

The government has preserved the need for a unanimous verdict in a murder trial in accordance with Commonwealth legislation.

Proposed section 47(5) refers to part of the checks and balances that form such an important part of the provision regarding majority verdicts. The government wishes to respond in a meaningful way to the grave public concern about the issue, but it does so in a proper fashion and has not become carried away with public sentiment. The government is not removing majority verdicts in the manner outlined by the honourable member for Melbourne; rather, it is being done, as the Bill prescribes, in a most responsible manner.

I now refer to the second purpose of the Bill - that is, peremptory challenges as they are dealt with in clause 6. A peremptory challenge is a challenge as of right; an accused person is able to challenge as of right. I must correct what the honourable member for Melbourne said because the usual process does not involve barristers making decisions in such matters. Once arraigned, an accused has the opportunity of objecting by peremptory challenges and challenges of cause; the accused may be assisted pursuant to the provisions of the Juries Act by the legal practitioner representing him or her.

Inevitably it is the solicitor who is able to assist the accused. I stand to be corrected, but I believe there is a standing instruction at the bar that a barrister cannot become directly involved in the process. The solicitor usually stands at the front of the dock and assists the accused during the course of peremptory challenges. I endorse the right of peremptory challenges.

If a police officer is charged with having belted someone in the cells during the night and a prospective juror is called for the jury panel and has hair down to his feet and tattoos down both arms, the accused should have the right to say that he does not want to have that individual sitting in judgment. Equally, if a bikie on trial for an anti-social offence observes that the juror has a limp and is wearing a returned services medal, he may regard himself as being at risk from that person being on the jury panel.

I endorse the concept of peremptory challenges. The honourable member for Melbourne said that there should be no limit, but I differ from him in that view. The original limit imposed was eight. Clause 6 provides for six challenges in circumstances where

there is only one person accused. It provides that where there is a single accused, there shall be 6 peremptory challenges; where there are 2 accused there shall be 5 challenges for each and where there are more than 2 accused there shall be 4 challenges for each of the accused.

Two other matters are worthy of comment: firstly, the Crown is being restricted to a similar process of challenges. Historically and as a matter of common law the Crown had the right to as many peremptory challenges as it saw fit. The government has taken the step of enshrining the Crown's position into legislation to marry it with what applies to the accused. That is fair.

Secondly, peremptory challenges are not the end of the matter for the accused. An accused has the right to challenge as of cause; he must show cause if he wants to go past the peremptory challenge, and that is automatically available to him. For the reasons set out in the second-reading speech, the government has elected to amend peremptory challenges in the way I have outlined. It is a change of small dimension in the scheme of things, but is intended to be fair to all.

Clause 9 refers to the court allowing a jury to separate after retiring to consider a verdict. The honourable member for Werribee had misgivings about a jury considering its verdict having to be locked up. Historically, in country courts if the judge has not finished making his summation to the jury at the end of a criminal trial by early on a Friday, he will try to time the charge so that he leaves about 10 minutes of it to be completed on the following Monday. That avoids the jury having to be locked up over the weekend. Everyone involved in the case comes back on the Monday to hear the completion of the judge's charge, and then the jury is sent out to consider its verdict.

The clause empowers the judge and the court to enable the jury to head home once it has been sent out to consider its verdict, but that is only at the discretion of the court. It is not an absolute right or an obligation on the part of the court. The clause encapsulates the crucial issue of discretion. It is reflective of some of the changes that have been made in the conduct of criminal trials since the coalition came to office. It is an addition to the provisions of the Crimes (Amendment) Act, which empowers judges to take over the conduct of criminal trials and their passage through the interlocutory stages of a trial before the matter goes to court. It is a sensible provision and one that I applaud.

For the reasons set out by the Attorney-General in the second-reading speech, the government has seen fit to introduce the legislation and has consulted widely before doing so. It reflects community judgments about an important issue and does not detract from the significance of the criminal justice system in the way our society operats.

I am aware of the recent decision in *Cheatle v. The Queen*. I do not believe, however, that the legislation detracts in any meaningful way from that judgment of the High Court of Australia. The Bill will do much to advance the administration of criminal justice in our State, and I support it.

Mr E. R. SMITH (Glen Waverley) - I support the long overdue Juries (Amendment) Bill. The provisions of the legislation have been coalition policy for many years. The honourable member for Werribee spoke about the Scrutiny of Acts and Regulations Committee. The Bill reflects the views of the committee to the betterment of the public good. To proceed without amendments is a feather in the cap of the Attorney-General. If such Bills were to be continually amended and policies altered midstream, the criminal justice system would not know where it was going.

The government has been described as a reformist government and these measures will enhance the criminal justice system in Victoria. When in opposition the coalition criticised how the criminal justice system was being administered and how public confidence was being continually eroded. Victorians are fortunate that the government has been consistent in its reforms. Although the government has been criticised - f o r example, the comments of Mr Burdekin coming down strongly against various measures - the polls are going up for the coalition. When the coalition was in opposition it promised to create a stronger and more understandable criminal justice system that would be on the side of the victims of crime. That is not to say that the government believes criminals have no rights, but the criminal justice system must be administered in the best interests of the victims.

Wisely, the honourable member for Melbourne said that all those involved in crimes are victims; regardless of whether they are victims or the perpetrators. The government understands that, but what is required in the community is for the

government to not only appear to provide but to actually provide a strong criminal justice system.

Majority decisions are the order of the day in four jurisdictions in Australia. In the Northern Territory the majority need be only 9 out of the 12 jurors, while in Western Australia, South Australia and Tasmania the majority must be 10 out of 12 jurors, which is based on the 1967 British decision to adopt a 10 out of 12 majority. The Scrutiny of Acts and Regulations Committee looked at this very carefully and decided that 11 out of 12 was appropriate.

It is almost impossible for any group of people from different backgrounds, education and walks of life to agree on any subject, all things being equal. But the requirements of the Crown in any case are not equal to the requirements of the defence. The Crown is required to be scrupulously fair, must not press for a conviction and must prove guilt beyond a reasonable doubt. These are only some of the things that go against the jury system operating as fairly as it might. It must also be remembered that the defence always addresses the jury last and is not bound to be equally fair or accurate when dealing with the Crown's case. Added to that is the situation that criminal trials are hedged with rules designed to protect the interests of the accused. For example, in rape cases the jury cannot be told that the accused person has a previous conviction for rape or any conviction for any other sexual offence. That is the way it is and how it should be, but many of those judicial rules were originally designed in the era when a conviction carried the death penalty. It is a wonder, with all of those things going against the Crown case, that any conviction was ever made, except, of course, in those cases where the crime was particularly vile and the evidence of guilt was overwhelming.

In arguing against majority verdicts the honourable member for Melbourne said they undermine the requirements of proof beyond reasonable doubt. I do not agree because I believe the majority of jury members must be satisfied and have a presumption in their minds that the convicted person is being convicted beyond reasonable doubt. A majority of 11 to 1, which is what the government is promoting in the Bill, acknowledges the difficulty of obtaining a consensus from the members of the jury as criminal trials become increasingly lengthy and complex.

The length and complexity of a matter is one of the features that has crept into the criminal justice system in the past few years. A cynic would probably say that one of the alternatives is to abolish juries and rely solely on judges to determine guilt or innocence, but in the last Federal referendum when Mr Hawke proposed the abolition of the jury process the people of Australia voted overwhelmingly against it by a majority of 66 to 33. The people of Australia want the jury system, and the suggestion to abolish it has little support because the community is probably not ready to follow the lead of some countries that have gone down this path.

The abolition of the death penalty and the existence since this century of the Court of Criminal Appeal to review jury verdicts strengthens the case for majority verdicts. In all Australian jurisdictions and throughout the system that Australia operates alongside, the criminal appeal system is well established. If a jury gets it arguably wrong, the court of appeal can act as the final arbiter. I am sure that going from 12 to Oto a majority of 11 to 1 as is being proposed in the Bill will allow the system to work more effectively.

I am very interested in the figures for hung juries mentioned by the honourable member for Melbourne. He said that only 40 of 853 cases had resulted in a jury not being able to reach a decision, which works out to be about a half of 1 per cent of cases. That would probably occur in the most important and contentious cases - cases in which there should be no possibility of the criminal getting off.

I believe the golden thread of British justice that runs throughout the legal system, of which learned Rumpole occasionally reminds us, does not need to change. However, in order to make the system work better the system that should be introduced is one that is operating well in places such as the United Kingdom, which has three or four times the population of Australia and probably 10 times the population of Victoria. The U K majority system has worked well, despite the case concerning the Birmingham four and others, and it results in more decisions being reached. The United Kingdom and most Australian States have adopted majority verdicts; Victoria should be following that lead.

It is a privilege to be part of a system and a government that is prepared to tackle the hard issues. This decision was certainly far too hard for the former Labor government because it is based on an issue that would never have got past the party room of the former government even though commonsense dictates that it is the correct path to follow. The coalition has no problems with this

matter because its members genuinely believe it has made the right decision, and I do not think the honourable member for Melbourne would doubt our sincerity. Government members want the system of criminal justice to be improved. Even throwing out of court half of 1 per cent of cases is not good enough. Decisions need to be made in those cases because trials are extremely costly. If there is any doubt in the minds of the jurors, of course they will find the accused not guilty, and this has been the case for centuries. But the criminal justice system should be expedited, and one of the ways of doing that and keeping the costs of the system down is to introduce a system that works well in the majority of other Australian States and Britain.

The government is committed to and proud of its policies, which were agreed to by the people at the last election. Some people could describe those policies as being heavy handed, but I do not believe they are. They are the sorts of policies people want because people are still frightened in their own homes. There are many recent examples of cases of child abuse, of elderly people being bashed in their own homes and of murders of children and young people - even the most recent case of two young children being raped in a school toilet in Cheltenham.

These sorts of events make the community feel insecure. This Bill is the latest of the measures that the government has taken, alongside the incredible number of measures the Attorney-General has introduced in the last 14 months. The honourable member for Melbourne speaks his mind very openly, but in his heart of hearts he cannot really believe this legislation will do any harm to the criminal justice system in Victoria.

I have a great deal of pleasure in supporting the Bill and I wish it a speedy passage through the House.

Mr THWAITES (Albert Park) - I oppose the Bill. The golden thread that runs through our system of criminal justice has long been thought to be the requirement on the prosecution to prove that the accused is guilty beyond reasonable doubt, and that golden thread is often fondly quoted by Rumpole - of th Bailey, not of dog fame! It is a very important principle, and the Bill chips away at that principle.

It seems to be a strategy of the government through this legislation and other measures to chip away at the principle that the Crown must prove guilt beyond reasonable doubt, and to chip away at the protections of innocent people who may be charged with criminal offences.

In his speech the honourable member for Glen Waverley referred to the rights of criminals, but what we are concerned about is not the rights of criminals so much as the rights of people who are charged with criminal offences, and that is quite a different thing. I am aware of a number of cases where innocent people have been charged with offences, and if the protections are removed those people will suffer the threat of being wrongly imprisoned. I propose to examine and briefly deal with each of the arguments put by the government in support of this legislation.

The first argument is that abolishing unanimous verdicts is in no way inconsistent with the principle of establishing guilt beyond reasonable doubt. The Attorney-General in the second paragraph of a letter dated 1 November 1993 to the Chairman of the Scrutiny of Acts and Regulations Committee, Mr Perton, stated:

> The government holds the view that the introduction of majority verdicts is in no way inconsistent with either the decision of the High Court in Cheatle, or the principle of guilt beyond a reasonable doubt.

There is no evidence in the letter to support that statement. There is no evidence in the second-reading speech; there is no report as far as I am aware on which the Attorney-General is basing that sweeping statement.

As far as I am aware the Attorney-General herself has no great experience in criminal law. As far as I am aware her advisers have no great experience in criminal law, and that includes her top adviser, Mr Craven, who as I understand it had some academic background in other areas but certainly not in criminal law.

It seems that the Attorney-General has been misadvised. Against that complete lack of evidence and complete lack of experience I would tend to rely more on the unanimous decision of six judges of the High Court of Australia, some of whom had extensive experience, and all of whom have had extensive experience in appellate work in the criminal jurisdiction.

I also rely on the decisions of numerous judges in other courts who deal with criminal law daily. I shall refer to what the High Court says on this very point in the second paragraph of the

Attorney-General's letter, which says that the introduction of majority verdicts is in no way inconsistent with the principle of guilt beyond a reasonable doubt. The High Court stated in the case of *Cheatle v. The Queen* that:

> a verdict returned by a majority of the jurors, over the dissent of others, objectively suggests the existence of reasonable doubt and carries a greater risk of conviction of the innocent than does a unanimous verdict.

The second argument that the government puts is contained in the fourth paragraph of the Attorney-General's letter of 1 November 1993 to the Chairman of the Scrutiny of Acts and Regulations Committee in which she states:

> As regards guilt beyond reasonable doubt, it is difficult to see how the presence of one dissentient juror out of twelve may be regarded as prima facie proof of such a doubt, when the number of twelve jurors is entirely arbitrary, and itself represents a reduction from the original twenty-four of the old grand jury.

That is a completely illogical statement; it is a non sequitur. The essential issue is not the number of jurors; the essential issue is not whether there are 12, 24 or 11 jurors; the essential issue is unanimity - that is, that all the jurors are unanimous in their decision, whether there are 11, 12 or 24.

It would seem that once again the Attorney-General's advice has been deficient in that she relies on an alleged reduction in the number of jurors from 24 on the old grand jury to a jury of 12. A grand jury and a jury have quite different functions. The function of the jury - and what was called the petit jury - is to establish guilt or innocence beyond doubt. The function of the grand jury, by contrast, was entirely different, and that was to return an indictment. So the Attorney-General's argument is not only illogical; it is based on a misunderstanding of history.

The third argument the government puts in support of this legislation is that it is in no way inconsistent with Cheatle's case. It is true that Cheatle's case referred to and was based upon Commonwealth legislation and the Commonwealth Constitution Act, but this Bill is completely inconsistent with the principles in Cheatle's case and with the principles and reasoning of the High Court. So the Attorney-General cannot just slide away from the firm statements made by the High Court by saying it is not relevant because it relates to Commonwealth legislation, because the words that were determined in Cheatle's case were "trial by jury". The High Court said that those words related to trial by jury as was and is understood in the common law. It is the common law that the Attorney-General is changing in this legislation. She is overturning the common law and the very reasoning which that experienced and highly qualified High Court held in Cheatle's case.

It was not only the High Court in Cheatle's case; there are numerous other similar decisions of the courts in the United Kingdom and Australia. The requirement for unanimity of the jury has been present since the 14th century and it is interesting that the first case where this was made clear was decided in 1367. That case concerned an appeal from a decision where a verdict of 11 jurors out of 12 was taken as the verdict of the jury, and the twelfth juror was thrown into gaol! But the appeal court at that time held that that was inappropriate and the verdict was overturned and the twelfth juror was released from gaol. I am not suggesting the government is proposing to introduce such draconian measures as gaoling jurors who do not make the right decision and do not convict, but perhaps that is the next Bill that we will see.

Regardless of the historic cases, perhaps the Attorney-General would be influenced by the comments made by the most distinguished judges in the case of *Newell v. The King* in the High Court where Chief Justice Latham and the then Justice Dixon both stated that an essential part of the right to trial by jury was an unanimous verdict.

Mutters are heard from various government members that the High Court of Australia is full of Labor appointees: that they are left-wing radicals. That argument is used to toss out decisions of the High Court, but Sir John Latham was a former conservative government Attorney-General. He understood the importance of unanimous jury verdicts and he saw them as essential to the common-law right of trial by jury.

The next argument the government put in support of the legislation is that other jurisdictions allow majority decisions. The fact that other jurisdictions allow it does not make it right. Indeed, a similar argument was put in *Cheatle v. The Queen* and was dismissed by the High Court. The argument was based on the fact that there is no requirement for unanimity in certain civil cases. The High Court said:

> the fact that some legislatures had, at the time of Federation, abrogated the requirement of unanimity in the case of civil juries provides no foundation at all for a conclusion that the common law requirement of unanimity, which had existed and continued to exist as an essential and universal feature of the institution of criminal trial by jury since the 14th century, should be excluded from s 80's adoption of that institution.

The danger of majority verdicts has been referred to and illustrated in cases in some foreign jurisdictions that do not have unanimous verdicts.

The next argument in support of the legislation was put by the honourable member for Glen Waverley, who said that it is almost impossible for a group of people to agree when they have differing backgrounds. I am sure there are many disagreements within the government's ranks about the things it is doing, but most juries agree. The honourable member for Melbourne said that only 4 per cent of juries were hung juries. The Morris committee in the United Kingdom found that only 29 of the 1087 contestable cases that it considered resulted in disagreements within the jury.

The honourable member for Gippsland South said that the issue was not of great import because it affected only a small number of cases. That is a specious argument because they are often the difficult cases.

Mr Ryan - I did not say that.

Mr THWAITES - I gained the impression that the honourable member said only a small number of cases were affected and somehow that meant the arguments raised by the honourable member for Melbourne were incorrect. They may be only a small number of cases, but they are often the difficult cases. They are the Chamberlain-type cases, the cases where there is real doubt, where there is uncertainty.

The Law Reform Commission discussion paper on juries said that 20 of the 69 hung juries examined were granted nolle prosequi. They were the cases where there was uncertainty, where the prosecution may not have had a strong case and where the one juror who refused to convict may have been right.

I turn to the question of convenience. In the second-reading speech the Minister for Energy and Minerals, on behalf of the Attorney-General, justified the legislation on the basis that:

> the requirement of a unanimous verdict is a potential source of expense and unfairness where a single, determined juror holds out doggedly and for peculiar or improper reasons against the common view of the remaining 11.

That is a pejorative and pessimistic view that assumes that the basis on which only one juror hangs out is because he is dogged or has improper reasons. Where is the evidence for that? The government has not cited a single case supporting that statement. Juries perform their duties most conscientiously.

We know very little about the reasons for hung juries, but I surmise it is because one, two or three jurors have a real concern about the case. There is no evidence that jurors are irresponsible or acting improperly.

The government has a duty to do the work, to obtain the information and to get the evidence before introducing legislation that reduces people's rights. It should not make completely unsubstantiated claims in second-reading speeches. It may be that rather than a dogged or improper juror holding out, a person may be concerned that the prosecution has not proved its case beyond a reasonable doubt.

On the issue of convenience, I conclude by referring to what the High Court said on the issue:

> it is not, in any event, apparent that considerations of contemporary convenience or practical utility favour an abandonment of the requirement of unanimity in the case of a criminal jury. To the contrary, one can point to strong support for the view that the requirement of unanimity of a criminal jury is, on balance, in the public interest in this country. In particular, it is far from evident that the reduction in the number of cases in which a criminal jury is unable to return a verdict, which could be expected to result from an abandonment of the requirement of unanimity, would be of sufficient significance to outweigh the disadvantages which would result from such a course.

It is my view that Parliament ought to rely on the High Court decision in Cheatle's case, the courts of the United Kingdom and previous High Court cases which made decisions based on real experience in the criminal law rather than a Bill presented by the Attorney-General, who gives no basis for the legislation, no evidence in support and demonstrates no experience in the critical areas that the Bill will affect.

Mr COOPER (Mornington) - I did not intend speaking on the Bill, but after listening to the honourable member for Albert Park I have decided to make a contribution. The honourable member threw down a challenge to the government to produce evidence that sustains the argument that there have been cases where juries have been hung by one or two jurors going against the body of evidence.

The honourable member for Albert Park said that if the government could not produce such evidence it could not support the legislation. Although what I will say can hardly be regarded as evidence, it is a true account from my own personal experience. The example I give relates to a murder trial and demonstrates that there are instances - certainly this is one instance and I suggest there are many more - where one or two jurors who regard themselves as modem-day Perry Masons, believe they know better than the remaining jurors and want to overturn the evidence that is produced in the court.

The case I relate to the House is a trial for murder where, after substantial evidence was produced in the court, the jury retired and conducted lengthy deliberations, but one juror hung out. The 11 jurors believed the person on trial was guilty, but the remaining juror did not. That juror hung out to the extent that, for what was regarded by even the lawyers for the defence as an open and shut case of guilt, the jury stayed overnight. Eventually the opposition of this one juror created the situation where the case was either to be declared a mistrial - the jury not being able to come to a verdict - or, alternatively, as this juror put it to the other jurors, he was prepared to agree with the other 11 on a verdict of manslaughter.

The jury eventually weakened and, although 11 of them were quite convinced that a verdict of guilty for the murder charge was more than proven, the 12 of them ended up going back and advising the court that they had found the person guilty of manslaughter.

After a jury brings in its verdict and prior to the sentencing of the person who has been convicted, any prior convictions of that person are read out to the court to enable the judge to consider the appropriate sentence. That was done, and although in this case the jury had been discharged the people who comprised the jury were still in the court. They heard the long trail of evidence that was presented to the court against the person who had just been convicted of manslaughter for the murder and rape of an elderly woman. They heard the trail of prior convictions of that person for a great range of sex offences and bashings against women, elderly and young. That confirmed in the minds of the 11 jurors who had been in favour of the murder verdict that their first decision had been right and that they had been conned out of producing a good decision by that one person who had decided that he would hold out regardless of the body of evidence.

The question may be asked of me: how do I know all of this? I know this because I was at the trial as a family member - I was there as an observer. A year or two later I was at a function and a lady came up to me and asked me whether I remembered her. I said, "No, I do not". She said, '1 saw you for quite some days a couple of years ago. I was the keeper of a jury at a trial you were observing". I said, "Oh, yes, I remember you now".

She had first-hand knowledge of what went on. She was no longer a keeper of the jury and she was no longer bound by whatever oath of secrecy she had made. Even if she were bound by an oath, she felt so badly about this that she said, '1 have now met you. I did not seek you out, but let me tell you the story of what went on". That is what she told me, and I have no reason to doubt that she told me the absolute truth.

I suggest that personal instance provides to the honourable member for Albert Park and other members a good degree of certainty that this sort of thing goes on. The Bill does not direct itself towards the actions that I might be interested in - that is, cases of murder. The Bill states that verdicts in the case of murder trials must be unanimous. But it directs itself towards what we all know goes on: hung juries, delays and the appalling costs that arise when one juror will hang out. That is what the government is anxious for the Bill to address. It wants Victoria to fall in line with the rest of the country.

Although the honourable member for Albert Park makes the point that although other jurisdictions have such an arrangement there is no evidence to show that they are right in doing so, as someone who maintains an interest in this area I have not heard any level of objection about the other jurisdictions that I would regard as substantiating that we not go along with them. Sometimes it is nice to be a trailblazer and to say, "We will set the

standard", but in this case Victoria is not. It is coming up behind people who have been the trailblazers and who have established that, by having a majority verdict in the sorts of cases the Bill addresses, justice is still done, the community is well served and those who are on trial before a jury in a criminal trial will not have their rights trampled down.

The Bill has general community support. The evidence is there to support the legislation being introduced in Victoria. I commend the Bill to the House.

Mr THWAITES (Albert Park) - I raise a point of order, Mr Deputy Speaker, relating to the general conduct of the debate in the future. I did not wish to interrupt the honourable member for Mornington during his speech as I understand the importance of the issues he was raising.

It is my understanding that to publish or advance arguments on the votes cast in the course of the deliberation of a jury is an offence under the Juries Act. For further speakers to say that in particular cases the vote was 11 to 1, or 10 to 2, and then to advance an argument based on that would be a breach of the law. I should have thought, in the Deputy Speaker's overall control of the debate, it would be appropriate to prevent any such breaches.

That rule is there for a good reason. There will be many views as to what the vote was for a case. There have been instances where one person has said that a vote was 11 to 1 one way while someone else in the same case has said it was 11 to 1 the other way. Such information is WU'eliable and undermines respect for the jury system overall. I simply ask that further speakers on the legislation be asked not to in effect breach that provision of the Act by stating specific instances of a case.

Mr COLE (Melbourne) - On the point of order, Mr Deputy Speaker, I must confess that I did this in mentioning my wife's involvement in a case as a juror. It is all very well to note the provision of that Act, but the debate is about juries and substantial information must be considered. All members of the House rely on anecdotal evidence to put across views on what they think, one way or another. One would hope there will be a vigorous and fruitful debate in the other place. As precedent is important it would probably be best, in the context of this debate, if honourable members were able to refer to anecdotes but not to particular cases. They could white out names to protect the innocent.

The point the honourable member for Albert Park raises highlights the problem of trying to obtain proper evidence in this difficult area. I am not trying to score any points on the Bill, but the Attorney-General and honourable members generally should begin studies into the matter. I would be most concerned if we were not able to use real examples. Perhaps the best way to do that would be for honourable members to white out the names of the guilty or innocent as they come across them.

Mr RYAN (Gippsland South) - On the point of order, Mr Deputy Speaker, the basis of the point of order is irrelevant. The prevailing legislation is section 69A of the Juries Act, which prescribes the confidentiality of the jury's deliberations. My submission is that the tenor of that section is devoted to situations where the result of a jury's deliberations is solicited by an entity, individual or corporation for the purpose of it being published. The intention behind this section is to avoid that occurring.

Both the honourable members for Melbourne and Momington related situations where a point of view was volunteered, not solicited, and they were situations with which both were closely associated. Those examples were completely removed from what is intended by the Juries Act so far as confidentiality is concerned; they have nothing to do with the provisions of section 69A. In as much as there is any concern on the part of the honourable member for Albert Park about the way these anecdotal experiences have made their way into the debate, the point of order is not valid.

Mrs WADE (Attorney-General)-On the same point of order, Mr Deputy Speaker, I considered this point earlier in the debate when the honourable member for Melbourne referred to his wife's experience on a jury, but it became patently obvious that he was not going to identify the proceedings concerned, therefore, clearly there was no problem.

I direct to the attention of the honourable member for Albert Park the provisions of section 69A(4), which states:

> Nothing in this section prevents the publication or disclosure by any person of any information about the deliberations of a jury if that publication or disclosure does not identify a juror or the relevant legal proceedings.

If the honourable member for Melbourne is still in a quandary about his comments in those circumstances, it is certainly not a problem for the honourable member for Mornington, and it is clear that the tenor of the Act is not about people merely relating disclosures that have been made to them without in any way identifying the proceedings to which they refer.

Mr COOPER (Mornington) - Mr Deputy Speaker, the point of order should not be upheld for the reasons that have been put to you by the three members who spoke before me. I emphasise that I chose my words carefully, correctly and truthfully in stating that the information provided to me was not solicited; and if anybody wants to try to identify the case to which I referred, I say to them, "Good luck!"

The DEPUTY SPEAKER (Mr J. F. McGrath) - Order! The Chair finds itself in an extremely difficult position. Most members of Parliament would be aware that the Chair does not have a legal background and, therefore, is not completely au fait with section 69A referred to by the honourable member for Albert Park.

The Chair feels it appropriate not to uphold the point of order. However, I take it in the spirit that it was raised, and it should be a reminder that honourable members must be ever mindful of not breaching any Acts that have been set in statute by this Parliament.

Mrs WADE (Attorney-General) - I am pleased that the tradition which seems to have developed of justice Bills attracting an interested group of speakers is continuing even when, as I understand it on this occasion, the opposition will oppose the passage of the Bill. I trust that it will continue at least for the remainder of the afternoon.

In the time available to me I will concentrate on the issues raised by the honourable members for Melbourne, Werribee and Albert Park, but first I shall mention the contributions made by members of the government.

The honourable member for Mooroolbark made an interesting contribution. She is a member of my Bills committee and has shown great interest in the justice Bills that have been introduced this year. She has made a valuable contribution to consideration of those Bills, approaching them from a different point of view from a number of members who have legal training. It is valuable to obtain the input of non-lawyers on these Bills.

The honourable member for Mooroolbark related an interesting historical background to the development of the jury system, and I was also pleased to note that she is interested, as I am, in good housekeeping and appreciated that the Bill has financial implications, although they are by no means the overriding reason for its introduction.

I am pleased that the honourable member for Gippsland South referred in some detail to the consultation process that took place on the Bill. It was circulated to interested persons and organisations, and the government received much feedback. As a result of that consultation it was decided not to go ahead with a proposal the government floated but to which it was not absolutely wedded - that is, curtailing the activities of civil juries.

The reason I decided that those submissions should be considered particularly seriously was that it was pointed out to me - perhaps I should have realised this in advance - that juries are one area of the law where we do have participation by women. Because of the lack of women on the bench, it would be undesirable to take women out of the one area in our court system where they presently participate. Therefore, that proposal did not go ahead.

In addition, significant changes have been made to peremptory challenges. The honourable member for Melbourne was right in saying that the government had thought of cutting back peremptory challenges to three in line with the other States. However, as a result of consultation, it was decided to limit the cutback from eight to six peremptory challenges. The cutback is more severe in the case of more than one accused being tried on the basis that if four accused are on trial, under the present arrangements there can be about 32 peremptory challenges, which is excessive.

The other change concerns challenges made by the Crown. At present the Crown has unlimited right to peremptory challenges, and a number of people put it to the government that there was a lack of balance in the system and that the Crown should be limited in the same way as other parties, which would not have a detrimental effect on the Crown. Given that the opposition tends to concentrate on those areas where the government is providing additional powers to the police or increasing sentences, I should like it to note that the government also picks up issues which could perhaps be associated with restoring balance to the other side, and that is important.

The honourable member for Glen Waverley made a very statesperson-like contribution and referred to a number of safeguards which would protect innocent persons who are wrongly accused. The honourable member for Momington made a very interesting contribution about the treatment of a certain case by members of a particular jury. That case was clearly not identified, and in fact only recently an employee of the government told me of a similar situation in which one member of a jury not in agreement with the others subsequently gave in to the majority view - which was a guilty verdict - on the basis that if she did not she would miss out on a lift home. Subsequently she was pleased that she had done so after hearing the list read out of prior convictions of the accused. I should add that it was not a murder case; it was a case of aggravated burglary and rape.

I shall now deal with the contributions of members of the opposition. The honourable member for Melbourne referred to the desire of the government to change legislation at a great rate and said that in the justice area that seemed to be based on our belief that victims are treated unfairly.

The honourable member said nothing could be done to resolve the problems of victims so therefore we should do nothing at all. I am not prepared to accept that. I do not believe we can solve all problems for victims, but I believe victims are becoming disillusioned with the criminal justice system. We must do all we can to retain their confidence because to a large extent our criminal justice system relies on the evidence of victims. If victims refuse to take any part in the system, it will not work.

The honourable member for Melbourne said that the government did not consult, but I have already dealt with that. The question was asked: how many hung juries are there? There are not a vast number of hung juries. One government member gave the figures. It was suggested that the government was motivated purely by financial considerations in introducing majority verdicts, but that is not the case.

I have said in this House in the past that one of the major reasons for the government's consideration of the move to majority verdicts is its concern for victims, particularly victims in rape and other serious sexual offence trials. It has been put to me by victims that they find it particularly difficult to go through the process of giving evidence and being cross-examined on a second occasion. Judges have said that in their perception occasionally there is a juror in a rape trial who has a particular view about rape which makes it difficult to get a verdict. Subsequently when a case is reheard by a different jury, that jury has no trouble reaching a verdict. The other reason that made me think carefully about the interests of victims in those particular circumstances was again put to me by the judges. They believe if one dissenting voice is allowed out of 12, it makes it harder to nobble a jury. They say it is possible either by threats or by payment or other incentive to get one juror to hold out in a jury. If one were to extend one's threats or bribes to more than one juror, the person concerned is taking a much greater risk and is much more likely to be found out. They are the two reasons why the government has moved to majority verdicts and not for financial considerations. The question of challenges and the experiences of the wife of the honourable member for Melbourne show that women tend to be challenged more often.

Mr Cole interjected.

Mrs WADE - Certainly in kicking cases, but that might also apply in other cases. It is a worry. There does seem to be a belief in some cases that a jury can be assembled that is particularly suited to being sympathetic towards the accused. Of course it is difficult to make that judgment, and again the experiences of the wife of the honourable member for Melbourne underline the difficulties that are experienced by the accused and the accused's representatives in this area.

What has become clear to me as a result of talking with barristers and solicitors about these proposals is that the jury system needs to be examined. A situation exists where virtually anybody who wants to claim an exemption, whether they be employed, have children or are elderly, can do so. Although the jury pool is supposed to be drawn from the entire population, the people who actually sit on juries are limited to mostly the unemployed or students and possibly public servants. A trial of one's peers is not a trial of the people who come from the same background as the accused, but of a general cross-section of the population. We are not getting that. As a result the submissions that have been made, it seems to me we need to have a good look at the exemption system and the jury system overall. I have a large number of things to do as a result of picking up a justice system that has been neglected over the past 10 years, but this is on my list.

The honourable member for Melbourne referred to various trials such as those of Lindy Chamberlain, the Birmingham Six and the Guildford Four which show that juries make mistakes. That is patently true

and it is one reason why I am not in favour of the death penalty. Whether those particular decisions were majority decisions or not I do not know and the honourable member did not tell us. I do not believe this legislation will make it any more likely that there will be mistrials of this sort.

The honourable member for Melbourne was not happy about a judge permitting a jury to go home to sleep during the time they were considering a verdict because it might lead to delays. I believe it would be better for people to go home and get a good night's sleep when considering a verdict. This provision was put forward by the Chief Judge of the County Court and it follows provisions in New South Wales.

The honourable member for Werribee, without repeating the issues I have already dealt with, was particularly concerned about the fact that we had strayed away from the High Court decision in the Cheatle case. He said that we should defer this legislation so that we can consider the judgment in that case. In fact, we do not need longer to consider a High Court decision. We looked carefully at that decision. Basically that decision is what the words "trial by jury" meant when the Constitution was drafted. It was looking at the words in a historical context. The High Court made it clear that the decision in Cheatle's case does not in any way affect the rights of the State to have a majority verdict in State cases. It just means that Commonwealth cases require a unanimous jury verdict.

Indeed South Australia, where the Cheatle case originated, has had majority verdicts since 1927. I do not believe anybody would be worrying about going over the border to South Australia in case he or she might find himself or herself being charged and faced with a majority verdict rather than a unanimous one. I was not aware of the situation until I started to do some research in this area.

The honourable member for Werribee suggested the government is thumbing its nose at the Scrutiny of Acts and Regulations Committee. In fact, nothing could be further from the truth. I am forever amending legislation to meet the committee's concerns but I do not intend to do so on this occasion.

The honourable member for Albert Park in his contribution denigrated me, my advisers and the staff of the Department of Justice. Perhaps he did not notice when he was on the staff of the former Attorney-General that there were a considerable number of people in the department who had particular expertise in the criminal justice system. They were very much involved in the preparation of the legislation as was our criminal justice working party, which has members from outside the government who practise in this particular area.

House divided on motion:

Ayes,55

Ashley,Mr	Maclellan, Mr
Bildstien, Mr	McNamara, Mr
Brown,Mr	Maughan,Mr
Clark,Mr	Napthine, Dr
Coleman,Mr	Paterson, Mr
Cooper,Mr	Perrin, Mr
Davis,Mr	Pescott,Mr
Doyle, Mr *(Teller)*	Peulich,Mrs
Elder, Mr	Phillips, Mr *(Teller)*
Elliott, Mrs	Plowman, Mr A.F.
Finn,Mr	Plowman, Mr S.J.
Hayward,Mr	Reynolds, Mr
Heffernan, Mr	Richardson, Mr
Henderson, Mrs	Rowe,Mr
Honeywood, Mr	Ryan,Mr
Hyams,Mr	Smith, Mr E.R.
Jasper, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall,Mr
Kennett, Mr	Tehan,Mrs
Kilgour,Mr	Thompson, Mr
Leigh,Mr	Traynor,Mr
Lupton,Mr	Treasure, Mr
McArthur, Mr	Tumer,Mr
McGill,Mrs	Wade,Mrs
McGrath, Mr J.F.	Weideman, Mr
McGrath, Mr W.D.	Wells,Mr
McLellan,Mr	

Noes,27

Andrianopoulos, Mr	Marple,Ms
Baker, Mr	Micallef,Mr
Batchelor, Mr	Mildenhall, Mr *(Teller)*
Brumby,Mr	Pandazopoulos, Mr *(Teller)*
Coghill, Dr	Roper,Mr
Cole,Mr	Sandon,Mr
Cunningham, Mr	Seitz, Mr
Dollis,Mr	Sercombe, Mr
Garbutt, Ms	Sheehan,Mr
Haermeyer, Mr	Thomson,Mr
Hamilton,Mr	Thwaites, Mr
Kimer,Ms	Vaughan,Dr
Leighton, Mr	Wilson,Mrs
Loney,Mr	

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 10 agreed to.

Long title

Mrs WADE (Attorney-General) - I move:

1 Long Title, omit "and the County Court Act 1958".

When the Bill was first introduced it was thought it might contain provisions that would amend the County Court Act, but that proved not to be the case.

Amendment agreed to; amended long title agreed to.

Reported to House with amended long title.

Passed remaining stages.

EQUAL OPPORTUNITY (AMENDMENT) BILL (No. 2)

The SPEAKER - Order! As a statement has been made pursuant to 85(5)(c) of the Constitution Act 1975, I am of the opinion that the second reading of this Bill is required to be passed by an absolute majority.

Government amendments circulated by Mrs WADE (Attorney-General) pursuant to Sessional Orders.

Second reading

Debate resumed from 28 October; motion of Mrs WADE (Attorney-General).

Mr COLE (Melbourne) - The opposition opposes the Bill because it does not believe the changes being made to establish the Equal Opportunity Commission are desirable or appropriate. The proposed legislation creates a new Equal Opportunity Commission comprising five commissioners and a chief conciliator. The new chief conciliator will replace the Commissioner for Equal Opportunity, Ms Moira Rayner. The opposition believes that underlying the Bill and its restructuring of the commission is the desire to eliminate a critic of the government - a desire to terminate Moira Rayner's commission with extreme prejudice. Moira Rayner has to go and, as can be seen from the new positions to be created, so must the voice of those being discriminated against.

The government has not only removed Ms Rayner but also it has removed the Office of Commissioner for Equal Opportunity. It has neutralised the commission because it does not want a voice of dissent to exist, even on behalf of disabled persons, the Koori community, women and other disadvantaged groups. The government is saying to Moira Rayner and other members of the community who might stand up against it, "As a consequence of comments you made against the government you have lost your right to continue in your current employment; and to ensure there is no repeat performance, the position you once held is to be abolished". In this case it will be replaced with an innocuous, half-baked complaints service, which will no doubt be staffed by the government's cronies or people who would not be game to criticise the government even if they had the power to do so. It seems the government has a great ability to make a mockery of all things beautiful and true. Judicial independence under the separation of powers is but one of them.

The government has made no attempt to ensure Moira Rayner is placed in an alternative equivalent position, as also happened to the judges of the Accident Compensation Tribunal who were summarily dismissed by the government. Although the then opposition supported the appointment of judges when the accident compensation legislation was before Parliament, on assuming power it got rid of those judicial positions. To this day the careers of the people who held those positions - people who had taken them with an expectation of continuing tenure but whose positions were unceremoniously terminated without compensation - are left in tatters for no reason other than that the government refused point-blank to act with propriety.

Justice Michael Kirby spoke out on that occasion, not only in his position as a judge but also as the head of the International Commission of Jurists, a position for which he is renowned both here and overseas, and said that the well-established principle on restructuring is that judges must be given equivalent alternative positions. The reason for that is simple: if every time a government wanted to eliminate a particular judge it simply restructured a court, there would be no security in judicial positions. In turn, judges may make decisions subject to the overriding consideration that what they decide may result in their dismissal. That principle is otherwise known as

judicial independence under the separation of powers.

One can quote no better case than that of Moira Rayner, a commissioner charged with the responsibility of commenting on and making decisions about matters to do with equal opportunity, being dismissed for making certain comments. To my knowledge for the past three years she has performed the duties of her position under the Act without fear or favour. She will be the last of her type in this State until a Labor government is again elected.

If the government were sincere about the position and the reasons for restructuring the commission, rather than dispensing with Ms Rayner, she would have been offered the new position of chief conciliator or at the very least an alternative equivalent position, such as an appointment to the Administrative Appeals Tribunal. If Moira Rayner had been offered the position of chief conciliator we could at least say the government was sincere about the proposed restructure. That is not the case.

We have been told she will receive compensation. That is novel for the current government. Any person appointed under a contract of employment, whether by the current or former governments, should be compensated if his or her contract is terminated. The opposition hopes at the very least Moira Rayner will be compensated for the termination of her contract of employment. However, even if she had been offered a new job the opposition would not consider the government was correct in restructuring the commission in this manner.

Even where a restructuring is perceived to be necessary, a government should follow the proper procedures to avoid criticism that it is being done solely for political purposes to get rid of a critic, particularly in a sensitive area such as equal opportunity. Because of its actions, the government cannot divorce itself from that reality. Apart from relatively feeble attempts by the Attorney-General, no-one on the government side has really tried. It is a disgrace!

The government's action is unfair to Moira Rayner and to those who need people like her on the commission. More importantly, it has done enormous damage to the issue of equal opportunity in Victoria.

Not only people on my side of politics hold that view. An article headed "Making equal opportunity a luxury measure" published in the *Age* of 17 November comprises a letter from Mr Alan Goldberg, QC, President of the Victorian Council of Civil Liberties. The letter states - -

Mr Perton - That was written before the amendments!

Mr COLE - It was published yesterday. Alan Goldberg's comments go beyond anything to do with those amendments. It is a statement about the level to which equal opportunity will now be applied. His is an erudite and well-written contribution to the debate and offers much more than the honourable member for Doncaster suggests these paltry amendments offer. The article states:

> The Victorian Equal Opportunity Act (1984) and the Office of the Commissioner for Equal Opportunity have provided an accessible avenue for the reporting and resolution of complaints of discrimination in Victoria. However, under the guise of "efficiency" and "accountability" it is a certainty that the Equal Opportunity (Amendment) Bill will reverse any gains made in Victoria over the past 10 years in the eradication of discrimination and the promotion of equal opportunity and human rights issues.
>
> Among other things, the Bill will undermine access and equity in the resolution of complaints of discrimination. It weighs greatly in favour of the respondent to a complaint because a respondent may make an application to circumvent the conciliation process and have the complaint heard before the Equal Opportunity Board.

This is not altered by the amendments to date. The article continues:

> In addition, the Bill seeks to discourage people from making complaints through its unprecedented punitive cost measures. This will be of particular advantage to the government, which may avoid scrutiny of its own policies alleged to be discriminatory because complainants without substantial financial resources will not be in a position to challenge such policies.
>
> The imposition of costs in favour of the successful party in a matter heard before the board is far more punitive than the ordinary "party-party" costs incurred in other legal jurisdictions. Among other costs, a sum will be fixed by the board that "reflects the costs expended by the person in favour of whom the order is made and any other pecuniary loss incurred by that person

> because of the proceedings". That other undefined costs will be incurred sends a clear message to the public that complaints of discrimination are a luxury that only the rich can afford.
>
> People who are discriminated against on the basis of sex, age, race or physical or mental disabilities are often the most economically and/or socially disadvantaged members of our community.
>
> To suggest that they be required to challenge the government, an employer or provider of goods and services, with the unprecedented number of financial risks involved, makes a mockery of a system that was designed specifically to provide the least privileged members of the community equality of opportunity for the just resolution and elimination of discrimination in this State.

That letter was written by one of Victoria's most eminent lawyers and citizens. The issue will not be resolved by the amendments I have seen to date, but perhaps other amendments to restructure the whole system will resolve it.

When the Attorney-General was removed from her position as Commissioner for Corporate Affairs she was employed at the Equal Opportunity Board.

Mrs Wade interjected.

Mr COLE - You took it! You could have said no! Rightly or wrongly, the Attorney-General was to an extent protected during her time in the Public Service. She was not treated as Moira Rayner has been treated by the government. Many people have had their employment terminated on political and other grounds with no consideration of their past work. The Attorney-General, who has engaged in the politicisation of the Public Service, is not prepared to do what was done for her - namely, find Moira Rayner an equivalent position.

Mr Perton interjected.

Mr COLE - It has not been offered. Had the judges of the Accident Compensation Tribunal been treated as the Attorney-General was treated during her time at Corporate Affairs Victoria, justice would have been done. Moira Rayner has been dumped for political reasons.

Mr Perton interjected.

Mr COLE - If the honourable member for Doncaster had bothered to come into the Chamber when we were talking about the concept of restructuring and independence he would know that if you disposed of the Supreme Court judges and appointed other ones something would be wrong, but he would not know about that.

Mr Perton interjected.

Mr COLE - A position was not offered. Ms Rayner was simply told that she could apply. It was a case of: don't contact us, we will contact you. I suppose some people just do not sell their souls. Moira Rayner has been dumped for political reasons. As was confirmed during question time, the Minister for Industry and Employment requested a list of confidential complaints made to the Equal Opportunity Board.

Mrs Wade interjected.

Mr COLE - You confirmed that at question time. The Minister requested a list of confidential complaints about the new employment contracts. The Attorney-General said the letter was delivered to the Commissioner for Equal Opportunity and that what she did after that was her business. No doubt there was contact between the Minister - -

Mrs Wade interjected.

Mr COLE - You still delivered the letter. The Minister for Industry and Employment requested that list, did he not?

Mrs Wade - No.

Mr COLE - Why did you not say that when it was raised earlier?

Mrs Wade - Read the *Hansard* report!

Mr COLE - This happened around the time Moira Rayner made certain public comments. She had the audacity to say the number of complaints had increased since employment contracts had come into being. Because the contracts opened up the system and eliminated award protection, there was the possibility that the number of complaints to the commissioner about unfair dismissal or discrimination would increase.

The Attorney-General asked the Scrutiny of Acts and Regulations Committee for an interim report because the full report was taking too long. The interim report, which is not bad, was provided as requested, but I understand that it did not address

the fundamental questions behind the original inquiry which concerned discrimination on the ground of sexual preference. Then we discovered a report in the newspaper about changes being made.

Before that report, there were many instances of Moira Rayner upsetting the government in the process of doing her job. I will not go into that because others will do so, but her decision on Northland Secondary College concerning the rights of Koori children to have separate education, her statement in relation to Fairlea Prison - -

Mrs Wade interjected.

Mr COLE - We did not sack her like you lot did! We did not put on the jackboots and say, "We don't want you!"

Mr Perton interjected.

Mr COLE - If you are going to sit there and interject, you will have to cop it! Sit over this side. You have more friends over here than you have on your own side! Everybody knows that!

The ACTING SPEAKER (Mr Richardson) - Order! The honourable member for Melbourne will address the Chair. The honourable member for Doncaster has had a fair go.

Mr COLE - Thank you for your help, Mr Acting Speaker.

The opposition and the community - in fact, anyone involved in equal opportunity issues, including eminent persons like Alan Goldberg - believe the major aim of the Bill is to quell if not eliminate criticism. The opposition objects strenuously to the departure of Moira Rayner and the elimination of the commissioner's role. No greater damage can be done to both the cause of equal opportunity and the rights of those with disabilities and others who are discriminated against than to get rid of a voice that speaks publicly on their behalf.

To ensure everything is properly stitched up transitional provisions are included in clause 29. Clause 29(1) states:

> On and from the commencement of this section, the office of Commissioner for Equal Opportunity is abolished and the holder of the office goes out of office.

The legislation is being used to dismiss the incumbent commissioner. Many of the provisions have been introduced because the Minister for Industry and Employment no longer wants a critic there. The criticism of the Minister was the straw that broke the camel's back. The opposition will never stop talking about the way the government goes about eliminating its critics.

The Labor government established a new equal opportunity system by extending the system introduced by the former Liberal government. The Commissioner for Equal Opportunity, Moira Rayner, was critical of the Labor government, especially in making recommendations on matters such as the infamous scratch tickets. Many of the commissioner's criticisms were made to our chagrin, but the Labor government did not try to sack her. In many ways we encouraged that sort of dialogue among government departments, the community and other specific interest groups to ensure that issues relevant to equal opportunity were thought about and debated.

The government has taken the opposite view. It wants to truncate any debate that smacks of criticism. As if getting rid of the commissioner who spoke out against it were not bad enough, through the Bill the government is creating new positions to ensure not only that the commissioner or commissioners do not speak against it but that it is forewarned of any decision the commission may make.

The Bill creates the office of chief conciliator; the commission will comprise a chief conciliator and four appointed members. Although the chief conciliator will be appointed by the Governor in Council for up to five years, the appointment can be revoked at any time, again by the Governor in Council. Given the government's predisposition for getting rid of its critics, a contract that does not include a minimum five-year term means that an appointee can be scrubbed willy-nilly. You can bet your money that if the government is prepared to go to the extent of restructuring the Equal Opportunity Board to get rid of a critic, it will have no difficulty in using the swift stroke of a pen to get rid of any other critics.

Although the chief conciliator will be given many important functions, the principal function will be to administer the affairs of the commission in accordance with its policies and directions. There is no hope of the chief conciliator being able to operate at large or publicly address issues of discrimination.

One doubts that he or she will be allowed to go to the local branch of the Liberal Party and talk about the meaning of equal opportunity - not that too many members would listen! Therefore, the chief conciliator will be little more than a functionary of the commission. He or she will not enjoy the independence enjoyed by the Commissioner for Equal Opportunity.

The new commission will have four appointed members - not unlike the four administrators appointed to the City of Melbourne, another mob that was thrown out because it disagreed with the government's wanting a gerrymander! The Governor in Council will make appointments for up to five years - but there is no guarantee that an appointee will not be sacked before then.

Mrs Wade interjected.

Mr COLE - It is much worse. You have forgotten one of your own Acts, because under your public sector Act people can be removed. You must remember when the then Attorney-General, Jim Kennan, moved you down to the Equal Opportunity Board. Under your legislation he would have said goodbye to the incumbent. You accepted it, but the protection you were given and the way you were looked after do not apply here!

Mrs Wade interjected.

Mr COLE - You still took the job!

At any meeting of the commission the chairperson of the board will have two votes - a deliberative vote and a casting vote. The chairperson will be the crucial person in this ball game. Although that person may not speak he or she will have the power to cast a deliberative vote.

I turn now to the most important issue involving the powers of the commission. Section 16 of the principal Act says the commissioner has a duty to review legislation to identify discriminatory provisions. The Bill contains no such provision. The discriminatory effects of State legislation will go unscrutinised. All that remains is a duty to notify the Minister of any discriminatory provisions that the commission discovers during the performance of its functions. In other words, if the commission discovers something bad - or even something really bad - it must tell the government privately. The government is saying, 'We want no statements made to the public or any analyses made. You tell us first so we can quell any criticism".

Mr Perton interjected.

Mr COLE - I will go through it again for the benefit of the honourable member for Doncaster because it is important that he understand - although I thought he was involved in a review of the Bill!

Section 16 of the principal Act provides that the Commissioner for Equal Opportunity has a duty to review legislation to identify discriminatory provisions, after which the commissioner can tell the world about it. However, according to the Bill a commissioner can review legislation; but he or she has a duty to tell the Minister, not make a statement at large.

Mr Perton interjected.

Mr COLE - Yes, there is an example - the MetTicket case.

The provision will have two effects that the honourable member for Doncaster must understand - firstly, it will remove the ability of a commissioner to act at large; and secondly, although a commissioner may notify the Minister, there is no guarantee that the public will know what is happening with a discriminatory piece of legislation - which, in turn will mean that no public pressure will be placed on the government to amend discriminatory legislation.

The Bill provides that when, in the Minister's opinion, a complaint concerns an issue of important public policy, he or she may bypass the commission. That means the Minister may bypass the conciliation process and refer the matter directly to the board. Because the Bill contains no definition of "important public policy", a Minister's opinion can arbitrarily deprive a complainant of access to the conciliation process.

Where the Minister uses the power to refer, it activates an accelerated timetable for hearing before the board. That means that a complainant whose complaint concerns government policy will therefore be put under automatic pressure to decide whether to proceed to a full hearing. That will be difficult, especially if the complainant fears an award of costs against him or her.

I recognise that the Attorney-General has attempted to address the issue of costs through the Scrutiny of Acts and Regulations Committee and by amendment to the Bill, although I have not had the

opportunity of reading the amendments. That is to be applauded, and I hope it is successful.

There is also the matter of expedited cases. It is true that there is a need to hear matters more quickly, and some of the problems relate to the lack of resources of the commission, which was matters referred to by the honourable member for Doncaster and which is mentioned in numerous reports

One of the problems with the lack of resources is that it is difficult to keep pace with the rate of growth of applications. That is a separate issue from unwinding the whole thing and turning it into some innocuous complaints service that has limited capacity within it. The second-reading speech states that a specific class of cases warrants a fast-track procedure because certain cases involve more than mere monetary compensation - in other words, they have some policy implication. If there is too much of a policy implication a case can be pulled out, as it were, by the Attorney-General. There is a need to address delays in hearing cases.

There is a class of cases where the complainant refers to a policy decision of the respondent, the implementation of which is alleged to be discriminatory. The second-reading speech says that that is only a small number of cases as most cases are lodged after the event. That narrow class of cases involves the implementation of policy or program. The legislation states that any respondent can apply to the commission for a complaint to be an expedited claim. The commission may then decide to make it an expedited claim. I am concerned about that. It was one of the issues that Alan Goldberg was addressing when he said specifically that the move is towards assisting respondents.

I do not want to speak at length on the expedition of hearings except to say that expediting hearings will be so much in favour of the respondent to apply, achieve and force a hearing that it will go against those people who are most discriminated against.

The Scrutiny of Acts and Regulations Committee appropriately recommended that time limits should be set in place and that they must be achieved. In fairness to the government, that has been included in the Bill. A Chief Conciliator must resolve the matter within 30 days or it will be sent to the commission for resolution. The board must then hear it within 30 days. Time limits on such matters are the only method, although they are only as good as one's capacity to achieve them.

I turn now to costs and do so with some trepidation because I am not sure what the amendment to the Bill does. My understanding is that it alters the requirement that awarding costs be made mandatory by the commission against a losing party. The amendment makes it discretionary within the commission to determine whether it will award costs. My difficulty with it is that it still places an onus upon the loser, and there may be cases that are not frivolous.

Mr Perton interjected.

Mr COLE - The amendment will significantly alter the position of the commission in awarding costs to the winning party. That part is crucial because people who are discriminated against are entitled to access to the Equal Opportunity Commission without regard to cost. In the majority of cases the people involved are the ones who cannot afford it.

The Equal Opportunity Board is not a court and it is not meant to be. It evolved that under the present and former Labor government that departments brought along Queen's Counsels and ran up extensive costs that were beyond the capacity of the average person to pay, particularly unemployed people, therefore, they were discouraged from making claims. I am not 100 per cent sure what is intended by the amendment, but I will be happy to discuss it during the Committee stage. Anything would be better than what is currently in the Bill because it is unacceptable. It provides, in effect, that there must be an order of costs given to the losing party.

Mr Perton interjected.

Mr COLE - If discretion is restored, I am happy. My preferred position would be that the awarding of costs would be made only in cases of vexatious, frivolous or unreasonable claims. We must ensure that we are talking only about those types of cases. Costs will not be as big a problem under this Bill because expediting matters will result in a reduction in costs.

I would be tempted to exclude lawyers, but the commission will deal with matters that are not simple and easy; the cases it will hear are not in the same bracket as those heard before the Residential Tenancies Tribunal or the Small Claims Tribunal. If costs do continue to increase, that matter will have to be addressed, especially if it is caused by large government departments turning up with all and

sundry to fight some small person who has brought a complaint.

Mr Perton interjected.

Mr COLE - I agree, all sides did it. The Equal Opportunity Board was not meant to be one-sided; it was for the people. If the government wanted to use Queen's Counsels, it did so because the stakes were high; a lot was involved in many cases. They are not necessarily matters with which I agree or disagree, but people should have a right to bring a case.

Mr Maclellan interjected.

Mr COLE - That is the other alternative, a cap on the costs. In that case, somebody who is unemployed or on a disability pension could be ordered to pay costs with a cap of, for example, $1000, but many could not even afford that. Putting a cap on costs is always a problem and would deter people from making applications. The numbers of complaints from the other side, the people who are doing the work, are equally high, but a better way of approaching it would be to deal with the complaint reasonably quickly, which would reduce the costs and delays in individual cases.

There are two issues to which I also want to refer, and I do so by referring to the interim report of the Scrutiny of Acts and Regulations Committee which was requested by the Attorney-General. I have already related what I know to be the motives behind the Bill after questions were asked in Parliament and letters were passed across the Chamber. But having said that, I acknowledge that the all-powerful Scrutiny of Acts and Regulations Committee has made some excellent recommendations. The recommendations of the committee were well considered and have bipartisan support, and the Parliament should be proud of that outcome, but it is a pity the Attorney-General did not apply the recommendations to the Bill.

Mr Perton - They will be applied.

Mr COLE - They cannot be because the commission has already been neutered. There is no commissioner, only a chief conciliator, and the former approach to equal opportunity no longer exists. The complaints unit will no longer be similar to that which existed in the past and will bear no resemblance to what was recommended in the Scrutiny of Acts and Regulations Committee report, and I say that with all sincerity and concern. It is amazing that a joint Parliamentary committee can be rung up and told to give the government an interim report which is then waved around like a flag so that the government can say, "Look, this is what we have done and this is why we have done it" although it bears no resemblance to reality. In fact, in the second-reading speech the report is used as a justification for the outrageous actions of the government.

I now refer to the courageous decisions of the committee outlined in *Alert Digest* No. 17, which makes recommendations on the Equal Opportunity (Amendment) Bill (No. 2). In a sense the opposition is ad idem with the all-powerful Scrutiny of Acts and Regulations Committee, because it has stated that under the Parliamentary Committees Act the decisions of the government result in an undue trespass upon individual rights. It is vitally important to make clear what is said in the report:

> Clause 5 ... effectively abolishing the position of Commissioner for Equal Opportunity. This is confirmed by clause 29.

There is no doubt that from the moment the Act is proclaimed Moira Rayner will no longer be the Commissioner for Equal Opportunity, and the Parliament will be forever condemned for having carried out that action. The report also states:

> The committee notes, however, that the chairman has received an assurance from the Attorney-General that the commissioner will receive proper compensation.

Of course the opposition is pleased to hear that, because anybody who has a contract for five years ought to be compensated appropriately if the contract is terminated. The opposition believes in the working-class value of doing the right thing. That means one does not just declare oneself bankrupt to avoid paying bills. That belief is a bit hard for this government to understand, but that is another story.

The government has missed the point of the recommendations of the committee that the former commissioner should have been given an alternative appointment. Jus ice Kirby took the international jurist's view when he said that if a person's statutory or judicial position is abolished, that person should be given an equivalent position somewhere else. It would have been easy to have done that in the case of Moira Rayner.

Earlier the honourable member for Doncaster and the Attorney-General said that Moira Rayner did not request any position. That is not the point! At the

time of dissolving her position the Attorney-General should have offered her a position. What happened was that she was given a press release after the event to say that this had happened and was then called by the Attorney-General, who magnanimously told her she could apply for her old job. That begs the question: how should people in statutory positions be treated when they have been doing their jobs, who are trying their best, but who are making statements which are critical of the government? This government says to those people, 'We put you into a position; don't criticise us even if it is under the Act or we will sack you", and that is the way it is interpreted.

Ms Kirner - Even the Director of Public Prosecutions is worried.

Mr COLE - I am sure he would be worried. Some serious and pertinent questions about his independence are being asked. But, worse than that, the Minister for Police and Emergency Services is not even coming out and supporting him and his activities. That is the problem with independence. That is the challenge: to actually think about doing something to preserve that independence. That is indicative of the state of affairs currently facing Victoria.

The other issue that the all-powerful Scrutiny of Acts and Regulations Committee faces - it is the very thing that the opposition has been worried about - is the term of appointment of the commissioner, which again is said to trespass unduly on provisions of the Parliamentary Committees Act 1968.

Mr W. D. McGrath interjected.

Mr COLE - The case of former Governor Murray is a very good example, and I will come to that later. The report also states:

> These provisions deal with the resignation and removal of members of the commission and the chief conciliator respectively.
>
> Both proposed sections empower the Governor in Council to remove the respective office holders 'at any time'. No grounds for removal are specified.
>
> The committee believes that the Governor in Council's power of removal should be confined to circumstances where misconduct or unfitness of the office holder can be shown.

The committee says the reason for doing that is to maintain the independence of the function. If they can be dismissed for any reason - if you do not have to establish that they are enjoying freebie trips with Continental Airlines on the side, or whatever it was that Governor Murray did - their autonomy will be threatened. In their roles as conciliators the commissioners will be performing at least semi-judicial functions. The reasons for dismissal must go beyond how they carry out their jobs to, for example, acts of impropriety. Unless the reasons for dismissal are confined to those circumstances, there will be no such thing as independent appointments because the chief conciliator and the commissioners will be able to be turfed out at a whim.

If they stand up to the Minister for Industry and Employment or the Premier, they run the very serious risk of getting the flick, of being put on the next train out of town - if any trains are running, which is unlikely given the dereliction of duty of the Minister for Public Transport. As I pointed out to him today things are so bad even the railway coffee in the dining room is late arriving!

The case of Governor Murray is a classic example. A governor is dismissed only in exceptional circumstances. In that particular case he was advised not to fly with the airline. He was told, "You do it at your own peril". He compromised his position. At least that was a fairly sound reason, even if some honourable members disagree. That can be contrasted with what happened to Moira Rayner. She did her job and spoke out. She was told, "Stiff, you're out the door. Goodbye. Don't let the door hit you on the way out!"

The Scrutiny of Acts and Regulations Committee rightly says that the reasons for dismissal should be defined. Otherwise equal opportunity in this State will be a complete farce because no-one will be prepared to make a decision. Public servants are no longer able to make the decisions they once made, but none are in worse positions than those who hold statutory appointments, whose jobs entail being critical of government policy and speaking for or against particular positions.

It is important to preserve the independence of people who hold judicial or quasi-judicial positions. It is also important to ensure that they are never put in the position of having to make decisions based on the notion that he who pays the piper calls the tune. They must have something better to judge their jobs by.

Another pertinent issue raised in *Alert Digest* No. 17 is that complainants will not have the capacity to initiate expedited hearings, an issue that will be addressed in detail by other opposition speakers. In its interim report the committee recommended that in special circumstances the complainants should have that power. I realise that many of the recommendations in the report have not been included in the legislation - even though it was a government report. The interim report further states:

> ... the provisions should ensure that a complainant in exceptional circumstances, such as emergency health matters, disability cases generally and sexual harassment cases between employer and employee where the employment is still current, may apply to have his or her case expedited.

That was a specific recommendation, which is not addressed in the amendments.

The question of costs is crucial to the notion of access to the law. Many people forget that often it is not how much you know or who you know but how much you can afford. Although the opposition is happy to accept the proposed amendments, it is concerned to ensure that costs should be applied only in simple cases of vexatious or frivolous actions and not to broader and more general cases.

I hope that the commissioners, if they are game to make decisions, are aware that it should not be the intention of the legislation that the provision apply across the board. The costs provision should apply only to eliminate the vexatious, the frivolous and, dare I say it, the unreasonable - because the unreasonable is often as long as a piece of string.

The costs provision should be limited - not that it makes much difference because the legislation gives the commission strong powers of deferral. In fact, parts of the legislation make it clear that unless the issues are strictly to do with equal opportunity they must be dealt with in other jurisdictions - in the unfair dismissals jurisdiction, for example. That is not appropriate and will lead to many decisions of want of jurisdiction, meaning that people will go off to forums where they have little chance of success when the issues are really ones of discrimination, inequality or sexual harassment in the workplace.

It is beyond dispute that the Bill has eliminated the position of commissioner and created the position of chief conciliator. The opposition believes that has been done for two reasons. Firstly, because the government does not want a commissioner at large saying, when people make applications, "This is wrong, this discriminates. Let's do something about it". We are going to have a chief conciliator who is restrained by the fact that he or she will be accountable to four commissioners. In any event he or she will be a conciliator, not a person who goes around trying to publicise, identify and speak out on issues to do with equal opportunity, which is what Moira Rayner has done so effectively over the past three years.

The worst aspect of the Attorney-General's action is that the position has been abolished because the current commissioner dared to speak out. She got up and said, "This is what I think and this is what I believe," according to the investigation she had carried out. All she was doing, quite frankly, was doing her job!

Maybe the government is on the back foot at the moment because it is under so much pressure. It believes it needs to get rid of its critics more quickly than can be imagined. Perhaps the whole idea is to avoid another two years of criticism. Is that what it is all about? I do not know, but I am pretty sure that whichever way we look at it, it is terribly venal and does an enormous disservice to the people in greatest need of protection, be they Koories or disabled people.

It is a sad day for the people of Victoria. The loss will be felt for a long time, and people know it. In spite of the hyperbole and sophistry of government members and the pathetic news release about Moira Rayner, the former Commissioner for Equal Opportunity, people see through it and disagree with it.

The Office of the Commissioner for Equal Opportunity provided an opportunity for people to be heard who traditionally did not have that opportunity and who even today are discriminated against: the disabled, the mentally ill, women and Kooris. The government says that does not matter: 'We don't care about equal opportunity; we don't care about those people. The office will be kept in name only, but we don't want the critic because we are desperate to keep power". The government does not want some woman telling it that the women prisoners at Fairlea Female Prison should not be moved to Pentridge Prison. Everyone knows how bad it is at Fairlea: 10 out of the 40 prisoners are on drugs! The government wants to move those people to Pentridge where 250 out of 800 prisoners are on drugs. That supposedly will solve the problem!

Perhaps the women will be put in B Division or in Jika Jika to resolve the financial problems.

Moira Rayner did not agree with that policy and said so. How many women would like being sent to Pentridge with all the blokes? Not too many, because they would not want to be there with all the men and, more importantly, because it is a godforsaken hole.

Mr W. D. McGrath - You didn't do anything about it.

Ms Kirner - What rubbish!

Mr COLE - Irrespective of whether it is right to transfer the women prisoners at Fairlea to Pentridge Prison, what is worse is that the government is silencing a critic who says it is wrong. If the decision is taken to transfer the women to Pentridge the government may do the same with the mentally ill. It will be a society where the disabled cannot be heard. Decisions will be made without regard to criticism, and that is what is so wrong.

The government is silencing Moira Rayner because it does not want a critic. It may no longer have an equal opportunity commissioner who is critical of the government, but a range of people and groups will become critical of the government.

Mr Leigh - Some left-wing groups.

Mr COLE - One supposed left-wing group is the Victorian Council for Civil Liberties led by Mr Alan Goldberg, QC.

Mr Leigh - Only a lawyer.

Mr COLE - No, he is not; he is known as a learned man. I put forward his ideas because he is an eminent person whom one could not put on the left of politics. He is not a left-wing reactionary. It is a real issue, and it should not be denigrated in the stupid, puerile way of the honourable member for Mordialloc. Alan Goldberg lends support to the arguments put by the opposition, as does the honourable member for Mordialloc. If ever someone does not want criticism it is he. He likes to criticise others.

The opposition asserts that Moira Rayner's position should be retained and that she should be retained. The government has made a political decision to rescind her appointment, but more will come of it because community groups will realise they have lost a strong advocate, and the opposition will support them.

Ms GARBUTI (Bundoora) - It is with dismay that I oppose the Bill. The Equal Opportunity (Amendment) Bill (No. 2) is not an ordinary Bill dealing with taxation or the administration of the State. Equal opportunity is a statement of principle; it is about people saying what type of community they want to live in and what principles and standards are paramount in that community.

The government has failed by any benchmark because the Bill does not advance equal opportunity. Equal opportunity is about the human dignity of individuals, but that is being removed by the amendments.

The community is saying through the Equal Opportunity Act that it supports the dignity and self-worth of others with the force of law. It is willing to provide access and remedies for people who believe their rights have been infringed. Many people who are discriminated against are from disadvantaged groups, so it is an important principle. Equal opportunity is a statement of principle and is a benchmark by which to judge the government.

The amendments reveal much about what the government stands for and against. The government is about restricting equal opportunity and the access to redress if people feel they have been discriminated against.

The Bill's main aim appears to be to frighten people from complaining - to scare them off. It winds back provisions relating to quality of opportunity. It does not support the right of ordinary people who may not have resources to seek redress from discrimination. The government will attack and silence its critics whenever it can.

This government is vindictive. It attacks the messenger rather than addressing the issues of substance that the messenger carries. The government can also be measured by its treatment of the judiciary. My colleague has outlined how the government gets rid of judges, pushing them out by abolishing tribunals or courts.

Mr Perton interjected.

The ACTING SPEAKER (Mr Cunningham) - Order! The honourable member for Doncaster will have his opportunity.

Ms GARBUTI - The government pushes judges out of jobs, abolishing or reforming tribunals and commissions and saying, "Goodbye!" Its attitude to the judiciary is revealed in the legislation. Further, there is a pattern emerging of the government's preferring to take control rather than setting up independent bodies. It is not interested in independent bodies; it does not support them. The government prefers Ministerial control - and there is a pattern to its attacks on its critics.

The Attorney-General recently attacked Justice Fogarty when he spoke out against the government in a report that is a damning indictment of the government's handling of child protection services. The Attorney-General still has not responded to the issues he raised, despite the report being released many weeks ago. Instead, she attacked Justice Fogarty. Government critics are either attacked or sacked - or both, in the case of Moira Rayner.

The Attorney-General gained some attention when she attacked and sacked the Law Reform Commission. That was one of her earliest efforts and is consistent with the way the government deals with its critics. People do not dare speak out against the government for fear of being attacked. If it is within the power of the government, a critic's position will be suddenly reformed - and that person will be gone! The government also attacked Justice Nicholson when he spoke out against government cuts to schools and preschools. He said the cuts might have detrimental effects on children, and many of us had been thinking the same thing. The government's response was to attack.

Mr Perton interjected.

Ms GARBUTI - So you did not think that was his role - a Family Court judge who deals with children all the time!

Honourable members interjecting.

The ACTING SPEAKER - Order! There are too many interjections.

Ms GARBUTT - People in positions of authority cannot speak out without being attacked.

Dr VAUGHAN (Clayton) - On a point of order, Mr Acting Speaker, I direct to your attention the honourable member for Doncaster, who is sitting out of his place and directing a constant barrage of interjections in the direction of the honourable member for Bundoora in a gross and flagrant breach of the Standing Orders. I ask you to call him to order.

The ACTING SPEAKER - Order! I uphold the point of order.

Ms GARBUTI (Bundoora) - Do you want me to wait while you go back to your seat?

Mr Perton - I am taking notes.

The ACTING SPEAKER - Order! The honourable member for Doncaster!

Ms GARBUTI - If the government cannot sack or attack its critics, it puts bans on them. The Premier has banned his Ministers from appearing on the *7.30 Report* and speaking to the *Sunday Age*.

Mr Cole - It has improved the *7.30 Report* and the *Sunday Age*, though.

Ms GARBUTI - It is pleasant not to have to watch them on television. There are bans on school councils taking appeals against government decisions to the courts. They are next on the hit list. Another matter I would like the Attorney-General to clarify is the role of community visitors. In the past three weeks there have been two reports from community visitors. They are independent people who visit our institutions and often make reports critical of what they have seen.

Mr PERTON (Doncaster) - On a point of order, Mr Acting Speaker, although during the second-reading debate members are given some latitude in addressing the general principles of legislation, the Bill deals only with the restructuring of the commission and the processes relating to expedited hearings and costs. I understand that the honourable member is the shadow Minister for Community Services. She seems to be straying into areas of community services policy rather than speaking on the Bill. I ask you to bring her back to order.

The ACTING SPEAKER - Order! At this stage I do not believe the point of order can be upheld.

Ms GARBUTT (Bundoora) - I was referring to the repeated pattern of government sackings, a pattern that has become well established during the past 12 months. The government attacks its critics; it is extremely sensitive to criticism. Perhaps that is what motivates the honourable member for Doncaster. Anyone criticising the government must

be immediately silenced - which may have been the purpose of his point of order.

I am seeking an assurance from the Minister that community visitors will not be the next ones to be sent away and told to be quiet. The government does not want to know about anyone who is slightly critical of it. The Bill shows that the government has no regard for the public's right to know and to have access to information. That right has been taken away.

Mr Perton - What about Fol?

Ms GARBUTT - I could have added freedom of information provisions to the list of government attacks on the public's right to know. The government does not believe in the public's right to question or criticise, which the public has not failed to notice. When the sacking of Moira Rayner was announced, Access Age was filled with comments about the right to criticise and to know. The government is not fooling the public. It should listen to what Claire Harris of Vermont South had to say. Vermont South is not a Labor area; you cannot tell me that she is a red-ragger.

The SPEAKER - Order! The honourable member will assist the Chair if she addresses the Chair rather than speaking directly to government members opposite.

Ms GARBUTT - I am sure you, Mr Speaker, would not tell me that Vermont South was a hot bed of radicalism.

The SPEAKER - Order! Hypothetical questions directed to the Speaker are disorderly.

Ms GARBUTT - In the Access Age column of the *Age* of 28 October Claire Harris is recorded as stating:

> First the abolition of the Law Reform Commission, now the Kennett government legislates to abolish the office of equal opportunity commissioner. What next - legislation to abolish the right to criticise?

She was spot-on; she did not miss the point at all. Let us consider the comments of Bill White from Rosebud. The Labor Party does not have enormous branches down there. The heading of his comment is "Government observed". He states:

> Political cleansing this week; book burning next?

The government has not fooled the public. It knows that the legislation is about taking away the 1ight to know, the right to information and the right to criticise, thereby silencing the critics. It is a matter of attack or sack.

Mr W. D. McGrath interjected.

The SPEAKER - Order! The Minister will assist the Chair if he remains silent.

Ms GARBUTI - Moira Rayner has been attacked and sacked by the government. She has been a fearless critic of all governments and their policies. The previous government was embarrassed by reports and press releases she issued and comments she made; but the difference is that it did not tum around and sack her. Equal opportunity needs a strong voice. People who are disadvantaged and vuJnerable need someone to speak up for them and defend their rights. That is proper and to be expected - but when the government is criticised it strikes back.

Let us consider what Moira Rayner might have said that caused the government to attack and sack her. Under the previous government Moira Rayner began an investigation of women prisoners, particularly the women in Barwon Prison, a predominantly male prison. Ms Rayner said a case of discrimination existed, and that became an issue. In July or August of this year Ms Rayner referred the matter of women prisoners in Barwon Prison to the Equal Opportunity Board. She also criticised the government in the process, saying that attempts to resolve the matter through conciliation had failed. The government saw that as a criticism. She warned the government not to close Fairlea Prison in the meantime. Both the Minister for Police and Emergency Services and the Premier attacked her severely. A spokesman for the Minister for Corrections said:

> The Office of Corrections is seeking legal opinion on whether Ms Rayner has exceeded her authority and whether she has the right to determine government policy, or should pre-empt the Minister's decision.

In a veiled attack the Premier said:

> I think there are a number who have statutory responsibility at the moment who are encouraged by what's happening around them to become spokesmen and women in their own right.

They offered that criticism of her rather than addressing the main issue. Of course some savage actions followed comments by Moira Rayner at a conference in Tasmania when she said the number of complaints had increased following the government's Employee Relations Act. She was not inventing something or relating anecdotal evidence; she was commenting on statistics and figures that came to her office and she provided figures to back up her comments.

For her pains she found that the Minister for Industry and Employment, Mr Gude, wrote to the Attorney-General demanding full and complete details of the complaints, which of course broke the confidentiality provisions of the Act. The Minister said he wanted advance copies of speeches Ms Rayner wished to make so that he could vet them and check up on what she was going to say. She had to seek government approval before she spoke out. That is absolutely inappropriate for a person who was an independent officer of government. A government Minister was demanding prior knowledge of what she was going to say so that he could go through it and give it a tick or a cross, or even shred it. It is another example of Moira Rayner in the course of her duty speaking up for the people who had believed they had been discriminated against, and that raised the ire of the government.

The annual report of the Office of the Commissioner for Equal Opportunity contains comments about the number of complaints against the State government in one area of discrimination - that is, the goods and services area. In the recent 1992-93 report - the last report she will ever table - she comments that a careful analysis of the complaints of discrimination in goods and services made during 1992-93 indicates that the largest proportion of complaints were made against the State government. That number was 34 per cent. The report states:

> Many of these flowed from the effects of restructuring of the public sector and cuts in the delivery of public goods and services following upon the change of government in October 1992.

I do not imagine that that comment pleased the government either. However, rather than address that particular issue of the impact of government changes and cuts to services, the government has shot the messenger.

The commissioner's comments about the impact of the Employee Relations Act are well backed up by other government agencies. If the Minister had, in fact, talked to Wageline he may have been told that there were 300 000 inquiries last year, mainly about employment, mainly from women and particularly from small business. Jobwatch would also have confirmed the figures that the commissioner was telling him. It is not a matter of the commissioner's message being incorrect; it is simply that the government did not want to listen.

The government is continuing that pattern. It has taken other steps to ensure that information regarding how legislation can be discriminatory does not get out. It has abolished the women's employment unit, one of the roles of which was to monitor legislation impacting on women with regard to employment, sexual harassment and equal opportunity legislation. That was another avenue where women, in particular, might have been able to get complaints through, where discriminatory measures may have been picked up, but that has been abolished too.

In addition, section 16 of the Equal Opportunity Act also requires the commissioner to review legislation to identify discriminatory provisions, and the Bill removes that provision. No matter which way people turn in an attempt to present information to the government, all avenues have been closed off; the government does not want to know.

Under the new Bill the chief conciliator simply has to notify the Attorney-General if the commission comes across something by accident, and what the Minister does then is anyone's guess. One would expect that the matter would be aired publicly, but I doubt that we would read of it in the *Age*, and I certainly wouldn't expect to see it on the *7:30 Report*. There is no way that that information would get out.

The Attorney-General is also the Minister responsible for Women's Affairs, and in many of these matters the issues cross over both portfolios. The Equal Opportunity Bill dramatically amends equal opportunities, and the Attorney-General is further failing women. She already has a pattern of failing women in this State. The Employee Relations Act is one of those Bills rushed through at an ungodly hour last November and it has had a dramatic impact on women. It is really about bargaining power under that Act, and women in employment are generally not in the strongest bargaining position. They are generally the lowest paid, lowest skilled and least experienced workers, and all those factors mean that they do not bring a lot of winning cards to the table when they sit down

to bargain. The Minister responsible for Women's Affairs has not spoken up on behalf of the women affected badly by that Act.

As Attorney-General this Minister abolished the Law Reform Commission, and one of the most important reports that commission presented concerned the horrendous crime of rape. Subsequent to its report the former government was able to implement many of its recommendations; but the commission has now gone, too. A whole range of services for women are gone, including maternal and child health, preschools, child care, family planning clinics, and the Grey Sisters. All of those organisations have been attacked, changed, cut, or whatever without a comment from this Minister, and now she is reducing equal opportunities for women.

Discrimination affects the everyday lives of many women. They can be harassed at work, refused accommodation because they have small children, put out of work because they are pregnant and affected in a whole range of everyday situations. In addition, it can be doubly difficult for a woman from a different racial or ethnic background or a woman with a disability. Those women need the protection of the Equal Opportunity Act. Women as a group are not in the rich and powerful league, and very often they are the people who need the protection of this legislation.

Women are the major users of the Commissioner for Equal Opportunity. Her last report included a very interesting table showing the percentage of women complaining to the commissioner. In fact, 69 per cent of all complaints last year were made by women. They were the majority of complainants in several categories on the ground of their sex. Of course with pregnancy, women win hands down. In the area of sexual harassment, 91 per cent of all complainants were women, and sex and sexual harassment are the two biggest areas of complaint. In the case of discrimination on the ground of marital status, women made up 78 per cent of the complainants, and on the ground of parenthood - my example is of women with children finding it difficult to gain accommodation - 91 per cent of all complainants were women. Interestingly, 91 per cent of all people who complained of victimisation were also women, and that was the category where the commissioner expressed particular concern because it was a rapidly growing category which had shown the greatest increase over the year.

Those complaints usually involve double discrimination, firstly, on one of the grounds already mentioned and, secondly, because the complainants were victimised after they made the initial complaint. This Bill will have a major effect on women, and it is a shame that the Minister introducing the Bill is the Minister responsible for Women's Affairs - an area in which she is failing dismally.

I shall now deal with some of the major changes contained in the Bill. Concern has been expressed about the costs. I understand that the Minister has modified the previous outrageous position contained in the Bill where costs would have been awarded against those parties who lost their cases. As I said earlier, the rich and powerful are usually not the people who are discriminated against. If one is rich one can afford to mount a case, but vulnerable people in the disadvantaged groups find legal costs an enormous barrier.

One effect of awarding costs against parties or having a threat or risk of that occurring may cause a person not to make a complaint. It appears that one obvious intention of the Bill is to frighten off people and to ensure they do not make complaints in the first place. If people are to exercise their rights, they will either have to gamble and hope costs will not be awarded against them, or decide not to complain.

Vexatious, frivolous, misconceived cases and those lacking in substance can be ruled out. We do not say that people will have costs awarded against them only if they bring cases such as that. People could make complaints in good faith believing they had been discriminated against in an endeavour to seek remedies, but may be put off by the enormous costs that could be awarded against them.

Some well-known cases have been brought against the government. Honourable members will recall the two cases brought by the various disabled groups who were fighting changes to public transport. One was brought against the former government and one against this government. In those cases it had already cost the groups a substantial amount for their legal costs, but this government ranged against them a full legal team consisting of a Queen's Counsel, junior counsel, two solicitors and government officers, where appropriate. To bring a case like that under this Bill would mean the risk of having costs of approximately $SO 000 or $60 000 awarded against those groups. Just after she was sacked, the

Commissioner for Equal Opportunity, Moira Rayner - -

Mr Perton - She is still in office.

Ms GARBUIT - She has got her ticket; the writing is on the wall. She wrote an article in which she commented about one brave woman who tried, and failed, to prove that shutting down a school was indirectly discriminating against the boys. She did that alone and opposite her was a Queen's Counsel, junior barrister, solicitors and a representative of the Victorian Government Solicitor as well as several officers employed by the department. If she had failed and had costs been awarded against her, it would have been crippling. Obviously the woman must have taken that into consideration when she started down that track.

The government is putting up hurdles to stop people taking their cases to the commissioner and it is also deterring people if they wish to use the confidential conciliation process to obtain resolution of their complaints. The Bill mitigates against a confidential conciliation because it provides a fast track straight to a public hearing. For those who have complaints, it changes the prospect of confidential resolutions at low cost into the prospect of a costly public hearing which has no relationship to the outcome they desire.

I also refer to the lack of independence of the commission. All appointments will be made by the Governor in Council. The Minister through the Governor in Council has the power to remove these officers, and there is no appeal process. That contrasts markedly with the recommendations of the interim report of the Scrutiny of Acts and Regulations Committee, which advocated a freestanding administrative unit. The commissioner will be responsible to the government and not to Parliament. The Bill reveals a rather terrifying look at the principles the government is applying to the community.

The government is terrified of criticism and it is prepared to take strong action against any person who criticises it. It terminates with extreme prejudice. It is a government that does not provide information nor does it respect the rights of people to information to redress wrongs. The government is closing down the avenues that people have to information, advocacy and redress. I shall conclude with a quote from the *Age* editorial of 28 October, which I doubt the government reads:

> Victoria needs a committed advocate of equal opportunity. It needs an independent scrutineer of government policy, as well as industry practice, for discriminatory breaches. It needs someone willing to speak out for what is right, even if that is at some cost to themselves. The Equal Opportunity Commission had this in Moira Rayner.

It no longer has it; and it is a sad day.

Mrs PEULICH (Bentleigh) - I join the debate on this important Equal Opportunity (Amendment) Bill. The Equal Opportunity Board, I am proud to say, was set up by a Liberal government in 1977 under Premier Hamer. Its role was to settle complaints under State and Federal law and sex discrimination.

I was interested to hear the shadow Attorney-General, the honourable member for Melbourne, inform the House that the Attorney-General is a former President of the Equal Opportunity Board. I did not know that. It highlights and reaffirms the sense of confidence with which the Attorney-General has dealt with a whole host of reforms in her portfolio in the interest of better administration of justice and law and order. She has done that on her Bills committee with a sense of fairness, conciliation and a preparedness to consult. She has focused on achieving reform to make the system work. That has been of paramount importance and will result in the best law and order system that we have seen in this State and certainly in this country for many years.

The concerns we have heard from the opposition today have been prophecies of doom and gloom, as was the case with the government's education reforms, industrial relations reforms and every reform it has embarked upon. It is disappointing and disillusioning that the focus of the opposition's concern has been merely on one individual, Moira Rayner. I know individuals are important, but to suggest that one person's position - the equal opportunity commissioner and that person has been promised compensation - is more important and above all other considerations is a shame.

I commend the Attorney-General on the restructure of the commission, and I hope it will work far more effectively. The Equal Opportunity Act is founded on the belief that within society power is not always equally distributed. However, the legislation is intended to remedy the dispersal of power in a balanced way to improve its working. As a Bosnian-born woman, I recognise the crucial

importance of the Act in a democratic system in which individuals exercise their rights and who also have responsibilities as a consequence of living in a community.

The Bill amends the Equal Opportunity Act 1984 to improve its efficiency, to introduce accountability which hitherto has not been strong by providing for quick and efficient hearings of urgent cases, especially relating to the implementation of policies or programs, be they government or non-government cases.

It establishes an Equal Opportunity Commission made up of five members appointed by the Governor in Council. It replaces the position of the equal opportunity commissioner with a chief conciliator, who is also a member of the commission.

Members have referred to other matters such as the need to restructure. This has been documented from a number of sources, the most recent of which is an article written by Lyn Dunlevy in the *Age* of 20 October 1993 under the headline 'Wade aims to revamp equal opportunity". The third paragraph of the article states:

> An interim review of the commissioner's office tabled in Parliament yesterday revealed that in many cases complaints lodged with the office took more than 12 months from the date of lodgment to be dealt with completely.

Having been horrified by the implications and consequences of protracted action, often over 12 months, I was inspired to look at the report of the Commissioner for Equal Opportunity for the year ended 1993. Having flicked through that I was astounded to find, for example, in table 8 on page 21, under the heading "Time taken to close complaints" that 14.8 per cent of cases were closed in less than 3 months; 18.4 per cent in less than six months; 15.4 per cent in less than nine months; 17.8 per cent in less than 12 months, and that 33.6 per cent took over 12 months. It means that 85 per cent of cases took more than three months to have the complaints closed. That is an undeniable indictment of the inefficiency of the workings of the equal opportunity commissioner.

In table 9 headed "Outcome of closed complaints" it is stated that 34.3 per cent of cases were resolved - we do not really find out how that is broken down, whether it was resolved in favour of the complainant or the respondent - 34.7 per cent were not resolved; 3.5 per cent were withdrawn; 10 per cent declined; and 17.5 per cent lost contact. If a person must wait for up to two years it is no wonder contact is lost. That is undeniable proof of the need to revamp the Act and the machinery that implements it.

The most important need, obviously, given the testament to inefficiency, is to expedite hearings. The Bill contains provisions to give power to the chief conciliator to determine if a complaint is to be expedited on the ground that it is a policy decision of the respondent. That is important, given the enormous consequences of the actions initiated by the commissioner that we have seen of late. It will have power to investigate a complaint, record the conciliation process and issue a direction as to how the conciliation process is to proceed.

The commission will also be empowered to decline to entertain a complaint which may more appropriately be dealt with in another tribunal or court. To expedite hearings a respondent can apply to the board for a complaint to be struck out on the grounds that it is frivolous, vexatious, misconceived or lacking in substance. Most importantly, a 30-day time limit for conciliation, even before a matter must be referred to the Equal Opportunity Board for hearing, will ensure that those affected by proceedings will not be kept waiting unduly.

The opposition has alleged that the termination of a position is somehow a violation of the rights of the current office-holder. The Attorney-General has given assurances that the commissioner will receive proper compensation and is free to apply for a position on the commission, just as everybody else is. As I said before: with all rights there are responsibilities. That is why cost provisions are being strengthened; to ensure that costs will be awarded in favour of the successful party where appropriate. Costs may be awarded against an unsuccessful applicant to the Equal Opportunity Commission.

The opposition argues that the imposition of costs will somehow make it less likely for the complainant to proceed and will therefore reduce the accessibility of the Act in providing redress of victims. However, in ensuring that the business will be expedited, and perhaps in making people think twice, there will definitely not only be a reduction in costs but also an enhancement of the workings of the commission.

Not having a legal background, I was flipping through a file because I wanted to find out what the controversy was and I came across an article from a

1990 copy of the *Age* from just before Moira Rayner was appointed to the commission, and the headline read "Champion of the unequal". It was an article written by Duncan Graham following an interview in Perth. Even in 1990 the article stated:

> A Public Service Board report on the commission's operations claimed that it was "isolationist", there was little cooperation with the Attorney-General's Deparbnent and the office was not serving the interests of Aborigines and ethnic communities.
>
> The office has a staff of 20 and an annual budget of about $1 million, equal to the comparable WA budget and widely considered inadequate.

There have been problems for some time. In the same file there was an article headed 'Why Commissioner Wertheim resigned" from the *Age* of 25 July 1990. The article stated:

> '1'm delighted to no longer be commissioner," said Barbara Wertheim, the former Commissioner for Equal Opportunity in Victoria from her Sydney home last week, breaking her silence about her "resignation".
>
> Almost seven months have passed since Ms Wertheim's resignation was accepted "without regret" by the then Attorney-General, Andrew McCutcheon. She now works as a consultant for the World Wide Fund for Nature.

You cannot tell me that that "resignation" was given purely of her own volition and from her dissatisfaction with the commission at the time. The same article continues:

> Shortly afterwards, she said, the government commissioned a Public Service Board management report on her office. This claimed that the commission was poorly managed.

For many years nothing has been done to address the workings of the commission. Further on in the same article it states:

> Instead the law stood, leaving the office as little more than a complaint service - which is where it stands, in her view, despite a review by an advisory committee in 1988 and a review by the Victorian Law Reform Commission late last year.

Clearly, there is a litany of evidence of the ineffectiveness of that system and the need for reform and for an improvement in the efficiency.

I come to the article quoted by the shadow Minister for Community Services, the honourable member for Bundoora, headed "Why the government has got it wrong"; it is an interview with Moira Rayner and yes, we do read the *Age*. The article appeared on 28 October 1993 and was reminiscent of the earlier article based on the interview with the previous commissioner. The article states, in part:

> I accepted a five-year appoinbnent as Victoria's equal opportunity commissioner in 1990, knowing that it would be difficult. There were known difficulties with the legislative and administrative structure of the Equal Opportunity Act, and dissatisfaction with its performance over several years.

I have many more quotes which affirm difficulties that h a v e - -

Ms Kirner interjected.

Mrs PEULICH - I don't want to steal your thunder; I am sure you have many such articles up your sleeve. It is of no use to people in need of conciliation if they must wait 12 months or 2 years or however long to have their cases heard, because they need their concerns to be addressed promptly, efficiently and quickly. In the interests of the individual - individual rights and individual welfare - the Attorney-General has done the only .responsible thing, and I commend her for taking long overdue action.

Ms KIRNER (Williamstown) - During the 1992 State election campaign I warned the people of Victoria that a coalition government, if elected, would destroy the fabric of Victorian society. I hate to say that I was right. Since then Premier Kennett has quite often said that his aim is to change the culture of Victoria; and that is exactly what he is doing!

As the shadow Minister correctly suggested, the Bill symbolises the standing of the government on equal opportunity because the underlying purpose of any equal opportunity Bill is to empower equally with others who already have power those who do not have power. If the government had followed the advice of the Scrutiny of Acts and Regulations Committee the Bill could have been excellent; unfortunately, it is not. As Alan Goldberg says, the Bill destroys the culture of equal opportunity that grew up in Victoria during the past 10 years.

It is extraordinarily sad that the Bill actually changes the view of equal opportunity from one of equity

and access and the protection of equal opportunity through legislation and processes to one of unequal treatment between complainant and respondent, government and citizen, and the well-off and the poor.

I cannot understand how a Liberal Party - I can understand it of the National Party - which draws for its foundations in part from philosophers like John Stuart Mill and which has clearly developed from the principles of freedom, liberty, justice and equality - obviously from this Bill it no longer stands on those principles - can destroy the principles of equal opportunity and the position of Commissioner for Equal Opportunity, which was created only in 1977 under a truly liberal Premier, Dick Hamer. It is extraordinary that in slightly more than 10 years the Liberal Party has gone back so far that it is now prepared to legislate to create illiberal rather than liberal institutions.

The Victorian community will reserve its greatest anger and contempt for the Attorney-General, the so-called Minister for justice, who is also the Minister responsible for Women's Affairs. The Minister can talk about justice as much as she likes from now on - I am sure she will; appoint as many women judges she would like; use the rhetoric of equal opportunity; and talk about protecting women through the classification of objectionable films, publications and so on, but her sacking of Moira Rayner, the Commissioner for Equal Opportunity, means she will never have the confidence of informed women in the community.

Mr Perton interjected.

The SPEAKER - Order! The honourable member for Doncaster is interjecting from out of his place. I suggest that he remains silent.

Ms KIRNER - The Attorney-General and Minister responsible for Women's Affairs has said in her public comments that she did not sack Moira Rayner. That is what I find most despicable of all. An extraordinary press release on the changes to the Bill stated that the Bill was developed reflecting criticisms of the current situation by Moira Rayner. It is extraordinary because that was the only mention of Moira Rayner in the press release - the Attorney-General was not game to mention that she had actually done away with Moira Rayner as the Commissioner for Equal Opportunity!

Mrs Wade - She is still there!

Ms KIRNER - The Minister says she is still there. What did the Minister do when she issued that press release? Did she tell the Commissioner for Equal Opportunity that she had issued it? Did she talk to the commissioner that day? No; she did not! The Attorney-General did not even extend to Ms Rayner the courtesy of speaking with her.

Mrs Wade interjected.

Ms KIRNER - If that happened it does not excuse anything! That is what you have been carrying in your heart and soul - it is what makes you a vindictive Attorney-General!

The SPEAKER - Order! The honourable member for Williamstown will address the Chair.

Ms KIRNER - The Attorney-General waited until after the Ranald MacDonald show on radio 3LO and then rang the commissioner and said, 'Well, I suppose you had better think about applying for another job, but from what I heard on the Ranald MacDonald show this morning you do not really want one anyway". What a way to treat a statutory appointee or a fellow person of significant stature! It is bad enough to introduce legislation that abolishes a statutory appointment which was subject to a five-year contract - no wonder the government is offering to pay compensation; it would be an interesting case in the courts if it did not!

Mr Cole - It is unusual.

Ms KIRNER - It is unusual! But the Attorney-General also cannot treat the person involved with respect. She will stand condemned by the community. Let us get it clear, it is not simply the community. People like Sir Ronald Wilson, President of the Human Rights and Equal Opportunity Commission - I do not imagine he can be accused of being a political supporter, as the honourable member for Doncaster interjected earlier, or of being one of the left feminist groupies - have made it clear that they do not support this legislation and believe the sacking of Moira Rayner was inappropriate.

Mrs Wade interjected.

Ms KIRNER - If what I say is beginning to annoy you, I have another 22 minutes! At the end of that I hope you regret this extraordinary action you have taken. The community is right in its assessment that the Attorney-General deliberately misused a committee of Parliament by calling for an interim

report, not because she wanted one so that she could bring a decent Bill into the House, because she could have done that on the basis of a full report, but because the Commissioner for Equal Opportunity, acting in her role as an independent commentator on matters of equity in Victoria, had in colloquial terms got up the nose of the Minister for Corrections and the Minister for Industry and Employment.

The government felt it was time Moira Rayner was dealt with, just as it dealt with other critics like the Law Reform Commission - and boy, was she dealt with! Why? What did she do to be sacked in that way? In an attempt to understand that let us consider the role of the commissioner. It is clearly stated in the *Victorian Government Directory* and in the recent report of the Commissioner for Equal Opportunity to Parliament. In passing, may I mention that the quality of the report I have seems to highlight an extraordinary difference in the quality of the reports which the commissioner was able to produce under the previous government and those which can be produced under this government.

Mr Perton interjected.

Ms KIRNER - Look at the annual report that came from the Department of Planning and Development! It is worth hundreds of thousands of dollars! Now look at the quality of the publication that the commissioner was allowed to produce!

Mrs Wade interjected.

Ms KIRNER - If that is what the Attorney-General has, it would have been nice if she had distributed similar copies to Parliament! We have a little copy that is stapled together. The print is just readable. It says:

> The Commissioner for Equal Opportunity has two major responsibilities under the Equal Opportunity Act 1984: community education about discrimination and equal opportunity, and the reception and conciliation of complaints. Conciliation is the process used to resolve complaints of unlawful discrimination.

Was Ms Rayner not doing that job? Of course she was! Report after report said she was doing a good job. The Scrutiny of Acts and Regulations Committee also said she was doing a good job, but it correctly pointed out that neither the previous government nor this government gave the commissioner adequate funds to do the job proper!. The resources are even less now than they were under the previous government but the number of complaints has grown.

We must ask: if the commissioner carried out her task, and the answer has to be yes, why was she sacked? Moira Rayner came to Victoria with a great reputation. The previous Commissioner for Equal Opportunity, Barbara Wertheim, said when Ms Rayner was appointed that she thought she was:

> a committed feminist, committed to social justice, very talented and a highly-qualified lawyer.

She also said:

> I wish her well in the job.

Moira Rayner came to Victoria with a good reputation for the work she had done. By the end of her role she had enhanced that reputation. Sir Ronald Wilson made that clear, and he was not the only one. The honourable member for Bentleigh says she reads the *Age* but her reading must be selective because she did not mention this article, which sums up the community's view of Ms Rayner:

> Victoria needs a committed advocate of equal opportunity. It needs an independent scruEeer of government policy, as well as industry practice, for discriminatory breaches. It needs someone willing to speak out for what is right, even if that is at some cost to themselves. The Equal Opportunity Commission had this in Moira Rayner.

The commissioner's performance was not the problem. She was sacked for the comments she made, which did not comply with the views of at least two Ministers. In respect of the equal treabnent of women in the Barwon and Fairlea prisons, the commission and the board saw the principle of equality of opportunity for women prisoners as an important issue. The board referred the issue to the commissioner. Moira Rayner's philosophy about equal opportunity is reflected in her inquiry and shared by the opposition:

> Life in the workplace can be much more pleasant and productive when equal opportunities are recognised. EOC is giving power to the powerless to fix the problems which arise when an individual is rejected because they're seen to be different.

Some of the most powerless people in society are women in prison, not only in a civil sense, as is an appropriate decision of the court, but also because they are denied a life with their children. It was of

concern to the board and to Ms Rayner that the government's treatment of women at the Barwon Prison and its intention to move them to Fairlea Prison was making the situation worse. The board asked Ms Rayner to inquire into the matter.

As the report indicates, which has not attracted much attention, the commissioner spoke to the Minister for Corrections several times and even though the Minister and his department knew she was interested in the issue they did not tell her of any changes to the treatment of women at the Barwon Prison. She was not told that their treatment had been changed so that it was the same as that of male prisoners: they were allowed to see their children for 1 hour on weekends. But because this was upsetting the children the women prisoners decided not to see their children at all. Even though the Minister knew the commissioner was interested in these issues for the sake of equity, he did not bother to let her know about it. Ms Rayner got nowhere so she decided to report back to the board that an investigation should be undertaken. An inquiry into allegations of discrimination against female prisoners at Barwon Prison was conducted and the closing date for submissions was 14 September 1993.

I believe one of Ms Rayner's big mistakes was submitting to the board that it should inquire into allegations of discrimination against female prisoners at Barwon Prison. Has the Minister for Corrections taken any notice of Ms Rayner's concerns? Of course not! The standing joke in the Office of Corrections is that the Minister refers to the former Jika Jika section as Moira Rayner's monument. That is all the action he has taken.

No wonder I feel angry and rather disappointed in speaking on behalf of many women in Victorian society. The government's treatment of Moira Rayner is to its undying shame. It is not simply about the treatment of one individual who has been prepared to stand up and be counted in the name of equality for women and the disabled, as well as be recognised for the work she has done for Koori people, but because the philosophy she represents as a commissioner in treating people equally and of guaranteeing them importance in a situation that allows them to demand respect is such that her sacking symbolises the end of those views on behalf of the government-if, may I say, the government ever held those views!

Ms Rayner's second mistake was to state quite clearly in her report and publicly at a Hobart conference - -

Mr Perton - A Labor Lawyers conference.

Ms KIRNER - But the statement is also contained in this report. If the honourable member for Doncaster wishes to question the contents of this report, which has been tabled in Parliament, he should go for it because I assure him that we will have a magnificent debate!

The report clearly states that the number of complaints lodged with the commission increased considerably. As I do not wish to misquote the commissioner I will refer to her exact words in her annual report:

> It seems to me that the increased level of complaints and inquiries reflects not only a higher level of awareness of anti-discrimination law but also a higher incidence of discrimination particularly in the second half of this financial year, when the changes in employment law seem to have been widely misunderstood by some small employers. I answer the telephone "inquiries" line on a regular basis, and have personally heard some extraordinary stories.

One has only to examine the figures to realise the truth of the commissioner's statements. If I were a Minister and had received such a report, or had I heard the words used in Hobart, I would not have gone to the Attorney-General and said what the Minister for Industry and Employment said. I would have gone to my department and said, 'What the hell are you doing to make sure that the requirements of the Act, as weak as they are, are followed in this department?" This government does not do that but complains to the responsible Minister - the Attorney-General - to stop the criticism; and she does nothing except through this Bill to say, "Stop the criticism". In his letter to the Attorney-General, the Minister for Industry and Employment states:

> I can only conclude that Commissioner Rayner has not seen fit to extend this courtesy -

that is, advice about speaking arrangements -

> to the government. If this is the case, then I feel that in future the commissioner should be requested to provide advance notice of requests for her to undertake speaking engagements and details of the speeches she proposes to deliver.

This would be funny if it were not so serious. The letter further states:

> As the Minister charged with the responsibility for the Employee Relations Act 1992 I would appreciate receiving by Friday, 8 October -

a deadline! The Attorney-General is obviously lower on the pecking order than the Minister for Industry and Employment -

> full and complete details about any complaints the commissioner has received concerning the operation of the Act.

The Minister says "full and complete details". Perhaps I am wrong but I believe I heard the honourable member for Bentleigh say that the Minister did not ask for details. He did; he asked for "full and complete details".

Were the complaints investigated by the Minister? No, because that was the job of the commissioner. Did the Attorney-General write to the Minister and inform him that he was out of order? If she did, no-one has seen the letter - but I would be delighted to see it. Who was forced to write and tell the Minister he was out of order? The Commissioner for Equal Opportunity. In her reported statement she says that she informed the Minister:

> that it was improper to ask her to detail her speeches in advance as she was an independent officer.

Fancy being an independent officer under this government! In her letter Ms Rayner also told the Minister:

> that complaints lodged with the commission were confidential and details would not be divulged except to the parties involved.

Mr Cole - And that is not the Liberal and National parties either.

Ms KIRNER - No, it is not. It is strange that the Minister did not reply because she knew about the letter. In response the Minister sent a departmental officer to deliver the letter to Ms Rayner, who was then forced to reply as her Minister had not. Not one word was heard from the Minister except that she took action on the same day to ask for an interim report from the Scrutiny of Acts and Regulations Committee so the Minister could shoot the messenger!

There is much more to be said about this issue and much more will be said. The only aspect that heartens me is the truth that after 10 years the people of Victoria know and accept the basic principles of equal opportunity and practice, and they respect the institution established by the Hamer government in 1977 to promote those principles.

However, they do not accept the Kennett government and the actions of the Attorney-General which are destroying those principles. It will not matter what arguments are put today in response to the issue.

Mr Perton - What arrogance!

Ms KIRNER - The honourable member for Doncaster talks about arrogance but I have never seen anything like the arrogance of the government in its treatment of its critics.

I want the Commissioner for Equal Opportunity, Ms Rayner, to have the last word. In a recent memo from her, dated 11 October 1993, she quoted the words of Ralph Waldo Emerson:

> To laugh often and much
> to win the respect of intelligent people and the affection of children
> to earn the appreciation of honest critics and endure the betrayal of false friends
> to appreciate beauty
> to find the best in others
> to leave the world a bit better
> whether by a healthy child, a garden patch or a redeemed social condition
> to know even one life has breathed easier because you lived.
> This is to have succeeded.

In the words of Emerson, in the appreciation of the Victorian community and in the terms of the original legislative intention of the Hamer government and the amendments of the Cain government - Moira Rayner, Commissioner for Equal Opportunity, has indeed succeeded on those terms.

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

Dr COGHILL (Werribee) - Victoria, and to some extent Australia, has a proud record in equal opportunity. To illustrate that I direct attention to the inquiries I made about the provisions applying in the European Community where, in a number of other respects, I believe we have something to learn. When it came to equal opportunity I found that the

European Community is some way behind Victoria and Australia in the range of matters that are addressed by the equal opportunity provisions.

In those circumstances, it is disappointing that as a consequence of this legislation the Victorian provisions are now being placed in jeopardy rather than further advancing the cause of equal opportunity and the associated human rights principles. The Attorney-General's actions have been contemptible. She has been contemptuous of and contemptible with the Scrutiny of Acts and Regulations Committee and she has been contemptuous of and contemptible with the Commissioner for Equal Opportunity, Moira Rayner. Her actions have been contemptuous and contemptible regarding the rights of people in Victoria about the standard of government which, we would hope, would be observed in this State.

I shall deal with each of those points. I refer firstly to the attitude of the Attorney-General towards the Scrutiny of Acts and Regulations Committee. Its interim report is worth referring to. In her second-reading speech delivered on 28 October and reported in *Hansard* at page 1463 the Attorney-General states:

> The government is most fortunate in that its decision to address the urgent problem of delays coincides with the tabling of the interim report on the Act by the Scrutiny of Acts and Regulations Committee, a number of recommendations of which are included in the Bill and which were agreed to unanimously.

Presumably the "agreed to unanimously" refers to the recommendations of the committee. It is true there was a coincidence between the tabling of the report and the second reading of the Bill. It is coincidental that they came together, although there may have been some manipulation, to which I shall refer.

It is claimed in the Minister's second-reading speech that recommendations of the committee were included in the Bill. That is patently false, and I shall demonstrate that the Attorney-General knowingly and deliberately misled the House when it came to her assertion that the recommendations had been included in the Bill. There may be some parallel between some recommendations and some provisions, but it is a matter of parallel rather than recommendations being included in the Bill. More significantly, there are diversions and degrees of diversions between the recommendations of the committee and the provisions of the Bill. That demonstrates contempt for the Parliamentary committee and contemptible action by the Attorney-General and the government.

It is worth turning to the history of the interim report of the committee. The coincidence of dates has been referred to in earlier debate, but paragraph 1.2 of the interim report states:

> On 5 October 1993 the chairman received a request from the Attorney-General for the committee to make an interim report on the procedural aspects of the Act.

The report then quotes from the letter:

> I refer to our conversation - that is the conversation between the Attorney-General and the chairman of the committee -yesterday concerning your committee's inquiry into the Equal Opportunity Act. I now confirm I would be most pleased were the committee to be prepared to make an interim report on the procedural aspects of the Act. The government is eager to streamline processes under the Act as quickly as possible, and would value the views of the committee in this respect.

If those sentiments had been honoured and reflected in the actions of the government, that would be welcomed. But they have not been. The interim report was tabled in the House by the Chairman of the Scrutiny of Acts and Regulations Committee on Tuesday, 19 October. By that time the government and the Attorney-General had already made the Cabinet decision to proceed with the Bill and to determine what provisions it would contain.

The Bill was read a second time on 28 October. The latest the Cabinet could have considered it would have been at a meeting on the previous Monday, 25 October. The submissions for the Cabinet meeting detailing the Bill would have been circulated the previous week, so the Bill probably went from the Attorney-General's office to the Cabinet office on about Wednesday, 20 October at the latest; in other words, the day after the report was released. That meant the Cabinet had previously given its approval for the preparation of the final form of the Bill that went from the Attorney-General to the Cabinet a day after the report was tabled in this House. That shows the contempt with which the committee was treated. The clear intent of the Attorney-General's action was to create a smokescreen to try to give an imprimatur to link the Bill to the committee's report - that is all it was. The committee was manipulated in a contemptuous manner.

For an illustration of the gross divergence between the recommendations of the committee and the provisions of the Bill, one has only to turn to recommendation 11 of the report, which states:

> The committee recommends that the Act provide that the board have a discretion to award costs against a party who has behaved unreasonably in relation to the conduct of proceedings.

That is totally different from the provision of the Bill that requires costs to be awarded against the losing party or, put another way, to award costs in favour of the successful party, including pecuniary costs and losses the successful party may have incurred. The Attorney-General has not even attempted to explain the total divergence between the recommendations of the committee and the provisions of the Bill.

The second example of the contemptible actions of the Attorney-General is the treatment of Ms Moira Rayner. Those matters have been well canvassed by the honourable member for Williamstown, so I will not go into them at great length. However, I endorse the view that Ms Rayner is an outstanding person, an outstanding woman and an outstanding role model for girls and women. No-one doubts that Moira Rayner has executed her role professionally, with great integrity and courage, even in the knowledge that the government would inevitably find the statutory responsibilities imposed by the Act to be an unwelcome constraint on policy, because that is certainly the case. That is apparent in the evidence given by John Van Groningen, the Director of Correctional Services, to the public hearing of the Scrutiny of Acts and Regulations Committee into the review of the Equal Opportunity Act. At the time of the hearing the future of Fairlea Female Prison was a prominent public issue and Mr Van Groningen was closely questioned about that matter. In his evidence he emphasised the significance of government policy in his actions concerning Fairlea and in any decisions and recommendations he might make and advice to government he might give affecting Fairlea. The whole of his early evidence suggested that policy was the one issue that was relevant to the actions he might take concerning Fairlea. It was only when he was pressed on more than one occasion that he conceded that the statute law, the law decided by this Parliament, prevailed over policy. The inference in all he had said up to that point was that he would disregard statute law and would have regard only to the policy of the government of the day when taking action on matters affecting Fairlea or prisons generally.

That is the sort of environment in which Ms Moira Rayner demonstrated the professionalism, integrity and courage required of that office. What is clear from this Bill so far is that the restructuring of the role of the Commissioner for Equal Opportunity has been for one purpose only - that is, to remove the incumbent, Moira Rayner. Having succeeded in that objective the government has made certain in the legislation, and more so in the way it has acted, of reducing the status and role of the commission that is to be the successor body of the commissioner. As the honourable member for Williamstown pointed out, that is an example of the absolute contempt the government of the day has displayed in deciding to shoot the messenger rather than addressing the issues faced by a senior public servant of great integrity.

The third area in which the government, and the Attorney-General in particular, have acted in a contemptible way is towards the rights of people. Again, one has only to refer to the example of costs to see that. The committee quite properly recognised that there are circumstances in which a party may behave unreasonably, and in those circumstances there should be some discretion to award costs against such a party. But at no stage did any evidence to the committee or any deliberation of the committee, much less anything in the report of the committee, suggest that costs ought to be awarded in favour of the successful party. The effect of that is to intimidate people in the exercising of their rights and in so doing to compromise the effective exercising of those rights. You would understand, Mr Acting Speaker, as any reasonable person would understand, that if one was in jeopardy of having to pay the costs of the other party as well as one's own costs and if the slightest doubt existed whether one's action would succeed, one would be very inhibited about taking that action and seeking to have one's rights protected and defended before the Equal Opportunity Board, but that is what the Attorney-General has done. She knowingly and deliberately, with the endorsement of the Cabinet - although she is the one who took the matter to Cabinet - took action to reduce the potential for people to properly exercise their right to be protected against discrimination in the way that discrimination is defined in the legislation.

The Attorney-General has favoured a method that is increasingly contemptuous of the rights of Victorians - the rights which she as

Attorney-General is bound to uphold and defend and which are in accordance with the traditions of the Liberal Party. The Attorney-General seems to think that those rights are a laughing matter, that they can be thrown away and treated frivolously and that there is no requirement on her to exercise any responsibility to defend the rights of people to protect their own interests.

The final point I will come to concerns the contemptuous actions of the Attorney-General and the contemptible way she has treated the standards of government administration in respect of its attitude to the Scrutiny of Acts and Regulations Committee. If the government were committed to the high standards of public office as its rhetoric suggests it would not have manipulated and used the committee to try to form a smokescreen for the actions it has taken.

That is what the Attorney-General did knowingly, willingly and deliberately. There is a more personal aspect of it than that, and that is the relationship between the Attorney-General and the application of the Equal Opportunity Act to her own actions. I have been advised that a case of alleged political discrimination in which she is a party has been referred to the Equal Opportunity Commission for investigation, and it is in the context of those circumstances that the Attorney-General has taken the action that she has taken.

Mr Perton - I think that is a long bow.

Dr COGHILL - The honourable member for Doncaster will have his opportunity to defend himself and to join the debate and I am sure that you, Mr Acting Speaker, will in due course remind him of the provisions of Standing Orders and the conduct that is expected of him.

The Attorney-General conceded that she actually received the notice. Initially she denied knowledge of it but ultimately she did concede that, yes, she had actually received that notice.

My understanding is that there is a claim for $30 000 against her department associated with the matter. It is a significant matter, but the Attorney-General seems to regard it as trivial, as of no consequence or importance. That is not a matter for her to judge, and it is all the more reason why she should have stepped aside from this issue of the administration and amendments to the law affecting equal opportunity while the matter is before the Equal Opportunity Commission, and it is all the more reason why the government should not have proceeded with this legislation until the matter had been dealt with.

The House is not to know at this stage whether the Attorney-General has received an indemnity in respect of the matter, and it would be most interesting to the House and more particularly to the public to know whether the Attorney-General has been granted an indemnity by way of a Cabinet decision in respect of the complaint made against her alleging that she personally has been involved in political discrimination.

Mr PERTON (Doncaster) - On a point of order, Mr Acting Speaker, you have been allowing the honourable member for Werribee some latitude, but he has been referring to a matter that appears to be the subject of conciliation proceedings before the equal opportunity commissioner.

Earlier today the Speaker gave a ruling in respect of tribunals dealing with matters and the question of sub judice, but on the other hand, what the honourable member for Werribee seems to be referring to are proceedings before the equal opportunity commissioner which are confidential proceedings, and which both the commissioner and the parties are bound to keep confidential.

I put it to you, Mr Acting Speaker, that in those circumstances these are matters that the honourable member for Werribee should not refer to because not only is it probably sub judice but he also seems to be defeating the very argument he is putting, and that is that the value of the equal opportunity commissioner's proceedings is that they are conducted in confidence. The honourable member for Werribee seems to be playing very fast and loose with the requirement for confidentiality under the Equal Opportunity Act.

Dr COGHILL (Werribee) - On the point of order, Mr Acting Speaker, I would suggest to you that the honourable member for Doncaster is playing pretty fast and loose with the Standing Orders and the precedents that affect this House.

I have in no sense gone to the merits of the case involving the Attorney-General, nor did I have any intention of doing so. It would be a ridiculous situation if the House were able to consider matters before the Administrative Appeals Tribunal, as was determined earlier, and yet for it to be suggested that the passing references I have made to the general principle involved were inadmissible.

Mr THWAITES (Albert Park) - The honourable member for Doncaster seems to be fairly fast and loose with his own memory. I recall wading through a 10-page submission to the Administrative Appeals Tribunal by the honourable member on this very point arguing that a confidential hearing should be made public.

The ACTING SPEAKER (Mr E. R. Smith) - Order! The honourable member for Werribee would be aware of the rules of sub judice, and I remind him to stay within those guidelines. In the meantime I will let him make a passing reference, but I advise him to keep within the guidelines.

Dr COGHILL (Werribee) - Thank you, Mr Acting Speaker; I acknowledge your wisdom in these matters. I would have concluded my remarks on this matter if it had not been for the intervention of the point of order. I will reiterate the point that I regard it as grossly improper that the Attorney-General should have allowed herself to remain concerned with these matters affecting the equal opportunity commissioner while a case affecting her and alleging political discrimination was before the equal opportunity commissioner. That is a reflection of the appalling lack of standards of the operation of the government of which she is a member. Time and again we have seen absolute contempt for principles that have been applied historically not just in the Victorian Legislative Assembly or the Victorian Parliament or the system of government of Victoria, but furthermore have been applied generally throughout the Westminster system and even beyond that. Probably more significantly, those historical principles have been applied generally wherever a system of Parliamentary democracy operates in the world, whether it be a Westminster-style Parliamentary democracy, one of the European models or one of the other models of Parliamentary democracy - -

Mr Cole interjected.

Dr COGHILL - The honourable shadow Attorney-General refers to South America. I think you would be struggling to find a Parliamentary democracy there.

The ACTING SPEAKER - Order! As the honourable member for Werribee is well aware, he must address his comments through the Chair and ignore the interjections from the honourable member for Melbourne.

Dr COGHILL - I thank you again, Mr Acting Speaker, for your wisdom and guidance. The concern I have is that the way the Attorney-General and the government have behaved in this matter, not only in respect of the alleged political discrimination referred to the equal opportunity commissioner but the way the Parliamentary committee has been treated and the way this whole process has been followed in using a device to sack the equal opportunity commissioner is a contempt of the way in which good government should operate.

One hopes the Attorney-General as much as anyone would be concerned with ensuring that Victoria has the best possible government in Victoria. What we are seeing in this instance is the same pattern that we have seen in a variety of other actions of this government: if it sees or hears of some action which may be even faintly critical, it immediately attacks the person who has responsibility for the matter and tries to silence that person, manipulates and pressures that person into acting in accordance with the policy direction of the government rather than in accordance with the statute by which the statutory officer is bound, and rather than looking at the issue objectively and saying that although it may be a bit uncomfortable for the government during the next three years until 1996, it is in the best interests of Victoria that the actions of the particular critic or officer concerned be upheld and defended.

Time and again, rather than addressing the issue of principle, Ministers such as the Attorney-General have attacked the individual and undermined or removed the individual. This is one of the most serious examples of that practice.

The Commissioner for Equal Opportunity was appointed by the government to carry out a statutory defence of the civil and human rights of Victorians. Because criticisms about prisons and small employers happen to make the government uncomfortable, it decided it would not stand by those basic principles of human rights. It has taken vindictive, contemptuous action against the individual and the institution with which the individual is associated. The Attorney-General's actions are dishonourable. The government's actions are contemptuous.

Mr PERTON (Doncaster) - The system of equal opportunity in Victoria was introduced by a Liberal government. The philosophy of equal opportunity is inherently Liberal because it recognises the worth of the individual and the right of the individual to

equal opportunity. In that sense it epitomises Australian values - the idea of a fair go.

My colleague on the Scrutiny of Acts and Regulations Committee, the honourable member for Werribee, has waxed lyrical in his support of equal opportunity and, along with the honourable member for Albert Park and the Honourable Bruce Skeggs and the Honourable Louise Asher in the other place, he has worked hard and long with me during the past nine months in preparing a report for Parliament on equal opportunity. Despite that, there was considerable hot air in what the honourable member for Werribee said today. The reason there is so much hot air and hypocrisy in what the opposition has put is because equal opportunity is not a socialist vehicle: it does not suit the purposes of the Labor Party, which is more in favour of patronage.

Its period of government showed considerable dedication to the cause of patronage, to the appointment of its mates to boards and to positions of influence. The Labor Party infiltrated the Public Service with its mates. It likes patronage and affirmative action; it likes pushing people around rather than giving them a fair go.

Mr Thomson - What is this Bill doing?

Mr PERTON - The Bill, together with the work being done during the summer break, will forward the cause of equal opportunity. The philosophy of equal opportunity is what the government is about in changing the structure of government to improve the economy and to tum government finances around.

I said earlier that four members of the Scrutiny of Acts and Regulations Committee and I have worked on the equal opportunity subcommittee for some time. The members of the full committee, including the honourable members for Coburg and Sandringham, have worked hard to produce a report that will be tabled in Parliament next week. Like the honourable members for Werribee and Albert Park, I shall be disappointed if the recommendations made in the final report do not form the basis of a new equal opportunity Act.

The honourable member for Werribee was unfair in his criticism of the Attorney-General because she has been clear in her communications to the committee. She said that the Bill is an interim measure; that it is to achieve the purpose, in a limited way, of making the structure of the Equal Opportunity Board more accountable. The measure will expedite complaints in certain circumstances and amend provisions relating to costs.

The honourable member for Melbourne said earlier that the amendments were acceptable to the opposition in light of the Attorney-General's comments. Like my Labor colleagues on the committee, I too would be disappointed if most of the recommendations in the interim and final reports were not accepted, but I am confident that when Parliament returns in March or April next year it will debate an equal opportunity Bill that recognises that since the Act was introduced in 1977 society has moved a long way, that the demands of an ageing community need to be met and that anomalies in the Act need to be fixed. The Attorney-General is a former President of the Equal Opportunity Board and has a commitment to the system, and there is a range of people in the government committed to equal opportunity and the idea of a fair go for the individual rather than the interference and the patronage of the last government.

The honourable member for Williamstown conveniently made her speech between 6 p.m. and 6.30 p.m. so that she could be relatively unchallenged in her hypocritical attitudes. This woman was the Premier of the State. She had many opportunities to improve the lot of people by amending the Equal Opportunity Act, but she did not extend the grounds of equal opportunity to the aged.

Ms Kirner interjected.

Mr PERTON - The honourable member for Williamstown interjects because she has a lot to be guilty about.

Ms KIRNER (Williamstown) - On a point of order, Mr Acting Speaker, I understand that the Premier of Victoria - he who must be obeyed - has given my party a dispensation from being called the guilty party because he was intent on offering me a job today, so I think the word "guilty" is inappropriate and should be withdrawn.

Mr PERTON (Doncaster) - On the point of order, Mr Acting Speaker, I do not believe the word "guilty" constitutes unparliamentary language during the course of robust debate.

Mrs WADE (Attorney-General) - On the point of order, Mr Acting Speaker, if a member finds a

word offensive, it is withdrawn. Recently this provision has been taken to extreme. It may be impossible to open our mouths in the Chamber if people object to words that have been in current use in the Chamber for a long period.

Mr COLE (Melbourne) - On the point of order, I make it clear that the honourable member for Doncaster said, "She has a lot to be guilty about". On the subject of precedents, I recall once raising a point of order in which I accused the Attorney-General of being evasive. I subsequently withdrew that comment. Describing someone as evasive is nowhere near as bad as saying that someone is guilty. In any event, if the honourable member finds it offensive, it should be withdrawn.

Mr CLARK (Box Hill) - On the point of order, as the honourable member for Melbourne pointed out, it was said that the honourable member had a lot to be guilty about. In that circumstance the adjective "guilty" is not attached to the honourable member but describes her record of past conduct. It neither refers to her character nor makes any imputation against her person. It simply refers to things that she may or may not have done.

By way of analogy with the rules relating to criticism of the judiciary, although one is not allowed to imply that a judge is dishonest or incompetent, one is perfectly entitled to suggest that on a particular occasion he or she has got it wrong. In saying that the former Premier has a lot to be guilty about, the honourable member for Doncaster is referring to particular conduct on her part. For that reason it is not a reflection on her that she could find offensive.

I distinguish the word "guilty" from the word "evasive". To say that someone has been evasive implies that the person to whom it is attributed has acted with less candour than he or she should have. The world "guilty" can be used in a number of contexts that do not imply moral culpability. One could be saying that someone is guilty of inattention to a job. It could suggest that someone has made a mistake. If the meaning of the Standing Order were allowed to be stretched that far, as a previous speaker on the point of order suggested, members might just as well not be permitted to say anything!

Mr THOMSON (Pascoe Vale) - Standing Order No. 108 states:

> No member shall use offensive or unbecoming words in reference to any member of the House and all imputations of improper motives and all personal reflections on members shall be deemed disorderly.

I put to you, Mr Acting Speaker, that there could not be a clearer example than the honourable member for Doncaster's saying that the former Premier has a lot to be guilty about, "guilty" having criminal connotations. Nothing could be a clearer breach of Standing Order No. 108 than that set of words. In addition, the honourable member for Williamstown has said that she finds the words offensive and has asked that they be withdrawn. In this situation previous Speakers have ruled that such comments must be withdrawn, and I believe you should do the same.

The ACTING SPEAKER (Mr Cunningham) - Order! I have heard enough on the point of order. It has been the custom and practice of the House that when a member finds a comment offensive the member who made the comment is asked to withdraw it. I ask the honourable member for Doncaster to withdraw his comment.

Mr PERTON (Doncaster) - I withdraw. As the Minister for Public Transport says, they are still the guilty party.

The current holder of the position of Commissioner for Equal Opportunity, Moira Rayner, is a person whom I respect greatly. There is no doubt that over the years she has been committed to the principles of equal opportunity and the implementation of the Equal Opportunity Act. But for the honourable member for Williamstown to cry over the amendments to the Act, which change the structure of the Equal Opportunity Board and to which Ms Rayner has responded by saying that she is not prepared to apply for the new position, is an act of hypocrisy.

When the honourable member for Williamstown was Premier she had the opportunity to increase the funding available to the equal opportunity commissioner to enable her to deliver conciliation services within a reasonable time. But she did not do that. Given the delays in the equal opportunity system during the time of the honourable member for Williamstown as Premier, her conduct and her contribution to the debate were absolutely disgraceful.

The honourable member spoke about the freedom and independence of the equal opportunity commissioner. Did she set up a freestanding administrative unit when she had the opportunity?

She did not. She did nothing to support the system of equal opportunity in this State. She did not give the system adequate resources. The failings of the system under her administration came through in the protests in the evidence given during the public hearings of the Scrutiny of Acts and Regulations Committee.

The committee heard the Ombudsman give evidence of delays of up to 15 months in the commissioner's giving an opinion on whether cases were within her jurisdiction. We heard evidence from barristers representing people suffering from AIDS who could not get their cases up in time. They said that their clients' health was so bad that they were forced to accept settlements rather than either proceeding to the Equal Opportunity Board or continuing the process of conciliation. I lay the blame for that not at the feet of the commissioner but at the feet of the Cain and Kirner administrations. For the honourable member for Williamstown to attack the Attorney-General for the changes to the Act is irresponsible.

Honourable members may recall that during a debate some days ago I referred to the commitment of the honourable member for Williamstown to equality for women. When she had the opportunity as Premier to do something about safeguarding women and children, whether in relation to pornography, adequate sentencing or reasonable police powers, she did nothing about it. For the honourable member to stand up and claim to be the representative and defender of women and children is, to my mind, incredible and wrong.

Let us look precisely at the terms of the Bill.

Mr Thomson interjected.

Mr PERTON - The honourable member for Pascoe Vale says that that would be a change. It would be a change because, after analysing the speeches of the honourable members for Williamstown and Werribee and the shadow Attorney-General, the honourable member for Melbourne, one would think that the entire system of equal opportunity in the State of Victoria had been destroyed.

The Bill does nothing to reduce the rights of Victorians. Each of the grounds remains perfectly intact. The Attorney-General has given a commitment to extend and enhance those grounds at the first opportunity in the next session of Parliament. That is an indication that the rights of Victorians will be extended and enhanced rather than diminished.

The Bill introduces a process of expeditious hearings. During the course of the hearings that my committee has conducted no-one other than the honourable member for Williamstown has spoken against the concept of expeditious hearings, particularly in relation to important government decisions. The previous government was hopelessly frustrated by the delays in the equal opportunity system caused by the scratch ticket fiasco.

There is no doubt at all that everyone believes there needs to be a system so that, if government action impinges on equal opportunity principles, the matter can be brought before the Equal Opportunity Commission as soon as possible so that the rights of the individuals who claim to have been discriminated against can be dealt with quickly and important matters of government policy are not delayed unduly. If the government gets it wrong, it should find out quickly and fix it up. That is the reason behind the changes and the introduction of the expeditious-hearing principles. The system can be improved, and there is no doubt at all that in power relationships applicants need to be assisted, particularly those suffering from serious illnesses or other disabilities. From my discussions with the Attorney-General I am confident those matters will be dealt with when the Bill is reviewed in the final report of the Scrutiny of Acts and Regulations Committee.

There is no doubt that the costs system has been inadequate. The Equal Opportunity Board has had no way of dealing with applicants who have behaved unreasonably. In public hearings before a Parliamentary committee the president of the board herself made it clear that she wanted the power to deal with those sorts of people. No-one has denied that she should be given that power. The Attorney-General has been very big on this issue. Many members of the former government would not acknowledge errors, but following criticism and discussions, the Attorney-General was prepared to acknowledge that she wanted to amend the cost provisions of the Bill. In an open letter she says:

> After considering the matter further, however, I have decided that a new costs provision should be introduced to grant the board a wider discretion in the making of an award for costs. I believe that the existing provision may be contrary to the purpose of the Act - to promote equality of opportunity between persons of different status.

At least the honourable member for Melbourne had the dignity and good sense to acknowledge that. The honourable member for Williamstown did not even have the personal honesty to read the amendment and acknowledge that the Attorney-General was doing the right thing. There is something wrong with an opposition that is incapable of reading amendments and acknowledging when the Attorney-General does the right thing.

Mr Thwaites - She hasn't changed anything; you know that!

Mr PERTON - The honourable member for Albert Park, who is interjecting loudly, is in a bit of trouble. His Leader is undermining his submissions to the Administrative Appeals Tribunal. While the honourable member for Albert Park talks about the public interest and the public's right to know, the Leader of the Opposition is not prepared to allow the Federal government to release documents about his affairs.

Mr THWAITES (Albert Park) - On a point of order, Mr Acting Speaker, the meanderings of the honourable member for Doncaster have absolutely nothing to do with the Bill. I understand that the honourable member for Doncaster does not want--

The ACTING SPEAKER - Order! The honourable member should get to the point of order.

Mr THWAITES - The point of order is that when speaking to Bills members are required to be relevant. The honourable member for Doncaster is talking about a completely unrelated matter.

Mr Cooper - That is not a point of order!

Mr THWAITES - Of course it is a point of order. You know it is.

The ACTING SPEAKER - Order! I have heard enough on the point of order. I ask the honourable member for Doncaster to come back to the Bill.

Mr PERTON (Doncaster) - Thank you for your ruling, Mr Acting Speaker, although I must confess that because the honourable member for Albert Park is in so much trouble, his interjections were just too tempting!

Let us examine the Bill's provisions about the commission. The honourable members for Williamstown and Werribee said that somehow the Bill will bring about the downfall of the commissioner. The same argument was put when changes were made to the Accident Compensation Act. On that logic, the government would never be able to change any legislation. The most absurd proposition of all was put by the honourable member for Werribee. He said the Attorney-General should not change the Act because she is subject to applications. Because it is the job of Attorneys-General to defend their governments, at all times they are subject to legal proceedings. It makes no difference whether the proposed Equal Opportunity Commission is constituted by a commissioner alone or a commission of five members.

When they appeared before the Scrutiny of Acts and Regulations Committee the Ombudsman and the former equal opportunity commissioner said closer scrutiny of cases was required. Although the equal opportunity system established by the former Liberal government in 1977 was considered revolutionary at that time, it is now time for a better structure. The 84 changes made by the Cain government were not revolutionary; they established a grafted system which meant the Act would never work as it was meant to work.

The honourable members for Werribee and Melbourne both mentioned the commissioner's responsibility under section 16 of the Act to direct the government's attention to provisions of other Acts that conflicted with equal opportunity principles. However, the Cain and Kirner governments never resourced the commissioner sufficiently to enable her to complete the tasks required under the Act, and she acknowledged that fact. Because the commissioner was stressed beyond all endurance just trying to keep within the demands of the system with the resources provided by the former Labor government, opposition members can hardly express a commitment to equal opportunity.

The honourable member for Albert Park, who is interjecting, was the adviser to the former Attorney-General, who brought about the early demise of an earlier equal opportunity commissioner. I invite him to explain the circumstances surrounding the sacking of Commissioner Barbara Wertheim.

Mr Brumby interjected.

Mr PERTON - I notice the Leader of the Opposition is back in the Chamber; I guess he needs to defend himself from the honourable member for

Albert Park. He laughs, but it would be nice if he came clean. It would be nice if you came clean, wouldn't it?

The SPEAKER - Order! The honourable member for Doncaster will address the Chair, ignore interjections and speak to the Bill.

Mr PERTON - The new commission will be a better structure. It will have five members, one of whom will be the chief conciliator, who will have almost identical power and status to that of the former equal opportunity commissioner.

Mr Thomson interjected.

Mr PERTON - I am glad the honourable member for Pascoe Vale raised that point. The appointment provisions do not differ from the appointment provisions under the previous Act. The Bill is an interim measure designed to assist the system to meet current demands. When Parliament and the Attorney-General have the opportunity of dealing with a Parliamentary report prepared with the consent of four Labor members, four Liberal members and one National Party member and the opportunity of debating a new equal opportunity Bill in 1994, Victorians will have an equal opportunity system of which they can be proud.

Members of the Scrutiny of Acts and Regulations Committee and members of Parliament who participate in next year's debate on restructuring the system and extending the grounds for complaint - particularly about age, which the Labor Party neglected when in power - will help to formulate a system of which they can be proud. The Bill improves the system and should be supported. I look forward to the revisions that in her open and honest way the Attorney-General has promised to introduce in the next sessional period.

Mr THOMSON (Pascoe Vale) - While listening to the honourable member for Doncaster I was reminded of the lines, "the best lack all conviction, while the worst are full of passionate intensity".

Mr Perton - Do you want me to take objection to that?

The SPEAKER - Order! The honourable member for Doncaster will remain silent.

Mr THOMSON - In the 17th century Parliamentarians quoted from the Bible. In the 18th and 19th centuries they tended to quote the Greek and Roman classics. Unfortunately in the 20th century they tend not to quote anybody at all because they have lost their sense of history and in particular their sense of the checks and balances. One quote that we need to understand is that of Lord Acton, who said:

> Power tends to corrupt, and absolute power corrupts absolutely.

In the Bill we see the erosion and the dismantling of yet another of the checks and balances that are so important in our community to protect us from corruption. This is a vicious and vindictive piece of legislation. One must hand it to the Attorney-General, because she has been able to settle some old scores. This is not a Bill that comes with a good spirit; it is a Bill which is motivated by vengeance. It has nothing to do with debts, jobs, justice or the issues the government was elected to fix up. By its own yardstick, or those of the general community, it is another piece of legislation that tramples on dissent and displays contempt for the essence of democracy. It is designed to intimidate public servants, as were other pieces of legislation.

There can be no greater contrast between the legislative program of this government and what the former Labor government did than this Bill. The Labor government established new bodies and encouraged critics to comment on their operations. It had a culture of consultation; but this government has a culture of intimidation. The government has dismantled the Law Reform Commission, freedom of information legislation and the Energy Action Group; and it has abandoned the Accident Compensation Tribunal and its judges. Parliamentary processes have been shut down - -

The SPEAKER - Order! There is too much audible conversation.

Mr THOMSON - The government has intimidated the *Sunday Age*, the *7.30 Report*, Mr Justice Nicholson, Mr Justice Fogarty and the Commissioner for Equal Opportunity.

Mr McARTHUR (Monbulk) - On a point of order, Mr Speaker, I know that the honourable member for Pascoe Vale gets very excited - -

The SPEAKER - Order! The honourable member for Monbulk will come to his point of order.

Mr McARTHUR - It is a matter of relevance. We are debating a Bill that concerns equal

opportunity. It has nothing to do with many of the issues the honourable member for Pascoe Vale has been reciting. It has nothing to do with the *Sunday Age* or Mr Justice Nicholson but it will make good reading in local press releases. It has no relevance to the debate.

The SPEAKER - Order! The honourable member for Pascoe Vale has been speaking for 3 minutes. He is entitled to be wide ranging on a number of issues during the preliminary part of his speech. I do not uphold the point of order.

Mr THOMSON (Pascoe Vale) - To cap it off, at least for the time being, we have the end of the Office of the Commissioner for Equal Opportunity. We have the politicisation of public servants and the establishment of yes-men and women. It has even been written into their contracts that they must enhance the image of their Ministers. That is so in the case of the Secretary of the Department of Health and Community Services, Dr John Paterson.

The Bill is totally different from the kind of legislation that prevailed under the former Labor government. The Labor government set up and even funded its critics, but in terms of the Commissioner for Equal Opportunity, freedom of information and the Energy Action Group there was a completely different mood abroad during the term of this government.

The Bill is one of many Bills that has come through Parliament that restricts the rights of ordinary individuals. I do not know the percentage of this government's Bills that have done this but it must be close to 50 per cent. Legislation dealing with employment contracts, WorkCover, planning rights, mineral resources, education and school closures has passed through Parliament. There has been a constant procession of ouster clauses. The right of appeal to the Supreme Court - -

Mr Cooper interjected.

The SPEAKER - Order! The honourable member for Pascoe Vale will resume his seat. The Chair will not tolerate this behaviour. I ask the honourable member for Mornington to behave himself. I remind the honourable member for Bentleigh that this is an equal opportunity Bill and the Chair will apply the Standing Orders with equal opportunities.

Mr THOMSON - Some government members may see the loss and the restrictions on the rights of individuals as being frivolous and unimportant matters, but it is a matter of great concern that we have had a procession of legislation that has removed those rights and has dismantled the fabric of democracy, dealing with members of the community not as citizens but as subjects.

The Bill shows no understanding of the Westminster traditions and the essence of a pluralist democracy. It takes away the checks and balances which will lead us down the path of corruption. Instead of corruption with a small "c" it will be corruption with a capital "C".

The administrative law reforms, of which the Commissioner for Equal Opportunity was one, were set up during the 1970s and the 1980s. They are there not only to provide rights for individuals but to influence bureaucratic decisions and provide better quality government. It is not a question of resolving individual complaints. It is my belief that without them standards will decline.

We have had a wide variety of amendments to legislation dealing with the Law Reform Commission, the former Transport Accident Tribunal, the State Industrial Relations Commission and many others; and in each case there is a common theme, which removes the rights of individuals and the checks and balances within our society.

As the shadow Attorney-General said, this Bill is designed to terminate with extreme prejudice because the government does not want a voice of dissent to be heard. We will discover that we have a replacement of an innocuous and half-baked service. Who would be game to criticise the government in circumstances where one is liable to summary and arbitrary dismissal just as the accident compensation judges were? People such as Justice Michael Kirby spoke out about that situation. We have a similar situation here.

If the Attorney-General is able to restructure the Office of the Commissioner for Equal Opportunity at whim, there is no security for the equal opportunity commissioners. That will make the decisions of the commissioners subject to overriding considerations because it might mean their dismissal. That will completely do away with the independence of the commission.

I join with the honourable member for Melbourne, the shadow Attorney-General, in expressing concern about the reasons for the sacking of the

Commissioner for Equal Opportunity, Moira Rayner, and the request of the Minister for Industry and Employment for a list of confidential complaints made about the new employment contracts after Moira Rayner reported to a legal convention in Tasmania that there had been an increase in the number of complaints since the legislation was enacted. It is a matter of concern to me, and no doubt to many other people, that the Minister requested a list of confidential complaints. It was improper on his part.

The Commissioner for Equal Opportunity made decisions regarding Northland Secondary College and the rights of the Koori children, and she also made statements about Fairlea Female Prison. The government's response to that sort of pressure may be in the area of its policy and responsibility. The government is entitled to come to its own view on the merits of some of those decisions.

The government is not content with that. Instead it will appoint a chief conciliator and a number of members who can be moved at any time by the Governor in Council. The chief conciliator will not enjoy the same independence as the previous Commissioner for Equal Opportunity. The provisions of the Public Sector Management Act will apply and the chief conciliator will be subject to removal by the Minister at any time.

The Commissioner for Equal Opportunity has a duty to review legislation in order to identify discriminatory provisions, but there is no equivalent provision in the Bill, so State legislation will go unscrutinised for discriminatory effects. The Bill abolishes the activities of the commissioner, and in the event that the Minister is notified of a case of discriminatory legislation, there is no guarantee that the public will know what was going on. There will be no pressure on the government to take any action in relation to discriminatory legislation.

Another area of concern is the expedited complaint mechanism. That will have the practical effect of pressuring complainants into abandoning complaints because they can be pushed to the hearing stage almost immediately. They will be forced to decide whether to engage legal representation at a much earlier stage than if conciliation proceeded as usual. The expedited complaint mechanism certainly represents a watering down of the equal opportunity provisions applying in Victoria.

The provision regarding striking out a complaint has been altered in such a way that one can expect respondents will make application to strike out virtually every complaint as a matter of course if only because it will give them a chance to exhaust the complainant's resources at an early stage and to gauge the commission's attitude and the complainant's weaknesses.

I shall refer to the issue of costs because, as the shadow Attorney-General said, equal opportunity is as much about access to law and its remedies as it is about protecting those who are discriminated against. Inevitably, it is the less affluent people in our community who are the likely victims of discrimination. In the opposition's view people who are discriminated against are entitled to access to the commission without regard to costs. The commission is not meant to be a court of law, and the provisions that have been introduced concerning costs are not adequate. They will discourage people from going to the Equal Opportunity Commission and exercising their rights because of the costs involved.

On many grounds this legislation falls far short of Victoria's needs. On the one hand independent officers are intimidated and sacked and on the other hand there are rewards for loyalty to the Public Service. There are bonuses such as that promised to Ken Baxter of $235 000; and bonuses such as that promised to Dr Paterson, one of the conditions of which is to boost the stocks of the Minister for Health. He may get all the bonus if she becomes Premier and we have - -

The SPEAKER - Order! The honourable member is now straying from the Bill, and I ask him to come back to it.

Mr THOMSON - Thank you, Mr Speaker, for your guidance. On the one hand there are provisions which will have the effect of intimidating public servants and preventing them from supplying the independent and impartial advice from which the entire Victorian community, not just the government, profits, while on the other hand there are incentives for public servants to toe the line. This Bill is one of a series of measures which will have adverse effects on the Victorian community by whittling away its rights.

I refer to an article written by Dr Davis McCaughey in November last year shortly after the election of the present government. He made a number of comments as a former Governor which were apt and

accurate in terms of how things have unfolded. He says a number of things are needed in order for a democracy to function and that we need more than simply freedom of expression. He states:

> There are things as well as the right to organise an alternative party which require guarantees if a democracy is to work.
>
> An obvious one is the independence of the operation of the courts and of the judiciary from the executive arm of government. Another is the independence of the Public Service. A government, or Parliament for that matter, may not like what a judge says, how he interprets the law, but it is not part of its function to tell the judge what he must say; it is Parliament's responsibility to pass laws which are just, and to amend them when they are seen to have flaws, and the judges have a responsibility to draw attention to such flaws.
>
> Similarly there is grave danger in governments and Ministers appointing as public servants only those who will agree with them, or in constructing contracts for their employment which encourage senior public servants to remain silent when they should be giving advice which is unpalatable.

That is exactly what Moira Rayner did from time to time to both governments. Dr McCaughey continues:

> In each case - that of the judges and that of the public servants - guarantees will include guarantees of tenure.

The argument that they do things differently out there in the private sector, the business world, is irrelevant.

> That is a world which runs by different laws ...
>
> Dissent needs its structures if it is to play its full and enriching part in our society. We could multiply examples: you lose something when you replace an independent Law Reform Commission by a Parliamentary committee, just as you imperil our commibnent to learning when you abolish an advisory commission which stands between government and the universities and absorb its functions into that of a govemmentdeparbnent.

I am sure that Dr McCaughey would say the same thing about the kinds of changes which have been put forward in the Bill before us.

The Attorney-General has a sorry and shabby record in relation to this legislation and other pieces of legislation. She is now held in contempt by the legal profession. She is entirely lacking in credibility. It is not Moira Rayner who should be sent packing; it is the Attorney-General.

Mr THWAITES (Albert Park) - The Equal Opportunity (Amendment) Bill fundamentally weakens equal opportunity in Victoria. The Bill will make it more expensive for ordinary people suffering discrimination to obtain redress and it will make it more difficult for ordinary complainants to have their complaints determined. It will involve complainants in more legalistic proceedings before the commission rather than the informal proceedings before the conciliator:

The Bill will undermine the ability of citizens to complain about discrimination, particularly about discriminatory actions and policies of government Ministers and departments. The provisions of the Bill ignore the recommendations of the all-party Parliamentary committee set up to review the Equal Opportunity Act, which reported to Parliament in October 1993.

I note that the honourable member for Bentleigh is leaving. If she stayed she might learn something because she demonstrated total ignorance of the operations of the board in her contribution.

Mrs WADE (Attorney-General) - On a point of order, Mr Speaker, there appear to be some double standards in the Chamber tonight. Members of the opposition have been using impolite descriptions of members on this side of the House, the most recent being by the honourable member for Albert Park about the member for Bentleigh.

Given the objection of the honourable member for Williamstown to a comment about her performance, the honourable member for Albert Park should at least be asked to withdraw what he said, and other opposition members should endeavour to uphold the standards they have been saying the government should observe.

The SPEAKER - Order! During the course of the second-reading debate any member may refute what any previous speaker has said. The tactic of a member making a passing reference to another member who is leaving the Chamber, although one I do not particularly admire, has been used during debates in this House. In the hurly-burly of debate I

do not think the expression used was unparliamentary, and I do not uphold the point of order.

Mr THWAITES (Albert Park) - The Bill is contrary to the specific recommendation of the committee that the Commissioner for Equal Opportunity should be made more independent and that the staff of the commissioner should be under her control in a freestanding administrative unit.

The work of the Scrutiny of Acts and Regulations Committee has been referred to in detail. I pay tribute to and commend the work of the committee and its chairman, the honourable member for Doncaster. I also pay tribute to his ability to speak for almost 30 minutes on the matter in an endeavour to support the government that ditched his recommendations. Most of the time he did it without smiling!

Most of the committee's recommendations have been ignored or rejected by the Attorney-General. Of its 33 recommendations, 6 have been adopted, 2 have been partly adopted and 25 have not been adopted. The fact is that the committee used a great deal of taxpayers' money, but has been completely ignored. What a waste!

The proper purpose of equal opportunity legislation is to provide redress for victims of discrimination. The assumption underlying such legislation is that not everyone in our society has an equal go. Although Australians pride themselves on living in an egalitarian society, that is not the case for women, Aborigines, older people and people who are not heterosexuals - they suffer discrimination! The government needs to protect those people and, through equal opportunity legislation, give them an equal chance. The Bill undermines the position of those people.

The committee found there was a problem with delay and that criticism had been made of delays in conciliation. The commissioner agreed that the delays occurred in the conciliation process and suggested the primary cause was a severe lack of resources. She also suggested and provided evidence of the fact that since 1991 there has been an increase of more than 80 per cent in the number of inquiries and formal complaints dealt with by her office. In 1987-88, 3903 informal complaints and 268 formal complaints were received. The figures for 1992-93 were 13 314 informal complaints and 1128 formal complaints. Although there has been a substantial rise in the number of complaints, the resources available to the commission have not increased accordingly. The honourable member for Doncaster, in fairly florid style, criticised the former Labor administration for not increasing the resources. That is ironic, given that the current Attorney-General has further reduced the resources available to the equal opportunity commissioner, causing even greater delays.

The government has rejected most of the specific recommendations the committee made on reductions in delays. The committee's recommendations Nos 1 to 11 were specifically aimed at reducing delays, yet the government adopted only recommendation No. 1 and recommendation No. 4 in part. The Bill has introduced a one-sided approach to reducing delays, which benefits respondents, including government departments, but which does not benefit ordinary complainants. Provisions in proposed sections 44B, 44C and 45AB allow respondents to seek speedy hearings but do not give the same right to complainants. Those provisions discriminate against ordinary citizens who may be victims of discrimination.

Although respondents are often large departments or organisations with greater access to finance and legal experience than ordinary citizens, the Bill advantages them still further. The Bill provides respondents with an opportunity of receiving an early hearing and seeking to dismiss a complaint before it even gets off the ground.

Mr Perton - Do you disagree with expedited hearings?

Mr THWAITES - I will tum to the issue of expedited hearings. Proposed section 44B allows respondents, but not claimants, to apply to have complaints treated as expedited complaints. The committee dealt with this issue and recommended that in certain circumstances respondents ought to be able to apply to have complaints expedited. The committee also recommended, however, that complainants ought also to have the right to apply to have complaints expedited. For some reason that recommendation fell off the back of the truck! Could it be that complainants do not have that opportunity as part of an attempt by the government to disadvantage complainants and prevent them from making complaints of discrimination?

Under proposed section 45AB, a respondent in an expedited complaint may have the matter referred to the board without it first going to conciliation.

Under proposed section 44A the Attorney-General may have a matter referred directly to the board. A complainant has no such right!

The Scrutiny of Acts and Regulations Committee heard evidence - the honourable member for Doncaster referred to it - about a case involving a person suffering from acquired immune deficiency syndrome (AIDS) who was unable to have his case dealt with by the board in sufficient time. I acknowledge that situation happened under the existing legislation, but the committee was established to improve that situation. It made specific recommendations for expedited hearings in medical treatment cases of people suffering from AIDS and in cases involving victims of sexual harassment in employment relationships.

Despite that specific recommendation for expedited hearings, the government has taken no action. Rather, it has picked out that part of the recommendation that relates to its departments and the big corporations and left people like that AIDS patient to suffer. That is contrary to the principle of improving avenues of redress for victims.

Under section 44C the respondent may apply to have a complaint struck out on the grounds that it is frivolous, vexatious, misconceived or - this is the one I like - lacking in substance, and the board must hear the application within one week of receiving it. The grounds on which the application can be made are very broad - that is, that a complaint is misconceived or lacking in substance. It is interesting to compare that with section 37 of the Act, which provides that a complaint that is "totally lacking in substance" can have a cost order made against it.

The Bill contains no corresponding provision for a complainant to apply for an early summary hearing.

In the courts a defendant can apply to have a claim dismissed if it is lacking in substance. By the same token, a complainant can apply using a summons for final judgment to have his or her case dealt with speedily. For example, a respondent who has clearly and blatantly discriminated against the complainant may seek to delay the hearing by bringing the action before the board to have it struck out. That will be very intimidating because barristers will be arguing that the claim is without substance. What is the average complainant going to do then? He or she will say, '1f I go on with this I will have a barrister against me and costs will be awarded against me", and the decision will probably be made without the complainant having had the chance to go through the conciliation process, which might have settled the matter anyway. Encouraging the respondent to bring on the hearing at an earlier stage will be legalistic and costly.

I now refer to the issue of judicial review. The commissioner raised the problems of delays that are sometimes caused by judicial review of the conciliation process - that is, a respondent going to the Supreme Court to get an injunction against the complainant who wants the complaint to be conciliated. As conciliation is meant to be a process of bringing about compromise, the commissioner said it was inappropriate for respondents to seek judicial review, and the Scrutiny of Acts and Regulations Committee recommended that that right be removed. The government also ignored that recommendation. Its attitude reinforces the suspicion that the changes in the Bill are motivated more by a desire to help respondents than to provide prompt redress for victims of discrimination.

The honourable member for Bentleigh talked about inefficiency and made comments about the commissioner that I regard as unfair. She referred to the delays in the conciliation hearings, but she did not acknowledge the massive increase in the number of complaints being brought to the commission and the decline in resources. The committee heard evidence from the commissioner that she had introduced efficiency measures and that each of her conciliators was handling 70 to 80 complaints. That is more than twice the number recommended by the South Australian research study into the issue.

It is not true to say there are massive inefficiencies. There has been an enormous increase in the number of complaints, and governments - I acknowledge that all governments are guilty of this - have not provided sufficient resources to handle the problem. It is a bit rich to criticise the honourable member for Williamstown because her government did not provide enough resources when this government is further reducing them. The answer is to provide decent resources, not to reduce them.

I tum to the most damaging provision in the Bill - costs. Section 47 of the Bill provides that costs follow the event. A similar provision applies in the court system, but this one is worse. It is far more devastating for a losing party than the cost provision in the ordinary court system. It provides that as well as having to pay costs, the losing party must pay any other pecuniary loss incurred as a result of the proceeding. That is devastating because it could

even apply to loss of profits. A company may claim that it has lost profits as a result of an allegation of sexual harassment, for example. Similarly the Public Transport Corporation may claim that it has lost profits as a result of an allegation of discrimination because a tram line has been closed or a conductor has been sacked. The claimant would have to pay the costs and could be liable for millions of dollars in lost profits. A person who makes a complaint under this legislation will be risking his or her home and savings. The legislation is calculated to destroy equal opportunity.

The cost provisions are completely contrary to the committee's recommendation that the board have discretion to award costs in the limited circumstance where there was unreasonable behaviour by one of the parties. I would be prepared to support a Bill that introduced such a provision, and I might be prepared to accept a provision along the lines of one contained in the Administrative Appeals Tribunal Act which states that in an ordinary case, costs are not ordered but the tribunal has a discretion to order such costs. That is not what this Bill does. It introduces a rule that essentially makes costs follow the event.

I refer the House to the evidence the committee heard on the question of costs. So far as I am aware, only one submission was made in support of costs and that was from a firm of solicitors, Arthur Robinson and Hedderwicks.

Mr Perton - I t ' s a different firm.

Mr THWAITES - I understand that to be the firm, but I may be wrong. No other submission supported costs. I point out that Arthur Robinson and Hedderwicks did not support the Bill, which provides that if you lose you pay costs and also the pecuniary loss. I compare the views of Arthur Robinson and Hedderwicks with the views of other groups one might expect to have supported the government on this issue. The administrative law section of the Law Institute of Victoria recommended that costs should apply only if a party behaves unreasonably. That was the limit of its recommendation. The Public Advocate specifically said it was important that costs not apply to cases brought to the Equal Opportunity Board. Feminist Lawyers said the same thing. The Victorian Employers Chamber of Commerce and Industry, which one might expect to come out in support of this sort of provision, did not support it. Its only suggestion was to give the board a general power to award costs against a complainant who has acted unreasonably, which was a limited suggestion. The Department of Health and Community Services said that the current tribunal procedures and processes "are more informal and less expensive than the courts and encourage access for those who would be intimidated by a more formal setting".

Therefore, the department supported the continuation of equal opportunity hearings before the board in preference to going to court. This provision is contrary to the recommendations of a government department. Private sector equal opportunity officers - not a left-wing group - referred to the importance of accessible and cheap hearings before the board.

Finally, the Equal Opportunity Board made a recommendation about costs. That submission referred to a provision in the Administrative Appeals Tribunal Act stipulating that each party is to bear its own costs, but if the tribunal is of the opinion in a particular case that circumstances justify it doing so, the tribunal may make such orders as to costs as the tribunal thinks fit. The board made a suggestion which is inconsistent with the outcome produced by the government.

The great danger in all this is that ordinary citizens will be scared of making a claim because they know that if a claim is made they will suffer the threat of losing their houses and savings.

The Attorney-General wrote to the committee saying she would move an amendment. It has been said during the debate that somehow the amendment will meet the criticisms of the committee about costs. Nothing could be further from the truth because the amendment will not improve the situation.

Through the amendment, the Attorney-General seeks to remove section 47(1), which refers to frivolous and vexatious hearings while retaining subsections (3) and (4) in exactly the same terms as before with one minor exception - that is, that the word "exceptional" is changed to "special".

An examination of proposed new section 47 as detailed in clause 19 reveals:

(3) In any inquiry or proceeding before the Board, the Board may order the payment of costs fixed by the Board.

(4) In making an order under sub-section (3), the Board must order the payment of costs in favour of the successful party to the proceedings unless the

Board is of the opinion that there are exceptional circumstances -

The only change is to alter "exceptional" to "special". The Attorney-General has misled the committee and Parliament by saying she has addressed the problems, because the removal of existing subsection (1) does nothing. By her own words, she has removed something which has been subsumed by proposed new section 47(3} and (4). She says that because of the new cost provisions those provisions are unnecessary because they are encompassed by the words "in any inquiry or proceeding before the board" in subclause (1) of the Bill.

The same situation about which the committee and Alan Goldberg, QC, complained now applies. I should have thought the Attorney-General would have a considerable degree of respect for Alan Goldberg. In a letter to the *Age* Mr Goldberg referred to the imposition of costs in favour of a successful party before the board and to costs incurred in other legal jurisdictions. He proceeded to refer to the pecuniary damages that a losing party can be forced to pay and said the Bill will make equal opportunity a luxury.

!he Attorney-Gen al has purported to make improvements on the basis of the committee's recommendations, but she has made no substantial improvements. She has misled Parliament and, at the end of the day, ordinary citizens and complainants will suffer.

I turn to the question of the independence of the Commissioner for Equal Opportunity. The Scrutiny of Acts and Regulations Committee recommended that there should be a greater independence for the commissioner. The committee reported that approximately 30 to 35 per cent of all complaints involved government departments and it said that dependence from the executive government in the circumstances is vital.

According to the committee, the staff of the commissioner are not under the control of the commissioner but are deemed to be employed by the Secretary of the Department of Justice. The Ombudsman, Mr Norman Geschke, gave evidence in a public hearing that the commissioner should be independent of the executive government because she has the duty to investigate complaints against government departments and against the government. Mr Geschke and the commissioner recomi:nended that the commissioner be responsible to Parliament, not to the executive.

The committee made a number of recommendations which would make the commissioner more independent including that the staff of the commissioner should be under the commissioner's administrative control as a freestanding administrative unit, that the commissioner's report should be made direct to Parliament and that the commi ioner sho d be subject to annual review by a committee of Parliament or another independent body.

The Attorney-General says that the commission is an independent body - but that is not so because it is appointed by her, and it can be dismissed at any time by the government. The whole thrust of the committee's recommendations was not directed at whether there should be some outside body to tell the commissioner what to do but to make her independent of the executive. Nothing in the Bill in any way makes the commissioner independent of the executive. The sacking of Moira Rayner ephasi5E;s_ that the commissioner and any future chief conahator will not be independent of the executive. If the future chief conciliator wishes to keep his or her job, he or she will have to toe the line and will have to become a lap dog to the government. The chief conciliator will have to ensure he or she never raises issues like Fairlea Prison, the Public Transport Corporation or any decisions involving the government - otherwise the government will legislate the conciliator out of existence.

Mr CLARK (Box Hill) - I have been amazed to listen to members of the opposition debate this Bill because they have come out with a litany of accusations and attacks on the Attomey-General- one diatribe after another - accusing her of all sorts of scurrilous and infamous conduct, but the one factor characterising all the attacks is the lack of evidence to support them.

I took notes at length of what the honourable member for Pascoe Vale had to say, for example. I fear I wasted my time completely because he recycled his standard speeches and had much trouble in coming to the point at all.

The honourable member for Williamstown made an impassioned spet'Ch and made vile accusations ag inst the Attorney-General, but she produced no evidence to support her accusations. It is ironic that in a debate where those on the other side constantly refer to justice, equity and so on, they have been condemning the Attorney-General without

introducing any evidence to back up their accusations.

I shall deal with some of the areas where opposition members complained about the Bill. The one aspect that has received most attention concerns costs. In any litigation the question of apportioning costs is one of balance. It must be remembered that in any proceedings at least two parties are involved and in any judgment there is usually one winner and one loser, or possibly a split decision. One must have regard to both sides of the action to determine what judgment should be made about costs.

One must remember that it is not only the injured complainant who is at risk of suffering an injustice when going before the commissioner or the board; there is also the falsely accused respondent. One cannot assume that simply because a complaint is made the respondent is guilty. Many gross injustices and wrongdoings are done to complainants, but there are also many innocent respondents who are falsely accused in a context where enormous and ongoing damage can be done to the person concerned.

We must avoid stereotypes about the financial position of complainants versus respondents. The stereotype that opposition members like to call to mind is the battling individual employee taking on the might of some massive corporation. One must also remember other possibilities, for example, of action where a rich and powerful union gets behind a complainant to a case without much merit against a small battling employer who is likely to go out of business if the complainant is successful.

The honourable member for Albert Park talked about complainants being at risk of losing their homes. Respondents can be at risk of losing their homes also. We must balance both sides of the equation and not rush into believing there is a presumption in favour of one side or the other. In all of these matters it is a question of proper balance. If one departs from the principle that costs be paid by the losing party, one runs the risk of an unfairly accused respondent being out of pocket.

The argument is not that the government or some third party should tip a massive subsidy into the equal opportunity system to keep down the level of costs to encourage complaints - because it is in society's interests that complaints be heard cheaply - it is that the other side to the litigation should meet the costs. If an unfairly accused respondent must pay his or her own costs, that can be an arbitrary and capricious form of taxation and an imposition upon a party that, by assumption, has been successful in the proceedings. The argument of the opposition about costs is totally misguided in any event. The position arrived at is not automatically costs following the event. There is a broad and general discretion given to the board. Proposed amendment No. 2(1) states:

> In any inquiry or proceeding before the Board, the Board may order the payment of costs fixed by the Board.

That gives complete discretion to the board if it believes in its wisdom that it should award costs in only extremely limited circumstances.

I shall touch briefly on the question of pecuniary loss that the honourable member for Albert Park raised. In the courts, where pecuniary loss follows from the granting of an injunction against a party, at the time the injunction is granted there is almost always an undertaking as to damages given by the party that seeks the injunction. In other words, that party says, '1 want the injunction, but I undertake that if the injunction is ultimately discharged and I lose then I will compensate for the cost my injunction has caused". There is that analogy with the normal court system for some claim for damages for pecuniary loss where the equal opportunity proceedings have caused that loss.

However, I do not believe that sort of situation will arise often, if at all, in the Equal Opportunity Commission because normally the business of the respondent will not be interfered with directly by the proceedings before the commission. It is more likely that the pecuniary loss will result from the fact that either the complainant or the respondent is likely to have incurred substantial personal costs in taking part in the proceedings, and those personal costs would not be accommodated by an award of costs that dealt only with legal representation.

The other point that seems to have escaped almost every opposition speaker is that the right to legal representation in proceedings before the commission will be at the discretion of the commission. Firstly, there may be a case where legal representation has not been involved and parties have had to appear on their own behalf and are entitled to compensation. Secondly, if the opposition is concerned about Queen's Counsels and other expensive lawyers running up bills, the commission has the discretion to grant leave and it can use its power to keep a lid on costs if it so desires. The criticisms of the

opposition on that point are misconceived. The proposed cost provision in the Bill is eminently fair and reasonable and attempts to strike a legitimate balance that is imperative in matters of this nature.

I now tum to the expedited hearings to the board. That is something that is only granted if the board agrees to it. If it believes that the right to conciliation is being unfairly deprived, it can reject the application for an expedited hearing. In many instances, there is a budding test case where everybody wants to get on and display their public theatricals and have the decision made one way or the other. Conciliation is dearly going to fail, and the process can be short-circuited and the matter can be taken directly to the commission.

I had trouble understanding the reference to complaints about the independence of the commission or the commissioner. As I understand it, there is very little if any change to the present position in that regard, and there is no threat to the independence of the commission that is being established.

The honourable member for Albert Park and other opposition members criticised other provisions lacking in the Bill. The honourable member for Doncaster responded adequately to this and pointed out that this is an interim measure. There is plenty of opportunity for a more leisurely consideration of the full report of the Scrutiny of Acts and Regulations Committee and for the government to accept recommendations of that report if it believes it is appropriate. In the meantime, some of the more pressing problems, to which the honourable member for Doncaster referred, facing the equal opportunity process are being addressed.

I am concerned about the way some aspects of the public debate on this issue have run. I recall again that this is essentially a debate about fairness and equity. However, we have not seen in many of the public comments and criticisms of this Bill much of the fairness and equity that is claimed is being removed by the Bill.

I was disappointed by a press release issued some weeks ago in the name of Sir Ronald Wilson who criticised the Bill because Sir Ronald is a former High Court judge and a person who would be well aware of the principle that one should hear both sides of an argument before rushing in and making a judgement. The press release criticising the Bill was issued before the final terms of the Bill had been settled and before the second-reading speech was given. Unless Sir Ronald had a copy that fell off the back of a truck, he was making up his mind and rushing into public comment without examining the Bill. That is characteristic of much of the public debate on many reform items of the government, and it would greatly enhance the calibre of public debate if people would observe the decency of finding out what they are criticising before they launch forth.

In conclusion, nothing members of the opposition have said undermines the provisions of the Bill, and I am pleased to give it my support.

The SPEAKER - Order! The time appointed under Sessional Orders for me to interrupt the business of the House has now arrived.

Debate interrupted.

ADJOURNMENT

The SPEAKER - Order! The question is:

That the House do now adjourn.

11444 emergency number

Mr THOMSON (Pascoe Vale) - I direct to the attention of the Minister for Police and Emergency Services a letter I received from a constituent who wrote to me after being unable to get through on the 11444 emergency number. That person was staggered by the reply from the Minister's office that the telephone had not been answered because it was thought that people might get anxious if they got an engaged signal, but that a recorded message was being considered. I can imagine the bureaucratic heaven in which various public servants sat around and considered the anxiety caused to people making emergency calls and the three options of getting no answer and having the phone ring out, getting an engaged signal or getting a recorded message. Following that complaint Mr Shuey of the Victoria Police Force was quoted in the *Age* of 26 August as saying:

> there was no plan to install a recorded message telling callers to hold on the line, even though it had been considered to reduce response times.

I was pleased that the *Age* said that perhaps the bureaucracy had come down to earth and had some understanding of what was needed to be done - that is, to provide someone at the end of the line to

answer the call. However, two similar incidents have occurred that prove that is not the case.

A letter from Mark Thomas of the Police, Emergency Services and Corrections Directorate to the honourable member for Oakleigh states:

> Another aspect of the work being undertaken to improve the service involves consideration of a brief appropriately worded message to alert callers straight away that their call has reached the police and will be answered in the shortest possible time.

Will the Minister take appropriate action to ensure that people ringing the 11444 number receive a response?

Warrnambool rail service

Mr HENDERSON (Geelong) - I direct to the attention of the Minister for Public Transport the Geelong-Warrnambool railway passenger service. A few weeks ago I had the pleasure of travelling on that service from Geelong to Warrnambool with the Minister. I was very impressed with the service that West Coast Railways provides on that line, particularly with the cleanliness of the carriages and the service of the staff. Most importantly I was impressed that the number of people travelling on the line has increased.

However, I have received a telephone call from an older woman who frequently travels on the line between Melbourne and Geelong so that she can visit her family. She was terribly upset because she had heard rumours that the line was to be shut down. After further discussing the matter with her, she referred to a letter she had received in her letterbox recently which calls people to "Save our passenger rail service". It also warns people that:

> If they get away with this -
>
> > The journey between Warrnambool to Melbourne would take up to two hours longer than the train.
> >
> > You would have to change at Geelong between a train and bus ...

And so it continues. Attached to the circular was a second page.

The SPEAKER - Order! The honourable member has 1 minute.

Mr HENDERSON - The second page contains a list of members of Parliament. It was authorised by the Geelong Trades Hall Council of Myers Street, Geelong. My constituent is concerned about her ability to use this service in the future. Will the Minister advise me if this woman's concerns are valid? I would appreciate the Minister taking up the matter on my behalf.

St Albans North Environment Action Group

Mr ANDRIANOPOULOS (Mill Park) - I refer the Minister for Planning to comments he made in the House last week about a 1990 allocation to the St Albans North Environment Action Group for a study, which was conducted under the auspices of the Western Region Commission, that attempted to resolve planning problems in the St Albans North neighbourhood, particularly the conflict between the industrial and residential uses. In response to the honourable member for Tullamarine the Minister made some quite ill-informed comments about the organisations involved, in particular about the St Albans North action group and the Western Region Commission. Needless to say, there has been a general outcry in the western suburbs about--

Honourable members interjecting.

The SPEAKER - Order! The honourable member for Ripon will take a seat!

Mr ANDRIANOPOULOS - So much so that the *Keilor Messenger* was moved to write an editorial - something the *Keilor Messenger* does not often do. The editorial says:

> Both MPs' comments show they are unaware of the work and nature of the organisations they criticise ... The only mysterious aspect of the whole sorry case is the motivation for the attacks.

The editorial wonders about the motivation that prompted the attacks by the honourable member for Tullamarine and the Minister for Planning.

I certainly took advantage of the Minister's invitation to offer the House my views - I did so in yesterday's grievance debate. I point out to the Minister that this week he has received substantial information from both the Western Region Commission and the St Albans North Environment Action Group. I hope he has had an opportunity of re-examining the whole case.

The SPEAKER - Order! The honourable member has 1 minute.

Mr ANDRIANOPOULOS - I hope so because in his response last week he appeared to rely solely on the advice given to him by the honourable member for Tullamarine. As I clearly proved to the House - -

Honourable members interjecting.

The SPEAKER - Order! The House will come to order!

Mr ANDRIANOPOULOS - The honourable member for Tullamarine relied upon a particular individual, whose name has been dragged through the House on numerous occasions.

Honourable members interjecting.

The SPEAKER - Order! I note with interest that the honourable member for Tullamarine has been freely making interjections. He will remain silent. The honourable member for Mill Park.

Mr ANDRIANOPOULOS - The honourable member for Tullamarine should give deep thought to the issue because it appears that every time he has opened his mouth to make an allegation in the House he has been relying solely on the one individual.

The SPEAKER - Order! The honourable member's time has expired.

Honourable meml,ers interjecting.

The SPEAKER - Order! The honourable member for Mordialloc is causing the Chair a great deal of irritation.

Swan House, Sale

Mr RYAN (Gippsland South) - I direct the attention of the Minister for Community Services to an institution known as Swan House, which operates in Sale and has done so for some 25 years. This magnificent institution provides placement and support services for children and young adolescents, particularly in circumstances where they are in need of protective services. The service receives base funding of $173 000 per year and $% 000 in additional, non-model funding.

In April this year the Department of Health and Community Services undertook a review of funding through the Gippsland region, which encompasses a huge area ranging from Warragul in the west to the New South Wales border and through to South Gippsland. The issue is the manner in which the non-model component of the funding is distributed.

Discussions have taken place with the committee of management operating Swan House. It has been served well by people such as Mrs Elsie Phillipson, who has worked for the organisation for many years, and the current chairman, Graeme Dyer. The committee of management is concerned at the provision of services for children and adolescents in need of help. I make that distinction because the committee recognises that although there is a community problem, one which I hope the opposition is concerned about, it has to do with the provision of services to young people and children in need.

The committee recognises that no-one has ownership of the solutions. It wants to know what the department is doing with the current funding for a magnificent institution, bearing in mind that last financial year 75 of the 112 people admitted to the centre were siblings. The committee is concerned, as is the Sale community and the region generally, how this widespread and essential service is to be provided in the future. I ask the Minister to give an assurance that the essential service will continue.

Grimshaw Primary School

Ms GARBUTT (Bundoora) - I ask the Minister for Planning to direct to the attention of the Minister for Education the problems of Grimshaw Primary School. I hope the Minister for Education may come up from wherever he is hiding and reply to the issue, because it is important.

Grimshaw Primary School is an excellent school in my electorate which has had the unfortunate fate of being part of the so-called quality provision task force review, although the main emphasis should be on "force". Parents are protesting against the forced closure of the school next year.

Despite the fact that the Minister for Education has promised several times that there will not be a forced closure of the school and that the decision is up to the community, the school has been notified that it must close. In response, parents of the children at the school have protested in every way possible, including approaching the Ombudsman, ringing the hotline to the Directorate of School Education, directing attention of the school's plight to the local media and, this week, the daily media. The parents have now taken the step of occupying

the school. They wish to speak directly with the Minister. They feel they have been given the run around by departmental officers and regional staff who have not listened to them or have gone away and done the opposite to what they agreed they would do. The parents have not been provided with the information they need and want and feel they have got nowhere with the officers with whom they have been meeting.

The parents of the children at the school believe the task force process was a problem from the beginning because whoever decided on the composition of the schools to go into the task force had, to a large extent, predetermined the outcome of the process. Some local schools were not included. The task force was called the Bundoora Quality Provision Task Force, but Bundoora Primary School was not included in the process and no consultation took place locally about the composition of the task force.

Parents want the Minister to go there to discuss the matter or they will go to the Minister's electorate office or his office in Parliament to discuss it with him. They wish to speak directly with the Minister to put their concerns, problems and suggestions to the him. I hope the Minister sees fit to respond directly to this plea from the Grimshaw Primary School community to speak directly with him about the forced closure of that excellent school.

TAB telephone betting accounts

Mr PHILLIPS (Eltham) - I direct to the attention of the Minister for Sport, Recreation and Racing a local business person who came to see me about TAB telephone betting accounts. Apparently when a person opens an account he signs a document and agrees to the condition that, when a bet is placed over the telephone, there is a call-back system where the person must confirm the bet and then the bet is placed. This business person placed a bet and the bet was recorded on a tape. The tape was quite clear, but he did not confirm the call back on the tape. The person who took the bet placed the bet with a different race, and it turned out that he won $2300, which the TAB would not pay.

This person took the matter to the Small Claims Tribunal and the Office of Fair Trading. Although the chairperson of the tribunal indicated that he was sympathetic with the claim and that he would normally have awarded in his favour, because of the conditions signed by the person who had the account the chairperson's hands were tied.

Some months later, the same thing happened to this person's mother, who is elderly. She placed a bet; the operator called back, but his mother did not recognise that the bet was slightly different from the one she had placed, and again the bet was not awarded to the account. In this case only $7 was involved, not $2300 as previously.

Although the TAB had put a case to the Small Claims Tribunal and the Office of Fair Trading that it did not discriminate against the size of the bet, stating that it did not pay any bets at all in such circumstances, when he and his mother complained about the $7 bet, they found that within a few days the $7 was put into their account. They decided to ring and request a copy of the tape to hear exactly what had taken place. Although they were not given permission to listen to the tape, within a few days, without even asking, another $7 was placed into the account.

This business person's complaint is, firstly, that the TAB seems to discriminate between small and large bets and, secondly, that although on both occasions the tape was accurate and the bets could be clearly understood, the onus is not on the people who take responsibility for the bet. I ask the Minister to consider this because the TAB says that a State government law prevents it from paying. Is there any opportunity for the Minister to consider that?

Carwatha College

Mrs WILSON (Dandenong North) - In the absence of the Minister for Education I direct to the attention of the Minister for Planning, who is at the table, the Carwatha College, which is in my electorate. It has recently been created as a result of an amalgamation of Carwatha Secondary College and the adjacent primary school, Noble Park North Primary School.

Carwatha College has been in existence in some form for the past 17 years. It was proposed that that school be built in a number of stages, and in stages 1 and 2 the core buildings were provided. Stage 3 was provided later by the previous government and included a library, a gymnasium and drama facilities.

It was anticipated that stage 4 of the college would include maths and science facilities, but that is still to occur. It has come to the attention of the school council that the Joseph Banks Secondary College in the adjoining electorate, which was closed recently by the government in its rationalisation of schools in

the area, has science facilities that are vacant, lying unused, and that are not required elsewhere in the region.

It would make sense to supply these facilities to Carwatha College, in view of the fact that it does not have existing facilities for these subjects. I understand that next year the enrolments at that school will total more than 1000 students between the primary and secondary campuses, and of course science and maths facilities are desperately needed, as they are in all State schools.

In view of the fact that this school appears to have amalgamated so successfully, and in view of the fact that buildings are lying vacant in an adjoining electorate, I ask whether the facilities can be transferred to Carwatha College. Of course, some cost will be involved in the transport of the facilities, but I am advised that they are in a good state of repair, and in the final analysis their relocation will probably save the government a considerable amount of money because it will not have to provide new facilities at a later stage. I ask the Minister to kindly convey my request to the Minister for Education.

Frankston police station site

Mr WEIDEMAN (Frankston) - The matter I raise with the Minister for Finance concerns the former police station site on the comer of Davey and Young streets in Frankston, now vacant because a new police and court complex has been opened by the Attorney-General in Frankston.

The Frankston City Council has the first option on the property, and I understand it has put a submission to the Minister for Finance offering to make three payments over three years, which I believe is now under consideration. A request has been made by the Frankston Chamber of Commerce and Industry and the local community for the vacant property to be used for parking until such time as it has been disposed of, but at this stage no answer to that request has been received.

The Chamber of Commerce and Industry has conducted a parking study of the area and notes that the property as it stands would provide space for at least 150 cars, and because of the natural fall of the land a multi-level car park could be built, increasing the number of possible parking spaces to 400. Those who know Frankston would know of the proposed civic centre, convention area and retail centre to be built adjacent to this site. That project is now under way and between 250 and 335 car spaces have been lost to it, further reducing car parking space in Frankston. The whole area has an enclosed ring-road, making this site ideal for a car park.

I ask that the Minister consider the offer made by the Frankston City Council involving three equal payments over three years. Because of the theatre and convention complex being built on the other side of the road at a cost of $17.1 million, the offer by the council represents the total amount the council has at its disposal at present. In the interests of the central business district of Frankston, which is one of the largest in Victoria, I urge the Minister to give favourable consideration to the request to increase parking in the area.

Knife attacks in western suburbs

Mr SEITZ (Keilor) - I direct to the attention of the Minister for Police and Emergency Services a matter I have raised with the Minister before in relation to knife attacks in St Albans. People get into arguments and use knives or they use them in robberies, as occurred this week. The Minister took the matter seriously the last time it happened and action was taken in my area, but the problem has broadened to the western suburbs.

On Monday my assistant had to go to the post office. She was late coming back because of a robbery at the Tattslotto agency where customers were threatened with violence. Last night a taxi driver was threatened and robbed by a person using a knife. Newspapers such as the *Keilor Messenger*, the *Footscray Mail*, and the *Sunshine-Western Suburbs Advocate* have reported that there is one stabbing every 24 days in the western suburbs.

I am concerned about the matter, and so are many other people in my area. They want a safe and secure environment. According to the police the stabbings are not gang-related. There is a culture developing that carrying knives and using them in fights shows how tough those carrying them are. Innocent people who happen to be in the wrong place at the wrong time are being threatened, and it is having a psychological effect on the community I represent. I urge the Minister to ensure that action is taken not only in the St Albans area but also throughout the western suburbs. Comments have been made by people in other areas, particularly since the newspapers mentioned my name in an article. The police are saying that there has been an increase in knife-related incidents in the area over the past 12 months, particularly over the past few

months. Chief Superintendent Keith Sinclair was reported as saying that his district, which includes the St Albans-Keilor area and Avondale Heights, had recorded a 3 per cent increase in serious assaults in the past financial year. That has created concern not only for me but for the people in my electorate.

The SPEAKER - Order! The honourable member's time has expired.

Femtree Gully station parking

Mr LUPTON (Knox) - I direct to the attention of the Minister for Public Transport the car parking situation for commuters at the Femtree Gully railway station. Femtree Gully is a small village and it is surrounded on both sides of the railway line by a shopping centre, which is not over-endowed with car parking spaces.

The parking provided for commuters at the Femtree Gully railway station is minimal and once the car park is filled the cars overflow into the shopping centre. Concerns have been raised with me about commuters who park in the shopping centre using customer parking and thereby depriving shopkeepers of their livelihoods. Rowville and Lysterfield are growing in size and no doubt commuters from those suburbs go to the Femtree Gully railway station as it is the most central station, but because car parking is restricted they are parking in the shopping area, which is to the detriment of the Femtree Gully traders.

The reason I raise the matter with the Minister is that the Public Transport Corporation owns sufficient land to the north of the railway station to be used for car parking, and if that were used the local shopkeepers would have sufficient parking areas for their customers and commuters would be satisfied. I ask the Minister to investigate the matter and report back at his earliest convenience.

Werribee Golf Club

Dr COGHILL (Werribee) - I direct to the attention of the Minister for Natural Resources, who is the representative in this place of the Minister for Conservation and Environment, the problems suffered by the Werribee Golf Club caused by flooding this year. The cost of repair was high and the club has suffered severe loss of revenue, which could be offset by a decision by the government to remit some of the lease payments for the club's fairways. Without some assistance from the government the future of the club is in some jeopardy. I ask the Minister to assist.

The SPEAKER - Order! The honourable member's time has expired. I did not want to interrupt the honourable member's valuable time, but I ask him to advise the Chair to which Minister he was directing that matter.

Dr COGHILL - The matter was for the attention of Minister for Natural Resources, who is the representative in this place of the Minister for Conservation and Environment.

Responses

Mr McNAMARA (Minister for Police and Emergency Services) - The honourable member for Pascoe Value referred to emergency services and people trying to get through on emergency numbers, particularly the 11444 number. I am advised by police that both the 000 and the 11444 numbers are currently operating. People can ring 000 and contact all emergency services. Eventually we will move through to one uniform number which is more likely to be the 000 number where people can ring and be despatched to the appropriate emergency services.

The issue of communication in emergency services is important. I commend the work of the Public Bodies Review Committee, chaired by the honourable member for Mornington, who has done some excellent work. The report of that committee is publicly available and I suggest that the honourable member for Pascoe Vale have a good look at it, as I have. The government is aware of areas in communications where improvements can be made to make it a world leader and at the same time increase access and response times.

The issue in relation to the 11444 number is that from time to time it becomes oversubscribed. The advice I have from the police is that where there have been major incidents, such as the fuel tanker crash on the Princes Highway where several hundred calls were received within a matter of minutes, people have had difficulty getting through. It is a serious matter and the government wants to ensure that the community gets access to that number when required. I will take up the matter with police command.

If it is necessary to increase the number of staff receiving calls that is also an issue I will ask police to address. Together with the move towards a more combined approach on communications there is also

the issue of transferring police communications from the Russell Street headquarters.

The SPEAKER - Order! The level of conversation is far too high. There are a number of offenders along the front benches on both sides, and I ask them to remain silent so that the Chair can hear the Minister.

Mr McNAMARA - The issue is involved with the existing communication<; centre at Russell Street being transferred to the World Trade Centre, which is expected to occur late in 1994. I will ensure that those matters are brought to the attention of police and a response is provided to the honourable member for Pascoe Vale.

The honourable member for Keilor referred to the use of knives in the area he represents and the area adjoining it.

Honourable members interjecting.

Mr McNAMARA - I do not think he was referring to the sort of knifing in the back that is all too common in Labor Party preselections at the moment. Many members are suffering from that knife-in-the-back process - a number are sitting on the front bench at the moment, including the honourable members for Altona and Werribee, whom the Leader of the Opposition has identified for the hatchet. I am sure the honourable member for Keilor will survive that process.

The honourable member raised for my attention a serious matter concerning violence in the community rather than violence in the Labor Party. The use of knives is a matter the police have brought to my attention, and I am taking the matter seriously.

The police have advised me that the legislation on dangerous weapons may need to be reviewed, and that is currently being considered. The government is aware that many people, particularly youths in the area referred to by the honourable member for Keilor, have taken to arming themselves with knives as a matter of course. This is a cultural issue. It is something that is not accepted either in the general community or by the honourable member for Keilor. Measures need to be taken to ensure that this unfortunate but growing trend is discouraged.

The honourable member has welcomed the new police station in St Albans. In addition, the government's commitments to both increase police powers to ensure that suspected culprits are apprehended and provide additional police personnel will go some way to alleviating the problems the honourable member directed to the attention of the House.

Mr BROWN (Minister for Public Transport) - The honourable member for Geelong directed to my attention a serious matter that demonstrates that members of the guilty party will resort to any action to frighten the electorate - they will lie, cheat and mislead the electorate with, might I say, gay abandon!

Honourable members interjecting.

The SPEAKER - Order! I do not know whether other honourable members wish to go home, but I certainly do. I will not adjourn the House until it comes to order and we have dealt with the business at hand.

Mr BROWN - When told that a group of protesters were on his doorstep, a former Premier, Henry Bolte, commented that it could not be possible because his doorstep was not low enough for that group of protesters. One has to ask how low the mob on the opposition benches will go! The claim made in literature sent to old ladies that passenger rail services to Portland, Warmambool, Terang, Camperdown, Colac and Geelong are under threat is a blatant lie. That is not unexpected, coming as it does from opposition members. But when they resort to doing it to little old ladies, one must ask: have they no shame?

The government put out to tender rail services in rural Victoria. They are rail services that the former government ran into the ground, did not invest in and, in effect, brought to a standstill! The government will put brand-new Sprinter trains on the provincial network before Christmas this year and will make a significant investment in and upgrade the system.

As a result of the tender process, West Coast Railways was successful and will take over the former V/Line service between Melbourne and Warmambool at a saving to the taxpayer of $3 million a year. It is a stunningly successful outcome for Victoria and local commuters. The government saved the train, it is running at a saving of $3 million a year and it is a better service than it was.

I commend the honourable members for Geelong, Bellarine and South Barwon and the Honourable Bill

Hartigan, an honourable member for Geelong Province in another place, for their hard work in support of the formation of the consortium. Three weeks ago I was delighted to accept an invitation to visit the area and use the new service between Geelong and Warrnambool. As the honourable member for Geelong indicated, it is a highly impressive service. Its cleanliness is beyond description. You could eat your lunch off the floor of that train.

Honourable members interjecting.

The SPEAKER - Order! I am not sure what the Chair has to do to restore order in the House. I have never seen so rowdy an adjournment debate. I warn the House that I will take action unless honourable members come to order, the level of conversation drops and the Minister can be heard in silence.

Mr BROWN - Thank you, Mr Speaker. The company provides excellent on-board catering to the travelling public. Before the election the Labor Party embarked upon a scaremongering campaign that knew no bounds. It said the service would be lost. That is not true. To circulate pamphlets suggesting that a highly successful private enterprise passenger train will be lost in the near future is scandalous behaviour, even for the guilty party. I assure the community and my colleague who raised the issue that the train is not under threat and that it will continue. The honourable member for Warrnambool, who lives at the end of that train line, can vouch for the fact that the service has improved and that the patronage is better than the consortium forecast. It is an excellent service run by private enterprise at a $3 million saving to the Victorian public purse and I have no doubt it will go from strength to strength.

Honourable members interjecting.

Mr BROWN - I suggest to the guilty party that instead of misleading the community by suggesting that this excellent service is under threat, it should understand, as does the union movement, that the system is heading towards world standard. I invite honourable members to travel on that train and to decide for themselves. Instead of sitting in Melbourne and printing brochures ad nauseam, for which it is renowned, it should work with the government to promote the service. The Labor Party is in destruct mode. We do not mind if it is destructive within itself but when the campaign of spreading false allegations goes beyond the front and back benches to the general community, it is time it was brought to account.

The community is supporting that service. I give an ironclad guarantee that the train service is here to stay. As the government said when it talked about private enterprise taking over train services, the Crown stands behind the continuance of the service. Even if, for example, ill health affected every member of the consortium which owns the train or if for some other reason it cannot continue to operate, the government will ensure that the train will run. My colleague can give the good news to the community yet again: the government guarantees that the service is secure.

The honourable member for Knox - another well-known advocate for public transport - is also getting results in his electorate.

Honourable members interjecting.

The SPEAKER - Order! I have asked the House nicely; I have pleaded with the House to come to order. The House stands adjourned until 10 a.m. tomorrow.

House adjourned 10.46 p.m.

Friday, 19 November 1993

The SPEAKER (Hon. J. E. Delzoppo) took the chair at 10.4 a.m. and read the prayer.

PAPERS

Laid on table by Oerk:

Agriculture Department - Report for the year 1992-93

Energy and Minerals Department - Report for the year 1992-93

Finance Department - Report for the year 1992-93

Hospitals Superannuation Board - Report for the year 1992-93

Local Authorities Superannuation Board - Report for the year 1992-93

State Superannuation Board - Report for the year 1992-93

Transport Department - Report for the year 1992-93

POLICE REGULATION (DISCIPLINE) (AMENDMENT) BILL

Introduction and first reading

For Mr McNAMARA (Minister for Police and Emergency Services), Mr Maclellan (Minister for Planning) introduced a Bill to amend the Police Regulation (Discipline) Act 1993 and for other purposes.

Read first time.

Mr MACLELLAN (Minister for Planning) - I move:

That the Bill be printed and, by leave, the second reading be made an Order of the Day for later this day.

Mr ROPER (Coburg) - The honourable member for Niddrie has had a briefing on this matter. From what it knows, the opposition has no reason to believe the Bill should not be passed during this sessional period. The opposition wants to ensure that, if there are any questions about the Bill, it will not be rushed through next week without debate. It has been announced that, if required, there will be an extra week of sittings, therefore there is plenty of time to have the Bill passed in that week if there are difficulties; if not, it could be passed next week.

The opposition wants an idea of the government's intention, but it does not want to delay what is a necessary amendment to the Act.

Mr GUDE (Minister for Industry and Employment) - The House will sit extended hours next week, as has been the case this week, to secure the legislative program of the government. As has been said, the honourable member for Niddrie has had a briefing with the Minister and his staff and at this stage there is no difficulty. I am sure that an amicable arrangement can be reached between the opposition and the government.

I give the undertaking that further consultation will take place to ameliorate any difficulties. I cannot give an undertaking that the government will extend the sessional period for a particular piece of legislation.

Motion agreed to.

PUBLIC SECTOR SUPERANNUATION (ADMINISTRATION) BILL

Mr MACLELLAN (Minister for Planning) - I move:

That the amendment to be substituted for government Amendment No. 53 to the Public Sector Superannuation (Administration) Bill be now circulated in lieu of the amendment which was circulated pursuant to Sessional Order 6(5) on 16 November 1993 and that Sessional Order 6(6)(a) be applied to the proceedings on the Bill in respect to that amendment.

Motion agreed to.

CHATTEL SECURITIES (AMENDMENT) BILL

Second reading

Debated resumed from 28 October; motion of Mr BROWN (Minister for Public Transport).

Mr COLE (Melbourne) - The opposition supports this important Bill for a number of reasons. Firstly, it takes Victoria into a national scheme of

arrangement for security concerning chattel mortgages. Secondly, it gives the general community a sense of security because they will know that when a person buys a second-hand car, particularly if it comes from another State or is in another State, they can get access to information about possible encumbrances. It is also important that Victoria is working cooperatively with other States and the Federal government.

Mr Maclellan interjected.

Mr COLE - It is the other way around. Victoria is catching up with the other States; it is providing information. Currently information can be obtained in Victoria about New South Wales vehicles but information about Victorian vehicles cannot be obtained in New South Wales. The Bill is aimed at everyone working toward a common goal.

The second-reading speech points out that every year $20 million is lost because of untraceable financially encumbered vehicles. That position is unacceptable, and I hope the Bill will assist in improving it. The Bill will provide a service not only to financiers but also to consumers. The bona fide purchase for value has long been an accepted concept in property law covering real property or real estate, but that concept has not been applied to chattels. This matter was first raised in 1991, and the November 1991 meeting of Premiers and Chief Ministers concluded that it ought to be addressed properly. This legislation puts into effect in Victoria the system that exists in other States.

The second-reading speech also pointed out that current Victorian legislation does not permit information contained in the New South Wales register to be provided to Victorian customers making inquiries about vehicles. That is unacceptable. It is worth noting that the finance and motor trade industries lobbied governments around Australia to make the changes being brought into play by the Bill because losses on chattel securities were so high.

I must also say, and it is not a flippant statement, that chattel securities are often needed by people on low incomes who do not own houses and do not have the capacity to get loans by providing security. The general approach of banks and finance companies following the profligacy of the 1980s has led to penury for many people. I would not say that the banks and finance companies are parsimonious, but it is only when they are absolutely convinced that one does not need the money that they actually hand it over!

The only solution is to ensure that chattel securities are used as a matter of course and that the notification system is effective throughout Australia. Unless that happens finance companies and the banking industry in general will have no faith in the system. It is hard enough at the moment because they do not seem to have too much faith in their own system, but if these types of guarantees are not secured and if bona fide purchasers are not protected the situation for everyone in the finance industry will become worse, and the people who will ultimately lose are the consumers.

If security problems become manifest, interest rates go up, there is a reluctance to give loans and the consumers pay more, if they can get loans in the first place. It is people on lower incomes who do not own houses by which to secure loans or take out second mortgages who need the money the most. When introducing legislation of this type it is important to remember that it is designed to protect people who purchase cars as much as it is designed to protect people who borrow and use their cars or trucks as security.

Many good changes are being introduced by the Bill. I will not go through all of them, but I emphasise that we must be careful about divulging personal information to anybody. I do not have a problem about information being provided pursuant to the Bill because it is not information about dates of birth, how people look, where they do or do not live or even where they used to live. It is about encumbrances attached to motor vehicles, and one would imagine that the only people who would be interested in that are people who can prove they are the purchasers of vehicles. That must be the underlying reason for a person seeking the information.

I hope the Minister looks at some of the issues about which I am concerned. Although they are not major problems, it worries me that the bureaucracy could be involved in removing particular chattel securities. It is intended that automatic cancellation will take place after the interest has expired. That will take place only after the sending of a letter asking the interest-holder to show cause why it should not occur. I do not necessarily disagree with that process, but it seems unnecessary or a potentially bureaucratic approach that somebody - although it would probably be done on a computer, anyway -

must check the records to see whether the time for the chattel security has expired.

What happens in these cases - and I know because I have done it myself - is that people renegotiate their loans and the period may be extended. It may well be they do not notify the finance company, and if that is the case that is their problem. But it seems to me that the onus ought to be on the chattel securities person - the finance company or the bank - to notify when the chattel security has expired. It should be the other way around so that the entry can be brought up on the computer and automatically expunged rather than sending out a letter asking the interest holder to show cause. Perhaps this is not something that one would go to the wall over, but it concerns me that effectively public funds are being used to do what finance companies ought to be doing to assure and guarantee their own interests or perhaps those of the customers.

As I said, it is not something that one would go to the wall over. I do not want in any way for it to be perceived that I am challenging the Bill, because I think it is a crucial Bill. I speak with some knowledge of the area but with particular knowledge of our local credit cooperative, Macaulay Credit Cooperative, and I am putting in a plug for that organisation. Because of the nature of the loans that cooperatives provide to people on low incomes, they rely heavily on chattel securities. This is a very important area and it is not a matter that we can easily alter or affect or try to tamper with. I am not doing that here, but I believe even the Macaulay Credit Cooperative, which does not have many resources, has a computerised system and ought to know when the last payment on a loan has been made, and at that time it should automatically remove the security over a person's chattel. However, as I said, it is not a major issue by any means.

Another feature of the Bill that I am most impressed with - and I do not know whether this provision was inserted because of a desire of the Minister or as part of a national approach - is the idea of providing total compensation when a mistake is made by VIC ROADS in the electronic processing of information and it results in a loss being sustained by an interstate resident or even for somebody living in Victoria. It is a good move; it puts the heat on the bureaucrats down at VIC ROADS to make sure that they do not make too many mistakes because if they do, the government could be up for a lot of money. It is a good and fair step to take, and it gives people who want to purchase second-hand motor vehicles a statement, in effect, that, "You are absolutely guaranteed when you buy that if we make a mistake about whether there is an encumbrance on the vehicle, you will be looked after". lbat indicates good faith in the system. I hope the system will fulfil that faith and live up to the expectations that are being put on the people at VIC ROADS.

The rider on that, as was pointed out in the second-reading speech, is that if the fault lies partially with another State then the other State should bear part of the burden. I agree with that position; I do not think that anybody could not agree with it.

I think the Bill is a good one; I am pleased that the State and Federal governments have reached a uniform position, and I wish it would happen more often. As I have said many times before, the future for this country lies in our regarding ourselves as Australians, not as Victorians or New South Welshmen or Queenslanders and so on. We cannot afford to compete with ourselves when we have been opened up on a level playing field basis to international competition. This is a good example of the ability of the States and the Federal government to get together and reach good conclusions 'or the finance industry, for the customers and, most important of all, for the country.

The Bill allows cooperation between States and it ought to be supported. The Minister for Public Transport deserves some praise for introducing the measure and obviously embracing it as a concept.

Mr MACLELLAN (Minister for Planning) - I thank the honourable member for Melbourne for his support of the Bill. When I was Minister for Transport between 1978 and 1982 I provided for the initial chattel securities register to be established in Victoria. It was designed to protect and inform consumers so that they did not buy cars that were subject to finance obligations. I believe the system has worked well.

The concern of the honourable member for Melbourne regarding the cancellation of registration of interests is coped with under clause 11, which substitutes proposed new section 23 (lA)(d) nominating an expiry date. As he puts it, why should the burden not rest on the finance company to notify the Roads Corporation of the expiry? Ultimately the consumers end up paying for all the failures in the system through either higher interest or higher charges. Notice will be sent to the finance

company saying, "Your registration will expire unless you tell us". That is the system that has been chosen. The system is fairer than putting the obligation on all the finance companies and leaving it with them. I think it will lead to lower charges if it can be done by sending out computer-generated letters to the people concerned.

The system is working well. The honourable member for Melbourne said we ought to recognise that we are one country and deal with the system nationally. I have no argument with that other than to say that one of the greatest advantages of federation is that a State that pioneers this sort of legislation can show that it is working well and it can be adopted by the other States in the Commonwealth.

If we had been waiting for the other States and Territories and the Commonwealth to introduce a system like this we still would not have it. It is only because a scheme is initiated and trialled and the bugs worked out of it in one jurisdiction that it ever gets going and becomes adopted nationally.

The initiators rarely receive the credit, while the Federal Minister tries to say that he invented the wheel yet again. That is a lesson we all need to learn: that it would encourage the Northern Territory, the Australian Capital Territory and many other jurisdictions to pioneer legislation and social experiments if they were credited with their success when the proposals are adopted by other jurisdictions.

Motion agreed to.

Read second time.

Passed remaining stages.

UNIVERSITY OF BALLARAT BILL

Second reading

Debate resumed from 28 October; motion of Mr HAYWARD (Minister for Education).

Mr HAMILTON (Morwell) - I am pleased that the Bill is being debated today because it is an historic day for Ballarat. The plan for the establishment of a university at Ballarat has had a long and chequered history. I was concerned that the proper recognition may not have been made of this historic occasion. It is important that Parliament recognise the establishment of the university in Ballarat.

In the 1870s a Mr Gillies, who was associated with the School of Mines and Industries in Ballarat, the forerunner of post-secondary education, asked Parliament to allocate an additional sum of 500 pounds for the School of Mines and Industries to establish university courses in partnership with the University of Melbourne.

During the first five years of the establishment of the University of Ballarat, the University of Melbourne will be its sponsor. It will be a mentor: something like an insurance policy to ensure that the university establishes a proper reputation and is a worthy addition to the universities not just in Victoria but throughout Australia.

The University of Ballarat will be the eighth university established in Victoria. The University of Melbourne is, of course, the oldest university. Many years passed before Monash University was established. I note that initially the University of Ballarat was called Ballarat University, but I believe the name "University of Ballarat" has a certain ring about it. La Trobe University was established next. The first of the outer metropolitan universities was Deakin University, which developed from the Gordon Institute of Technology. The development of that university also had a chequered past. During the past two or three years the Victoria University of Technology, the Royal Melbourne Institute of Technology and Swinburne University of Technology have been established.

I have some regret that the colleges of advanced education have disappeared, because they had a proud but short history during their development from the late 1960s to the early 1990s, and their loss will mean a loss of diversity in tertiary education. The challenge for the new universities is to ensure that the spirit and the philosophy of colleges of advanced education are not lost. It is important that universities develop their own culture and philosophy. With due respect to the University of Melbourne, I point out that it would be unfortunate if universities became images of the University of Melbourne. They should have a different ethos and philosophy. I have no doubt the University of Ballarat will have the opportunity of establishing itself as a unique university, even though it will be the smallest university in the State.

One problem relating to equity is that the City of Ballarat has stolen a march on the City of Bendigo.

Those cities have battled together in friendly rivalry for many years. I shall refer later to some of the battles that have taken place. Earlier this year the Bendigo University College was established as a campus of La Trobe University, and I have no doubt that some people in Bendigo will be jealous that Ballarat has stolen a march on it. I am assured by the Minister for Tertiary Education and Training that the City of Bendigo will have the opportunity, should the circumstances be right, of establishing its own university.

The history of tertiary education commenced in Melbourne with the establishment of the University of Melbourne in the 1850s. The next development in tertiary education occurred with the establishment of the schools of mines and industries. These schools were established in Ballarat and Bendigo, which were significant goldmining centres. An extract of the history of the School of Mines and Industries in Ballarat sets out the philosophy for their establishment, which I strongly support and I hope all members will support. It states, in part:

> After the excitement, novelty and turmoil of the gold rushes in Victoria died down, interest in technical education widened for three main reasons. First, "mining posed increasingly complex technical problems."

That is true of the world today, not just of mining, but with a variety of industries, including environmental industries. The extract continues:

> Second, it was "held that education should be offered to all and that technical education was the only kind likely to be of value to the working class and their children."

That was a put-down for technical education. No doubt technical education has been extremely valuable to working-class people and their children, but it has also been of value to the nation as a whole. The third reason was that:

> there was a growing feeling that "the separate colonies, and Australia as a whole, were facing a world of increasing trade rivalry in which success would go to the skilled."

There was a utilitarian approach to the establishment of the second phase of tertiary education in this country. The first university studies in Ballarat were associated with the School of Mines and Industries around the 1880s. Indeed, in February 1885 the chairman of the board of the Ballarat School of Mines and Industries wrote to the chancellor, the vice-chancellor and the council of the University of Melbourne. He was well versed in getting his message across. We all know that if one addresses a letter merely to the secretary of an organisation that is often where it ends up. This person was wise enough to know that he should cover the whole gamut to ensure the message was at least read.

On 9 February 1885, the School of Mines and Industries wrote to the University of Melbourne, stating in part:

> The School of Mines, Ballarat, may therefore be regarded as the focus of scientific and technical education for a most important district -

everyone would agree with that, especially those of us who come from Ballarat -

> and is successfully developing and fostering the appetite for scientific knowledge in the youth of a numerous and intelligent population.

That was well put. In its inimitable manner the University of Melbourne dealt with that letter in the way august institutions tended to in those days, and, I might add, sometimes do these days: it ignored the letter. For 12 months it did not bother to reply to the letter asking that the School of Mines and Industries be affiliated with the university.

However, the School of Mines and Industries was persistent, a trait for which Ballarat people are well known. It wrote back after 12 months stating, "You have not answered our letter. It is about time you did". That still did not get much of a response. Displaying the wisdom characteristic of the residents of Ballarat and the Latrobe Valley in particular and provincial Victoria in general, the School of Mines and Industries said, "We need to get this on the political agenda". The School of Mines and Industries wrote to its local member of Parliament stating, "We are not having much luck with this".

On 23 September 1885, the council of the School of Mines and Industries wrote to the Premier of Victoria, asking him to make the proposed increase in the government's grant to the university for the current financial year conditional on the university's atfiliating with the School of Mines and Industries.

Mr Maclellan interjected.

Mr HAMILTON - It takes a while, but due deference must be given to history. It is extremely important that people do not forget. If we do not learn from our history, we are destined to repeat its mistakes. There is plenty of time for me to speak between now and lunch!

In its wisdom the government of the day responded in due course by telling the University of Melbourne that unless it agreed to the affiliation it would not receive its additional grants. The university affiliation process was established. That went along reasonably well until 1891, when the registrar of the School of Mines and Industries wrote to the university stating:

> the advantages enjoyed consequent on the connection have been practically nil.

That argument was based on the fact that Melbourne University wanted to charge students who were completing their education in Ballarat not only examination fees but also lecture fees, even though the university never ended up there. There was a fairly intense debate, and the marriage was duly dissolved after very few years.

Mr Maclellan - It was not so much a marriage as an affiliation.

Mr HAMILTON - It was almost a relationship.

Mr Maclellan - It was an affair!

Mr HAMILTON - I am not sure whether the School of Mines and Industries regarded it that way. It is interesting to note that Melbourne University wanted to end the affiliation, to just walk away from the relationship, 12 months before it was due to be dissolved, but the School of Mines and Industries said "No, you will hang on. You will stay and see out the last 12 months".

The next stage in the development of tertiary education in Ballarat concerned the report of the Fink Royal Commission on Technical Education. Those of us who have studied the history of education would realise that that was a landmark.

Mr Maclellan interjected.

Mr HAMILTON - Indeed, and a well respected member of Parliament.

The Fink Royal Commission examined the development and importance of technical education in Victoria. In its examination of the Ballarat School of Mines and Industries - I make this important point to all of my colleagues in the tertiary sector, and I hope the University of Ballarat takes note of it, too - the Fink report referred to the school's teaching staff and income, stating:

> In view of the character and importance of the work of the institution, the members of the teaching staff are insufficiently paid. The senior lecturer in such a school should receive more than 500 pounds per annum, and the remaining members of the staff deserve better treabnent in the matter of salaries.

That important point about salaries needs to be noted, because it is as relevant in 1993 as it was when the Fink report was brought down. We must ensure that teaching staff are duly and properly paid and that their skills and knowledge are properly developed.

Mr Maclellan interjected.

Mr HAMILTON - I suggest that they are not too badly paid. I took a pay cut to come to this place, which shows how dedicated I was to becoming a member of Parliament. Another important part of the Fink report that honourable members need to be reminded of reads:

> Every untrained and unskilled man -

in these days we could say man and woman -

> is a loss to the State, and engages in the struggle for existence seriously handicapped. Further, ignorance is the sworn foe to democracy and a half-educated people cannot wisely develop free political institutions.

Nothing has changed. That is an important comment on education in general and on tertiary education in particular. Although the Fink report was adopted many years ago, it is full of great wisdom, which members should take note of.

The next episode concerning the establishment of a university in Ballarat takes us to 1925, when a group of local citizens moved to establish a liaison between Melbourne University and the people of Ballarat.

Mr Maclellan interjected.

Mr HAMILTON - As it happens, this again shows the tension that existed between the Ballarat School of Mines and Industries and the University of Melbourne. Recent history suggests that that tension

remains, because the School of Mines and Industries will not join the new development at this stage.

Mr George Clarkson wrote a letter to the editor of the *Ballarat Courier* about university classes in Ballarat. In part the letter states:

> So far we have been unable to learn how the university work at the School of Mines and Industries is proceeding today. As the matter of university education is of considerable importance to Ballarat it may be well to state the part played by the School of Mines and Industries at the inception of the movement. Those interested may then form their own conclusions.

The letter from Mr Clarkson goes on to say that the Ballarat School of Mines and Industries was not serious about supporting the development of university education in Ballarat. The letter is critical of the attitude of the School of Mines and Industries to the whole thing. However the President of the School of Mines, Mr W. H. Middleton, replied to Mr Clarkson's letter, and stated in part:

> All who are interested in the decentralisation of facilities for higher education will heartily endorse the sentiments expressed in the leading article in your issue of Tuesday, 22 September 1925.

He then says that the School of Mines and Industries was not torpedoing the efforts of Ballarat people to establish a university. However it is important to note that, even back in those days, there was a move towards the decentralisation of university facilities from metropolitan Melbourne to the country.

The argument has gone on for years. Given Geelong's almost direct affiliation with Melbourne, the establishment of the University of Ballarat is truly historic because it is the first provincial university in this State, which is something that has been fought and argued for for many years.

The next major event occurred in the Legislative Assembly on 3 December 1957. Mr Russ White, the then member for Ballarat North - -

The SPEAKER - Eureka Day.

Mr HAMILTON - Eureka Day, thank you, Mr Speaker. I note that Parliament also dealt with the Country Fire Authority (Amendment) Bill on 3 December. Russ White, who was a very active member of Parliament - -

Honourable members interjecting.

Mr HAMILTON - Yes, as I recall he had a lot to do with trotting and the Harness Racing Board. When speaking during the debate on the motion for the adjournment of the sitting, Mr White said, as reported at page 3389 of *Hansard* of 3 December 1957:

> Places such as the City of Ballarat have been pleading for years for the construction of a university away from Melbourne.

The issue was debated a couple of days later. On 5 December, during debate on the Estimates, Mr Stoneham, then the honourable member for Midlands did not hide his light under a bushel - unlike the then honourable member for Scoresby, who very even-handedly said he did not care whether the university was established at Ballarat, Bendigo, Geelong, Gippsland, Mildura or Shepparton! At page 3611 of the *Hansard* of that date, Mr Stoneham is reported as saying:

> I have no hesitation in advancing the claims of Bendigo as a possible site for the new university ...

Honourable members will remember that that was back in the time when Mr Bolte, later Sir Henry Bolte, was Premier of this State. The then honourable member for Gippsland South, Sir Herbert Hyland, made a contribution to the debate. He was followed by Mr Bolte, and I will quote in part from the then Premier and Treasurer's contribution. At page 3613 of *Hansard* he is reported as saying:

> However, even if our second university is not to be known as a university of technology -

the technology debate was going on in 1957 -

> it must have that bias and the intake of students ...

Mr Bolte went on to argue that, given the number of students and the opportunities for employment it was important that the university be established in Melbourne. However, as reported at page 3616 of the *Hansard* of 5 December, Mr Campbell Turnbull argued that:

> the university ought to be established at Ballarat, Bendigo or somewhere else in the country. I cannot possibly see how it could be established outside of Melbourne.

Then we come to the important contribution made by the then honourable member for Ballarat South, Mr Gordon Scott, who, in the true style of Ballarat members past and present, was an active member

who was proud of his city. At page 3617 Mr Scott is reported as saying:

> It is curious that almost every speaker has mentioned Ballarat as a possible site for the new university ... Ballarat possesses great potential as a university city.

I would concur with that.

Mr Maclellan interjected

Mr HAMILTON - It is a great cultural city, with wonderful art galleries.

Honourable members interjecting.

Mr HAMILTON - It could be said that I have a great affinity for my old home town. As the saying goes, the only way you become a Ballarat local is to be born in the town - and it helps if you are a member of at least the second generation.

Honourable members interjecting.

Mr HAMILTON - On the same page Mr Scott is reported as saying:

> The Premier has assured us that he will examine all aspects of the siting of the new university.

I read what follows with my tongue slightly in my cheek, because it is not hard to tell to which party Mr Scott belonged:

> It is well known that the greatest Premier this State has ever known was educated at the Ballarat Grammar School.

I suspect he might have been referring to Sir Henry Bolte - certainly not to John Cain or Joan Kirner!

Honourable members interjecting.

Mr HAMILTON - By way of additional information, the honourable member for Ballarat South is reported as telling the Chamber that the:

> Right Honourable R. G. Menzies, Prime Minister of Australia, was educated at Humffray-street State School...

So there we go. Ballarat has a wonderful history of educating some outstanding people. It is interesting to note that the latter-day products of a Ballarat education have slightly different political affiliations.

A debate on establishing a university is never simple. The interesting thing about this particular exercise was that once the panel set up to examine the establishment of the university in Ballarat brought down its report, the government said, in its own inimitable style, "Yes, we will accept it, and the way we are going, we will establish a university of Ballarat".

Back in the mid 1950s, when I was living in Ballarat, I recall Henry Bolte saying prior to one election, '1 will give you a university in Ballarat". That is referred to in the papers. Guess what? At the next election he said the same thing - and the election after that.

Honourable members interjecting.

Mr HAMILTON - It is good to see some deference to the late Sir Henry Bolte! During the debate on the Votes on Account on 12 April 1960, reference was made to a report on the affiliation of the Ballarat School of Mines and Industries with the University of Melbourne. At page 2446 of the *Hansard* of that date, Mr Scott is reported quoting from a letter:

> Affiliation with the university would not be a new step for the School of Mines, as the school was formerly affiliated with the university from 1887 to 1893

Mr Scott is then reported as saying:

> If the School of Mines at Ballarat was affiliated with the University of Melbourne ... and is not now, it may be that a great metropolitan octopus is developing. The honourable member for Ballarat North and I intend to use our best endeavours to ensure that this state of affairs does not continue.

In other words, the University of Melbourne was resisting the notion of establishing colleges all over the place. As an aside, after the second world war the University of Melbourne established a college at Mildura. It is a pity the honourable member for Mildura is not in the House! One of the reasons the University of Melbourne dispensed with the Mildura college was that the success rate of the college students outstripped the success rates of the students who attended the university proper. The university was embarrassed by the fact that country students, being both more dedicated and better prepared by their local high schools and secondary schools, outshone their city cousins. But country people are used to overcoming hardship and rising to the occasion.

In October 1960, Mr Scott was still arguing the case for the establishment of a Ballarat university college at the School of Mines. Whatever his faults - he may have been in the wrong party - Mr Scott was persistent. On 13 April 1961 Mr Scott is reported at page 2989 of *Hansard* as saying:

> It would be easy to make a statement about the establishment of a university college at Ballarat or a new university without a thorough investigation and allow the project to go off half-cocked, resulting in an inefficient institution that would not provide education of the standard required by the University of Melbourne or Monash University.

Those words should be noted. It is important that an institution is established in Ballarat and provides the same high standards expected from universities all over Victoria.

In 1963 the argument was continuing. Mr Scott, representing the electorate of Ballarat South, said in a question to the Chief Secretary on 25 September 1963:

> Whether, in view of the government's decision to establish a university college at Ballarat and the findings of the recent Committee on University Education, he will now consider the removal of the Ballarat gaol -

and there has been an interesting association between the gaol at Ballarat and the Ballarat School of Mines and Industries -

> to allow for urgent extensions to the School of Mines and Industries and a possible building program for the proposed university college in Ballarat.

The Chief Secretary said:

> The answer is yes.

So it has taken only 30 years for that "yes" to come to fruition. In October 1963 Mr Bloomfield, the then Minister of Education, said, in part:

> A disclosure was made by the Leader of the Opposition, which was correct but which was based on I know not what -

it appears that information was leaked in those days, too; the Minister will be pleased to know that some things do not change -

> to the effect that the committee recommended the establishment of a college in Ballarat.

Later in the same speech Mr Bloomfield said:

> What the Commonwealth's final policy in relation to university expansion and development of country colleges or other affiliated institutions will be, I am unable to say for certain at this stage.

So the University Commission was looking at the establishment of university colleges back in those days, and as history shows our colleges of advanced education then developed. On 8 October 1963 Mr Campbell Turnbull, in a speech on the Budget, said:

> I should also like to refer to the great waste of talent that is taking place in the country.

Indeed, that is an important point.

> There is a vast number of prospective university students in our rural areas. They are entitled to equal opportunity to city people in the matter of university education.

That point is valid, especially for every member of Parliament who represents an electorate outside Melbourne. Mr Campbell Turnbull further said:

> I advocate the establishment of universities at Ballarat and other country centres. An election will be held next year, and of course the government's schemes will never come to fruition.

Mr Campbell Turnbull then belonged to the opposition.

Mr Wilcox, in response to a comment by Sir Herbert Hyland on 8 October 1963, said:

> I have no doubt that this government will carry out what it has undertaken to do and will establish a university college at Ballarat.

The promise was made 30 years ago, but was linked to elections, of course. In April 1964 Sir Herbert Hyland asked the Premier:

> How many university colleges is it proposed to set up in Victoria and in what areas?

The Premier and Treasurer, Mr Bolte, said:

> The answer is at this stage neither the number nor the locations of university colleges which will be established in Victoria is known, but it is known that eventually a series of these colleges will be set up.

The Premier of the day was hedging his bets, and as it turned out he was perfectly accurate, but it took a few years after his demise as Premier for that to happen.

I need to give further detail about 1964 so that my reference is complete and as equitable as possible. Mr Stephen, who was then the honourable member for Ballarat South — Mr Scott had retired, I suspect — in the Address-in-Reply debate in October 1964 said:

> At this juncture I should like to place on record the appreciation of the people of Ballarat South for the outstanding service rendered during the past nine years by Mr Gordon L. Scott.

He went on:

> When there was talk of a third university being established in the country, Ballarat was the first to make an offer of free land for the purpose. However, the establishment of a university in the country was not to be, but I remind honourable members who represent the areas of Geelong, Bendigo, Hamilton and the Latrobe Valley that when eventually it is decided to provide a university in the country we in Ballarat will reaffirm our position in No. 1 place.

Therefore, in 1964 Ballarat was reaffirming that it wanted to be the first university outside the Melbourne area. It is important to move from that point to 1974, following the Martin committee and the establishment of the colleges of advanced education. At page 512 of a recent history of the School of Mines, the principal, Mr Barker, states:

> In the following year it was said in the local press on 11 January 1974 that: "When the School of Mines and Industries Council resumes its activities this year, the 20 council members will include the first woman to be appointed in its 103 years".

That is an historic event that shows that prior to 1974 there was a preponderance of males on university councils and it was thought that males could provide the leadership in that area. I am pleased to say on behalf of the 51 per cent of our population who are not male that things started to change, and continue to change they will, albeit fairly slowly.

Page 513 of the same history of the School of Mines and Industries states:

> For some years there had been a public discussion about the creation of a fourth university in Victoria and a proposal was made that the components of this university in Victoria should be located at Ballarat, Bendigo and Geelong.

It goes on to say that late in 1973 Professor Karmel, who wrote the Karmel report, actually recommended that the colleges at Ballarat, Bendigo and Geelong join together to become a fourth university. Dealing with the final recommendation of the commission the history says:

> The commission recommended that a university be established at Geelong and that it incorporate parts of the Gordon Institute of Technology and the State College of Victoria at Geelong.

That became the basis of Deakin University. At that time, unfortunately, Ballarat missed out on its university and Deakin was established. It has established itself as a fine university, but controversy arose recently when it was proposed that Deakin University should take over the Ballarat College of Advanced Education, the Bendigo College of Advanced Education and the Gippsland Institute of Advanced Education. To put it mildly, there was resistance from those institutions, and from a reading of press reports at the time it seems that the reputation of Deakin in other country centres of Victoria was not all that high. It was difficult for the then government to sort out some of the problems that had been created. Deakin University wanted to take over all the other institutions.

We should not forget the contribution to this whole debate that was made by a former Liberal Minister of Education, Lindsay Thompson. He is recorded in debate on the Ballarat College of Advanced Education Bill in *Hansard* of 13 April 1976 as having said:

> The aim of the second Bill was to effect a merger in Ballarat for exactly the same reasons —

that was a merger between Ballarat Teachers College and the senior part of the Ballarat School of Mines.

Mr Thompson continued:

> The difference is that this measure deals with Ballarat instead of Bendigo —

where the same sort of thing was happening —

> and with the merging of the Ballarat Institute of Advanced Education and the State College of Victoria at Ballarat. The new institution at Ballarat will be called the Ballarat College of Advanced Education.

That indeed was a forerunner and the basis for the new university that the House is now debating. At the same time the education Minister was keeping the positions of both Ballarat CAE and Bendigo CAE parallel and equitable. This government may be disappointed that it did not keep the same parallels running for the college in Bendigo.

It is important to give a history of the University of Ballarat. An article in the *Age* of 11 August 1988 refers to a higher education report that reviewed 22 tertiary institutions in Victoria. It is interesting to note the comparison that was made between the performances of various institutions. At the time the rating on completion rates put Ballarat CAE ahead of Bendigo CAE, Gippsland Institute and a few others. On resource efficiency the top rating college was Ballarat CAE, which again was ahead of Bendigo CAE, Gippsland Institute as well as a few others. On program size Ballarat CAE was in the upper rating — in the same class as Melbourne and Monash universities. It is important to note that the predecessor of this university has had a proud and good academic record.

An article headed "Ballarat CAE blows cold as Deakin blows trumpet" in the *Australian* of 19 April 1989 refers to an argument between the institutions. It says in part:

> Ballarat CAE is to pull out of talks to create a new university in western Victoria by merging with Deakin University ...

People associated with Ballarat CAE viewed the proposal to merge as a question of identity. Deakin University wanted to take it over and wipe it out. There was an article headed "Geelong, Ballarat clash over uni plan" in the *Herald* of 2 June 1989, with a magnificent picture of a member of the audience putting a question to the then Minister responsible for Post-Secondary Education, Mr Evan Walker. The former Minister was leaning back in his inimitable way and was not fazed by the debate. He let it run its course. It is because of his work and attitude that the House is today debating the merits of the University of Ballarat.

If the government had interfered it is clear that Ballarat CAE would have been absorbed into Deakin University and there would not be a University of Ballarat. Ballarat is proud that its name will be maintained. On 29 November 1989 an article in the *Australian* was headed "The question is: what is my title?" The article was about an appropriate title for the new university college, which was attached to the University of Melbourne. It became the Ballarat University College known colloquially as BUC. Until the Bill is enacted it will still be BUC.

In the *Good Universities Guide* by Dean Ashenden and Sandra Milligan, comparisons were made of all university colleges. This publication has a glowing report on the Ballarat University College and the contribution it was making to the education of students in Ballarat and further afield. An article in the higher education supplement in the *Australian* of 18 August 1993 has the headline, "Ballarat mines school rejects merger proposal". The panel that the government had set up had recommended — and in spirit I support it — that the Ballarat School of Mines and Industries be merged with BUC so that there would be a multifaceted university. From the report that appeared in that newspaper it appeared that the main players at the Ballarat University College did not have any objection to the merger. As an educator I can see important reasons why it would have been useful to have the TAFE college merge with the new university to create a more diverse and in many ways — given the history of the Ballarat School of Mines and Industries — a more dynamic institution. Those who know the mines school students will know they add a certain colour and flavour to the town at various times. However, that was not to be. The Ballarat School of Mines and Industries wanted to maintain its own identity. If we had been able to get the title sorted out the School of Mines and Industries might have been a player in this game. However, that is not to say in the future that a merger may not take place, because universities are becoming more diverse and the pathways between the various sectors of tertiary education need to be kept open.

I hope the Minister for Tertiary Education and Training takes up the positive and active development of the relationship between the School of Mines and Industries and the University of Ballarat to ensure good cooperation and greater opportunities for students who wish to take pathways in either direction, such as university students taking TAFE courses or TAFE students going on to university. The lines of communication between TAFE colleges and universities need to be

kept open, and probably more so in this technological age.

I shall refer to number of points made in the Minister's second-reading speech on the Bill. Honourable members should recognise the work done by the panel that was set up for the examination of the establishment of the university. The panel was chaired by the president of the Australian Vice-Chancellors Committee, Professor Robert Smith, and comprised three prominent vice-chancellors and two senior officers from State and Commonwealth departments of education. The second-reading speech states:

> The panel provided an avenue for consultation between Commonwealth and State governments on the matter, and this consultation has continued at subsequent stages of the development.

That was extremely important. If a criticism could be made it is that it is a pity that the panel did not massage the School of Mines and Industries more carefully. The second-reading speech continues by stating that the panel is important and it:

> recommended that a new university be established incorporating Ballarat University College under sponsorship by the University of Melbourne over a five-year period to assist in its development to a point where it fully met criteria for this designation.

That was its designation as a university, and that is a wise move. It does not detract from Ballarat's autonomy at all. It is a wise insurance policy given the snobbery among various universities. It is also saying that in the old days the only good thing that happened when La Trobe University was established was that Monash was no longer the second-rate university. When Deakin University was established La Trobe clapped its hands because it was no longer at the "bottom of the barrel". I will call it snobbery, but some will call it competition between the universities. New universities must be given the encouragement and support to find their own part in the tertiary education sector. I am pleased to note in the second-reading speech that:

> The panel noted a major effort being made in strengthening academic staff qualifications and saw the sponsorship arrangement with the University of Melbourne as being particularly important in assisting development of a significantly strengthened research profile appropriate for an autonomous university.

Those of us who know the history of colleges of advanced education will not find that surprising given that CAEs never received funding for research at the same level as universities. To be critical of the fact that the CAEs did not undertake the same level of research as universities is a pretty mean criticism given the fact that very few opportunities were available. It is a credit to the CAEs that they developed a research profile in their own right against overwhelming odds. Some of the research produced by CAEs — I include Ballarat in that — has been outstanding and a great credit to the staff and management of those institutions. According to the second-reading speech the panel put a qualifier on its report:

> The panel recommended that before termination of the sponsorship agreement —

that is, after five years —

> there should be a further review against university criteria and it is the intention of the government that this will occur.

I have every confidence that in five years it will be a fine university in its own right. That is not to say that there will not be problems and challenges. There are problems and challenges for every university, and one of the biggest challenges that will face the University of Ballarat will be to establish its own unique part in the university system. It will be the smallest university — there is an element of pleasure in this given that I was not enamoured with the Dawkins report that created the great monster universities — and in some ways it is good to see that there is an opportunity for a small university to set itself up and have a crack at getting into the big league.

I commend the government on maintaining the structure for the university council where there will be elections for staff and student representatives on that council. It is historically the case in Victoria that there are elected personnel on the councils. I am pleased that that has been maintained because I am a great believer in having democratic elections. After all, that is why all of us are here. In the management of universities it is important to have representatives from both the academic and administrative staffs and representatives of the student body.

The structure of the council is typical of university councils and comprises 25 members. It is not an easy sized committee to manage, but by and large the universities seem to have been able to do it either

with the help of or despite their academic boards and their vice-chancellors. As is typical, vice-chancellors seem to be dominant people — they probably would not have the job if they were not. They are a bit of a nuisance on university councils at times and it is important that some people stand up and make sure that their positions are justified.

This is an historic day, and it is an extremely important day for the people of Ballarat. I have visited the university college on two occasions in my position as shadow Minister for Tertiary Education and Training. I was in Ballarat last Saturday night at an important and very enjoyable event, and met with some of my old colleagues from Ballarat High School. They were excited about the establishment of a university. My other contacts in the Ballarat community, including some business people, are excited at the establishment of a university in Ballarat. The opposition supports this historic day. As a former Ballarat person, I am pleased to have had the opportunity to contribute to the debate, and I wish the university all the best.

Mr TRAYNOR (Ballarat East) — I welcome the opportunity to make a brief contribution to the debate, and I thank the honourable member for Morwell for his support for the Bill. As a newcomer to politics one has ups and downs and sometimes one tries to strive for the constituents in one's area. I am proud today that Ballarat University College will finally have university status.

Mr Hamilton interjected.

Mr TRAYNOR — No, I do not, I can assure you. In my maiden speech to Parliament on 16 March this year I addressed the issue and supported the fact that Ballarat required a university, and today I am proud.

The proposal by the Ballarat University College for university recognition was considered by an expert panel and it made a number of positive comments about the proposal. The comments included commitments to the welfare of students, quality teaching, rigorous procedure for accreditation, approval for course management, efficiencies and quality facilities, and equipment. Page 4 of the Bill states the objects of the university, one of which is to meet those criteria.

The panel noted a major effort being made to strengthen the academic staff qualifications and saw sponsorship with the University of Melbourne as being important. There are some facts and figures that are worthy of note. Ballarat University College has 4400 students including 420 from overseas. Approximately 40 per cent of students are from Ballarat; 72 per cent are from regional Victoria and 70 per cent of the graduate students are the first members of their families to graduate. College statistics for 1991 show that 120 students came from 16 countries including Fiji, Hong Kong, Malaysia, Singapore, Taiwan and the United States of America, just to name a few. The college had 459 students from Melbourne, 231 from Geelong and 3080 from rural Victoria.

The Ballarat University College generates $1 million export dollars in Ballarat. Using the multiplier effect, economists estimate that the college generates $200 million each year in Ballarat's economy.

The college has the only engineering and mining course in Victoria. Other courses offered by the college include computing, nursing, occupational health and safety, social science, performing arts, business, tourism and accounting. Ballarat provides a broad range of educational opportunities.

In New South Wales, the Lismore campus of the University of New England is seeking to become a university in 1994. If it is successful, as has been suggested, New South Wales will have three universities located in regional settings. Currently, Victoria has no university located in a regional setting; all have strong metropolitan bases. Ballarat can meet all those criteria; it is ideally situated to provide a balanced university education. Much hard work has been done in achieving the outcome and many organisations and individuals have played a role.

In acknowledging the efforts of those people I thank the public of Ballarat and the surroundings areas for continuing to push on the issue. I commend the strength of and support from the community, which was demonstrated by the number of petitions, accompanied by more than 10 000 signatures, that were laid on the table of the House. I thank the Shire of Ballarat and the district municipalities for their support.

I acknowledge the efforts of the *Ballarat Courier*, which through editorials and news items gave constant and unqualified support to the establishment of the University of Ballarat. I also acknowledge the bipartisan approach of many in the Labor Party who supported the push for a university in Ballarat. I pay tribute to my Parliamentary colleagues in both Houses for their support. I also

thank Mr Bill Pryor, the President of the Ballarat University College and Mr Bill Gribble of the School of Mines.

I pay a personal tribute to Professor John Sharpham, who had a dream and a vision and who for five years was totally committed to the proposal and whose dedication and foresight turned that dream into reality. Throughout the process the only interest of that fine educationalist was the betterment of students at Ballarat and the ability of the college to compete on the international market. It is a pity that we do not have more like him.

In an article published in the *Ballarat Courier* of 9 October the Mayor of Ballarat, Cr Geoff Howard, whose support I acknowledge in spite of the fact that he is seeking Labor preselection for my seat, is reported as saying:

> News that BUC would become a University from the start of next year was "outstanding" and meant a lot to the city, Ballarat City Mayor Cr Geoff Howard said yesterday.
>
> "It means that with the Information and Technology Centre coming here next year there will be greater opportunities for closer links with Ballarat University".

I would also like to quote from another article which appeared in the *Ballarat Courier* on the same day and which quotes Mr Dennis Bolster, general manager of the Central Highlands-Wimmera Region in the Department of Education, as follows:

> He said students in the Central Highlands/Wimmera Region would now have a tertiary institution with full university status which was more readily accessible to them.
>
> "I believe the decision will further strengthen Ballarat's position as a centre of educational excellence".

There are further press reports of support from the School of Mines, the Ballarat Chamber of Commerce and the Aquinas Campus of the Australian Catholic University.

It is well known that the proposal for the establishment of a university at Ballarat has been pushed and pushed. I am excited that in 1994 Ballarat will have a university.

Mr JENKINS (Ballarat West) — I support the Bill and I am proud to have the opportunity of taking part in this debate. In his contribution the honourable member for Morwell covered the important aspects of the Bill.

The history of education in Ballarat will be of interest to honourable members. The first school established in Ballarat — in 1848 — was conducted at a settlement called Buninyong, where gold was first discovered by Reverend Thomas Hastie, a Presbyterian minister. It was a boarding school and, as did many new schools prior to the discovery of gold, served the local settlers and teamsters. The cost of educating a child at that school, including board, was 10 pounds a year — certainly a bargain in comparison with today's standards.

In 1851 the colony of Victoria experienced a gold rush. The population of the greater Ballarat area grew enormously and miners were forced to live in tents, humpies and other types of fragile buildings, with no facilities. During that time itinerant teachers also arrived. People were miners one week and school teachers the next.

The qualifications for becoming a teacher at that time were not as high as they are today. Some teachers were efficient and some were just plain frauds. Many rough and ready schools were set up in tents and conditions were not conducive to good education.

As the gold rush settled down the community began to establish itself. Churches were set up and schools were conducted in the church buildings. On Sundays the buildings were places of worship and during the week they became schoolhouses.

In the early days of the gold rush in Ballarat, education was left to the people themselves. The first government school appeared fairly soon afterwards and one such school — the National School, established in 1857 — survives today. It is one of the most significant historic buildings in Victoria and an architectural gem. The building is now part of the Dana Street Primary School complex. I am pleased that the building is being preserved and maintained.

Schools known as common schools — a fairly loose term — appeared in approximately 1862 and basically included any school that received government aid. There were approximately 600 of those schools around Victoria. Some of the common schools were church schools. In Brown Hill, a suburb of Ballarat, a sign still displays the words "Common School". The sign, which had been painted over, was discovered by a group of

volunteers who were painting the old Methodist, now Uniting Church, Sunday school at Brown Hill. It is another priceless piece of Ballarat history.

People in small, isolated goldmining areas were educationally disadvantaged because only schools with 40 or more students attracted funding.

Mr Hamilton — Nothing has changed!

Mr JENKINS — I thought I might be taken up on that one. The figure is 12 these days. The Education Act of 1872 changed the structure of education. Under the Act free compulsory, secular — non-religious — education was to be administered through the State school system. From that time many wonderful, solid brick buildings appeared around the goldfields.

Ballarat did very well with the establishment of government schools and for more than 120 years the education department has provided a sound education for students in the Ballarat area. One famous school that has been mentioned is the Humffray Street Primary School, which closed recently in spite of its proud history. It was located in the heart of the goldfields and in its heyday had more than 800 students. At the time of closure it had 58 students. Other local schools established to educate the children of people who worked on the goldfields include those in Eureka, Queen and MacArthur streets.

Other solid brick institutions that were built at the time include the Dana Street school, schools in Redan, Sebastopol, Golden Point, Mount Pleasant and Buninyong, and schools in Little Bendigo, which is a suburb north-east of Ballarat, and Magpie in the south. The latter two are still operating, and the original buildings are what you would describe as quaint. Ballarat has a proud history of primary school education.

The establishment of secondary schools in Ballarat included the historic Ballarat High School, of which the honourable member for Morwell and I are proud former students. He was the head prefect of the school in 1953 and was also a top sportsman. I am unable to refer to his academic standing. Former members of this place who were associated with the school include Gordon Scott and J. J. Sheehan.

Other schools that were established in those early years include St Patrick's College, the Ballarat College, the Ballarat Grammar School, the Grenville, Clarendon and Loretto colleges and in later years St Martin's College. Some have since been amalgamated.

Over the years the numbers of students who have attended schools in Ballarat have risen and fallen. When I attended the Redan State School in the 1940s it had only 90 students and part of the school was closed because of disrepair. Since then the local population has expanded, the closed section has been reopened and it is again a sound school. A graph of the numbers of students at the school over the years resembles a roller-coaster ride, but the government's approach to the general restructure of schools provides an opportunity to give students an even better education, which they deserve.

The honourable member for Morwell stole some of my lines when he mentioned the opening of the Ballarat School of Mines and Industries in 1870, which was followed by the School of Mines and Industries, Ballarat. I attended the school. It has produced many mining engineers, geologists, craftsmen and other successful people. Ballarat Teachers College was established in 1926 and had some very good students. I remember the honourable member for Morwell attending that college. He may have studied in one of the classrooms at the original school in Dana Street.

The teachers college and the School of Mines and Industries worked side by side and in 1969 the tertiary section of the School of Mines and Industries was separated and joined the Victoria Institute of Colleges to form the Ballarat Institute of Advanced Education. Ballarat Teachers College was amalgamated with the BIAE to form the Ballarat College of Advanced Education. The new institution worked very well and educated a great many young people. In 1981 the BCAE became autonomous. A document relating to the matter states:

> The Teachers College and the institute merged in 1976 as Ballarat College of Advanced Education. When the Victoria Institute of Colleges was abolished in 1981 the college became an autonomous institution with authority to award its own degrees, though courses required approval and accreditation by the Victorian Post-Secondary Education Commission.

It was an exciting time, but the BCAE has now been phased out. In 1990 the Ballarat University College, sometimes known as BUC, was formed. It was the only college in Victoria without its own Act of Parliament. Now the University of Ballarat is to be established. As has been mentioned, this is not the first time a university has been mooted for Ballarat. I

enjoyed the historical aspect of the contribution of the honourable member for Morwell and well remember that some of the politicians of the day spoke to the House with fervour about the need for a university in Ballarat.

After the publication of the Murray report in 1957 the School of Mines and Industries made informal approaches to the University of Melbourne in 1959. The Bolte Liberal government supported the concept, advocating decentralisation policies, and in 1960 Sir Henry announced that he would raise the college to university status. The Ballaarat City Council coordinated a support group in Ballarat and a site of 150 acres at Mount Clear was made available by a benefactor on condition that a university be established on it. It did not happen at that time, the terms of the will lapsed and the land was subdivided. I remember a sign on the Geelong road saying, "This is the site for a new university". It was not to be at that time.

Before the 1992 election one of the coalition's policies was to establish universities as required. One such policy states:

> The coalition will support the self-determination of institutions as to their future ...

and:

> determine university status on the basis of educational outcomes and viability, not size; and
>
> be prepared to consider requests for university status from institutions, public or private, which meet appropriate criteria.

That has been spelt out in the build-up to the Bill. The proposal for the university in Ballarat has received a lot of support. Many people have contributed to the Bill. Professor John Sharpham, who has been a major contributor, is in the gallery today to follow the debate. His enthusiasm was such that on the night of the election he searched me out, congratulated me on my election and then lobbied me about Ballarat University College having university status. I shall never forget that moment.

Ballarat was built on mining and its university has grown out of the same industry. What we have today is a far cry from the days of the itinerant teacher battling along from place to place around the district carrying his leaky tent with him and collecting his shaky income in pennies. Education at Ballarat has gone from tent to university in only three generations because the grandparents of many senior citizens around Ballarat were the pupils who took their pennies along to those gold rush tent schools.

Education in Victoria has come a long way over the past 150 years. Ballarat is proud of its education facilities and the college is entitled to become a university. It will be the icing on the cake for the wonderful history of education in the region. I support the Bill.

Mr ELDER (Ripon) — I support the University of Ballarat Bill. This is a great day for Ballarat and western Victoria and a dream come true for local members of Parliament, the university, the director and staff. It has not been an easy road. The Bill is the culmination of five years hard work by the college council, especially its chairman, Mr Bill Pryor, local coalition members of Parliament and the director, Professor John Sharpham.

I pay tribute to the shadow Minister for his bipartisan support of the Bill. The university would not have come to fruition without the push, drive and vision of the director. Professor Sharpham has kept local members informed of the progress. As the honourable member for Ballarat West said, he does not give up. To get him off our backs, we had to deliver. I congratulate the Minister for the historic decision to give the Ballarat University College full university status.

The history of education in Victoria, aptly described and supported by the honourable members for Ballarat West and Ballarat East, take us back to the links of the Ballarat University College with the original School of Mines and Industries that was founded in 1870. The link will make the Ballarat University the third oldest university in Australia. It has a rich blend of newness and history that will give it a great future. Recently during my Commonwealth Parliamentary Association tour I visited the great universities of Oxford and Cambridge in England. The University of Ballarat and the status it will bring to Ballarat has the potential to create a great university city in Victoria. It already has strong economic links in the Ballarat community and is one of the largest employers in the Ballarat region employing more than 500 academic and general staff. Already it provides a significant economic boost to Ballarat.

Mr Hamilton — They are under federal awards.

Mr ELDER — I know, but the man running the show is getting the most out of his staff. I wish I could say that about all universities in Victoria. The overall budget and the flow-on effects that students bring into the region are also a major and economic boost to Ballarat and the region.

In 1993 the operating budget was $40 million. The university will bring in fee-paying students from throughout Australia and overseas. Since 1990 the institution has functioned within the unified national system and its chief executive officer, Professor Sharpham, is a member of the Australian Vice-Chancellor's Committee (AVCC) and serves on committees for that body. Degrees from Ballarat University College are highly sought after in private enterprise because its graduates are recognised as hard working and competent. The new university will offer a wide range of degree programs, from undergraduate to doctorial level programs. The university will bring status to those degrees and doctorial programs.

Some opposition members have said that Ballarat University College has become a university because of political failures. That is not correct. The opposition is trying to politicise this great event in Ballarat and the good news that it brings. The government indicated in the process of reviewing the application for BUC to become a university that size is not a criterion.

Mr Hamilton interjected.

Mr ELDER — Let me tell the honourable member for Morwell so that he can put it in his pipe and smoke it that the Ballarat University will compare in size on full-time, part-time and postgraduate studies with universities in Australia, including Bond University, and in other parts of the world, including Aston, Bath, Brunel and Essex in Britain; Bishop's, Brandon, and St Francis Xavier in Canada; Lincoln University in New Zealand; and Northern University of Malaysia in Malaysia. This demonstrates that a large number of students is not necessary for a university offering high quality degrees and post-graduate studies.

The location of the university should also be considered. This Bill sends a strong message to the people of rural Victoria that the coalition government is about providing tertiary education in their areas. The majority of Australian universities, as a result of previous pushes by the Federal Labor government, are located in the metropolitan areas of Sydney, Melbourne and Adelaide along with the Federal government's metropolitan conglomerates on the Gold Coast and in Wollongong and Geelong. Only 8 of the 37 Australian universities are located outside metropolitan areas. The new university in Ballarat is important for regional Victorian students and their families, and the government has recognised this. Under the former Labor government — —

Mr Thwaites interjected.

Mr ELDER — The honourable for Albert Park would not know how to get out to rural Victoria.

The former Labor government wanted to push Ballarat University College (BUC) into Deakin University so that it could asset-strip and rape that college in its move to Geelong. Members of the former government are supporting the government today even though the former Labor government's hidden agenda was well known. Hypocrites!

The ACTING SPEAKER (Mr Richardson) — Order! The honourable member for Ripon will withdraw the last expression he used. It is an unparliamentary expression and always has been.

Mr ELDER — In deference to the Chair, I withdraw. Over 70 per cent of the students at the university are from regional areas and 67 per cent are first-time graduates in their families. The university is meeting State and Federal government priorities for access and work opportunities. The government is not simply using the social justice words that were bandied around by the former government, it is putting them into practice.

Available data for the past few years demonstrates there is a high demand by employers for Ballarat graduates as compared with those from other Australian universities — it is above the national average. This is something that BUC can be proud of; it is recognised by employers throughout Australia as delivering an excellent service.

The recommendations of the eminent review panel headed by Professor Robert Smith, President of the Australian Vice-Chancellors Committee, made to the Minister are worthy of commendation. They include:

> Commitment to students — There are clear indications of commitment to the welfare of students which are reflected in evaluation of teaching, but also in excellent student services, counselling arrangements, and in the quality of residential facilities. The college's equity plan is well developed and effectively implemented.

> Procedures for accreditation and approval of courses — These appear rigorous and effective, involving advice from outside the college, endorsement by the University of Melbourne and a sensible balance between local responsibility for schools and departments and college-wide oversight through school reviews and the activities of the curriculum committee and academic board.

This is high praise from a very eminent board lead by Professor Robert Smith. The review panel also clearly indicates that Ballarat is meeting the market and exceeding it compared with other universities throughout Australia. It commends the college's commitment to quality of teaching by saying:

> This opinion was reinforced by the views of students who paid tribute to the responsiveness of staff and to their efforts to provide a challenging and high quality learning environment.

The review panel recommendations also cover management efficiencies. There is no doubt that management and efficiency is due in part to the fine leadership that Professor Sharpham is showing at the university. The facilities are first class and it is doing well.

The university is well equipped with computing and related equipment for teaching and administrative purposes, and for research activities in at least some areas. Community support and involvement in the university is critical.

There is no doubt in my mind that we must look to a central campus in the future located in the central business district of Ballarat so that students do not have to move out to the Mount Helen campus. If the university follows the Deakin example, which has now acquired a central campus, it should look forward to at some stage locating a campus in the Ballarat central business district.

I have no doubt that the choice made by the School of Mines and Industries to not join the new university is very short-sighted, and I am pleased that I have the support of the shadow Minister in this regard. It would have grown in stature because the quality of its programs would have received the flow-on effect from the funds that would be forthcoming from being part of this new university. It is a short-sighted move and I have no doubt that in time the School of Mines and Industries council will see the great benefits of becoming part of the University of Ballarat.

Student accommodation at the university is first class. Students are happy with the standard and quality of accommodation that is provided. They are also content and happy with the education they are receiving and with the great environment at the Mount Helen campus.

The continuing association with the University of Melbourne will also strengthen the reputation of the new Ballarat University. I am sure that in time the relationship with TAFE providers, including the School of Mines, will be strengthened and the bonding that will take place between the new university and those other providers will strengthen and enhance the quality of education in the area.

I would also like to congratulate all those involved in getting the Ballarat University College up as a university in its own right. I would like to thank my colleagues, the local coalition MPs, who have strongly supported this move. I also thank Professor Sharpham, the current council and, in particular, the Ballarat community for their great support and enthusiasm and push to have what was the dream of many become a reality. This will surely take tertiary education in Ballarat into the 21st century and the winners will be not only the young people of Ballarat who are pursuing a tertiary education but also all those young people in western Victoria.

Mr HAYWARD (Minister for Education) — I thank the honourable members for Morwell, Ballarat West, Ballarat East and Ripon for their contributions in the debate. I found them extremely interesting and worthwhile contributions.

I have been especially interested in the outline of the history of education in Ballarat that has been alluded to by a number of honourable members. It makes it particularly meaningful when one knows that a number of honourable members have actually participated in the history of education in Ballarat.

The issues involved were canvassed well and extensively, but one issue that arose from a number of contributions to the debate was the question of a possible incorporation of the Ballarat School of Mines and Industries. It is expected that there will be ongoing discussions concerning that possible incorporation and I hope those discussions will be fruitful because such an incorporation will have potential benefits for students in the Ballarat area.

It is abundantly clear that the proposed new university has the full support of the Ballarat community and will bring considerable benefits not

only to Ballarat and the surrounding areas but to western Victoria generally. It will be perceptive and responsive to the changing needs as the economy of Ballarat and western Victoria continues to move ahead.

I thank all honourable members for their constructive contributions to the debate. It is clear that members have put considerable thought into the contributions and that they hold a very strong commitment to the new institution.

In conclusion, I wish the new university of Ballarat the very best of success for the future.

Motion agreed to.

Read second time.

Passed remaining stages.

TRANSPORT (AMENDMENT) BILL (No. 2)

Second reading

Debate resumed from 28 October; motion of Mr BROWN (Minister for Public Transport).

The SPEAKER — Order! Before calling on the honourable member for Thomastown I advise that as a statement has been made under section 85(5)(c) of the Constitution Act 1975 I am of the opinion that the second reading of the Bill needs to be carried by an absolute majority of the House.

Mr BATCHELOR (Thomastown) — The Transport (Amendment) Bill (No. 2) is a very complex Bill in that it deals with a number of unrelated matters that all come under the large umbrella of the Transport Act. It is a smorgasbord of a variety of different issues — —

An honourable member interjected.

Mr BATCHELOR — And that is a kind way of describing it. More accurately it could be described as a dog's breakfast in the way it attempts to deal with so many different and varied issues. One notices that there are housekeeping components in some parts of the Bill, and that is to be commended because it needs to be done on a regular basis.

Notwithstanding the housekeeping part, the Bill attempts to deal with a variety of issues that are not connected. It attempts to amend the Transport Act 1983, the Road Safety Act 1986, the Crimes Act 1958, the Transport (Amendment) Act 1992, the Limitation of Actions Act 1958 and the Constitution Act 1975. The Bill contains 79 clauses, and although it was introduced into the House approximately three weeks ago it is interesting to note that the Scrutiny of Acts and Regulations Committee was able to deliver its report to the Parliament only as recently as yesterday. It is clear from the report that the committee, too, had some difficulty coming to grips with a number of the issues that were raised, and as of yesterday, on the eve of the Parliamentary debate on this Bill, the committee had not been able to satisfy itself on a number of matters that it believed to be significant.

It is important to make these comments at the very outset because the debate will reflect the complex issues that the Bill raises. It will enable the Parliament and the public that use the Parliamentary debates to form their responses and to gain an understanding of the consultation process that inevitably follows a Bill's introduction and second-reading debate and while the Bill is between the Legislative Assembly and the Legislative Council.

Given that the Scrutiny of Acts and Regulations Committee has drawn the attention of Parliament to a number of issues, I would like to commence the opposition's response to the Bill by examining those issues so that people in the Parliament, members of industry associations and workers in the various industries covered by this legislation will appreciate that an important Parliamentary committee such as the Scrutiny of Acts and Regulations Committee, like them, has a number of difficulties dealing with the issues raised by this Bill.

I refer to comments the committee made in *Alert Digest* No. 18 dated 18 November on a series of clauses that it has found necessary to bring to the attention of Parliament. In relation to clause 8, which abolishes the Road Transport Licensing Tribunal, the committee reports to Parliament that it has written to the Minister requesting advice as to what happens to the members of the tribunal and whether they have received any compensation. I presume the Minister will advise the House of the details of this matter in his response later in the debate.

The Scrutiny of Acts and Regulations Committee also drew attention to the fact that clause 19 changes the requirement for the payment of an "annual fee" to "any fee" for a commercial passenger vehicle licence. The committee thought it necessary to draw

this fact to the attention of Parliament although it did not make further comment.

However, the committee was much more concerned about clauses 42 and 59, which relate to tow-truck driver certificates and driving instructor certificates. The changes will provide mutual recognition of vocational standards for certificates. *Alert Digest* No. 18 from the Scrutiny of Acts and Regulations Committee states:

> The committee is still considering its attitude to these matters and in the circumstances notes there may be a reduction in statutory rights and refers the matter to Parliament for debate.

The Scrutiny of Acts and Regulations Committee makes that comment in relation to both tow-truck driver and driving instructor certificates. A committee of Parliament that has the specific responsibility of advising Parliament on the implications of proposed legislation is uncertain about the impact and believes there may be a reduction in statutory rights.

To meet today's deadline the committee report is short in some detail, but it appears to be implying that the reduction in rights could affect customers of both tow-truck services and driving schools. Members of the public have been concerned for many years about the attitude of tow-truck drivers attending the scene of accidents. Guidelines have been set out to regulate the behaviour of the tow-truck industry. I am sure the Scrutiny of Acts and Regulations Committee is referring to the diminution of the rights of a member of the public who may call upon a tow-truck driver at a stressful but important time after a motor car accident.

The next issue the Scrutiny of Acts and Regulations Committee directed to the attention of Parliament was clause 57, which gives power to the Roads Corporation to suspend or cancel a vehicle tester's authorisation on certain specific grounds. The committee states:

> These decisions can be overturned on limited grounds by magistrates. The committee notes there may be a reduction in rights and refers the matter to Parliament.

Clause 67 inserts a provision to enable police and authorised Public Transport Corporation officers to request a person's name and address if a reasonable belief is held by an officer that a person has committed or is about to commit an offence. The committee states:

> The committee notes the wording of the section that a request may be made for a name and address if a person is "about to commit an offence". This differs from the current provisions which state that a person must be actually caught committing an offence. In the circumstances, this may be a reduction in rights and the committee refers the matter to Parliament for debate.

Clause 79 inserts a new section 456A into the Crimes Act. The provision will allow a law enforcement agency to apply for documents to be provided by the Public Transport Corporation. The committee notes that there may be a diminution in rights and freedoms and refers the matter to Parliament for debate.

The committee also referred to clause 10, which provides that a restricted hire vehicle licence may be granted if the applicant is a "fit and proper person". The committee's report notes:

> The committee is unable to find any provision which provides for any review of these decisions. There is a limited right of appeal to the Supreme Court. The committee notes that the Administrative Appeals Tribunal reviews other licence decisions and is concerned that this may offend the provisions of the Parliamentary Committees Act 1968. The committee recommends to the Minister that the Bill be amended to provide for a right of appeal to the Administrative Appeals Tribunal.

I have taken the trouble of referring to these issues directed to the attention of Parliament by the Scrutiny of Acts and Regulations Committee because the report was tabled only yesterday. I received a copy of the report late last night and have had the opportunity of going through it this morning. There has not been sufficient time for the opposition, and I suspect even for the government, to take on board the matters specifically directed to the attention of Parliament. There may be an acceptable explanation for some matters. I have had telephone discussions with departmental officers and the people to whom I spoke were not fully aware of the government's response.

Clause 10 is of particular concern. The Scrutiny of Acts and Regulations Committee says in deliberate and explicit terms that the clause should be amended, and I hope the government will move an amendment to that clause.

The opposition has had a limited period in which to develop a response to the report, but the committee has had three weeks to examine the Bill and has a

number of comments to make relating to it. I advise that I shall move amendments during the Committee stage. The opposition will reserve its right to examine in greater detail the issues raised by the Scrutiny of Acts and Regulations Committee while the Bill is between here and another place. The opposition reserves its right to have discussions with the government to find out its interpretation of these issues and to seek the views of individuals and industry groups who have contacted the opposition since the Bill was first introduced.

When the Bill was introduced by the Minister some three weeks ago, crucial to it was a commitment given by the Minister for Public Transport on his behalf and on behalf of the Minister for Roads and Ports that there would be consultation with industry and with the people who have a direct interest in this. In the Minister's second-reading speech he gave a commitment that:

> Guidelines for determining applications —

and here he is referring to the vehicle licensing reforms —

> will be agreed between the Roads Corporation and the industry.

The opposition understands that this important commitment was given and expects that it will be fulfilled. The commitment to consultation between the Roads Corporation and the industry largely shapes the attitude of the opposition to the Bill. It is important to understand that because there are issues of concern to the industry in the Bill that need to be further addressed. Because of the commitment given in the second-reading speech, the opposition expects that discussions will take place and that the views of industry will be taken into account. If that does not occur the attitude of the opposition to the Bill may well differ in the Upper House.

The opposition has had detailed briefings from the government from both the public transport and the roads and ports portfolios, and it has also taken part in wide community consultation. Some issues of which the industry has made a particular point are not opposed by the opposition, but this is on the basis that consultation will take place and that as a result general agreement will be reached.

In preparing its response the opposition has consulted widely within the industry, with various community and industry groups and with individuals. Specific comment has been received on licensing matters from a number of organisations, including the Victorian Hire Car Association, the Special Vehicle Hiring Association, the Victorian Taxi Association, various individuals and companies, members of the Geelong and District Taxi and Hire Drivers Association, members of the Taxi Lessees Association of Victoria, the Transport Workers Union of Australia and the Victorian Motor Schools Association.

During those consultations a number of specific concerns of the industry were brought to our attention. It is highly likely that these matters have also been brought to the attention of the government since the introduction of the Bill. The opposition understands that these industry associations have had meetings with the government's Bills committee. The opposition would expect that, as a result of those meetings and of the promise given in the second-reading speech, many industry concerns will be taken on board and the government will have an acceptable response for the industry.

The industry and individuals have to understand the political realities of Parliament. The Labor opposition does not have the numbers on the floor of this Chamber or of the Legislative Council. It has consulted widely and will take up issues in debate, but the ultimate decision rests with the government.

So after today's debate, after the industry and individuals have heard the response of the Minister, it is fairly and squarely in the hands of the various industry groupings to continue to pursue these issues. They have a commitment in the second-reading speech not only to consultation but also to arriving at some agreement. They have had previous discussions with the government, and the opposition invites them to pursue these matters with the government either through its Bills committee or through individual members of Parliament if they fail to get satisfaction from their negotiations and discussions.

Essentially what comes out of the debate and the amendments before Parliament will largely depend upon the attitude of the government towards the consultations that no doubt will take place following the conclusion of debate today. If the industry groups want the government to change some of these provisions they must keep up their negotiations and consultations with the government and with government backbenchers.

It is important for me to comment on clause 78, which changes the Constitution Act to prevent the

Supreme Court from considering any action being brought in respect of any land by a person who is in possession of that land. This is a question of adverse possession. The opposition believes, given the nature of Public Transport Corporation land-holdings, that this is an important amendment to the Constitution Act. Honourable members will appreciate the lengths of railway land and uncertain boundaries involved and can see that these community assets need to be kept well and truly in the hands of the Public Transport Corporation so that it can decide how they can best be used.

However, it is interesting to note that this is another area on which the Scrutiny of Acts and Regulations Committee has commented. The committee is uncertain as to the impact of the clause and has written to the Minister requesting a further explanation and advice as to how large a problem exists with adverse possession. The committee notes that it is unable to report until an explanation has been received from the government.

The opposition supports the clause but adds the cautionary note, as was mentioned by the Scrutiny of Acts and Regulations Committee, that increasingly a feature of Bills brought before the House is that the government has sought to use changes to the Constitution Act to prevent the Supreme Court from taking action against the government. Hardly a day goes by without the introduction of a new Bill to the Parliament in which, in some form or another, the government seeks to rely on this provision or similar provisions in changing the Constitution Act. Parliament should examine the issue more closely. The opposition intends to scrutinise the use of the provision to clarify the pattern that is emerging.

Why is it that almost every Bill contains a provision that limits the Supreme Court's powers in a particular way? I say that by way of observation because clause 78, which limits the Supreme Court's jurisdiction, has the support of the opposition.

Nevertheless, the pattern to which I am referring needs particular attention. We place the government on notice that we are unhappy about the rights of individuals and the public at large being taken away by the insertion of a limitation of jurisdiction provision in almost every Bill.

When the Bill was introduced I complained that it was like a dog's breakfast — and there is no better description of clause 4. The clause repeals the definition of "the Melbourne metropolitan area" in section 2(1) of the principal Act and repeals section 2(3), which defines the road boundaries of the metropolitan area. That is one of the housekeeping matters I referred to that is no longer required.

The definitions were included in the Act when public transport in Victoria was, in a corporate sense, divided between rural and metropolitan services. It was necessary to have a definition setting out where the boundaries were. Because of the current administrative arrangements the definition is no longer required. It is a throwback to the days when things were administered differently. However, instead of being included in a public transport, miscellaneous or housekeeping clause, the amendment is included in Part 2, which deals with vehicle licensing and regulation. As I said, the Bill has not been easy to understand. The way it has been drafted has not assisted Parliament to properly and easily debate the many important issues it contains.

It is important to comment on each of the various parts of the Bill. Firstly, as I said Part 2 deals with vehicle licensing and regulation. Clause 5 amends definitions in section 86(1) of the principal Act by deleting the words "or for any consideration or in the course of any trade or business whatsoever" in the definition of commercial passenger vehicle. The intent is to narrow the definition of commercial passenger vehicle by deleting those areas of commercial passenger vehicle operations.

For example, it is not intended to have the regulations apply to a market farmer who may have various plots of land and who transports or drives workers from one location to another. The provision is not intended to cover the operations of hotel courtesy buses or real estate people who may be transporting people around to see houses or land. The amendment is designed to have the Act apply only to the transport industry proper, which I can understand.

However, we have received responses from various industry organisations outlining their concerns. I will refer to those responses later because of the commitment the government has given to consultation and agreement.

The Victorian Hire Car Association was very specific in outlining its concerns about clause 6. It wants the field of operation of the regulations narrowed and has sought to limit the amount of words proposed to be omitted from the Act.

The opposition asks the government to have discussions with the Victorian Hire Car Association with the aim of reaching agreement on the matter. The government and the industry should consult and should reach agreement, based on the firm commitment given by the Minister in the second-reading speech.

I have stated the opposition's position. If the commitments are not honoured by the Minister's colleague — I presume he will be undertaking those discussions — we will reserve our right to decide how we treat the Bill while it is between here and the other place. The Minister did not understand that when I mentioned it earlier, so I am glad he is seeking to clarify it now. There are a range of issues on which the transport industry is asking for clarification and agreement. We will be monitoring the situation.

Clause 5 also inserts a new definition of a restricted hire vehicle, and that along with the attendant issues that flow from it have caused considerable interest among industry groups, taxi owners, and hire car companies — people who are actively engaged in the industry at the moment.

In consultation with the opposition, the Victorian Hire Car Association again sought to have the definition amended. It sought to have the vehicle identified as for restricted hire and it wanted a requirement for pre-hiring. In separate correspondence the association raised concerns about the use of restricted hire cars more than 25 years of age. It is concerned that no duties or conditions apply to those types of vehicles.

The Special Vehicle Hiring Association is even stronger in its opposition to the new category. It claims that it represents the older classifications which are supposed to be encompassed by this new definition and it says that generally the licences have been issued for a variety of special occasions, such as weddings, debutante balls, tours, special functions and promotional events. Some people have described these as more for photo opportunities rather than for transport purposes, but that is not the view of the Special Vehicle Hiring Association. It says that the majority of its hirings are for short distances or short durations, and that it is inappropriate for that class of vehicle to be incorporated in the category of restricted hire vehicles. If long distances are to be covered it would regard it as more appropriate to have to apply for metropolitan or country hire car licences.

The opposition has also heard from the Victorian Taxi Association, which has raised a number of matters relating to clause 5, particularly the new definition of a restricted hire car. Its concerns, set out in a letter to me dated 3 November, relate to safety and vehicle standards. It is concerned about the potential for off-road vehicles to be covered by the classification. It expresses concerns about vehicles manufactured more than 25 years before the date of application, and it believes it is essential that the standards of the industry are maintained.

I have gone into this area in some detail, specifically with the view of establishing a pattern, and it appears that many companies and associations that operate in the industry have a small but important interest in the definition and operation of restricted hire vehicles. The responses to clauses 5 and 6 from those organisations are replicated by their responses to a number of other provisions in the Bill and clearly indicate that a number of problems still need to be resolved and agreement still has to be reached in the industry. Given the nature of its objections, it should not be too hard for a government and an industry association with goodwill and intent to reach the important agreement I referred to earlier.

Clause 8 abolishes the Road Transport Licensing Tribunal. That is another area about which industry associations have also expressed concern. The Special Vehicle Hiring Association does not support the abolition of the tribunal until such time as an acceptable alternative proposal is tabled. Its letter to me dated 4 November states:

> We agree that the current system creates lengthy delays and this respect needs urgent review. We support a restructuring of the tribunal to reduce government costs and changes to its terms of reference to enable it to deal swiftly and decisively with both licensed and unlicensed operators. In talking to the government advisers in our briefings, that is the similar objective of the government in abolishing the Road Transport Licensing Tribunal.

The government wants to create an as-of-right licence. There appears to be general agreement between the government, opposition, and industry associations on this issue, and the opposition does not oppose the abolition of the tribunal or even the as-of-right licences being granted for restrictive hire vehicles. The industry associations also do not oppose the broad philosophical concepts behind it, but they are yet to reach an understanding with the government about the form and substance of the changes.

The industry association accepts the need for change and the broad philosophy underpinning the government's proposal. However, it is concerned about the linchpin of the reforms — the abolition of the Road Transport Licensing Tribunal. Why is it that agreement cannot be reached? Is it that the industry is just not being fair dinkum? Is it that the government has not entered into meaningful negotiations? Is it for some other reason?

There is a bit of smoke here, and where there is smoke there is fire. I ask the government to live up to the commitment given to the people of Victoria in the Minister's second-reading speech, and to reach agreement with the industry association on this matter and a number of others to which I will also direct attention.

The SPEAKER — Order! I interrupt the honourable member at this point. He will have the call when this matter is next before House. The House will adjourn until 2 o'clock when questions without notice will be called.

Debate interrupted.

Sitting suspended 1 p.m. until 2.4 p.m.

DISTINGUISHED VISITOR

The SPEAKER — Order! I have great pleasure in welcoming to the Speaker's Gallery a fellow Speaker, Chief Fusitua, the Speaker of the Parliament of Tonga.

ABSENCE OF MINISTER

The SPEAKER — Order! I have to advise the House that the Treasurer will be absent today due to illness.

INTERRUPTION OF ADJOURNMENT DEBATE

Mr ROPER (Coburg) — On a point of order, Mr Speaker, I refer you to the unsatisfactory circumstances of last evening when a number of members had raised matters in the adjournment debate and the Minister for Public Transport was answering one of those matters when you, Mr Speaker, vacated the Chair. I ask you to consider ways in which you can ensure that Ministers who are yet to answer matters raised by members from both sides of the House can make their responses so that the members concerned and their constituents will be informed and so that citizens who are interested in the activities of this place will also know what the responses are.

The SPEAKER — Order! I shall give the honourable member for Coburg an interim reply and give a detailed reply in due course. The honourable member will be aware that last night the noise in the Chamber was considerable. From memory, I think I rose on five occasions to ask members to be quiet, with little or no response. The House was operating under a Sessional Order that provides that business on such an occasion is to be completed by 10 p.m.

My recollection is that the last warning I gave was that unless the House came to order I would take drastic action. I advise the honourable member for Coburg and the House that I took drastic action, as the House understands.

I believe that in certain circumstances the Chair, when it does not receive cooperation from the House, should take drastic action. I will give the House and the honourable member for Coburg a detailed response on my actions at a later date.

QUESTIONS WITHOUT NOTICE

STAFFING LEVELS

Mr SANDON (Carrum) — I refer the Minister for Education to the need for quality education at Victorian schools such as the multi-campus Mullauna Secondary College in Mitcham. Can he explain to the House how it will be possible to maintain quality education at the college when next year there will be a reduction of 13 staff and an increase of more than 100 students?

Mr HAYWARD (Minister for Education) — This is an important matter and I welcome the opportunity to put before the House the facts concerning school staffing. Firstly, on the basis of the 1994 staffing formula, if teachers in primary schools are willing to increase their face-to-face student contact teaching time by approximately 30 minutes a week — —

Government Members — How much?

Mr HAYWARD — Thirty minutes a week.

Honourable members interjecting.

Mr HAYWARD — This is an important matter. The opposition has raised it and I believe opposition members should listen to the facts.

The SPEAKER — Order! The question has been asked by the opposition and I take it that there is some interest in it. I ask the House to be silent in order that the Minister may give his reply.

Mr Seitz — All the teachers in Victoria are interested in this!

Mr HAYWARD — I repeat that on the basis of the 1994 staffing formula, if teachers in primary schools are willing to increase their face-to-face student contact time by approximately 30 minutes a week — —

Ms Kirner — They only get an hour and a half off!

The SPEAKER — Order! If the honourable member for Williamstown continues to interject I will be forced to take action against her. I ask her to remain silent and listen to the reply by the Minister for Education.

Mr HAYWARD — If secondary teachers increase their contact time by approximately 90 minutes a week there will be no need for an increase in class sizes or a reduction in school programs. Secondly, on the basis of constant enrolments, the staffing reductions in schools next year will be 6.9 per cent in primary schools and 6.8 per cent in secondary schools. Thirdly, the issuing of the 1994 staffing establishments this week is part of the normal staffing process.

Mr Thomson — You lied!

The SPEAKER — Order! The honourable member for Pascoe Vale has used an unparliamentary expression. I ask him to withdraw.

Mr THOMSON (Pascoe Vale) — I withdraw. The Minister — —

The SPEAKER — Order! It is the practice in this House that a withdrawal is made without elaboration.

Mr HAYWARD (Minister for Education) — Since earlier this year there has been exhaustive consultation in schools.

Opposition members interjecting.

Mr HAYWARD — The savings were outlined in a memorandum sent to schools in September. There is nothing new about this.

Following the budget savings there will be a reduction of approximately 5100 classroom teachers. Approximately 3000 other teachers have accepted, or will be accepting, voluntary departure packages. I stress that no teacher has been sacked. They have accepted redundancy packages.

It is important for the House to know that a number of significant programs have been protected. For example, there has been no reduction in services for students with disabilities and impairments, whether they be at special schools, special developmental schools or regular schools. The number of teachers of languages other than English and English as a second language have been increased. The overall staffing ratio at community schools will be approximately one teacher for every nine students.

It is important that the House be aware that the government has taken account of the special needs of country schools. Designated rural secondary colleges will receive a reduction of less than 6.9 per cent to allow schools to continue to provide a range of options for students. Rural primary schools are staffed on a basis that is generous compared with other States.

Honourable members should be aware that threats of industrial action will only harm the students and will change nothing. The government's first commitment is to students and it will repair the damage done by Labor. It is important for all Victorians to recognise — and most do — that reductions in staffing numbers have been brought about by the mismanagement of the previous Labor government.

MELBOURNE CASINO

Mr PHILLIPS (Eltham) — Will the Premier inform the House of the latest milestone in the development of a world-class casino for Melbourne and what this means for the redevelopment of the Southbank precinct as part of the government's Agenda 21 initiatives?

Mr KENNETT (Premier) — I thank the honourable member for his question and for his interest in the latest move to reignite development in the City of Melbourne. Today, on behalf of the people of Victoria, I accepted a $200 million cheque from the successful tenderer for the casino licence,

being Crown Casino Ltd. With the acceptance of this cheque, which will be deposited in a separate account and be accounted for separately, the Victorian government will be able to commence work on a range of public projects that will not only revisit the Barry dream and vision but also put into place new public buildings that the government hopes will serve this community well into the 21st century.

The $200 million that was received today will immediately allow the government to commence the final planning for the exhibition centre on Southbank adjacent to the casino and it is expected that work will commence on that in March next year. Work on the casino will start immediately and will involve up to, and just beyond, 5000 new jobs; work will continue progressively until completion in mid-1996.

Late next week work will commence on the State Library, an institution that was part of the Barry dream but unfortunately was allowed to run down, both in terms of its books and its structure, and successive governments — —

Mr Sercombe interjected.

Mr KENNETT — It is amazing that the Deputy Leader of the Opposition interjects with mirth. The vast majority of the Victorian community will recall that in the 10 years of Labor government not once did it spend a dollar on trying to ensure that this library or its books were looked after or improved.

Mr Sercombe — It is a porky!

Mr KENNETT — It is not a porky at all. This is the first government to spend a considerable amount of money on restoring this very important asset. The coalition government will spend $39 million over the next three years and that will also be the first stage of three stages to ensure that our State Library — —

Honourable members interjecting.

The SPEAKER — Order! I will call the Premier when the House comes to order.

Mr KENNETT — This will be the first of three stages to restore the State Library to being the best State Library in Australia. The money collected, $200 million, will also enable us to start work in 1996 on the new museum, which will be built on the current exhibition site. The one thing the community can be sure of as a result of the receipt of this money today is that it will unlock a period of great opportunity in the provision, development, restoration and improvement of public assets. Those public assets will be created or restored without increasing the State's debt by $1. It is an important milestone for Victoria.

It continues to reinforce the view that Victoria is clearly moving in a positive direction, not only in terms of getting the economy under control but also in utilising some of its financial resources to revisit the Barry dream. This is only the first payment that the community of Victoria will get as a result of this casino and it will serve the community exceptionally well. The government wishes the developer and all those associated with the construction of the casino site good fortune. The Agenda 21 program is clearly up and running. The public of Victoria will benefit not only through assets but also through employment and a major boost to confidence in the State.

RURAL SCHOOLS

Mr BRUMBY (Leader of the Opposition) — I refer the Minister for Education to his previous answer when he said that he had paid special attention to the needs of rural schools and his extraordinary claim that there would be no need to cut programs if secondary teachers increased their contact hours slightly. Can the Minister explain how schools like Goroke and Cann River that have had their staffing numbers cut — in each case from 11 to 7, or by 40 per cent — can maintain existing programs, or does he expect students at those schools to commute to other schools?

Mr HAYWARD (Minister for Education) — I refer to — —

Mr Brumby interjected.

The SPEAKER — Order! This is the fourth sitting day this week and the fourth time that I have had to caution the Leader of the Opposition during question time and advise him that after he asks a question he may not ask supplementary questions by way of interjection. The Leader of the Opposition will remain silent.

Mr HAYWARD — I refer the Leader of the Opposition to my response to the first question that dealt with that matter, and I remind him — —

Honourable members interjecting.

Ms KIRNER (Williamstown) — On a point of order, Mr Speaker, on the question of relevance, the question was quite clear.

Honourable members interjecting.

The SPEAKER — Order! Would the honourable member for Williamstown pause while the House comes to order. I am having difficulty hearing her point of order.

Ms KIRNER — Thank you, Mr Speaker. The question was: given that the Minister has declared his loyalty to rural schools, how is it that the numbers of teachers have been reduced from 11 to 7 which, according to my calculations, and in those of anyone other than the Minister, is at least 120 periods and there are only 10 periods available to replace that — —

Honourable members interjecting.

The SPEAKER — Order! I have heard enough on the point of order. The honourable member for Williamstown has raised the question of relevance. I rule that the question asked by the Leader of the Opposition referred to the previous question. I understood that the Minister was referring to his previous answer and was relevant and in order.

Mr HAYWARD (Minister for Education) — In conclusion, I remind the Leader of the Opposition and other honourable members that these staffing reductions are a direct result of the financial mismanagement of the previous Labor government, led by the honourable member for Williamstown and her predecessor.

VICTIM IMPACT STATEMENTS

Mr DOYLE (Malvern) — I refer to the Attorney-General comments made by the honourable member for Melbourne that victim impact statements are "publicity seeking declarations of how bad people feel", and I ask: what plans has the government in relation to victim impact statements?

Mrs WADE (Attorney-General) — Is it any wonder that victims despair of the criminal justice system when they hear comments such as those made by the honourable member for Melbourne? To say, as he did, that victim impact statements are publicity seeking declarations of how bad people feel seems to show a total lack of compassion. That is not so; the honourable member for Melbourne does have compassion, but it is limited to those who commit crimes and does not extend to those who are victims of crime.

Honourable members interjecting.

The SPEAKER — Order! I ask the Attorney-General to take a seat. This week it was suggested to me in jest that I should have a series of blue, yellow and red cards. I am thinking seriously of taking up that suggestion. The Attorney-General will be heard in silence.

Mrs WADE — The previous government followed a policy of all care for offenders and no responsibility for victims. The honourable member for Melbourne and his fellow travellers are determined to continue that tradition.

That approach to the criminal justice system reached a high-water mark earlier this week when the usual chorus of those who oppose the government's policies objected to our proposal for a new offence to prevent sex offenders loitering in the vicinity of children and said they were concerned that it might prevent rapists eating at McDonald's restaurants. To say that it would prevent people from eating at McDonald's is an extreme extension of the government's proposal.

Mr ROPER (Coburg) — On a point of order, Mr Speaker I draw your attention to the fact that the Minister proposes changes to the Crimes Act in a Bill which, as any honourable member can see, is listed on the Notice Paper. Under the Standing Orders of this House and the rule of anticipation, the Minister is not able to comment on either her proposed legislation or proposed amendment until debate on the Bill is called on.

Mrs WADE (Attorney-General) — On the point of order, Mr Speaker, I was addressing my remarks to victim impact statements, which are not part of the Bill listed on the Notice Paper, and merely referred to the amendment in passing to illustrate my point.

Honourable members interjecting.

Mrs WADE — I do not intend to pursue that at all.

The SPEAKER — Order! It appears from the answer given by the Attorney-General that there is no point of order.

Mrs WADE — I inform the House that the government is working on proposals for victim impact statements and that as a result of its announcement that it is prepared to ensure that victims have their say in court a number of judges are already permitting victim impact statements to be made. In two examples this week — one in a rape case and one in a culpable driving case — the victims were able to feel part of the proceedings.

Some judges are actually asking for victim impact statements to be made. In a well-reported fraud case involving a financier charged with stealing many millions of dollars, the people who lost their money were asked to make statements of the effect of the crime on them.

Victim impact statements are not publicity seeking declarations. Victims do not want publicity; they do not ask to be victims and they want to be part of the criminal justice system. When I saw the comment of the honourable member for Melbourne reported in the newspaper I recalled the comments of the mother of a young woman who had been murdered. The young woman was attacked so savagely it was difficult to identify her body. The mother described to me how she sat in court listening for, I think, two days to the family and friends of the convicted murderer saying what a great guy and good father he was. She said she was unable to say anything about what the loss of her daughter meant to her family, including her other children. She wanted to say what a great person her daughter was but felt that so far as the court was concerned her daughter was not a real person at all.

I would like the honourable member for Melbourne and other opposition members to get out into the community and talk with people like that rather than discussing the criminal justice system only with members of ALP branches.

Victim impact statements will allow victims to say how crimes have affected them. They should not, as the honourable member for Melbourne seems to want, suffer in silence lest their grief should disturb the equanimity of those who victimised them.

The government will examine the best way of bringing in victim impact statements. I trust I will be able to introduce legislation in the next sessional period.

Government Members — Hear, hear!

COODE ISLAND CHEMICAL STORAGE FACILITY

Mr BRUMBY (Leader of the Opposition) — I refer the Minister for Industry Services to comments made this morning on radio station 3LO by Mr Peter Vaughan, Chairman of the Safer Chemical Storage Taskforce, who confirmed that Mr Alan Seale, General Manager of ICI Australia Operations Pty Ltd, had resigned this week as a member of the task force because of frustration with government inaction in relocating the Coode Island chemical storage facility, and I ask: when will the Minister implement the recommendation of the Landy panel for a statutory authority to be established to oversee construction of a new chemical facility, and when will he implement the recommendations of the task force that he has been sitting on since 9 August?

Mr PESCOTT (Minister for Industry Services) — I thank the Leader of the Opposition for his question and for the opportunity to put into perspective some of the comments that have been flying around over the past few days courtesy of the former Premier of Victoria, the honourable member for Williamstown. She first raised the subject in the grievance debate on Wednesday and she has been ably abetted by the *Age* and the ABC ever since in trying to imply that the government is not proceeding with the move of the bulk chemical storage facility from Coode Island to west Point Wilson.

When the government assumed office it also assumed responsibility for the Safer Chemical Storage Taskforce and the timetable the task force was given by the previous government. As I explained to the honourable member for Williamstown during the grievance debate, if her government had established the task force in a better way this government would have been able to move the project forward a lot faster. Recently the task force approached me and I agreed with its view that it was necessary to examine the way it had been constituted. The former Premier had written to a number of people and asked them to be on the task force, but she had not given the task force any statutory position or status within government.

A consultant was appointed to examine the task force's position within the government. The consultant's report, which was handed to me this week, is being examined by officers of my department, and I hope that next week I will be able to discuss it with the task force. The Leader of the Opposition, who is a failed Federal politician, was a school teacher before he came to this place — —

Honourable members interjecting.

The SPEAKER — Order! I will call the Minister when the House is silent. I ask the Minister to complete his reply.

Mr PESCOTT — Suffice it to say, the honourable member for Williamstown, who is a failed Premier, and the honourable member for Northcote, who is a failed Treasurer, are former school teachers, and honourable members can guess the training of the chairman of the Safer Chemical Storage Taskforce.

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is too high. I ask the Minister to complete his answer; he must not debate the question.

Mr PESCOTT — I have nothing against the chairman of the task force for being a past President of the Victorian Secondary Teachers Association or for working as an industrial officer in the former health and education departments before he took up this position, but I do have something against his going public about a subject that is being handled within the government. I would like to see what would happen to the said Mr Vaughan if, in his new position at Smorgon Consolidated Industries, he spoke publicly about the internal affairs of that company.

Several months ago the task force handed me a submission, but it was a piece of paper that was inadequate for presentation to Cabinet. At the same time the task force requested that a consultant look into what was happening within government so far as the task force was concerned. The opposition thinks this is funny, a bit of a laugh, but it is very serious — —

Honourable members interjecting.

The SPEAKER — Order! Honourable members are wasting question time. I ask the Minister to conclude his answer.

Mr PESCOTT — One of the conclusions of the consultant who examined the structure of the task force was that the current structure and the mix of skills it has acquired have inhibited it from establishing the basis for a commercial facility. If the previous government had established a task force comprising people who had been involved in developing major projects of the type we are talking about, my department might have received a submission suitable for presentation to Cabinet. I am entitled to get the best possible advice and to check that advice against the advice I received from the task force. The submission contained figures different from those contained in the Landy report.

A whole range of issues is associated with this very important development, but this carping opposition expects this government to do what the previous government did — that is, receive submissions from the bureaucracy, put those submissions forward without analysing them and just sign the document and go on its way. This government is not doing that; it is examining the matter carefully and it will not commit itself to projects in the way the former government did, which sent Victoria down the drain. If you want to talk about Mr Seale, the man from ICI, perhaps you could ask Mr Seale why he resigned. Why not ask him why he resigned?

The SPEAKER — Order! The Minister may not address questions to the opposition. He must address the Chair. I ask him to conclude his answer.

Mr PESCOTT — All I know is that recently Mr Seale talked to people — this is typical of the way the previous government established the task force — and said there may be a conflict of interest with ICI being on the task force, given that it owns the land where the west Point Wilson facility is to be built.

INTERRUPTION OF ADJOURNMENT DEBATE

Mr J. F. McGRATH (Warrnambool) — On a point of order, Mr Speaker, I direct your attention to the point of order raised earlier by the honourable member for Coburg in seeking some formal explanation from you as to how the necessity for your action during the adjournment debate last night can be eliminated. As a further point of order, I suggest to you, Sir, that in your deliberations you consider Standing Order No. 114, which refers to the deliberate disruption of orderly debate in the House by members, and that your consideration of the point that members' conduct is really in the hands of various members of the House be part of your deliberation and report to the House.

The SPEAKER — Order! The point of order is noted by the Chair.

TRANSPORT (AMENDMENT) BILL (No. 2)

Second reading

Debate resumed.

Mr BATCHELOR (Thomastown) — Before the suspension of the sitting I referred the House to a number of examples where the industry had raised specific points about the Bill and wanted the government to have those points taken into the consultative and agreement process, to which the government gave a commitment in the second-reading speech. At present the government does not have the agreement of various industry groups.

Clause 10 of the Bill introduces as-of-right hire licences for restricted hire vehicles, a new classification. It inserts new section 141B which effectively makes the restricted hire vehicle an as-of-right hire vehicle licence.

The new section has three major components: the first specifies that sections 142 and 143 of the Act do not apply; the second specifies that the applicant must be a fit and proper person; and the third specifies that the licence cannot be transferred to any other person.

On 4 November the Special Vehicle Hiring Association wrote to me on this and other aspects that make up the as-of-right licence package:

> We do not support this principle on the grounds that it could attract the wrong element of operator into the industry. Victoria has the highest number of older vehicles in the country, the majority of which are in the hands of "hobbyist" or "motor enthusiasts".

The association is concerned that the impact of so many hobbyists or motor enthusiasts with such types of vehicles could come under the licence category of restricted hire vehicles and could have an impact not only on the operations of their businesses but also on the potential to encourage taxation abuse.

Taxation abuse was also taken up by the Victorian Taxi Association, which said that if the operator had to be a fit and proper person a similar requirement should apply to the vehicle. Both organisations are representative employers who produce the capital investment in the industry. Although taxation abuse is not a State government responsibility, the two organisations fear that unscrupulous business people and wealthy car enthusiasts could seek to obtain as-of-right restricted hire vehicle licences as part of a tax minimisation scheme. They say the issue has already been raised in the South Australian Parliament where it was claimed that this has occurred in response to some forms of deregulation of the industry in that State.

It is true that the proposed changes will create diversity. That is clear and it is a good thing. But the proposed changes will also create the opportunity for the smart accountants and wealthy people to bludge off the industry and the wider taxpaying community. As the matter has been raised in the South Australian Parliament, I ask the Minister to keep it under review? The opposition recognises that it is not his intention that the changes will lead to taxation abuse. Perhaps it is an issue that he can bring to the attention of transport Ministers when they hold their next meeting early next year.

Clause 13 provides a right of appeal to the Administrative Appeals Tribunal where an applicant for a licence has had the application refused. The Victorian Taxi Association also wants that right of appeal to exist where an appeal has been granted. Extending that provision, which is currently provided for in the Act, will provide the opportunity for habitual objectors to appeal against successful applicants. The industry clearly recognises that what has occurred in this area in the past is out of balance. Although the protection was afforded to the industry, it is clear that on a number of occasions it was abused and has led to much litigation and additional cost. The provision has been used by some vested interests.

The industry must ensure that the protection it seeks will not be abused. The right of appeal must be bestowed upon those who have had their rights refused, not on those who want to try to prevent applicants from coming into the industry.

Clause 14 seeks to amend section 144 of the Act by removing the implied conditions of a licence for those who operate commercially licensed vehicles and those currently using the licence. Although the Act contains a number of implied conditions the Bill seeks to delete only one.

The Bill seeks to delete that part of the Act designed to ensure that the workers in that industry receive their proper wages and conditions. The opposition will have no part of attempts to remove those

provisions. The Bill seeks the following words to be omitted from section 144(1):

> and the appropriate industrial awards applicable to such persons.

The section sets out a series of implied conditions, all of which are reasonable and all of which the community would expect those operating commercial passenger vehicles to observe. They cover such things as ensuring that vehicles are maintained in fit and serviceable conditions and that licences indicate the number of passengers and type and construction of the vehicle, as well as limitations on hours of driving. But it also acknowledges the human factor — that is, if commercial passenger vehicles are to be driven properly around the streets of Melbourne and on the highways of the State, the drivers must be capable, happy and industrially contented in carrying out their tasks. At the moment the Act envisages that as a specific condition, and the section works in conjunction with the other sections of the Act that refer to licence breaches. It is not just a statement of desire or a motherhood statement. The Act expects those conditions to be met. It expects that owners and operators will pay the appropriate and fair wages provided under the award system.

It is true that most taxi drivers do not work directly for wages and that many of them are employed under quasi-licensee arrangements, which I suspect have been designed to get around the award provisions. The government is going one step further by removing the provision dealing with the paying of proper wages and other benefits enjoyed by the few remaining people who work in the taxi industry as wage employees. The opposition will not support that proposal. During the Committee stage it will move an amendment to retain the words that the government wants omitted from the Act. The ideological thrust that drives the current government to remove benefits that working people have fought hard for is disappointing. Working people continue to be persecuted by the government at every turn. The opposition will not support that.

The opposition is also concerned about the clause relating to the special registration of tow truck drivers and driving instructors. The clause results from the mutual recognition process, which has been under way for some time, and is in line with the work of the Vocational Education, Employment and Training Advisory Committee, which is reviewing partially registered occupations. The opposition accepts the need for mutual recognition, particularly where it relates to vocational and employment areas. However, the opposition points out to the industry and to the government that the community has a particular perception of the way tow truck drivers behave, particularly at accident scenes.

The opposition does not want mutual recognition to lead to a lowering of standards, conduct and behaviour. It asks the government to place the employers of tow truck drivers on notice that they are responsible for and are expected to meet community expectations in employing fit and proper people who conduct themselves in exemplary fashion at the scenes of accidents. Too many people in Victoria have had the bad experience following traffic accidents of being subjected to pressure, harassment and aggression by tow truck drivers wanting to win work. The opposition puts that matter on notice and the government may have to re-examine it.

It has been difficult to obtain background information on mutual recognition. The Parliamentary Library was not able to provide me with a copy of the review carried out by the committee I mentioned earlier, and the bureaucrats in the relevant departments did not have access to background information and were also unable to assist me. Although the opposition supports the mutual recognition provisions in the Bill, it is disappointed that it has not been able to gain access to the very detailed background information it requires to properly respond to the legislation. I ask the Minister to make that review available to members of the opposition so that those matters can be checked while the Bill is between Houses.

I now address some of the public transport components of the Bill. The opposition is concerned about and will not support clause 64, which seeks to repeal three sections of the principal Act. At the departmental briefing the opposition was advised that sections 23 and 25 of the Transport Act were no longer needed. However, that is certainly not the case with section 24. Clause 64 seeks to delete all of sections 23, 24 and 25 of the Transport Act.

During the Committee stage the opposition will move another amendment that seeks to retain section 24 of the Act. This section allows the employee of a corporation the right to retain employment in the corporation after a period acting as a union official. These provisions of section 24 are currently active, and over time it has been a well used section of the Transport Act. I think it is fair to

say that it forms an integral part of the conditions of employment of the trade union officials in the Public Transport Corporation and to a lesser extent at VIC ROADS. This Act applies only in those areas and is an integral part of the industrial relations system. It is of particular relevance in the tram and rail divisions and to a lesser extent in the administrative and supervisory grades, particularly under the old industrial classifications covered by the Australian Transport Officers Federation (ATOF).

The ATOF does not exist any more, and many of the jobs that its membership used to cover have been axed by the Minister in his reform process. There are many stationmasters and station attendants — and we know that most of those positions have gone or will go — but nevertheless section 24 is a condition that exists and should be maintained.

What is equally intriguing is the attitude of the Minister. He waxes and wanes in terms of his support for and appreciation of union officials. Earlier this year the Minister reached what was described as a historic arrangement with the tramways union and a number of other public transport unions, and during that period the Minister for Public Transport heaped solid public praise on both individual union officials and on unions in particular.

On 4 February in a press release the Minister for Public Transport said:

> Mr Di Gregorio and his members deserve the utmost praise in working with the government and the community to clean up the public transport mess.

He went on to say further in his press release:

> "I look forward to working with the AT & MOEA and its members in the future towards the creation of a world-class transport service".
>
> "Mr Di Gregorio has achieved a better outcome for his members including job retention as a result of negotiations and he deserves full credit for it", Mr Brown said.

It did not stop there; the praise went on, and rightfully so, of Mr Di Gregorio and other union officials — —

An honourable member interjected.

Mr BATCHELOR — The Minister for Public Transport said during the Address-in-Reply debate on the Governor's Speech as recorded in *Hansard* of 17 March 1993:

> To his credit Mr Di Gregorio came away from a very lengthy round of negotiations with a better deal for his members and the government came away with an excellent outcome for Victoria.

He went on:

> Due credit must go to the unions and those involved in the negotiations.

Again, on 30 March in reply to a question without notice the Minister said:

> I never thought I would see the day when I would get up, representing the government, to say that the government supports a stop-work meeting of workers employed in public transport like the meeting that took place today between peak-hour services.

He went on further to say:

> The government is of the view that when unions act responsibly, as is clearly so in this case, the membership has a right, which the government supports, to be informed as to what the agreement means in its full spectrum.

Later on the Minister said:

> I give credit to the union leadership for recommending the process to its members.

Further down the Minister continued:

> As such, the government supports the stop-work meeting that took place today and will support a number of stop-work meetings that will take place throughout the week.

On 28 April the Minister for Public Transport in a press release commended union leaders. The press release reads:

> Mr Brown commended the many union leaders who had been involved in lengthy meetings to forge the historic agreement. This rare win-win situation means that not only do their members gain a better outcome as a result of the agreement but so do Victoria's taxpayers.

Again, in a 23 August press release, the Minister for Public Transport is quoted as saying:

> The PTC's bus staff and the tram and bus union, led by Mr Lou Di Gregorio, should be congratulated for their willingness to embrace reform, for the result they have achieved and for the improved quality of services they offer.

These press releases are just a small sample of the praise heaped on trade unions and individual union leaders by the Minister for Public Transport, and what does the government do at the first opportunity? It kicks these people fairly and squarely in the teeth. The government has done a hatchet job on them; it has turned turtle and stabbed them in the back.

The government cannot be serious when we see day after day words of praise and congratulation from the Minister to the unions, yet when the first Bill to amend the Transport Act comes before Parliament the government seeks to get rid of one of the key employment provisions for public transport union officials. It is a very sad response.

Clearly the union leaders and the unions have been let down by the government. They have been conned, and they would quite rightly feel suspicious of the government in the future.

How is it that the government at one time can reach a historic agreement and today reach a historic double-cross in which it seeks to punish the union officials involved and the future leadership for entering into this agreement?

It is not only the double-cross component that is of concern to me and the opposition, but the fact that this Bill will have an impact on the sorts of union officials that are employed in the public transport industry in the years ahead. It will mean that the type of union official that we currently have, who has an interest in delivering public transport services and in the membership at heart and is able to reach agreements, will not be attracted towards working for these sorts of industrial organisations in the future.

The Minister for Public Transport may think that unions will disappear from the public transport system but that will not occur. In the future union officials will fall into one of two categories, neither of which will benefit the industry, the government or the people of Victoria. The transport system may get a professional union official who will be in the industry for a short period. He will carry out his functions and eventually leave to pursue a career elsewhere. He will not have a real understanding of public transport, its history and conditions. Alternatively, and probably more likely and more dangerous from the viewpoint of the government and the unions, the industry may attract what is known in the vernacular of the industry as a "mad dog Trotskyite". That type of union official has no intention of being in the industry for very long. He may cause spectacular disruption to the industry in a short period. The Minister may think that is humorous, but it will not be humorous to the people of Victoria. The union officials whom the Minister praised earlier this year will be significantly disadvantaged financially by the changes to the superannuation system.

Mr Brown — Not at all.

Mr BATCHELOR — If they are not to be financially affected the government should accept the opposition's proposed amendment. The government is attacking the rights of trade unions and the workers they represent, but it will be throwing out the baby with the bath water. For all those reasons the opposition will strongly oppose the repeal of section 24 of the principal Act.

I refer now to the automatic fare collection provisions. Clause 65 amends the principal Act to enable regulations to be made prohibiting the entry of persons on to any land or premises of the Public Transport Corporation which may be specified under the regulations. The clause broadens the application provisions and penalties for persons using the transport system without an authorised ticket and increases the penalties. In some instances the penalties have been increased by as much as 250 per cent.

The opposition understands why the introduction of a new ticketing system requires support and will not oppose the provision. The automatic ticket selling and validating system will be a culture shock, not just for the Public Transport Corporation but for the travelling public. If the corporation is to protect its revenue it will need increased penalties to ensure that people are aware of their responsibilities. The opposition hopes for the sake of the corporation and the travelling public that the Minister has got it right. It will monitor the changes to ensure that they are right. The opposition hopes the introduction of the automatic ticketing machines is a success because Victoria will get only one chance to get it right. If the government gets it wrong it will open itself to community defiance and contempt, which will destroy the system. No-one wants that to happen, least of all the opposition. The Public

Transport Corporation or the taxpayers of Victoria cannot afford a breakdown in the system.

The Minister referred by interjection to proposed changes by the former Labor government, and in his traditional way no doubt he will wax lyrical about those attempted changes. However, that misses the point. The opposition is playing a constructive role because it wants the corporation to operate efficiently and meet the needs of the travelling public. It is for those reasons that it is directing to the attention of the government the real difficulties that lie ahead.

Clause 67 requires people to provide their names and addresses upon a request being received from a police officer or an authorised Public Transport Corporation officer if a reasonable belief is held by an officer that the person has committed or is about to commit an offence against the Transport Act or regulations made under the Act. The provision transfers powers that have largely been established by regulation, but the powers have been extended.

The inclusion of clause 67 in the legislation is a political manoeuvre, raising the extension of police powers in the lead-up to consideration by the Parliament of the Crimes (Amendment) Bill. This is an indication of how far the government will go in trying to abuse the powers and forms of Parliament.

Let it be clearly stated on the record that the powers of the police and the PTC to require people in certain circumstances to provide their names and addresses are already available; they are already in the laws of the land. If the government felt that it needed to extend those powers a little, it already had that power. If it is seeking nothing other than to transfer those powers so that they are under the legislative umbrella rather than under the regulatory umbrella, the government could have done that. However, the government has contrived to have this power discussed in Parliament prior to a similar discussion of the Crimes (Amendment) Bill which is listed on the Parliamentary Notice Paper. It is an attempt to create some difficulties for the opposition.

The opposition will not fall for that. It understands the need for the Public Transport Corporation and police to have these powers for the transport system. The Public Transport Corporation is a business; it provides a commercial service. It has considerable taxpayers' funds invested in its infrastructure. Some areas of that business are dangerous, both to customers and to employees. It is for those reasons that the provisions were included under the regulations by the previous government; it is for those reasons that they are still needed today. The opposition will not oppose those clauses that bring the regulations under the legislative umbrella; however I point out that the opposition believes this was a cute plan by the government to try to create some sort of tension.

Clause 72 provides for the PTC to make regulations about non-PTC services. This is an area of great importance to the people of Victoria and to the public transport system. The government has gone about this amendment in the wrong fashion. A far better way would have been to set up an independent regulatory body that would provide regulations on safe operation and decide other operational matters for all the providers of public transport services in Victoria.

This is a new era for Victoria. Private providers are now operating on the rail network. Two private railway services are in existence, providing services to Warrnambool and Shepparton. One cannot book them, but they still provide a service, even though of reduced quality. It is inappropriate that the government of the day does not have the legislative wherewithal to make regulations on operational matters and safety in the rail system and on the interconnection of services, particularly between PTC-provided and privately operated services.

They are not the only areas where services are being provided by other than the PTC. This weekend — I assume that this is still going ahead — the night-time XPT service will be commencing. As I understand it, the intention is to have those operations provided by the State Rail Authority of New South Wales. When the standardisation of the rail link between Melbourne and Adelaide is completed it is highly likely that interstate passenger services could be operated by Australian National. There would then be another service provider operating on rail tracks in Victoria. About a week ago the National Rail Corporation, which provides interstate freight services, finally took over those operations fully, so there is another service provider on our rail tracks.

Rather than having the PTC make regulations for everybody else, it would have been more appropriate, smarter and fairer, resulting in a better outcome, if an independent regulatory body provided regulations for all service providers, including the Public Transport Corporation. This model has operated in civil aviation for a long time. It is well understood why a body independent of

service providers is needed to provide those ground rules. It is the model that has most recently been adopted in the telecommunications area with the introduction of Optus Communications. Now the Australian Telecommunications Authority, or Austel, provides that mechanism.

This aspect of the Bill, instead of looking forward and projecting what the final outcome will be, has missed the mark. Accordingly I move:

> That all the words after "That" be omitted with the view of inserting in place thereof the words "this Bill be withdrawn and redrafted to provide for an independent regulatory body responsible for the monitoring and enforcing of safety and other operational matters on all trains, trams and buses operating in Victoria".

The opposition moves this amendment because of the operational sense that is inherent in the proposal. If the amendment is defeated, the opposition will support the clause in the amending legislation because it is entirely inappropriate to have matters of regulation and safety dealt with by way of contract, as they are at the moment. I suspect that the government's policy initiatives have got a little ahead of its legislative program. The government has had to make amends for that by contractual arrangements with the new private rail companies.

Rather than leaving that all up to contractual arrangements, and even if the government views the current proposal as an interim measure, it would be better if the Bill were withdrawn and redrafted to enable the establishment of an independent regulatory body to be properly examined.

If the amendment is agreed to, industry groups that are concerned about the proposed changes to the licensing of commercial passenger vehicles will be given adequate time to consult with the government before the changes are implemented. The Scrutiny of Acts and Regulations Committee would also have the time to further examine what it regards as a number of discrepancies that need to be addressed before the legislation is passed by the Lower House.

Clause 79 deals with a proposal contained in a number of other clauses to make the information gathered through licensing renewals and applications available to law enforcement agencies. The country is concerned that interstate law enforcement agencies do not always act cooperatively. I suppose the government is seeking to provide information in the hope that it will encourage cooperation. Although the Bill contains strict guidelines stipulating when the information can be made available, members of the community have expressed concern about invasions of privacy. Those concerns are valid, but many of them have been addressed by the government in amendments to the Crimes Act.

Any government finds it difficult to work out how best to balance the need for privacy and the need for law enforcement agents to have access to information to enable them to carry out investigations and prosecutions. Each case needs to be examined on its merits. The opposition is concerned that under the Bill the illegal or irregular supply of information attracts more lenient sentences than those proposed under the Crimes (Amendment) Bill for the same types of offences. That Bill expands police powers and deals with the circumstances in which the disclosure of forensic information, procedures or records is punishable by a level 10 term of imprisonment or a level 10 fine.

Under clause 79 of the Transport (Amendment) Bill, the disclosure of similar information is described as a summary offence punishable by the recording of a conviction and a level 10 fine. The provision makes no mention of the prospect of a term of imprisonment. For that reason we will be asking the government to accept an amendment that imposes a fine and a term of imprisonment on any law enforcement agency that illegally discloses privileged information as defined by the clause.

The opposition believes the best way of dealing with the Transport (Amendment) Bill is to have it withdrawn and redrafted. That would enable the substantive and policy issues affecting the safety and overall operations of the public transport system to be adequately addressed. It will give those industry groups opposed to some of the government's proposals the opportunity to discuss them in a less frenzied atmosphere. It will also give the Scrutiny of Acts Committee the opportunity to further examine a number of issues it commented on in *Alert Digest* No. 18.

Mr COOPER (Mornington) — The Transport (Amendment) Bill is a very important measure that deals with a range of matters which, over the past few months, the government has recognised are in need of change. It is an omnibus Bill; it ranges across a number of areas of transport administration and legislation. I was surprised to hear the honourable member for Thomastown express his surprise at the wide-ranging nature of the Bill. A colleague of mine

interjected in a disorderly manner at the time and said that that is why it is called the Transport (Amendment) Bill, but apparently that escaped the attention of the honourable member. These sorts of Bills come before Parliament regularly; the previous government introduced a number of them. From time to time legislation covering areas such as transport, education and health is in need of change. That is invariably done by omnibus Bills such as the one the House is debating.

I am sure that the honourable member for Thomastown is indebted to the Scrutiny of Acts and Regulations Committee because without its report he would have had to sit down an hour or so ago. He spent the first hour or so of his contribution reading from *Alert Digest* No. 18. But that is all he was doing — reading from it. He made no comment other than to read what was in front of him. Only later in his contribution did he start to address some of the issues of substance that were dealt with by the Scrutiny of Acts and Regulations Committee.

In many cases he seemed unable to reach his own conclusions on those issues. He simply sat on the fence — but I propose to address them. What I have to say may satisfy the honourable member's inquiries about those matters; then again, it may not. But I will address them because, unlike the honourable member for Thomastown, I have examined the issues and have been able to come to some conclusions.

Unlike the honourable member for Thomastown I will not be relying on the Scrutiny of Acts and Regulations Committee to fill up time.

He touched upon the repeal of tow truck drivers certificates and driving instructor licences, as well as the powers to take names and address contained in clause 67 and matters relating to adverse possession in clause 78. He also dealt with clause 79, which deals with obtaining information from the Roads Corporation, and I hope I will have time to speak on that matter also.

The honourable member acknowledged that the repeal of tow truck driver certificates and driving instructor licences has been introduced in response to the national drive for mutual recognition. All governments of this nation have paid homage to the provision, and this Parliament has passed the Mutual Recognition Bill, as have all Parliaments within Australia.

The mutual recognition agreement struck between all States and the Commonwealth relates to partially regulated occupational activities and their deregulation. The honourable member for Thomastown supports that provision, but he drew attention to the fact that the public interest must be protected, particularly in matters relating to the repeal of tow truck driver certificates.

The House should be aware that drivers of tow trucks are currently required under the provisions of the Transport Act to hold a tow truck drivers certificate, and a person who does not hold such a certificate is not able to drive or ride in a tow truck. That is the current law.

A person obtains such a certificate by satisfying VIC ROADS that he or she is a fit and proper person. This Bill repeals the requirements for a drivers certificate, and it is argued by some that that will lead — the honourable member raised valid concerns on this matter — to an increase in unruly driver behaviour and the pirating of tow truck jobs at accident scenes as well as uncertainty in the minds of owners of vehicles involved in accidents about who has taken the vehicle, where it has been taken to and a general reduction in enforcement capabilities.

I well recall the bad old days when thugs went along with tow truck drivers and people were set upon at accident scenes. Even severely injured people in some instances suddenly found themselves signing documents while being attended to by ambulance officers or passers-by with some medical experience. It was a disgraceful and appalling situation, and the government of the day quite properly acted to ensure that the public was protected from such people.

The Bill changes little in terms of current law. All of the rules about driver conduct at accident scenes will remain. Tow truck drivers must write their driver licence numbers on the authority-to-tow form; they must clean up an accident scene and take the damaged vehicle to the place to which they have been directed to take it by the owner, thereby protecting the rights of the accident victim.

Drivers and owners of tow trucks still must not attend an accident scene in the metropolitan area without an allocation number from the allocation centre, and the tow truck driver is still required to keep records of the details of people driving the tow trucks. The police and VIC ROADS officers have general powers to stop and question drivers of

vehicles licensed under the Transport Act. Therefore, the concerns of people that the Bill may diminish the controls over tow truck drivers is not valid. Those controls remain, but as we all know the true test of any Bill is self-regulation.

Any Parliament can pass laws as it likes and the government can regulate as much as it likes, but if people want to avoid those laws and regulations and are determined to do so, they will. It is up to the industry itself to meet the challenge of putting its own house in order and to continue to do so. Any suggestion that the Bill will diminish the rights and protection of the public from unscrupulous and dishonest tow truck drivers has no validity whatever.

The repeal of driving instructor licences also relates to the mutual recognition agreement between the States and, therefore, follows much the same line as the situation regarding tow truck drivers. People who for some kind of reward teach others to drive are currently required under the provisions of the Road Safety Act to hold a motor driving instructors licence, and a person may hold such a licence subject to payment of a renewal fee. No further assessments are made of the licence holders.

Once they have their licences and pay their annual registration fees there is no further assessment. Issues about fees charged by instructors are not investigated by VIC ROADS, which has no statutory charter in that regard. Those matters are usually referred to the Small Claims Tribunal or consumer protection panels.

Complaints about instructor conduct are made from time to time and include problems of sexual harassment, assault or bribery. They are always referred to the police. Therefore, the licensing adds little value to the occupation of driving instructor and gives no added protection to the client. That protection is already contained within existing laws, which are not being affected in any way by clauses in the Bill.

The honourable member also referred to adverse possession. Of course, a number of people have commented on adverse possession in terms of the Public Transport Corporation and have queried what the Bill will do in this regard. This question was addressed by the Scrutiny of Acts and Regulations Committee, which said in its report that it could not come to a conclusion on the matter and is seeking further advice from the Minister. The question of Crown land under the control of the transport Ministry is the same as the question applying to any other area of government administration.

I cannot understand why people would feel that the land-holdings of the corporation should be dealt with differently from any other Ministry. The corporation currently holds about 30 000 titles to land. It has approximately 7000 kilometres of rail corridor and owns about 1000 railway stations together with numerous other properties. It is a huge land-holder, and because of the enormity of its holdings, some protection is required to avoid people just coming along and taking over the land or trying to do so by adverse possession.

Some work has been done on the position that the Public Transport Commission would be placed in if it was forced to fully monitor the land it owns. I am advised that if one surveyor and an assistant were engaged to inspect the whole of the land held by the PTC, their wages and on-costs for even a cursory inspection would amount to $150 000 a year. A full survey would be far more costly. If those inspections commenced today it is estimated that it would take approximately 11 years to inspect the 14 000 kilometres of land adjacent to the tracks and the stations would take another four years, which would add up to 15 years work at $150 000 a year. I am sure the honourable member for Thomastown would agree that that amount of money would be far better spent on the delivery of services, particularly when a precedent has been set in regard to PTC property and claims of adverse possession.

Recently there were some minor inspections of PTC property, which revealed that over the past few years there had been significant encroachment on PTC property by neighbouring property owners in Huntingdale, Mordialloc, East Kew, Bendigo, Kerang and Glen Loch. They are the tip of the iceberg. Many adverse possession claims were being made. The Bill places the PTC in the same position as the Crown in regard to protecting it from adverse possession claims.

I note the rail easement between Baxter and Mornington, which has lain vacant since 1981 but which is now being restored by the Mornington Railway Preservation Society. When that society took over the easements and started to rebuild and re-sleeper the railway track and put it back in order, it found that a large amount of the land had been taken over by neighbouring property owners. Some areas were used for refuse disposal and many others for vegetable gardens. That was fine while the land

was not needed, but the Mornington Railway Preservation Society had great difficulty reclaiming the land. Those problems should not have to be faced by the PTC or any other organisation that has control of railway property throughout the State. People should not be allowed to claim land even though it is not being used at the time.

When the Minister replies to the Scrutiny of Acts and Regulations Committee I am confident it will accept the validity of the position being put by the government of clause 78 which protects the Crown and gives to PTC lands the same importance as that given to all other Crown land throughout Victoria.

Another matter that the honourable member for Thomastown raised related to provisions on automatic fare collection. I was pleased the honourable member gave the government support for the setting up of automatic fare collection. I appreciate why — because it is commonsense! I am sure the Minister has taken on board the support the honourable member for Thomastown, on behalf of the opposition, has given for what the government is now putting into operation. The honourable member said Victorians would suffer some kind of culture shock when automatic fare collection was introduced. However, that culture shock arrived some years ago when the Honourable Jim Kennan was the Minister for Transport. He tried to implement scratch tickets but they were a massive failure. I know the honourable member for Thomastown said he wished not to look back but rather to look forward.

An Honourable Member — I wonder why?

Mr COOPER — I have sympathy for the honourable member for Thomastown's not wanting to look back. I would not want to look back because that was a monumental disaster. It shows what happens when a person who does not know what he is doing tries to make significant changes. The difference between the Honourable Jim Kennan and the current Minister for Public Transport is that the former Minister was a complete catastrophe, a man whose ego drove him so much he could not get on with anyone, even members of his own party. He was an incompetent of the highest order whereas the current Minister's record speaks for itself. He is the man who changed the face of public transport in a bare 12 months. In one year he did what the previous Labor government failed to do in 10 years.

I can understand the honourable member for Thomastown's not wanting to look back. He said, "We get only one chance". We had one chance and that was blown by the Labor government; but we are lucky in Victoria because we have got another chance. The Labor government blew the first chance as a result of the Kennan scratch-ticket fiasco, but the Brown automatic fare collection will not be a fiasco. It will be a success not just because the Minister is a good Minister but because he has the confidence of the transport unions.

When dealing with section 24 of the principal Act, the honourable member for Thomastown said, "Here is a Minister who is praising Mr Di Gregorio and other transport union officials". But at the same time he accused the Minister of pulling the rug out from under them, doublecrossing them — and he made other emotive and inaccurate accusations. Up until that moment he had made a fairly reasoned and intelligent contribution to the debate, but when he reached the proposition to repeal section 24 of the principal Act it all fell apart. The wheels dropped off and the honourable member for Thomastown let his socialist philosophies come roaring through.

He defends union rights, regardless of whether they are in the best interest of the public. The honourable member for Thomastown has argued vigorously about public interest being protected, but he did not mention public interest in regard to section 24, which provides for the public to pick up the tab for a worker who has been seconded to do union work. The government says that where an employee is seconded to work for a union, the union should pay for that person. I do not see that as radical. The government says that it should not pick up the on-costs — that those should also be paid by the union. I do not believe it is radical but obviously the honourable member for Thomastown believes it is a shocking situation. The community cannot afford to pay for this provision. If the honourable member thinks the pot into which the taxpayers' money goes will continue to flow and support the unions, he is wrong. The community does not support that. I suggest that the honourable member should rethink his position because it is the reason why the Labor Party is in opposition today. The Labor government failed to recognise how to properly manage the public purse.

The previous government sent Victoria to the edge of bankruptcy by pouring money into the union movement, either overtly or covertly, and then there was nothing left in the pot to do all the things the opposition is now saying this government should be doing after only 12 months in office. Section 24 of the principal Act should be repealed because it

requires the taxpayers of Victoria to pay union officials. The government says union officials should be paid for by the unions, not by the public, and that is why section 24 will be repealed.

The honourable member for Thomastown also touched on the powers of Public Transport Corporation employees and the police to take names and addresses under clause 67. He described it as a "a cute plan to create political tension". I do not know what sort of moon the honourable member for Thomastown has been living on in recent times, but the public in this State has been demanding an increase in police powers and authority for many years. That was ignored by the previous Labor government, but this government is saying that PTC employees and the police should have that right. It will be given to them under the Crimes (Amendment) Bill (No. 2) anyway so it will make no difference whether it is enshrined in the Transport Act as well.

To say that PTC officers who are around PTC property should not have the right to ask for the names and addresses of people they suspect might be about to commit offences is offensive to me and anybody else who believes public property should be protected and that people should not be allowed to commit crimes on public transport land. There is a whole range of scenarios, but the reality is that it will always be left up to the commonsense of the particular officer or policeman involved. They will have to be able to justify the use of that power if people claim they have abused it.

To say, as members of the opposition do, that because some policemen or officers might abuse that power it should be denied to everyone is an insult to the Police Force and to those people who protect public property and lives. In the light of the public opinion that has been expressed on the issue over the years, I cannot understand how members of the Labor Party continue to stand up in this Parliament and take the side of the criminal, of the law-breaker, rather than supporting government actions to protect the public against such people.

The honourable member for Thomastown raised a query about privacy in regard to clause 79, which allows information from the Roads Corporation to be given on application to law enforcement agencies in Victoria or interstate or the National Crime Authority. He said, "We have to be very careful about people's privacy". I do not know whether the honourable member has read the clause, but he is talking about the privacy of people who are suspected of committing a serious offence.

In proposed section 456A a serious offence is defined as:

> (a) an indictable offence which, by virtue of any enactment, is punishable on first conviction with imprisonment for life or for a term of 90 months or more ...

He is talking about protecting the privacy of such people. What about the people they have acted against? Obviously the honourable member did not bother to go any further because proposed section 456B says:

> (2) An application ...

We are talking about information from the Roads Corporation of all places, not the Department of Social Security:

> (a) may only be made in respect of a document ...
>
> (ii) that is required by the law enforcement agency in connection with the investigation or prosecution of a serious offence ...

I have just given the definition of "serious offence". In the case of a law enforcement agency proposed section 456B(b)(i) says the application must be made by:

> ... an officer of or above the rank of Commander or a rank equivalent to Commander;
>
> (ii) in the case of any other law enforcement agency, by the chief executive officer ... of the agency.

We are not talking about some junior policeman going along to VIC ROADS and saying, "I want all the details on such and such a person" or whatever. We are talking about a serious matter being investigated by people of high rank. I suggest that that is justifiable without any shadow of a doubt by any normal person in the community. The honourable member for Thomastown comes in here and damns it with faint praise by saying, "We will not oppose it but you have to be careful about privacy". I want to know about the people who have lost out because of the actions of the people who are being investigated?

I want to know whether the honourable member for Thomastown thought about that and whether he even read the clause. It appears to me that any normal human being of reasonable intelligence who read the clause would see that there was nothing wrong with that. Maybe that speaks for itself in

regard to what I have just said about the honourable member for Thomastown.

Unfortunately my time has expired. I would have liked an extension, but given that we have business to conduct at 4.30 p.m. and that I am sure somebody else wants to add to this debate, I will simply say that this Bill deserves the full support of the House. It has mine and I am sure that it will have the support of all my colleagues on the government side.

Mr MICALLEF (Springvale) — It amazes me, but every time I hear the honourable member for Mornington speak, I automatically assume that my civil liberties are under threat — he does not disappoint! At first I thought he was making one of his more tempered speeches, but then he degenerated into the cold war warrior that we know he is. He rebuilt the Berlin Wall and then started attacking it. He cannot help himself.

Mr Batchelor — He is a recidivist.

Mr MICALLEF — That's right, he is a recidivist and he needs treatment for it. It is very acute. It is rather unfortunate that his contribution degenerated because I accept the fact that the first part was reasoned and tempered.

I compliment the shadow Minister on his contribution, which spanned several hours. It is such far-reaching legislation and covers such a range of areas that it needs a lot of technical input and assessment, and the shadow Minister did that effectively. His contribution was in contrast to that of the honourable member for Mornington, who is a former shadow spokesperson for transport. The shadow Minister has put time and effort into understanding the Bill, and I am sure the Minister for Public Transport will be appreciative of the that, even though he may not agree with all of it.

The honourable member for Thomastown spent considerable time referring to the five pages in the *Alert Digest* No. 18 of the Scrutiny of Acts and Regulations Committee dealing with the Bill. That was a bit of rhetoric to get the cold war warrior geared up on the issue. The honourable member for Mornington also talked about self-regulation. He said it was the only way to go, that no matter how many regulations were introduced only a self-regulated system would work. Everyone knows that is nonsense. The only time self-regulation works is when it is regulated. Although there are cases where self-regulation is carried out responsibly, in the main it is only the threat of regulation which makes self-regulation effective.

The shadow Minister said the introduction of automatic ticketing machines will be a culture shock for Victorians. In London manually operated and automatic systems work effectively side by side. Some cities have state-of-the-art systems. In the system operating in Singapore, the ticket machine destroys the ticket after it is used and it was with some difficulty that I eventually obtained a spent ticket. The Minister for Public Transport made a great fuss about issues surrounding the introduction of a different system some years ago — —

Mr Perrin — Scratch tickets!

Mr MICALLEF — I had forgotten what the system was called. Given all the carry-on that has taken place over the years, the opposition expects that the system to be introduced will be of the highest standard. The government will have to get it right or it will suffer the consequences. The community is suspicious of change because change often means rises in prices and a lowering of standards. Everyone will await with interest the introduction of the new machines to see how they operate and what impact they have on the system.

There is no doubt that since the new government took over much nonsense has been spoken about improvement of services; in fact, there has been a downgrading and in many cases services have been abolished. As a regular train traveller to the city from Springvale, I have noticed that the system is still running to last year's Christmas timetable, many stations are not manned and the morale of Public Transport Corporation staff has fallen dramatically during the year and continues to fall. All the talk about services being increased and the system being upgraded is nonsense!

We need an effective public transport system. The community is prepared to pay for an effective and efficient system that runs on time. Not only do improvements need to be made in those areas, but the improved standards also need to be maintained. The shadow Minister, through his vigilance, will keep the government on its toes on the issue of services.

Unfortunately the government has not come to terms with the wishes of the community in some aspects of the Bill. The government does not consult well with either the community or the unions. It has a heavy-handed approach, as is demonstrated by

some obnoxious clauses in the Bill. Clause 14 provides that the words "and the appropriate industrial awards applicable to such persons" be omitted from the principal Act. The clause relates to a series of implied conditions of commercial passenger vehicle licences contained in section 144 of the principal Act. Those conditions include the maintenance of fit and serviceable vehicles, the numbers of people to be carried in vehicles, the hours of driving and so on. Although the Bill maintains those conditions, it takes away the right of certain persons to enjoy award coverage.

The plaudits heaped on the Minister for Public Transport earlier in the year for his ability to talk to the unions and achieve agreements built up for him many brownie points and much good will. He certainly knows how to give all that away! Earlier Mr Speaker spoke about introducing various coloured cards for honourable members who misbehaved. The unions may have to consider introducing a similar system for the Minister for Public Transport. He is using up much of the good will he accumulated earlier and he might have to be sent off the field for a while if he continues to conduct himself in the same manner.

It is sad that the Minister sees fit to remove award protection from workers in the transport industry. I accept the shadow Minister's statement that there are many arrangements covering hire cars, taxis and other vehicles pursuant to which people work under varying conditions, but many people in the transport industry have worked under the same conditions for many years. This action by the government is disturbing. Do the provisions of the Bill override the provisions of the Employee Relations Act? Will clause 14 allow agreements to be made that provide conditions that are outside normal award conditions?

Although the Employee Relations Act contains a safety net and provides that workers covered under awards will have their conditions rolled over if they enter into agreements or contracts under the Act, how can that happen if there are no awards in existence? I would like the Minister to provide an explanation of what is meant in this situation by the removal of the acceptance of award provisions.

Awards are needed — they are part and parcel of working life in Australia. I accept that there has been an orderly move away from awards in Australia and that many workers are moving from State to federal awards. We should use section 135 of the Federal Industrial Relations Act, which deals with enterprise agreements, as the means of improving or changing working conditions in the industry. There is no reason why best practice arrangements, quality management, industrial democracy and those types of approaches cannot be introduced into the industry. It is up to the industry to lift its image in the community and to provide training, wages and conditions that will enhance the industry and make the people in it proud of working in an industry that serves the public.

As Victoria attempts to become an internationally accepted tourist destination, especially as people will be coming to Australia for the Olympic Games in 2000, our taxi and hire car industry should be second to none. When one travels overseas to places like Rome and New Delhi one finds one must be careful of taxi drivers. It is important that the Victorian industry cultivates a good image.

The honourable member for Thomastown pointed out that it is a denial of natural justice if union officials cannot be re-employed in the industry. The provision will affect all those who have given loyal service to the industry. In some families brothers, fathers and grandfathers work in the same industry and are committed to that service for their working lives. The railways is one such industry that attracts entire families.

Now people who work in the industry will be denied the right to be active in the unions, and that is a disincentive to anyone who is thinking about becoming a union official. When union officials enter into an agreement such as the one signed by the Minister — because of his charm and charisma he was able to give away some conditions — there may be a reaction from the workers and the officials may be voted out of office. Their cooperation with the Minister may result in their being voted out of office and having no job to go back to. That is the irony of the situation and it is sad that the Minister has taken this sort of action.

It is common for a train driver to work in the industry for some 20 years, become a union official for five years and go back to driving trains. The honourable member for Thomastown said the legislation will open the way for professional union people — adventurous Trotskyites — to come in. Occasionally there are problems with timetables. I am sure Lou Di Gregorio will ring the Minister when he hears about this. Perhaps the Minister might have a rethink.

Finally, clause 65, which relates to automotive fare collection, states:

> ... prohibiting entry onto any specified land or premises the property of the Public Transport Corporation by persons not holding a ticket authorising that entry.

The honourable member for Thomastown asked about stations that are leased to private enterprise but owned by the PTC. Is it illegal to enter those stations to buy a newspaper or an ice-cream without a ticket? That needs to be considered.

Mr LEIGHTON (Preston) — I was hoping to speak on the Nurses Bill, but because of the time limits imposed by the government I will not have the opportunity, so I have to settle for speaking on the Transport (Amendment) Bill (No. 2).

The SPEAKER — Order! The honourable member for Preston should be more relevant than that.

Mr LEIGHTON — I am happy to seek your guidance. The Bill is a matter of some concern. Not only will the opposition not get a chance to conclude debate on other Bills, but it will also be denied the chance to move amendments in the Committee stage because at 4.30 p.m. the guillotine will take effect before the House has had a chance to go into Committee. I will refer briefly to the provisions the opposition sought to amend in the Committee stage.

Mr TANNER (Caulfield) — On a point of order, Mr Speaker, I should like your guidance as to whether the words the honourable member has used are a reflection on the decision of the House and therefore are disorderly.

The SPEAKER — Order! There is no point of order.

Mr LEIGHTON (Preston) — Clause 64 of the Bill repeals section 24 of the principal Act, which relates to trade union officials re-entering the industry in which they worked. This is a matter of great concern to me. It is a widespread practice in a number of industries for union officials to re-enter the industry from which they came. For example, officers of the Police Force continue to hold police rank even if they are officials of the Police Association of Victoria. I wonder whether the government would be as quick to take on the Police Association as it is to take on transport workers. The same right exists in other public sector unions.

In the case of my union, I was the first official to come from the industry for some time and an arrangement was negotiated for me to retain my position in the Public Service. The arrangement was subsequently extended. This arrangement did not develop in the 1980s: it goes back to previous Liberal governments so it is far from being a sweetheart deal. It was a recognition of the fact that the practice promoted orderly industrial relations, which was in the interests of the industry overall, the community and the State. The union was attracting professional people with knowledge of the industry rather than hired hands, whether they were Trotskyites or university graduates. It is in the interests of both the community and the industry that people can undertake service in a union and return to the industry. Everybody benefits from it. The opposition intended to move an amendment that would have enabled that arrangement to continue.

Clause 14 repeals part of section 144 of the principal Act, which is the requirement that in granting a commercial passenger licence it is an implied condition of the licence that the appropriate awards apply. I assume that applies particularly to the drivers and carters award. The provision is another attack on the trade union movement and the award system. The irony is that each time the government does this it merely promotes the movement to federal awards. One would think that if the government wished to maintain some sort of State industrial relations system it would back off, but the opposite is the case.

There is an argument for the greater regulation of taxi drivers. Perhaps instead of their taking 50 per cent of the taxi fare there could be greater provision for award payments, which would bring more orderly conduct and practice to the industry.

Had the House gone into Committee on the Bill the opposition would have sought to amend clause 79 to provide for level 10 imprisonment as well as level 10 fines for persons divulging information. It is interesting to note that the Crimes (Amendment) Bill (No. 2) imposes substantial imprisonment terms as well as fines for persons divulging information. The opposition believes the same should apply in this measure in that if a law enforcement agency obtains information from the licensing bureau of VIC ROADS about licensing applications — —

The SPEAKER — Order! The time appointed for debate on this Bill has expired.

I am of the opinion that the second reading of this Bill requires to be passed by an absolute majority. As there is not an absolute majority of members of the House present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in Chamber:

The SPEAKER — Order! The House will first deal with the reasoned amendment moved by the honourable member for Thomastown.

House divided on omission (Members in favour vote No):

Ayes, 55

Ashley, Mr	McNamara, Mr
Bildstien, Mr	Maughan, Mr
Brown, Mr	Napthine, Dr
Clark, Mr	Paterson, Mr
Coleman, Mr	Perrin, Mr
Cooper, Mr	Perton, Mr
Davis, Mr (*Teller*)	Pescott, Mr
Doyle, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr
Finn, Mr	Plowman, Mr S.J.
Gude, Mr	Reynolds, Mr
Hayward, Mr	Richardson, Mr
Heffernan, Mr	Rowe, Mr (*Teller*)
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kennett, Mr	Tanner, Mr
Kilgour, Mr	Tehan, Mrs
Leigh, Mr	Thompson, Mr
Lupton, Mr	Traynor, Mr
McArthur, Mr	Treasure, Mr
McGill, Mrs	Turner, Mr
McGrath, Mr J.F.	Wade, Mrs
McGrath, Mr W.D.	Weideman, Mr
McLellan, Mr	Wells, Mr
Maclellan, Mr	

Noes, 27

Andrianopoulos, Mr	Marple, Ms
Baker, Mr	Micallef, Mr
Batchelor, Mr	Mildenhall, Mr (*Teller*)
Brumby, Mr	Pandazopoulos, Mr
Coghill, Dr	Roper, Mr
Cole, Mr	Sandon, Mr
Cunningham, Mr	Seitz, Mr
Dollis, Mr	Sercombe, Mr
Garbutt, Ms	Sheehan, Mr
Haermeyer, Mr (*Teller*)	Thomson, Mr
Hamilton, Mr	Thwaites, Mr
Kirner, Ms	Vaughan, Dr
Leighton, Mr	Wilson, Mrs
Loney, Mr	

Amendment negatived.

Motion agreed to by absolute majority.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to by absolute majority.

Read third time.

NURSES BILL

Committee

Resumed from 17 November; further discussion of amended clause 3.

The CHAIRMAN (Mr J. F. McGrath) — Order! As the time for consideration of the Bill has arrived, I am required by Sessional Orders to put the questions necessary for the passage of the Bill. The question is that clause 3, as amended, be agreed to.

Committee divided on amended clause:

Ayes, 53

Ashley, Mr	Maughan, Mr
Brown, Mr	Napthine, Dr
Clark, Mr	Paterson, Mr
Coleman, Mr	Perrin, Mr
Cooper, Mr	Perton, Mr
Davis, Mr	Pescott, Mr
Doyle, Mr	Peulich, Mrs
Elliott, Mrs	Phillips, Mr (*Teller*)
Finn, Mr	Plowman, Mr S.J.
Gude, Mr	Reynolds, Mr
Hayward, Mr	Richardson, Mr
Heffernan, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr (*Teller*)
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kennett, Mr	Tanner, Mr
Kilgour, Mr	Tehan, Mrs
Leigh, Mr	Thompson, Mr
Lupton, Mr	Traynor, Mr

McArthur, Mr
McGill, Mrs
McGrath, Mr W.D.
McLellan, Mr
Maclellan, Mr
McNamara, Mr
Treasure, Mr
Turner, Mr
Wade, Mrs
Weideman, Mr
Wells, Mr

Noes, 27

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Brumby, Mr
Coghill, Dr
Cole, Mr
Cunningham, Mr
Dollis, Mr
Garbutt, Ms
Haermeyer, Mr (*Teller*)
Hamilton, Mr
Kirner, Ms
Leighton, Mr
Loney, Mr
Marple, Ms
Micallef, Mr
Mildenhall, Mr
Pandazopoulos, Mr (*Teller*)
Roper, Mr
Sandon, Mr
Seitz, Mr
Sercombe, Mr
Sheehan, Mr
Thomson, Mr
Thwaites, Mr
Vaughan, Dr
Wilson, Mrs

Amended clause agreed to.

The CHAIRMAN — Order! The question is that clauses 4 to 101 and circulated government amendments Nos 4 to 57 stand part of the Bill.

Committee divided on clauses 4 to 101 and circulated government amendments Nos 4 to 57:

Ayes, 50

Ashley, Mr
Brown, Mr
Clark, Mr
Coleman, Mr
Cooper, Mr
Davis, Mr
Doyle, Mr
Elliott, Mrs
Finn, Mr
Gude, Mr
Hayward, Mr
Heffernan, Mr
Henderson, Mrs
Honeywood, Mr
Hyams, Mr
Jenkins, Mr
John, Mr
Kennett, Mr
Kilgour, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McGrath, Mr W.D.
McNamara, Mr
Napthine, Dr
Paterson, Mr
Perrin, Mr
Perton, Mr
Pescott, Mr
Peulich, Mrs
Phillips, Mr (*Teller*)
Plowman, Mr S.J.
Reynolds, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Smith, Mr E.R.
Smith, Mr I.W.
Spry, Mr
Steggall, Mr
Tanner, Mr
Tehan, Mrs
Thompson, Mr (*Teller*)
Traynor, Mr
Treasure, Mr
Turner, Mr
McLellan, Mr
Maclellan, Mr
Weideman, Mr
Wells, Mr

Noes, 27

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Brumby, Mr
Coghill, Dr
Cole, Mr
Cunningham, Mr
Dollis, Mr
Garbutt, Ms
Haermeyer, Mr
Hamilton, Mr
Kirner, Ms
Leighton, Mr
Loney, Mr
Marple, Ms
Micallef, Mr
Mildenhall, Mr (*Teller*)
Pandazopoulos, Mr
Roper, Mr
Sandon, Mr
Seitz, Mr
Sercombe, Mr
Sheehan, Mr
Thomson, Mr
Thwaites, Mr (*Teller*)
Vaughan, Dr
Wilson, Mrs

Clauses and circulated government amendments agreed to.

Circulated government amendments referred to in question:

4. Clause 7, line 12, omit "and".

5. Clause 7, line 13, omit paragraph (d).

6. Clause 7, page 7, lines 9 and 10, omit "to carry out the equivalent of practice as a registered nurse" and insert "to the equivalent of registration as a nurse".

7. Clause 7, page 7, lines 18 and 19, omit sub-clause (3) and insert —

"( ) Despite sub-section (1), the Board must not grant registration to an applicant in division 3, 4 or 5 unless —

(a) the applicant was, on 31 December 1993, or had been before that date, enrolled in the course upon which the applicant is relying in his or her application as the qualification for registration; or

(b) the applicant had been, at any time before the commencement of this section, registered under the **Nurses Act 1958** —

(i) in the case of division 3, in the part of the register under that Act for the branch of nursing for psychiatric nurses; or

(ii) in the case of division 4, in the part of the register under that Act for the branch of nursing for mental retardation nurses; or

(iii) in the case of division 5, in the part of the register under that Act for the branch of nursing for mothercraft nurses.".

8. Clause 9, line 18, after "may" insert ", upon the grant or renewal of registration,".

9. Clause 21, line 9, omit "20" and insert "21".

10. Clause 25, line 26, omit "is" and insert "may be".

11. Clause 25, line 31, omit "must" and insert "may".

12. Clause 25, page 16, lines 3 to 5, omit "whether or not a formal or informal hearing should be conducted into the matter and".

13. Clause 28, line 12, after this line insert —

"( ) Despite sub-section (1), if the report contains information of a medical or psychiatric nature concerning the nurse and it appears to the person appointed to conduct the investigation that the disclosure of that information to the nurse might be prejudicial to the physical or mental health or well being of the nurse, the investigator may decide not to give that information to the nurse but to give it instead to a medical practitioner nominated by the nurse.

( ) Before acting under sub-section (4), the investigator must report to the Board and, if the investigator is not a medical practitioner and the Board is of the opinion that it is necessary for the investigation of the matter to be continued by a medical practitioner, the Board may appoint a medical practitioner to continue the investigation.".

14. Clause 29, line 14, omit "28" and insert "29".

15. Clause 30, page 18, line 2, omit "29" and insert "30".

16. Clause 30, page 18, line 3, omit "29" and insert "30".

17. Clause 33, page 19, line 2, omit "to the public" and insert "that the health and safety of the public will be endangered".

18. Clause 36, line 16, omit "22 or 23" and insert "23 or 24".

19. Clause 36, line 19, omit "37" and insert "38".

20. Clause 36, line 23, omit "38" and insert "39".

21. Clause 37, line 26, omit "36" and insert "37".

22. Clause 37, line 27, after "Board" insert ", of whom at least 1 must be a registered nurse".

23. Clause 38, line 14, omit "36" and insert "37".

24. Clause 40, lines 8 to 10, omit "committed a breach of professional conduct which is not a serious breach" and insert ", whether by act or omission, engaged in unprofessional conduct which is not of a serious nature".

25. Clause 40, lines 11 and 12, omit "committed a breach of professional conduct" and insert "engaged in unprofessional conduct".

26. Clause 40, lines 13 and 14, omit "committed a breach of professional conduct which is not a serious breach" and insert ", whether by act or omission, engaged in unprofessional conduct which is not of a serious nature".

27. Clause 43, line 8, omit "22 or 23" and insert "23 or 24".

28. Clause 43, line 10, omit "30 or 31" and insert "31 or 32".

29. Clause 43, line 13, omit "42" and insert "43".

30. Clause 43, line 15, omit "41" and insert "42".

31. Clause 43. line 17, omit "44" and insert "45".

32. Clause 43, line 21, omit "45" and insert "46".

33. Clause 44, line 27, omit "43" and insert "44".

34. Clause 44, line 28, after "lawyer" insert "and at least 1 must be a registered nurse".

35. Clause 45, line 12, omit "43" and insert "44".

36. Clause 47, lines 10 to 19, omit paragraph (a) and insert —

"(a) the nurse has, whether by act or omission, engaged in unprofessional conduct of a serious nature; or".

37. Clause 47, lines 20 and 21, omit paragraph (b) and insert —

"(b) the nurse has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or".

38. Clause 47, lines 22 and 23, omit paragraph (c) and insert —

"(c) the nurse has not engaged in unprofessional conduct.".

39. Clause 47, lines 24 and 25, omit "committed a serious breach of professional conduct" and insert ", whether by act or omission, engaged in unprofessional conduct of a serious nature".

40. Clause 47, page 25, lines 7 and 8, omit "committed a breach of professional conduct which is not serious" and insert ", whether by act or omission,

engaged in unprofessional conduct which is not of a serious nature".

41. Clause 47, page 25, line 9, after "a panel at" insert "an".

42. Clause 48, line 35, after "period" insert "and subject to the conditions, limitations and restrictions, if any,".

43. Clause 57, line 17, after " a", where first occurring insert, "finding or".

44. Clause 59, line 25, after this line insert —

"( ) A registered nurse whose registration is subject to a condition, limitation or restriction must not —

(a) take or use any title calculated to induce a belief that the nurse's registration is not subject to any condition, limitation or restriction; or

(b) claim to have or hold herself or himself out as having a registration which is not subject to any condition, limitation or restriction.

Penalty: 50 penalty units.".

45. Clause 60, line 11, omit "59" and insert "60".

46. Clause 63, line 2, omit "62" and insert "63".

47. Clause 65, page 33, line 18, after this line insert —

"( ) identify and distinguish between the principal functions that may be carried out by nurses registered in each division of the register;".

48. Clause 77, lines 13 to 15, omit "its powers with respect to the renewal of the registration of a nurse other than the power to refuse to renew registration" and insert —

"its powers and functions under this Act, other than —

(c) the power to refuse to grant or refuse to renew registration; and

(d) the power to impose or to amend, vary or revoke conditions, limitations or restrictions on registration; or

(e) the power to suspend registration; or

(f) the power to conduct any hearing or make any determination under Part 2 or Part 3; or

(g) this power to delegate.".

49. Clause 84, page 41, line 35, omit "85" and insert "86".

50. Clause 85, line 27, omit "84" and insert "85".

51. Clause 91, lines 18 and 19, omit "35, 54(3) or 75" and insert "36, 55(3) or 76".

52. Clause 96, line 21, omit "97" and insert "98".

53. Clause 98, page 51, line 13, omit "61" and insert "62".

54. Clause 99, line 7, omit "Parts 1 to 4" and insert "Parts I to IV and Parts VI and VII".

55. Clause 99, line 7, after "Third" insert ", Fourth".

56. Clause 99, line 12, after "statutory" insert "rule".

NEW CLAUSE

57. Insert the following new clause to follow clause 15:

"AA. *Withdrawal of registration*

(1) If the Board believes that the registration of a nurse has been obtained by fraud or misrepresentation or that the qualifications upon which the nurse relied for registration have been withdrawn, the Board must conduct a hearing into the matter.

(2) The Board must give notice of the time and place of the hearing to the nurse.

(3) The provisions applying to the conduct of a formal hearing under Part 3 apply to a hearing under this section as if a hearing under this section were a formal hearing.

(4) If, at the end of the hearing, the Board determines that the registration of the nurse has been obtained by fraud or misrepresentation or that the qualifications upon which the nurse has relied for registration have been withdrawn, the Board must withdraw the registration of the nurse.".

Reported to House with amendments.

The SPEAKER — Order! The question is:

That the amendments made by the Committee be agreed to.

House divided on question:

Ayes, 51

Ashley, Mr	McNamara, Mr
Brown, Mr	Paterson, Mr (*Teller*)
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr
Elliott, Mrs	Plowman, Mr S.J.

Finn, Mr
Gude, Mr
Hayward, Mr
Heffernan, Mr
Henderson, Mrs
Honeywood, Mr
Hyams, Mr
Jenkins, Mr
John, Mr
Kilgour, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McGill, Mrs
McGrath, Mr J.F.
McGrath, Mr W.D.
McLellan, Mr
Maclellan, Mr
Reynolds, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr (*Teller*)
Smith, Mr E.R.
Smith, Mr I.W.
Spry, Mr
Steggall, Mr
Tanner, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr
Treasure, Mr
Turner, Mr
Wade, Mrs
Weideman, Mr
Wells, Mr

Noes, 27

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Brumby, Mr
Coghill, Dr
Cole, Mr
Cunningham, Mr
Dollis, Mr
Garbutt, Ms
Haermeyer, Mr
Hamilton, Mr
Kirner, Ms
Leighton, Mr
Loney, Mr
Marple, Ms
Micallef, Mr
Mildenhall, Mr
Pandazopoulos, Mr (*Teller*)
Roper, Mr
Sandon, Mr
Seitz, Mr
Sercombe, Mr
Sheehan, Mr
Thomson, Mr
Thwaites, Mr (*Teller*)
Vaughan, Dr
Wilson, Mrs

Question agreed to.

Report adopted.

Third reading

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1985, I am of the opinion that the third reading of this Bill requires to be passed by an absolute majority.

House divided on motion:

Ayes, 51

Ashley, Mr
Brown, Mr
Clark, Mr
Coleman, Mr
Cooper, Mr
Davis, Mr (*Teller*)
Dean, Dr
Doyle, Mr
Elliott, Mrs
Finn, Mr
Gude, Mr
Hayward, Mr
Henderson, Mrs
Honeywood, Mr
Jenkins, Mr
John, Mr
Kilgour, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McGill, Mrs
McGrath, Mr J.F.
McGrath, Mr W.D.
McLellan, Mr
Maclellan, Mr
McNamara, Mr
Maughan, Mr
Paterson, Mr
Perrin, Mr
Perton, Mr
Pescott, Mr
Peulich, Mrs (*Teller*)
Phillips, Mr
Plowman, Mr S.J.
Reynolds, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Smith, Mr E.R.
Smith, Mr I.W.
Spry, Mr
Steggall, Mr
Tanner, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr
Treasure, Mr
Turner, Mr
Wade, Mrs
Weideman, Mr
Wells, Mr

Noes, 27

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Brumby, Mr
Coghill, Dr
Cole, Mr
Cunningham, Mr (*Teller*)
Dollis, Mr
Garbutt, Ms
Haermeyer, Mr
Hamilton, Mr
Kirner, Ms
Leighton, Mr
Loney, Mr
Marple, Ms
Micallef, Mr
Mildenhall, Mr
Pandazopoulos, Mr
Roper, Mr
Sandon, Mr
Seitz, Mr
Sercombe, Mr
Sheehan, Mr
Thomson, Mr
Thwaites, Mr
Vaughan, Dr (*Teller*)
Wilson, Mrs

Motion agreed to by absolute majority.

Read third time.

EQUAL OPPORTUNITY (AMENDMENT) BILL (No. 2)

Second reading

Debate resumed from 18 November; motion of Mrs WADE (Attorney-General).

The SPEAKER — Order! As a statement has already been made under section 85(5)(c) of the Constitution Act, I am of the opinion that the second reading is required to be passed by an absolute majority of the House. The question is:

That this Bill be now read a second time.

House divided on motion:

Ayes, 51

Ashley, Mr	Maughan, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr
Elliott, Mrs	Plowman, Mr S.J.
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Hayward, Mr	Rowe, Mr (*Teller*)
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kilgour, Mr	Tanner, Mr
Leigh, Mr	Tehan, Mrs
Lupton, Mr	Thompson, Mr
McArthur, Mr	Traynor, Mr (*Teller*)
McGill, Mrs	Treasure, Mr
McGrath, Mr J.F.	Turner, Mr
McGrath, Mr W.D.	Wade, Mrs
McLellan, Mr	Weideman, Mr
Maclellan, Mr	Wells, Mr
McNamara, Mr	

Noes, 26

Andrianopoulos, Mr	Marple, Ms
Baker, Mr	Micallef, Mr
Batchelor, Mr	Mildenhall, Mr (*Teller*)
Coghill, Dr	Pandazopoulos, Mr
Cole, Mr	Roper, Mr
Cunningham, Mr	Sandon, Mr
Dollis, Mr	Seitz, Mr
Garbutt, Ms	Sercombe, Mr
Haermeyer, Mr (*Teller*)	Sheehan, Mr
Hamilton, Mr	Thomson, Mr
Kirner, Ms	Thwaites, Mr
Leighton, Mr	Vaughan, Dr
Loney, Mr	Wilson, Mrs

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

The CHAIRMAN — Order! The question is:

That clauses 1 to 29 and circulated government amendments Nos 1 to 3 be agreed to.

Committee divided on clauses 1 to 29 and circulated government amendments:

Ayes, 50

Ashley, Mr	Maughan, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr (*Teller*)	Phillips, Mr (*Teller*)
Elliott, Mrs	Plowman, Mr S.J.
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Hayward, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kilgour, Mr	Tanner, Mr
Leigh, Mr	Tehan, Mrs
Lupton, Mr	Thompson, Mr
McArthur, Mr	Traynor, Mr
McGill, Mrs	Treasure, Mr
McGrath, Mr W.D.	Turner, Mr
McLellan, Mr	Wade, Mrs
Maclellan, Mr	Weideman, Mr
McNamara, Mr	Wells, Mr

Noes, 24

Andrianopoulos, Mr	Micallef, Mr
Baker, Mr	Mildenhall, Mr
Batchelor, Mr	Pandazopoulos, Mr (*Teller*)
Coghill, Dr	Roper, Mr
Cole, Mr	Sandon, Mr
Cunningham, Mr	Seitz, Mr
Dollis, Mr	Sercombe, Mr
Haermeyer, Mr (*Teller*)	Sheehan, Mr
Hamilton, Mr	Thomson, Mr
Leighton, Mr	Thwaites, Mr
Loney, Mr	Vaughan, Dr
Marple, Ms	Wilson, Mrs

Clauses and circulated government amendments agreed to.

Circulated government amendments referred to in question:

1. Clause 6, lines 14 to 18, omit all words and expressions on these lines and insert —

"(3) A person appointed to a position of President or Deputy President must be a barrister and solicitor of the Supreme Court of not less than 7 years' standing.".

2. Clause 19, lines 8 to 35, page 22, lines 1 to 8, omit all words and expressions on these lines and insert —

"(1) In any inquiry or proceeding before the Board, the Board may order the payment of costs fixed by the Board.

(2) In making an order under this section, the Board must, unless there are special circumstances, fix a sum which reflects the costs reasonably incurred by the person in favour of whom the order is made and any other pecuniary loss incurred by that person because of the proceedings.".

3. Clause 19, page 22, line 9, omit "(6)" and insert "(3)".

Reported to House with amendments.

The SPEAKER — Order! The question is:

That the amendments made by the Committee be agreed to.

House divided on question:

Ayes, 51

Ashley, Mr	Maughan, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr
Elliott, Mrs	Plowman, Mr S.J
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Hayward, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kilgour, Mr	Tanner, Mr
Leigh, Mr	Tehan, Mrs
Lupton, Mr (*Teller*)	Thompson, Mr (*Teller*)
McArthur, Mr	Traynor, Mr
McGill, Mrs	Treasure, Mr
McGrath, Mr J.F.	Turner, Mr
McGrath, Mr W.D.	Wade, Mrs
McLellan, Mr	Weideman, Mr
Maclellan, Mr	Wells, Mr
McNamara, Mr	

Noes, 25

Andrianopoulos, Mr	Micallef, Mr
Baker, Mr	Mildenhall, Mr
Batchelor, Mr	Pandazopoulos, Mr
Coghill, Dr	Roper, Mr
Cole, Mr	Sandon, Mr
Cunningham, Mr	Seitz, Mr
Dollis, Mr	Sercombe, Mr
Garbutt, Ms	Sheehan, Mr
Haermeyer, Mr (*Teller*)	Thomson, Mr
Hamilton, Mr	Thwaites, Mr (*Teller*)
Leighton, Mr	Vaughan, Dr
Loney, Mr	Wilson, Mrs
Marple, Ms	

Question agreed to.

Report adopted.

Third reading

The SPEAKER — Order! I am of the opinion that the third reading of this Bill requires to be passed by an absolute majority. The question is:

That this Bill be now read a third time.

House divided on motion:

Ayes, 50

Ashley, Mr	McNamara, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr
Elliott, Mrs (*Teller*)	Plowman, Mr S.J.
Finn, Mr (*Teller*)	Reynolds, Mr
Gude, Mr	Richardson, Mr
Hayward, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kilgour, Mr	Tanner, Mr
Leigh, Mr	Tehan, Mrs
Lupton, Mr	Thompson, Mr
McArthur, Mr	Traynor, Mr
McGill, Mrs	Treasure, Mr
McGrath, Mr J.F.	Turner, Mr
McGrath, Mr W.D.	Wade, Mrs
McLellan, Mr	Weideman, Mr
Maclellan, Mr	Wells, Mr

Noes, 25

Andrianopoulos, Mr	Micallef, Mr
Baker, Mr	Mildenhall, Mr (*Teller*)
Batchelor, Mr	Pandazopoulos, Mr
Coghill, Dr	Roper, Mr
Cole, Mr	Sandon, Mr
Cunningham, Mr	Seitz, Mr
Dollis, Mr	Sercombe, Mr
Garbutt, Ms	Sheehan, Mr
Haermeyer, Mr	Thomson, Mr
Hamilton, Mr	Thwaites, Mr
Leighton, Mr	Vaughan, Dr
Loney, Mr (*Teller*)	Wilson, Mrs
Marple, Ms	

Motion agreed to by absolute majority.

Read third time.

PUBLIC SECTOR SUPERANNUATION ADMINISTRATION BILL

Committee

Debate resumed from 16 November; further discussion of clause 1.

The CHAIRMAN — Order! The question is:

That clause 1 stand part of the Bill.

Clause agreed to.

The CHAIRMAN — Order! The question is:

That clauses 2 to 148, and the circulated government amendments Nos 1 to 144 be agreed to.

Committee divided on clauses 2 to 148 and circulated government amendments:

Ayes, 47

Ashley, Mr	McNamara, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr (*Teller*)
Elliott, Mrs	Plowman, Mr S.J.
Finn, Mr	Richardson, Mr
Gude, Mr	Rowe, Mr
Hayward, Mr	Ryan, Mr
Henderson, Mrs	Smith, Mr E.R.
Honeywood, Mr	Smith, Mr I.W.
Hyams, Mr (*Teller*)	Spry, Mr
Jenkins, Mr	Steggall, Mr
John, Mr	Tanner, Mr
Kilgour, Mr	Tehan, Mrs
Leigh, Mr	Thompson, Mr
Lupton, Mr	Traynor, Mr
McArthur, Mr	Treasure, Mr
McGill, Mrs	Turner, Mr
McGrath, Mr W.D.	Weideman, Mr
McLellan, Mr	Wells, Mr
Maclellan, Mr	

Noes, 24

Andrianopoulos, Mr	Marple, Ms
Baker, Mr	Micallef, Mr
Batchelor, Mr	Mildenhall, Mr (*Teller*)
Coghill, Dr	Pandazopoulos, Mr
Cole, Mr	Roper, Mr
Cunningham, Mr	Sandon, Mr
Dollis, Mr	Seitz, Mr
Garbutt, Ms	Sercombe, Mr
Haermeyer, Mr	Thomson, Mr
Hamilton, Mr	Thwaites, Mr (*Teller*)
Leighton, Mr	Vaughan, Dr
Loney, Mr	Wilson, Mrs

Clauses and circulated government amendments agreed to.

Circulated government amendments referred to in question:

1. Clause 2, omit sub-clauses (3), (4) and (5) and insert —

   "(3) Sections 80, 84(1), 84(2) and 89 are deemed to have come into operation on 30 June 1992.

   (4) Section 122 is deemed to have come into operation on 3 November 1993.

   (5) Sections 103, 104, 106 and 107 are deemed to have come into operation on 1 December 1993.

   (6) Part 3 and sections 70(1)(d), 70(1)(f), 70(2), 71, 72, 77, 78, 82, 90, 92, 102, 108, 111 to 117, 119, 125, 129, 130, 135, 138, 141, 142, 147, 148, 150, 151, 152 and 153 come into operation on 1 January 1994.".

2. Clause 3, page 3, line 19, after this line insert —

   '"child", in relation to a member, means a child of the member or of his or her spouse, other than any child born more than 10 months after his or her death;'.

3. Clause 3, page 4, line 5, omit "at" and insert "to".

4. Clause 3, page 4, lines 15 to 25, omit all words and expressions on these lines and insert —

"(b) in any other case, the inability of the member due to a continuing or recurring injury, disease or infirmity to perform his or her duties or any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining, as determined by the Board on the basis of reports provided by at least 2 legally qualified medical practitioners appointed by the Board;".

5. Clause 4, omit this clause.

6. Clause 6, page 8, line 20, omit "is" and insert "are".

7. Clause 8, page 10, lines 35 and 36 omit "not otherwise employed" and insert "employed otherwise than".

8. Clause 31, omit sub-clause (1) and insert —

"(1) Subject to this section, a person becomes a member of the Fund —

(a) if the person becomes an employee of a participating employer and at the time of becoming such an employee is not a contributor to, or eligible to contribute to, any other public sector superannuation scheme, when that person becomes such an employee; or

(b) if the person is an employee of a participating employer and applies in writing to the Board to become a member of the Fund, if and when the Board accepts the application or from such later date as the Board may determine with the approval of the participating employer.".

9. Clause 31, omit sub-clause (4) and insert —

"(4) Subject to sub-section (5), if a participating employer certifies in writing to the Board that it is meeting its entire obligations under the Commonwealth Superannuation Guarantee (Administration) Act 1992 in respect of a person through another complying superannuation scheme, then —

(a) if that person is not a member of the Fund, he or she is not eligible to become a member of the Fund in respect of employment with that participating employer; or

(b) if that person is a member of the Fund, no further contributions are to be made to the Fund in respect of that person by that participating employer.".

10. Clause 32, omit this clause.

11. Clause 33, page 25, line 34, after "section" insert "and subject to such conditions as the Board may determine".

12. Clause 34, page 27, line 7, omit "(2) " and insert "(3) ".

13. Clause 35, omit this clause.

14. Clause 36, line 13, after this line insert —

"(4) At any time before the payment of a benefit to or in respect of a member under section 41(1)(b), the Board may reduce that member's disability and death cover or impose terms and conditions on that cover having regard to —

(a) any failure to obtain insurance under sub-section (1) in respect of the whole of the member's disability and death benefits cover; and

(b) any terms and conditions imposed by the relevant insurer in respect of insurance secured by the Board under sub-section (1); and

(c) subject to section 37, the advice of an actuary in respect of the amount held in the Disability and Death Benefits Reserve.".

15. Clause 37, omit this clause.

16. Clause 39, line 23, omit "member's accounts" and insert "each member's account".

17. Clause 40, line 21, omit "of the former" and insert "by the".

18. Clause 41, omit this clause.

19. Clause 42, omit this clause.

20. Clause 66, omit this clause.

21. Clause 67, omit this clause.

22. Clause 68, page 46, lines 18 to 21, omit all words and expressions on these lines and insert "or more;".

23. Clause 68, page 46, lines 22 to 25, omit all words and expressions on these lines and insert —

'"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

(a) had not been reduced in accordance with sub-sections (2) and (3); and

(b) had been an untaxed benefit;'.

24. Clause 68, page 49, line 8, omit "and".

25. Clause 70, page 52, line 20, omit "Act" and insert "section,".

26. Clause 74, line 4, omit "(1) ".

27. Clause 74, line 6, omit "must" and insert "may".

28. Clause 79, omit sub-clause (3).

29. Clause 80, page 59, line 12, omit "dependant person" and insert "dependent person within the meaning of section 38, child".

30. Clause 80, page 59, line 28, after "transfer" insert "under this section".

31. Clause 80, page 59, line 30, omit "deferred".

32. Clause 80, page 60, line 1, omit "deferred".

33. Clause 82, page 61, line 21, omit "(rounded up to two decimal places) ".

34. Clause 82, page 61, line 28, omit "the first pay day in" and insert "1".

35. Clause 82, page 62, line 4, omit "the last pay day in" and insert "29".

36. Clause 82, page 63, lines 20 and 21, omit all words and expressions on these lines and insert —

    '"BM" is —

    (a) the product of YP multiplied by 0-28; or

    (b) 8.4 —

    whichever is the lesser;'.

37. Clause 82, page 64, line 4, at the end of this line insert —

    '(3) Despite sub-section (1), the Board on the advice of an actuary may reduce the value of "TM" in respect of a member if —

    (a) the member was not contributing for all of his or her optional units under the **Superannuation Act 1958**; or

    (b) the Board recognises any service or further service for the member after 30 June 1988.'.

38. Clause 83, page 65, lines 10 to 19, omit all words and expressions on these lines and insert —

    "(5) The Minister must offset the total of amounts paid to the Masters in satisfaction of their entitlement under this Act before the commencement of section 104A of the **Supreme Court Act 1986** against amounts determined under section 30 as being payable from the Consolidated Fund into the Fund.".

39. Clause 83, page 65, line 20, omit "(7) " and insert "(6) ".

40. Clause 83, page 65, line 24, omit "(8) " and insert "(7) ".

41. Clause 85, page 66, line 34, at the end of this line insert —

    "**69B.*Designated employees***

    (1) If an officer's employment is terminated under sections 81A(6) and 81A(7) of the **Public Sector Management Act 1992**, the officer is entitled to a benefit calculated in accordance with —

    (a) section 61A(1) if the officer is a revised scheme member; or

    (b) section 61A(2) if the officer is a new scheme member.

    (2) The benefit is payable in accordance with section 61A(3) unless the officer makes an election under sub-section (3).

    (3) The officer may elect to receive —

    (a) a cash benefit equal to a refund of the contributions paid by him or her during the period he or she was a revised scheme member or a new scheme member (whichever is his or her current membership) and interest at the prescribed rate; and

    (b) a deferred retirement benefit reduced by such amount as is determined by the Minister on the advice of an actuary.

    (4) A deferred retirement benefit under sub-section (3)(b) is payable in accordance with section 61A(3).

    (5) If an officer making an election under sub-section (3) is a new scheme member who had transferred from the revised scheme under section 61(1), the officer is deemed to have resigned for the purposes of section 61(2A).'".

42. Clause 86, page 67, lines 29 to 33, omit all words and expressions on these lines and insert "or more;".

43 Clause 86, page 67, lines 34 to 36, and page 68, lines 1 and 2, omit all words and expressions on these lines and insert —

    '"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

    (a) had not been reduced in accordance with sub-sections (2) and (3); and

    (b) had been an untaxed benefit;'.

44. Clause 86, page 68, line 26, omit "scheme" and insert "Fund".

45. Clause 90, page 72, line 35, omit "30" and insert "31".

46. Clause 99, line 12, after this line insert —

"For section 38 of the **State Casual Employees Superannuation Act 1989 substitute** —".

47. Clause 102, sub-clause (2), omit this sub-clause and insert —

"(2) For section 11(1A) of the **Parliamentary Salaries and Superannuation Act 1968 substitute** —

"(1A) All investments of the Fund made by and in the name of the State Superannuation Board of Victoria before the commencement of section 102(1) of the **Public Sector Superannuation (Administration) Act 1993** are deemed after that commencement to be held in the name of the Victorian Superannuation Board.

(3) In section 11(3) of the **Parliamentary Salaries and Superannuation Act 1968** for "after considering any report furnished by the actuary appointed by the trustees under this Part" **substitute** "and in accordance with such determinations as are made by the trustees".

48 Clause 103, page 80, lines 17 to 21, omit all words and expressions on these lines and insert "accordance with the formula A x R x basic salary at that time.".

49. Clause 103, page 80, lines 28 to 30, omit all words and expressions on these lines and insert "member before that date, B1/C1 as at the date of ceasing to be a member or the value of B/C as at 1 December 1993, whichever is the greater provided that in no case shall the value of R be greater than the value of B/C at the date of the person's retirement —".

50. Clause 103, page 80, line 35, omit "actual" and insert "basic".

51. Clause 103, page 81, line 32, omit "one-third" and insert "two-thirds".

52. Clause 104, page 82, line 10, omit "0.4 x PS/TS + 0.3 x FS/TS" and insert "(0.4 x PS/TS + 0.3 x FS/TS) ".

53. Clause 104, line 27, after this line insert —

'(3) After section 18(6) of the **Parliamentary Salaries and Superannuation Act 1968** insert —

"(7) No benefit shall be payable under this Part to a spouse who became the spouse of a former member only after he or she had finally ceased to be a member and within two years of the death of the former member.

(8) If a spouse who became the spouse of a former member after he or she had finally ceased to be a member was more than 5 years younger than the former member then any pension payable to that spouse is to be reduced to the pension that, in the opinion of an actuary appointed by the trustees, is the actuarial equivalent at the date of becoming the spouse of the former member of the pension that would have been payable if the spouse was 5 years younger than the member.

(9) No person is entitled to receive under this Part at the same time more than one pension but is entitled to whichever of those pensions is the greater.

(10) Despite anything in this Part, only one spouse pension shall be payable in the case of the death of any one member or former member, and if more than one person should appear to qualify for a spouse pension then —

(a) if the member or former member has by request in writing to the trustees directed that the spouse pension shall be paid wholly to one of the persons qualified to receive it or that each shall be paid part, the trustees shall give effect to the member or former member's expressed intentions;

(b) if paragraph (a) does not apply, the trustees shall in their absolute discretion determine which of the persons who qualifies shall receive the pension or shall apportion it between them as they see fit.".'.'.

54. Clause 105, omit proposed section 19.

55. Clause 105, page 86, line 32, omit "19A" and insert "19".

56. Clause 106, page 88, line 10, omit "was a member on 30 November 1993" and insert "had ceased to be a member prior to 1 December 1993".

57. Clause 106, page 88, lines 14 to 38 and page 89, lines 1 to 18, omit all words and expressions on these lines and insert —

'(3) Where a person to whom sub-section (1) does not apply —

(a) had previously ceased to be a member; and

(b) had previously converted all or part of his or her pension entitlement to a lump sum payment under section 16 or received a benefit under section 15(3A) —

becomes entitled to a pension under section 15, the amount of the annual pension payable to him or her shall be reduced by 10 percent of Z where —

Z is the sum of ZP calculated for each period of service as a member;

ZP is (LS + TAP - TPP) x S2, or 0, whichever is the greater;

LS is the lump sum payment or the benefit under section 15(3A) the person received in respect of the period divided by S0;

S0 is the basic salary at the end of the period;

S1 is the basic salary at the date the person next became a member after the end of the period;

S2 is the basic salary at the date the person became so entitled to a pension;

TPP is the total pension the person would have received from the end of the period until the date of next becoming a member if he or she had not so converted part of his or her pension divided by (S0 + S1) /2;

TAP is the total pension the person actually received from the end of the period until the date of next becoming a member divided by (S0 + S1) /2.'.

58. Clause 111, page 91, line 34, omit "111(1) " and insert "113(1) ".

59. Clause 113, page 92, line 17, omit "112" and insert "114".

60. Clause 114, page 93, line 8, omit "**HOSPLAN**" and insert "**HOSFUND**".

61. Clause 114, page 93, line 17, after this line insert -

'"**child**", in relation to a member, means a child of the member or of his or her spouse, other than any child born more than 10 months after his or her death;'.

62. Clause 114, page 94, lines 18 to 32, omit all words and expressions on these lines and insert —

"(*b*) in any other case, the inability of the member due to a continuing or recurring injury, disease or infirmity to perform his or her duties or any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining, as determined by the Board on the basis of reports provided by at least 2 legally qualified medical practitioners appointed by the Board;".

63. Clause 114, page 96, line 8, omit "**HOSPLAN**" and insert "**HOSFUND**".

64. Clause 114, proposed section 40B(1), omit this sub-section and insert —

"(1) Subject to this section, a person becomes a member of the Fund —

(a) if the person becomes an employee of a participating employer and at the time of becoming such an employee is not a contributor to, or eligible to contribute to, any other public sector superannuation scheme, when that person becomes such an employee; or

(b) if the person is an employee of a participating employer and applies in writing to the Board to become a member of the Fund, if and when the Board accepts the application or from such later date as the Board may determine with the approval of the participating employer.".

65. Clause 114, proposed section 40B(4), omit this sub-section and insert —

"(4) Subject to sub-section (5), if a participating employer certifies in writing to the Board that it is meeting its entire obligations under the Commonwealth Superannuation Guarantee (Administration) Act 1992 in respect of a person through another complying superannuation scheme, then —

(a) if that person is not a member of the Fund, he or she is not eligible to become a member of the Fund in respect of employment with that participating employer; or

(b) if that person is a member of the Fund, no further contributions are to be made to the Fund in respect of that person by that participating employer.".

66. Clause 114, proposed section 40C, omit this section and insert —

"40C.*Employer contributions*

(1) Subject to sections 40B(4) and 40B(5), each participating employer must contribute to the Fund in respect of each of its

employees who is a member of the Fund so that the employer does not have an individual guarantee shortfall in relation to that member under the Commonwealth Superannuation Guarantee (Administration) Act 1992.

(2) A participating employer may make contributions in respect of a member or class of members which exceed the amount specified in sub-section (1).

(3) A participating employer must make contributions in the manner determined by the Board.

(4) It is the sole responsibility of a participating employer to ensure that the participating employer complies with this section.".

67. Clause 114, page 99, line 13, after "section" insert "and subject to such conditions as the Board may determine".

68. Clause 114, page 100, line 36, omit "(2) " and insert "(3) ".

69. Clause 114, proposed section 40F, omit this section and insert —

"40F.*Disability and death cover*

(1) Subject to this section and sections 40G and 40H, each member of the Fund who is not a casual employee has as from the date of commencing to be a member disability and death benefits cover at a level determined from time to time by the Board.

(2) Until the Board makes its first determination under this section, the level of disability and death benefits cover for each member is $50 000.

(3) The Board must make its first determination under this section as soon as possible after the commencement of this section.

(4) The Board may determine the level of disability and death benefits cover on any basis that the Board considers appropriate including any of the following —

(a) as a fixed dollar amount for each member;

(b) as a dollar amount varying according to the age of the member or some other determinate factor;

(c) as the difference between a fixed dollar amount and the member's account balance from time to time.

(5) A member of the Fund is not covered in the event of disability or death during the period of 2 years from the commencement of membership of the Fund which the Board determines on the advice of a medical practitioner is a direct consequence of a medical condition which was pre-existing at the commencement of membership.

(6) A member's disability and death benefits cover in force under this section ceases 30 days after the earlier of —

(a) section 40B(4) applying to that member; or

(b) that member ceasing to be an employee of a participating employer —

unless the Board otherwise determines.

(7) Subject to any contrary determination by the Board and to any conditions imposed by the Board, this section applies in respect of a member of the Fund from the date section 40B(4) ceases to apply to the member as if the member commenced to be a member of the Fund on that date.

(8) A member of the Fund who is not a casual employee may subject to such conditions as are determined by the Board apply in accordance with this section to terminate, change or reinstate his or her disability and death benefits cover.

(9) An application —

(a) must be in a form approved by the Board; and

(b) must be accompanied by any information required by the Board.

(10) The Board may require a member of the Fund to submit to any medical examinations that the Board considers appropriate.

(11) The Board may obtain any evaluation of any medical examinations or other information provided as the Board considers appropriate.

(12) The Board may —

(a) approve an application; or

(b) approve an application subject to any variations the Board considers appropriate; or

(c) in the case of an application to change or reinstate the level of cover, refuse the application on the ground that the applicant has failed to pass a medical examination or has not complied with any requirement made by the Board; or

(d) in the case of an application to terminate, change or reinstate the level of cover, refuse the application on any other ground that it considers appropriate.

(13) If the Board approves an application (with or without variations) the Board must determine the day as from which disability and death benefits cover is to be terminated, changed or reinstated.

(14) If the Board refuses an application the Board must advise the applicant of the refusal.".

70. Clause 114, page 103, line 34, after this line insert —

"(4) At any time before the payment of a benefit to or in respect of a member under section 40L(1)(b), the Board may reduce that member's disability and death cover or impose terms and conditions on that cover having regard to —

(a) any failure to obtain insurance under sub-section (1) in respect of the whole of the member's disability and death benefits cover; and

(b) any terms and conditions imposed by the relevant insurer in respect of insurance secured by the Board under sub-section (1); and

(c) subject to section 40H, the advice of an actuary in respect of the amount held in the Disability and Death Benefits Reserve.".

71. Clause 114, proposed section 40H, omit this section and insert —

"40H. *Disability and Death Benefits Reserve*

(1) The Board may establish and maintain within the Fund a Disability and Death Benefits Reserve.

(2) The Board must determine the amounts to be paid into the Disability and Death Benefits Reserve from time to time on the advice of an actuary.

(3) The Board must determine the proportion of the amount paid under sub-section (2) which is to be debited to a member's account.

(4) No amount is payable from the Disability and Death Benefits Reserve in respect of a disability which the Board determines to have been deliberately inflicted or incurred for the purpose of obtaining a benefit from the Fund.

(5) Subject to section 40G(4) and sub-section (4), if a benefit becomes payable to or in respect of a member under section 40L(1)(b), the Board must debit to the Disability and Death Benefits Reserve the amount by which the amount of the member's disability and death benefits cover exceeds the amount of insurance secured in respect of that benefit under an insurance contract entered into under section 40G.

(6) The Board must apply the amount debited to the Disability and Death Benefits Reserve under sub-section (5) towards the benefit payable under section 40L(1)(b).".

72. Clause 114, page 105, line 23, omit "members' accounts" and insert "each member's account".

73. Clause 114, page 106, line 32, omit "of the former" and insert "by the".

74. Clause 114, proposed sections 40L and 40M, omit these sections and insert —

"40L. *Amount and payment of disability or death benefits*

(1) Subject to sub-section (2) and section 40M, in the case of the disability or death of a member the benefit is to be equal to —

(a) the member's account balance at the time the benefit is paid; and

(b) where the member died or became disabled while disability and death benefits cover for him or her under section 40F was in force, the amount of any insurance proceeds received by the Board under an insurance contract entered into under section 40G, any amount applied from the Disability and Death Benefits Reserve under section 40H(6) and interest on the basis determined by the Board in respect of the period up to the time the benefit is paid.

(2) A disability benefit is payable to the member.

(3) A death benefit in respect of a member is payable to such one or more of the member's dependants and legal personal representatives and in such proportions as the Board in its absolute discretion determines.

40M. *Application for disability benefits*

(1) An application for a disability benefit must be made to the Board by or on behalf of a member of the Fund in a form approved by the Board.

(2) An application for that portion of a disability benefit provided for in section 40L(1)(b) can only be made during the period of 6 months immediately after the member of the Fund ceases to be an employee of a participating employer or, if the Board considers that there are special and exceptional circumstances which have prevented an application being made by or on behalf of a member within that period, any longer period determined by the Board.

(3) The applicant may provide medical evidence to the Board in support of the application.

(4) The Board is to determine the question as to whether a disability benefit is payable after considering among other things medical reports from such legally qualified medical practitioners as the Board considers appropriate.

(5) The Board may appoint a legally qualified medical practitioner who has not given a medical report under sub-section (4) —

(a) to advise the Board in respect of the application; and

(b) to attend the meeting of the Board at which the application is considered.

(6) If the Board determines not to pay a disability benefit to a member of the Fund, the member has the right to require the Board to review its determination and obtain a further medical report from —

(a) a legally qualified medical practitioner mutually agreed upon by the member and the Board; or

(b) if the member and the Board do not agree, a legally qualified medical practitioner appointed by the Minister.".

75. Clause 115, page 110, lines 7 to 9, omit all words and expressions on these lines and insert —

"(b) his or her accrued retirement benefit (if any) calculated in accordance with section 34 at the date of transfer is to be a deferred benefit.".

76 Clause 115, page 110, line 14, after "Commissioner" insert "and must be adjusted in accordance with section 53 until paid".

77. Clause 115, page 110, line 18, omit "115" and insert "117".

78 Clause 116, page 111, line 12, omit "116" and insert "118".

79. Clause 116, page 111, lines 16 to 20, omit all words and expressions on these lines and insert "or more;".

80. Clause 116, page 111, lines 21 to 25, omit all words and expressions on these lines and insert —

'"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

(*a*) had not been reduced in accordance with sub-sections (2) and (3); and

(*b*) had been an untaxed benefit;'.

81. Clause 116, page 112, line 8, omit "116" and insert "118".

82. Clause 116, page 112, line 13, omit "scheme" and insert "Fund".

83. Clause 116, page 112, line 22, omit "116" and insert "118".

84. Clause 117, page 115, line 38, omit "30" and insert "31".

85. Clause 121, page 116, line 24, after this line insert -

'"**child**", in relation to a member, means a child of the member or of his or her spouse, other than any child born more than 10 months after his or her death;'.

86. Clause 121, page 117, lines 30 to 39, and page 118, lines 1 to 5, omit all words and expressions on these lines and insert —

"(b) in any other case, the inability of the member due to a continuing or recurring injury, disease or infirmity to perform his or her duties or any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining, as determined by the Board on the basis of reports provided by at

least 2 legally qualified medical practitioners appointed by the Board;".

87. Clause 121, proposed section 47F(1), omit this sub-section and insert —

"(1) Subject to this section, a person who is not a casual employee becomes a member of the Fund —

(a) if the person becomes an employee of a participating employer and at the time of becoming such an employee is not a contributor to, or eligible to contribute to, any other public sector superannuation scheme, when that person becomes such an employee; or

(b) if the person is an employee of a participating employer and applies in writing to the Board to become a member of the Fund, if and when the Board accepts the application or from such later date as the Board may determine with the approval of the participating employer.".

88. Clause 121, proposed section 47F(4), omit this sub-section and insert —

"(4) Subject to sub-section (5), if a participating employer certifies in writing to the Board that it is meeting its entire obligations under the Commonwealth Superannuation Guarantee (Administration) Act 1992 in respect of a person through another complying superannuation scheme, then —

(a) if that person is not a member of the Fund, he or she is not eligible to become a member of the Fund in respect of employment with that participating employer; or

(b) if that person is a member of the Fund, no further contributions are to be made to the Fund in respect of that person by that participating employer.".

89. Clause 121, proposed section 47G, omit this section and insert —

"47G. *Employer contributions*

(1) Subject to sections 47F(4) and 47F(5), each participating employer must contribute to the Fund in respect of each of its employees who is a member of the Fund so that the employer does not have an individual guarantee shortfall in relation to that member under the Commonwealth Superannuation Guarantee (Administration) Act 1992.

(2) A participating employer may make contributions in respect of a member or class of members which exceed the amount specified in sub-section (1).

(3) A participating employer must make contributions in the manner determined by the Board.

(4) It is the sole responsibility of a participating employer to ensure that the participating employer complies with this section.".

90. Clause 121, page 122, line 27, after "section" insert "and subject to such conditions as the Board may determine".

91. Clause 121, page 124, line 13, omit "(2)" and insert "(3)".

92 Clause 121, proposed section 47J, omit this section and insert —

"47J. *Disability and death cover*

(1) Subject to this section and sections 47K and 47L, each member of the Fund who is not a casual employee has as from the date of commencing to be a member disability and death benefits cover at a level determined from time to time by the Board.

(2) Until the Board makes its first determination under this section, the level of disability and death benefits cover for each member is $50 000.

(3) The Board must make its first determination under this section as soon as possible after the commencement of this section.

(4) The Board may determine the level of disability and death benefits cover on any basis that the Board considers appropriate including any of the following —

(a) as a fixed dollar amount for each member;

(b) as a dollar amount varying according to the age of the member or some other determinate factor;

(c) as the difference between a fixed dollar amount and the member's account balance from time to time.

(5) A member of the Fund is not covered in the event of disability or death during the period of 2 years from the commencement of membership of the Fund which the Board determines on the advice of a

medical practitioner is a direct consequence of a medical condition which was pre-existing at the commencement of membership.

(6) A member's disability and death benefits cover in force under this section ceases 30 days after the earlier of —

(a) section 47F(4) applying to that member; or

(b) that member ceasing to be an employee of a participating employer —

unless the Board otherwise determines.

(7) Subject to any contrary determination by the Board and to any conditions imposed by the Board, this section applies in respect of a member of the Fund from the date section 47F(4) ceases to apply to the member as if the member commenced to be a member of the Fund on that date.

(8) A member of the Fund who is not a casual employee may subject to such conditions as are determined by the Board apply in accordance with this section to terminate, change or reinstate his or her disability and death benefits cover.

(9) An application —

(a) must be in a form approved by the Board; and

(b) must be accompanied by any information required by the Board.

(10) The Board may require a member of the Fund to submit to any medical examinations that the Board considers appropriate.

(11) The Board may obtain any evaluation of any medical examinations or other information provided as the Board considers appropriate.

(12) The Board may —

(a) approve an application; or

(b) approve an application subject to any variations the Board considers appropriate; or

(c) in the case of an application to change or reinstate the level of cover, refuse the application on the ground that the applicant has failed to pass a medical examination or has not complied with any requirement made by the Board; or

(d) in the case of an application to terminate, change or reinstate the level of cover, refuse the application on any other ground that it considers appropriate.

(13) If the Board approves an application (with or without variations) the Board must determine the day as from which disability and death benefits cover is to be terminated, changed or reinstated.

(14) If the Board refuses an application the Board must advise the applicant of the refusal.".

93. Clause 121, page 127, line 10, after this line insert —

"(4) At any time before the payment of a benefit to or in respect of a member under section 47P(1)(b), the Board may reduce that member's disability and death cover or impose terms and conditions on that cover having regard to —

(a) any failure to obtain insurance under sub-section (1) in respect of the whole of the member's disability and death benefits cover; and

(b) any terms and conditions imposed by the relevant insurer in respect of insurance secured by the Board under sub-section (1); and

(c) subject to section 47L, the advice of an actuary in respect of the amount held in the Disability and Death Benefits Reserve.".

94. Clause 121, proposed section 47L, omit this section and insert —

"47L. *Disability and Death Benefits Reserve*

(1) The Board may establish and maintain within the Fund a Disability and Death Benefits Reserve.

(2) The Board must determine the amounts to be paid into the Disability and Death Benefits Reserve from time to time on the advice of an actuary.

(3) The Board must determine the proportion of the amount paid under sub-section (2) which is to be debited to a member's account.

(4) No amount is payable from the Disability and Death Benefits Reserve in respect of a disability which the Board determines to have been deliberately inflicted or

incurred for the purpose of obtaining a benefit from the Fund.

(5) Subject to section 47K(4) and sub-section (4), if a benefit becomes payable to or in respect of a member under section 47P(1)(b), the Board must debit to the Disability and Death Benefits Reserve the amount by which the amount of the member's disability and death benefits cover exceeds the amount of insurance secured in respect of that benefit under an insurance contract entered into under section 47K.

(6) The Board must apply the amount debited to the Disability and Death Benefits Reserve under sub-section (5) towards the benefit payable under section 47P(1)(*b*).".

95. Clause 121, page 128, line 33, omit "members' accounts" and insert "each member's account".

96. Clause 121, page 130, line 7, omit "of the former" and insert "by the".

97. Clause 121, proposed sections 47P and 47Q, omit these sections and insert —

"47P. ***Amount and payment of disability or death benefits***

(1) Subject to sub-section (2) and section 47Q, in the case of the disability or death of a member the benefit is to be equal to —

(a) the member's account balance at the time the benefit is paid; and

(b) where the member died or became disabled while disability and death benefits cover for him or her under section 47J was in force, the amount of any insurance proceeds received by the Board under an insurance contract entered into under section 47K, any amount applied from the Disability and Death Benefits Reserve under section 47L(6) and interest on the basis determined by the Board in respect of the period up to the time the benefit is paid.

(2) A disability benefit is payable to the member.

(3) A death benefit in respect of a member is payable to such one or more of the member's dependants and legal personal representatives and in such proportions as the Board in its absolute discretion determines.

47Q. ***Application for disability benefits***

(1) An application for a disability benefit must be made to the Board by or on behalf of a member of the Fund in a form approved by the Board.

(2) An application for that portion of a disability benefit provided for in section 47P(1) (*b*) can only be made during the period of 6 months immediately after the member of the Fund ceases to be an employee of a participating employer or, if the Board considers that there are special and exceptional circumstances which have prevented an application being made by or on behalf of a member within that period, any longer period determined by the Board.

(3) The applicant may provide medical evidence to the Board in support of the application.

(4) The Board is to determine the question as to whether a disability benefit is payable after considering among other things medical reports from such legally qualified medical practitioners as the Board considers appropriate.

(5) The Board may appoint a legally qualified medical practitioner who has not given a medical report under sub-section (4) —

(a) to advise the Board in respect of the application; and

(b) to attend the meeting of the Board at which the application is considered.

(6) f the Board determines not to pay a disability benefit to a member of the Fund, the member has the right to require the Board to review its determination and obtain a further medical report from —

(a) a legally qualified medical practitioner mutually agreed upon by the member and the Board; or

(b) if the member and the Board do not agree, a legally qualified medical practitioner appointed by the Minister.".

98. Clause 121, page 133, lines 3 to 8, omit all words and expressions on these lines and insert —

"'(5) A person cannot become a contributor to the Fund on or after the commencement of section 125(2) of the **Public Sector Superannuation (Administration) Act 1993** except as a

member of the new scheme in accordance with section 47F.'".

99. Clause 124, page 134, line 12, omit "124" and insert "128".

100. Clause 124, page 134, lines 16 to 20, omit all words and expressions on these lines and insert "or more;".

101. Clause 124, page 134, lines 21 to 25, omit all words and expressions on these lines and insert —

'"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

(a) had not been reduced in accordance with sub-sections (2) and (3); and

(b) had been an untaxed benefit;'.

102. Clause 124, page 135, line 8, omit "124" and insert "128".

103. Clause 124, page 135, line 13, omit "scheme" and insert "Fund".

104. Clause 124, page 135, line 22, omit "124" and insert "128".

105. Clause 125, page 138, line 19, omit "Act" and insert "section,".

106. Clause 126, page 139, line 2, omit "126" and insert "130".

107. Clause 130, page 140, line 15, omit "130" and insert "134".

108. Clause 130, page 140, lines 19 to 23, omit all words and expressions on these lines and insert "or more;".

109. Clause 130, page 140, line 24, omit all words and expressions on these lines and insert —

'"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

(a) had not been reduced in accordance with sub-sections (2) and (3); and

(b) had been an untaxed benefit;'.

110. Clause 130, page 141, line 10, omit "130" and insert "134".

111. Clause 130, page 141, line 15, omit "scheme" and insert "Fund".

112. Clause 130, page 141, line 24, omit "130" and insert "134".

113. Clause 131, page 145, line 15, omit "30" and insert "31".

114. Clause 134, page 146, line 5, omit "by becoming" and insert "as".

115. Clause 136, omit this clause.

116. Clause 141, page 148, line 19, omit "141" and insert "145".

117. Clause 141, page 148, lines 23 to 27, omit all words and expressions on these lines and insert "or more;".

118. Clause 141, page 148, lines 28 to 32, omit all words and expressions on these lines and insert —

'"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

(a) had not been reduced in accordance with sub-sections (2) and (3); and

(b) had been an untaxed benefit;'.

119. Clause 141, page 149, line 14, omit "141" and insert "145".

120. Clause 141, page 149, line 19, omit "scheme" and insert "Fund".

121. Clause 141, page 149, line 28, omit "141" and insert "145".

122. Clause 143, page 152, line 20, omit "143" and insert "147".

123. Clause 144, page 153, lines 11 to 25, omit all words and expressions on these lines and insert —

'(1) In section 3(2) of the **Superannuation (Portability) Act 1989** —

(a) for the definition of "A" **substitute** —

'"**A**" is the consumer price index for the December quarter preceding the 1 April last preceding the date on which the pension or lump sum becomes payable;';

(b) for the definition of "Consumer price index number" **substitute** —

'"**Consumer price index number**" means the all groups consumer price index number for all Capital Cities published by the Commonwealth Statistician in respect of the relevant quarter;'.'.

124. Clause 144, page 153, lines 31 and 32, omit all words and expressions on these lines and insert "payable before 1 April 1994".

125. Clause 146, page 155, line 32, omit "30" and insert "31".

126. Clause 148, page 157, line 3, omit "148" and insert "155".

127. Clause 148, page 157, lines 7 to 11, omit all words and expressions on these lines and insert "or more;".

128. Clause 148, page 157, lines 12 to 16, omit all words and expressions on these lines and insert —

"**detriment**" means receiving a lesser amount of after-tax benefit than would have been received if the benefit —

(a) had not been reduced in accordance with sub-sections (2) and (3); and

(b) had been an untaxed benefit;'.

129. Clause 148, page 157, line 36, omit "148" and insert "155".

130. Clause 148, page 158, line 4, omit "scheme" and insert "Fund".

131. Clause 148, page 158, line 13, omit "148" and insert "155".

NEW CLAUSES

132. Insert the following new clause to follow clause 3:

"**AA. Interpretation and application of Act and governing instruments**

(1) Subject to sub-section (3), if there is any inconsistency between this Act and any other Act or the governing instrument of any public sector superannuation scheme, the provisions of this Act prevail.

(2) Subject to sub-section (3), if there is any inconsistency between a provision which by virtue of this Act is deemed to form part of or is to be read and construed as forming part of a governing instrument and any other provision of the governing instrument, the first-mentioned provision prevails.

(3) If any relevant Commonwealth superannuation law is inconsistent with this Act or any regulations under this Act, the Board is to be taken to have complied with this Act or the regulations if the Board has complied with the relevant Commonwealth superannuation law.".

133. Insert the following new clause to follow clause 31:

"**BB.** ***Employer contributions***

(1) Subject to sections 31(4) and 31(5), each participating employer must contribute to the Fund in respect of each of its employees who is a member of the Fund so that the employer does not have an individual guarantee shortfall in relation to that member under the Commonwealth Superannuation Guarantee (Administration) Act 1992.

(2) A participating employer may make contributions in respect of a member or class of members which exceed the amount specified in sub-section (1).

(3) A participating employer must make contributions in the manner determined by the Board.

(4) It is the sole responsibility of a participating employer to ensure that the participating employer complies with this section.".

134. Insert the following new clause to follow clause 34:

"CC. ***Disability and death cover***

(1) Subject to this section and sections 36 and 37, each member of the Fund who is not a casual employee has as from the date of commencing to be a member disability and death benefits cover at a level determined from time to time by the Board.

(2) Until the Board makes its first determination under this section, the level of disability and death benefits cover for each member is $50 000.

(3) The Board must make its first determination under this section as soon as possible after the commencement of this section.

(4) The Board may determine the level of disability and death benefits cover on any basis that the Board considers appropriate including any of the following —

(a) as a fixed dollar amount for each member;

(b) as a dollar amount varying according to the age of the member or some other determinate factor;

(c) as the difference between a fixed dollar amount and the member's account balance from time to time.

(5) A member of the Fund is not covered in the event of disability or death during the period of 2 years from the commencement of membership of the Fund which the Board determines on the advice of a medical practitioner is a direct consequence of a medical condition which

was pre-existing at the commencement of membership.

(6) A member's disability and death benefits cover in force under this section ceases 30 days after the earlier of —

(a) section 31(4) applying to that member; or

(b) that member ceasing to be an employee of a participating employer —

unless the Board otherwise determines.

(7) Subject to any contrary determination by the Board and to any conditions imposed by the Board, this section applies in respect of a member of the Fund from the date section 31(4) ceases to apply to the member as if the member commenced to be a member of the Fund on that date.

(8) A member of the Fund who is not a casual employee may subject to such conditions as are determined by the Board apply in accordance with this section to terminate, change or reinstate his or her disability and death benefits cover.

(9) An application —

(a) must be in a form approved by the Board; and

(b) must be accompanied by any information required by the Board.

(10) The Board may require a member of the Fund to submit to any medical examinations that the Board considers appropriate.

(11) The Board may obtain any evaluation of any medical examinations or other information provided as the Board considers appropriate.

(12) The Board may —

(a) approve an application; or

(b) approve an application subject to any variations the Board considers appropriate; or

(c) in the case of an application to change or reinstate the level of cover, refuse the application on the ground that the applicant has failed to pass a medical examination or has not complied with any requirement made by the Board; or

(d) in the case of an application to terminate, change or reinstate the level of cover, refuse the application on any other ground that it considers appropriate.

(13) If the Board approves an application (with or without variations) the Board must determine the day as from which disability and death benefits cover is to be terminated, changed or reinstated.

(14) If the Board refuses an application the Board must advise the applicant of the refusal.".

135. Insert the following new clause to follow clause 36:

"DD. ***Disability and Death Benefits Reserve***

(1) The Board may establish and maintain within the Fund a Disability and Death Benefits Reserve.

(2) The Board must determine the amounts to be paid into the Disability and Death Benefits Reserve from time to time on the advice of an actuary.

(3) The Board must determine the proportion of the amount paid under sub-section (2) which is to be debited to a member's account.

(4) No amount is payable from the Disability and Death Benefits Reserve in respect of a disability which the Board determines to have been deliberately inflicted or incurred for the purpose of obtaining a benefit from the Fund.

(5) Subject to section 36(4) and sub-section (4), if a benefit becomes payable to or in respect of a member under section 41(1)(b), the Board must debit to the Disability and Death Benefits Reserve the amount by which the amount of the member's disability and death benefits cover exceeds the amount of insurance secured in respect of that benefit under an insurance contract entered into under section 36.

(6) The Board must apply the amount debited to the Disability and Death Benefits Reserve under sub-section (5) towards the benefit payable under section 41(1)(b).".

136. Insert the following new clauses to follow clause 40:

"EE. ***Amount and payment of disability or death benefits***

(1) Subject to sub-section (2) and section 42, in the case of the disability or death of a member the benefit is to be equal to —

(a) the member's account balance at the time the benefit is paid; and

(b) where the member died or became disabled while disability and death benefits cover for him or her under section 35 was in force, the amount of any insurance proceeds received by the Board under an insurance contract entered into under section 36, any amount applied from the Disability and Death Benefits Reserve under section 37(6) and interest on the basis determined by the Board in respect of the period up to the time the benefit is paid.

(2) A disability benefit is payable to the member.

(3) A death benefit in respect of a member is payable to such one or more of the member's dependants and legal personal representatives and in such proportions as the Board in its absolute discretion determines.

FF. ***Application for disability benefits***

(1) An application for a disability benefit must be made to the Board by or on behalf of a member of the Fund in a form approved by the Board.

(2) An application for that portion of a disability benefit provided for in section 41(1) (*b*) can only be made during the period of 6 months immediately after the member of the Fund ceases to be an employee of a participating employer or, if the Board considers that there are special and exceptional circumstances which have prevented an application being made by or on behalf of a member within that period, any longer period determined by the Board.

(3) The applicant may provide medical evidence to the Board in support of the application.

(4) The Board is to determine the question as to whether a disability benefit is payable after considering among other things medical reports from such legally qualified medical practitioners as the Board considers appropriate.

(5) he Board may appoint a legally qualified medical practitioner who has not given a medical report under sub-section (4) —

(a) to advise the Board in respect of the application; and

(b) to attend the meeting of the Board at which the application is considered.

(6) If the Board determines not to pay a disability benefit to a member of the Fund, the member has the right to require the Board to review its determination and obtain a further medical report from —

(a) a legally qualified medical practitioner mutually agreed upon by the member and the Board; or

(b) if the member and the Board do not agree, a legally qualified medical practitioner appointed by the Minister.".

137. Insert the following new clauses to follow clause 65:

"GG. *MTA Superannuation Fund*

(1) The provisions of sections 44C, 44D and 46 of the **Transport Superannuation Act 1988**, with such modifications as are necessary to make those provisions consistent with the governing instrument of the MTA Superannuation Fund, are deemed to form part of the governing instrument of the MTA Superannuation Fund.

(2) The governing instrument of the MTA Superannuation Fund is to be read and construed as if sub-sections (3), (4) and (5) formed part of the governing instrument.

(3) Any benefit to which an employee may from time to time be eligible which is determined by reference to a recognised period of service, employment or membership of the employee, as the case may be, and the employee's salary must be determined on the basis of the final average salary of the employee calculated as follows —

(a) in relation to an employee with less than years of recognised service, an amount calculated in accordance with the formula —

$$\frac{A}{B} \times \frac{365}{1}$$

Where —

"A" is the aggregate salary paid to the employee in respect of the employee's period of recognised service;

"B" is the total number of days in that period;

(b) in relation to an employee with 2 years or more of recognised service, an amount equal to one-half of the employee's aggregate salary for the period of such recognised service of 2 years ending on the employee's last day of service -

and if the period of recognised service includes a period of leave without pay there is deemed to have been payable to that employee during that period of leave without pay salary at the rate payable to the employee immediately before the period of leave, or such higher salary as has been approved by the Trustee of the MTA Superannuation Fund for the purposes of the Fund, but in no case shall the amount in relation to a person who was an employee on 1 January 1994 be less than that employee's final adjusted salary (as defined by the governing instrument) on that date.

(4) An employee must not contribute at a rate greater than 5 percent of salary unless contributing at a higher rate will not make him or her eligible for an accrued retirement benefit greater than that for which he or she would be eligible by contributing at the rate of 5 percent for the whole of his or her recognised period of service, employment or membership, as the case may be.

(5) Any employee contributing at a rate greater than 5 percent on the date that this section comes into operation who is no longer eligible to contribute at that rate is deemed as from that date to have elected to contribute at 5 percent.

(6) A person cannot become a member of the MTA Superannuation Fund on or after the commencement of this section except by transferring with the approval of the Minister from the public sector superannuation scheme established under the **Transport Superannuation Act 1988.**

(7) Except as required by any relevant Commonwealth superannuation law, the governing instrument of the MTA Superannuation Fund must not be amended in any manner that will increase employer costs by way of any —

(a) improvement in the amount or availability of any benefit; or

(b) reduction of any amount payable by an employee without the approval of the Minister.

(8) Any amendment of the governing instrument of the MTA Superannuation Fund made in contravention of sub-section (7) is void.

HH. ***Public sector superannuation schemes***

(1) This section applies to —

(a) City of Melbourne Superannuation Fund;

(b) Gas and Fuel Corporation Superannuation Fund;

(c) Melbourne Water Corporation Employees' Superannuation Fund;

(d) Port of Geelong Authority Superannuation Fund;

(e) Port of Melbourne Authority Superannuation Fund;

(f) SEC Superannuation Fund;

(g) any other public sector superannuation scheme which the Minister by instrument in writing declares to be a public sector superannuation scheme to which this section applies.

(2) The governing instrument of a superannuation scheme to which this section applies is to be read and construed as if section 68 formed part of the governing instrument.

(3) Subject to sub-section (5), as from 1 January 1994 or such later date as the Minister may specify by instrument in writing, the provisions of sections 31 to 51 and the relevant definitions in section 3, with such modifications as the Minister may approve from time to time, are deemed to form part of the governing instrument of each superannuation scheme to which this section applies.

(4) A person cannot become a member of any superannuation scheme to which this section applies on or after the relevant date under sub-section (3) except in accordance with the provisions that are deemed to form part of the governing

instrument of that superannuation scheme under that sub-section.

(5) Sub-section (3) does not apply to a superannuation scheme to which this section applies if the Minister declares by instrument in writing that the Minister is satisfied that the governing instrument of that superannuation scheme has been amended so that a person cannot become a member of that superannuation scheme on or after 1 January 1994 or such later date as the Minister may approve.

(6) The Minister may by instrument in writing revoke a declaration under sub-section (5) if the Minister ceases to be satisfied as specified in sub-section (5).

(7) Except as required by any relevant Commonwealth superannuation law, the governing instrument of any superannuation scheme to which this section applies must not be amended in any manner that will increase employer costs by way of any —

(a) improvement in the amount or availability of any benefit; or

(b) reduction of any amount payable by an employee —

without the approval of the Minister.

(8) Any amendment of the governing instrument of a superannuation scheme to which this section applies made in contravention of sub-section (7) is void.

(9) Section 84 of the **Electricity Industry Act 1993** is to be read and construed subject to this section.".

138. Insert the following new clause before clause 108:

'II. *Adjusted final Fund salary*

(1) In section 3(1) of the **Hospitals Superannuation Act 1988** for the definition of "adjusted final Fund salary" **substitute** —

'**adjusted final Fund salary**" means —

(a) in relation to a member with less than 2 years of recognised service, an amount calculated in accordance with the formula —

$$\frac{A}{B} \times \frac{365}{1}$$

where —

"A" is the aggregate salary paid to the member in respect of the member's period of recognised service;

"B" is the total number of days in that period;

(b) in relation to a member with 2 years or more of recognised service, an amount equal to one-half of the member's aggregate salary for the period of recognised service of 2 years ending on the member's last day of service - and if the period of recognised service includes a period of leave without pay, there is deemed to have been payable to that member during that period of leave without pay, salary at the rate payable to the member immediately before the period of leave, or such higher salary as has been approved by the Board for the purposes of this section, but in no case shall the amount in relation to a person who was a member on 1 January 1994 be less than the member's salary on that date;'.

(2) In the **Hospitals Superannuation Act 1988** —

(a) in section 35(1) for "salary" where second last and last occurring substitute "adjusted final Fund salary";

(b) in section 36(1) for "salary" where second last and last occurring substitute "adjusted final Fund salary";'.

139. Insert the following new clause to follow clause 108:

'JJ. *New sections 13A - 13D inserted*

After section 13 of the **Hospitals Superannuation Act 1988** insert —

"13A. *Resolutions without meetings*

(1) If all of the members of the Board for the time being sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the members of the Board do not sign it on the same day, on the day on which the last member signs the document.

(2) If a resolution is, under sub-section (1), taken to have been passed at a meeting of the Board, each member of the Board must immediately be advised of the matter and given a copy of the terms of the resolution.

(3) For the purposes of sub-section (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more members of the Board, shall be taken to constitute one document.

13B. *Improper use of information*

A person who is, or has been, a member of the Board or member of the staff of the Board must not make improper use of any information acquired only in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 50 penalty units.

13C. *Committees of the Board*

(1) The Board may establish one or more committees of members of the Board.

(2) The Board may by instrument of delegation delegate any of its functions or powers, other than this power of delegation, to a member of a committee.

(3) A committee is to have an equal number of members nominated under sections 7(2)(a) and 7(2)(b) and of members elected under section 7(2)(c).

(4) A quorum of a committee is constituted by not less than two-thirds of the total number of members of the committee in office for the time being.

(5) Sections 13, 13A and 13D apply with such modifications as are necessary in respect of a committee.

13D. *Pecuniary interests of members of the Board*

(1) A member of the Board who has any pecuniary interest in a matter being considered or about to be considered by the Board or in any other matter in which the Board is concerned must, as soon as practicable after the relevant facts have come to the member's knowledge, declare the nature of that interest at a meeting of the Board.

(2) The requirements of sub-section (1) do not apply in any case where the interest of the member of the Board consists only of being a shareholder or creditor of a company which has an interest in a contract or proposed contract with the Board if the interest of the member may properly be regarded as not being a material interest.

(3) The person presiding at a meeting at which a declaration is made under sub-section (1) must cause a record of the declaration to be made in the minutes of the meeting.

(4) After a declaration is made by a member of the Board under sub-section (1) —

(a) that member must not be present during any deliberation of the Board with respect to that matter; and

(b) that member is not entitled to vote on the matter; and

(c) if that member does vote on the matter, the vote must be disallowed.

(5) member of the Board is not to be taken to have a pecuniary interest in a matter only because the member has or may become entitled to a benefit from the Fund.".'.

140. Insert the following new clause before clause 120:

'KK. *Definition of Authority*

After section 3(3) of the **Local Authorities Superannuation Act 1988** insert —

"(3A) Despite paragraph (a) of the definition of "Authority" in sub-section (1), the City of Melbourne is an Authority for the purposes of this Act in respect of any person who is or becomes an employee of the City of Melbourne and who is not a member of the City of Melbourne Superannuation Fund.".'.

141. Insert the following new clause to follow clause 120:

'LL. *New sections 13A — 13D inserted*

After section 13 of the **Local Authorities Superannuation Act 1988** insert —

"13A. *Resolutions without meetings*

(1) If all of the members of the Board for the time being sign a document containing a statement that they are in favour of a

resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the members of the Board do not sign it on the same day, on the day on which the last member signs the document.

(2) If a resolution is, under sub-section (1), taken to have been passed at a meeting of the Board, each member of the Board must immediately be advised of the matter and given a copy of the terms of the resolution.

(3) For the purposes of sub-section (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more members of the Board, shall be taken to constitute one document.

13B. *Improper use of information*

A person who is, or has been, a member of the Board or member of the staff of the Board must not make improper use of any information acquired only in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 50 penalty units.

13C. *Committees of the Board*

(1) The Board may establish one or more committees of members of the Board.

(2) The Board may by instrument of delegation delegate any of its functions or powers, other than this power of delegation, to a member of a committee.

(3) A committee is to have an equal number of members nominated under sections 9(1)(a) and 9(1)(b) and of members elected under sections 9(1)(c) and 9(1)(d).

(4) A quorum of a committee is constituted by not less than two-thirds of the total number of members of the committee in office for the time being.

(5) Sections 13, 13A and 13D apply with such modifications as are necessary in respect of a committee.

13D. *Pecuniary interests of members of the Board*

(1) A member of the Board who has any pecuniary interest in a matter being considered or about to be considered by the Board or in any other matter in which the Board is concerned must, as soon as practicable after the relevant facts have come to the member's knowledge, declare the nature of that interest at a meeting of the Board.

(2) he requirements of sub-section (1) do not apply in any case where the interest of the member of the Board consists only of being a shareholder or creditor of a company which has an interest in a contract or proposed contract with the Board if the interest of the member may properly be regarded as not being a material interest.

(3) The person presiding at a meeting at which a declaration is made under sub-section (1) must cause a record of the declaration to be made in the minutes of the meeting.

(4) After a declaration is made by a member of the Board under sub-section (1) —

(a) that member must not be present during any deliberation of the Board with respect to that matter; and

(b) that member is not entitled to vote on the matter; and

(c) if that member does vote on the matter, the vote must be disallowed.

(5) member of the Board is not to be taken to have a pecuniary interest in a matter only because the member has or may become entitled to a benefit from the Fund.".'.

142. Insert the following new clause to follow clause 135:

'MM. New sections 12A — 12D inserted

After section 12 of the **Emergency Services Superannuation Act 1986** insert —

"12A. Resolutions without meetings

(1) If all of the members of the Board for the time being sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the

members of the Board do not sign it on the same day, on the day on which the last member signs the document.

(2) If a resolution is, under sub-section (1), taken to have been passed at a meeting of the Board, each member of the Board must immediately be advised of the matter and given a copy of the terms of the resolution.

(3) For the purposes of sub-section (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more members of the Board, shall be taken to constitute one document.

12B. *Improper use of information*

A person who is, or has been, a member of the Board or member of the staff of the Board must not make improper use of any information acquired only in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 50 penalty units.

12C. *Committees of the Board*

(1) The Board may establish one or more committees of members of the Board.

(2) The Board may by instrument of delegation delegate any of its functions or powers, other than this power of delegation, to a member of a committee.

(3) A committee is to have an equal number of members appointed (non-elected) under section 7(1) and of members elected under section 7(1)(a), (b) and (c).

(4) A quorum of a committee is constituted by not less than two-thirds of the total number of members of the committee in office for the time being.

(5) Sections 12, 12A and 12D apply with such modifications as are necessary in respect of a committee.

12D. *Pecuniary interests of members of the Board*

(1) A member of the Board who has any pecuniary interest in a matter being considered or about to be considered by the Board or in any other matter in which the Board is concerned must, as soon as practicable after the relevant facts have come to the member's knowledge, declare the nature of that interest at a meeting of the Board.

(2) The requirements of sub-section (1) do not apply in any case where the interest of the member of the Board consists only of being a shareholder or creditor of a company which has an interest in a contract or proposed contract with the Board if the interest of the member may properly be regarded as not being a material interest.

(3) The person presiding at a meeting at which a declaration is made under sub-section (1) must cause a record of the declaration to be made in the minutes of the meeting.

(4) After a declaration is made by a member of the Board under sub-section (1) —

(a) that member must not be present during any deliberation of the Board with respect to that matter; and

(b) that member is not entitled to vote on the matter; and

(c) if that member does vote on the matter, the vote must be disallowed.

(5) A member of the Board is not to be taken to have a pecuniary interest in a matter only because the member has or may become entitled to a benefit from the Fund.".'.

143. Insert the following new clause before clause 146:

'NN. *Adjusted final salary*

(1) In section 2(1) of the **State Employees Retirement Benefits Act 1979** for the definition of "adjusted final salary" **substitute** —

'**adjusted final salary**" means —

(a) in relation to a member with less than 2 years of recognised service, an amount calculated in accordance with the formula —

$$A \times \frac{365}{B \quad 1}$$

where —

"A" is the aggregate salary paid to the member in respect of the member's period of recognised service;

"B" is the total number of days in that period;

(b) in relation to a member with 2 years or more of recognised service, an amount equal to one-half of the member's aggregate salary for the period of recognised service of 2 years ending on the member's last day of service —

and if the period of recognised service includes a period of leave without pay, there is deemed to have been payable to that member during that period of leave without pay, salary at the rate payable to the member immediately before the period of leave, or such higher salary as has been approved by the Board for the purposes of this section, but in no case shall the amount in relation to a person who was a member on 1 January 1994 be less than the member's salary on that date;'.

(2) In the **State Employees Retirement Benefits Act 1979** in sections 44(1), 44(8) and 55(1) for "salary" (wherever occurring) **substitute** "adjusted final salary".'.

144. Insert the following new clauses to follow clause 146:

'OO. *Prescribed rate*

(1) In section 43A(1) of the **State Employees Retirement Benefits Act 1979** for "30 June or 31 December (whichever is the later) " **substitute** "31 December".

(2) Despite the amendment of section 43A of the **State Employees Retirement Benefits Act 1979** by sub-section (1), section 43A as in force before the commencement of sub-section (1) continues to apply in respect of any benefit payable under section 44, 45 or 47 of that Act before 1 April 1994.

PP. *Death and disability benefits*

(1) In the **State Employees Retirement Benefits Act 1979**, in sections 44(1), 44(2), 44(3), 44(8) and 55(1) for "65" (wherever occurring) **substitute** "60".

(2) fter section 44(8) of the **State Employees Retirement Benefits Act 1979** insert —

"(9) Despite the amendment of this section by section 153(1) of the **Public Sector Superannuation (Administration) Act 1993**, no benefit calculated under this section shall be less than the benefit that would have been payable had the member died before that section came into operation.".

(3) After section 55(7) of the **State Employees Retirement Benefits Act 1979** insert —

"(8) Despite the amendment of this section by section 153(1) of the **Public Sector Superannuation (Administration) Act 1993**, no benefit calculated under this section shall be less than the benefit that would have been payable had the member become entitled to disability benefits before that section came into operation.".'.

Reported to House with amendments.

The SPEAKER — Order! The question is:

That the amendments made by the Committee be agreed to.

House divided on question:

Ayes, 49

Ashley, Mr	McNamara, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr
Elliott, Mrs	Plowman, Mr S.J.
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Hayward, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kilgour, Mr	Tanner, Mr
Leigh, Mr	Tehan, Mrs
Lupton, Mr	Thompson, Mr
McArthur, Mr (*Teller*)	Traynor, Mr
McGill, Mrs	Treasure, Mr (*Teller*)
McGrath, Mr J.F.	Turner, Mr
McGrath, Mr W.D.	Weideman, Mr
McLellan, Mr	Wells, Mr
Maclellan, Mr	

Noes, 25

Andrianopoulos, Mr	Micallef, Mr
Baker, Mr	Mildenhall, Mr
Batchelor, Mr	Pandazopoulos, Mr
Coghill, Dr	Roper, Mr
Cole, Mr	Sandon, Mr

Cunningham, Mr	Seitz, Mr
Dollis, Mr	Sercombe, Mr
Garbutt, Ms	Sheehan, Mr
Haermeyer, Mr (*Teller*)	Thomson, Mr
Hamilton, Mr	Thwaites, Mr (*Teller*)
Leighton, Mr	Vaughan, Dr
Loney, Mr	Wilson, Mrs
Marple, Ms	

Question agreed to.

Report adopted.

Third reading

The SPEAKER — Order! As a statement has been made under section 85(5)(c) of the Constitution Act, I am of the opinion that the third reading of the Bill must be carried by an absolute majority of the House.

House divided on motion:

Ayes, 49

Ashley, Mr (*Teller*)	McNamara, Mr
Brown, Mr	Paterson, Mr
Clark, Mr	Perrin, Mr
Coleman, Mr	Perton, Mr
Cooper, Mr	Pescott, Mr
Davis, Mr	Peulich, Mrs
Doyle, Mr	Phillips, Mr
Elliott, Mrs	Plowman, Mr S.J.
Finn, Mr	Reynolds, Mr
Gude, Mr	Richardson, Mr
Hayward, Mr	Rowe, Mr
Henderson, Mrs	Ryan, Mr
Honeywood, Mr	Smith, Mr E.R.
Hyams, Mr (*Teller*)	Smith, Mr I.W.
Jenkins, Mr	Spry, Mr
John, Mr	Steggall, Mr
Kilgour, Mr	Tanner, Mr
Leigh, Mr	Tehan, Mrs
Lupton, Mr	Thompson, Mr
McArthur, Mr	Traynor, Mr
McGill, Mrs	Treasure, Mr
McGrath, Mr J.F.	Turner, Mr
McGrath, Mr W.D.	Weideman, Mr
McLellan, Mr	Wells, Mr
Maclellan, Mr	

Noes, 25

Andrianopoulos, Mr	Micallef, Mr
Baker, Mr	Mildenhall, Mr
Batchelor, Mr	Pandazopoulos, Mr (*Teller*)
Coghill, Dr	Roper, Mr
Cole, Mr	Sandon, Mr

Cunningham, Mr	Seitz, Mr
Dollis, Mr	Sercombe, Mr
Garbutt, Ms	Sheehan, Mr
Haermeyer, Mr	Thomson, Mr
Hamilton, Mr	Thwaites, Mr
Leighton, Mr	Vaughan, Dr (*Teller*)
Loney, Mr	Wilson, Mrs
Marple, Ms	

Motion agreed to by absolute majority.

Read third time.

INTERRUPTION OF ADJOURNMENT DEBATE

The SPEAKER — Order! Earlier today the honourable member for Coburg raised a point of order on the actions of the Chair last night.

Mr Roper — Not on your actions, on how the Ministers were not able to respond.

The SPEAKER — Order! I will roll it all into one so that what I am talking about is clear.

I inform the House that the proceedings of the House on 18 November were completed by my action in leaving the Chair. That action was brought about by the disorderly conduct of the House. I exercised my duty to maintain order and decorum in the House.

There is no automatic way in which the outstanding answers to matters raised during the debate on the adjournment may be given without the leave of the House to provide time for that to be done. I suggest it is a matter that will have to be resolved between the government and the opposition.

Under Sessional Orders there is no necessity for the Chair to put any question when adjourning the House on those occasions when the sittings of the House do not proceed past 10 p.m. I refer honourable members to Sessional Order 5(2)(b). In future I will use the expression "Under Sessional Orders the time for the adjournment of the House has arrived." That will make it quite clear to the House that there is no question before the Chair. On completion of the debate I will further advise the House that the House stands adjourned until the next day of sitting.

I make it clear that I do not regret my actions, as I gave the House every opportunity to come to order with a number of warnings. Those warnings were

not heeded by honourable members. The blame lies not with the Chair but with the House itself.

POLICE REGULATION (DISCIPLINE) (AMENDMENT) BILL

Second reading

Mr McNAMARA (Minister for Police and Emergency Services) — I move:

That this Bill be now read a second time.

Earlier this year, Parliament passed the Police Regulation (Discipline) Act 1993, which introduced major changes to the police discipline system. Those changes were sought by the Chief Commissioner of Police to assist him in effectively managing the Victoria Police.

The legislation came into effect on 26 August 1993. Although the Act outlined a number of transitional provisions to assist the implementation of the new system, it has been determined that it would be appropriate to further specify these provisions to ensure no possible misconception of Parliament's intention. I understand that Victoria Police are considering disciplinary charges in relation to alleged offences that took place prior to 26 August 1993. It is essential to ensure that the disciplinary provisions to apply in such circumstances are clear and beyond doubt. Evasion of disciplinary action by a legal challenge on a technicality would bring the force's discipline system into disrepute and would limit the chief commissioner's ability to control his work force. That result would be contrary to the community's expectations of its Police Force. The Bill puts beyond doubt the transitional provisions to apply to the Police Regulation (Discipline) Act 1993.

I commend the Bill to the House.

Debate adjourned on motion of Mr SERCOMBE (Niddrie).

Debate adjourned until Tuesday, 23 November.

AUDIT BILL

Second reading

Mr I. W. SMITH (Minister for Finance) — I move:

That this Bill be now read a second time.

This Bill further demonstrates the action being taken by this government to improve financial management and accountability in the public sector in Victoria. The Bill repeals legislation which has effectively remained unchanged since 1859. It also belatedly addresses recommendations of the Economic and Budget Review Committee in the 1983 report on improving government management and accountability.

The report pointed out that:

> The Audit Act is misnamed. Apart from providing for the role of the Auditor-General as the external auditor of the State government and its organisations, it covers matters of financial administration. For example, the Act includes provisions governing the collection and payment of public moneys and rules concerning the protection of public property. Its scope therefore goes beyond audit matters.

The government is removing these machinery provisions from the Audit Act, simplifying and restating them in modern terms and placing them in the Financial Management Act where they properly belong. Other archaic provisions found in both the 1859 and 1958 Audit Acts are removed entirely.

No longer, for example, must collectors of imposts send by post — before the tenth of the month — to the Auditor-General a summary of all public money coming into their possession or control in the previous month.

The Act will also relieve the Minister of the burden of sending to the Auditor-General, on every day on which public offices are open, all manner of accounting records and vouchers and the Auditor-General of the burden of examining them. Modern comprehensive auditing methods will now be applicable. The changes now being introduced give the Audit Act a clear focus, which is to provide for a number of things.

Subclause 4(2) of the Bill provides that the Auditor-General is not subject to the provisions of the Public Sector Management Act. During debate on the Public Sector Management (Amendment) Bill several weeks ago, the Premier made it clear that it was not the government's intention that the Public Sector Management Act apply to statutory office holders such as the Auditor-General. The Bill provides for appointment of an acting Auditor-General in addition to the provision enabling the deputy of the Auditor-General to act as Auditor-General.

The Bill provides for the audit of all authorities as defined in the Bill and for the reporting of the results to the audit consistent with the Fergus Ryan report.

Fees for the performance audits of departments will be paid for by the Parliament and the funds available to Parliament will be correspondingly increased.

The Bill retains the Auditor-General's power to call for persons and papers and access to information. Clause 19 of the Bill provides for the performance audit of the Auditor-General.

The statement of financial operations — that is, the annual finance statement — will in future be prepared in accordance with the provisions of the Financial Management Act 1993 and the Auditor-General will form an audit opinion on the statement in terms of Australian auditing standards. The power of the Auditor-General under section 36 of the Audit Act 1958 to surcharge an officer with any deficiencies or loss of moneys, or for failing to properly account for such moneys, is to be removed.

There has been extensive consultation with the accounting bodies in preparing the significant changes to financial legislation in this Bill and in the Financial Management Bill. The government has been assisted also by the wide-ranging debate in professional circles in recent years on standards for public sector accounting.

I commend the Bill to the House.

Debate adjourned on motion of Mr BAKER (Sunshine).

Debate adjourned until Friday, 3 December.

FINANCIAL MANAGEMENT BILL

Second reading

Mr I. W. SMITH (Minister for Finance) — I move:

That this Bill be now read a second time.

The Financial Management Bill 1993 contains major reforms to improve Budget sector management and reporting and enhance accountability to the Parliament. A number of the reforms have been recommended by the Independent Review of Victoria's Public Sector Finances and the report of the Victorian Commission of Audit.

This Bill, in conjunction with the Audit Bill, is the first major reform to financial management of the Budget sector since the enactment of the Public Account Act in 1951. The Bill contains nine Parts, which cover the Consolidated Fund; the Public Account; the Trust Fund; an annual Statement of Financial Operations; a series of Budget management reforms; and accountability and reporting provisions.

Part 2 of the Bill is an adaptation of section 4 of the Public Account Act 1958 except for the removal of the need to balance the Consolidated Fund. The removal of this requirement was recommended by the Independent Review of Victoria's Public Sector Finances and by the Commission of Audit.

The Public Account, the Public Bank Account and bank accounts of departments are provided for in Part 3 of the Bill. This Part also covers the receipt of public money, the issue of such money from the Consolidated Fund and the investment of money held in the Public Account. Honourable members should note that the Bill preserves the roles of the Auditor-General and the Governor in the issue of moneys from the Consolidated Fund.

Part 4 relates to the Trust Fund. The Bill preserves the present provisions of the Public Account Act 1958 and also provides for the investment of money held in trust accounts and for the creation of working accounts. With the approval of the Treasurer, working accounts can be created to operate not only for departments as a whole but also for those specific areas within departments which are largely commercial and freestanding.

Part 5 provides for an annual statement of financial operations in a form approved by the Minister, which must present fairly the financial transactions in the Public Bank Account for the financial year. The statement replaces the Finance Statement. Consistent with the Commonwealth it is proposed that the Statement of Financial Operations will be a high-level reporting document with the detailed financial information being available in departmental reports.

The Auditor-General will be required to provide an audit opinion on the statement; and in addition, provision is made for the Auditor-General to issue a separate report on the statement. No longer will it be the Auditor-General's responsibility to explain the statement. That will be the responsibility of the Minister or Ministers responsible for the preparation of the statement.

Part 6 contains a series of measures to improve Budget sector management, accountability and reporting. Borrowings against future appropriations will be permitted on a limited basis. There are stringent requirements attached to this provision and any approval must be published in the *Government Gazette*. This Part also includes provisions for annotated appropriations and the alteration of items of departmental and Parliamentary expenditure consistent with the recent Appropriation legislation.

Part 6 also makes formal provision for the carrying forward of amounts unspent at the end of a financial year. The provision of such a facility was recommended by the Victorian Commission of Audit. In 1992-93 the government implemented this facility by administrative arrangement to enable departments to manage their funds across the financial year and to remove the pressure for excessive end of year spending. Departments responded to the initiative and a total of $37.3 million was approved for carryover from 1992-93 to the current year.

Also included in the Bill is the provision which mirrors section 26 of the current Audit Act 1958 in relation to obligations incurred by the State which should be accounted for in the year in which the expense is incurred. This provision has long been used for expenditure on salaries which are currently accounted for on an accrual basis.

The Bill contains a number of provisions relating to advances from the Public Account. Clause 35 to the Bill restates section 16 of the Public Account Act 1958 except that it limits the advance to the Minister to a fixed percentage of the Budget rather than a fixed dollar amount. The introduction of a percentage factor is considered appropriate in the context of inflation and the amount of the Budget compared with the $30 million limit set by the Public Account Act 1958. That limit was set in 1977 when the expenditure of the Consolidated Fund in 1977-78 was $3.3 billion.

An important development is contained in clause 39 of the Bill in that temporary advances received by the Minister do not have to be repaid during the financial year in which they are received. This provision restates the provision that was contained in the Public Account Act 1958 prior to the establishment of the Consolidated Fund in 1970 and follows from abolishing the need to balance the Consolidated Fund referred to earlier.

The Bill increases the focus on departmental outputs and improves the clarity of information concerning Budget sector activities provided to the Parliament through the presentation of an annual Budget estimates document in association with the annual Appropriation Bill. Included in the Budget estimates will be output information at a program level, the source of funds available during the period and a statement on departmental receipts.

One significant matter addressed by the Economic and Budget Review Committee in its 1983 report on improving government management and accountability concerned the responsibilities of government managers. The committee then observed that "there is no reference in the Audit Act 1958 to any responsibility of chief administrators for financial management or management generally".

To address this concern Part 7 of the Bill provides for an accountable officer for each authority subject to this Act, together with a chief finance and accounting officer. The Bill specifies their responsibilities including the maintenance of accounting systems and other related financial information. These provisions will strengthen the chain of accountability to Ministers and are consistent with the requirements of the Public Sector Management Act 1992. To more closely relate accountability and reporting the Bill repeals the Annual Reporting Act 1983 and restates the relevant provisions in Part 7 of the Bill.

General clauses in Part 8 of the Bill provide for the writing off of a loss or deficiency, the recovery of overpayments, establishing liability in respect of loss or damage, unclaimed property and a regulation-making power. Part 9 contains transitional and consequential provisions. This Bill and the related Audit Bill put in place enhanced accountability to the Parliament, which the Treasurer referred to in the Budget speech.

The government will continue to pursue opportunities for improved financial and resource management and accountability.

I commend the Bill to the House.

Debate adjourned on motion of Mr BAKER (Sunshine).

Debate adjourned until Friday, 3 December.

LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Mr MACLELLAN (Minister for Planning) — I move:

That this Bill be now read a second time.

The Bill has several purposes. First, it aims to further micro-economic reform within local government by amending provisions of the Local Government Act 1989 which are fundamental to the way councils operate — namely, the provisions relating to the employment conditions of designated council officers. Second, there are amendments to clarify the road provisions, and third, there are technical amendments affecting various parts of the Act. I turn first to the provisions for council officers.

COUNCIL OFFICERS

Councils are required by the Local Government Act 1989 to have certain officers — a municipal clerk, a municipal engineer, a municipal electrical engineer, if the council supplies electricity, a municipal building surveyor and a municipal health surveyor. The Act requires these designated officers and officers holding the positions of municipal valuer and municipal building inspector to have qualifications prescribed in regulations. Various boards have responsibility for setting qualifications for each occupational group and also for issuing certificates to those who meet the board's qualification standards. These certificates have been regarded as entry cards to the otherwise closed world of local government officer employment. Many people have spent years studying to get them.

There was a time when occupational regulation like this served to improve educational standards in local government. However, in today's competitive educational and employment environment that rationale no longer holds for the majority of these positions. It is essential that councils are able to employ senior staff with skills suited to councils' needs and have the ability to do so from a pool wider than those who have particular qualifications. Moreover, it is critical that senior staff have a clear understanding of their responsibilities and are accountable for their performance.

The amendments will further the implementation of undertakings given by this and the previous government at special Premiers Conferences to pursue mutual recognition principles towards the development of a national occupational market. Victoria currently requires statutory qualifications for more local government occupations than any other State. The majority of other States do not have any statutory qualifications requirements for employment in local government and Queensland and Tasmania have plans in hand to remove the few qualification requirements remaining under their local government legislation. Occupational mobility to and from Victoria is impeded whilst our qualification requirements persist. By removing from local government legislation all qualification requirements, this Bill is an important step in labour market reform in local government.

The Victorian legislation is also anomalous in offering protection to certain designated officers against removal from office. In effect, a council cannot remove one of those officers without first going through a hearing before the Local Government Qualifications Board. The existence of this provision is said to have been useful in deterring a council that might otherwise have applied unfair pressure to a designated officer. Today, however, there are grievance and termination provisions in the federal award that covers Victorian council staff, and those provisions, along with breach of contract remedies, provide appropriate protection for officers. The Act provisions have become outmoded and the Bill will repeal them.

I turn now to the significant provisions of the Bill in more detail. Clause 3 inserts a new definition of "senior officer" into the Act. "Senior officer" means the chief executive officer (CEO) and any other officer who is entitled to total remuneration of at least $60 000 in any 12 month period. The government intends that councils put all senior officers on contract, and $60 000 a year has been identified as the appropriate current figure for this purpose; but the Minister will be able to adjust the figure over time.

Clause 4 requires a council to appoint a chief executive officer, who must be a person and not a company. This requirement, as well as the new duties for a CEO, will come into operation on 1 October 1995. The government originally intended that all councils have CEOs by 1 October 1994. However as a result of representations from local government peak associations that such a time scale would be too short, the government agreed to the longer period to assure smooth implementation.

Clause 5 is a transitional provision. If a council does not currently have a chief executive officer position, it must authorise a member of staff to exercise the statutory duties required of a chief executive officer until the position is created. The statutory duties will essentially be the obligations cast presently on a municipal clerk under the Local Government Act.

The functions of a chief executive officer are set out in clause 9 and include ensuring that staff are appointed in accordance with the organisational structure approved by the council. The CEO must maintain and make available for public inspection a register showing the total remuneration of each senior officer. Clause 9 also requires performance reviews to be conducted annually for senior officers. A CEO's performance will be reviewed by council and all senior officers by the CEO.

Clause 7 requires a council to appoint all senior officers on contract. A senior officer contract is to be for a term of one to five years and must include the criteria by which the officer is to have his or her performance reviewed. A senior officer contract must be made with a person, not a company.

Existing written contracts will not be affected by the new requirements if they specify, by reference to a date or definite period of time, when they end. These contracts will run through to the end of their contract terms. However the Act will deem an existing written contract that is silent about termination to specify that it ends on 30 September 1995. This deeming provision was inserted by amendment in the Legislative Council to ensure that the position under various existing contracts was adequately clarified.

Where a senior officer is not currently on a contract, the Act will deem a complying contract to be in existence until 30 September 1995 or such earlier date as the council and officer enter into a new contract. The effect of this deeming provision is to require all senior officers not currently on contract to be so by 1 October 1995. The government had intended that the senior officer contract requirement be operative by 1 October 1994 but, as with the requirement for a council to have a CEO, was persuaded that this would not give councils sufficient time. Councils will now have almost two years to make the necessary arrangements. The Minister may exempt a council from complying with the senior officer contracts' provisions.

Clauses 8, 10 and 11 deal with designated officers. Clause 8 removes the Act's present requirements for a council to have designated officers. Clause 10 repeals the Act's provisions for protection against removal from office and clause 11 abolishes the Local Government Qualifications Board.

Clause 12 prevents a council from appointing to its staff any person who in the last two years has been a councillor of the council. This is designed to ensure that a councillor does not take advantage of his or her elected position to gain preference for a remunerated position.

Clauses 15, 16 and 17 make amendments to the Health Act 1958 and require a council to have an environmental health officer who is or is eligible to be a member of the Australian Institute of Environmental Health.

Clauses 18 and 19 make amendments to the Building Control Act 1981 and require a council to appoint a municipal building surveyor. The person appointed need not be a member of council staff but must hold a certificate of qualification from the Building Control Qualification Board. A council may appoint an unqualified person for up to six months and for a longer period only if it has permission from the Minister.

ROADS

The repeal of many of the road provisions under the Local Government (Miscellaneous) Act 1958 was delayed due to problems with the road provisions in the Local Government Act 1989. Initially, areas of concern related to the care and management of roads on Crown land, the power of councils to discontinue roads and the requirements of the Registrar of Titles in relation to the discontinuance and sale of roads.

In reviewing these provisions it became clear that other improvements were also required. Consequently, a comprehensive review was carried out. Extensive consultation on the proposed legislative amendments has been carried out with peak local government bodies and relevant government agencies.

Clause 21 inserts a new definition for "public highway" and substitutes a new definition for "road". The definition of public highway focuses on the right of the public to have access rather than the level of road construction.

Clause 22 substitutes sections 203 to 207F for the existing sections 203 to 207. The new section 205

clearly sets out those roads for which councils will have care and management and most importantly, the legislation spells out the nature of the care and management role. A council may choose to exercise its considerable power to undertake or direct works on roads within its municipal district. However, section 205 makes it clear that the care and management role does not impose a positive duty on a council to construct or repair a road.

The legislation also spells out that while a council must ensure that a road required for public traffic is kept open for public use a council is not required to undertake any road works to the surface or drainage of an unconstructed road.

Sections 207B to 207E essentially relate to the registration by the Registrar of Titles of land in roads which have been discontinued or otherwise affected by the exercise of particular powers by councils under schedules 10 and 11. The Registrar of Titles is given broad powers to deal with such land, including the power to alter titles to land which are subject to a mortgage or charge.

Clause 23 is a minor amendment to ensure that councils need only to consult once on the sale of land in a discontinued road. Councils are required under section 207A to go through a public consultation process when it decides to discontinue a road and either sell or retain the land in the road. This amendment ensures that they do not have to undergo a second consultation process under section 189 which deals with the sale of land.

Clause 24 substitutes schedules 10 and 11 of the Local Government Act 1989. The schedules have essentially been rewritten to make them easier to read. There are few changes of significance. However, honourable members may wish to note that item 3 of Schedule 10 allows councils to discontinue roads whether or not they are vested in the council. This does not change the situation from the 1958 Act and cures a major problem with the 1989 Act.

Finally, a group of miscellaneous amendments will essentially deal with housekeeping matters.

OTHER AMENDMENTS

Clause 26 removes current uncertainties regarding the enforcement of local laws. It widens the powers of an authorised officer to demand a name and address, and balances this by requiring an authorised officer to inform the person of the grounds on which such demand is being made. Clauses 27 and 28 deal with financial matters, including a requirement on councils to supply budget information to the Minister.

Clause 29 gives a council the option of using registration tendering in addition to full public tendering. This provision accords with general commercial practice and protects councils and the private sector from incurring high tendering costs where the scope of a project does not warrant a full open tendering system. Clause 30 repeals the provisions dealing with financial guarantees which are generally regarded as unworkable. The remaining clauses deal with minor housekeeping matters.

I commend the Bill to the House.

Debate adjourned on motion of Mrs WILSON (Dandenong North).

Debate adjourned until Wednesday, 24 November.

TT-LINE GAMING BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this Bill be now read a second time.

The purpose of this Bill is to authorise the conduct of gaming on board the new ferry, the *Spirit of Tasmania*, during the time that it spends in Victorian waters on the service between Devonport and Melbourne.

The Tasmanian government has sought the cooperation of Victoria in enhancing the facilities available to passengers on this service. There are potential tourism benefits to Victoria in assisting the success of the ferry service, since Melbourne is the embarkation port for the voyage. In addition, a revenue-sharing arrangement has been negotiated so that there is a direct financial benefit to Victoria in addition to tourism benefits. The legislation proposed is complementary to Tasmanian legislation which provides for gaming to take place on board the ferry. Four principles were considered to be important in framing this bill.

First, Victoria could not be seen to abdicate its responsibility to regulate the proper conduct of gaming in Victorian waters by leaving the matter to the authority conferred under Tasmanian legislation.

Second, Victoria had to be satisfied that there were appropriate regulatory controls in place on gaming in Victorian waters. Victoria has led the way in setting up accountability and regulatory structures for gaming, and in the interests of the proper conduct of gaming and of the Victorian public similar structures needed to apply to the ferry.

Third, the arrangements in place could not be such that the competitiveness of the Victorian industry and individual venues was placed under threat. Finally, it was desirable that, within the confines outlined above, there be consistency between the rules applying for the whole voyage between Devonport and Tasmania. It was not reasonable to require that different rules apply for parts of the voyage. The Bill before the House satisfies all the above principles.

The Bill applies the Tasmanian TT-Line Gaming Act, with amendments, as if it were a law of Victoria. The Tasmanian Act, as amended, appears as Schedule 1, and any regulations made under that Act appear as Schedule 2. This enables amendment of the Victorian Act by regulation if it is desired to enact any changes which may be made to Tasmanian legislation. Of course, regulations will be subject to scrutiny by the Parliament.

Copies of the Tasmanian Act have been made available for scrutiny by members. The Victorian Act accepts the Tasmanian system for the licensing of gaming and generally for the control of gaming areas on the ferry. However, it specifies that the authorisation of games and machines must be carried out jointly by the Tasmanian and Victorian Ministers and that any directions given on the conduct of gaming must be given jointly. The effect of these provisions is to ensure that Victoria is able to specify a threshold level of accountability and probity with respect to the conduct of gaming.

The Bill provides for an agreement between the two States on the sharing of revenue from gaming. It has been agreed that Victoria will receive 25 per cent of the taxation revenue based on 33.3 per cent of net machine revenue.

The Bill also provides for the agreement to cover other matters and it is intended that Victoria will require that machines on the ferry be sourced from a manufacturer on the roll of manufacturers under the Gaming Machine Control Act. This will guarantee that the probity requirements of the Victorian system with respect to manufacturers are met.

As an additional safeguard for the proper conduct of gaming in Victorian waters the Bill provides that the Minister may suspend the approval for the conduct of gaming if the Minister believes on reasonable grounds that in a material respect the provisions of the Act or applied provisions are not being complied with.

As the Tasmanian Act did not make direct provision for inspectorial and enforcement powers, relevant provisions of the Gaming Machine Control Act covering inspection powers and offences of tampering with machines have been inserted. It is envisaged that inspectors from both jurisdictions will be authorised under this Act. The Director of Gaming is required to act in consultation with the Tasmanian Gaming Commissioner in exercising powers to appoint inspectors. While it is expected that the two jurisdictions will act in cooperation, the powers of enforcement provided for in this Bill are there because Victoria must be able to exercise an independent power to enforce the proper conduct of gaming within its powers.

While mindful of the tourism benefits to be obtained from this proposal, the government is also mindful of the interests of the operators of gaming machine venues in Victoria as well as its obligations to the casino consortium. In line with restrictions on machine numbers applying to venues in Victoria, the ferry will not be able to operate in Victorian waters more than the maximum number of machines permissible in a Victorian venue. In addition, access to gaming on the ferry will be restricted to the 3 hours prior to departure when the ferry is docked at Melbourne and access will not be available to the general public.

I consider that the commencement of this new ferry service will be of value to the generation of tourist trade which, as it takes Melbourne as its starting point, will be of benefit to this State.

I commend the Bill to the House.

Debate adjourned on motion of Mr ROPER (Coburg).

Debate adjourned until Wednesday, 24 November.

ADJOURNMENT

Mr GUDE (Minister for Industry and Employment) — I move:

That the House do now adjourn.

Ambulance services

Mr ROPER (Coburg) — I direct to the attention of the Minister for Health an unfortunate matter she should be made aware of. The Minister will recall that a couple of weeks ago I raised the case of a child with head injuries who was picked up by a private ambulance that lacked the proper equipment.

On Monday morning at 8.30 a.m. a 79-year-old Horsham resident was told, only four days after major surgery at Ballarat Hospital, that he would be discharged and would have to travel home to Horsham by V/Line, a distance of 190 kilometres.

He was discharged in only his pyjamas, dressing gown and slippers. A taxi was called to take him to the station, where he was to catch the train to Ararat and then a bus to the Horsham terminal, from where his daughter was told to pick him up. The gentleman was not even well enough to carry his overnight bag. In the end he paid for the taxi to take him the whole way to Horsham, which is a fare of more than $100. He said he was so sore all over when he reached home that the trip was a bad dream. He also said that it would have been even more of a nightmare if he had had to go by train. He said he was humiliated and embarrassed; that he had to have frequent toilet breaks and was still passing blood in his urine. The concerns mentioned by the pensioner in his local area were reinforced by his surgeon, Graham Kitchen, who pointed out that the treatment of this man was quite unsatisfactory.

I agree with the comments of the *North Central News* newspaper of St Arnaud of last week, which states:

> Minister of Health, Marie Tehan, appears to have little understanding or sympathy for the serious problems especially in rural areas these ill conceived and ruthless policies in health are creating.

The Ballarat Base Hospital has subsequently apologised to the gentleman, which is important. However, it is regrettable, firstly, that ambulance arrangements that previously existed to take this person to the hospital and back home have been abandoned and, secondly, that the Ballarat Base Hospital was so much in need of beds that it had to move him out so quickly. No-one objects to hospitals becoming more efficient, but they should treat patients properly; this should not occur again.

North American Free Trade Agreement

Mr McARTHUR (Monbulk) — I direct to the attention of the Minister for Agriculture, and no doubt other honourable members who are interested in the issue, the fact that Bill Clinton, the President of the United States of America, was successful recently in gaining agreement for the introduction of the North American Free Trade Agreement (NAFTA) when Congress supported him in a vote of 234 to 200. The Leader of the Opposition would appreciate that support!

Mr Roper interjected.

Mr McARTHUR — Unfortunately, the Leader of the Opposition does not have the support of his own party.

As honourable members on this side of the House are well aware, the NAFTA agreement will have substantial ramifications for agriculture in this State. Some 40 per cent of Victorian export earnings are from agricultural industries, something members on the other side of the House may wish to pay attention to. In my electorate and in the areas I grew up in agriculture is a major part of life; it is a major employer and a major earner of income.

In Monbulk horticulture is incredibly important to business, providing jobs in the electorate. It is increasingly important as an industry for the State, and the government recognises that. It has recently established the Institute of Horticultural Development at Knoxfield to focus on and promote horticultural development in the State. The industry has substantial export potential and opportunities, and I am concerned to see that Victoria is in a position to take advantage of any improvements in trade on the world scene, particularly in the North American area.

I ask the Minister to advise the House what steps he is taking and what information he has about the ramifications of NAFTA. I also ask the Minister to assure the House that he will do all he can to ensure that Victorian agricultural producers, whether they produce wheat, wool, meat, dairy or horticultural products, as in my area, have every opportunity to access the NAFTA market.

I ask him to advise what effects NAFTA may have on the future of talks on the General Agreement on Tariffs and Trade. As all members on this side of the House are aware, the GATT talks have an incredible impact on agriculture in Victoria and the nation. The

success of the GATT trade negotiations is important, and I hope NAFTA will improve the chances of that success.

Ambulance services

Mr HAMILTON (Morwell) — In the absence of the Minister for Health I direct to the attention of the Minister for Industry and Employment, who is at the table, the concern of a constituent of mine which, unlike the matter raised by the honourable member for Coburg, is about getting into the Royal Melbourne Hospital rather than getting out of it.

Mrs Henry of Mulcare Street, Morwell, an age pensioner, has contacted me with a major complaint concerning new arrangements for ambulance transport between the Latrobe Valley and Melbourne. She is irate. It is not unknown for Mrs Henry to contact local members of Parliament of all persuasions, I can assure the House.

Mrs Henry's husband, Tom, is seriously ill and cannot travel any great distance in a car. Some years ago I worked with the local council to have a roll-over curb smoothed out because even the small jolt resulting from the car going over it caused Mr Henry immense pain.

Recently Mr Henry's condition has deteriorated, and his local doctor recommended that he should see a specialist to determine whether there was some way to reduce the pain. The doctor gave Mr Henry an authority to use an ambulance to go to Royal Melbourne Hospital for specialist treatment. As honourable members know, specialists of all kinds are not available at Latrobe Valley Hospital, so it was essential that he went to Melbourne.

When Mr Henry went to arrange his trip by ambulance to Melbourne, he was told by the South Eastern Ambulance Service that he could not be transported to Royal Melbourne Hospital unless the hospital paid. Apparently that is an ongoing situation. The Royal Melbourne Hospital has not agreed to fund the ambulance for Mr Henry, and he is unable to travel that distance by any other means. Mr Henry has been told that Royal Melbourne Hospital has received extra money from the government to pay for country patients travelling to the hospital, but that has not yet eventuated.

To put it mildly, the whole business is making Mrs and Mr Henry even more irate. The point they made to me was that it seems that country people are being severely disadvantaged by changes in policy. Every country member who is concerned about those patients needs to be aware of the changes.

The SPEAKER — Order! The honourable member's time has expired.

Sewerage line collapse

Mr KILGOUR (Shepparton) — In the absence of the Minister for Natural Resources I direct to the attention of the Minister for Industry and Employment, who is at the table, a sewerage problem which involves the central — —

Honourable members interjecting.

Mr KILGOUR — The Minister will be flushed with success and I am sure will get success out of it!

The problem involves waste water management and water supply to the central Goulburn Valley area, particularly to the town of Tatura. After I raised the matter with him some weeks ago, the Minister arranged for a review of three water boards in the central Goulburn Valley area. I congratulate him on ensuring that the review was carried out quickly, and we are now waiting for a result of the review.

In recent weeks, however, the situation has become more drastic, and in recent days it has come to my attention that a major sewerage line has collapsed near the intersection of Casey and Francis streets, Tatura. The collapse is causing a somewhat smelly problem in the centre of Tatura.

I understand from reports I have that it is a major problem for the Rodney Water Board. The difficulty is that there are high watertables and moving sands underneath the ground around the township of Tatura and they have damaged both the sewerage and water pipes. The most recent collapse is causing serious and expensive problems for the water board and it will certainly be a difficult problem to fix. There is also a grave danger of a trench collapse, a very sloshy problem which could cause other associated problems.

The collapse has affected a third of the residential area. The current situation highlights the concern of industry in Tatura that infrastructure for the supply of essential services is falling behind the needs of industry. In fact, it was industry which originally raised the problem of waste water disposal in Tatura.

I congratulate the Minister on acting quickly to initiate a review, and I ask that he provide details of its current status and make a decision to ensure the future of the water supply system in the central Goulburn Valley area so that problems such as collapsing sewers can be addressed.

Ambulance services

Mr HAERMEYER (Yan Yean) — I direct to the attention of the Minister for Health, who is responsible for the Metropolitan Ambulance Service, the employment of a firm known as Henderson Consultants registered with the Australian Securities Commission (ASC) as Transport Safety Awards Pty Ltd to prepare a report on tender specifications for a new computer-aided dispatch system (CAD) and automatic vehicle location system (AVL) for the Metropolitan Ambulance Service. The report has been obtained by the opposition under freedom of information legislation.

The report cost the ambulance service $38 500 for stages 1 and 2 — with stage 3 still to come. The report is one of the flimsiest things I have ever read — $38 500 for a few pages of ill-considered rubbish in large 20-point print. It lacks any detail; it is totally unprofessional; it has been hastily put together — —

Honourable members interjecting.

Mr HAERMEYER — It allows less time for the preparation of tenders than would normally be allowed. The authors of the report have received some $40 000 basically for stating the obvious. The potential tenderers have been asked to come up with a tender within three weeks, which is totally inadequate for this sort of project. The report is flimsy; there are barely a thousand words of substance in it, and most of those are repeated, sometimes up to three times. As I said, it states the obvious.

Mr Jack Firman, the head of the Metropolitan Ambulance Service, has been in a hurry to get his computer-aided dispatch system under the guard of the Department of Finance, fully aware that the department and the Public Bodies Review Committee have been looking to establish a common computerised dispatch system across all the emergency services.

Mr Firman appears hell-bent on getting his way and defying the government that employs him. He is prepared to waste money and place lives at risk by this hasty tender for a computer-aided dispatch system.

I ask the Minister to address herself to whether she has any confidence in Mr Firman's handling of this matter and what she will do to pull this megalomaniac into line.

STAY hostel

Mr PHILLIPS (Eltham) — I raise for the urgent attention of the Minister for Community Services serious allegations brought to my attention and reported in the *Heidelberger* of 13 October concerning maladministration of the STAY organisation, which provides short-term youth accommodation in the Rosanna-Macleod area.

A report by the Regional Director of Health and Community Services, Northern Region Office, states that the running of the accommodation is being jeopardised by a factional and dysfunctional management committee. The report also states:

> It is clear to the reviewers that the dysfunctional state of the management committee has an adverse effect on the operation of the service, seriously jeopardising the agency's capacity to meet service-user's needs.

The secretary of STAY, Mr Craig Langdon, agreed that the committee had become dysfunctional. Given the important role played by the committee in the community it saddens me that the organisation is wasting its energies and time on in-house fighting when the priority should be providing short-term accommodation for young people aged between 14 and 21 years.

I ask the Minister to take immediate steps to ensure that the administration of the STAY organisation is put back in order to allow it to again concentrate on delivering services for young people rather than being sidetracked by internal faction fighting — with funding as tight as it is, youth accommodation today is urgent and extremely important.

Altona District Hospital

Ms MARPLE (Altona) — I raise with the Minister for Health a matter concerning Altona District Hospital and complementary small businesses in the surrounding area. The hospital has been serving the community for nearly 60 years. It admits 90 surgical patients and 350 midwifery patients a year. Such a hospital is an integral part of the development and maintenance of a community.

The government has slashed $230 000 from the Altona hospital's budget, which represents 10 per cent of its funding. The hospital, the council and the community know that the government's agenda is to close the hospital and that these cuts, combined with the government's case-mix funding, are designed to do just that.

Mr GUDE (Minister for Industry and Employment) — On a point of order, Mr Speaker, it is evident to all honourable members that the honourable member for Altona is reading from a document and certainly not referring to notes. I ask whether she is prepared to make them available to the House.

Ms MARPLE (Altona) — Mr Speaker, I am reading from copious notes. The hospital board is not taking that lying down. It knows that the best way to handle the system is to increase the turnover of patients. Everyone knows the game — in and out as quickly as possible; cut back the care and cut back the cleaning. It does not matter what standard is delivered so long as the waiting lists are shorter and the books look good. No longer will the hospital be able to give the standard of extra care that we had — it does not matter to the government, so long as everything looks good on paper. That is what the government is about.

The Altona District Hospital has increased its throughput and it has carried the extra cost of doing that. On 22 October the government told hospital representatives, "We are going back to look at case-mix funding to see whether you need more funding because you have put through more patients". The hospital has been put off again and has had to carry the debt it has incurred, and so do the small businesses which are waiting for their money from the hospital.

The Altona community wants to know whether there is a fair way of approaching these matters. Is this the way to restore confidence to the community, or is it just another method of hacking away at a small community and its hospital, starving it to death?

Greenvale Primary School and Gladstone Park Secondary College

Mr FINN (Tullamarine) — I direct to the attention of the Minister for Education two schools in my electorate that are in dire need of major facelifts. The external paintwork on the Greenvale Primary School is, to say the least, in poor condition. At the moment there is nothing but the wax stain on the outside of the school. It should have been repainted six years ago. The guttering has rusted through. In fact, the guttering has not been touched since the school was opened some years ago.

That school is in need, but not quite as much as the Gladstone Park Secondary College. It desperately needs new carpets for its portable classrooms. I visited the school recently and can vouch for the large holes that have appeared in the floor. There have been no new carpets at the school for more than 10 years — it may be closer to 15 years. The school also has many holes in its walls. It urgently needs a coat of paint.

Honourable members interjecting.

The SPEAKER — Order! The House is getting into bad habits.

Mr FINN — I do not believe anyone would be getting into bad habits with me around, Mr Speaker.

The walls at the Gladstone Park Secondary College need a coat of paint. The gymnasium is completely worn out and — the honourable member for Shepparton will be interested in this — the plumbing is terminal. The chemical storage in the science block is urgently in need of an upgrade. I do not believe the storage would meet the occupational health and safety standard that has been set down. Last year the school council spent $29 000 painting the portable classrooms.

These are two wonderful schools with excellent reputations. They have strong and hardworking school councils and great principals. I ask the Minister to consider providing those schools with urgent maintenance. Of course it begs the question of where the $4 billion was spent by the former government on education. How could those schools have been allowed to fall into such an appalling state of disrepair? The Labor government allowed the schools to fall to pieces. The schools were not touched during the entire 10 years of the former Labor government.

The SPEAKER — Order! The honourable member's time has expired.

Cuts to psychiatric services

Mr MILDENHALL (Footscray) — In the absence of the Minister for Health, I direct to the attention of the Minister at the table, the Minister for Industry

and Employment, the dramatic reduction in mental health services in the western suburbs.

On 18 October the Minister for Health said that the mental health services had improved during the term of this government, but the facts show otherwise. In the western suburbs there has been a significant deterioration because of a dramatic reduction of staffing through a whole range of services. The number of full-time permanent trained psychiatric nurses at the Footscray psychiatric hospital has decreased by 10 per cent from 72 to 62. Despite denials made this week in the *Western Independent* the number of hospital beds has decreased from 56 to 48. There is speculation and planning within the hospital to reduce the number to 40.

In the community health services based outside the hospital the clinical staff numbers at Saltwater Community Mental Health Service have dropped from 40 to 31.5. Planning is afoot to further reduce them to 28.5. The cut in staff numbers has resulted in a reduction in the number of clients the service can deal with, which is further exemplified by community health services such as those at Kororoit, where 800 clients were being dealt with until some months ago, but that number has now been pared down to 600. These services will also be required to deal with acute patients who are being referred to them because of the inability of the psychiatric hospital to cope with them.

We understand the per capita funding in the western suburbs is $22 a head compared with the State average of $41 a head, and we seek some justice in that regard. We ask the Minister to reconcile her public statements with the facts and return a level of basic humanity to the provision of mental health services in the western suburbs.

Justices of the peace

Mr LUPTON (Knox) — I raise with the Attorney-General the signing of declarations by justices of the peace and by members of Parliament. I raise this matter because in debate on Wednesday the honourable member for Mill Park made certain allegations about me because I dared sign some documents as a justice of the peace. When I signed those documents the honourable member for Coburg was calling for personal explanations. It is apparent that despite the fact that the honourable member for Coburg was a former Minister of the previous government and can now sign those sorts of documents, he and the honourable member for Mill Park — and possibly many others on the opposition side of the House — have no idea of the responsibilities bestowed upon them.

For the information of the honourable members for Coburg and Mill Park I will quote from the handbook for justices of the peace — —

Mr HAERMEYER (Yan Yean) — On a point of order, Mr Speaker — —

The SPEAKER — Order! The honourable member for Knox must ask what action he wants taken.

Mr LUPTON (Knox) — I intended to ask the Attorney-General to prepare a briefing paper to circulate to members.

The SPEAKER — Order! The honourable member for Knox is in order.

Mr LUPTON — The handbook states:

> It is not expected of a justice that he read the subject matter for the purpose of acquainting himself with the contents, which could be of a highly personal nature.
>
> However, he is required to look at the declaration for the following purposes —
>
> 1. To initial (preferably in the margin) any corrections.
> 2. To initial any matter interlined.
> 3. To strike out any blank spaces, particularly in the case of a "questionnaire" declaration, and
> 4. To see if annexures or exhibits are referred to, so that they may be produced and noted as such.
>
> The justice, in taking declarations (and affidavits) is concerned with form rather than content.

From the comments made by the honourable member for Coburg it is apparent that he does not have a clue what he has to do when signing declarations and forms. I ask the Attorney-General to prepare a briefing paper and distribute it to members of the House so that they are aware of their obligations when serving the community in this way.

Respite care

Ms GARBUTT (Bundoora) — I raise with the Minister for Community Services further issues concerning respite care. Earlier this week and last week the Minister spoke about the fee increases and

the concessions that would apply, but people have raised a whole range of other issues with me.

A Geelong group called GRID has sent along a list of 30 questions concerning respite care. Obviously there is great anxiety among parents and families who have intellectually disabled members.

I ask the Minister to clarify some of the issues that are causing anxiety, including things such as the degree of respite care available to children under six years of age given that some facilities are no longer accepting those children because they do not meet the appropriate definition.

Also of concern is the limit of 28 days of respite care, up to a maximum under special circumstances of 42 days. There are also concerns about other types of respite, such as shared family care and interchange, about whether fees in that area will increase and whether a limit will apply. There is also concern about the level of staffing in respite care facilities. I am informed that there has been a deterioration in that area and that trained staff are being replaced with untrained staff.

There is also a need for services for adolescents and for medium-term respite care for those who do not need full-time institutional care but whose parents cannot manage on just 42 days of respite care a year.

Respite care is a lifeline for parents. Without it many families would break up. One parent has told me that if she is unable to obtain regular respite her child could be in danger of being battered. Respite care is absolutely crucial for such families.

Responses

Mr W. D. McGRATH (Minister for Agriculture) — The honourable member for Monbulk raised the important issue for agriculture and horticulture in Victoria of free trade in the global environment.

I was pleased to note that President Clinton has achieved support in the Congress of the United States of America for the North American Free Trade Agreement. That augurs well for the Asia Pacific Economic Cooperation (APEC) group meeting to be held shortly in Seattle, which will be attended by the Prime Minister and which could result in a lot of pressure being applied to the General Agreement on Tariffs and Trade (GATT) Uruguay round of talks that must be completed on 15 December.

I suppose the only note of caution is sounded by the fact that at this stage there has been no sign from the recently elected Canadian government of endorsement of the NAFTA. I hope Canada gives its support in the next week or so leading up to the GATT talks.

The common agricultural policy and the export enhancement program under which Australian commodities have been squeezed, leading to lower returns for grain growers and the dairy industry in Victoria, has resulted in the loss of approximately $6 million each year due to subsidised commodities entering the global trading environment.

Australia must market its products to the world without subsidies. It is fair to say that Australia's producers, particularly those involved in broad-acre farming and in the dairy industry, are as good as, if not better than, those in any other nation. Although it is probably impossible to obtain a completely level playing field, if we can achieve something near to that Australian farmers will be winners.

As the honourable member for Monbulk said, that would also be important for Victoria's developing horticultural industry. The establishment of the Institute of Horticultural Development at Knoxfield is an important initiative taken by the government in the past few months. Horticulture will be a significant export industry in the years ahead and the honourable member's area will benefit from that development.

The Minister for Industry and Employment, who has just returned from Japan, has brought back the message that there will be big opportunities for Victoria if it does the right thing in the future. I endorse all the signs that some sensibility is coming into the global trading environment for agricultural and horticultural products. However, we need commitment, particularly from all 12 member countries of the European Community, to a free trade environment. If we can achieve that, Australian farmers, the agricultural industry and the entire economy will be the winners.

Mr COLEMAN (Minister for Natural Resources) — The honourable member for Shepparton raised an obvious dilemma facing the town of Tatura where, in the past 10 days, sewerage pipes have collapsed. A bypass is in place and it is providing a temporary solution, but other towns in the Goulburn Valley are facing the same dilemma. The local water boards presented the government with a proposition for a merger, but before agreeing

to it it was suggested that we should try to understand the region's total requirements.

To that end a study has been undertaken and the outcome is now under review. There is a basic infrastructure requirement, which has been highlighted by the trench collapse at Tatura, in order to meet the demands of the expanding fruit and general product export industry that is developing in the Goulburn Valley.

There are two clear community interests. Shepparton relies on the Goulburn River for its source of supply and Tatura relies on the River Murray. That will be a significant point to take into consideration in the resolution of this issue. Also, the Tatura trench system is working on a temporary licence from the Environment Protection Authority that will conclude on 31 December, when it will be necessary to treat its total effluent load through the plant as was the original design. The current trench arrangement will have to conclude at the end of December. The issue is of concern to the government and it will be working to resolve the matter as expeditiously as possible.

Mr JOHN (Minister for Community Services) — The honourable member for Eltham raised the management status of the STAY Hostel in his area. There have been problems with the agency in the past. It has had a recent history of infighting and questions have been raised about its accountability. I have commissioned a special review and my department is looking into the management and operation of the service the committee provides. An independent financial audit is being conducted and it will be supplied to me in December.

The agency will be closely monitored and if there are further problems in its operation and the provision of services action will be taken to change the auspice of the service. Service to people in need and proper financial accountability is of prime concern to the government.

The honourable member for Bundoora raised the important matter of respite care. During the adjournment debate some nights ago I commented on the considerable reforms the government has undertaken in that area. In the past fees of between $1.20 and $35 or more a night have been charged for respite care. That was unacceptable. Some people were receiving good service, some moderate service and some no service at all. Respite services are a most important issue. Families who dedicate themselves to looking after a disabled family member are at times at the end of their tether and require equitable access to respite care.

The government standardised the fees across the State at $14.10 a night and means tested them. That has never been done before. In recent days I have ensured that people who have health cards, families who are eligible for additional social security payments, pay a lower rate. The government is assisting low-income families by giving them access to respite care services at $6 a night. That is affordable and necessary to help low-income families obtain access to respite care services.

I have given regional managers discretion to allow them to reduce the amount to $2 a night if necessary to ensure that families with disabled members have the opportunity of obtaining respite care. The government has acted with compassion and responded to the needs of those who require respite care.

Mr HAYWARD (Minister for Education) — The honourable member for Tullamarine raised with me maintenance problems at Greenvale Primary School and Gladstone Park Secondary College. I congratulate the honourable member on the outstanding job he is doing as a local member, evidenced by the fact that every time one picks up a newspaper from his electorate his photograph is in it. He is an effective local member who raises local issues.

I have visited Gladstone Park Secondary College in the company of the honourable member for Tullamarine and agree that the college requires attention. I have noted the points he has made about the college and the primary school, and early next week I will examine the matters closely and respond to the honourable member. He also raised the question of where the money had gone over the past 10 years and asked why schools had been allowed to deteriorate to such a dreadful condition.

An assessment has been made that half of Victoria's schools are in a terrible condition and there is a backlog of $600 million in maintenance.

Mr Gude — Isn't there a black hole?

Mr HAYWARD — The government inherited a $40 million black hole. Sadly, enrolments have been decreasing over time and the expenditure indications have increased in real terms. Under the former government an insufficient amount had gone into maintenance; most of the expenditure had gone

into improving work practices for teachers and reducing weekly student contact hours, which brought student contact hours in Victoria to a low level compared with the rest of Australia. That is a short answer to the question of the honourable member for Tullamarine, but I will get back to him as soon as possible on those other points.

Honourable members interjecting.

The SPEAKER — Order! Before I call the Minister for Industry and Employment, I ask the honourable members for Bentleigh, Mornington and Sandringham to remain silent.

Mr GUDE (Minister for Industry and Employment) — The honourable member for Coburg raised a matter for the attention of the Minister for Health about a person in Horsham who had been discharged from a hospital and moved to Ballarat. There was some question about the cost of that transfer. It may be that there was an inconsistency at the Ballarat end, but I will draw the matter to the attention of the Minister for Health so that she can get back to the honourable member.

The honourable member for Morwell drew attention to a Mr and Mrs Henry and an incident that occurred two days ago involving an ambulance transfer. I will also have that matter drawn to the attention of the Minister for Health. As an aside, the honourable member said that the lady concerned was well known for her complaints in the area. I trust that was not meant in any way to imply that the woman is a big complainer and often does not have anything to complain about.

Mr Hamilton interjected.

Mr GUDE — The honourable member says that is not the case so I will assume that is not the situation. Nonetheless it was an interesting throwaway line and may have been very revealing.

The honourable member for Yan Yean, in his usual shrill and immature way, raised a report that is to be undertaken by a consultant to the Metropolitan Ambulance Service. During the course of his dissertation he referred to a Mr Firman who heads up the Ambulance Service as being a megalomaniac. I take exception to that and assure the honourable member that Mr Firman would also. I am sure that any constituent of the honourable member for Yan Yean who reads the *Hansard* report would not want to support that honourable member when the next election is held. The honourable member owes Mr Firman an apology, but I am sure he does not have the personal integrity to repeat that comment outside the precincts of the House where he would not have the protection of Parliament.

The honourable member for Altona also raised a matter for the attention of the Minister for Health concerning the hospital at Altona. Sir, you will recall during the course of the honourable member's remarks that I expressed concern about the honourable member reading from a prepared speech. The Clerks have collected from her what is clearly a written speech, which shows that up until the time I raised the issue the honourable member was reading directly from the material. The honourable member has been in this place now for more than 12 months and should be well aware of the Standing Order that does not allow members to read their speeches.

When I raised the matter the honourable member said that she was referring to copious notes, not reading a speech. One of two things could have happened. The honourable member may have deliberately misled the House, although I do not believe that is the case, or she may have inadvertently mislead it. It is clear that until I directed attention to the matter the House was being misled. In those circumstances it would be appropriate for the honourable member to use the first available opportunity next Tuesday to make a personal explanation and declare that she inadvertently misled the House by reading her speech up until the time I directed the attention of the House to that. Nonetheless, notwithstanding the poor performance of the honourable member I will refer the matter to the Minister for Health who, I am sure, shares the concern of all honourable members about the health and wellbeing of Victorians, as much as the people who live in the Altona district. I am sure the Minister for Health will be pleased to get back to the honourable member.

The honourable member for Footscray raised for the attention of the Minister for Health mental health services and I will also draw that matter to the attention of the Minister.

In concluding my remarks I refer the House to matters that have been raised concerning the health system and refer to statements made by the honourable member for Coburg in 1982 shortly after he became Minister of Health when the Cain government came to power. I certainly recall the honourable gentleman saying he was proud to have

inherited the best health system in Australia at that time.

The honourable member for Coburg was not the Minister for Health during all of his government's time in power, so one should not blame him for the extent of the deterioration in the health system that the present Minister inherited. Suffice it to say that the performance of the Labor government during its 10 years in power was disastrous in many ways, not least in the area of health. It is hypocritical in the extreme for honourable members opposite to be raising these matters now. They claim social justice — —

Honourable members interjecting.

Mr GUDE — They more than anyone else are responsible for creating the situation the State now finds itself in. If there is concern — —

Honourable members interjecting.

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

Mr GUDE — If members of the opposition have any genuine concern for the health and wellbeing of the people of Victoria and the state of our health system they should take a hard look at themselves before they spout the hypocrisy we have heard tonight.

The honourable member for Knox directed to the attention of the Attorney-General the seriousness with which he views the signing of declarations by justices of the peace. I am one of a number of members in this place who have the privilege of being justices of the peace. The honourable member for Frankston has been a justice of the peace for a long while. I believe honourable members on both sides of the House who have accepted the opportunity and the responsibility of being honorary justices take their roles very seriously.

The honourable member for Knox referred to the authority a Minister of the Crown has in this regard. I trust that Ministers past and present who have enjoyed those opportunities have acted in the same way. The honourable member's suggestion that a suitable briefing paper be made available is sensible and responsible. I will direct that to the attention of the Attorney-General, who I trust will deal with it in her normal efficient and effective manner.

Motion agreed to.

House adjourned 7.39 p.m. until Tuesday, 23 November.

Tuesday, 16 November 1993

QUESTIONS ON NOTICE

EDUCATION — BALLIANG EAST PRIMARY SCHOOL

(Question No. 22)

Dr COGHILL asked the Premier:

Whether he received from the honourable member for Gisborne documentation presented to the honourable member for Gisborne on Friday, 13 August 1993 by a deputation representing Balliang East Primary School for transmission to each Minister and, if so, on what date?

Mr KENNETT (Premier) — The answer is:

I am informed that:

Correspondence was received at my electorate office from Mr Todd Anderson, Chairman of EQUAL, in the week beginning 16 August 1993.

EDUCATION — BALLIANG EAST PRIMARY SCHOOL

(Question No. 23)

Dr COGHILL asked the Attorney-General:

Whether she received from the honourable member for Gisborne documentation presented to the honourable member for Gisborne on Friday, 13 August 1993 by a deputation representing Balliang East Primary School for transmission to each Minister and, if so, on what date?

Mrs WADE (Attorney-General) — The answer is:

Correspondence from a group known as EQUAL forwarded by the honourable member for Gisborne was received at my electorate office on 17 August 1993. I note that this group purports to represent the Bacchus Marsh cluster of rural schools and mentions Balliang East as one of them.

PREMIER — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 109)

Mr MICALLEF asked the Premier:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into, since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr KENNETT (Premier) — The answer is:

I am informed that:

The only expenditure by my department on external legal advice relevant to the matters raised by the honourable member since 3 October 1992 relates to item (c), that is, advice on the drafting of legislation as follows:-

$2685.00 on account of professional costs and disbursements of Minter Ellison Morris Fletcher in relation to advice on the Public Sector Management Bill.

There has been no other expenditure in relation to the other matters on which information is requested.

This information does not include details on the use of legal advisers internal to the public sector such as departmental legal advisers and the Victorian Government Solicitor.

FINANCE — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 112)

Mr MICALLEF asked the Minister for Finance:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into, since 3 October 1992; if so what the details of that expenditure are in relation to, — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr I. W. SMITH (Minister for Finance) — The answer is:

Details of expenditure on external legal advice and consultancies as at 25 October 1993 are as follows:

Freehill, Hollingdale and Page — superannuation reforms - $572 804.34. This expenditure relates to parts (b), (c) and (d) of the question.

Directorate of School Education — counsel fees — $287.00. This expenditure relates to parts, (a), (b) and (d) of the question and was the Department of Finance's share of costs for legal counsel in the Australian Industrial Relations Commission hearing relating to a claim by the Australian Liquor, Hospitality and Miscellaneous Workers Union to have the Building Services (State Government Departments and Instrumentalities) Award 1992 made a federal award.

AGRICULTURE — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 118)

Mr MICALLEF asked the Minister for Agriculture:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into, since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr W. D. McGRATH (Minister for Agriculture) — The answer is:

The details of expenditure by the Department of Agriculture (not including statutory agencies) on non-public sector legal advice and legal consultancies since 3 October 1992 are as follows:

(a) The department incurred expenditure of $287.00 as its share of the costs of engaging counsel in relation to an application in the Australian Industrial Relations Commission by the Federated Liquor, Hospitality and Miscellaneous Workers Union for federal award coverage.

(b) The department successfully defended an action in the Industrial Division of the Magistrates' Court in relation to the provision of vehicles for the use of certain quarantine staff. The cost to the department of legal advice and legal representation was $46 242.02. Costs were awarded against the plaintiff, and the department is thus entitled to the reimbursement of its costs.

(c) Nil.

(d) Nil.

REGIONAL DEVELOPMENT — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 126)

Mr MICALLEF asked the Minister for Police and Emergency Services, for the Minister for Regional Development

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into, since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr McNAMARA (Minister for Police and Emergency Services) — The answer supplied by the Minister for Regional Development is:

I am advised that, in respect of the regional development and WorkCover offices within the Department of Business and Employment, there has been no expenditure on legal advice received, or legal consultancies entered into, since 3 October 1992, on (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; or (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations.

Any expenditure by other offices of the Department of Business and Employment on legal advice or consultancies in relation to this matter will be answered separately by the respective responsible Ministers.

ROADS AND PORTS — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 127)

Mr MICALLEF asked the Minister for Public Transport, for the Minister for Roads and Ports:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into, since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr BROWN (Minister for Public Transport) — The answer supplied by the Minister for Roads and Ports is:

There has been no expenditure by the Department of Transport on legal advice or legal consultancies since 3 October 1992.

ARTS — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 128)

Mr MICALLEF asked the Minister for Police and Emergency Services, for the Minister for the Arts:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr McNAMARA (Minister for Police and Emergency Services)— The answer supplied by the Minister for the Arts is:

Since 3 October 1992, no legal advice has been received and no legal consultancies entered into in relation to (a) union applications for federal award coverage, (c) the drafting of legislation, or (d) advice sought during the course of negotiations by the department with employee and employer organisations.

In respect of (b), proceedings before industrial tribunals, the sum of $287 was forwarded to the Directorate of School Education as the department's contribution towards the cost of being represented at the Industrial Relations Commission by Mr G Guidice.

ETHNIC AFFAIRS — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 130)

Mr MICALLEF asked the Minister for Ethnic Affairs:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr KENNETT (Minister for Ethnic Affairs) — The answer is:

I am informed that:

The only expenditure by my department on external legal advice relevant to the matters raised by the honourable member since 3 October 1992 relates to item (c), that is, advice on the drafting of legislation as follows:

$2685.00 on account of professional costs and disbursements of Minter Ellison Morris Fletcher in relation to advice on the Public Sector Management Bill.

There has been no other expenditure in relation to the other matters on which information is requested.

This information does not include details on the use of legal advisers internal to the public sector such as departmental legal advisers and the Victorian Government Solicitor.

LOCAL GOVERNMENT — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 133)

Mr MICALLEF asked the Minister for Planning, for the Minister for Local Government:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr MACLELLAN (Minister for Planning) — The answer supplied by the Minister for Local Government is:

In regard to expenditure by the Office of Local Government on legal advice received, or legal consultancies entered into since 3 October 1992 in relation to the following catefories is:

(a) Union applications for federal award coverage — nil.
(b) Proceedings before industrial tribunals — nil.
(c) Drafting of legislation regarding State government/employee relations — nil.
(d) Advice sought during the course of negotiations by the office with employee organisations and employer organisations — nil.

GAMING — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 136)

Mr MICALLEF asked the Attorney-General, for the Minister for Gaming:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mrs WADE (Attorney-General) — The answer supplied by the Minster for Gaming is:

Since 3 October 1992, no legal advice has been received and no legal consultancies entered into in relation to (a) union applications for federal award coverage, (c) the drafting of legislation, or (d) advice sought during the course of negotiations by the department with employee and employer organisations?

In respect of (b), proceedings before industrial tribunals, the sum of $287 was forwarded to the Directorate of School Education as the department's contribution towards the cost of being represented at the Industrial Relations Commission by Mr G Guidice.

SPORT, RECREATION AND RACING — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 137)

Mr MICALLEF asked the Minister for Sport, Recreation and Racing:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr REYNOLDS (Minister for Sport, Recreation and Racing) — The answer is:

Since 3 October 1992, no legal advice has been received and no legal consultancies entered into in relation to (a) union applications for federal award coverage, (c) the drafting of legislation, or (d) advice sought during the course of negotiations by the department with employee and employer organisations.

In respect of (b), proceedings before industrial tribunals, the sum of $287 was forwarded to the Directorate of School Education as the department's contribution towards the cost of being represented at the Industrial Relations Commission by Mr G Guidice.

TOURISM — LEGAL ADVBICE EXPENDITURE AND CONSULTANCIES

(Question No. 139)

Mr MICALLEF asked the Minister for Tourism:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr McNAMARA (Minister for Tourism) — The answer is:

Since 3 October 1992, no legal advice has been received and no legal consultancies entered into in relation to (a) union applications for federal award coverage, (c) the drafting of legislation, or (d) advice sought during the course of negotiations by the department with employee and employer organisations.

In respect of (b), proceedings before industrial tribunals, the sum of $287 was forwarded to the Directorate of School Education as the department's contribution towards the cost of being represented at the Industrial Relations Commission by Mr G Guidice.

Friday, 19 November 1993

QUESTIONS ON NOTICE

POLICE AND EMERGENCY SERVICES — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 124)

Mr MICALLEF asked the Minister for Police and Emergency Services:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr McNAMARA (Minister for Police and Emergency Services) — The answer is:

Victoria Police has incurred $49 953.50 towards legal fees associated with the Australian Federal Police Association's application for federal award coverage.

No other expenditure has been incurred on legal advice received and no legal consultancies have been entered into since 3 October 1992 regarding (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations.

CORRECTIONS — LEGAL ADVICE EXPENDITURE AND CONSULTANCIES

(Question No. 125)

Mr MICALLEF asked the Minister for Corrections:

Whether the Minister will provide details to the House of expenditure by the department on legal advice received, and legal consultancies entered into since 3 October 1992; if so what the details of that expenditure are in relation to — (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation; and (d) advice sought during the course of negotiations by the department with employee organisations and employer organisations?

Mr McNAMARA (Minister for Corrections) — The answer is:

No legal consultancies have been entered into since 3 October 1992 regarding (a) union applications for federal award coverage; (b) proceedings before industrial tribunals; (c) drafting of legislation ; or (d) advice sought during the course of negotiations by Correctional Services Division with employee organisations and employer organisations.

Legal advice and representation for correctional services was sought from the Victorian Government Solicitor for an application made by the State Public Services Federation regarding Structural Efficiency Principles in the Employee Relations Commission. An invoice of $5140.00 has so far been paid for counsel's fees.

No other expenditure for legal advice as outlined have been incurred.