Death of Honourable Member

Tuesday, 28 February 1984

The PRESIDENT (the Hon. F. S. Grimwade) took the chair at 3.4 p.m. and read the prayer.

DEATH OF THE HONOURABLE THOMAS WALTER MITCHELL, CMG

The Hon. E. H. WALKER (Minister for Planning and Environment)—I move:

That this House expresses its sincere sorrow at the death, on 4 February 1984, of the Honourable Thomas Walter Mitchell, CMG, and places on record its acknowledgment of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Assembly for the electoral district of Benambra from 1947 to 1976, and as Solicitor-General from 1950 to 1951 and Attorney-General from 1951 to 1952.

Since Parliament last met, the death occurred on 4 February of the Honourable Tom Mitchell, who gave this Parliament long and, as I understand, very distinguished service as the honourable member for Benambra. Tom Mitchell had two short terms between the years 1950 and 1952 as a Minister of the Government of the day.

Tom Mitchell was 77 years of age when he died. He was a Country Party member representing the Upper Murray area of the State border region in the north-east of the State around Corryong, an area that I know extremely well since I worked for a year on a dairy farm in Corryong. In those days Tom Mitchell was the local member and there is no doubt in my mind that I would have met him on some occasion.

Tom Mitchell was first elected at a by-election in 1947 and served in total for 29 years. Apart from being a Minister on two occasions, Tom Mitchell served on Parliamentary committees. He was elected Temporary Chairman of Committees from 1964 to 1976. He served on the Standing Orders Committee from 1947 to 1955 and on the Library Committee from 1970 to 1976. He was awarded the CMG in the Queen’s New Year honours list in 1976.

Tom Mitchell retired in 1976 and that was before my time and before the time of a number of other honourable members in this place. I did not know him in his capacity as a Parliamentarian although I am sure many did and will comment. Tom Mitchell is remembered and much of his life has been well recorded in the press in recent days.

I refer particularly to an article by Mr Lahey in the Age which I read at the time and which I thought gave a very good impression of a colourful and active member. Tom Mitchell was regarded as one of Parliament’s great eccentrics; an individualist who followed his own lights wherever they led him. Certainly from what I have read, he led a full and fascinating life and, in his life, he was a politician, barrister, grazier and historian.

Tom Mitchell was the son of a pioneer family in the Upper Murray Valley. He was educated at Cambridge and attained a Master of Arts degree. He studied law at the Inner Temple in London and went to Harvard University in the United States of America where he studied international relations. His interest in study, especially history, remained with him all his life and, as I understand it, he later became a noted local historian of his beloved Corryong area and the Snowy Mountains district.

As most of us would know since we have read of it in recent times, Tom Mitchell developed another passion that remained with him all his life, and that was snow skiing. In the 1930s he was a distinguished Australian ski champion. There is a story about him which demonstrates how indomitable he was in that, even through his three and a half years as a prisoner during the second world war in Changi prison camp in Malaya, he had the imagination to establish the Changi ski club in the middle of the tropics.

On his return from the war, Tom Mitchell practised as a barrister before entering Parliament at the by-election in 1947. There is a lot that could be said and I am sure others will do it well. For all his sins, he was no doubt a true Australian pioneer and a much loved representative of his electorate.

I understand Tom Mitchell was a strong family man and that his wife Elyne raised his family in the mountain traditions of the Snowy Mountains area. His wife is a much published and well-respected writer and together they shared a lifelong interest in the folklore of the Snowy. Tom Mitchell is now buried on the property he loved at Towong.
On behalf of the Government and the people, I extend to his wife Elyne and his surviving children, Indi, Honor and John, our deepest sympathy.

The Hon. A. J. HUNT (South Eastern Province)—The late Tom Mitchell was one of the most colourful characters to pass through the portals of these Houses of Parliament. In his last 30 years he virtually did not change at all. It seemed almost like the brook; that he would go on for ever. One hears people say that old soldiers never die, but the death of Tom Mitchell reminds us that we are all mortal and the time for passing does come.

Tom Mitchell was a character who retained his great individuality and his insistence upon his own conscience and yet at the same time was able to maintain absolute loyalty to his party. Some people seem to think that there is an inconsistency between the maintenance of personal integrity on the one hand and adherence to a party on the other hand.

Tom Mitchell’s life and work are proof that there is no inconsistency of that kind. He exhibited both those characteristics to the utmost.

I first met Tom Mitchell in 1948, when he was my guest for lunch at the University of Melbourne, before addressing a meeting of the university Liberal club, of which I was president at the time. He was a young man, about 40 years of age, but looked very much younger and was in full health, despite three and a half years at Changi prison camp not long before.

He was an impressive man, a learned man; he never sought to look down on anybody, and had a great depth of knowledge. He was a humble man; he was a simple man; he was a man who liked simple things and held simple values. He loved the land; he loved the bush; he loved the mountain country; he loved animals; he loved skiing; he loved his farm and his family.

In the early 1960s when members of this Parliament—two bus loads of us—were on a tour of the Snowy River and the Snowy Mountains scheme, Tom Mitchell and his wife entertained those two bus loads of Parliamentarians at their property for a meal, and it was wonderful to see the great pride which they both had in their land, their property and their farm. I think it helped those of us who were on that trip to understand the motivations and measure of that gentleman, for a gentleman he was at all times, even when he was engaged in his most bitter attacks on things or individuals with which or with whom he disagreed.

It is always a loss when men of this calibre leave the Parliament, when they pass on, and we do feel a sense of loss at the passing of the late Tom Mitchell. His influence on the work he did will live on, and the fact that he will be remembered is evidenced by the wide-ranging press articles which looked back on his career in such glowing terms, both in Melbourne and in interstate papers, and in the Border Morning Mail.

We, in the Liberal Party, extend our condolences to the members of his family and say that they can look back with pride on his life and his service to the community.

The Hon. W. R. BAXTER (North Eastern Province)—On behalf of the Leader of the National Party, I am proud to associate the National Party with this motion of condolence upon the death of the Honourable Thomas Walter Mitchell, CMG. It is not putting it too highly to say that Tom Mitchell was the most illustrious member of the National Party and Country Party and probably one of the most illustrious members of Parliament as well. He was a man the like of whom we will never see again, and I feel confident in making that claim because he was a unique and complex character.

I had the privilege of serving with him in another place for three years, from 1973 to 1976, when I was the honourable member for Murray Valley and he was serving his last term as the honourable member for Benambra. In many respects, he was my mentor. He helped me win the election in 1973; he schooled me in how to look after a constituency. There was no other member of Parliament who was greater than Tom Mitchell, in terms of looking after a constituency, and he proved that time and again. He kept up-to-date with technology and new developments and was a leader in many fields. However, some things never changed.

As an amusing aside, I well recall—Tom had taken me under his wing, and, to some
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extent, I was also his guardian in reverse—one day Tom decided in the Parliamentary dining-room that he needed some new suits. I duly made the appointment at Fletcher Jones and he went and ordered three new suits in one hit. They were all double-breasted, as he was accustomed to wearing; they were the same colours as the suits he had had previously, and which he was discarding and they had button-up flies; he would have none of the new fangled zippers.

The last three years of Tom Mitchell's term in Parliament were tinged with sadness for him, for during that time not only did he have very major operations, including the replacement of a hip with a steel device—which at his age was a major undertaking and would have put many people into retirement there and then—but he also experienced the tragic death of his son, Walter Harry, who was killed in a motor cycle accident and this certainly affected Tom very seriously. Tom made the decision to retire from Parliament in 1976, at a time when, under party rules, he could have well served on and there would have been no objection. However, he realized that he was in his late sixties, and that there had been a major redistribution which materially altered the seat of Benambra and which put Wodonga into that seat. With Wodonga being a major growth centre at that time, Tom believed it was time to retire from Parliament. Perhaps one of his greater disappointments at that election in 1976 was that the National Party failed to hold the seat and I was as much at fault in that as anyone, because I was the candidate.

As time went on, Tom took comfort from the fact that three candidates from that election subsequently became members of this Parliament, and I refer to the present members for Benambra and Werribee, and, after two years, I managed to return to the Parliament, too.

Tom was an achiever in a wide range of activities, which is what made him unique. Mention has already been made of his skiing prowess. He was Australia's first international skiing champion, winning awards in Austria in 1934. He never lost that interest. He was instrumental in having the alpine ski villages at Mount Buller, Falls Creek and Mount Hotham, established at that time, against tremendous odds and difficulties. Those achievements have been of assistance to the State in terms of tourism and in providing recreation for thousands of Victorians, Australians, and overseas visitors.

Tom Mitchell was skilled at law. He was admitted to the bar at the Inner Temple in London and took post-graduate courses at Harvard in the United States of America.

In the Army, he served under General Gordon Bennett. He was incarcerated in Changi prison camp, where he was a great morale booster among the Australian and allied prisoners. Not only did he establish the Changi ski club as a means of boosting morale and keeping up spirits, but he also kept very detailed diaries, which must have been extremely difficult to do. He was also successful in secreting a radio receiver into the head of a hair broom so that the prisoners could hear short wave broadcasts from the BBC to get some ideas of the progress of the war.

Tom Mitchell never forgot his service in the defence forces and, throughout the remainder of his life, he was actively involved in the Returned Services League and helped many servicemen who were down on their luck.

In politics, Tom's reputation is a legend. In local government, he served as the President of the Upper Murray Shire and, when he returned from Changi, he was returned to that position. It was significant that the people of the Upper Murray and Corryong areas saw fit to keep him as president even after the absence of a number of years.

Tom Mitchell came to Parliament after the retirement of the late Roy Paton in 1947. He was the longest serving member for Benambra, and that is a fact which he recounted with some pride on a number of occasions.

For 29 years Tom Mitchell served the electorate of Benambra at a time when it was much more difficult to do so than it is now; now there are fast cars, sealed roads, telecommunications, television and the like, but Tom Mitchell served that electorate in the north-east of Victoria, extremely well. The district is mountainous and the terrain difficult to traverse. It was difficult at that time to travel even 5 miles across a moun-
tain range; one had to travel down one valley and up the next.

Tom Mitchell would spend many nights sleeping in his Citroen motor vehicle so as to be in the right spot for the next day's activities. He was widely respected in that electorate because of his attention to constituency work and his ability and willingness to attend the most minor functions that were situated in the most out-of-the-way places. He must be admired for that attribute.

Tom Mitchell was a great orator in the Parliament during a time when there were a number of outstanding orators, whereas perhaps now there are a few. He had the capacity to hold his audience spellbound. Some honourable members who were unwise enough to interject on Tom Mitchell learned not to interject again. I shall retell the story that the Speaker, the Honourable Tom Edmunds, told at the funeral which was held in Corryong. When the Speaker was the new member for Moonee Ponds he was unwise enough to interject on Tom Mitchell, who quickly turned upon him and referred to him as the "Moscow rat"! The response was typical of Tom Mitchell, who was a quick thinker. He was able to turn immediately and demolish someone. The Speaker, when relating the story, noted that he did not interject again during Tom Mitchell's speeches.

Tom Mitchell was Attorney-General in the McDonald Government and was obviously an innovator. He first took the position of Solicitor-General; the position of Solicitor-General was then changed to an Executive administrative position, and he carried on as Attorney-General. The Solicitor-General he appointed at the time was the then Mr Henry Winneke, who went on to become the Chief Justice of Victoria and, later, Governor of Victoria. Obviously, the choice was well made.

Tom Mitchell was always actively involved in the scouting movement; he was district commissioner in the Upper Murray region for more than 30 years. He was not a passive administrator and was actively involved in scout camps, excursions, canoe races on the River Murray and so on.

Tom Mitchell signed over part of his river frontage at Towong Hill to the scouting movement for its use in perpetuity. Hundred of boys who have now grown into men will remember Tom Mitchell with fondness and gratitude.

Tom Mitchell was a great reader of the classics and had a prodigious memory for statistics and facts from years past. He was an historian of note who wrote about the history of the Upper Murray district and was a patron of the North Eastern Historical Society from its foundation. He was instrumental in locating historical graves in Albury and other areas. He worked to record the history of the area before it was lost for ever and his work is much appreciated.

On top of that Tom Mitchell was a grazier of some note and an owner of one of the premier grazing properties in the Upper Murray area at Towong Hill. The property has turned out some top quality beef cattle and some of the best fine wool in the State. The property has been in the hands of the Mitchell family for many years and I anticipate it will remain so for many more.

The thing I remember best about Tom Mitchell was his attention to detail. In his last few weeks I received a letter from him reminding me that he was still awaiting a reply from a representation I had made on his behalf to a Government department. He was probably right that I was being a bit tardy in getting the work done. Even between Christmas and New Year he drew my attention to that fact.

Tom Mitchell was a man of tremendous responsibility to the community and his fellow man. This aspect was epitomized after the car accident in which he was involved approximately eighteen months ago—that probably marked the beginning of his decline—when he voluntarily handed in his driving licence. No one suggested that to him but he regarded it as the responsible thing to do.

Tom Mitchell's loyalty stands out; he was loyal to the leadership of the party and his colleagues, whatever the circumstances. He was loyal to the party after his retirement. It was not for him to forget about the party when he was no longer a member of Parliament.

At each State election, particularly those in 1979 and 1982, he was there with his cheque book and his energy to assist his party to do well. The State funeral at Corryong was an occasion of great sadness but
one which would have suited Tom Mitchell. There was a degree of pomp and ceremony and an air of doing things correctly, which was what Tom Mitchell was all about. The funeral was attended by some 1500 or 1600 people, among them the Honourable Murray Byrne and some former members of the National Party, including the Honourable Ivan Swinburne, the Honourable Keith Bradbury and Tom Trewin. The Government was represented by the Speaker, and the Opposition was also represented.

The funeral cortege went to Towong Hill station, and Tom Mitchell was buried on a knoll on his property in that glorious sub-alpine environment in the country which he loved so much and for which he had done so much. It was an appropriate ending to an outstanding career.

I convey sympathy on behalf of my colleagues to Mrs Mitchell, who is a well-known author and a citizen of the north-east, as individual in many ways as was her late husband. I convey sympathy to his family, to Indi Hill, who is a barrister in Townsville, to Honor-Mrs Auchinleck—of West Germany, and to his son, John, who I anticipate will carry on the Mitchell tradition of service to Corryong and to Victoria.

On 4 February, the night his father died, John Mitchell was a guest speaker at the annual get together of the Mountain District Cattlemen's Association of Victoria, which was attended by the Minister for Conservation, Forests and Lands, by Mr Murphy, one or two other members and me. At that stage John Mitchell did not know that his father had died. He made an excellent speech, shortly after which he was given the news of his father's death. That was indicative of the service rendered to the State by the Mitchell family and I am sure it will continue. I once again convey sympathy to the Mitchell family.

The Honourable Tom Mitchell's record of participation in a wide range of events has been mentioned in detail. When I was elected to Parliament, I discovered that Tom Mitchell was certainly an outgoing character. As the Leader of the Government said, he saw things in his own light. I am well aware of that because whenever he saw a Labor member in the corridors, he pretended to see red. As a consequence of the uncomplimentary remarks that he used to make, whenever I met him, I referred to him as "Peking Tom".

Despite this characteristic, leading members of my party, including a former Federal Minister, had a very close and respected friendship with Tom Mitchell, a friendship which was formed because of their association as members of the commando unit and possibly as a fellow prisoner of war in Changi. I join with other honourable members in expressing my regret at his death, offer my condolences to his family and acknowledge the contribution which he made. At the same time, although I acknowledge his many fine characteristics, I regret that his political ideology was far removed from my own.

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turned from the war he saw the light and, as a pragmatist, joined the party that helped to get him elected as a member of Parliament representing north-eastern Victoria.

My family had a long association with Tom Mitchell, as it had with Roy Paton who came from Nooronyong, near Tallangatta. Tom Mitchell would be extremely annoyed if I stood and spoke about what a great fellow he was. As honourable members know, he was a distinguished man and a famous Australian. Some people may say that he was eccentric, but he was a fellow who enjoyed life and would encourage everybody to be a communicator. He spoke many languages and was quite happy to converse in their own language with visitors to Australia. As well as being a soldier, the work that he carried out for the scouting movement will also be remembered. I was sorry to see the passing of a great Australian and I express my deep feelings to his family.

The Hon. D. M. EVANS (North Eastern Province)—I join with my colleague, Mr Baxter, and other members of this House to note with respect and sorrow the passing of the late Tom Mitchell. Perhaps when we pay our respects to a former member of Parliament on occasions such as these, we tend to speak in sombre terms and remember the good points about that person and give expression to them. However, in Tom Mitchell's case, we are speaking of a person who was a unique character, and I want to refer to a number of things which sketch Tom Mitchell as so many people knew him.

He was a unique individual and a most unusual man. He is almost a folklore character now and in another few years will be a legend—not in his own lifetime, but certainly in the district that he served so well.

He was one of the last persons, if not the last, who understood and could speak the language of the Indi or Upper Murray Aborigines. He knew Tom Riley who was the man on whom Banjo Paterson is said to have modelled The Man from Snowy River. Many of the scenes from Phar Lap were filmed at Towong race club and the Towong race club was named after the Mitchell property.

I am told that in his service to Parliament he often stayed in the attic at the top of Parliament House and had constructed a flying fox to carry his belongings from one side of the building to the other.

On one occasion, Parliamentary officers thought the building was on fire but after rushing to investigate, discovered that Tom Mitchell was frying bacon and eggs for breakfast. On the floor of the room, in model form, he had the dispositions of the various armies involved in the battle of Waterloo. He used to carry out the manoeuvres adopted by opposing generals and fully understood the military strategy involved. He spoke about the feats of Hannibal and the second and first century BC battles with the Romans.

Not only was he a champion skier in his own right, but he introduced the Arlberg method—the modern method of skiing—to Australia and popularized it. He was a person who helped to develop the skiing industry in Australia and had a lifetime interest in the industry and in the safety of skiers in the high country. With his wife, Elyne, he was the first person to drive a four-wheel motor vehicle to the top of Mount Kosciusko.

He was in Changi prison camp, as honourable members have said, and during the early stages he learned the difficult Japanese language. Apparently it took him six weeks to learn the language so that he could converse with his guards and, hopefully, obtain better treatment for the men under his charge—Australian prisoners of war.

He was elected to Parliament in 1947 and later became a Cabinet Minister. However, he was not an ordinary Cabinet Minister because, due to a few problems with his fingers, he used to knit at Cabinet meetings.

About eighteen months to two years ago in Corryong, I had the honour to assist in the launching of his book on the history of the Upper Murray region which he called Corryong and the Man from Snowy River Country. It was a very interesting occasion, and I was honoured to have that opportunity and I possess a copy of the book signed by Tom Mitchell.

He had a very simple method of electioneering throughout his constituency and no event was too small for him. He was a real showman. When the Beechworth Golden Hills festival put on a re-enactment of an election in the 1850s in which the new member of Parliament rode into the town on a horse shod with golden shoes, Tom Mitchell was asked to undertake that task. He enacted that scene on a number of oc-
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casions with enormous flair and skill. He loved a show and there could not have been a better person to have played the part of that nineteenth century member of Parliament than Tom Mitchell.

He also had another successful method of gaining electoral votes. At the end of any function, he would slip out to the kitchen, kiss all the women, then put on an apron, and help the women to wash the dishes.

He always got the women's vote in Benambra!

He had another habit: He believed that a member of Parliament should live up to certain priorities. On one occasion, on a hot day, I arrived at a function carrying my suit coat and was immediately told by Tom Mitchell that as a member of Parliament I had a certain standard to keep up and should, “Put my bloody coat on.” He said that one should always wear one's coat.

The Honourable Stuart McDonald recounted a story about Tom Mitchell—that on an occasion when Tom went to a function in his electorate some years ago, Tom's car was bogged when he was leaving and it had to be pulled out. To hook on the tractor Tom removed his shoes and socks and rolled up his trousers. When he eventually arrived at the shire council chambers and proceeded across the lawn, his feet were still not dry and he was still barefoot with his pants rolled up and he was informed that he should go back and amend the matter—but I guarantee he had his suit coat on because to do otherwise would not have upheld the dignity of a member of Parliament!

I choose these anecdotes to indicate the sort of man he was. Without understanding that one cannot understand the character of the man himself and the great love and respect he engendered in the people in the Upper Murray district.

When I introduced my family to Tom Mitchell I told them that they should not forget him and that the mould was broken when he was made 77 years ago. I said to my family that they should be thankful that they had had the opportunity of meeting a man who, in due course, would be a legend!

His funeral was held in Corryong in the country he loved, and it, too, was typical. Mr Baxter said it was a sad occasion and you, Mr President, were one of those present on that day. Yes, there was some sadness about the occasion although it could be said that it was almost a happy occasion because we were happy to be there to pay our respects to a person for whom we had great love and respect.

The funeral was simple. The casket was carried from the church and taken in a four-wheel drive vehicle to Towong Hill at the front of a cortège that must have been every bit of three miles long. Not everyone from Corryong was in the church, but those who were not were lined up in the long main street of Corryong to pay their respects to this man.

I am sure that Tom Mitchell would have appreciated the beautiful day with the sunshine and the green pastures. He would have chuckled to himself at his friends making the steep journey to where he was laid to rest. He would have appreciated the very real dignity and solemnity of the Returned Services League service that was held for him.

It was an unusual ceremony because the ground had to be consecrated prior to the lowering of the casket into the soil. As the last post was played by the bugler and it echoed around the valley and hills, Tom Mitchell was laid to rest, looking down the drive to his family home. I am sure he would have appreciated the beauty of the ceremony, which was a fitting tribute to him. This Parliament will not see the like of him again. The district of Upper Murray will not see his like again.

He served with humanity and great generosity the district to which he belonged and in which his family still live. We should all take great pride in the fact that we knew this wonderful man.

The PRESIDENT—I should like to say a few words in support of the other members of the Legislative Council who have spoken about the late Tom Mitchell. I, too, have fond memories of him. As one of the youngest members, I struck up an instant friendship with him, one of the most senior members. We would meet outside the area known as the post office and I always enjoyed his response when I said to him in greeting, “Hoots, mon, you're a Sassenach.” His reply to me in Gaelic proved to me he was no Sassenach.
At a later stage, as Presiding Officer with the Speaker, it was my duty to search for more rooms for members of Parliament. We came across the old Speaker’s room and found among the things Tom Mitchell had left behind an old Kookaburra stove and some camping equipment. In due course the room was renovated and taken over by other members of Parliament. It proved indeed that he did illegally stay in Parliament House many nights during the almost 30 years he served as a member of Parliament. He was a remarkable man. I mourn his passing and I express my sympathy and the sympathy of the Legislative Council and other members of Parliament to his family.

The motion was agreed to in silence, honourable members showing their unanimous agreement by standing in their places.

ADJOURNMENT

The Hon. E. H. WALKER (Minister for Planning and Environment)—I move:

That, as a further mark of respect to the memory of the late Honourable Thomas Walter Mitchell, CMG, the House do now adjourn until eight o’clock this day.

The motion was agreed to.

The House adjourned at 3.47 p.m.

The PRESIDENT took the chair at 8.4 p.m.

QUESTIONS WITHOUT NOTICE

PAYMENT TO MR RONALD “JOEY” HAMILTON

The Hon. HADDON STOREY (East Yarra Province)—I refer the Attorney-General to the brief which was delivered to Mr Scurry, QC, to advise on the question of compensation to Mr “Joey” Hamilton. Is it not a fact that the brief to Mr Scurry, QC, was to advise only on the question of the amount of compensation and not on the question of whether compensation should be awarded to Mr Hamilton?

The Hon. J. H. KENNAN (Attorney-General)—I am grateful for the question.

The Hon. N. B. Reid—Did you just get the answer?

The Hon. J. H. KENNAN—Yes, I have the answer.

The Hon. D. G. Crozier—You have the wrong “Joey” in the wrong pouch.

The Hon. J. H. KENNAN—Mr Crozier will be laughing harder when he hears the answer. It is a letter from Senator Missen to various State Parliamentarians on 19 May 1978, and I do not need to remind the Opposition what that is about.

The answer to the question is, “Yes”. The brief to Mr Scurry QC, was in relation to quantum. The issue of whether an ex gratia payment was to be made was a matter for the Government. However, as to quantum, we thought it appropriate that we seek advice from Mr Scurry, QC, who was the Chairman of the Crimes Compensation Tribunal and singularly well qualified for the job. He was briefed as a Queen’s Counsel, as a private barrister, but he, of course, was one and the same person who was Chairman of the Crimes Compensation Tribunal and the person who was best advised.

I am pleased, I might say in closing, Mr President, to note that Mr Storey has at last got around to asking questions about this matter, no doubt for fear that Mr Birrell’s shot-gun pleadings in this matter could well bring him unstuck!

MINING LICENCES

The Hon. B. P. DUNN (North Western Province)—Is the Minister for Minerals and Energy aware that there is a substantial delay in the granting of mining licences in Victoria? One applicant for a gypsum mining licence has been informed that he may have to wait two years for his application to be considered. Is the Minister also aware that the official reason given for the delay is a shortage of staff? Will the Minister ensure, firstly, that every effort is made to clear this backlog and reduce the delay and, secondly, that where persons’ livelihoods are at stake, the applications are dealt with under priority?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—I am not aware of the specific case to which Mr Dunn has referred regarding an application for a licence to mine gypsum, but I look forward to obtaining the details from him. Mr Dunn is correct in saying that there have been staff
shortages within the Mining Division of the Department of Minerals and Energy over a long time. There is a great deal of complexity associated with producing titles for a range of applications within the Mining Division.

Steps are being taken to reduce the backlog of applications by introducing certain forms of computing facilities. In the Budget context, it has not been possible to increase significantly the number of staff available in the Mining Division, although some steps in that regard have been taken. In respect of endeavouring to reduce the backlog, I point out that the Government is not only endeavouring to introduce some computing facilities but has also taken steps to amend the Mines Act to produce a greater degree of simplicity to overcome the backlog of applications that the Government inherited from its predecessor.

Amendments to the Mines Act have provided further opportunities for people to obtain miners' rights, which have produced greater pressures in the Mining Division. However, to obtain some recognition of the nature of the pressures that have existed in the Mining Division, it is necessary to look back, not to the previous Minister, Mr Crozier, nor to his predecessor, Mr Lieberman, but to the time when Mr Balfour was Minister. It is then that one gains some appreciation of the nature and complexity of the issues which exist within the Mining Division. Steps are being taken, and I look forward to taking up the case raised by Mr Dunn.

**RACV DEVELOPMENT AT NOBLE PARK**

The Hon. C. J. KENNEDY (Waverley Province)—I address my question without notice to the far-sighted Minister for Planning and Environment. Will the eminently able Minister inform the House why the Government refused permission for the extension of the Royal Automobile Club of Victoria facility at Noble Park?

The Hon. E. H. WALKER (Minister for Planning and Environment)—I am delighted to respond to the propositional question of the honourable member. I thank him for the question because I am pleased to explain to the House a significant event that has occurred since Parliament was last sitting. During the last spring sessional period, I indicated to the House that I intended to call in the matter regarding the RACV permit at Springvale when it was lodged with the Planning Appeals Board.

On that occasion, Mr Chamberlain, under direction from his Leader, moved a motion that is still listed on the Notice Paper, stating that he wanted to debate the matter. A decision of some moment has been made.

The RACV is already established at Noble Park, but it proposed to extend its facilities in both its office accommodation and servicing facility. It intended to increase the office accommodation from 4800 square metres to 20,000 square metres—a huge increase. It also proposed to extend the servicing facility from 5400 square metres to approximately 10,000 square metres.

The Springvale council issued a determination to grant a permit on 10 October last year. However, on 20 September 1983, Amendment 150, Part I—about which I made a Ministerial statement in this House—came into effect. It was an amendment to the Metropolitan Planning Scheme, nominating fourteen district centres and setting out related objectives.

The Melbourne and Metropolitan Board of Works, which is the regional planning authority, considered the development contrary to Amendment 150. I called in the matter and considered it after the determination of the Planning Appeals Board and, as I have indicated to the House, permission was refused because it was out of line with the intent of Amendment 150.

The Board of Works and the Government believed office developments of that scale should take place in the central business district or a district centre. Discussions have taken place with the RACV to enable it to consider its options. It is not my intention to leave the RACV without an answer and simply to say, “No”. Discussions have occurred as to where the RACV might locate the proposed office accommodation. The nearby district centres of Dandenong and Waverley are suitable for the purpose or, alternatively, the RACV may wish to stay in the city.

A decision was necessary in the interests of good planning and it will be necessary to
make a decision to ensure that the city develops in the way it should. I look forward to further discussions with the RACV to ensure that its needs are met.

RONALD "JOEY" HAMILTON

The Hon. M. A. BIRRELL (East Yarra Province)—I ask the Attorney-General: Given that both the Director of Policy and Research Division and the freedom of information officer of the Law Department have advised that there is nothing in the Law Department file on Mr Ronald "Joey" Hamilton that warrants access being denied to it, why has the Government forbidden public scrutiny of the documents in that file?

The Hon. J. H. KENNAN (Attorney-General)—The question from the "Sorcerer's Apprentice" is based on the same fallacy he perpetrated on the media and the Victorian public last Thursday on the Channel 7 News when he claimed that he had been denied access. The fallacy was exposed on Friday when it was announced that he had been given some 70 documents.

The advice to which he refers expressly sets out that the Crown Solicitor's brief and associated documents to Mr Scurry and the Cabinet documents and associated documents are in a separate category from the other documents on the Law Department's file. He has been given access to all the documents that Mr Seymour and Mr O'Connor advised were disclosable under the freedom of information code.

The honourable member persists in misleading this House and the Victorian public in claiming that he has been denied access. I make the point clear.

The Hon. M. A. BIRRELL (East Yarra Province)—On a point of order, I take exception to the comment that I am misleading the House. Obviously, that is not true, and I ask the Minister to withdraw that comment.

The PRESIDENT—Order! It is not a point of order; it is a point of view.

The Hon. J. H. KENNAN (Attorney-General)—The honourable member might recall Harry Truman's comments about the heat being too much in the kitchen.

Questions without Notice

The Hon. M. A. Birrell—The heat is on you!

The Hon. J. H. KENNAN—It is not—it is on you, Mr Birrell.

Honourable members interjecting.

The PRESIDENT—Order! I am having great difficulty in hearing the Attorney-General and I suggest that he address his remarks to the Chair.

The Hon. J. H. KENNAN—The point is that all the documents except those covered by legal professional privilege as set out, and those documents which are Cabinet documents, have been disclosed to the honourable member.

RESTRUCTURING OF WATER INDUSTRY

The Hon. W. R. BAXTER (North Eastern Province)—I refer to the proposals of the Minister of Water Supply to restructure the water industry to set up a Department of Water Resources and a Victorian Irrigation and Rural Water Supply Board. Will the honourable gentleman outline the timetable that he has in mind? If it is his intention to proceed with legislation to set up the two bodies before the functions and duties of the respective bodies are determined, does he not agree that this would be putting the cart before the horse?

The Hon. D. R. WHITE (Minister of Water Supply)—As the honourable member is aware, substantial progress has been made on the Ministerial statement that I made towards the end of the spring sessional period on the restructure of the central management of the water sector and the establishment of a Department of Water Resources and a Victorian Irrigation and Rural Water Supply Board.

It is proposed to proceed with legislative measures this session which will take into account the consultation that has occurred with the Public Service Board, the Victorian Farmers and Graziers Association and the Victorian Public Service Association and, in initiating the legislative measure during this session of Parliament, it is also proposed to resolve the question of the objects, duties and functions of the respective department and commission.
Questions without Notice

VICTORIAN FARMERS AND GRAZIERS ASSOCIATION

The Hon. M. J. SANDON (Chelsea Province)—As an avid reader of the Stock and Land newspaper, I ask the Minister of Agriculture whether he is aware of a report in that paper on 16 February concerning conflict between the Victorian Farmers and Graziers Association and the National Party over a meeting called by Mr Dunn to give farmers the opportunity of voicing their discontent over the problems that have confronted them during the recent harvest and, if so, to inform the House and to comment.

The PRESIDENT—Order! I rule the question out of order as I cannot see how it relates to Government administration.

POLICE QUESTIONING

The Hon. N. B. REID (Bendigo Province)—The Attorney-General will be aware of the frustrations being experienced by the Victoria Police Force in the execution of its duties and the difficulties the Police Force has encountered since June 1982.

I repeat the date: June 1982. With respect to the questioning of multiple offenders under section 460 of the Crimes Act, why has not the Government arrived at a solution to the problem?

The Hon. J. H. KENNAN (Attorney-General)—That is a "Dorothy Dixer" and I am grateful to the honourable member for asking the question. I am in a position to inform the House that I am in receipt of the report from the committee convened by the Director of Public Prosecutions to deal with the matters arising out of the interpretation of section 460 of the Crimes Act. The problems became acute only late last year. Following the advice of the Director of Public Prosecutions, a committee was convened consisting of the President of the Victorian Criminal Bar Association, Mr Frank Vincent QC, Mr Michael O'Brien of the Legal Aid Commission, Mr Brian Rolfe of the Law Institute of Victoria, Chief Inspector Glare from the Victoria Police Association and the legal officer from the Department of Community Welfare Services.

That represents action on the part of the Government. I now have the report and later this week the Government will announce its decision on the report. I consider that that will bring about a satisfactory resolution of the problem. With the co-operation of this co-operative House, I look forward to the speedy passage of proposed legislation that will be introduced in the near future. I hope honourable members opposite will debate the proposed legislation without seeking the usual lengthy adjournment.

HOWITT PLAINS

The Hon. D. M. EVANS (North Eastern Province)—I direct a question to the Leader of the House in his capacity as the Minister in charge of the Land Conservation Council. I refer to the visit he made to Howitt Plains with the Mountain District Cattlemen's Association where substantial doubt was placed on certain data on which the Land Conservation Council based its recommendations for the Howitt Plains area and the grazing of cattle thereon.

In view of the doubt placed on the data, and therefore the conclusions reached by the council, will those conclusions be reviewed with a possibility of changing them and will other data which was placed before the council again be reviewed to ascertain whether it is also accurate or inaccurate as proved to be the case with Howitt Plains?

The Hon. E. H. WALKER (Minister for Planning and Environment)—A number of members of this House—I must indicate that I refer to members from all parties represented in this House—visited Howitt Plains on horseback in December as the honourable member suggested. Mr Evans was one of those members. The matter was discussed in this place and it was understood that we were making the visit to hear from the mountain cattlemen their views on the Land Conservation Council recommendations.

Two lots of recommendations are involved. One previous set of recommendations has been accepted. I must indicate that this was bipartisan because the situation began under the administration of the former Minister, the Honourable Vasey Houghton. The second set of recommendations is before me because of special investigation by the Land Conservation Council. Those members who joined the party and accompanied the scientists and advisers were impressed with what they heard and saw about
the cattlemen's case. It is incorrect to suggest that the Land Conservation Council recommendations were based on improper information.

The Hon. D. M. Evans—I said it was incorrect information.

The Hon. E. H. Walker—If Mr Evans remembers, the recommendations on Howitt Plains were to do with the conflict between grazing and recreation; no more, no less. It was not a matter of major damage being done by cattle. I ask the honourable member to re-examine the recommendations.

A further visit will be made prior to a determination being made on the matter. I agreed to visit the Bogong High Plains in April. We saw two areas on the earlier visit and a further area needs to be seen, after which the Government will determine its response to the Land Conservation Council final recommendations on the alpine area. The matter will be well aired and debated in this place.

I thank the honourable member for the question and suggest that that method of looking at these issues, where members of Government in company with members of the opposing parties examine the matter and discuss it over a day or two, is worth while. The matter is complex and difficult to understand and those honourable members who accompanied me to the high country to view the situation would appreciate this.

I will be calling a meeting of those honourable members to hear their views.

LOGGING ON ERRINUNDRA PLATEAU

The Hon. B. A. Murphy (Gippsland Province)—Did the Minister for Conservation, Forests and Lands see an advertisement placed in last Saturday's Age by more than 400 scientists requesting a moratorium on logging of certain environmentally sensitive areas on the Errinundra plateau? Was the Minister aware of the views of those scientists prior to the publication of the so-called Errinundra statement of Saturday? Will those views alter his decision to permit continued logging activities on the Errinundra plateau?

The Hon. R. A. Mackenzie (Minister for Conservation, Forests and Lands)—I saw the advertisement referred to by the honourable member—one could hardly miss it. I had known for some weeks that members of the scientific community were being canvassed on the Errinundra plateau issue with a view to such a statement being published in the Age newspaper.

During the past month I have had a number of meetings with members of that group who published that statement and they have put their position to me in a forthright and persuasive manner. Although the Government does not necessarily agree with them, members of the group in turn understand and accept the stance taken by the Government.

I have held similar meetings with a number of conservation groups, the scientific community, and the mainstream conservation groups, which are to be congratulated for their decision, taken in a very emotional atmosphere—created largely by the so-called forest people who were responsible for the blockade on the plateau—to follow a course of rational discussion and consultation. They dissociated themselves from the activities of the forest people.

I have been disappointed that until two months ago no group had indicated directly to me that they were concerned with the specific logging areas on the Errinundra plateau. I remind honourable members that logging in that area has continued for seventeen years. The logging plans which are currently being questioned have been available for public comment for at least eighteen months. The opportunity was available for those scientists and others to make specific proposals with regard to that logging. During the period that they have been on public display I have received no such objection.

Mr Murphy asked whether the scientists will influence my decision. I would be foolish to disregard the views of such a prominent group in the State. However, I have made a firm decision to allow logging on the plateau for this year and to maintain allocations in the area for the next three years. The timber industry has a right to expect this commitment to be honoured.

In that context I am having further discussions with both scientists and conservation groups. I have been encouraged by their
Ministerial Statement

rational response. I trust that future negotiations will result in a mutually acceptable outcome.

CARDINIA–THOMSON WATER SUPPLY SYSTEM

The Hon. R. J. LONG (Gippsland Province)—Can the Minister of Water Supply inform the House approximately when the Melbourne and Metropolitan Board of Works or any of its officers was first informed of the proposal to sell the whole or part of the Cardinia–Thomson water supply system on a lease-back arrangement to financial interests?

The Hon. D. R. WHITE (Minister of Water Supply)—As all honourable members would be aware, the Thomson dam was constructed by the Board of Works as the constructing authority and is used for multiple purposes. The dam was constructed to provide water for both the metropolitan area and Gippsland for irrigation, industrial and urban purposes.

The Hon. A. J. Hunt—And the Mornington Peninsula.

The Hon. D. R. WHITE—Yes, as Mr Hunt correctly points out, also the Mornington Peninsula. That being the case, the State Government, in undertaking the construction, obviously incurred a debt to the constructing authority, the Board of Works, about which the former chairman, Mr Croxford, did not hesitate to inform the Government from time to time.

In the year 1979–80 a financial arrangement was entered into whereby the State Government had to meet its obligations to the Board of Works as the constructing authority. It is proposed that that financial commitment will continue to be met in the same way that it has in the past. No consideration has been given to any lease-back arrangement in this respect.

CORRECTION OF SHORT TITLES OF BILLS

The Hon. E. H. WALKER (Minister for Planning and Environment)—By leave, I move:

That where a Bill has passed through both Houses and the citation of the Bill includes a reference to a calendar year earlier than that in which the passage of the Bill was completed, the Clerk of the Parliaments be empowered to alter the calendar year reference in the citation of the Bill and any corresponding citation within the Bill itself to the year in which the passage of the Bill was so completed.

Bills currently before the Parliament which were introduced in a previous calendar year have that year incorporated in the Bill as part of their short titles. Any of those Bills which are subsequently passed into law this session will require adjustment to their short titles so that the year expressed therein conforms to the year of enactment. Normally, such alterations would be achieved by formal amendment in the Houses.

By this motion, the Clerk of the Parliaments will be empowered to effect those changes prior to presentation for Royal assent. It will relieve the House of passing purely formal motions and exchanging messages with the Assembly on account of what may best be described as an incorrect reference. A similar motion is being proposed in another place, and I commend it to the House.

The motion was agreed to.

MINISTERIAL STATEMENT

Interpretation Bill

The Hon. J. H. KENNAN (Attorney-General)—I wish to make a Ministerial statement with respect to the report of the Legal and Constitutional Committee as required by section 40 of the Parliamentary Committees Act 1968.

The Government congratulates the Legal and Constitutional Committee upon the bipartisan, thoroughly researched and well-documented report it has produced upon the Interpretation Bill 1982. The Government recognizes the careful consideration which has prefaced its 47 recommendations, and endorses those recommendations.

As a consequence, the Government intends to withdraw the Interpretation Bill 1982, which was introduced in another place on 1 December 1982 and referred, by resolution of both Houses, to the Legal and Constitutional Committee on 8 December 1982. That Bill will be superseded by the introduction of the Interpretation of Legislation Bill 1984 which will be introduced today.

The Interpretation of Legislation Bill 1984 incorporates the recommendations of the committee which require legislative action. A number of the recommendations require only instructions to Parliamentary Counsel: Those dealing with such matters as the
preparation of indexes or tables of contents and the use of gender neutral words in drafting. Those instructions have been given. In addition, certain recommendations have been the subject of interdepartmental circular, in particular those dealing with the use of a preamble or a purpose clause, preparation of instructions for titles of office-holders to be in gender neutral terms and the updating of existing legislation to incorporate gender neutral terms. This will encourage those departments responsible for particular legislation to initiate the appropriate changes.

The Government has instructed the Law Department to commence the research necessary to comply with recommendation 35: The deletion of all references to "infamous offence" in the statute-book. It is a very large task to undertake, as it requires examination of all statutes. Legislation will be introduced as soon as it is completed.

The Government also accepts recommendation 27 of the committee: That the Parliament refer to it the whole question of the burden of proof in criminal cases for consideration and report. It is a question which requires detailed attention. The issues are of fundamental importance and markedly affect individual civil liberties. Accordingly, the Government intends to request the Governor in Council to make reference in the following terms: "That the Legal and Constitutional Committee report to the Parliament upon the circumstances in which it is appropriate to impose a burden of proof upon a defendant in a criminal matter and upon the rules of construction and procedure which should apply when that is done."

The general terms of the Interpretation of Legislation Bill are outlined in the second-reading speech, and there seems no point in duplicating them here. Honourable members will shortly have an opportunity of examining that Bill. The Government believes the Bill in its present form provides a long overdue and enlightened elaboration and re-shaping of the rules applicable to the interpretation of statutes and subordinate legislation. The committee's contribution to this Bill has been substantial and reflects the importance of the work it carries out. Its work will, indeed, fundamentally affect the manner in which the statutes of this Parliament are interpreted.

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

That, contingent upon the introduction of the Interpretation of Legislation Bill, the Ministerial statement be taken into consideration cognately with that Bill.

The motion was agreed to.

PETITION

Industrial relations and workers compensation Acts

The Hon. G. A. S. BUTLER (Thomas-town Province) presented a petition from certain citizens of Victoria praying that the proposed amendments to the Industrial Relations Act 1979 and Workers Compensation Act 1958 be enacted. He stated that the petition was respectfully worded, in order, and bore 39 signatures.

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

WRONGS (ANIMALS STRAYING ON HIGHWAYS) BILL

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to modify the law relating to liability for animals straying on to highways and for that purpose to amend the Wrongs Act 1958 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

INTERPRETATION OF LEGISLATION BILL

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to make fresh provision with respect to the construction and operation of, and the shortening of the language used in, Acts of Parliament and subordinate instruments, to repeal the Acts Interpretation Act 1958, to amend the Property Law Act 1958, the Supreme Court Act 1958, the Subordinate Legislation Act 1962, the Constitution Act 1975, the Penalties and Sentences Act 1981 and certain other Acts and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.
DRAINAGE OF LAND (AMENDMENT) BILL

The Hon. D. R. WHITE (Minister of Water Supply), by leave, moved for leave to bring in a Bill to amend Part I of the Drainage of Land Act 1975 with respect to the rights and duties of occupiers of land, to amend the Water Act 1958 and the Planning Appeals Board Act 1980 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

PARLIAMENTARY CONTRIBUTORY SUPERANNUATION FUND

The Hon. D. R. WHITE (Minister for Minerals and Energy)—By leave, I move:

That there be laid before this House a copy of the report of the Parliamentary Contributory Superannuation Fund for the year 1982-83.

The motion was agreed to.

The Hon. D. R. WHITE (Minister for Minerals and Energy) presented the report in compliance with the foregoing order.

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the report be taken into consideration on the next day of meeting.

PUBLIC BODIES REVIEW COMMITTEE

Small Business Development Corporation

The Hon. B. A. CHAMBERLAIN (Western Province) presented a report from the Public Bodies Review Committee on the Small Business Development Corporation, together with an appendix and minutes of evidence.

It was ordered that they be laid on the table, and that the report and appendix be printed.

On the motion of the Hon. A. J. HUNT (South Eastern Province), it was ordered that the report be taken into consideration on the next day of meeting.

Albury—Wodonga (Victoria) Corporation

The Hon. B. A. CHAMBERLAIN (Western Province) presented a report from the Public Bodies Review Committee on the Albury—Wodonga (Victoria) Corporation, together with appendices and minutes of evidence.

It was ordered that they be laid on the table, and that the report and appendices be printed.

On the motion of the Hon. A. J. HUNT (South Eastern Province), it was ordered that the report be taken into consideration on the next day of meeting.

PAPERS

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

Arts Centre Trust—Report for the year 1982-83.
Deakin University—Report and accounts, together with statutes approved by the Governor in Council, for the year 1982 (eighteen papers).
Education Act 1958—Resumption of land at Cranbourne North—Certificate of the Minister of Education.
Geelong Performing Arts Centre Trust—Report and accounts for the year 1982-83.
Hospitals Superannuation Board—Report for the year 1982-83.
Land Act 1958—Acquisition of land at Melbourne for erection of a remand centre certificate of the Minister for Community Welfare Services.
Latrobe Valley Water and Sewerage Board—Report for the year 1982-83.
Melbourne and Metropolitan Board of Works—Statement of accounts, together with particulars of rates made, for the year 1982-83.
Melbourne University—
Financial statements for the year 1982.
Report of the council, together with statutes and regulations allowed by His Excellency the Governor, for the year 1982 (twelve papers).
Metropolitan Fire Brigades Board—Report for the year 1982-83.


Statutory Rules under the following Acts of Parliament:

Papers

Town and Country Planning Act 1961:
Ararat—Shire of Ararat (Willaura) Planning Scheme—Amendment No. 4.
Bacchus Marsh Planning Scheme—Amendment No. 22.
Benalla—City of Benalla Planning Scheme—Amendment No. 35.

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Bulla—Shire of Bulla Planning Scheme 1959—Amendment No. 92, 1983.
Colac—City of Colac Planning Scheme 1963—Amendment No. 19.
Eildon Reservoir Planning Scheme 1959 (Shire of Mansfield)—Amendments Nos. 31, 32, 32A and 33.
Geelong Regional Planning Scheme—Amendments No. 38, Part 3; No. 45, Part 1 (with map); No. 45, Part 2; No. 48, Part 1, 1983; No. 62, Part 2, 1983; No. 72, Part 1, 1983; and No. 73, 1983.
Hastings—Shire of Hastings Planning Scheme—Amendment No. 11, Part 1.
Korumburra—Shire of Korumburra Planning Scheme—Amendments Nos. 23 and 24, 1983.
Kyabram—Town of Kyabram Planning Scheme 1963—Amendment No. 29.
Lillydale—Shire of Lillydale Scheme 1958—Amendment No. 167.
Lorne Planning Scheme—Amendments Nos. 5, 8 and 9.
Melbourne Metropolitan Planning Scheme—Amendments No. 155, Part 4 (with map); No. 192, Part 2A (with five maps); No. 192, Part 3 (with four maps); No. 193, Part 1B (with map); No. 193, Part 2 (with map); No. 214, Part 1A (with twelve maps); No. 225, Part 2 (with 4 maps); No. 230, Part 1 (with 3 maps); No. 231, Part 1 (with 22 maps); No. 253 (with map); No. 257 (with map); No. 258 (with three maps); No. 262 (with map); No. 264 (with map); No. 266 (with map); No. 269 (with map); and No. 271.
Moe—City of Moe Planning Scheme 1966—Amendment No. 72, 1983.
Phillip Island Planning Scheme—Amendment No. 18.
Sale—City of Sale Planning Scheme—Amendment No. 12, 1982.
Seymour Planning Scheme—Amendment No. 82.
Sherbrooke—Shire of Sherbrooke Planning Scheme 1979 (Urban Areas)—Amendment No. 18.
Stawell—Town of Stawell Planning Scheme—Amendment No. 24.
Swan Hill—City of Swan Hill Planning Scheme 1981 (with map).
Tambo—Shire of Tambo (Lakes Entrance) Planning Scheme—Amendments Nos. 40 and 46.
Traralgon—City of Traralgon Planning Scheme—Amendments Nos. 38, 41 and 42, 1983.
Warragul Planning Scheme 1954—Amendment No. 47, 1983.
Woorayl—Shire of Woorayl Planning Scheme—Amendments No. 62, part A and No. 63.
West Moorabool Water Board—Report and statements of accounts for the year 1982-83.
Youth Parole Board—Report for the year 1981-82.

On the motion of the Hon. A. J. HUNT (South Eastern Province), it was ordered that the reports, accounts and financial statements be taken into consideration on the next day of meeting.

WRONGS (ANIMALS STRAYING ON HIGHWAYS) BILL

The Hon. J. H. KENNAN (Attorney-General)—I move:

That this Bill be now read a second time.

The purpose of the Bill is to modernize the law governing the liability of owners and occupiers of land adjoining highways for harm suffered as a result of animals straying onto the highway.

The Bill abolishes a law which originated in England some two centuries ago and is commonly referred to as the rule in Searle v. Wallbank. The effect of the rule is that owners and occupiers of land adjoining a highway are under no duty to users of the highway to maintain fencing or otherwise prevent animals from straying onto the highway. It followed from that rule that owners and occupiers were not liable for any damage or injury caused by such animals.

The Bill abolishes the Searle v. Wallbank rule and imposes the ordinary common law rules of negligence upon owners and occupiers of land adjoining highways in respect of animals which stray onto the highway.

The Bill abolishes the Searle v. Wallbank rule and imposes the ordinary common law rules of negligence upon owners and occupiers of land adjoining highways in respect of animals which stray onto the highway.

The rule is not limited to roads formally designated as "highways" but also applies to streets, lanes, bridges and, in fact, any place which is open to be used by the public for passage. In 1977 the Full Court of the Supreme Court of Victoria held in the case of Brisbane v. Cross that Searle v. Wallbank still applied in Victoria. In that case the complainant, Brisbane, was riding a motorcyce at about 50 miles an hour along a country road when he collided with a steer belonging to the defendant. The evidence was that the steer had previously strayed onto the road and the owner admitted that he knew that it was likely to escape again. The lower court held that Cross knew that the animal had a propensity to break through the fence and that he had taken insufficient precaution to see that the fence was intact. It also found that if a duty of care existed, he was in breach of that duty. However, applying the rule in Searle v. Wallbank, the court held that Cross owed no duty of care to Brisbane and thus was not liable. This decision was upheld by the Full Court which stated in its judgment that it was not for the court to say whether or not the rule was suitable or beneficial. It was the court's duty to apply the rule if it was so applicable in Victoria and any alteration of the rule was pre-eminently a question for the legislature.

The rule has long been regarded as an anomaly in the law of negligence and has been the subject of extensive criticism by the judiciary, the legal profession, various law reform commissions both local and overseas, and academic commentators. In England itself the rule was abolished by statute in 1971.

The law reform commissions of Western Australia, South Australia, Queensland and Tasmania have recommended the abolition of the rule and its replacement with the ordinary rules of negligence. Judicial decisions in Scotland and Canada have distinguished the case of Searle v. Wallbank and, as a result, the ordinary rules of negligence apply in those jurisdictions.

In 1977 the rule was abolished by statute in New South Wales and in Western Australia in 1983.

The rule stems from a time before the enclosure of land movement two centuries ago had reshaped the face of the English countryside and before the advent of fast motor traffic belied the assumption that roaming animals presented no undue threat to the travelling public. A leading commentator on the law in this area, Professor J. G. Fleming, has said:
Yet as late as 1946, in a singular pique of antiquarianism the House of Lords in *Searle v. Wallbank* declined to re-appraise this rule in the light of the radical change in environmental conditions... Its effect upon modern conditions is to subsidise farmers at the expense of the motoring public, in circumstances in which the risk to the latter is quite disproportionatley heavy compared with the burden on the former, even in a country like Australia with vast holdings of grazing land but long accustomed to fencing. Moreover, the supposed burden lacks functional weight because the trespass rule in any event impels the cattle owner to fence against incursions against neighbouring property other than the highway.

There have been various proposals for reform of the law in this State. In 1976 the Law Institute of Victoria recommended that legislation be enacted along the lines of the Bill now before us. In 1978 the Statute Law Revision Committee reported on the matter and recommended that the rule in *Searle v. Wallbank* be retained as a general principle but that legislation be introduced to specify special circumstances to be considered in conjunction with the rule. This approach however attracted the criticism of the Law Institute and of the law reform commissions of Western Australia and Tasmania. The previous Government, however, ignored the opportunity to modernize the law in this area.

The rule in *Searle v. Wallbank* is inappropriate in an age of fast-moving vehicular traffic when most land holdings are fenced and, in fact, are required to be fenced. Section 546A of the Local Government Act 1958 empowers a council to serve a notice upon the owner of any property within the municipal district which is used for the grazing of cattle—which term is defined in the Act to include other animals—requiring him to repair or replace fencing to prevent cattle from straying onto any adjacent street or road. In addition, the Act prohibits the presence of animals on highways, streets and roads unless the consent of the council has first been obtained and there is some person attending the animals. A breach of these provisions may lead to the impounding of the cattle.

Maintenance of the current law would maintain the injustice of the present situation, where a motorist who is injured by reason of a landowner's disregard of his statutory obligations to keep his fences in good order and repair and to prevent his livestock from straying onto public roads, has no right of action against the landowner. The rule ignores any theory of responsibility to the public for conduct which involves foreseeable consequences of harm.

The Bill strikes an appropriate balance between the interests of motorists travelling on highways and the users of land adjoining them. The Bill does not specify what matters the court must take into account in determining whether an owner has failed to take reasonable care. In practice, the court would look at all the circumstances of each case including such matters as the nature of the general locality, traffic flow, the condition of the road, fencing practice in the area, the extent of previous accidents and warning signs. The user of the highway will still have to prove the ownership of the straying animal and that the owner failed to take reasonable care to prevent his animal from causing foreseeable loss. The Bill does not affect the duty of users of the highway to take reasonable care in so using the highway.

The Bill takes the form of an amendment to the Wrongs Act, inserting a new Part VIII. It applies to damage caused on or after its commencement. I commend the Bill to the House.

On the motion of the Hon. HADDON STOREY (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until Tuesday, March 6.

DRAINAGE OF LAND (AMENDMENT) BILL

The Hon. D. R. WHITE (Minister of Water Supply)—I move:

That this Bill be now read a second time.

This Bill amends Part 1 of the Drainage of Land Act 1975 in that the identified deficiencies and limitations of the present legislation have been addressed and corrected.

Honourable members will recall that the Drainage of Land Act came into operation in December 1976 and was the culmination of many years of investigation by the Joint Select Committee on Drainage.

Part 1 of the Act established the jurisdiction of the Drainage Tribunal, now the Planning Appeals Board. It sought to provide for the unobstructed passage of surface
waters associated with the reasonable development and use of land in defining the rights and duties of landholders. This strategy has come to be known as the free flow principle.

The statutory establishment of this principle was made necessary by a 1962 High Court decision which overturned the basis of common law which had applied in Victoria for some 60 years. Although the intentions of the Drainage of Land Act appeared reasonably clear, its practical application has not fulfilled those intentions.

This situation was particularly evident following major floods in northern Victoria in July and August 1981. On these occasions it was apparent that private levee banks constructed across natural floodways restricted the free flow to the detriment of both private properties and public works. In some instances this resulted in threats of physical violence and in others in a substantial financial burden for municipalities in repairing damage, particularly to roadways.

The inability of the Act to provide adequately for the resolution of such problems led to an awareness of the limitations and deficiencies of Part 1 of the Act.

In response to this situation, in 1981 the Water Resources Council Victoria prepared for the then Minister of Water Supply, the Honourable Glyn Jenkins, a paper-titled Review of the Drainage of Land Act (Part 1). This paper identified and discussed the limitations and deficiencies and recommended specific changes to the existing legislation.

These recommended amendments did not seek to change the intentions of the original legislation but merely to resolve the doubts associated with issues such as:

- The breadth of the definition of "person" which was undefined; and
- the extent of jurisdiction of the Planning Appeals Board.

The proposed amendments also sought to provide the necessary machinery for dealing with matters such as:

- Works constructed prior to the Act coming into effect;
- levees constructed along rivers and streams; and
- works of the Crown, a statutory authority or municipal council.

The review paper prepared by the Water Resources Council was widely distributed to ensure that the nature of the proposed changes were consistent with broad community views. It was forwarded to approximately 300 persons and bodies including all members of Parliament, municipalities, Government departments, individuals and organizations with a specific interest in drainage matters. From the submissions received it is evident that strong and widespread support exists for implementation of the review's recommendations. The amendments proposed in the Bill encompass all of the recommendations contained in the review paper, and in essence broaden the free flow principle. Although the detail of the Bill is set out in the notes on the clauses, it is appropriate that I identify some of the more important facts of the proposal.

The proposed legislation is intended to apply to the Crown, statutory authorities and municipal councils. In doing so it recognizes that many public works have an effect on drainage flows and particularly are required to be built crossing drainage lines. Tests are proposed by which the reasonableness of these works may be assessed.

The Bill provides for the Planning Appeals Board to have jurisdiction in relation to all civil causes of action which arise out of the flow of drainage water; this does not include claims for personal injury.

With respect to liability for resisting the flow of surface water, the Bill clearly identifies the circumstances under which liability for nuisance might arise, and includes reference to proposed works. This aspect is particularly significant as honourable members will be aware that under the present arrangements offending works had to exist and damage had to be incurred before an action could be initiated. Under the new arrangements a proposal to construct works which may restrict the free flow could be used as the catalyst to commence an action; such an approach will reduce the possibility of damages occurring and will avoid the prospect of landowners undertaking costly works which may then be required to be removed.
Finally and most importantly, the Bill provides for jurisdiction to extend to works constructed prior to proclamation of the original Act in December 1976.

It is appreciated that the question of equity is a major factor where works constructed to protect property now may become liable for a nuisance action. Notwithstanding this fundamental difficulty, the fact remains that the free flow principle cannot be effectively implemented unless individual problems which existed prior to the proclamation of the Act can be resolved by the Planning Appeals Board.

In order to resolve this aspect and to ensure equity was afforded to landholders on whose properties offending works may exist, a five year period of grace has been provided before the new provisions apply in full. In this period landowners have the opportunity to review their particular situation and take any necessary action to minimize or remove the adverse affects of such work and thereby remove the liability for payment of damages.

In short the major provisions of the Bill are:

(a) Works constructed prior to 1976 will be brought within the ambit of the Act, but will be given an immunity from damages claims for five years after proclamation of the Bill;

(b) works of the Crown, a statutory authority or a municipal council will be encompassed by the provisions of the Act, but subject to specific tests by which the reasonableness of the works may be assessed; and

(c) clarification of the jurisdiction of the Planning Appeals Board in actions brought under this Act.

I commend the Bill to the House.

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

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

That the debate be adjourned until Tuesday next.

The Hon. W. R. BAXTER (North Eastern Province)—I do not oppose the motion on this long-awaited measure, but in view of its complexity I seek an assurance from the Minister that if members of the various parties are not ready to proceed with the debate next Tuesday, having had inadequate time to consult people, particularly in country areas, he will be amenable to a further adjournment of one week.

The Hon. D. R. WHITE (Minister of Water Supply)—It is envisaged that this sessional period will be relatively short, consisting of only about seven weeks. In acceding to the request of the honourable member, I give an assurance that the Government will make every endeavour to have the proposed legislation passed through the House during this sessional period.

The motion was agreed to, and the debate was adjourned until Tuesday, March 6.

INTERPRETATION OF LEGISLATION BILL

The Hon. J. H. KENNAN (Attorney-General)—I move:

That this Bill be now read a second time.

I direct the attention of honourable members to the fact that the lay-out of the Bill is in accordance with the recommendations of the Legal and Constitutional Committee.

This Bill is designed to repeal the Acts Interpretation Act 1958 and to replace it with new and more comprehensive legislation. Its aim is to shorten and simplify the language of Acts of Parliament. Frequently used expressions are defined, and rules and guidelines for construction and application of laws are set out. A further purpose of the Bill is to make applicable to subordinate legislation many of the provisions contained in it. Subordinate legislation has not, in the past, been dealt with in Acts Interpretation Acts, and this Bill goes a long way toward simplifying the language of delegated legislation, as well as providing rules and guidelines for its construction.

The Government is committed to ensuring that, as far as possible, the language of legislation is intelligible to all citizens of Victoria and to all who might be affected by the laws of this State. This aim is exemplified by the introduction of the Bill, not the least in its title, the Interpretation of Legislation Bill, which replaces the commonly used, but somewhat esoteric title of Acts Interpretation Act.
The Interpretation of Legislation Bill implements the report of the Legal and Constitutional Committee of the Parliament which, by resolution of Parliament in December 1982, had been required to consider the provisions of the Interpretation Bill 1982. The committee tabled its report upon that Bill in November 1983. In the course of its deliberations the committee received a number of written submissions from judges, members of the bar, academics and Parliamentary Counsel from around Australia. During the course of its inquiry, the committee interviewed many very experienced lawyers, academics and Parliamentary Counsel. The committee undertook extensive research, calling upon Australian, British, United States, New Zealand and Canadian resources, amongst others, and produced a well documented and thorough report. The committee was fortunate to have an excellent director of research in Dr Jocelynne Scutt. The committee and Dr Scutt are to be congratulated on their work. The formal response of the Government, as required by the Parliamentary Committees Act 1968, has already been given, indicating the acceptance of the contents of the report.

The Interpretation of Legislation Bill has to a large extent drawn upon the provisions of the Acts Interpretation Act 1958 and has enhanced the provisions of the Interpretation Bill 1982. The majority of the provisions are of a technical nature. They need not, at the present time, be detailed. However, there are several significant matters which should be highlighted.

First, as previously pointed out, unlike the Acts Interpretation Act, the Interpretation of Legislation Bill provides an extensive and orderly scheme for the interpretation of subordinate instruments. As far as possible, those rules and guidelines applicable to Acts will now apply to subordinate legislation. The absence of a defined interpretation scheme for subordinate instruments has long been regarded as a deficiency: As far back as 1970, the Parliamentary Subordinate Legislation Committee recommended that such a scheme be created.

The increasingly heavy burden upon Parliament has meant that more and more use is being made of subordinate instruments as a means to implement many aspects of legislative schemes. Sometimes, however, they can also be used for purposes which may not have ever been contemplated by Parliament. The application of interpretation legislation to subordinate instruments indicates a Parliamentary concern that, as a means of implementing legislative schemes, subordinate instruments must not be liable to interpretation in ways possibly inconsistent with the principal legislation.

This may be considered as part of a far broader review of the role and operation of subordinate legislation which is at present being undertaken by the Legal and Constitutional Committee. The committee is examining the entire range of checks and balances which should apply before subordinate legislation becomes law. Its report is due shortly and is awaited with much interest. The combination of both initiatives will ensure that Parliamentary control remains paramount.

The second major innovation is the endorsement of the purposive approach to the interpretation of legislation. The Bill includes a provision stating that the interpreter of an Act or subordinate instrument must adopt a construction which would promote the purpose or underlying object of that Act or subordinate instrument. In doing so, the interpreter is expressly authorized to use extrinsic aids to assist in identifying the purpose or object. These aids include, for example, Parliamentary debates, explanatory memoranda accompanying Bills during their passage through Parliament, reports of Royal Commissions, boards of inquiry, and the like.

In 1981 the Australian Parliament endorsed the inclusion in its Acts Interpretation Act of a purposive provision. The Bill takes up that initiative, but goes much further. It provides courts with guidance as to the types of extrinsic aids which may be used, at the discretion of a court, in determining Parliament's purpose in framing a particular piece of legislation.

The Government believes it is necessary to include in the Bill a provision stating that in interpreting legislation, courts should have regard to Parliament's purpose. In Britain and New Zealand it has been said that too often, rules of construction are used by the courts which result in the purpose of Parliament being ignored or distorted. This problem arises in Australia also because of the existence of a number of rules, pre-
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assumptions and maxims of construction applied by the courts which "are inconsistent and often flatly contradict each other, but . . . are treated in the . . . judgments as having equal validity today, regardless of the differing social, political and constitutional conditions in which they arose . . . ": Ward, 1963, New Zealand Law Journal, 293.

Rather than allowing confusion to remain as to whether the courts should apply conflicting rules of construction, the Government believes it is necessary to direct the courts' attention to what should be the paramount aim of legislative interpretation—the intention of Parliament and the purpose or object of the legislation under review.

The Government believes that it is important to ensure, as far as possible, that all legislation passing through this House and through the other place is drafted in the clearest possible terms. However, sadly, experience shows that this is not enough: To overcome a sometimes unduly rigid approach to the interpretation of statutes it is the responsibility of Parliament to give clear direction. As the eminent jurist, Professor Julius Stone, emeritus professor at the University of New South Wales, has stated:

Intelligent lay people will feel no outrage at . . . a proposal—

that courts should have regard to Parliament's intention in interpreting legislation.

I suspect that most of them think that this is what judges, in any case, are supposed to do.

The wisdom of this provision is self-evident.

As for the accompanying matter, that courts should be enabled to look to various extrinsic materials to assist them in determining Parliament's purpose, this provision has been included in the Bill following extensive coverage of the issues involved.

Various arguments have been raised for and against courts having recourse to materials such as Law Reform Committee reports, Parliamentary Hansard and explanatory memoranda. These include:

The suggestion that there is a "traditional rule" that such material should not be looked at by the courts;

that judges are looking at such materials anyway and Parliament should not interfere;

that materials are not readily available, particularly to solicitors dealing with "everyday problems";

that the general public should know what the law is from reading the legislation and should not have to seek assistance from other materials;

that no assistance can be gained from materials other than the legislation itself;

the suggestion that issues are not raised in Parliamentary debates that would give assistance to courts in interpreting legislation;

conflicting purposes and intentions may be stated by various members of Parliament during debates;

the debate in Parliament is often foolish, or members "play the gallery", thus lessening the value of any debate and rendering it useless for the purpose of interpreting legislation;

allowing judges to look at extrinsic materials will increase the complexity of the interpretation process, with an increase in time and consequent delay, as well as costs;

that High Court and Supreme Court justices are more capable than those in the lower courts and allowing all judges and magistrates to have recourse to extrinsic aids will confuse those judges sitting in lower courts or magistrates;

that it is wrong to expect judges in the lower courts, magistrates, and counsel appearing before them to have as great an expertise and to utilize as high a degree of research skills as those necessary at higher court levels;

the suggestion that lawyers may be open to actions for negligence on the basis that they have not sought out Parliamentary Hansard or other relevant material and, therefore, have not properly advised clients; and

that by enabling courts to look at Hansard and explanatory memoranda, the Parliament is somehow encroaching upon the independence of the courts.
These arguments do not withstand close scrutiny. Analysis of cases in the United Kingdom and Australia shows that, if ever a "traditional rule" existed which denied courts the right to look at extrinsic materials for assistance in interpretation of statutes—and it can be doubted—that rule does not now exist. The Victorian Supreme Court, the New South Wales Supreme Court and the High Court of Australia, amongst others, have each at one time or another looked at Parliamentary Hansard, reports of law reform committees, or explanatory memoranda to assist. Cases stating that extrinsic aids should not be looked to did so on the basis that no ambiguity in the provision to be interpreted could be found. Where ambiguity existed, courts often looked to other aids.

In Australia recourse has been had by judges to reports of Parliamentary committees, boards of inquiry, law reform commissions and committees, ad hoc committees and the like. It has long been acknowledged that legal writings in the way of academic treatises, text-books and articles in learned journals can be used. Cases involving social issues often refer to other sources, such as anthropological and historical texts, texts and other literature on racial discrimination and oppression, sociological and criminalological texts. Explanatory memoranda and similar documents accompanying legislation when introduced into Parliament are used. The opinions of Solicitors-General have been referred to.

As for the question of whether statements made in Parliament can be helpful or whether they are made for reasons other than to elaborate upon the intention underlying a measure, this is a question for the courts: Every day judges weigh up the value of evidence coming before them; that is their job. The Government believes that just as at all levels of the justice system judges and magistrates are daily required to bring their forensic skills to bear on questions relating to the weight of evidence, they will be similarly capable in relation to giving appropriate weight to Parliamentary debates and other extrinsic materials.

Many cases can be cited where recourse to Parliamentary debates and other materials has proved invaluable. The Legal and Constitutional Committee has in its report referred to a number of instances where during Parliamentary debates questions later coming before the courts have been asked and answered. The courts have found this helpful. In particular, during the second-reading debates instances are cited where a Minister responsible for a measure has been questioned on a particular passage or provision in a Bill. The Minister's answer has been referred to by the courts to solve difficult problems of statutory interpretation. Thus judges have already brought their minds to bear on the question of the weight to be given to exchanges in Parliament and to second-reading speeches and the like. They have not been inadequate to the task.

Far from adding to the complexity or cost of proceedings, recourse to extrinsic aids has served to do justice to litigants by ensuring that Parliament's intention has been recognized, so short-circuiting what might have proved to be extensive litigation had Parliamentary Hansard not been looked at by the court. Better, it has ensured that litigants have received the "right" answer—in accordance with what Parliament intended, rather than the "wrong" answer because, in the words of Lord Justice Mackinnon in Winchester Court Ltd v Miller, (1944) K.B. 734, 744, judges have been left to "grope about in the darkness", ignoring the assistance Hansard can give.

The Government is mindful of the need to keep legal costs within the ability of litigants to pay. It recognizes also the importance that justice is served only where litigants gain an "answer" through the courts which is in accordance with Parliament's purpose in framing legislation. The role of the Parliament is abrogated if its legislative voice is ignored.

The entire question of reference to extrinsic aids in the interpretation of legislation has been debated extensively at a series of seminars sponsored by the Federal Department of the Attorney-General over the past four or five years. At its most recent symposium, at Canberra in 1983, Mr Justice Mason, of the High Court, indicated that the doubts and uncertainties surrounding the use of extrinsic materials should be "set at rest by the Parliament". The Bill has heeded that advice, and also the advice given by the Commonwealth Ombudsman, Professor J. Richardson, who requested an
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identification of the classes or types of extrinsic material to which the courts could refer.

The list provided in clause 35 (b) refers to reports of proceedings in any House of the Parliament, explanatory memoranda or other documents laid before or otherwise presented to any House of the Parliament, reports of Royal Commissions, Parliamentary committees, Law Reform Commissioners and commissions, boards of inquiry and other similar bodies. This list is not meant to be exhaustive but indicates to the reader of the section the type of material which may be relevant to a particular case. Other extrinsic aids such as legal text books and articles in learned journals remain available for the courts to use, as they have done in the past.

This Government is also concerned that the public has a real opportunity to understand the laws which govern this State. Therefore, every endeavour will be made to ensure that legislation is clear on its face and that recourse to extrinsic aids is rarely necessary. Where recourse is necessary, every endeavour will be made to ensure that materials are available. At the symposium held in Canberra in 1983 to discuss interpretation of statutes and use of extrinsic materials, His Honour Justice Mason of the High Court of Australia, referred to this question, saying, "I am not inclined to think (accessibility) is a serious problem. And it can be diminished by making copies of second-reading speeches freely available".

Whether or not materials are readily available to all, judges do use them. Many judges have acknowledged this in their judgments, or less publicly, at conferences and the like. Thus, in order that litigants may get a fair hearing, counsel should be enabled to refer to materials which judges may use in interpreting Acts or subordinate instruments, rather than judges using the material without counsel having any opportunity to refute, endorse, or otherwise refer to their contents.

Indeed, without the provision which has been incorporated into the Interpretation of Legislation Bill, not only was the position of litigants highly unsatisfactory, but also the position of lawyers was made difficult in that they were potentially at risk for not referring to relevant extrinsic materials when giving advice to clients and taking cases before the courts, and they were labouring under the difficulty of not knowing which courts would allow them to refer to such material, or which judges, or even when such courts or judges would allow reference to extrinsic aids. The inclusion of the provision ensures that the position is now clear and unambiguous, and rather than increasing any possibility of negligence claims against lawyers, it ameliorates the problem.

Certainly, the Government has, in including this provision, taken into good account the words of His Honour, Justice Mason, who in summing up at the symposium of 1983 said:

... evaluation of proposals ... contemplating resort by the courts to extrinsic materials as an aid to construction involves something in the nature of a cost-benefit analysis ... certainty in the existing law is not a solid ground of opposition to legislative proposals designed to set the courts free from the old restrictive rule generally denying resort to extrinsic materials. In a sense the rule is a self-inflicted wound.

The law as it presently stands is neither clear nor convincing ... there is growing support for the view that it is or should be legitimate to resort at least to the Minister's second-reading speech and perhaps to the explanatory memorandum.

That there are anomalies in the present law is beyond question. It is incongruous that it is legitimate to have limited regard to the report of a Law Commission or an expert committee but not to Parliamentary consideration of the Bill itself . . .

All this indicates that there is now doubt and uncertainty as to the status of the old rule. It is generally felt that this doubt and uncertainty should be set at rest by the Parliament . . . This is because the Parliament is not afflicted by the accumulated overburden of past judicial decisions and because Parliament, through its statute, speaks with a single voice . . .

It must be emphasized that in including this provision, it is intended that the ordinary, accepted course of courts resorting to extrinsic aids for assistance in interpretation should be followed. That is, recourse to extrinsic materials is to be had only where it is considered, by a court or a judge, that a particular provision, Act or subordinate instrument is ambiguous. The general rule is that Acts are read against the appropriate common law background. In the past, extrinsic aids have been looked to only in those cases where ambiguity has been perceived to exist. This provision ensures that this pattern can be followed consistently by the courts; it does not provide that extrinsic aids should be looked to in all cases of sta-
tutory interpretation, but that, in cases of ambiguity, where a judge or court considers it may be of assistance, that judge or court has a discretion to use extrinsic aids to assist in construction.

The Government has also considered it necessary to refer only to indications provided in the Act or subordinate instrument, proceedings of Parliament, explanatory memoranda and the like, and reports of Royal Commissions, Parliamentary committees, Law Reform Commissioners and commissions, boards of inquiry and other similar bodies. Other extrinsic aids—such as legal texts books and articles in learned journals will remain available for the courts to use for the purposes of interpretation, in the ordinary way.

The Government believes the inclusion of this provision will advance the cause of justice in this State. The provision will enable Victorian courts to overcome a traditional reluctance to search beyond the words of a section when its meaning is in doubt, a reluctance which has, unfortunately, been all too readily apparent in courts in this State. As Lord Simon of the English House of Lords stated in the Black–Clawson case, (1975), Appeal Cases 591,

...a technical refusal to consider relevant material... requires justification... It is refusing to follow what is perhaps the most important clue to meaning. It is perversely neglecting the reality, while chasing shadows. As Aneurin Bevan said: 'Why read the crystal when you can read the book?' Here the book is already open; it is merely a matter of reading on...

This provision is a model for other Governments, some of which are already moving in the same direction, in order to overcome problems arising through the too rigid application of the literal rule of construction of statutes.

The Bill also deals with another area of statutory interpretation which requires clarification. It provides that when an Act or subordinate instrument confers a power to act, if the word "may" is used, the exercise of that power is discretionary: However, if the word "shall" is used, there is no discretion as to its use, and the power must be exercised. This provision overcomes the previous uncertainty and sometimes conflicting interpretation of statutory provisions in which the courts were able to determine that where Parliament used the word “shall”, it intended that no discretion was conferred, although in other cases the word “shall” was interpreted to mean that there was a discretion.

Similarly, whilst “may” was often interpreted to mean that exercise of the power was discretionary, sometimes it was interpreted as meaning that there was no such discretion. The resultant confusion of meanings was often the cause of protracted litigation. The present provision seeks to provide a clear rule to govern the use of these terms.

With the inclusion of this provision, courts are no longer enabled to determine that where Parliament used “shall”, it intended that a discretion should be conferred on the body or party upon whom power is conferred; nor are courts enabled to determine that where “may” is used, the party or body upon whom the power is conferred must exercise the power, without regard to whether or not any criteria are outlined in the statute or subordinate legislation, upon which exercise of the discretion rests.

In New South Wales, despite the existence of a provision similar in terms to that contained in this Bill, some courts and some judges have in particular cases held that “shall” does not necessarily mean that a power conferred must be exercised, and that “may” in a particular case does not necessarily mean that a power conferred is exercisable at discretion.

To overcome this problem, the Bill contains an additional sub-clause, stating that any Act or subordinate instrument passed after the commencement of this Act, must be interpreted in accordance with the definition of “shall” and “may” contained in the Bill. This means the courts will no longer have the power to define “shall” as conferring discretion, or “may” as requiring the mandatory exercise of a power.

Fourthly, for the remaining technical clauses, I draw the attention of honourable members to the explanatory memorandum accompanying the Bill which describes those clauses in some detail. With the passage of the Bill, that explanatory memorandum will be available to the courts for assistance in interpreting all the provisions, as will the report of the Legal and Constitutional Committee.
Finally, for the information of honourable members, the Government has also adopted some recommendations of the Legal and Constitutional Committee's report which do not require legislation _per se_. In the future, a table of provisions will accompany all Bills of substance and the feasibility of establishing a comprehensive index for each new Act of Parliament is now being examined. Both measures will go a long way to ensuring that Acts of Parliament are more readily accessible to all.

It is also this Government's intention to ensure that, where possible, gender neutral terms are to be used in the drafting of all future Acts and subordinate instruments. A searching review of the history of legal language, and an analysis of the merits by the Legal and Constitutional Committee, led that committee to make this recommendation. The Government is aware of the important philosophical and practical reasons underlying this recommendation, and has instructed Parliamentary Counsel that it is to be followed in all future legislation.

In conclusion, I draw to the attention of honourable members the commendations on the Bill received from Professor J. G. Starke, QC, editor of the premier law review in this country, the _Australian Law Journal_. In a communication dated 8 February 1984, Professor Starke said that the Bill:

... is comprehensive, well drafted and reflects careful consideration of the case-law, literature and opinions of lawyers (expressed at seminars and otherwise), and provides excellent guidance for the judiciary ... the Bill should be regarded as a model for similar legislation throughout Australia.

The Government has, with the assistance of the Legal and Constitutional Committee, in the Interpretation of Legislation Bill 1984, produced a first-rate and much-needed scheme for legislative interpretation. It has been distributed for comment to interested parties Australia wide. The Bill is the first thorough revision of interpretation legislation in Australia, and there are indications that other States and the Commonwealth will shortly follow its example. Although it is of a technical nature, it represents an important exposition of the rules and guidelines to be used in the construction of Acts of Parliament and subordinate instruments. It, therefore, to some extent, affects us all. I commend the Bill to the House.
That the following Order of the Day, Government Business, be read and discharged:

Workers Compensation (Amendment) Bill (No. 2)—Second reading—Resumption of debate.

and that the Bill be withdrawn.

The motion was agreed to, and the Bill was withdrawn.

EQUAL OPPORTUNITY BILL

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of clause 4 and of Mrs Baylor's amendment:

4. Clause 4, page 5, lines 15 to 21, omit all words and expressions on these lines.

The Hon. HADDON STOREY (East Yarra Province)—When the Bill was last before the Committee a long debate ensued on Mrs Baylor's amendment and the debate became quite heated. Expressions were used which were perhaps created by the tensions within the Committee. Despite that background of rather tense and excited comment, a number of serious points were made. I believe it was as a result of those points, which were made from both sides of the Committee by persons with firmly and genuinely held views, that the Minister asked that progress be reported.

I believed the Government would give further consideration to the Bill and, in particular, to the definition of "private life" and the implications of that definition throughout the Bill, to ascertain whether some compromise position could be advanced and wording introduced which would accommodate the genuine views of members of the Committee. I am disappointed that the debate is resuming without any suggestion of an amendment to be moved by the Government. Honourable members are in the same position as they were in when this amendment was last before the Committee in December. The Government is determined to proceed with the Bill as drafted. The Opposition has moved its amendment and has raised a serious matter for consideration by the Government. The Government has chosen not to give any ground, not to make any amendment or to present any alternative course for achieving its objective. It thus seems inevitable that the debate will proceed and a vote will be taken on the amendment as it stands. That means that there will be a vote on the definition of "private life" as contained in the Bill.

I have already pointed out a number of defects in the definition and I am bound to repeat them, although briefly. It is necessary to repeat them because a wide variety of views are held about the Bill.

Some members of the Liberal Party have deeply-held beliefs which prevent them from accepting what is contained in the Bill in reference to "private life".

Some of those beliefs have resulted from reservations about one aspect of the definition of "private life" and some are as a result of reservations about other aspects of that definition.

There are other members of the Liberal Party who are concerned about the implications of the definition of "private life" as a whole and who do not necessarily have any disinclination to have a prohibition on discrimination about these individual matters, but who find it impossible to accept the over-all implications of the definition as set out in the Bill.

As I pointed out on a previous occasion, and I am forced to refer to it again, the definition covers a range of different attitudes in life which makes it difficult for some people to conduct their lives without being able to discriminate in the sense of the word in the Bill, against particular people.

Clause 4 refers to the holding or not holding of any lawful religious or political belief or view by the person. One could refer to an example of a small business, a small association of people, where there is a common bond amongst the people who work together. It may be some semi-religious organization that is not engaging in religion as such but, rather, is engaging in some commercial activity associated with it. It may be a firm of solicitors, all the members of which are well-known members of the Labor Party or, if you like, well-known members of the Liberal Party, who engage in a particular business of solicitors which acts particularly for political parties or perhaps unions. There may also be other associations of people who have great difficulty in being able to conduct their businesses unless they are able to say that they wish to
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carry on that business in association with people of a like mind.

One would imagine that it would be possible to cater for that problem in the Bill, but the Bill does not cater for it. The Bill includes an exemption covering partnerships of three or fewer members, but the sorts of associations about which I am talking would, more commonly than not, have more than three persons involved in their activities or memberships. Therefore, that sort of exemption is of no assistance.

The definition of “private life” in clause 4 also refers to engaging in or refusing or failing to engage in any lawful religious or political activities by the person. That raises the question in one’s mind of why, if that is genuinely believed, the Bill includes an exemption in terms of refusing to employ someone because that person is a member of a union. As Mr Dunn says by interjection, it is a double standard that is set out in the Bill. It is all right to say that people should not discriminate unless it happens to cut across the beliefs held by, in this case, the Government, which has included an exemption that allows discrimination in that case.

I do not know how the Government can intellectually sustain that argument. It appears to me that, once one admits that exemption, one has to say that there could be all sorts of other exemptions. Of course, once one has done that, one will have initiated the approach that is being adopted by the Government in the Bill. Honourable members have not heard an answer to that proposition. It is not good enough to say, as some members of the Government party might say, that they are right in saying that discrimination is all right in that case and that there is some absolute justice or rightness in the positions held by them. Other people may consider that there is some absolute rightness or justice in some other position they hold. Why should the Government choose this particular section and say it is all right to discriminate in that case but not in any other case? That is not a justifiable exercise.

The third part of the definition of “private life” relates to engaging in or refusing or failing to engage in any lawful sexual activity or practice by the person. As I pointed out on the last occasion on which this debate took place, that is ineffective because it does not really get to the heart of the question relating to people who engage in certain sexual practices; it does not say that it is unlawful to discriminate against a person who is a homosexual, just to take the example raised by the Government.

In making that point, I am heartened by the fact that the President of the Law Institute of Victoria, Mr J. H. Harty, made a similar point in a letter which was written after the debate on this measure that took place last year. The letter made no particular reference to what was said in Committee at that stage but raised the same sort of point. In a letter dated 22 December 1983, written to the Leader of the Opposition about the Equal Opportunity Bill, the President of the Law Institute was dealing with the provisions relating to partnerships in clause 24 of the Bill. I do not want to go into detail about clause 24 because I know that you, Mr Chairman, would stop me if I tried to do so. However, it is relevant because clause 24 depends upon the definition of “private life”. In discussing that clause, Mr Harty also referred to the definition of “private life”. He stated:

The definition of “private life” in Clause 4 is inadequate. For example, paragraph (c) of the definition refers to “any lawful sexual activity or practice”. The clause, as drafted, does not cover “unlawful sexual practices”; it appears to follow that discrimination arising from a refusal to engage in an unlawful sexual practice would not contravene Section 24 of the Equal Opportunity Act 1983.

Therefore, quoting Mr Harty rather than anything I might say, it is clear that what is contained in the definition does not really get to the heart of what the Government says it is on about.

Having gone through the three elements of that definition, I come back to indicating that what the Government has done, in a sense, is to try to bring together several different aspects of human life and say that one must not discriminate in these matters. The Government has not really identified particular areas where discrimination exists at present, but it has tried to deal specifically with them in the Bill. In failing to do that, it has really tried to encompass in a wide definition a whole series of things, some of which cannot really be demonstrated to be areas where discrimination in life is causing problems or where discrimination occurs and ought to be corrected.
This approach does not correct those problems. The reason why the Government has done this escapes me. I suspect this is because the Government is not prepared to focus specifically on matters about which it is concerned, and it has almost set up a smokescreen by talking about "private life" in the Bill. In doing so, it has created these problems. They are problems in the drafting of the Bill and have led to the concern of many different people about the provision and have caused their unpreparedness to support it. I am disappointed that the Government has not seen fit to reconsider its approach or to adopt an approach such as that which the rest of the Bill adopts—to take specific problems and deal with them specifically. That is the approach adopted in other places where discrimination legislation applies.

It is easier for people to grasp exactly what is contemplated and then they can make up their minds on whether they support the principle. That has not occurred in this case. We are still in the position that we were in last December and for those reasons I repeat the stand that I took on that occasion when I pointed out the problems with this definition.

I raised them on that occasion but I have not heard any answers to those specific problems from members of the Government. In the absence of any such answers, the Opposition must continue to oppose the definition.

The Hon. M. J. ARNOLD (Templestowe Province)—The remarks made by Mr Storey tonight concerning the intensity of the debate last December are certainly correct. It is unfortunate that the debate took place in such a manner and in such circumstances because all honourable members appreciate that the Committee is dealing with very sensitive areas upon which Mr Storey and a number of Opposition members would agree, at least in principle. It is unfortunate that some members of the Opposition have tended to stray from what were the sensitivities that should be applied to the definition of "private life".

I believe there might be some misunderstanding and some lack of appreciation by people concerned with the introduction of the Bill. The Labor Opposition acknowledged and applauded what was done by the then Government in 1977 when equal opportunity legislation was first introduced because it dealt with certain areas that had long not been properly covered. It is the Government's strong belief that the proposed section on "private life" is fundamental to the Bill. The proposal takes it that essential step further to bring it into line with the actual conditions and facts of life that operate in Victoria in 1984.

The Government realizes that it is difficult in drafting such legislation to cover all the problems and all the matters that need attention concerning private and human life. Mr Dunn shakes his head and indicates that he does not believe the matters to which honourable members are turning their attention are the actual standards or facts of life in 1984, but I can assure him that they were. They are here in the city and they apply equally to the country electorate represented by Mr Dunn. If Mr Dunn turned his attention to the problems of the people in the electorate he represents, he would find that some of them are suffering from discrimination.

Those people do not share the same opportunities that many other people, whom he may regard as normal, share in the electorate represented by him.

The Hon. B. P. Dunn—Your Government is the worst offender in equal opportunities between the city and country.

The Hon. M. J. ARNOLD—Mr Dunn would appreciate that the proposed legislation applies equally to the people in the country—just as members of the rural part of the electorate I represent would appreciate. There is no contest between the type of representation that I would give to all constituents in the electorate I represent. There would be no discrimination in the way that I act for constituents in the rural or urban parts of the Templestowe Province.

Mr Storey referred to the holding of any lawful religious or political beliefs or views by persons and he drew attention to the exemption concerning union membership. He is aware that the conciliation and arbitration system is based upon a number of awards which have preference clauses for unionists. He is not addressing the real problem by saying that this exemption should not apply.
The Bill is not dealing with industrial relations; it is dealing with equal opportunity and the "private life" of all members of the community. Unfortunately, in the debate that occurred late last year, some rather uncalled for comments were made concerning sexual preferences, sexual proclivities homosexuality and it again seems that the Opposition is out of touch with a group of people that have long been discriminated against and misunderstood in the community.

I believe the Opposition's reaction to the homosexual community is based on the inherent fears of those who do not understand, who are not willing to try to understand and who have their own latent fears about a group of people that they cannot understand.

The Hon. D. G. Crozier—Would Mr Arnold claim that he is in touch with that specific community?

The Hon. M. J. ARNOLD—Mr Crozier, along with other honourable members and I, would have friends, acquaintances and perhaps relatives who may be homosexuals. We would certainly know a number of them. I am sure that many of them could be trusted in a whole range of responsible positions. We would trust them to deal with us in all types of confidences. It is inappropriate for us to differentiate between people whom we fear unreasonably.

All honourable members know of people who come within the ambit of the Bill and therefore should be protected by the proposed legislation. The Opposition seems to have a fear about the unknown and believes certain undefined people will do something that they cannot handle.

Honourable members interjecting.

The Hon. M. J. ARNOLD—I take up the remark of Mr Mier, "What are you frightened about?" Why should these people not be given the same opportunities as those given to Mr Radford—who has just walked into the Chamber—who is as normal as anybody in the community? By "normal" I mean all people who are entitled to the benefits of the Bill.

Mr Connard calls for examples. If he, in his own experience, has not seen examples of discrimination, of preference, passing over and various other forms of discrimination while he was in business and since he has been in Parliament, I would be surprised. The definition of "private life" is fundamental to the proposed legislation. Accordingly, I support the measure.

The Hon. B. W. MIER (Waverley Province)—I commend most of the comments made by the former Attorney-General, the Deputy Leader of the Opposition, Mr Haddon Storey.

It is a complex measure that cannot be seen in a completely black and white manner. I shall pursue the matter of the exemption, the reference by Mr Storey to the trade union movement, and particularly the interjection of the Leader of the National Party, Mr Dunn, that the Bill reflects double standards.

The Bill deals with equal opportunity, not the Conciliation and Arbitration Act, the State Industrial Relations Commission or the State Industrial Relations Act. It seeks to provide equal opportunities and treatment of citizens in all walks of life, irrespective of their religious creed, political leaning and so forth. It is designed to protect citizens against persecution. This type of protection has never before been available to the citizens of Victoria. For the first time in the history of Victoria, a conscientious attempt has been made to provide protection for all citizens, including non-trade unionists. Honourable members could spend hours debating instances in which the Bill would not cover certain areas.

The CHAIRMAN (the Hon. K. I. M. Wright)—Order! Mr Mier is straying from the definition of "private life".

The Hon. B. W. MIER—I am concerned at the reference made to the trade union movement. I point out to the Committee that the rights of citizens are equally protected under the Conciliation and Arbitration Act, a Federal Act which supersedes all State Acts and the State Industrial Relations Act. All citizens of this country are afforded the privilege that Mr Storey and Mr Dunn indicated should not be allowed to exist. There is no reason why those provisions should be included in the proposed legislation. It is not an industrial relations measure; it concerns equal opportunity and protecting the rights citizens to pursue their
goals in employment or in any other activities.

The Hon. B. P. Dunn—However, they can be discriminated against if they do not hold a union ticket.

The Hon. B. W. MIER—The Conciliation and Arbitration Act provides protection for citizens of this country. If Mr Dunn does not understand that, he is ignorant, and to sit here and claim that he is the Leader——

The Hon. D. G. CROZIER (Western Province)—On a point of order, I fail to see the relevance of the remarks or the nexus between the Conciliation and Arbitration Act and clause 4, which is under discussion by the Committee.

The CHAIRMAN—Order! I uphold the point of order and ask Mr Mier to debate the definition of "private life", if he wishes to continue debating the amendment.

The Hon. B. W. MIER (Waverley Province)—I was referring to comments made by the Deputy Leader of the Opposition, Mr Storey, and the Leader of the National Party, Mr Dunn. I emphasize to the Committee the concerns they expressed on trade union membership, which are adequately dealt with in other State and Federal Acts.

The Hon. H. G. BAYLOR (Boronia Province)—Having had a fairly lengthy and tiring debate on the Bill in the last sessional period, it is disappointing that the Government has seen fit to propose only one or two amendments to the Bill. The Opposition has argued the case that it is not right, and certainly not in the best interests of a democratic society, for any Government to impose its views on matters that could be considered by definition to be of a moral or ethical nature. I have maintained the view that these matters concern individual preferences. People in a democratic society should be free to live their lives and to hold beliefs within the law. The former Liberal Government decriminalized homosexual activities between consenting adults in private. The Opposition strongly objects to the imposition by the Government of a particular moral or ethical view which many people do not share.

I am surprised that, in the intervening period between the debate on the Bill, members of the Government party have not come to that conclusion themselves if they have pursued the matter in their electorates or with the community. The Opposition is not claiming that people cannot have religious beliefs, sexual preferences and so forth that are covered under the definition of "private life". The Opposition strongly objects to the provision that the Government is trying to pass. It will impose a law on people who do not share those moral and ethical views so that they cannot maintain their own moral or ethical standards in the provision of goods, services or employment to other people. It is an intrusion into the private lives of many people, and it is imposing on them a view, by statute, that would be best left off the statute-book.

The equal opportunity legislation has done a great deal to bring about better community standards and education. I have no doubt that further work will be done in that area. I do not for one minute suggest that people are not discriminated against; they are. However, I sincerely state that this measure, by imposing its view on the community, is not the way to eradicate the sort of discrimination that the Government is trying to eliminate. The Government must recognize that many people do not share the view that the Government believes in a different set of ethical and moral standards.

The CHAIRMAN (the Hon. K. I. M. Wright)—Order! Mrs Baylor is wandering from the definition of "private life". I ask her to return to debating the Bill more specifically.

The Hon. H. G. BAYLOR—In clause 4 (1) the definition of "private life" includes:

(a) The holding or not holding of any lawful religious or political belief or view by the person;

(b) engaging in or refusing or failing to engage in any lawful religious or political activities by the person; or

(c) engaging in or refusing or failing to engage in any lawful sexual activity or practice by the person.

People are free to act as they wish, yet others who may not condone their moral or ethical standards have no rights whatsoever. People have every right not to condone certain activities and every right to set their own standards of moral and ethical behaviour. This area is both difficult and sensitive, as was pointed out by Mr Mier, and is best left off the statute-book, especially in the form presented in the Bill.
One cannot expect people who do not have similarly strong religious and political views—which are respected by the Opposition—which they may wish to actively pursue within the laws of the country to share those views and to condone those activities and views in the workplace. To force people to do so by law is the direct opposite to the creation of a true democratic society.

I cannot stress too strongly the logic of the argument put forward by the Opposition and the unacceptability of the clause in the wider community. I am surprised that members of the Government are still pursuing the provision. One wonders how widely the matter has been canvassed. I suspect that many members of the Government have spoken to only certain sections of the community and, therefore, have not heard the views of others which may have very different views and which are well known to the Opposition.

The Opposition believes the clause is totally unacceptable, not only to it but also to the community it represents. Therefore, the Opposition cannot support it.

The Hon. J. E. KIRNER (Melbourne West Province)—The principle of individual liberty has been well canvassed during the debate. It clearly requires that all persons, if they act lawfully, should be protected from discrimination. That includes their private life. The clause gives legal effect to that principle. It does not promote different lifestyles. It does not, as Mrs Baylors suggests, impose a particular view; it does the absolute opposite.

The clause protects the individual against the imposition of a political view, a religious view or a view about sexual preference. That position is shared by a number of people on both sides of the House.

All honourable members know and are concerned that discrimination is practised right now in our society on the grounds of private life. At present we have no legal power to stop it. The Opposition is making a hollow commitment to equal opportunity if it allows that position to continue. The Opposition says much about disappointment tonight. I am disappointed too. I cannot believe that the Liberal Party, which has its philosophical roots in John Stuart Mill's philosophy that the ultimate test of any law is the liberty of the individual, wants to persist with the clause that rules out the liberty of the individual.

Government members may prefer the concept of liberation of the individual, through the group. However, liberty of the individual is the position that is argued on private life by the Opposition which wants the clause amended because it may offend the liberty of some individuals. Yet, to impose on the individuals the original clause, which they are rejecting, is about protecting the liberty of all individuals. What a disappointment.

If the clauses are so badly worded and if Mr Storey is so concerned that the clauses are ill-phrased, he should have worded them better when the Opposition wrote the amendments. The Opposition should not try to make members of the Government own these amendments; the Opposition drafted the amending Bill on equal opportunity yet did nothing about clarifying the clause to meet the spirit of their argument.

The Hon. H. G. Baylor interjected.

The CHAIRMAN (the Hon. K. I. M. Wright)—Order! Mrs Kirner and Mrs Baylor should include the Chair in the discussion.
The Hon. J. E. KIRNER—Perhaps the Opposition thinks that by continuing to oppose the private life clause it might persuade the Government to drop it. They know that the Government regard the clauses on sexual harassment and on disability as being of particular importance. Let members of the Opposition be under no illusions: The clause on private life is at the heart of the Bill. The clause protects the individual's choice within lawful limits, which is at the heart of developing the society that we stand for—a respectful and tolerant society in which everyone is equal. That should be at the heart of any party which professes commitment to equality.

Perhaps the real reason for the Opposition's persistence with the amendment to the clause is not because the Opposition is interested in the individual but because it has bowed to the so-called "moral majority"—or, as some of us would say, the immoral majority. Perhaps at present they see some benefit in being aligned to those forces. They are the forces of the neo-right. Clearly those forces have taken over in the party room and indeed in the pre-selection skirmishes in the Opposition against those people who might now be classified within the Opposition as their Liberal minority.

I am sorry the Liberal minority has not won the debate over the clause. I am sorry the Opposition is continuing to oppose the clause on private life. Their opposition will ensure that what should have been a milestone in equal opportunity legislation for Victoria is a millstone around the clause.

The Hon. JOAN COXSEDGE (Melbourne West Province)—I state categorically that members on the Government side totally reject any amendment to the provision. As has been said by other speakers, the private life clause is a key provision of the Bill.

It is the heart of the Bill. It has been debated vigorously amongst a range of organizations inside and outside the Labor Party. I assure Mrs Baylor that there is a generally unanimous view that if this clause is lost, then the whole intent of the Bill will be lost and it will make the Bill a sham. That is why the Labor Party is fighting hard to maintain the clause. It is crucial to the integrity of the Bill.

I guess some people like to believe this is a free society, although some may have doubts now and again, but surely everyone shares a belief that people should not be discriminated against because of their political beliefs, their religious views or their private sexual activities and, therefore, how can any rational person object to the clause? That is what it is about.

Until I saw Mrs Baylor shake her head vigorously when Mrs Kirner spoke of the philosophy of John Stuart Mill I understood that it was the cornerstone of Liberal Party philosophy that the right of the individual is paramount. At election times and at other times it is rammed down one's throat that the Liberal Party is the champion of people's rights but that is obviously not the case because Mrs Baylor shook her head when John Stuart Mill was mentioned to simply that he has nothing to do with today's version of the Liberal Party.

This clause has not been arrived at hastily. A great deal of thought and hard work has gone into the provision. Not only does it have the wide support of the Labor Party but it also has wide community support. It is generally recognized as one of the most progressive parts of the Bill despite the legal convolutions of the Law Institute as raised by Mr Storey.

I suppose that I am not altogether surprised that certain Neanderthal elements of the Opposition and the National Party, and I am not looking at anyone, Mr Dunn, seem to be terrified of anything that could be remotely considered as progressive because I get the feeling that they might think it is catching. I assure Mr Dunn and Mrs Baylor that the Labor Party is in no way suggesting that their rights to hold reactionary views will be infringed in any way. The Labor Party is not suggesting that the views expressed in this clause will be forced on them. That is not the intent, as they very well know. Instead, this clause provides protection for those who hold minority views and, surely, that is a good thing. The Labor Party, in this Bill, is trying to extend the concept of equality of opportunity to as many people as possible.

If the amendment is persisted with it will seriously limit the Bill and the Opposition and the National Party will be saying to the community, which is a wake up to them, that it is acceptable to discriminate against
certain persons. The changes suggested by Mrs Baylor and Mr Storey, obviously supported by other loudmouths, are completely unacceptable to members of my party because we feel that it can no longer then claim to be an equal opportunity Bill. We hold strong views about this clause.

Despite their mealy-mouthed rhetoric, the reality is that members of the National Party and the Opposition want to continue to discriminate against certain groups of people who have particular religious views, have different sexual preferences or hold certain political beliefs in which members of the National Party and Opposition do not believe.

I was in the House a few years ago when the Opposition took a very good progressive stand to virtually decriminalize homosexuality and had the full support of the Labor Party on that issue. Why does the Opposition want to go backwards now? If the amendment is sustained, society will be travelling backwards at a fast rate.

The Bill will help to stop the continuation of forms of discrimination which, unfortunately, have become too often entrenched in society. This private life provision is really about tolerance and freedom to hold political views and religious beliefs and to have sexual preferences without the fear of losing your job or of not being able to obtain jobs in the first place, and it covers other areas also. The Labor Party wants people to go about their business in their own way without being afraid, which, surely, is a concept that any reasonable person would agree with. I strongly support the original clause and I totally oppose any change to it.

The Hon. B. P. DUNN (North Western Province)—Mrs Coxedge has not convinced me of anything and I am sure that out in the community Mrs Coxedge is the Government's worst enemy. The faction fighting in the Labor Party is alarming not only to sections of the Labor Party but also to the community in general. I have no confidence in what Mrs Coxedge says of equal rights and freedoms of individuals—what a hollow rhetoric it is. The debate is about giving rights to certain people and taking away the rights of others.

Surely, if I am an employer, I have some right to choose the kind of employee I am going to employ. That is a freedom that I should have as an individual in the community, but this Government says that I do not have any right as an employer or as a person who has accommodation to let because it says one cannot discriminate between people wanting employment or accommodation. That is taking away a person's right, but members of the Labor Party do not worry about that.

One should have freedom of choice and if I want to employ someone on my farm I should be able to choose the person I want to employ. If I do not want to employ a member of the Socialist left to work beside me on the farm every day, I should not have to employ that person. If I wish to employ a person or have a person occupying accommodation, if I had it to offer, and if I were not able to make some choice, that is a loss of freedom to me.

That is the way in which I look at it. The Labor Party does not put that side of the question—it puts the side of the minority only, all the time. The freedom of the individual does not extend to the freedom of the employer in this Bill and of that person's right to make any choice about the person he employs.

The private life provision is carried right through the Bill and, therefore, it writes into the Bill these provisions which mean that people in the community generally cannot discriminate in any way or exercise their choice. The National Party made these points during the second-reading debate, again during the Committee stage of the Bill last year and, once again, I reiterate these points. It is all right for the Labor Party to give freedom to one section of the community but it wants to take away freedom from the other section.

The National Party believes that is not a balanced point of view, and will vote for the amendment and against the definition as contained in the Bill.

The Hon. G. P. CONNARD (Higinbotham Province)—In common with most members of this House, I can say that, in the short time during which I have been a member of this House, I can say that, in the short time during which I have been a member of this House, this issue has promoted more correspondence and comment from constituents than any other. That correspondence and that comment has been almost totally in opposition to the concept of private life, as defined in the Bill.
However, several groups have sought my support for the definition, and they included at least three homosexual groups. I was interested to hear their view. After discussion, I found that they did not want to be classified as separate groups of individuals but rather as migrants and other groups are classified—as ordinary Australians, ordinary employees and ordinary employers. The result of this clause would be that the homosexual could say, “I am a homosexual and the world owes me a living; therefore you shall employ me”, but these groups do not want that situation. When I asked them whether they were satisfied with the recourse available to them under the existing legislation, they said they were not unhappy with it. As honourable members know, of the five cases that have been brought before the courts, four have been decided in favour of the homosexual concerned.

Mrs Kirner and Mrs Coxsedge also fail to understand a further point because they tried to go down a philosophical track and expressed essentially a humanist view, and they spoke of the liberty and freedom of the individual. I am a Christian and proud to be one. The Christian point of view differs slightly in that it emphasizes the liberty and freedom of individuals, but with consideration for the rights of others. This clause proposes to inhibit the rights of others—in particular, the rights of employees and employers and others in the community—to interrelate with groups with which they should be able to interrelate.

To me, part of the farce of the Labor Party’s basic philosophy is that, on the one hand, with equal opportunity problems, the party poses as a paragon of virtue and, on the other hand, the Minister for Planning and Environment has indicated to local government that the Government wants to register brothels or massage parlours. I suggest to Mrs Kirner and Mrs Coxsedge that there can be no occupation more degrading than prostitution, and I ask whether they speak with forked tongues on these two matters. On the one hand, they say that they are advocating certain matters; on the other hand, the Government intends going down a very tawdry track in future legislation. I suggest that Mrs Kirner and Mrs Coxsedge are completely insincere in their so-called desire for the people of Australia to interrelate with other groups.

Knowing of Mrs Kirner’s interest in education, I point out to her that I endorse the attitude of the Government that school councils should have the right to hire and fire and to do a number of other things. However, at least two of the school councils with which I am associated have become so concerned that they have come to me asking whether, if the Bill is passed, they will be able to dispense with the services of homosexual teachers who may actively advocate that philosophy to young children, and that is extremely serious. I know of two school councils in the electorate I represent that are concerned about this clause and the way in which it will affect their ability to educate their children.

As a member of the Liberal Party, I am an advocate of equal opportunity, but I believe the Labor Party is extremely stupid in going down this unnecessary and disruptive track.

The Hon. C. J. HOGG (Melbourne North Province)—I am interested to be able to follow Mr Connard. Earlier in the debate, he asked for specific instances of discrimination. I will be delighted to provide some in a moment but I think that his concluding notes illustrate a real fear that exists in the community, a fear that honourable members touched upon when the Bill was last before the Committee; that is, the question of homosexuals vis-à-vis young people and proselytizing in the classroom. A good deal of time was spent on this question and several honourable members on the Government benches produced evidence to show that that was not the case, that homosexual teachers do not proselytize in the classroom, and that nothing is to be feared from them. There are already many homosexual teachers in our schools and there is nothing to fear from their behaviour.

It worries me that Mr Connard can bring to this place views from school councils without having satisfactorily answered those views in his office or wherever he received those deputations. As legislators and elected representatives, we have responsibilities to inject rationality into sensitive questions. At the beginning of the debate, Mr Storey said the issue had become emotional towards the end of last year. That is true; it was an emotional debate, but this evening honourable members have spoken more dispassionately and Opposition members
have spoken much more logically than they did in 1983.

Community concern should be rebutted with facts and logic; it should not be fanned or stirred up. It is up to honourable members to challenge stereotypes of behaviour when we come across them—not to encourage them but to explain and expose them as such where necessary. Every time an Opposition member speaks, he or she celebrates the Australian way of life as it is seen by the group that he or she believes makes up the Australian way of life. I am as keen on barbecues, station wagons and various other attributes of the Australian way of life as anyone, but I believe the Australian way of life is made up of many views and many groups.

One of the examples of discrimination I would like to give to Mr Connard is to briefly repeat one example I gave last year. It is an example of religious discrimination and only if the Bill is carried in its entirety can the people of whom I speak be protected. I happen to know that Mr Connard is also interested in this group. In the electorate I represent, a number of Turkish and Lebanese women dress in a manner that is dictated by their religion. All honourable members realize that that traditional mode of dress is becoming more popular among young Islamic women. Many instances of discrimination against them in terms of employment have been reported to me at my office.

These women have been discriminated against because they do not dress like other people. They do not dress like other people because they hold a different religious point of view which dictates to them something about dress. That is a real instance of discrimination which I know Mr Connard would understand, appreciate and share, and the sort of discrimination that needs to be continually examined and confronted.

Apart from that, a significant part of the debate has centred, and will centre, around what is meant by the section of the Bill relating to "private life", which seems to be defined by all parties as meaning the private life of homosexuals. Homosexuals have been discriminated against through the ages. Honourable members must remember that hundreds of thousands of homosexuals perished in concentration camps during the second world war. Discrimination and active persecution have been the lot of homosexuals, even in this century.

The Bill does not attempt to treat homosexuals as a class apart, any more than it attempts to treat people who observe traditional religious dicta as a class apart. On the contrary, it confers protection over all those groups, and all those groups make up Australian society. The people from the country, the people from the city and the many groups within the country and the city all constitute Australian society. It is not simply the nuclear family, although that may be a very satisfactory and satisfying way of life. One should realize that there are also extended families, single-parent families and co-operative and community houses in which students and other people choose to live. A number of people also choose to live in de facto relationships, either heterosexual or homosexual.

All those people make up Australian society in 1984. Perhaps it was not like that at the turn of the century. Indeed, in many ways, it was not. Perhaps it was not like that in the 1950s or the 1960s, but it is like that now, and one ought to acknowledge that Australian society really has changed.

A number of Opposition spokespersons said of Government speakers that they speak for minorities. I do not believe we do. We speak for all Victorians. However, it must be remembered that a large number of groups make up Victorian society. The Bill attempts to offer protection for them. One must remember that this clause stresses lawful behaviour. It is talking only about lawful behaviour. There is nothing to be frightened of in this clause. It does not begin some kind of domino or chain reaction. All it does is to offer protection to some of the groups in society that quite desperately need it.

The Hon. D. G. CROZIER (Western Province)—I will not be so ungenerous, as apparently the Premier was recently, by not taking Mrs Coxedge seriously. I take her very seriously indeed. I agree with her, Mrs Kirner and Mrs Hogg, that clause 4, and particularly the definition of "private life", which is principally under discussion in this clause, is at the very heart of this measure and the interpretation of it.

However, what members on this side of the Chamber have patiently explained again
tonight, just as they did when the measure was debated in November last—and what members of the Government party have consistently refused to admit—is that the Bill produces, or will produce if it passes into law, a counter-discrimination of its own. That is an undeniable consequence of the flow-through of this definition. Honourable members do not need the Attorney-General's latest contribution to the laws of this Parliament—maybe it is an admirable one, which he introduced earlier tonight—the Interpretation of Legislation Bill, a copy of which is not yet available—to define or understand what is meant in this measure.

In spite of the arguments that have been well developed by Mrs Hogg and other speakers that this Bill is simply a progression of enlightened legislation which seeks to remove discrimination, what it really does—and this is something that the Government will not and certainly has not addressed—is that it introduces a type of discrimination of its own. Our argument does not relate only to discrimination which may or may not exist in the employment of some Turkish migrants but also to those minorities that aspire to and practise a type of private life or style of life which is morally repugnant to the vast majority of Victorians. This is really the nub of the question and it has not been answered.

If any further explanation is necessary of why the Liberal Party is adamant, as is the National Party, in objecting to this clause, I make the point that if this clause is passed, it will not only elevate homosexuality to the level of normal behaviour but will also, by inference, equate it to normal behaviour. The Hon. J. E. Kirner—The Liberal Party did that with its legislation.

The Hon. D. G. CROZIER—The Liberal Party decriminalized homosexuality. There is an essential difference. Mrs Kirner does not seem to know the difference between what was done through the Crimes (Sexual Offences) Act by decriminalizing homosexuality and what is implied by the definition of "private life" in this measure. I do not have to rely simply on my judgment, or even on that of my colleagues in this regard. I have quoted briefly from two opinions of people who fought to be, and indeed are, considered to be moral arbitrators in this society. Even given its pluralistic nature, and even though there are members of the Government party who do not regard those opinions as having much weight, many people in our society, fortunately, still consider them important.

I shall quote briefly from the opinion of Archbishop Sir Frank Little, who is quoted in the Age of 19 August 1983 as having said that he regarded the proposed legislation as "a moment in the history of our State when the practice of sodomy will be given protection by the law". He is also quoted as having stated:

"The Bill discriminates against the vast majority who regard such practice as offensive."

"The Bill canonises homosexuality. It admits homosexual activity to the category of normal. It gives it status. It offers it rights."

That is exactly what is intended by the Bill.

The Hon. J. E. Kirner—Do you not believe homosexuals should have rights?

The Hon. D. G. CROZIER—I am not saying that they should not have rights. I am saying that any prospective employer should have the right, which this Bill will deny, of rejecting homosexuals for employment on the ground of moral objection. If this clause of the Bill is passed, it will go further than that. It will apply to schools and to other areas with regard to selection of staff and even to books which the students may or may not read, to doctrines which may be totally at variance with the basic concepts of a number of those schools.

I am reminded of a list of Communist aims which exist in the Congressional record of the United States of America. I am sufficiently suspicious of the philosophy of this Government to detect some nexus in the motivation of this measure with at least two of the objectives as stated in the Congressional record, which states:

5. Discredit the family as an institution. Encourage promiscuity and easy divorce.

6. Present homosexuality, degeneracy and promiscuity as normal, natural and healthy.

Apparently that is exactly what the Government is intending to do. If any further reinforcement is needed in this particular view, I shall quote, as I did on the previous occasion, from the comments of the Social Questions Committee of the Anglican Synod.
I again remind the Committee what the committee said:

The mere fact that particular activities are not proscribed by the criminal law is not enough to require that those to whom they are objectionable should ignore them when they are confronted with them in their ordinary daily living.

The committee also states that people should be able to “give some effect to their objections”. On the basis of a specious argument that the Government is simply extending a basic freedom to all minority groups, it is totally disregarding the inevitable effect on the majority. Mrs Kirner, in perhaps an unguarded moment, let it slip that the Government believes the Opposition is, in fact, in voicing the opinions of the moral majority and consequently is representing the vast majority of Victorians and Australians who find this homosexual behaviour to be offensive.

The ramifications of the interpretation of “private life” have a direct bearing on the way of life, the freedom of action and basic moral tenets of many people in the community. The Government will be imposing a special tyranny of its own if the clause becomes law. Again these are the reasons why the Opposition rejects it. These are the reasons to which the Government has given no cognizant or meaningful answer.

I conclude by again quoting Archbishop Little also said:

The rights of individuals should be protected but never at the price of the common good.

The Hon. G. A. SGRO (Melbourne North Province)—Honourable members discussed this matter a few months ago and tonight they are repeating themselves. In 1948 when the late Arthur Calwell went to Europe and asked many thousands of people to come to Australia, he and the Australian Labor Party knew that these people would bring different ideas and different religious and political views to Australia. The then Liberal Government brought out many thousands of Turks and it knew that they would have different religious views. When the Turks applied to the City of Coburg to build their own church, one would think that they wanted to blow Coburg to pieces, because everybody objected and opposed the application. The Turks did not want to do anything wrong as they respected the laws of this country. They respected the laws because the Australian laws stated that they were allowed to build and go to their own churches. However, the people in control of the City of Coburg refused their application for three years until members of the community applied enough pressure to change their minds.

The Turks now have their own church where they can go three times a week to worship the God in whom they believe. Honourable members have commented on homosexuality and what Archbishop Little has said. I believe homosexuals were made by God and that they had no say in being made that way. I am sure that these people are part of the Almighty and have the right to live in this country without any discrimination.

When I arrived in Australia in 1952 I was one of those migrants who spent three and a half months at the Bonegilla migrant camp and I was the only Sgro out of 20 000 people. A farmer arrived at the camp looking for one worker. The employment officer said that they had 20 000 of them and did not know what to do. He looked at the list and called “Sgro” and I was the only one. I could not speak English at the time but, through an interpreter, I was able to speak to the farmer who wanted one person to work for
him. When he saw me, he realized that I came from South Italy and said, "No, I do not want him". I asked the interpreter why he did not want me and I was told that it was because I was from South Italy. That was 1952.

Many people do the same thing today. It is all right to say that if someone builds a factory or builds up private enterprise, he has the right to employ the employees he wants. It is all right so far as it goes, but private enterprise also has a responsibility. It may be all right to state that they do not want a particular person because he does not have big muscles or because he looks sick, but many times people are refused work because they are of a different nationality or because they are not six foot six inches tall.

Has not that person a right to work and live? When one speaks about "private life", it would be tremendous if "private life" took everyone into account and everyone was nice to his fellow men, but that is not the case. I do not believe the proposed legislation will eliminate discrimination and racism in Victoria, but at least it will stop some people from practising racism. It will stop those people who say that homosexuals do not have the right to live in Australia and that those people with different ideas do not have rights because the law will be available for those people to use so that they can defend their rights in Victoria. Mr Connard indicated that he was a professi

The Hon. ROBERT LAWSON (Higinbotham Province)—What I find offensive about the clause is that it will turn many ordinary people into petty criminals. People who conduct their own affairs according to their own judgment will have to be conscious at all times that their personal judgment must be coloured by this clause. If they make a decision about hiring an employee or allowing a person to live in their home as a boarder or tenant, they must be conscious that if they do not like that person or do not want them in their workplace or in their home for various reasons, which might seem fair to them, they can be taken before a tribunal to explain why they have objected to a specific person and they will have to lie about it.

I will illustrate what I am saying. If I owned a shoe shop and advertised for someone to sell shoes on my behalf and two young men applied, one dressed in a business suit and looking smart, and another dressed in a caftan, wearing rubber-soled sandals and with a beard, it is obvious which person I would accept as my employee. However, if I told the young man with long hair, beard and rubber-soled sandals that he was not suitable and should cut his hair and buy a suit and shoes, I would be in breach of the provision. Similarly, if I advertised a room in my house, and did not like the look of a person applying because I did not want that person in my home, I could be taken before a tribunal. That represents a gross intrusion of my rights as proprietor of that home or as proprietor of the shoe shop.

The Government cannot legislate to force people to be as tolerant as it desires. Mr Sgro cited the example of Turkish migrants who wanted to build a mosque in the area in which he lived. Apparently, the neighbours objected. If neighbours object to a mosque, a church or anything else being built in their neighbourhood, they are entitled to do so. The matter has now been resolved amicably, as the neighbours and council were talked around to accepting the mosque. By persuasion, the situation to which I referred was resolved and the mosque is now operating satisfactorily. What purpose would have been served by passing legislation that would have forced the people to accept the mosque, whether or not they liked it?

Earlier, mention was made of Arthur Calwell going overseas and starting the post-war immigration programme. It was a bipartisan effort because, when the Liberal Party came to power, it continued the immigration programme exactly the same as before. The consequence is that many migrants and children of migrants have been accepted as part of the Australian community. That will also happen eventually with Vietnamese immigrants. They encounter difficulties as they are immediately recognized as Vietnamese. They work hard, and many people resent them for that reason. In past years some hospitality has been expressed towards Italians and Greeks who came here and who were prepared to work hard to better themselves and their children. So do our Asian immigrants. Their
children receive good marks in school and become fluent in English. In a few years they will be accepted in the community as were previous waves of immigrants.

The idea of passing legislation to force people to accept migrants of any kind is foolish. Evolution in the treatment of various races, homosexuals or other minority groups will take place, and those people will be accepted in time. There is no point in passing legislation for which the community is not yet ready.

The Hon. J. H. KENNAN (Attorney-General)—The Committee has departed a long way from the clause, but has come nearer to the core of the real Liberal Party than when Mr Storey contributed to the debate. He began with the simple proposition that an amicable agreement could have been reached on the definition of "private life". I suppose the Opposition could say that this place had a useful function to perform if it moved constructive amendments, but it has failed to provide an amendment to the clause. It is not necessarily the function of the Government to propose any amendment when it is faced with pig-headed obstruction from an Opposition which has not been able to come up with any amendment to the clause. Mrs Baylor honestly and forthrightly pointed out that the Opposition will not have a bar of the clause in one form or another, although, in doing so, she knifed her Deputy Leader, Mr Storey. His plausible-sounding argument about amicable amendments has been shot to pieces by the honesty and brutality with which Mrs Baylor approached the matter. The Committee then heard the ultimate from Mr Crozier!

One hears remarks from time to time about certain troglodyte Opposition members and how the Council is a troglodyte place. To say that the measure is part of a Communist conspiracy is extraordinary. This will be an edition of Hansard that we will all treasure because it is remarkable that honourable members have seen the whites of the eyes of Joseph McCarthy in hearing Mr Crozier say that the provision is a Communist conspiracy. It was a reading from a McCarthyist contribution to part of the Congressional record that is now despised by every decent-thinking citizen in the United States of America, the United Kingdom and this country. It is surprising and, frankly, disgusting, to hear those comments in this place. It brings great shame on Mr Crozier and on this place. It is regrettable that it has been said. It is unfortunate that the gale of life is blowing at such a miserable level through Mr Crozier's soul.

The Opposition wants to leave it lawful for persons to be able to discriminate in employment and in the provision of goods and services on the grounds of lawful political or religious beliefs or lawful sexual preferences. The Opposition failed to deal with the issue relating to the decriminalization of homosexuality and is now in the embarrassing position in which a small minority of Opposition members are saying that they want to be able to continue to allow their fellow citizens to discriminate on the ground of lawful sexual preference. It is notable that in New South Wales the law has now been amended, and even where homosexual activity has not been decriminalized, the anti-discrimination Bill prohibits discrimination on that ground.

This debate has been an example of the absolute obstructionism of this House. The Government has a clear mandate for widening equal opportunity and human rights. The Opposition wants to tear the Bill to shreds. Over many months, despite troubles in the party room and after overcoming the position that I understand had been originally taken by Mr Storey and the honourable member for Kew in another place, Mrs Sibree, those members with an enlightened view fell out of favour in the party room and are now in the minority. It is a pity the Opposition is in that position. The community is the poorer. If the Opposition wants to reduce argument on this issue by saying that the Bill is part of a Communist plot, it can go ahead. The Government has confidence in the electorate and does not treat members of the public as fools, as does the Opposition. The Government will take the issue to the electorate.

The Government is not prepared to put up with a Bill of which an overwhelming portion has been ripped out. The Opposition is putting forward blanket opposition to the Bill with, on the one hand, Mr Storey complaining about the lack of compromise and amendments, and, on the other hand, the extraordinary position of Mr Crozier who opposes the Bill because it is part of a Communist plot. He is of that opinion be-
cause of something he read in the Congressional record from the Macarthyist era.

The Committee divided on the question that the words and expressions proposed by Mrs Baylor to be omitted stand part of the clause (the Hon. K. I. M. Wright in the chair).

Ayes 18
Noes 21

Majority for the amendment 3

Mr Butler
Mrs Dixon
Mr Henshaw
Mrs Hogg
Mr Kennan
Mr Kent
Mrs Kirmer
Mr Mackenzie
Mr McArthur
Mr Mier

AYES

Mr Butler  Mr Murphy
Mrs Dixon  Mr Pullen
Mr Henshaw  Mr Sandon
Mrs Hogg  Mr Sgro
Mr Kennan  Mr Walker
Mr Kent  Mr White
Mrs Kirmer  
Mr Mackenzie  
Mr McArthur  Mr Arnold
Mr Mier  Mrs Coxedge

NOES

Mr Baxter  Mr Hunt
Mr Block  Mr Knowles
Mr Bubb  Mr Lawson
Mr Chamberlain  Mr Long
Mr Connard  Mr Radford
Mr Crozier  Mr Reid
Mr Dunn  Mr Storey
Mr Evans  Mr Ward
Mr Granter  
Mr Hayward  Mr Baylor
Mr Houghton  Mr Birrell

Tellers:

Mr Arnold  Mrs Coxsedge
Mr Arnold  Mrs Coxsedge

PAIR

Mr Landeryou  Mr Guest

Progress was reported.

ADJOURNMENT

Leasing charges on V/Line property—Student travel concession cards—Firearm registration—Moorleigh High School—Leasing of Government land—Repeal of section 62 of Summary Offences Act 1966—St Kilda amusement parlours

The Hon. E. H. WALKER (Minister for Planning and Environment)—I move:

That the House do now adjourn.

The Hon. W. R. BAXTER (North Eastern Province)—I draw to the attention of the Minister representing the Minister of Transport a matter regarding leasing charges on rail property owned by what is now known as V/Line. I understand that the leasing charges are handled by the property group of the State Transport Authority.

I refer to a block of land in Wodonga alongside the Wodonga–Bandiana railway line upon which has existed for many years the Wodonga Returned Services League clubrooms. The RSL branch has been paying rent for many years—previously it was $60 and last year it was $72. I have no objection to that. However, this year the rent has increased to an extraordinary amount of $752.

All honourable members would agree that that is a somewhat extravagant increase from one year to the next. The Wodonga Returned Services League sub-branch took up the matter with the property group and requested that the increase be made more reasonable. The sub-branch was not opposed to the increase and considered that some sort of commercial rental should be charged. However, it could not see the justification for a rental increase from $72 to $752 a year. Will the Minister take up the matter with the property group with a view to charging a more reasonable rental? The sub-branch is a welfare organization which assists ex-servicemen. However, in addition, the branch has tidied up what would otherwise be a useless triangular piece of land alongside the railway line. As honourable members are aware, railway reservations in towns often become rather untidy, unsightly waste pieces of land.

The land in question has been beautified by the sub-branch which is being heavily penalized because of the increased rental. Will the Minister make inquiries with a view to charging a more reasonable fee?

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct my remarks to the Minister for Conservation, Forests and Lands representing the Minister of Transport. I refer to concession cards for students and unemployed youth. According to information I have in front of me, students can buy a concession card for $20 a term or $50 a year. When the card is produced at the ticket office, the students obtain concession fares.

However, students object to the fact that unemployed young people are able to obtain the same concession card for nothing and also receive $72 a week, which is $10 more than the Tertiary Education Assist-
Adjournment

This serious matter shows the lack of consultation that the Government took prior to the implementation of the legislation. I ask the Minister to indicate when firearm registration is to take place. My understanding is—I am sure it was spelt out by the Minister handling the Bill in this place—that registration did not have to take place until the expiration of the shooters' licence.

The Hon. N. B. Reid (Bendigo Province)—I direct my question to the Minister for Conservation, Forests and Lands, representing the Minister for Police and Emergency Services. I refer to the bungling by the Government in the implementation of the Firearms (Further Amendment) Bill. The Bill was proclaimed on 25 January, just three working days before the implementation of the provisions of the Act. This caused considerable confusion amongst many people, including members of the Victoria Police Force, who endeavoured to implement the legislation.

The Hon. W. R. Baxter—They did not have the forms.

The Hon. N. B. Reid—That is correct. The police did not have any instructions about the legislation and I do not know whether the regulations have yet been printed. The police do not know how the legislation is to operate and they do not have the transfer forms and examination papers necessary to test applicants for shooters' licences on their knowledge of firearms and safety practices.

This was one of the reasons that the Government gave for introducing the legislation. Many questions remain unanswered. The forms are still unavailable and difficulties have been experienced in interpreting exactly what the Government intends in the legislation.

Many firearms dealers and owners believe that a person who has a current shooters' licence issued before 1 February 1984 and buys an additional firearm does not have to register it until after the original shooters' licence expires, at which time all firearms should be registered.

However, the Government and the administrators of the Act take the view that all firearms must be registered immediately.

Consequently, the Minister of Education conducted an inquiry and, after a considerable time, the accepted recommendation was that the six post-primary schools be reduced to three schools of reasonable size and a smaller fourth school to continue into the 1980s. The Moorleigh High School is that smaller fourth school. Recommendation No. 1.4 of the Ministerial inquiry into post-primary education in the Moorabbin area stated:

That the individual schools in the cluster have the responsibility of developing courses in years 7 to 10 that are sufficiently broad to enable students to accept the varying options available within their own schools or within the other schools in the cluster at years 11 and 12 without disadvantage.

Recommendation No. 2.1.4 stated:

Moorleigh High School—education giving access to VISE 1 and 2 subjects for years 7 to 12.

Finally, recommendation No. 5.1.1 stated:

Moorleigh High School will accept responsibility for students transferring from Moorabbin High School.

Out of those agreements the Moorleigh High School population rose from 250 students to in excess of 300 students. As of today, the school has 57 classes a week which do not have a teacher. The subjects involved are maths, science, home economics, history and art. Letters have been sent to the...
Education Department staff office and the Minister. On 15 February a reply was received stating that no extra teachers were to be provided.

This poses a problem for the school because, as the Minister will become aware, there is a teaching agreement with the Government and the teachers that class sizes of over 26 students are prohibited. The school council has advised that if more teachers are not received it will rearrange the three year 10 forms into two groups of 28 and 29 and the four year 8 forms into three groups of 29, 29 and 30 students.

The principal and the school council assure me that, although the staff is restless, no strike action is proposed. If this situation continues there may well be strike action and, as I pointed out earlier, the Minister made a direct commitment to those schools, including Moorleigh High School. In spite of a dedicated staff and school council, the children of the school are not receiving a satisfactory education and are missing instruction on essential subjects. I ask the Minister to ensure that a satisfactory staff is provided to the school which entered into the agreements honourably. The Minister is not keeping his agreement. I stress that the matter is urgent as we are now into the third week of the school year.

Adjournment

The Hon. D. M. Evans (North Eastern Province)—I refer the Minister for Conservation, Forests and Lands to the long-running issue of Government roads leased by adjoining landowners and water frontage licensees. At present the Minister has a general policy that the rent shall be fixed on such public lands which are leased by a landowner at a level approximating commercial rental for that particular area of land. To implement that policy, officers of the Department of Conservation, Forests and Lands have been carrying out a series of inspections, firstly, to identify the parcels of land and, secondly, to try to arrive at a commercial rental figure for them, the figure being subject to any minimum rental charges that the Government may have set as a matter of policy.

I submit to the Minister for his consideration, as I have done on a previous occasion in writing, that there are a number of inhibiting factors concerning the value of the land. I ask the Minister to give consideration to those factors in setting the final rate.

In the case of an unused road or water frontage area, because it is public land and even though a landowner may lose, there are certain conditions which are required of him which would allow for public access, such as providing an unlocked swinging gate for public access. When the public is allowed access under those conditions, there is the risk of gates being left open and stock being let out, which is relevant to the Attorney-General’s Bill concerning damage to cars. These are circumstances that are not under the control of the farmer. There is the problem of the boxing of stock where there is subdivisional fencing across the unused road, and the problem of livestock becoming disturbed as a result of the public going through the area, plus the danger to the public. I ask the Minister to consider a reduction in the value of the area of land concerned because of those factors.

The Minister may well state—I ask him to consider this factor also—that the landowner can, if he so desires, fence either the water frontage or the unused road area but that would involve the landowner in a substantial cost. The Government and the Lands Department do not assist in the cost of fencing. It is generally more economic for the landowner to rent the area of land in question.

It may well be that the Minister should also consider that certain areas of public lands, water frontages, unused roads and so on be not declared as areas of public access where public access would not be required and commercial rents could be applied without the restrictions and the inhibitions on value to which I have drawn attention.

I ask the Minister to consider those factors because I believe they are important and affect the value of the land. On the other hand, as I have indicated, the landowner suffers from the fact that if he does not rent the land he must fence it at substantial cost with, of course, the attendant problems of vermin and noxious weeds.

The Hon. J. W. S. Radford (Bendigo Province)—I direct the attention of the Leader of the Government representing the Minister for Local Government to a concern in the local government area about the repeal of section 62 of the Summary O
I have received a letter from the City of Bendigo expressing disappointment that, despite numerous representations made to the Government, the Government has repealed section 62 of the Summary Offences Act.

The letter states that the council had estimated to receive $15 000 from police and court fines for the 1983–84 financial year and that obviously the repeal of this section will mean a loss in revenue which will throw an increasing burden upon the council to either increase rates or reduce the standard of services provided by the council to the ratepayers.

I ask the Leader of the Government to acquaint the Minister for Local Government with the concern that this letter from the City of Bendigo represents. The letter represents correspondence I have received from many other councils on the matter. I suggest that this unequal action, along with other alterations, including the abolition of the Municipalities Assistance Fund and the Municipalities Assistance Grant, has resulted in many councils being seriously disadvantaged once again.

The Hon. B. A. Chamberlain (Western Province)—I raise with the Leader of the House, as Minister for Planning and Environment, the problems encountered by the City of St Kilda in controlling the establishment of amusement parlours in the city. For some time, the City of St Kilda has been trying to meet the problems but it has been the subject of adverse decisions by the Planning Appeals Board. Consequently, in September 1982, the council prepared a local development scheme to give these controls to the council. The council waited twelve months for the Board of Works to advise that local development scheme was compatible with the Metropolitan Planning Scheme and that the board would certify the scheme. In the meantime, the Minister for Local Government set up an inquiry into amusement parlours. That committee has made its report but the report has not been tabled in Parliament.

Recently, the City of St Kilda was advised by the staff of the Minister's department that the council's proposed local development scheme cannot proceed as it is incompatible with certain findings of the yet unpublished inquiry, but the council has been refused access to the report until it is tabled. Therefore, the council cannot address itself to the differences between what it proposes in its local development scheme and what is recommended. The council points out that even when that report is tabled it will be at least twelve months before legislation comes into effect. The City of St Kilda will be left without those controls, which the Minister should regard as important, for another lengthy period.

I have been asked to bring the matter to the attention of the Minister. I have already mentioned the matter to officers of the Minister's department with a view to preparatory work being carried out. This is an important issue for the City of St Kilda as it is the natural target for a lot of these parlours. The city desires the right to control these parlours but does not have the right without a local development scheme or similar instrument.

I ask the Minister to examine the issue with a view to directing the Board of Works to certify that the local development scheme is compatible with the Metropolitan Planning Scheme.

The Hon. E. H. Walker (Minister for Planning and Environment)—Mr Connard raised a matter that is properly the province of the Minister of Education. Mr Radford raised a matter that is properly the province of the Minister for Local Government. In both those cases I will transfer the matters brought to my attention to the Minister concerned and request an answer as quickly as possible.

Mr Chamberlain raised a matter of some concern about which I have some knowledge. He referred to the difficulties that the City of St Kilda has experienced with amusement parlours. I am aware that he has received some information from officers of my department.

The Hon. B. A. Chamberlain—I gave the information to them.

The Hon. E. H. Walker—Yes. I thought there was some information. I can indicate only that I will follow up the matter which has a technical base and which is related to a report commissioned by local government. The matter is related to the Board of Works and its view of the local development scheme. It would be wrong of me to try to offer a solution of a kind that may mislead so I will take up the matter.
with my officers to see whether the problem can be relieved at the earliest opportunity.

The Hon. R. A. MACKENZIE (Minister for Conservation, Forests and Lands)—Mr Baxter raised a matter in regard to the increased rental currently being paid by the Wodonga Returned Services League for some railway land, where rent has risen from $72 last year to $752 this year. I will raise that matter with the Minister to determine the reason for the increase and the formula that V/Line is using. I believe V/Line, in common with the Lands Department, has realized that rentals have been very low for many years and that it is the policy of the Government to bring them up to a more realistic level. However, that seems a large increase, but I will take up the matter and provide an answer as to the reasons and to formula used in that rental charge.

Mr Lawson raised a matter in regard to concession charges and the anomaly which exists whereby railway transport concession cards for students cost $1 a week and yet those same cards are issued free of charge to unemployed persons.

The basic idea in issuing the cards to the unemployed—this was originally an initiative taken in New South Wales—was to provide the unemployed with a greater degree of mobility in their search for jobs. That was the general idea. Concession cards are quite different, as they are used by students going to and from school. Nevertheless, I shall raise the matter with the Minister of Transport so that the honourable member may receive an answer in regard to that anomaly.

Mr Reid raised the matter of the recent amendments to the firearms regulations. He indicated there appeared to be some difficulties being experienced by firearm owners in the implementation of the new regulations. I shall take up the matter with the Minister for Police and Emergency Services.

The Hon. N. B. Reid—Mr Henshaw was kind enough to admit there were a lot of problems.
QUESTIONS ON NOTICE

ANSWERS TO QUESTIONS ON NOTICE

(Question No. 3)

The Hon. J. V. C. GUEST (Monash Province) asked the Minister for Minerals and Energy, for the Minister of Health:

Will the Minister of Health publish, as soon as he receives them, the answers to questions on health matters asked by him on notice in the previous Parliament and not answered before the Parliament was prorogued?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer supplied by the Minister of Health is:

A total of 22 questions asked by me remained unanswered at the close of the session of Parliament referred to.

Several answers were submitted to my predecessor but he took no further action to get them to Parliament; four questions were answered but were apparently lost in the period prior to the change of Government; the other seven questions were discussed with me and relevant information provided to me.

If the honourable member wishes specific information he should contact me directly.

REDUCTION OF GAS CHARGES

(Question No. 99)

The Hon. D. G. CROZIER (Western Province) asked the Minister for Minerals and Energy:

In view of the undertakings given before the recent State elections to reduce gas bills by the abolition of a Government fee on natural gas, which licence fee is to be abolished, and when is it proposed to reduce gas charges by four cents in the dollar?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer is:

The pipeline levy referred to was subject to a High Court challenge by the operators of the other two pipelines, Esso-BHP. This challenge was resolved in favour of the companies in August this year. Consequently, in this year's State Budget the corporation was no longer required to pay this levy. The Gas and Fuel Corporation currently pays a 5 per cent dividend on the State Government's equity presently valued at $500 million and a 33 per cent turnover tax levied on a monthly basis reflecting the opportunity cost of the gas purchased from Bass Strait. As a result of the Government's firm economic management and cost control, the increases in cost for electricity and gas were the lowest in many years at 7.9 per cent and 8.9 per cent respectively, reflecting a real reduction in charges compared to the Melbourne CPI of 11.3 per cent.

COMPUTER INSTALLATIONS IN HOSPITALS

(Question No. 168)

The Hon. K. I. M. WRIGHT (North Western Province) asked the Minister for Minerals and Energy, for the Minister of Health:

Has the Minister of Health rejected advice to install computers of overseas origin in public hospitals; if so—(i) will he seek the co-operation of the Health Commission and Victorian computer hardware and software suppliers in the development of a pilot system for a significant hospital (such as Wimmera, Swan Hill or Mildura); and (ii) upon the satisfactory installation and operation of the system, will he then provide a suitably-sealed system to other Victorian public hospitals with similar needs?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer supplied by the Minister of Health is:

In accordance with Government policy, contracts for the supply of computer equipment are to be negotiated with local suppliers unless such suppliers cannot meet the specific requirements of the organization. Decisions on the location of computer installations throughout the hospital field will depend on the assessed needs of individual institutions.

RENOVATIONS TO OUYEN FIRE STATION

(Question No. 181)

The Hon. K. I. M. WRIGHT (North Western Province) asked the Minister for Conservation, Forests and Lands, for the Minister of Police and Emergency Services:

With respect to the renovations to Ouyen fire station—

(a) which areas were altered and extended, respectively?

(b) what were the estimated and actual total costs?

(c) what were the estimated and actual costs of materials?

(d) what was the total cost of wages for the maintenance gang working on the job?

(e) how many men were working on the job, and over what period?
(f) what was the amount of "on cost" wages for that period?

(g) what were their accommodation costs at Ouyen?

(h) what was the total cost of travelling allowances paid and of public transport costs incurred?

(i) what were the circumstances of the dismissal of three Country Fire Authority maintenance staff men after completion of the Ouyen job?

(j) did another Government department request their reinstatement; if so, which department, what request was made, and by whom?

The Hon. R. A. MACKENZIE (Minister for Conservation, Forests and Lands)—The answer supplied by the Minister for Police and Emergency Services is lengthy and I seek leave of the House to have it incorporated in Hansard without my reading it.

Leave was granted, and the answer was as follows:

(a) Extensions to the rear of the building, including provision of a meeting room; Provisions of toilets and kitchen; Provision of internal partitioning in the existing engine room to create a radio operations room and a store room; Underpinning of existing concrete slab; Enlargement of engine room door; Re-wiring of building; Replacement of concrete aprons; Re-roofing of building, and Re-cladding of building.

(b) The original estimated cost was $18 000 for part only of the work which was performed. The actual total cost was $127 056.

(c) Although an exact figure is not available, the estimated cost of materials would have been approximately 50 per cent of the original estimated cost. The actual total cost of materials was $49 646.

(d) $51 782.

(e) The numbers employed on the project at any one time varied but the total labour component amounted to 6472 hours between 4 January and 27 August 1982. The authority was responsible for the supervision of the project team through a foreman appointed to the building maintenance gang.

(f) $26 154.

(g) $25 628 including meals.

(h) Travelling allowances were not paid as CFA transport was used.

(i) Due to a reduction in the amount of money available for maintenance of buildings, the CFA retrenched three members of its construction gang from the close of business on 10 September 1982. The decision to retrench the men was taken on 30 August 1982.

(j) I am advised that no request for reinstatement of the dismissed workers was made by any Government department. However, the Ministry for Industrial Affairs arranged a meeting between Country Fire Authority representatives and the Building Workers Industrial Union representing the dismissed maintenance staff. As a result of these discussions, it was agreed that the three dismissed workers would be reinstated and that the Country Fire Authority would undertake a programme of rationalization of the travelling arrangements for its maintenance staff.

GAS AND ELECTRICITY CHARGES

(Question No. 201)

The Hon. G. P. CONNARD (Hinchinbrook both Western Province) asked the Minister for Minerals and Energy:

Will he arrange to update the documents State Electricity Commission Pricing 1982-83 of August 1982 and Gas Pricing 1982-83 of September 1982 and resubmit them with details of price rises and charges provided for in the Budget and subsequent Bills passed during the spring session?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer is:

The Department of Minerals and Energy has produced a document "Energy Pricing Principles Policies 1984-84" which was released in June of this Year. Subsequently, and in fulfilment of the Government's commitment to freedom of information, the annual budget and tariffs submissions for the State Electricity Commission and the Gas and Fuel Corporation were released on 10 October and 9 November this year. Copies of these are available from the authorities.

PENTRIDGE PRISON ESCAPEES

(Question No. 248)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Minister for Minerals and Energy, for the Minister for Community Welfare Services:

What was the cost of the search and recapture of the three convicts who escaped from Pentridge Prison on 16 April 1983, and will cost be borne by the Department of Community Welfare Services or the Police Department?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer supplied by the Minister for Community Welfare Services is:

The cost of search and recapture of the four prisoners who escaped from Pentridge Prison on 16 April 1983 will be met by the Police Department. It must be noted that the police have incurred expenditure for search and recapture of prisoners every year and therefore a base cost within their salary or overtime component would be allowed for each year.
Questions on Notice

RETRENCHED APPREntICES
(Question No. 283)

The Hon. W. R. BAXTER (North Eastern Province) asked the Minister for Minerals and Energy, for the Minister for Employment and Training:

(a) How many first, second and third-year apprentices, respectively, are presently "out of trade"?

(b) How many employers have specified workers compensation premiums as the principal reason for retrenching second-year apprentices?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer supplied by the Minister for Employment and Training is:

(a) The Industrial Training Commission's records indicate that of the apprentices out of trade in October, 1983, 63 would have been in the first year of apprenticeship; 416 in the second year and 615 in the third year if their training had not been interrupted.

(b) The reasons for apprentices being out of trade are varied and include work shortage, employer's financial difficulty, apprentices loss of interest and disciplinary problems.

A reluctance to pay workers compensation premiums is, in itself, not an acceptable reason for termination of an indenture of apprenticeship. Information is not available on the extent to which workers compensation premiums as opposed to other factors might have contributed to an employer's financial difficulty.

The Government is aware of the impact increasing workers compensation premiums can have on employers generally. The Occupational Health and Safety Bill 1983 is designed to reduce hazards in the workplace and in turn workers compensation premiums.

HOME INSULATION SERVICES
(Question No. 296)

The Hon. H. G. BAYLOR (Boronia Province) asked the Minister for Minerals and Energy:

(a) How many people have been assisted by the home insulation services?

(b) What is the total cost of providing those services?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer is:

(a) As at 25 November 1983, 4716 home energy audits have been completed by the Victorian Government Home Energy Advisory Service.

(b) As at 25 November 1983, $192,162.51 has been expanded on insulation and other retrofitting for eligible clients. Total budgeted cost of the Home Energy Advisory Service for the 1983-84 financial year for a projected 10,000 home energy audits for eligible consumers is $1.1 million. A number of grants have been received from the employment initiative and community employment programmes for local government based schemes of a similar nature. It is anticipated an initial report on the Home Energy Advisory Service will be produced in March. A detailed research programme has been developed and reports should be produced progressively during 1984. Considerable interest has been shown in this programme by the Commonwealth Government and other States.

"VICTORIA" GOVERNMENT NOTES
(Question No. 312)

The Hon. M. A. BIRRELL (South Yarra Province) asked the Minister for Conservation, Forests and Lands, for the Minister for Property and Services:

(a) In each month since publication of "Victorian Government Notes" commenced, what was the total cost incurred by the Government Printer in printing and distribution, respectively?

(b) What was the total revenue received from the sale of the "Notes" in each month since publication commenced?

(c) How many subscriptions for "Notes" were entered into at a rate of $63 per annum in each month since publication commenced?

(d) How many subscriptions for "Notes" were entered into at a special rate of $30 per annum in each month since publication commenced, and which bodies took out those subscription?

(e) What are the names and addresses of each of the "prospective clients" referred to in Question No. 2708 answered in the Legislative Assembly on 11 October 1983?

(f) Where the bulk-purchase terms for purchase of the "Notes" which have been granted to the Australian Labor Party (Victorian Branch) also specifically offered to the Liberal Party of Australia, the National Party of Australia, Australian Democrats or any other such organization; and on what date?

(g) Will the Minister for Property and Services release copies of all correspondence between the Government Printer and the Australian Labor Party regarding the deal struck between those bodies?

(h) Was there any consultation between employers of the Government Printer and the Minister or the Parliamentary Secretary of the Cabinet on this matter before that deal was struck?
Does the Government Printer have any other agreements with the Australian Labor Party (Victorian Branch) for the purchase of Government publications at a price lower than that incurred by the public; if so, what are the details?

Does it concern the Minister that one political party is able to make a deal with a Government agency involving the purchase and resale of official publications, with the potential for that party to make a significant profit as a consequence of that deal?

Will the Minister ensure that, in the future, no such bulk-purchase deals are offered to the Australian Labor Party unless identical deals are offered simultaneously to the public?

The written confirmation of the order was in response to a verbal offer. Bulk purchasing terms are always available to any organization or group requiring quantities of publications.

**STAFFING AT TITLES OFFICE**

(Question No. 313)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Attorney-General:

(a) What is the current staff establishment in each section at the Title Office, and what are the actual staff numbers in each case?

(b) What steps are being taken to fill unfilled positions?

The Hon. J. H. KENNAN (Attorney-General)—The answer is:

(a) The current staff establishment in each section at the Titles Office, and the actual staff numbers in each case as at 10 November 1983 was:

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Vacant</th>
<th>Actual No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>303</td>
<td>285</td>
</tr>
<tr>
<td>Survey</td>
<td>231</td>
<td>212</td>
</tr>
<tr>
<td>Other</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>548</strong></td>
<td><strong>511</strong></td>
</tr>
</tbody>
</table>

These figures do not include temporary employees with the Titles Office modernization unit.

Vacancies are filled as they arise having regard to departmental staff ceiling considerations and the priority that the Titles Office gives to the filling of such positions.

Some positions were held vacant pending a review of a proposal to reorganize the register book, this has now been completed and these positions are in the process of being filled.

**CHILDREN ATTENDING KINDERGARTEN**

(Question No. 314)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Minister for Minerals and Energy, for the Minister of Health:

(a) What is the estimate of the number of children of four years and upwards whose parents desire to enrol them in kindergartens but are currently unable to gain access to existing kindergartens?

(b) What is the estimated increase in the number of four-year-old children attending kindergartens in 1984?

(c) How many three-year-old children are currently attending kindergartens?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer supplied by the Minister of Health is:
Questions on Notice

(a) The 1982 national data base for children's services indicated that 47,977 Victorian four and five-year-olds attended pre-school centres during the collection week. The Australian Bureau of Statistics estimated that at 30 June 1982 there were 59,280 Victorian four-year-old children. (A.B.S., Cat. No.3201.0.)

It is therefore estimated from these figures that over 10,000 children do not attend pre-school centres for reasons of:

(i) isolation;
(ii) living in caravan parks;
(iii) parental choice;
(iv) attending child care centres;
(v) inappropriateness of the programme offered for reasons of ethnicity, culture or employment times of parents;
(vi) lack of pre-schools in the area.

(b) Through the implementation of the Government's policy, it is expected that at least 2000 more children will have access to pre-school programmes. This will be mainly achieved through:

(i) expansion of the visiting teacher service;
(ii) the provision of mobile services;
(iii) an increase in sessions operating at pre-school centres;
(iv) the development of new pre-schools.

In addition many four-year-olds currently receiving a limited programme will have the offer of additional services.

(c) The 1982 national data base identified 7845 three-year-olds in pre-school centres during the collection week August 9-15.

CLUSTER APPLICATIONS LODGED WITH REGISTRAR OF TITLES
(Question No. 316)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Attorney-General:

(a) How many cluster applications were lodged with the Registrar of Titles during 1982–83, and how many of those applications are currently unregistered at that office?

(b) What is the average period of time between lodgement of applications and issue of titles?

The Hon. J. H. KENNAN (Attorney-General)—The answer is:

(a) (i) 48 cluster applications were lodged with the Registrar of Titles during 1982–83.
(ii) 13 of those applications remain unregistered.

(b) The average time between lodgement of applications and issue of titles was 33 working days during 1982–83.

TITLES OFFICE REGISTRATIONS
(Question No. 317)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Attorney-General:

(a) How many instruments were lodged for registration at the Titles Office in 1982–83?

(b) How many unregistered dealings were on hand at 30 June 1982 and 30 June 1983, respectively?

(c) What was the average time during 1982–83 in finalizing the registration of—(i) two lots subdivisions; (ii) strata subdivisions; (iii) cluster subdivisions; and (iv) multi-lot subdivisions?

The Hon. J. H. KENNAN (Attorney-General)—The answer is:

(a) 455,169 instruments were lodged for registration at the Titles Office in 1982–83.

(b) (i) 77,716 unregistered dealings were on hand on 30 June 1982.
(ii) 53,093 unregistered dealings were on hand on 30 June 1983.

(c) The average time taken during 1982–83 to finalize registration was:

(i) two-lot subdivision, twenty working days.
(ii) strata subdivisions, five working days.
(iii) cluster subdivisions, twenty working days.
(iv) multi-lot subdivisions, twenty working days.

The times in (c), (i), (ii), (iii) and (iv) are average for approval (or registration) of plans where no significant delay has been caused by:

(i) the necessity to process prior dealings or applications;
(ii) the necessity to comply with requisitions due to deficiencies in the application or survey documents;
(iii) the necessity to supply a statement in respect of requirements made pursuant to section 569E of the Local Government Act 1958; or
(iv) the necessity to supply evidence of non-contravention of section 9 of the Sale of Land Act 1962.

They do not include the time taken to issue new certificates of title.

"RESIDENTIAL LAND IN MELBOURNE" BULLETIN
(Question No. 322)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Minister for Planning and Environment:

In respect of the Ministry's publication Residential Land in Melbourne, Bulletin VIII, September 1983, what are the names of the 24 companies surveyed prior
to the complication of the information contained within that bulletin?

The Hon. E. H. WALKER (Minister for Planning and Environment)—The answer is:

The Ministry for Planning and Environment's survey of residential land in Melbourne, because of its very nature, is carried out on the basis of the names of the participating private developers remaining confidential. I am therefore not at liberty to list the 24 developers referred in the Residential Land in Melbourne, Bulletin VIII, September 1983.

The Ministry also obtains information about residential land development, both private and public from 22, middle and outer municipal councils in the Melbourne metropolitan area. The latter source covers the 24 developers surveyed, as well as developers who are not surveyed.

During the first six months of 1983, the 24 private developers surveyed represented approximately 60 per cent of new residential subdivision activity in the 22 municipalities surveyed.

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**STATE INSURANCE OFFICE RECEIPTS FROM THIRD-PARTY INSURANCE**

(Question No. 336)

The Hon. M. A. BIRRELL (East Yarra Province) asked the Minister for Minerals and Energy, for the Treasurer:

(a) What amount was earned by the State Insurance Office in premiums for compulsory third-party insurance in 1982–83?

(b) How many persons were employed in the office on duties related to compulsory third-party insurance business during 1982–83?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The answer supplied by the Treasurer is:

(a) The amount of earned premium income for compulsory third-party insurance in 1982–83 was $285,728,995.

(b) As at 30 June 1983, there were 135 persons engaged in technical and administrative support duties in the compulsory third-party insurance division of the State Insurance Office. In addition technical and professional assistance was provided by investigating staff and officers of the solicitors to the insurance commissioner.
Wednesday, 29 February 1984

The PRESIDENT (the Hon. F. S. Grimwade) took the chair at 11.3 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

CARDINIA-THOMSON WATER SUPPLY SYSTEM

The Hon. D. K. HAYWARD (Monash Province)—I ask the Minister of Water Supply: In framing the current Victorian Budget, why was no provision made for approximately $25 million which is due to the Board of Works as an instalment for the Cardinia-Thomson arrangement? Was it because the Government planned to sell and lease-back part or all of that system even as far back as when it framed the Budget?

The Hon. D. R. WHITE (Minister of Water Supply)—The question relates to the water supply portfolio, but the commitment by the Government reflects on the Board of Works for the construction undertaken on the Thomson dam, part of which will benefit the metropolitan area and part of which will benefit Gippsland and the Mornington Peninsula. The question is specifically a Treasury matter and as the Minister representing the Treasurer in the Upper House, I look forward to taking up the matter with the Treasurer and providing the honourable member with an answer.

MEAT INSPECTION FEES

The Hon. B. P. DUNN (North Western Province)—I ask the Minister of Agriculture: On what basis can the Victorian Government justify increases in Victorian meat inspection charges dating back to 1 February this year? Is the Minister aware of the adverse effect any increase in meat inspection charges will have on the already depressed meat industry and has the Government made a final decision on who will carry out meat inspection services in Victoria in the future?

The Hon. D. E. KENT (Minister of Agriculture)—The justification for the slight increase in meat inspection fees is to recoup 75 per cent of the cost of inspections. It is perfectly reasonable that a commercial enterprise should be prepared to finance at least a substantial portion of the costs involved in protecting the industry and in ensuring that it provides quality meat and thus maintaining a viable market. Negotiations are taking place with the Federal Government and the Victorian Government on a single meat inspection authority and the Government has strongly stressed that it insists on maintaining control of the standards required for the domestic market, which is the major part of the killing industry in Victoria.

We are concerned to ensure that a single meat inspection system will not impose unnecessary costs upon the industry. We are well aware of the severe downturn in abattoir throughput in Australia and Victoria of about a 50 per cent surplus capacity. All of the issues and consequent problems, such as employment redundancy for meat inspectors, are being addressed in the negotiations in which the Victorian Government is insisting that any arrangements leading to a single meat inspection authority will not disadvantage the Victorian industry.

FLOODLIGHTING OF MELBOURNE CRICKET GROUND

The Hon. B. T. PULLEN (Melbourne Province)—My question to the Minister for Planning and Environment relates to the installation of lights at the Melbourne Cricket Ground, which has caused considerable debate and media coverage in the electorate I represent and generally. Will the Minister inform the House of the current situation and what arrangements are being taken to minimize environmental effects and particular aesthetics related to the lights themselves and the towers that support them?

The Hon. E. H. WALKER (Minister for Planning and Environment)—Mr Pullen has taken significant interest in this matter recently. His interest has extended over several months. I credit him for taking a constructive approach and for his advice to me and to the Government. Other honourable members have also been constructive in giving advice on the design and aesthetic considerations of the lighting. I give at least one member of the Opposition, namely, James Guest, credit for that approach.

The Government is determined that the lights will be of the best possible design. It has recently reached agreement with the Melbourne Cricket Club for a change in the design of the proposed standards for supporting the lights. The new design for the
support columns will not be of an open web tripod design as originally intended, but a tapered tubular design. The columns will be solid and similar to the towers used at the Sydney Cricket Ground, with which honourable members will be familiar.

The masts will have an outside diameter of 4.2 metres at their base and 2 metres at the top. The masts will be significantly tapered and will be constructed of stainless steel. The new design lowers the height of the masts from a maximum of 81.5 metres to 78 metres, and their exteriors will be carefully treated to harmonize with the surrounding environment.

The changes to the design have been discussed and have now been agreed to. The changes will cost the Melbourne Cricket Club some extra money, and I appreciate that the club is willing to bear the extra cost to improve the design. The lights will be made more visually pleasing and more environmentally sound than the previous design indicated. The relevant legislation will be introduced early in this sessional period of Parliament and it will require that the design and location of the light stands be approved by me, as the Minister for Planning and Environment, and my colleague, the Minister for Conservation, Forests and Lands.

CARDINIA–THOMSON WATER SUPPLY SYSTEM

The Hon. R. J. LONG (Gippsland Province)—Some time ago, the Government established a committee comprising officers from the Department of Management and Budget, the Melbourne and Metropolitan Board of Works, the Ministry of Water Resources and Water Supply and the State Rivers and Water Supply Commission to review matters concerning rights, charges and financing arrangements relating to the Cardinia–Thomson water supply system. I ask the Minister of Water Supply whether that committee has now been disbanded.

The Hon. D. R. WHITE (Minister of Water Supply)—The Board of Works, the Department of Management and Budget and the Ministry of Water Resources and Water Supply have continuing discussions on a range of matters, including the Board of Works finances relating to rate issues for 1984–85. Such matters will continue to be discussed.

As to the commitment by the State Government to the Board of Works regarding the construction activity that has been undertaken, the Government has resolved that that commitment will be met, as it has been met in previous years, and that no consideration will be given to any sale or lease-back arrangement.

LOGGING ON ERRINUNDRA PLATEAU

The Hon. D. M. EVANS (North Eastern Province)—I refer the Minister for Conservation, Forests and Lands to the advertisement placed in the Age of last week by a group of 400 scientists concerned with logging on the Errinundra plateau. Is the Minister aware of an internal report within the Forests Commission that is severely critical of the quality of research performed by Messrs Blyth, Yen and Lillywhite upon which the statement by the scientists was based? If so, will the Minister act to ensure that the credibility of the statement made by the 400 scientists is put into proper perspective?

The Hon. R. A. MACKENZIE (Minister for Conservation, Forests and Lands)—I am not aware of the report mentioned by Mr Evans. However, as I mentioned in answer to a question yesterday, the views of the scientists have been taken on board by the Government. I have spoken to them, and I indicate that ample opportunity was provided for people concerned about logging activities in that area to place submissions before the Government, which did not occur. Nevertheless, the Government is still willing to examine the concerns and ascertain whether it is possible to take them on board, despite the fact that the Government has made commitments to the timber industry, which it intends to honour. I am not aware of the report referred to by Mr Evans, but I will follow up the matter.

HUTS ALONG THE GLENELG RIVER

The Hon. D. E. HENSHAW (Geelong Province)—Is the Minister for Conservation, Forests and Lands aware of a public meeting held at Hamilton on 12 February to discuss the removal of privately-owned huts from the banks of the Glenelg River in
Questions without Notice

the Lower Glenelg National Park; is the Minister aware of subsequent press reports indicating that three local Liberal members of Parliament have pledged their support to the hut owners' campaign to retain their exclusive rights of occupancy on prime riverside sites in the national park; will the threats of the so-called Lower Glenelg National Park Users Association turn this issue into a political dog-fight; and will the association influence or persuade the Minister to modify the decision to remove most of the huts?

The Hon. R. A. MACKENZIE (Minister for Conservation, Forests and Lands)—I am aware of that meeting and some honourable members opposite would be aware that I visited the area last November accompanied by honourable members opposite who represent that area. I spoke to an assembly of hut owners and I thought I explained clearly to them—I have since written to them—that the Government intended to honour a decision made fifteen years ago by the former Liberal Government based on Land Conservation Council recommendations.

Although some honourable members opposite may not have been members of Parliament at that time, the decision was reaffirmed in 1978 when Mr Crozier and honourable members from the other side of the House allowed the passage of the legislation. It seems strange that at the eleventh hour honourable members opposite, who supported that proposal at the time, are turning around and supporting the hut users.

The hut users have had the privilege of using the huts in some cases for over 30 years. The huts have some of the best river frontage views in the whole of the State and, in some cases, the huts have been constructed quite illegally. The Government is carrying out decisions made by the former Government and honourable members opposite.

I indicated to hut users that, despite the decision, extra time would be allowed for the removal of the huts. At the same time I pointed out that any well-built huts that complied with the building regulations—there are seven of them—would be allowed to stand and the Government would take them over and hire them out to the general public through the National Parks Service.

I also offered occupiers of the huts priority of any three weeks in a year for the use of the huts. I consider that to be more than fair. That is the only concession the Government and I are prepared to make.

CARDINIA–THOMSON WATER SUPPLY SYSTEM

The Hon. A. J. HUNT (South Eastern Province)—My question is addressed to the Minister of Water Supply. In view of his failure to give any indication to the House in response to the question asked by Mr Long, which described in some particularity a Government committee investigating certain matters in connection with the Cardinia-Thomson water supply system, will the Minister inform the House when the committee referred to by Mr Long was established, what reports it has made to the Government and whether the committee is still considering the sale and lease-back of the whole or any part of the Cardinia-Thomson system or any similar arrangement?

The Hon. D. R. WHITE (Minister of Water Supply)—In response to the last part of the question about whether any committee of the Government, or the committee to which he alludes, is considering any sale or lease-back arrangement of the Cardinia system, I give an assurance that that matter is not under consideration. No consideration is being given to the sale and lease-back of the Cardinia system or any other major asset of the Board of Works. With respect to the honourable member’s use of the word “committee”, I am not sure whether it is appropriate to use the word “committee”, to describe meetings that occur from time to time with officers of the Board of Works, the Ministry of Water Resources and Water Supply and the Department of Management and Budget.

As I indicated to the House yesterday and in answer to a question earlier today, a sale and lease-back arrangement on the Cardinia system is not under consideration by the Government.

Any commitment by the Government in respect of its obligation to the board will continue to be met in the same manner in which it has been met in the past.
DAIRYING INDUSTRY

The Hon. W. R. BAXTER (North Eastern Province)—In light of the recent public statement made by the Minister of Agriculture advising against investment in the dairying industry because of low economic returns, I ask the Minister, whether this is further evidence—bearing in mind that the bulk of Victoria's dairy production emanates from irrigation areas—that irrigators cannot afford to pay $30 a megalitre as suggested by the Monash University report on irrigation.

The Hon. D. E. KENT (Minister of Agriculture)—I suggest that Mr Baxter is introducing a separate issue.

The Hon. W. R. Baxter—That is all part of the economic return.

The Hon. D. E. KENT—The evidence of increasing land values in dairying areas and in other areas of the Goulburn Valley suggests that farmers are well equipped to pay the existing, and possibly increased, water rates for irrigation.

INCREASE IN COUNTY COURT JURISDICTION

The Hon. C. J. HOGG (Melbourne North Province)—Is the Attorney-General able to advise the House whether legislation increasing the County Court jurisdiction passed by Parliament during the last sessional period has had any impact as yet on the list of cases awaiting trial in the Supreme Court?

The Hon. J. H. KENNAN (Attorney-General)—I am pleased to be able to inform the House that the quadrupling of the County Court jurisdiction which this House effected last November and which was the largest ever increase in one hit in increasing the jurisdiction of an intermediate court in this country has had a very noticeable impact on the delays in the hearing of cases listed in the Supreme Court.

In the recent non-personal injury causes list the entire list of 250 cases set down was called over and as a result of that call-over a large number of cases were settled, a large number moved to the County Court and only 73 of the total number remained on the Supreme Court list.

It is estimated that well over half of the existing cases will now move to the County Court—it could be in the region of 60 per cent to 70 per cent. The new County Courts which were opened at 471 Little Bourke Street earlier this month are in operation. Pre-trial conferences have been instituted in respect of those personal injury cases moving to the County Court from the Supreme Court. The early figures are encouraging with respect to the high settlement rate of those cases. The state of the County Court lists remains very satisfactory with a delay period of only three or four months from setting down to trial.

FREEDOM OF INFORMATION

The Hon. B. A. CHAMBERLAIN (Western Province)—Has the Minister of Public Works been made aware that a file made available to me by his department under the Freedom of Information Act relating to a proposed radioactive waste dump at Westmeadows had two items of correspondence torn from it?

Does the Minister consider that this is a serious matter and will he institute a full departmental inquiry with a view to making available to me the two stolen items?

The Hon. E. H. WALKER (Minister of Public Works)—I am aware that under the Freedom of Information Act Mr Chamberlain requested access to that file. I am also aware that he found that two consecutive items were missing. I consider the matter serious and have undertaken a full departmental investigation. I have not yet received a final report but when I do I will make the results of that report available to Mr Chamberlain.

If in fact it is possible for Mr Chamberlain to indicate what the two missing file items were, he will certainly have access to them. I make the point that there is no belief in the department, in my mind, or even in Mr Chamberlain's mind, that there is anything sinister about the missing items. The file was made freely available and information in regard to that project is freely available from the Public Works Department.

I am disturbed by the fact that the two items are missing, and certainly a full investigation is under way.
ENERGY TARIFFS

The Hon. B. W. MIER (Waverley Province)—Would the Minister for Minerals and Energy inform the House of the details of the proposed public meetings to be convened by the State Electricity Commission of Victoria and the Gas and Fuel Corporation for the purpose of discussing tariffs?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—It is proposed that a meeting will be held on Wednesday, 14 March at 7.30 p.m. at which the State Electricity Commission and the Gas and Fuel Corporation will provide an opportunity for the public to make an input on tariff structures for the forthcoming period as part of a commitment by the utilities and by the Government to enable the public to comment about the relative merits and equality of existing tariff structures prior to those utilities bringing forward proposals to the Government.

In so doing the Government looks forward to a contribution from the community on that issue, noting that since the Government has been in office, significant changes have been made, particularly to the management of the State Electricity Commission, an institution which since 1978 has been experiencing some difficulties in its commercial operations as a result of the neglect of the previous administration. It is now under the administration of one of the best commercial managers in the country, Mr Jim Smith from Telecom Australia.

It is clear that the State Electricity Commission is under first-class management and the best instance of that fact was the tariff increase of last year which was the lowest for ten years and which was well within the consumer price index, notwithstanding the pressures of the drought, the fires, the insurance issue and other matters. Also, Loy Yang is now on-stream. I believe the State Electricity Commission is now in such a condition that its tariffs will not only remain but will also continue to be extraordinarily competitive, both interstate and overseas, under the administration that the Government has provided.

PETITION
Birregurra Hospital

The Hon. R. I. KNOWLES (Ballarat Province) presented a petition from certain citizens of Victoria praying that the recommendation for the closure of the Birregurra Hospital be disregarded. He stated that the petition was respectfully worded, in order, and bore 556 signatures.

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

ENVIRONMENT PROTECTION (UNLEADED PETROL) BILL

The Hon. E. H. WALKER (Minister for Planning and Environment), by leave, moved for leave to bring in a Bill to amend the Environment Protection Act 1970.

The motion was agreed to.

The Bill was brought in and read a first time.

CRIMINAL PROCEEDINGS BILL

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to make special provisions with respect to certain criminal proceedings and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

EVIDENCE (AMENDMENT) BILL

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to amend the Evidence Act 1958 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

STATE'S CAPITAL RESOURCES

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

That this House records its alarm at the continuing mismanagement by the Government of the capital resources and potential of the State, including the concurrent dissipation of its assets and increasing of its debts, to the serious detriment of future generations of Victorians.

Some honourable members may be familiar with the parable of the prodigal son who received his inheritance and spent his capital on day-to-day living or wasted his substance on riotous living. "And when he had spent all, there arose a mighty famine in
that land and he began to be in want." That parable is paralleled by what is occurring in the field of capital in this State under the Cain Government.

The Hon. D. E. Kent—But his father forgave him.

The Hon. A. J. Hunt—The Minister of Agriculture will not find the fatted calf killed for him. Since it came to office, the Cain Government has been entirely irresponsible in the way in which it has dealt with the capital assets, resources and potential of the State, in the way it has frittered away the savings and the capital resources of the people and stored up problems for the future.

The Government has had no concern for the difference between capital, which ought to be husbanded and protected, and income, which can be spent on day-to-day items. Any honourable member knows that a householder who mortgages his house to meet his day-to-day living expenses, who sells off assets and uses them to meet current expenses will soon be bankrupt. The Minister of Water Supply calls that kinder- garten economics because it is an explanation of a simple principle in simple language.

However, the Government has adopted cargo cult economics in the belief that the day of reckoning never comes and that one can go on spending without it ever arriving.

I propose to make five propositions: The first is that the Government has dissipated capital on current expenditure. The second is that it has converted trust funds and reserves to current use. The third is that it has propped up Budget deficits by borrowing. The fourth is that it has failed to pay its liabilities as they have fallen due. The fifth is that it has increased the debt burden for all Victorians.

The results of this action have added fuel to the fires of inflation, have frozen out and caused problems for the private sector, have mortgaged the future, have increased the present and prospective debt repayments for Victorians and, in any event, have been counterproductive. This has been to no avail.

The Government has failed to achieve the very things which it hoped to achieve by its conventional actions. The dissipation of capital assets has not only been proposed but has been planned on a massive scale.

One recalls the prospective sale of the Cardinia-Thomson water supply system and the proposal to lease it back.

Public funds were borrowed to build that water supply system and money was owed on it, yet a proposal was for some time under consideration that the Government should sell it again despite the debts owed on it and the lease-back arrangements. In January that was acknowledged day after day by Government spokesmen until the Premier started to move away from the facts. Even today the Minister of Water Supply sought to hide the fact that a committee existed to consider that very question. The Government has acted in secrecy on that issue, as on so many other issues.

I shall quote a comment made by a Government spokesman at the time. He said:

A committee of officers from the Department of Management and Budget, the Melbourne and Metropolitan Board of Works, the Ministry of Water Resources and State Rivers and Water Supply Commission is reviewing all matters concerning water rights from Thomson and Cardinia, the charges associated with these allocations and their relationship to financing arrangements.

That statement was made on 16 January, yet today the Minister of Water Supply would not tell the House whether that committee existed, whether it had stopped considering the proposals that were part of its terms of reference or what it was now considering, and he even cast doubt on whether such a committee existed.

The Hon. B. A. Chamberlain—That was only six weeks ago!

The Hon. A. J. Hunt—Things can change in six weeks; if the committee no longer exists, the Minister should tell the House. The committee was considering the sale of part of Victoria's natural heritage, a water supply system.

I heard an interjection from the Government benches that the Prime Minister, Mr Hawke, can change his mind. I agree, the Prime Minister does change his mind, and the State Government does the same thing. Certainly, it has not changed its mind about selling off the assets of the State and putting the State into hock.

I remind honourable members that by the end of this financial year the Government will have sold $472-8 million worth of trams
and trains, predominantly to overseas financiers, and leased them back.

I acknowledge that there is an excellent case for purchasing new trams and trains and, indeed, other depreciable assets on a lease-back arrangement. That may well be of enormous assistance to a Government. However, it is a very different matter to sell off assets that are already owned and to allow the money to go back into the Budget. That is what has happened and all endeavours to determine precisely what has happened to that $472.8 million has produced no result.

The Hon. D. R. White—But you said that you would demonstrate it.

The Hon. A. J. HUNT—I will. In fact, the money just goes back to reduce the Current Account deficit. It has not been spent on any specific capital items. It has reduced the reimbursement to the transport system from the consolidated revenue for accumulated losses of the current year. In other words, the effect of that sale is to put $472 million of assets that were capital back into the Current Account, where it is lost.


The Hon. A. J. HUNT—that is right—it is an excellent word to describe it. It disappears. It becomes part of current expenditure. The asset built up in the past at the expense of Victorians is reduced and the Budget deficit is in reality increased by this device beyond that which is shown in the Budget Papers.

The same is happening with hostels for country students. There, for a miserly $4 million, assets established by this State, built up by this community, are now being sold off by the Government to the detriment of country students. There is an unseemly argument between the Federal and State Ministers, each seeking to pass the buck to the other. The State Minister is saying that the welfare of tertiary students is a Commonwealth matter and the Commonwealth Minister is saying that it is entirely the responsibility of the Victorian Government whether it decides to sell student hostels.

The Hon. W. A. Landeryou—that is the Menzies' argument.

The Hon. A. J. HUNT—that is the argument that the current Labor Party Ministers for education in the Federal and State levels are using.

Honourable members interjecting.

The PRESIDENT—Order! There are too many interjections. Members of the Government party will have the opportunity of entering the debate in due course.

The Hon. A. J. HUNT—Clearly, in a case such as that, instead of again selling off a public asset, there should be co-operation between the two Governments.

The Hon. D. R. White—who wrote this for you—Jack Galbally?

The PRESIDENT—Order! The Minister for Minerals and Energy is trying my patience; I ask him to cease interjecting.

The Hon. A. J. HUNT—I also say that it ill behoves the Minister for Minerals and Energy to cast aspersions on a distinguished former Leader of his party in this House.

The Hon. W. A. Landeryou—all you are doing is re-reading his old speech.

The Hon. A. J. HUNT—all that is needed on the question of student hostels, rather than selling off an asset of benefit to Victoria and to Victorian students especially, is a little co-operation between the Commonwealth and the State. The Victorian Minister ought simply to be pointing out to the Commonwealth that as the Commonwealth has the prime responsibility in the field of student welfare he can keep the hostels going if the Federal Minister can make some minor subsidy towards their continuance. That is all that needs to be done, yet the State Minister is intent on disposing of those assets to ease his current Budget problem.

There has been a scramble to sell off public lands in this State—education lands, lands of every description and, particularly, lands set aside for freeways. It has already been announced that they will be sold. The Government is opposed to urban freeways. A senior member of the Government avoids using urban freeways as a matter of principle whenever he can, and his wife does so, too, and I suppose the policy of the Government in refusing to build freeways can be understood in that light.

The Hon. W. A. Landeryou—a very short policy.

The Hon. A. J. HUNT—is it one of the ritual policies of the Labor Party? The La-
Labor Party is now proposing to sell off land provided for the future protection of this metropolis.

The Hon. W. R. Baxter—Built up by far-sighted Governments in the past.

The Hon. A. J. Hunt—Built up by Governments in the past—and the disposal of those lands will contribute towards the slow strangulation of the City of Melbourne and will prevent much needed bypass roads being built. Even if the Labor Party did not retain those lands for the purposes of freeways, they ought to be retained for the provision of much needed arterial road links. Instead, options are being foreclosed and immense damage is being done to the future of Melbourne by the disposal of those lands.

One needs only to consider the Budget Papers to determine that the Budget deficit on the face of it has been reduced by the expedient of bringing large sums from trust funds into the Current Account. The Liberal Party does not oppose the effective use of idle balances, many of which, however, were kept in reserve for purposes that were to be undertaken in the near future. But this course has meant that the real deficit is increased because capital funds have again been converted to the Current Account and used for day-to-day expenses, and that the real deficit of the Government is greater again than first appears.

Everyone in this House knows the Government is precluded by law from budgeting for a deficit and yet that is precisely what the Government has done. It has budgeted for a deficit although the deficit has been hidden in each of the two Budget years by borrowings from the Cash Management Account and the State Development Fund. In 1982–83, the total of borrowings from the Cash Management Account, the State Development Fund and conversion of transport assets into cash amounted to $388.5 million. In 1983–84 those same items less the repayment of part of the Cash Management Account borrowing came to $429 million.

That represents more than $800 million of hidden deficit on those items alone in the last two Budget years. The Government forgets that the people of Victoria must in future years repay the deficits that this Government has incurred and that, in the longer term, repayments will have to come from the Current Account. That money must be repaid in the long term from income; it cannot be repaid in the long term by continuing to borrow and by further increasing State debts.

I have said that the Government has failed to pay its liabilities as they fell due. Even today in this House, the Minister of Water Supply acknowledged that the Budget failed to provide for repayment to the Board of Works of $25 million due to it in the current financial year in respect of assets that it had supplied for non-metropolitan ratepayers.

When the Cardinia–Thomson system was commissioned, it was intended to provide up to 60 per cent for the metropolitan rate-payers and up to 40 per cent for non-metropolitan users—for irrigators and other users in Gippsland and for water users on the Mornington Peninsula. It would be ridiculous and inequitable in the extreme if metropolitan water users were expected to pay, through the Board of Works, for the capacity in that system provided for users outside the metropolitan area who were not metropolitan ratepayers, and the agreed break-up was therefore 60 per cent for metropolitan users and 40 per cent for non-metropolitan users.

The Board of Works, not the Government, found the funds and the Government needed to reimburse, over a period, that proportion of the total funds that represented the 40 per cent in respect of non-metropolitan users. The board found the major capital. That has not fallen upon the shoulders of the Government. All that the Government is asked to do and all that it is legally obliged to do, is to meet its share and the interest on it by instalments payable to the board.

The amount that the Government was due to pay during the current financial year was $25 million. No provision was made for that in the Budget, and not a cent of that sum has been paid. Who, as a result, bears the burden? While it remains unpaid, the burden continues to fall on metropolitan users. The Government has failed to make a $25-million payment which was and is due. No legislation has been passed to set that aside, and the $25 million that remains unpaid represents a further hidden Budget deficit. It is a liability which continues on and will have to be met in the future by
VICTORIAN RATEPAYERS, ALTHOUGH IT SHOULD HAVE BEEN PAID FROM THE STATE'S FUNDS THIS YEAR.

HONOURABLE MEMBERS WILL BE FAMILIAR WITH THE STATE EMPLOYEES RETIREMENT BENEFITS SCHEME WHICH DEALS WITH GOVERNMENT EMPLOYEES WHO ARE NOT COVERED BY THE STATE SUPERANNUATION FUND. THE GOVERNMENT IS SUPPOSED TO PAY EACH YEAR INTO THAT FUND 7.6 PER CENT OF THE SALARIES OF THE MEMBERS WHO PARTICIPATE. THE EMPLOYEES HAVE TO PAY THEIR CONTRIBUTION AND THE GOVERNMENT HAS TO PAY A CONTRIBUTION. LAST YEAR, WITHOUT PARLIAMENT BEING TOLD, DEPARTMENTS AND INSTITUTIONALITIES WERE INSTRUCTED BY THE GOVERNMENT NOT TO MAKE THE PAYMENT, WITH A VIEW TO EASING THE BUDGET PROBLEM. THIS YEAR, THEY WERE ALSO INSTRUCTED NOT TO MAKE THE PAYMENT. THE AMOUNT OUTSTANDING BY THE GOVERNMENT TO THAT FUND AS AT DECEMBER 1983 WAS MORE THAN $11 MILLION. BY 30 JUNE THIS YEAR, THE AMOUNT OWING TO THAT FUND BY THE GOVERNMENT WILL BE APPROXIMATELY $15 MILLION. I HAVE NO DOUBT THAT THE GOVERNMENT WILL TELL THE FUND THAT IT WILL PAY INTEREST, BUT DEBTS THAT SHOULD HAVE BEEN PAID THIS YEAR AND LAST YEAR ARE BEING POSTPONED AND THE TRUE BUDGET DEFICIT IS ACCORDINGLY BEING INCREASED TO THE DETRIMENT OF THE FUTURE.

THE HON. C. J. KENNEDY—YOU ARE KNOCKING!

THE HON. A. J. HUNT—IF MR KENNEDY FAILED TO PAY HIS DEBTS AND EXPECTED OTHER PEOPLE TO MEET HIS COMMITMENTS, I WOULD ATTACK HIM TOO, BUT I KNOW THAT HE WOULDN'T DO THAT IN HIS PERSONAL LIFE. WHY SHOULD HE CONDONE IT WHEN HIS GOVERNMENT DOES IT?

THE HON. D. R. WHITE—I DO NOT THINK YOU PICKED THE RIGHT TARGET!

THE HON. A. J. HUNT—PERHAPS MR KENNEDY DOES DO AS HIS GOVERNMENT DOES. I TURN NOW TO THE FIELD OF THE MINISTER OF PUBLIC WORKS. THE CURRENT MINISTER WAS NOT THE MINISTER AT THE TIME, SO I DO NOT HOLD HIM RESPONSIBLE FOR WHAT OCCURRED, BUT ONE HAS ONLY TO_ask AROUND THE CONTRACTING COMMUNITY TO KNOW THAT AT 30 JUNE LAST YEAR THERE WAS A MASSIVE FAILURE BY THE GOVERNMENT TO MEET THE ACCOUNTS THAT WERE DUE TO CONTRACTORS AND SUPPLIERS. THESE WERE LEFT OVER UNTIL THE NEXT FINANCIAL YEAR TO A VASTLY GREATER EXTENT THAN HAD EVER PREVIOUSLY OCCURRED.

IT IS OBVIOUS THAT THE DEBT BURDEN OF THIS STATE IS CONTINUOUSLY INCREASING. WHEN ONE LOOKS AT BUDGET PAPER NO. 2, HEADED "BUDGET STRATEGY AND REVIEW 1983-84", ONE CAN SEE THAT THE NET PUBLIC DEBT HAD INCREASED FROM $9.4 BILLION AT 30 JUNE 1982 TO AN ESTIMATED $10.5 BILLION AT THE END OF 1984—A FURTHER $1.1 BILLION IN TWO YEARS. EVEN WITHOUT ADJUSTMENT FOR ITEMS WHICH THAT FIGURE DOES NOT COVER, THIS REPRESENTS A STAGGERING INCREASE IN THE TOTAL DEBT BURDEN.

I TURN NEXT TO THE QUESTION OF REPAYING BORROWINGS FROM THE STATE DEVELOPMENT FUND AND I REFER TO THE BUDGET PAPERS FOR THE FINANCIAL YEAR 1982-83—AND IN PARTICULAR, TO APPENDIX 6 TO THE TREASURER'S STATEMENT FOR THE YEAR ENDED 30 JUNE 1983.

AT PAGES 176 AND 177, ONE CAN SEE DESCRIBED THE STATE DEVELOPMENT ACCOUNT LIABILITY TO THE STATE AS AT 30 JUNE 1983. ONE CAN SEE THAT, IN THE FIRST FULL YEAR OF THE OPERATION OF THE STATE DEVELOPMENT ACCOUNT, ALMOST $130 MILLION WAS RAISED. OF THAT AMOUNT, $70 MILLION WAS REPAYABLE IN LESS THAN EIGHT YEARS, MUCH OF IT IN TWO YEARS, ONE YEAR OR EVEN LESS, WHILE $60 MILLION WAS REPAYABLE IN FROM EIGHT TO TWENTY YEARS.

NORMAL FUNDING ARRANGED THROUGH THE AUSTRALIAN LOAN COUNCIL PROVIDES FOR LOANS TO BE AMORTIZED OVER A PERIOD OF 53 YEARS. IF SUBSTANTIAL SUMS ARE BEING BORROWED, THROUGH THE STATE DEVELOPMENT ACCOUNT AND SOME AMOUNTS ARE REPAYABLE IN ONE OR TWO YEARS, FURTHER AMOUNTS OF WHICH ARE REPAYABLE IN UP TO EIGHT YEARS, ALTHOUGH THE REMAINDER ARE REPAYABLE IN TWENTY YEARS OR LESS, IT IS CLEAR THAT THE ANNUAL PAYMENTS TO AMORTIZE THOSE LOANS WILL BE VERY MUCH GREATER THAN FOR THE CONVENTIONAL LOANS OBTAINED WITH A SANCTION OF THE AUSTRALIAN LOAN COUNCIL ON 53-YEAR TERMS.
That is the result of what the Government has done, is doing, and proposes to do. These are comparatively short-term loans which, sooner or later, have to be met by instalments out of current revenue, on short terms rather than 53-year terms. I do not believe the public has fully appreciated all the consequences of the evasion by this Government of Loan Council requirements and its endeavours to get around the Loan Council.

When capital works are undertaken from moneys provided by the Loan Council, for every $2 authorized by the Loan Council, the Federal Government makes a free grant of $1 to this State. Thus, a capital works project constructed pursuant to Loan Council approval costs Victoria only two-thirds of the contract price because one-third is a free service grant from the Commonwealth. An asset which costs $3 million to construct, in those circumstances, costs the people of this State $2 million plus interest. The very same asset provided in this way by this Government costs $3 million plus interest. A project constructed under this unconventional form of financing costs one and a half times as much as it does when constructed with money approved by the Loan Council. That is a terrible price to pay for the funds being raised by this Government.

The Hon. R. J. Long—Not one member of the Labor Party knows that.

The Hon. A. J. HUNT—They know now.

Not only is the repayment 50 per cent more, but it is also repayable at a vastly faster rate from limited Current Account funds.

All of this demand upon scarce capital funds has naturally deprived the private sector of some of the scarce capital available, has increased the pressure on interest rates, and has fuelled the fires of inflation. Worst of all, however, is the fact that we are mortgaging the future. The Government is seeking temporary political popularity without taking account of the dreadful price future Victorians must pay.

What has occurred provides a very real cause for alarm for the financial stability of this State in the future and for the ability of Victorians to meet the mounting burden of debt servicing. Honourable members have already heard that taxes and charges in this State have increased by 40-2 per cent since this Government came into office. On top of those tax and charge increases, vastly more will need to be raised to meet the burden of debt incurred by the Government, and yet, at the same time, the capital base of this State will be further eroded and assets dissipated.

I ask the House to support this motion in the hope that the Government will recognize that what it is doing is selling off the farm and putting Victoria into hock, to the detriment of future generations.

The Hon. B. P. DUNN (North Western Province)—I compliment Mr Hunt on bringing this matter forward for debate in this House. At this stage of the sessional period, it is no doubt one of the matters foremost in the mind of every thinking Victorian. The National Party believes Victoria is plunging deeper into economic despair, and that will become more evident as time goes by. Victoria has a Government which is absolutely desperate to get to the polls before the lid blows on its economic folly. It is a Government of deception, and long will it be remembered for that fact. It is a Government that came to power with a clear promise not to increase State taxes and charges. That is a clear promise that is recorded for all time and it was made from the mouth of the Premier of this State. More than two years after it was elected, the Government has now increased charges by at least 40 per cent across a range of some 240 items.

This is the same Government that claimed two years ago in an election promise to the community that it would not increase State charges and taxes. The Government is increasing the indebtedness of this State, and some people have put the estimate of Victoria's deficit at more than $800 million. It is hard to find the figure, as it is concealed. No one knows exactly what it is. The Opposition and the National Party do not have a battery of economists behind them, as has the Government. What is the real figure of the State's deficit? As Mr Hunt pointed out, it is concealed. The purpose of the action the Government has taken in selling off assets and borrowing from State authorities is clearly to show a short-term picture of the State's economy and its healthy condition. However, that is not the true picture, and it is only a matter of time before Victorians become aware of that. The Government has employed some 9000 new
public servants, who are paid for through taxes.

The Hon. C. J. Kennedy—Tell us about the $4 million.

The President—Order! Mr Kennedy has been persistent with interjections which have no relevance to the matter being discussed. If he persists in doing that, I will have to take action.

The Hon. B. P. Dunn—The Government has increased the number of State employees by thousands, and has then claimed, when the employment figures have come out, that this State is doing well economically because its unemployment figures are not as high as those of other States. However, the public servants have to be paid for, and they are being paid for out of public taxes and charges and through Government funding.

The Hon. B. W. Mier—Give some examples.

The Hon. B. P. Dunn—There are many examples. Who pays public servants in Victoria? The National Party knows what the Government has done. It has taken jobs from private enterprise and put them into the public purse. This is a Government that has borrowed from authorities and then gone out and spent the capital on works so that it could claim that the State has greater economic activity and greater activity in the building industry.

The whole picture is one of absolute deception because for over two years the Government has tried to create a favourable position for it to be returned to office in Victoria. The Government knows, as all honourable members and eventually all Victorians will know, that future generations will pay the price of this folly. The Government knows that if it is returned to office, whenever that election is held, it will have a difficult road ahead because of the short-term economic decisions that it has made in its first two years of office.

It is clear that the Government has received a proposal and is in the process of considering selling off State assets. It has certainly been made clear that the Government intended to sell off the Cardinia-Thomson dam project, but it has learned that the Victorian people will not have it. All of these actions are designed to try to present a false picture of a healthy State economy, but really it is a pumped-up economy that involves a Budget framed by a Government that is clearly living beyond its means. I fear for future generations of Victorians who are going to look back on this Government, just as Australians looked back on the Whitlam Federal Government, and realize that was the time when the major downturn and problems commenced in our economy.

In Victoria the election of the Labor Government to power will be looked back on by future generations as the time when the rot really started. People have no confidence in a Government which is clearly under the control and influence of the Socialist left and other factions that are pulling it in all directions. People have no confidence that the Government will encourage and stimulate the private sector where Victoria's real economic base lies.

The Government has forced people in private enterprise to put off employees because of the effects that its policies have had on private enterprise and the Government has then employed those employees by the use of the public purse. The Victorian Government has shown that it will tax and charge private enterprise and individuals to meet its growing public sector commitments and clearly that is its intention. In considering a number of the decisions that the Government has made, I believe it has made a major tactical and political error that will cost it office at the next election. Many of the Government's supporters at the last election will not vote for the Government again.

The Hon. B. W. Mier—He does not read the Bulletin!

The Hon. B. P. Dunn—Mr Mier must have ears and hear what people say. He must know what people think about the charges the Government has levied on Victorians. People who voted for the Government at the last election will not do so again because it has hit their hip pockets in a hard way. It has hit the workers, the little people, and all Victorians and they have had a gutful of the Government.

The Minister for Minerals and Energy is no fool when it comes to economics and he should understand what is happening in the electorate. Surely he must realize that if taxes
and charges are increased by 40 per cent and hit every Victorian, one day they will react very heavily against the Government. This is particularly true since the Government was elected on a promise that it would keep State taxes down.

The Government has hit everyone in the community, small businessmen and people on the farms, by unjustified charges on every little item. There are now charges on business houses to sell poisons. There is a hardware store in the electorate that I represent which keeps a small quantity of Ratsak because occasionally people want to buy some. The Government has introduced a $75 licence for the selling of poisons.

Honourable members interjecting.

The Hon. B. P. DUNN—Honourable members can laugh, but there are rental charges on small areas of Crown land that bear absolutely no relationship to the productive capacity of that land. Under the fisheries legislation a special licence or tax has been introduced on businesses that sell fresh fish. All honourable members will have received those types of complaints. They are examples of where the Government is hitting the hip pockets of every Victorian.

As I travel around Victoria, I find a growing disenchantment with the Government. Indirect taxes have also been introduced. Most of them are devious, such as the public authorities dividend tax that has been imposed on most of Victoria’s authorities. There is a tax of more than $100 million on the State Electricity Commission and the Gas and Fuel Corporation and the Grain Elevators Board are also taxed. What other authorities in the future will be taxed in this way? Will it be applied to local authorities and water boards? It is certainly a possibility that it will. These are indirect taxes that are pushing up the cost of living for people who would normally vote for the Labor Government: Families are complaining about the high charges of power, especially the State Electricity Commission bill.

What a shock it would be if people understood that a large percentage of their State Electricity Commission account goes straight into the coffers of the Government in the form of a tax. Families are trying to meet an absolutely critical family budget situation and are trying to survive when it is difficult to do so, but in addition they are forced to meet all the charges and costs imposed by the Government. They would be interested to know that every time they pay these accounts, they include an indirect tax that has been imposed by the Government.

The National Party is not happy with that situation and certainly it has made its position clear on the extension of these charges, especially to the grain industry through the dividend tax imposed on the Grain Elevators Board. The Government has a short-term policy on the sale of State assets and, in my opinion, it is a great deception. Mr Hunt has indicated that the Government has sold off $472.8 million of its railway assets and is now proceeding to lease them back. I do not believe there is any doubt that the Government intended to sell off the Cardinia–Thomson dam project and that it was caught red-handed. It has now realized that it would not be accepted by the Victorian community.

In an article in the Age of 20 January 1984, a State Government spokesman was quoted as saying:

If this particular exercise was very successful, the Government may well consider its applications to other areas.

The Hon. A. J. Hunt—Fortunately, the Government did not get away with it.

The Hon. B. P. DUNN—No, the Government did not, and I compliment the Opposition for exposing what really is a most serious trend in the policies adopted by the Government. These assets belong to the Victorian community generally and they should not be disposed of for the short-term political expediency of any Government, whatever its colour or flavour. I do not care whether it is a Labor Government, Liberal Government or National Party Government. These assets do not belong to them; they belong to each man, woman and child in Victoria and to future generations.

The Hon. D. E. Kent—Does your farm belong to you?

The Hon. B. P. DUNN—The Government, of which Mr Kent is a Minister, wants to sell off these assets, bring the money into the consolidated revenue, and spend it on those priorities that the Government decides are necessary.
It is the proposal of the Government to sell off student hostels, which, until now, have been occupied by country students. The Government will sell the student hostels to get more money into its hot little hands to spend on other priorities.

Every piece of land the Government can get its hands on will be sold between now and the next State elections. The Government is attempting to get its hands on every dollar it can, regardless of what it has to sell so that it can spend money on its various priorities and prop up the deficit it has created during its period in office. The National Party cannot accept that as sound economic planning and thinking.

The National Party will continue to oppose the sale of State assets and the proposal to lease those assets back because that will cost future generations of Victorians dearly. Although it may not be a bad thing for public authorities to use and invest money, the Government is borrowing money from public authorities and spending the capital on projects, which further increases the State deficit. Over a long time that deficit will have to be serviced by the Budget and eventually Victoria will find itself in a serious economic position.

Mr Hunt referred to payments deferred from one Budget to the next. Last year travelling expenses for teachers in Victorian country areas were expended before the first half of the financial year expired. During its term in office the Government has been continually robbing the subsequent financial year and, as a result, Victoria is close to being one year’s allocation behind in travelling allowances for teachers. In approximately October last year the funds had expired in the Budget for travelling allowances for teachers. The Government is continually having to meet deferred payments from one Budget to the next.

Mr Hunt referred to deferred payments to contractors. All honourable members have received protests from contractors who have done work for the Government and failed to be paid until the next Budget was brought down and some money started to flow. Those deferred payments indicate that the Government is living beyond its means and, over a period of time, the consequences of that will be disastrous.

The National Party believes in private enterprise and in assisting small business, whether it be on the farms or in the towns. The National Party believes primary industry will lead the economic recovery in Victoria. There are not too many other bright pictures on the economic horizon of Victoria.

This year alone the wheat harvest will provide the Government with more than $90 million from rail freight. The Government will receive funds to provide an economic injection for the community and those funds will be provided from the grain harvest, which is only one part of primary industry which assists the Government and the State. What is the Government doing in return for primary industry?

The Hon. B. W. Mier—What about the drought subsidies?

The Hon. B. P. Dunn—That was provided by the Commonwealth Government and the best the Victorian Government could do was administer it. The fact is that primary industry is not receiving much in return for what it is putting into the State. It is a one-way ticket. Indeed, primary producers cannot even get those Ministers who are responsible for key areas like transport and grain handling to visit the country and talk with primary producers, let alone take any interest in trying to assist primary industry. The Government cannot expect to have a one-way ticket.

The Government must try to build up the private sector instead of borrowing money and selling assets to prop up spending in the public sector. The Labor Government is one of the most centralist Governments Victoria has ever had. More decision-making and administration is occurring in Treasury Place.

Primary producers, like small business operators, need to be considered in the total picture. Wherever one goes one learns of small business operators being crucified by increased Government charges, red tape and the bureaucracy. If Victoria is to have an economic recovery, it will occur in the areas of small business and the farming sector. The Government is totally orientated towards employee and consumer rights and it has little real consideration for the employer, the primary producer, the owner-operator and the small business operator. The Government should give greater attention to those areas.
The National Party supports the motion moved by Mr Hunt. The Government, like anyone, must live within its means. The assets of the State must be retained for future generations. Economic recovery must be fostered through the private sector and not through the public sector. Greater attention needs to be given to primary industry and small business.

It is to be hoped that the Government will learn its lesson soon enough so that the future generations of Victorians will not have to pay a disastrous price that will cost Victoria dearly for decades and generations to come.

The Hon. W. V. Houghton—We want to hear from the butcher, not the block!

The Hon. M. J. Arnold (Templestowe Province)—I find that interjection from the worthy honourable member for the other part of Templestowe Province not in the best traditions of Templestowe Province. It appears that the low-key role that Mr Houghton has been playing in recent months indicates that he is not long for this House. Indeed, in 1985, when the people of Victoria vote, no honourable member will be long for this House.

The Government welcomes the opportunity of debating the economic performance of the Cain Labor Government. The ill-conceived motion moved by Mr Hunt provides the Government with an ideal opportunity to explain to Victorians what the Labor Government has achieved in the past two years.

All honourable members would appreciate the horrendous financial position that Victoria was in when the Labor Party assumed office. Immediately on assuming office the Labor Party learnt from Treasury officials that Victoria faced a deficit of $420 million. If the Government had not acted to deal with that deficit, Victoria would be facing a deficit of $1-4 billion in 1984-85. This was calculated on the policies and the spending of the former Liberal Administration. Victoria was well and truly on the way down the drain under the fearful mismanagement of the former Government.

Due to the lean and careful management of the Cain Government since it has been in office, Victoria is in better shape than it has been for many years.

It is hardly necessary for me to remind anyone of Victoria's economic performance before the Labor Party came to office. Prior to 1982 Victoria experienced the worst economic performance in many years. During the 1970s the Victorian economy fell behind the economies of all the other States in Australia. There were low rates of private investment relative to other States and the growth rates of manufacturers' output were only half that of manufacturers in the rest of Australia.

For the nine years prior to 1982 total employment in Victoria increased by an average of only 0-9 per cent a year, compared with 1-2 per cent for the rest of Australia. In the decade up to 1981 Victoria lagged behind the other States in annual real gross domestic product. In considering public sector investment, it is evident that Victoria's total public sector debt fell from 12-6 per cent of the gross domestic product in 1971 to 7-5 per cent in 1980. In other words, there was low private investment and low public investment.

Employment was deteriorating at a rapid rate. Victoria had what can be described as the moribund feeling of a deteriorating economy. It was necessary for the Labor Government to make hard and realistic decisions to attend to the repair of the economy. The Government had two main objectives upon taking office. One objective was the revival of the economy and the other was to provide jobs for the massive numbers of people who had been thrown out of work because of the mismanagement of the Liberal Government. It was the responsibility of the Government to use Victoria's resources to maximize opportunities to create employment, to generate economic activity and to work for the benefit of all Victorians. The Labor Government was not deterred from making hard decisions in carrying out those goals. It immediately constructed a proper agency for budgetary, financial, economic and administrative reforms. Those reforms have been carried out over the past two years.

The people of Victoria realize what good and responsible Government is about. For the first time in a decade they have an Administration they can trust and an Administration that will make decisions for the long-term benefit of people. At the heart of the strategy for economic revival and ex-
pansion was a public works programme as a basis for economic activity and an effective programme of economic and financial management which contained costs and efficiently utilized the State's resources. These programmes were implemented in the Government's first year of office and have been maintained in our second Budget and will be continued in the forthcoming years in which we will continue to govern Victoria.

It was obvious that in the first two years of the Labor Government's Administration hard decisions had to be made. Cutbacks had to be applied in certain areas and the wasteful management of a generation had to be corrected. The Government introduced reforms that will benefit Victoria and carry it through into the twenty-first century. That was a major leap for the Government. It had to bring Victoria out of the nineteenth century and into the twenty-first century. The previous Administration had failed to come to grips with the twentieth century by 1982. The Government had to take Victoria out of the horse and buggy days that was evident in the economic management it inherited.

I refer to the Bill introduced last night by the Attorney-General on animals straying on highways. The necessity for that measure at this time is typical of the way the former Government administered and legislated in Victoria. As I said, there are two elements to the Government's strategy for economic revival. The first element is expansion of the capital works programme. A substantial boost to capital expenditure has been the basis of the Government's budgetary strategy. That boost has stimulated economic activity, Victoria faced depressed and recessionary times and it was necessary for a new attitude to be adopted in Victoria, and this Government took it.

The Leader of the Opposition, Mr Hunt, indicated that private sector investment was being frozen out. The fact is that private investment was not taking place under the former Government and it was necessary for the Government to spend money to stimulate the economy and to provide the conditions under which private investment could once again take an active part in the development of Victoria. Private investors had lost confidence in Victoria because of the former Government. Investment money was flowing out of Victoria to the other States because of mismanagement.

It was necessary for the Labor Government to attract that money back to Victoria and to create situations that would make Victoria attractive to the private investor. That is what it did and will continue to do. The Government must play a role in the economy. It is necessary for it to stimulate economic activity to provide the conditions for the private sector to grow. That has been done with care and in such a way that will not stifle private sector investment. They were the objectives in the first two Budgets of the Labor Government.

All honourable members are aware of the massive injection of funds that the Government has put into the housing industry. It is in the housing industry that economic activity can be most effectively stimulated. For every one new job created in the housing industry it has been estimated that 1.5 new jobs are created elsewhere in the economy. This is primarily in housing related areas such as home furnishings, building materials and white goods. The multiplier effect flows right through the economy. That cannot be emphasized too much in talking about capital spending and the effect it has on the economy and the private sector.

It must be realized that most of the expenditure of money was on employment in the private sector. According to national accounting figures, capital expenditure increased by 24 per cent in 1982-83 and is estimated to increase by 69.3 per cent in 1983-84. That stands in sharp contrast to the levels of spending in preceding years. A falloff in the level of public sector expenditure causes a consequent falloff in development of the infrastructure of the State. The Opposition fails to understand that the private investor will not put his private money into a State that does not have the basic infrastructure in which he can plan, develop, and advance.

The Hon. B. A. Chamberlain—That development was due to many years of Liberal Government rule.

The Hon. M. J. ARNOLD—Mr Chamberlain interjects, but I can only draw his attention to what was happening before the Labor Party took office. Record amounts of money were leaving Victoria because of the level of mismanagement of the previous
Government. Mr Sandon, by interjection, referred to the idle resources that were left to lie stagnant and were not properly used for the people of Victoria. Vast amounts of money sat idly in bank accounts attracting 3 per cent and 4 per cent interest when they could have been expended to create assets for Victoria. That is what the Government is doing—it is creating assets.

To make accusations that the Government is running down Victoria's assets is deplorable because the reverse is the case. Through its efficient and financial management techniques, the Government has been able to more effectively marshal the State's own financial reserves. Assets and reserves left languishing and under-employed by the previous Government are now being used to substantially boost the present Government's capital works programme for the benefit of all Victorians.

There appears to be some misunderstanding about the way the Government has refinanced some of the assets of the State. It can be understood in quite simple terms by a farmer or a householder. If someone inherits the family farm, which is heavily mortgaged on finance that has uncompetitive rates and onerous amounts of money that need to be repaid, any farmer with any economic understanding at all would refinance the farm to obtain a better deal so that he could operate the farm on a more efficient basis.

The same applies to a householder who takes on a house with a heavy mortgage commitment. The fact that a householder refinances the home and takes on a larger bank mortgage extended over a longer period so that the repayments are more suitable to him and so that the interest rates payable are not as onerous can be understood by the ordinary householder because he appreciates that refinancing is for his benefit. Just because a farmer or householder refinances in such a way does not mean that the bank manager will live on the farm, live in the home or take over the assets. That is the hysterical nonsense put forward by the Opposition with respect to the Government's proposed refinancing of the State's assets.

Surely there must be some businessmen on the Opposition side who can understand refinancing and how it is for the long-term benefit of the State. The Government inherited heavily and poorly mortgaged assets in Victoria and it is for the benefit of Victoria for the Government to refinance the assets so that the burden of repaying the mortgages can be spread over a longer period. Victorians understand that they have to pay and will share in the repayments.

The Government makes no apology for using that method of financing. The people of Victoria understand that refinancing technique and understand that they are not losing their assets. The moneys the Government can obtain from the refinancing will ease the burden on the taxpayers and more money will be available to acquire greater assets for Victorians.

After the most severe economic recession that Australia has faced since the 1930s, Victoria is again moving, and is moving more rapidly than any other State. The statistics show it, the Government knows it and so do the people of Victoria.

I will refer to some of the assets that the Government has sold or plans to sell. The Opposition argues that the proceeds from the sale of the assets will somehow be frittered away. Of course, that is not true. It has been planned that student hostels may be sold. Having planned to sell hostels which previously accommodated tertiary students, the estimated return will be between $6 million and $7 million. If the hostels are sold, the money will be used immediately for school building programmes. The Government will create other assets for Victoria.

The Illoura Children's Home at Balwyn has been sold at auction. The proceeds, approximately $500,000, will be used to provide smaller residential units for adolescents and teenagers under care. The community welfare training centre at Watsonia is being examined with a view to its sale and replacement by more appropriate buildings on a smaller site. Some consideration has been given to the sale of the St Nicholas Hospital, Carlton, so that the proceeds can be used to establish community residential units and family group homes—a project that was initiated by the previous Government. The money gained by the Government from the sale of existing assets is used to acquire other assets for the benefit of Victorians for many years to come.

The second element in the Government's economic strategy following its expansion-
ary policies of capital works spending relates to the efficient management of the State’s resources and the containing of the running costs of government. The Budget Papers for 1982–83 and 1983–84 provide ample documentation of many significant reforms in the public sector financial management which have led to benefits for Victoria. A number of those have been listed: The establishment of the Victorian Development Fund with its Cash Management Account; the State Development Account; and the removal of Australian Loan Council restrictions from the State Electricity Commission and other authorities. That has enabled the Government to make a concerted effort to obtain the borrowings at the cheapest cost.

The introduction of programmed budgeting allows the Government to match its expenditure against results and allows Victorians to compare the Government’s performance against its stated priorities. Earlier in the debate, it was suggested that it was impossible to detect exactly what was the Budget deficit in Victoria. For the first time in a generation, the Government has produced documents capable of being understood by the average person.

The Government produces a monthly balance-sheet so that people can understand from month to month how Victoria is being managed and how the economy is going. Honourable members opposite should not speak to members of the Government party about the deficit and how the true position is supposedly being hidden. Those statements are incorrect. The Cain Labor Government has presented the most open financial documentation ever presented in Victoria.

Major restructure of authorities such as the State Electricity Commission and the Melbourne and Metropolitan Board of Works has taken place and continuing reforms have been made in the water sector. The Government has a policy of ensuring that major authorities operating on a commercial basis earn a target rate of return on assets and, as a result of that rate of return on the community’s ownership in those assets, money can be directed to the Consolidated Fund which will enable the Government to carry out its broader policies for the benefit of Victoria and Victorians.

I emphasize the Government’s action in rural areas because Mr Dunn complained that the rural sector is not being looked after. That is not correct. The rural sector received unequalled attention from this Government by way of subsidies and direct loans when it faced the horrendous drought. That assistance enabled the rural sector to reap the rewards of the record harvest. Hand in hand the Government worked with the rural sector in setting the basis for the economic recovery in the rural area.

The Hon. J. W. S. Radford—I will be able to quote you!

The Hon. M. J. ARNOLD—I would be pleased to have the honourable member quote me in Bendigo. The quotes he can use might be of some assistance in his forthcoming battle against the National Party!

Another significant element in the Government’s economic strategy for economic revival is industrial relations. The Government recognizes the key role played by industrial relations in the economic recovery in Victoria. The Labor Government has had the best record in industrial relations achieved for many years. The number of working days lost through strikes in Victoria in the twelve months up to the end of November fell by 46.3 per cent compared with the same period the previous year. This compares with a drop of 25.9 per cent for the rest of Australia. This is due to the good work of the Ministers in charge of industrial affairs since the Labor Government assumed office. The figures on industrial disputes demonstrate the effectiveness of the policy of the Government.

The number of working days lost per thousand employees in the twelve months to November in Victoria was 139, compared with 241 days for Australia as a whole. In future, the Government will persist with progress towards new technology in the public sector so that once again we will be in a position to work hand in hand with the private sector for the development of Victoria.

The link between industrial relations and economic performance cannot be over-estimated. The Government has realized that and that belief is in marked contrast to the inept handling of industrial relations demonstrated by the former Government when it was in office.
For example, the co-operation of the workforce and its recognition of the importance of cost containment were important factors, along with improved efficiency of State Electricity Commission management, in the conditions that were enjoyed in the Latrobe Valley, an area that was too hot for the former Liberal administration to handle, let alone control.

Much has been said by Mr Dunn about State Government taxes and charges. He was trying to give the impression that we are a high-taxing Government. Once again the allegations are not borne out. His statements are made in a political context. I hesitate to use that expression because we try to keep politics out of this Chamber!

The Government has succeeded in keeping necessary increases to a minimum. This is clearly reflected in the fact that, between March 1982 and December 1983 the Victorian component of the consumer price index for State and local government charges increased by 21.7 per cent, while the National average was 27 per cent. It is interesting to note that over a similar period under the previous Government—that is prior to March 1982—this index rose by 38.7 per cent.

The Government is well aware of the need to contain rises in State taxes and charges. This is why Victorian households will benefit greatly over the next financial year from the Government’s action in keeping increases in electricity and gas charges for 1983–84 down to a minimum, which is well below the cost-of-living increase over the previous year.

Throughout its period in office the Government has recognized not only the need for restraint of State public sector charges, but also prices and incomes generally. The Government has been working towards that policy. For example, the Government has expressed its support for the establishment of the Federal Government’s Price Surveillance Authority. In respect of some important consumer items in the private sector, such as milk, eggs and petrol, the Government, on advice from its Prices Commissioner’s office and relevant departments and Ministries, endeavours to keep any necessary increases to a minimum, consistent with the economic viability of the industries concerned.

I have endeavoured to illustrate the economic performance of the Labor Government since it came to office. The assets of Victoria are not endangered by the economic management of the Government. Victoria’s asset and financial positions have, in fact, been enhanced. When the people of Victoria return the Australian Labor Party to the Treasury benches in 1985 they will do so with the confidence that the economic management of Victoria will remain in safe hands.

The sitting was suspended at 1 p.m. until 2.3 p.m.

The Hon. D. K. HAYWARD (Monash Province)—The subject of the motion is the continuing mismanagement by the Government of the capital resources and potential of Victoria. I shall focus my remarks on the impact of this mismanagement on the private sector.

So far, the debate has included an interesting survey of the Victorian economy from various angles, as well as a wide range of views. For example, Mr Arnold saw Victoria as leading Australia out of the recession whereas Mr Dunn saw Victoria as facing an economic crisis. I believe Mr Dunn’s assessment is closer to the truth.

One does not have to refer to statistics to make that judgment. All one really has to do is ask the average Victorian family what is happening with regard to the family budget to learn that the average Victorian family is battling to make ends meet. That is the cold hard fact of the matter. One reason Victorian families are battling to make ends meet is the high cost of transport. The average Victorian family has to meet high transport costs to get their children to school. The average Victorian family has to meet a whole range of charges—energy charges, land tax and other Government imposed charges.

In a short time, the Government has become distant from the average family. That is demonstrated by Mr Arnold stating that everything is rosy and by the laughs and smirks from members of the Government on this very serious question. If they wished to keep in touch with the real world they need only ask a man who has been retrenched from a job in manufacturing industry for his views on the Victorian
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economy and how hard it is to get another job.

Unfortunately, the Labor Party commenced its term of office with the wrong idea about the economy. The Labor Party commenced with the view that a Government can solve a State’s economic problems by more Government spending. That experiment was tried by the Wilson Government in the United Kingdom in the 1960s and more recently by the Mitterand Government in France. In both of those situations, and in similar instances throughout the world, that approach caused more problems than it solved.

I wonder how many members of this House heard Dr H. C. Coombs speak on the ABC television programme, Close up, on Sunday night! Dr Coombs has observed Government administration over a number of decades. In the course of the interview, he stated:

The Keynesian economic policies may have been appropriate in the post-war years, but they are no longer appropriate today.

Dr Coombs further stated that those policies were no longer appropriate because the economy of a country cannot be isolated from world economic trends.

That is the problem that is facing the Government today. The Government came to power with the illusion that it could fiddle the State’s economy by fiddling the books and increasing Government spending. The Government came to power with a belief that it could isolate Victoria from the competitive pressures from interstate and overseas markets. It is sad that Victorian families who are battling to make ends meet are paying the price for this approach that has failed badly.

The Government is involved in a huge borrowing programme outside the ambit of the Australian Loan Council. The Loan Council will learn what is happening and the Government will pay the price. Victorian families will pay even more.

When one borrows one has to service the debt and the servicing of the debt will go on for a long time and will have a compounding effect. The servicing of the debt is affecting Victoria today. The servicing of the debt has risen from $250.3 million in the 1982–83 Budget, an increase of 70 per cent since the Labor Government came to power. Victorian families are already paying to service that debt.

The worst is yet to come because the combination of a stripping of the capital assets of this State and huge borrowings will mortgage the future of our children.

I shall now examine the impact of high Government spending policies. The first aspect is consumer spending. Mr Arnold spoke about the consumer price index. The consumer price index figures for 1983 as published by the Australian Bureau of Statistics show that the Melbourne inflation rate for the year 1983 was 9.9 per cent compared with the national average of 8.6 per cent. For the December quarter Melbourne’s increased by 2.9 per cent compared with the national average of 2.4 per cent.

More critical is the impact of State Government and local government charges in the consumer price index increase. One does not have to go further than the Australian Bureau of Statistics figures to confirm that.

In Melbourne, in the December quarter, the impact of State and local government charges was 0.66 per cent as compared with the national average of 0.49 per cent. This, of course, has its effect on consumer demand. It means that people have less money available and they must pay considerably more for goods. This has been indicated clearly in consumer demand figures over the year to December 1983. The value of retail sales rose by only 8.8 per cent, a fall in real terms, compared with an increase of 10 per cent in the rest of Australia. One could quote statistics for ever, but I believe the picture from these statistics is amazingly clear.

The next point is the question of competitiveness. I believe Australia is at a crisis in competitiveness. One need only look at the report of the European Management Forum, which was brought out in the last few weeks. This report is brought out yearly and it rates the competitiveness of countries worldwide. It is looked upon with great respect. It states that the Australian level of competitiveness has dropped from seventh place to twelfth place. That is a substantial drop.

In this whole area of competitiveness, Victoria is in the worst possible position. Recently a survey was conducted of 100
Victorian firms, which indicated they are facing rapidly rising costs and that the Government's imposed taxes and charges are rising more rapidly than other costs. They mentioned specifically energy charges, taxes such as pay-roll tax, land tax and petrol tax and a myriad of other Government charges, some of which have increased astronomically.

This is a serious matter. Those firms are very concerned about the impact of State taxes and charges on competitiveness. Victoria is dependent on manufacturing industry, which in turn is dependent on maintaining and improving its competitiveness. The cost burdens placed upon the manufacturing industry by the Government are attacking the competitiveness of this industry and are putting it at an enormous disadvantage.

The next matter is investment and, again, honourable members have heard figures stated by Mr Arnold. I wonder whether he has seen the figures which were produced by the Australian Bureau of Statistics, catalogue No. 5625.0 on new fixed capital expenditure by private enterprise. Those figures show a downturn of 3 per cent over the reported period. If that situation is compounded in Victoria, where the decrease has been even greater, and if one compares the financial year ended 30 June 1983 with the expected capital investment in Victoria for the financial year ending 1984—a two-year period—one will note that the figures involved from private enterprise decreased from $1068.2 million to $872.7 million, a drop of nearly $200 million.

There is a desperate need for more investment in Victoria and particularly in the Victorian manufacturing industry. Much of its equipment is old and reaching the end of its technological life. Much of that industry is desperate for new technology. If one talks to businessmen about the situation in the manufacturing industry and the need for investment one hears them state that they must look at the return on investment. Of course, the two important factors are the revenue that will be earned and the cost. Businessmen say that they are desperately worried by the rapidly increasing cost of wages with the recent wage indexation increase of 4.3 per cent and the likelihood that there will be a further increase of 4.1 per cent. There is more involved than that. The most serious factor is the rapidly rising Government costs and the uncertainty regarding further investment. There is a need for technology which will lift Victorian industry to a point where it will compete effectively with industry overseas.

In the past, industry has been burdened by the tyranny of lack of economy of scale, which simply means that it was believed it was necessary to have large runs to produce economies of scale to make our industries profitable. New technology using computers controls and makes it possible to rapidly change tooling and shorter runs can be produced in an efficient and cost effective way. Investment is required, and confidence for that investment to be made. This also applies in rural based industries.

I learned only yesterday about some new technology in the sawmilling industry. Honourable members are all very interested not only in the productivity of sawmilling but also in its environmental aspects. New technology in the sawmilling industry means that a computer can scan a log and devise a number of programmes showing different profiles for cutting that log. The log is brought in and the computer works out the most efficient way of cutting it. Obviously, this has enormous implications because productivity in sawmilling can be improved and less timber will be used.

Manufacturing industry is of vital importance to Victoria. There are critical wealth generating aspects to it and it is essential that this industry be supported.

Unfortunately the policies of the Government are destroying the competitiveness of the manufacturing industry. There is a real crisis in employment in the manufacturing industry. I quote figures from the Australian Bureau of Statistics catalogue No. 6201.2, and I compare two periods of time, mainly November 1981 and November 1983. One will see that over that two-year period employment in the manufacturing industry has dropped from 417,900 people to 387,200 people, a loss of 30,700 jobs—about 40 jobs a day.

The same statistics will show that at present employment in the manufacturing industry is about 22.7 per cent of the workforce. Predictions are that by the turn of the century that figure will have dropped to 10 per cent, or even less, and this is why it is important to encourage employment in
other aspects of the economy, including the service industries.

There has been a dispute about the percentage of the work force employed in service industries at present. A member of the Government party has quoted the figure of 70 per cent of people being employed in that industry. I believe that gentleman is using the statistics in a way similar to the way a tipsy man uses a lamp post—more for support than for illumination. The Australian Bureau of Statistics figures show that employment in the service industries is at about 55.9 per cent of the total work force.

It is not only in the service industries that economic growth and job generation can occur. Mr Dunn spoke earlier about rural industry and I agree that there is enormous potential in that area, particularly with the changing pattern of consumption in Asian countries. Those changes from rice to grains indicate enormous prospects for our agricultural industry as well.

However, as Mr Dunn demonstrated, the Government is doing everything it can to harm the cost effectiveness of those industries by increasing substantially the burden of cost and regulation on them.

In summary, the sad facts of the matter are simply that the Government has assumed office with the wrong conception of what is needed for the economic development of the State. It has put that conception into implementation, but who is suffering now? The average Victorian family is suffering because people are finding it difficult to make ends meet. Those men and women who are being put out of jobs in the manufacturing industry are suffering because the Labor Government is destroying the competitiveness of the Victorian manufacturing industry.

The Hon. M. J. SANDON (Chelsea Province)—I will alter the tone of the debate and adopt a more rational approach to the motion.

I oppose the motion because the material presented by both the Opposition and the National Party in no way goes to the merits of the motion and the evidence presented in no way supports it.

It has been suggested that the Government has engaged in economic folly and fallacy. It has been suggested that the approach the Government has adopted has not been in the interests of the economic development of the State. Opposition members are nodding their heads. I shall refer to the relevant economic indicators, which demonstrate the economic viability and future of the State. I refer to the building industry, consumer spending, motor vehicle registrations, the number of jobs created and the level of unemployment. If one examines any one of those economic indicators to which I have referred one will discover that the Victorian Government is leading the way in economic recovery in Australia. The approach adopted by the Government supports the premise that Government spending is needed in those areas.

In the latter half of last year there was a 42 per cent increase in the number of dwellings constructed compared to a national average of 27 per cent. That represented an increase of 15 per cent last year in the number of dwellings constructed compared to a national decrease of 27 per cent. The Opposition will understand both the direct and increased benefits that flow from improved development in the construction industry, and therefore, I do not have to repeat basic grade three economics on the multiplier impact.

The Opposition would understand the effect of the injection of Government funds into the housing industry in the past two Budgets. Indeed, one figure that stands out in my mind from the first Cain Budget is the increase of 82 per cent in the housing allocation in the Budget. Victoria is now reaping the benefit of that increase in the number of jobs and improved development in the housing industry. That move will lead to increased housing investment.

A recent survey by the Institute of Applied Economic and Social Research indicated that consumer confidence in Victoria is the highest it has been for more than a decade. That confidence has been reflected in consumer demand. In Victoria retail sales for the latter half of last year were again higher than the national average.

Recently there have been more registrations of motor vehicles in Victoria than in the rest of Australia, and that is a further indicator of economic development. The most significant indicator is the number of jobs being created. Victoria leads the way in
terms of the job market. The level of unemployment in Victoria is the lowest in Australia.

Mr Chamberlain is interjecting. He will have the opportunity of refuting these figures; however, he is too blinded by his own prejudice to know what the facts are.

The Government has adopted the right philosophical approach to job creation programmes. The Government has been prepared to use the funds that have become available to ensure that more jobs are created. The number of new jobs created indicates that Victoria is in a far better position than the rest of Australia.

I refute the allegations—and that is all they were—made by the Leaders of the National Party and the Opposition, who claimed that Victoria is going through a stage of economic despair. Mr Dunn conveniently ignored those economic indicators to which I have referred, because he is not prepared to look at facts. Mr Dunn merely enters the House and makes a number of assumptions—assertion after assertion. It is time that Mr Dunn woke up and realized that his comments will not be given any credence because he does not use facts to back up his comments.

I applaud the approach the Government has adopted in ensuring that the assets of the State are productively utilized in the interests of Victoria. At long last those assets that have capital value but are lying idle and not being utilized are being sold and invested to the advantage of all Victorians.

I refer to an example in the area I represent, which highlights the case I have made and refutes the motion. Situated on the Nepean Highway at Aspendale is a two-storey house, which was once described as a luxury dwelling. It was purchased to provide a school for the disabled. When the Labor Party assumed office it sold that dwelling because the Government did not believe it was worthwhile on a number of points. I hope Mr Dunn will listen because the illustration will give him the answer he needs.

The dwelling was unsuitable as a school for the disabled. It has been sold on the private market and the funds from the sale have been utilized to build a new school that is more appropriate. When one injects money into the private market to construct schools one creates jobs in both a direct and indirect way. Hence, in selling off assets that are not being used in a productive way, the Government is better utilizing the assets of the State. I applaud the Treasurer and Department of Management and Budget officials for adopting that approach. The State's assets should not remain idle but should be used in a dramatic productive way. The example I have used certainly highlights the way in which the assets of the State can be used.

All honourable members would concede that State Governments do not have large amounts of money to spend. There have been various debates about workers compensation and State taxes during which this has been accepted by members of oppositions of the day.

I had hoped that during the past two years there would have been some recognition of the financial difficulties that the Labor Government faced with matters outside its control as a result of bush fires and the drought. That is important, but more important is the national pipeline levy. All honourable members are aware that the High Court decision meant that $50 million was lost.

It has been suggested by the Federal Treasurer that the Victorian Government is a high taxing Government; he used the last consumer price index figures to suggest that that was the case. Unfortunately the Federal Treasurer did not have his facts completely at his finger-tips. The Federal Treasurer was wrong because that pipeline levy was not levied and, therefore, a surcharge on petrol was introduced in the last Budget. That was the main contributor to the consumer price index, but it is not the only contributor to State taxes and charges.

The Federal Treasurer was incorrect when he said the Victorian Government was a high taxing Government. If one examines the consumer price index figures of the last eighteen months of the Liberal regime one sees that under the previous Government the component figures for the consumer price index rates and taxes was 39 per cent. In the first eighteen months of the Cain Labor Government the figure was 22 per cent. Clearly one soon recognizes which was the high taxing Government. It is not the present Labor Government.

The Government is concerned about ensuring the future economic viability of the
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State. It has engaged in a number of programmes and has made a number of extremely important changes to its structure to ensure that will happen. This was necessary because when the Government came into power it found there was no economic development structure for Victoria. For the past decade the former Government had no economic strategy.

The Government is now trying to redress that situation and is attempting to develop an appropriate economic structure for Victoria in order to establish policy which could be adopted to encourage employment and manufacturing throughout Victoria. Unlike the former Government, this Government will not look only at regional policies for 15 per cent of manufacturing in the State. The whole State should be taken into account when designing an economic strategy. That will be the approach the Government will adopt and it will consider from that view what Government policies should be directed towards.

The Government will be looking in concert at how assets are being utilized in various departments and whether they are being utilized in the best interests of Victorians. If it finds that they are not being utilized in the best interests of Victorians, the Government will consider changes to ensure that those assets are sold and channelled through for better programmes or through to the Victorian Development Fund.

Since the Cain Labor Government was elected it has been widely recognized that there has been a massive increase in capital spending. What has not been recognized is that spending has gone into the private sector, not the public sector. I should like to see more capital expenditure in the public sector. None the less the private sector has been the main beneficiary of the massive injections of Government funds.

If the private sector does not take up the issue of economic development, surely the Government should take the matter up to get the economy moving and developing to provide jobs, the demand for and the production of the goods. That is the cycle. If people are not employed and able to spend money, jobs are not created. That is a basic factor and it is incumbent on the Government to create a demand which will in turn create jobs.

At no stage during the debate has any factual information been brought forward to confirm the content of the motion. The reverse has happened, which clearly indicates that the Victorian economy is alive and well and leading to the recovery of the State. The assets that have not been utilized in Victoria are now being used in a far more productive way than before. The Government is approaching the matter in a right and proper way in the interests of all Victorians.

The Hon. ROBERT LAWSON (Higinbotham Province)—During the debate I shall raise several points that may not have been mentioned before. The first deals with the Country Roads Board, now known as the Road Construction Authority. Much reserve land has been sold over the past two or three years by the Road Construction Authority on the instructions of the present State Government.

In the 1981-82 financial year, the Road Construction Authority sold $1.75 million worth of land. In 1982-83 it sold more than $9.5 million worth of land and in 1983-84—up until January 1984—the authority took another $3.5 million in land sales. It is arguable whether it is good to sell surplus land of such value because so much of the land will be needed in future by the Road Construction Authority. If the authority finishes a road and then sells out the surplus land that adjoins the new road, it may find that it has no land left on which to place dumps, stores or any ancillary services.

If ancillary services are needed to be established but the land has been sold, the authority may have to acquire it back from the new owner at a substantial loss.

Much of this land will be needed in the future for road reservations which are now being lost. I do not believe this Government has the right to circumscribe the actions of future Governments on any roads or freeways they might wish to build. The land will not be there. This Government is making that decision for future Governments and it has no right to do so. It is selling the birthright of future generations and their right to decide where roads go and what the traffic on those roads will be. The land reserved for that purpose is going.
Most of the roadworks in the State at present are being funded by the Federal Government. If we relied on the State Government for funds, very little would be occurring. The Nepean Highway project, approaching completion now, is being paid for mainly by the Federal Government, as is the Hume Freeway. In the last financial year, 1982-83, the Federal Government gave about $2.5 million to the State for the purpose of making the Hume Freeway and in 1983-84 another allocation was made of $2.8 million.

If the State Government has surplus land from these operations and sells that land and does not give back the money to the Road Construction Authority—the authority is obliged to hand over this money to the Treasurer for it to go to consolidated revenue—is the authority then in breach of any agreement it may have with the Federal Government? The Federal Government allocated funds for roads and freeways. Now, that surplus money is being taken away from that purpose and put into the consolidated revenue.

It appears that the Federal Government will have an excellent case if it wants to go to the extreme of suing the State Government for taking these funds. Probably, when the Federal Government wakes up to what is going on, it will cut down on road grants that are paid to the State Government to make up for its clandestine profits. That is a very real danger.

The State Government is doing three things completely wrong: Firstly, it is selling the surplus land and taking the money into the State Government Treasury instead of leaving it in the hands of the Road Construction Authority where it could be used to build more roads; secondly, it is apparent to me that it is in some sort of breach with the Federal Government because the money that should be going towards roads is not being used for that purpose and when the Road Construction Authority wants to build more roads, it will have to borrow money from the Treasury and pay 15 per cent interest to get its money back; and, thirdly, it is selling off land that will not be replaced.

Mark Twain once said that if you want to make a fortune, get into land because they are not making any more of it. Land is an irreplaceable asset and it is being lost to Victoria. I shall not refer in detail to surplus railway land and reserves because I do not have those figures, but I know that sales of land are occurring in that area also.

During the luncheon adjournment, my colleagues were discussing both Mr Sandon and Mr Arnold. Someone said that Mr Sandon is 10 per cent facts and 90 per cent bluff and that Mr Arnold is 100 per cent bluff and no facts at all. That assessment has been proved conclusively by those honourable members' speeches today. Mr Arnold's speech was completely devoid of fact. He refers, for instance, to a reputed enormous deficit left behind by the former Liberal Government.

I have taken the figures from three successive State Budgets. These are official figures, they are not my own and they are not figures of the Liberal Party, but those of two State Treasurers. I have drawn these facts from the consolidated figures at the fronts of three successive Budgets. If any honourable member wants to check on these facts, he is welcome to do so.

In the Honourable Lindsay Thompson's last Budget he started with a surplus of $12 million. When the Labor Party Treasurer started his first Budget, he had a surplus of $6 million. The estimated amount that the Labor Party Treasurer was going to spend was $2 billion more than the Honourable Lindsay Thompson had available in his final year as Treasurer.

The last Labor Party Budget was the second presented by the now Treasurer and he started with an enormous deficit and finished his first year with a deficit in the Cash Management Account of $97 million; at the end of the next year, in the State Development Account, it had reached $175 million. Those are indisputable facts and the figures—

The Hon. A. J. Hunt—That is only what is disclosed.

The Hon. ROBERT LAWSON—That is what is disclosed. It is known that there is a $175-million deficit—the other deficits are not known. This puts paid to any argument by Mr Arnold and Mr Sandon about the so-called deficit left by the Liberal Party Government. It was not there. The Labor Party Government had $6 million in the bin to start with. That amount has been dissipated and the Labor Party Government has run this enormous debt that the people of Vic-
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TAXATION

Victoria will have to pay; an example of the Labor Party's deficit financing.

The Australian Bureau of Statistics figures produced by Mr Hayward in this debate are undeniable. Speakers from the Government party can imagine all the figures that they like. The undeniable proof has been given during the debate by my party that Victoria is at a disadvantage and that the taxpayers of Victoria are disadvantaged compared with those in other States and that any recovery the Labor Party talks about is due to world-wide trends rather than to action by this Government. If there had not been any world-wide recovery, Victoria would be in an extremely desperate position today because of the policies of this Government. In an article in the Age, on Thursday, 9 February, Mr Terry McCrann, the business editor, stated:

Jeff Kennett has an iron-clad case in his attack on the heavy increases in State taxes during the Cain Government’s two years in office. And, ominously, that claim is substantiated by the even greater boost to Government spending under John Cain and Rob Jolly in this period.

I say ominously because a substantial part of this increased spending has not been funded by taxes but a variety of "creative" financing techniques. However, these techniques only postpone the evil day of tax increases.

One can be as clever as one likes in the theory of creative financing and doing wonderful things for the State of Victoria, but it is true that the evil day is merely being postponed. Taxes have been increased and they will have to be increased further. There is no choice. The Labor Party Government will leave the next Liberal Party Government after the State election with the enormous problem of a deficit that will have to be taken care of by some sort of reasonable accounting and financial practices.

Mr McCrann has agreed that the 233 tax increases quoted by the Liberal Party are there already. The Government cannot deny that. It is imposing an enormous burden on all taxpayers. A table that Mr McCrann compiled shows that Victorian Government spending increased in 1982-83 by 28.8 per cent and that in a two-year aggregate the Victorian Government spending increased by 45.3 per cent. Tax rises in the same two-year period increased by 28.3 per cent and in the same period Federal Government spending increased not by 45.3 per cent, but by 37.3 per cent, and Federal taxes rose by 17 per cent. The unfortunate taxpayers of Victoria are paying a 17 per cent increase in taxes to the Federal Government and a 28 per cent increase in taxes to the State Government.

What the Government is attempting to do to Victoria is disastrous. The Government is comprised of economic pygmies who do not even realize what they are doing. Every time the Opposition points out that taxes are increasing and reviews the facts, it raises a laugh from the Government’s back bench. To give Ministers their due, they look serious when they hear about the sad things that are happening to the Victorian public, but the back-benchers seem to find the whole matter quite hilarious.

Ever since the Government was elected, the ordinary people of Victoria—the workers whom the Labor Party is supposed to represent and protect—have had their hands in their pockets, shelling out their hard-earned money to support the hare-brained theories of our masters, and they will continue to hand out their money for a long time before economic sanity is returned to this State.

The Hon. R. A. Mackenzie (Minister for Conservation, Forests and Lands)—After listening to a portion of the debate, it is obvious from the comments that have been made that the Opposition has failed to establish a case in regard to the economic policies of the Government. Members of the Opposition obviously have short memories. I invite honourable members to cast their minds back a little over two years and examine the state of the Victorian economy, prior to the Labor Party coming to government and compare it with its current state and the reports of economic recovery. I point out that those reports are coming not only from members on this side of the House but also from a reading of the newspapers, and they indicate that Victoria’s position in comparison with that of other States is very sound. The figures released by the Treasurer yesterday reveal that the current state of the Budget indicates that the sound economic management policies of this Government are working successfully and have done so in a very short time.

Mr Lawson spoke of the hare-brained schemes and economic policies of the Government. I remind honourable members opposite that the Government inherited a
deficit in the vicinity of $400 million, has faced the worst drought ever experienced in the history of this State, followed by the most disastrous bush-fire season in 50 years and, on top of that, the removal of the pipeline levy. All these things have placed this Government in a position which would have reduced the previous Government to a complete state of collapse. Despite those setbacks and the enormous economic difficulty, the figures released yesterday by the Treasurer indicate that the State has been restored to a strong financial position. If that is an indication of hare-brained economics, Mr Lawson should do his homework.

I shall not say any more on this, except to add that nothing the Opposition has said has indicated that the economic policies of the Government are failing in any way. Quite the reverse is occurring: In industry and among the people to whom I speak around the State, an air of confidence is prevalent that was not evident two years ago.

The Hon. D. R. WHITE (Minister for Minerals and Energy)—I thank the Minister for his assistance. The Government anticipated that the Opposition would have more support for its case, but clearly that was not to be. The Government also felt that the Opposition might have had more support from the National Party, but that was clearly not to be.

Before examining the five points raised by Mr Hunt in introducing this debate, none of which was followed in any logical sense by any subsequent speaker, it is appropriate to do what he failed to do, that is, to examine the economic setting in which the debate is occurring. Mr Hunt did not attempt to do so but I, on behalf of the Government, shall do so.

During the 1970s, the performance of the Victorian economy fell well behind that of the rest of Australia. Indeed, for the nine years to 1982, total employment in Victoria grew, on average, by only 0.9 per cent as compared with 1.2 per cent a year for the rest of Australia. In the decade to 1981–82, Victoria lagged behind the other States in annual real gross domestic product.

Looking at the public sector in this State, Victoria's total public sector debt fell from 12.6 per cent of the national gross domestic product in 1971 to 7.5 per cent of national gross domestic product in 1980.

The present Victorian Government inherited all the basic signs of a moribund economy, to which the electorate responded—stagnating output, low rates of private investment, falling rates of public investment and a deteriorating employment situation. The Government determined to take issue with those factors—not in isolation, not without recognizing what was occurring throughout Western economies and not without recognizing the basic responsibilities for economic strategy as being the basic responsibility of the Federal Government; but, in so far as the Government could influence events in Victoria, it decided on a two-pronged strategy for economic revival in this State. It would have been neglecting its mandate and its responsibility to all Victorians had it failed to do so.

The Hon. J. W. S. Radford—What about Alcoa?

The Hon. D. R. WHITE—The Alcoa project was deferred twice under the Liberal Government but the Government now intends to ensure that, when the Alcoa project resumes, it will not be subject to further deferral. The Government has also ensured that the State Electricity Commission has finally been brought under effective commercial management so that investors in this State can have confidence about the future construction costs at Loy Yang, its operating costs and its future prospects. The Government has returned the commission to a viable economic operation under a commercial manager in Mr Jim Smith, a position which had been non-existent under the previous Government, but the previous Government was too far removed from those events and too ignorant to be aware of the state of the commission and other statutory authorities.

The Government decided on an expansionary approach to public works programmes as the basis for stimulating economic activity, and an effective programme of economic and financial management which contained costs and efficiently utilized the State's resources. That occurred in the 1982–83 and 1983–84 Budgets, and 1984 will be a year of consolidation.

It is the Government's view that, in depressed and recessionary times, when the
private sector is unable to invest and does not have the confidence to do so, it is the public sector's role to pick up that investment slack and, at the same time, provide infrastructure until the private sector is able to grow again.

Now that that has begun to occur in the housing sector, and the beneficiaries of that improvement are to be found in the private sector—and the Government welcomes that—it is obvious that the Government can begin to contain those capital works programmes in the housing sector. In the capital works programmes upon which it has embarked, it freely acknowledges the support of the Federal Government, especially by way of increased specific purpose payments related to the Bicentennial Roads Programme.

In respect of the issue of taxes and charges, it needs to be understood that, between March 1982 and December 1983, the Victorian component of the consumer price index for State and local government charges increased by 21.7 per cent, while the national average increase was 27 per cent. It is also important to note that, in the similar period under the previous Administration prior to the March 1982 quarter, the index rose by 38.7 per cent.

It is no use the Opposition talking about increased rates and charges because the increases were more significant under the Liberal Administration. The increases in electricity charges have been the most minimal in ten years, and the trend is downward relative to the consumer price index.

The product of this Government's economic strategy has been the strong recovery in consumer demand in Victoria. Retail sales for the second half of 1983 were 9.2 per cent higher than in the second half of 1982, compared with an 8.9 per cent increase for the rest of Australia. That meant that the marginal influence the Government was endeavouring to have on the Victorian economy to keep it in the forefront of economic recovery in Australia had come to fruition.

Motor vehicle registrations which were particularly high in 1982, were down by only 7.4 per cent in Victoria compared with a drop of 7.9 per cent in the rest of Australia. In the second half of 1983, in respect of the labour market, employment grew by 57,400 or 3.4 per cent in Victoria, compared with 3.1 per cent in the rest of Australia.

No one underestimates the seriousness and concern related to the levels of unemployment, and no Government in Australia has done more to increase employment opportunities in Australia than this Government has done in conjunction with the Federal Government. Throughout the recovery, Victoria's unemployment rate has remained consistently lower than any other State. In January, Victoria's rate was fully 1.5 per cent points below the rest of the country—9.2 per cent compared with 10.7 per cent for the rest of Australia. No one is satisfied with those figures but no one is endeavouring to do more than this Government in that regard.

In Victoria's major area of economic expansion, total home building approvals for the second half of 1983 were 41.8 per cent, or 5300 dwellings higher than in the second half of 1982. This compares with an increase of only 27 per cent for the rest of Australia, and continues the outstanding result for 1982-83 when approvals increased by 15 per cent, or 3700 dwellings, in Victoria, while the rest of Australia fell by 22.8 per cent.

It is important to realize that as the initiative the Government took in the housing area comes to fruition as a result of public sector housing expenditure, the Government can now concentrate on the needs area rather than on having to use housing as a prime instigator of economic recovery.

In respect of the points Mr Lawson made about the deficit that the Government inherited, I merely wish to say in passing that, in 1982, when the Labor Party came to Government, it was advised by the Treasurer that if the programmes existing at that time were to continue in their present form, there would be a deficit in 1982-83 of $400 million. The Government was also advised that if those programmes were to continue into 1984-85, there would be a deficit of $1500 million. That is the setting in which the Labor Party came into Government, and that is the setting that it inherited from its predecessors.

In the course of today's debate, Mr Hunt endeavoured to make five points, as I understand it. He alleged that the Government has dissipated capital expenditure on current expenditure, that the Government
has consolidated the trust funds and, presumably, has mismanaged them, that it has propped up the Budget deficit, that it has failed to pay its liabilities, and that it has increased the debt burden for all Victorians. They are the five issues upon which Mr Hunt called on his colleagues to provide support, which, of course, came in the usual form. The speakers from the Opposition side did not stick to the five points raised by Mr Hunt. They were not taken up in any considered fashion and, clearly, a collective effort was not made on the part of the Opposition to clearly outline its case.

Mr Hunt did not follow through the points that he made, nor did he develop them in any sense. He contended that capital expenditure had been used for current operating purposes. He contended that he would show that capital funds had been spent on operating costs. However, he did not give one example to demonstrate that that has occurred. He said that he was not in a position to do so and that he thought it might have occurred. He did not demonstrate that point. Mr Hunt asked a few rhetorical questions, such as: Where did the money from the sale of assets go? Did it go to capital works programmes? Because he was unable to demonstrate that, he is therefore alleging—he did not go to the trouble of looking at the figures—that the money might have gone into operating expenditure.

Nothing could be further from the truth, and the most cursory examination of the Budgets for the past two years would have demonstrated that that was the case. The figures that I am about to quote regarding one of the major areas of capital expenditure in transport show clearly that the additional proceeds from the sale of transport assets have been used in transport works programmes. The total capital works programme for 1983–84 is $646.7 million compared with $405.9 million in 1982–83. That is an increase of $240.8 million.

A significant capital works programme exists in the transport area, including public transport, rolling-stock and equipment, and that is occurring in areas including the province represented by Mr Dunn. Extensive capital works programmes have been operating in the transport sector and the railroad area in ways that have never been undertaken by the previous Administration, which Mr Dunn strongly supported for 27 years. There has been more activity in the province that Mr Dunn represents in the past two years than ever before.

The Hon. B. P. Dunn—It is about time we got something back.

The Hon. D. R. WHITE—Mr Dunn made the allegation that the Government was not giving anything back, and I am just pointing out that in the past two years it has put more back into transport and rolling-stock in the province he represents than occurred in the previous 27 years. That includes rolling-stock and storages as well as capital equipment in that area. The Government can document that for Mr Dunn.

In respect of the increase of $240 million in the transport sector, some $160 million of that amount is derived from additional sales of transport assets and is part of the increase in the transport works programme. That is the source from which it came.

Much was made, in a motherhood or rhetorical fashion, of road reservations. It has been said that road reservations are taking away the privileges and rights of the State and that those road reservations are sacrosanct and needed. I make it clear that the examination of road reservations was not undertaken unilaterally or in haste by this Government. It was a subject that was considered not only by the Minister of Transport and by the Minister for Planning and Environment, but also by me as Minister of Water Supply, in my capacity of having an involvement with the Board of Works.

A serious study was undertaken by officers of the Board of Works and lay officers of road authorities regarding the existing road reservations. As a result, it was found that there were more than 30 road reservations, many of which dated back to 1954. It was also found, on advice from those authorities, that more than $4000 million would have to be spent over 100 years to build even modest-standard roads on these reservations, and that some reservations would never be built on, even if road funds were quadrupled.

Moreover, after consideration of all those road reservations, and on advice from the relevant authorities, it was resolved that six reservations would never be used. These will now be scrapped. The road reservations that are to be scrapped are as follows:
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The F2 reservation down the Merri Creek, south of Bell Street;
Pilgrim Street, Footscray;
route 12 through Sunshine;
section of the Healesville freeway, west of Springvale Road;
route 6 from Canterbury, to Moorabbin; and
the escarpment route around the eastern side of Essendon airport.

These are the six road reservations concerned. They are all documented and spelt out.

During the course of the debate, honourable members have heard much about road reservations, but not one member of the Opposition or the National Party demonstrated any objection to any of those specific reservations; not one honourable member demonstrated that there was a need to retain any of them.

The Government set out the issues and asked for comments but not one member of the Opposition or the National Party demonstrated a need. If those road reservations are to exist in perpetuity and never to be built on, clearly they are idle and wasting assets. The Government takes issue with leaving them in that state, as it would expect the Opposition or National Party to do in government.

In the past two years, the Government has entered into arrangements for the sale and lease-back of certain items of transport, including rail rolling-stock and trams, and the sale of surplus land around railway stations. The sale and lease-back principle was introduced by our predecessor in government and was borrowed from the corporate sector. It was borrowed on the premise that it was not necessary to tie up funds for one's capital works programmes in those types of assets. It is also clear that where there is surplus Crown land and a demand for that land and many people are more interested in buying it than leasing it—and that is the message being received from the corporate sector—the Government is certainly not in the business of holding on to those parcels of land as a result of some outdated ideological principle. It is interesting to note that that ideological principle seems to have been more to do with what the Liberal Party wants to hold on to than what the Government wants.

It has been proposed to the Government that in the course of public sector management it is appropriate to review periodically not only the state of the operating costs of the public sector but also the assets that are in existence and how they might best be used. The Government will continue to use opportunities to sell off assets that are no longer required in their present form to raise funds for further capital works programmes in the public sector or elsewhere.

The Government has resolved that the St Nicholas Hospital in Carlton will be sold for $4 million or $5 million and the proceeds will be used for family group homes. That was a concept to which the Liberal Party agreed, and to which the Government adheres, because it believes institutionalized care, as provided in St Nicholas Hospital, can best be carried out on a group home basis and that the hospital could be sold if a market is available for it.

The Government has adopted programmes that are designed not only to assist economic recovery but also to ensure that as private sector recovery emerges, as is occurring in the housing sector, the Government can face the level of activity that it has initiated.

Mr Hunt said that the Government has attempted to consolidate the trust funds and use them for better financial management, which he clearly conceded was the case, but Mr Hunt claimed that those funds were not being put to proper use. There are many programmes and projects which would not have been funded if the Government did not for better financial management purposes, have access to those trust funds. Those projects include the Blue Rock dam; drainage and salinity works; improvements in the Mornington Peninsula water supply and sewerage system—which include sewerage advances in Mr Hunt’s electorate—and rural adjustment programmes in Mr Dunn’s electorate and elsewhere, including canned fruit restructuring. All of those initiatives have been taken as a result of having access to funds of that nature.

The Government undertook a major capital works expenditure programme to provide a much needed boost to economic activity, to rebuild the State’s economic and community infrastructure and to stimulate
the home building industry. The programme enabled important social objectives to be achieved, to reduce classroom sizes, to upgrade transport rolling-stock and to relocate the Queen Victoria Medical Centre. The Government brought forward capital expenditure decisions to try to overcome the depth of the recession. It provided urgently needed social facilities and it met higher capital works expenditure.

The Government hopes the outcome will be that it will provide a setting of confidence in the private sector which will enable it to follow through the initiatives that have been undertaken by the Government and that the momentum of the economic recovery can be sustained by a partnership of private and public sector initiatives. The Government looks forward to continuing co-operation in that area.

In relation to the Budget deficit, Mr Hunt states—and alleges as his third point—that the Government had propped a Budget deficit. Mr Dunn said that there were no figures in existence to show what the current situation is.

The Hon. B. P. Dunn—I know that there are figures but they are concealed figures.

The Hon. D. R. WHITE—Unlike its predecessor, the Government provides a statement of the transactions of the Consolidated Fund each month. There is a monthly statement that did not exist before, and it shows that the Government is on target. Either Mr Dunn believes the figures do not exist or they do exist and he is not prepared or does not want to produce them. However, I can inform the House that a statement does exist and in the first two paragraphs it states:

There was a surplus on operations in the Consolidated Fund of $47 million in January, which reduced the net deficit for the first seven months of the financial year to $36.7 million. This compares with a deficit of $63.7 million over the same period in 1982-83.

The revenue and expenditure trends evident to the end of January this year indicate that the Budget result as outlined by the Treasurer in September will be achieved this financial year.

The statement is also backed by supporting statistical evidence. If Mr Dunn in any way takes exception to any of those figures—and one would have preferred that he read them—obviously, the Government would answer any questions that he might wish to raise. The Government would certainly provide the opportunity for him to pursue those matters directly with the officers of the Department of Management and Budget.

In relation to Mr Hunt's proposition and to Mr Dunn's assertions, there is clearly no evidence to suggest anything other than that the Budget Estimates and the Budget performance to date, along with Victoria's economic performance in the public sector, are in accordance with the expectations as outlined in the Budget.

The Hon. B. P. Dunn—What about the State Budget's borrowing?

The Hon. D. R. WHITE—I will speak on borrowing later. I am taking the matters in the order in which they were raised by Mr Hunt. He introduced these matters in a considered way and no one else on the Opposition and the National Party side followed that format, but I shall in my response. On the Budget Mr Hunt referred to deficits that have been occurring. I remind him that in 1981-82, concerning the Insurers' Guarantee and Compensation Supplementation Fund, it was stated:

The Government proposes to take this balance to the Consolidated Fund to assist the Budget. Legislation will be introduced to provide that if necessary, future outgoings from the Fund, to the extent that the balance in the Fund is inadequate, will be met from the Consolidated Fund.

That procedure was used in 1981-82 by the Thompson Government to balance what was clearly a budgetary deficit.

In relation to an increased debt burden on all Victorians, which seems to be the import of the rhetoric and "motherhood" statements made by the Opposition, the basic claim made was that somehow a degree of indebtedness was occurring which might disadvantage future generations. The starting point for an examination of the equity structure of the public sector in Victoria is clearly the work carried out by the Public Bodies Review Committee and the Institute of Applied Economic and Social Research on the economic position of statutory authorities and departments and the public comments that were made in response to that document. It is clear that the degree of indebtedness, which is the key is-
issue that Mr Hunt and Mr Dunn were endeavouring to make today, relates to table 2 in the Budget documents concerning the net debt of the Victorian public sector as at 30 June 1983, which was estimated at $9.8 billion.

In 1984 it is $10.5 billion, which, expressed in 1979-80 prices, is less than the level of indebtedness in 1971-72 and 1973, when figures were $11 billion, $10.8 billion and $10.7 billion respectively. Therefore, the level of indebtedness today in the public sector is less than it was in 1971-72 and 1973.

In terms of the scale of the operations of the public sector, the cost is less in real terms than that incurred ten to twelve years ago. Today one is dealing with an expanded unit of economic activity in the public sector. There is less indebtedness today than there was ten to twelve years ago. It is modest by any standards. It is not out of control and the organizations responsible for the major borrowing programmes in Victoria are the key to the investment and economic opportunities.

Of the levels of indebtedness that occurred in 1982-83, more than $1 billion was spent at Loy Yang. Does anyone suggest that that indebtedness should not have been undertaken at the rate that it was undertaken? Does anyone suggest that under this Administration those costs have not been kept in check; that the operating and maintenance costs are not in accordance with the targets set; that the levels of increase are not less than they were under the previous Administration; and that the prospects for this year and for the future in that institution and other statutory authorities are much sounder than was the case two or three years ago?

The facts are that the Loy Yang project, which was introduced by a previous Administration, got out of control. In 1978 there was a six-month strike and it is a credit to the handling of industrial relations by the former Government that each of the employees who was on strike for six months was fully paid for the time he was out of work and unproductive. So much for the industrial relations of the former Government and so much for its efforts in curbing the costs of that major capital works programme.

Under the present Administration there is more effective programme management, and the degree of confidence that has been demonstrated in the private sector towards the Loy Yang project and the State Electricity Commission over the past two years has undergone a remarkable transformation. The level of indebtedness in Victoria expressed in 1979-80 prices is less than was the case ten years ago. It is modest by any account.

The Government is not mortgaging the future of Victoria. The Government has assisted materially in economic recovery. The Government has assisted in improving employment opportunities. Victoria will be improving relative to other States in movement in the consumer price index over the next year.

The Government is not embarking on any artificial changes in the pricing policies of the major statutory authorities. The future for the basic infrastructure and resources is such that under this Administration there has been more certainty and effective Government involvement without unnecessary day-to-day involvement in the management of those utilities to guarantee a sound future for Victoria. It is for those reasons that the motion should be opposed.

The Hon. B. A. CHAMBERLAIN (Western Province)—It was pleasing to note in the concluding remarks of the Minister for Minerals and Energy the statement that the Government will depart from the disastrous course which it has embarked upon to date and that it will do all the sorts of things that it should have been doing for the Victorian economy.

The Government has acted in a most irresponsible way in handling the resources of the State. There has been a misallocation of funding available through the Government. Government expenditure has risen by 45 per cent, partly through the sale of capital assets. Where has the money gone? Has the money been spent to the benefit of the community? Has the money met the day-to-day needs of people with families who are concerned about roads, hospitals, schools and kindergartens?

Is the Government concentrating on the sharp end of the services? Is the Government concentrating on the delivery of services? The answer is a resounding "No". In every aspect of Government administra-
tion there has been a misallocation of resources. I cite the example of an average family with children at school. What sort of pressures has that family been put under in recent times as the result of the policies of the Government?

Due to the agreement reached between the Government and the teacher unions, teachers are available for less teaching time and, consequently, classes cannot be filled. There are teacher strikes at schools this week and next week over this issue. In the area I represent children are being sent home from school because there are no teachers to teach them. If the Liberal Party were in government and it had the sort of resources that this Government has spent on education, it could have provided an adequate teaching programme for the entire system, but there has been a misallocation of resources.

Due to the deals between the Government and the teacher unions there is less productivity and less teaching time. School principals have to try to organize classes but find they cannot do so. Almost all the principals of the 180 schools in the area I represent say that the deals between the Government and the teachers have been an absolute disaster. The parents of children are finding that their children are not receiving the necessary level of education they have come to expect.

This year there has been a cutback in the availability of kindergartens for three-year-olds. Where is the money going? Several thousand children are being displaced from kindergartens.

The Government has built an enormous bureaucracy around the railways. The head of the railways used to have direct access to the Minister of Transport. The head of the tramways had direct access to the Minister. He was the bureaucrat who had the interface with the Minister. Under the new bureaucracy there are now an intervening three or four steps of the bureaucracy, but they are expensive steps.

Mr President, I invite you next Saturday to read the employment pages of the Age where you will see dozens of jobs advertised in the non-productive area of Government administration. Dozens of those jobs pay upwards of $40 000 a year, but those jobs will not deliver services to the children who want to be taught in schools or kindergartens. Money is being wasted on an enormous, expensive and non-productive bureaucracy.

At Nauru House tens of millions of dollars have been wasted on the Education Department. The education system is out of control because the Minister of Education does not have any idea of what goes on in the education system and the various bureaucrats cannot make decisions. They are too busy looking over their shoulders and wondering whether some Labor Party hack is going to dob them in to the Minister on a particular issue. Education is out of control.

There has been a misapplication of resources in the area of health. One of the first actions this Government took was to do something which the health system could not afford, and that was to negotiate a 38-hour week. The hospitals are reaping the whirlwind of that decision. There is now less productivity throughout the hospital system.

The Labor Party has made pay-offs to its supporters. Indeed, the increased teacher salaries have meant an increase of $136 million in the education budget in one year and the creation of an enormous, unproductive bureaucracy. Therefore, at the sharp end—that is, the delivery of services to the community through schools, kindergartens, hospitals and so on—the funds are not available because they have been dissipated elsewhere.

We provided figures to prop up the inordinately expensive system of 9500 extra public servants which, as my Leader pointed out, involves the sale of capital assets and the utilization of those funds in some instances to prop up the current expenditure for sale and lease-back arrangements with enormous future financial burdens for this State.

Much has been said, with varying degrees of accuracy, about economic indicators. One knows that there are statistics, statistics and damned lies. An optimist will call a 1-litre bottle containing 500 millilitres half full, and a pessimist will call it half empty.

I shall examine the statistics put forward by the Minister leading the debate. Victoria leads the inflation rate. The inflation rate in Melbourne is 9.9 per cent, compared with the national rate of 8.6 per cent, a difference of 1.3 per cent. Based on the national statis-
tics, Victorian families are worse off than families in other States. The Minister talked about the rate of unemployment in Victoria compared with other States. One should consider the positive aspects of how many jobs have been created recently. The figures from the Australian Bureau of Statistics indicate that in the twelve months to January this year, total employment in Victoria increased by 1300 jobs, compared with 86 500 for the rest of Australia. That is an increase of less than 0·1 per cent in Victoria, whereas on a national basis it is nearly 2 per cent. In the area of job creation, Victoria is lagging behind the other States.

Development has occurred in the housing sector for a number of reasons. It is generally recognized that housing expenditure has a significant flow-on effect to other industries. Part of the reason for the expansion in the housing sector was the disaster that occurred on Ash Wednesday. One hopes that the State will not have to rely on that type of event to increase economic activity. The value of housing loans to individuals in Victoria to December 1983 increased by 48·2 per cent, compared with an increase of 54·5 per cent in the rest of Australia. Although the figures are good and a substantial increase has occurred in Victoria, Victoria is still lagging behind the national average. The total number of new dwellings for the year to December 1983 increased by 41·5 per cent, which is less than the national average of 42·2 per cent.

In summary, it is evident that Victoria leads Australia in two areas, namely, in the inflation rate and in building costs. Neither of those areas should make Victoria proud. The House argued before about the level of deficits. Some aspects of the views of Mr Terry McCrann, business editor of the Age, have been put forward. His assessment of the real deficit in Victoria is worth placing in context in this debate. In an article on 9 February he indicated:

As discussed in these columns at the time of the State Budget, the real deficit in the Budget—covered by such techniques as borrowing from the Victorian Development Fund, asset sales, slugging the semi-government authorities and the like—was a staggering $863 million. The previous year the deficit had been $667 million.

He is saying that in the traditional way of analysing a Budget, and by getting around the creative accounting, the figures indicate a deficit of $1530 million in two years. The article also states:

If in fact the deficit had been funded by taxation and not creative financing, State taxes in Victoria would have risen something like 73 per cent in the two years.

That article is written by a respected and independent commentator in making assessments of the economic position in Victoria. In summary, he states, “Boy, you ain’t seen nothin’ yet!” He has painted a gloomy picture for future Governments of Victoria, and particularly for taxpayers.

Mr Sandon made comments about the need to get the economy moving and to encourage the private sector into increased investment and thereby create more jobs. That is an objective with which every member of this House would agree. If one compares that rhetoric with the activities of the Government, one finds that the result is the exact opposite. Some of the legislation introduced into Parliament has been reluctantly watered down because of the Opposition parties. Time and again, those measures work against the interests of the private sector. For example, the Occupational Health and Safety Bill, which is a misnomer, has little to do with industrial safety and much to do with transferring the control of industry from management to unions. Matters such as the surcharge in pay-roll tax, massive increases in workers compensation premiums, about to be fueled by legislation currently before Parliament, and the issue of increases in fees levied by the Government can be cited. I gave an example earlier of a veterinary surgeon being required to pay a fee for drugs that has increased from $150 to $1800 per annum. When one hears of that type of increase throughout the economic spectrum, one knows that the rhetoric espoused by the Treasurer, the Minister and Mr Sandon is nonsense.

In nearly all activities, the Government is inhibiting expansion of the private economy. An example of the Government’s proposals for decentralization incentives is its proposal to swap the long-term productive jobs in rural industries for Mickey Mouse creative employment programmes. A firm in the electorate I represent, in the metal industry, employs 130 people, including six or seven apprentices. The various incen-
tives to that industry are about $100,000 a year. Pay-roll tax and transport charges are less than $1000 for each productive job. Each of those jobs has flow-on effects in the community. Those jobs are creating considerable revenue for the Federal Government. If the Government does what it proposes to do and takes away those incentives, that industry will not be able to compete with other industries. If that happens, 130 productive jobs will be lost. The Government has talked about providing money for local government through incentive creation schemes, but those jobs last only a couple of months and provide no long-term benefits.

The Minister referred to the Government's marvellous record in providing rolling-stock jobs for the railways. I ask the Minister to tell me, perhaps after the debate, which of those initiatives were not initiated by the former Government. I suggest that decisions on rolling-stock, whether it be on suburban trains, country trains or refurbishing of trains or commercial rolling-stock, were made by the former Government and the Ministry, recognizing the transport needs of the community. The present Government has not yet introduced a new idea in transport, except to raise the charges for carriage of goods and passengers to a level that is forcing people away from using those services.

The Government is on the right track with some of these issues. A need exists to ascertain whether surplus land holdings are required. However, with regard to freeway reservations, it is clearly in the long-term interests of the community for the Government to retain its options and keep that land. The Minister stated that the Opposition had not spelt out what freeway reservations should be retained. I refer to the reservation of land to the east and west of the Melbourne Airport at Tullamarine, which is an important and growing national and international airport. It would be crazy to cut down the options by selling off those reservations. The Merri Creek reservation could provide a bypass for the Hume Highway. Again, it would be extremely short-sighted to consider the sale of that asset.

Because of an ideological and nonsensical commitment of this Government not to construct freeways, the Government feels constrained to go the whole hog and it will cut off the options open to itself and future generations. It is because of that type of short-sighted nonsense, coupled with the other job destroying policies that the Government has taken on in all spheres of activity, that I have real fears for the future of Victoria.

The views put to this House by the Leader of the Opposition are based on fact. They echo the concern of the business community throughout the State. The average person is starting to feel the pinch and is beginning to ask questions about what is happening to the resources of the State.

Honourable members know that the issue of the dams has helped to focus the views of the community. Honourable members will recall the original reaction of the Premier when he was confronted on that matter after the Liberal Party had discovered that negotiations for the sale of dams had been going on for six months. The Premier stated that no such proposal was being considered. However, in a statement made last week, the Premier indicated that the intention to sell the dams would not proceed. That was a different story altogether, but that is what we have come to expect from the Premier for flexible facts, Mr Cain.

This issue is important. Sufficient cause for disquiet has been demonstrated for the House to express its alarm at the direction in which the Government is heading. It is in the interests of future generations of the State to call upon the Government to halt this madness.

The Hon. A. J. Hunt (South Eastern Province)—I thank honourable members who have contributed to the debate. At least the issues have become fairly clear even though much of the debate related to the economy in general rather than the mismanagement of capital resources and potential of this State, to which the motion relates.

The most significant and important comment in the debate was made by Mr Dunn when he reminded the Government that public assets do not belong to the Government of the day—they belong to the people. No Government has the right to treat them as if they were their own. I commend that principle to the Government. The Government has been treating public assets as...
though they belonged to the Labor Party as the Government of the day.

Much has been said about deficits and public debts, and Mr Chamberlain has pointed out that an independent observer, Mr Terry McCrann, the business editor of the Age, has assessed the Budget deficit at $1530 million for the two years ending this year. That is a staggering sum, yet even that estimate does not include the $25 million left unpaid to the Board of Works; the $15 million which will be overdue to the State Employees Retirement Benefits Fund at the end of this year; the unusual increase of amounts outstanding to contractors and suppliers of goods at 30 September 1983, which must, on the information available to the Opposition, have been well over $10 million, and was probably far more; nor does it include whatever will be left outstanding at the end of the year.

The figures I have just outlined indicate that another $50 million is to be added to Mr McCrann's figure of $1530 million. Therefore, the true Budget deficit for the two years ending 30 June 1985 will be more than $1580 million and will probably be more than $1600 million or, in other words, more than $400 for every man, woman and child in the community. That is an extremely large increase in a deficit that should not exist. The accumulated deficit will be nearly as much as was the total Budget less than fifteen years ago.

I refer honourable members to Budget Paper No. 2, Budget Strategy and Review 1983-84, in which it appears that the anticipated increase in the net debt of the Victorian public sector in the two-year period from 30 June 1982 to 30 June 1984 is $1153 million. That does not include the $472 million which was received by sale and lease-back arrangements for trains and trams. Although that amount will be paid off in a lease-back arrangement, the Budget Papers do not regard it as a debt. However, all honourable members know that a liability is placed where an asset used to exist. The amount of $472 million, when added to the amount of $1153 million, takes the Budget deficit to $1625 million. That figure does not include the $50 million that I tabulated earlier. When those items are added to the figure shown in Budget Paper No. 2, the total increase in public indebtedness over the short period of two years equals $1675 million. That is remarkably close to what the true Budget deficit was assessed at over that period.

The Hon. B. P. Dunn—Mr White did not disclose those figures.

The Hon. A. J. Hunt—No, and I am referring to the same table from which Mr White drew some figures. What does this mean to Victorians?

In Budget Document No. 2 entitled "Estimates of the Receipts and Payments of the Consolidated Fund for the year ending 30 June 1983", on pages 2, 5 and 9 one can see the appropriations for debt charges. If these figures are to be meaningful, they have to be adjusted by adding interest in the State Development Account because that is part of servicing the public debt of this State. One needs to add, too, leasing charges on the public transport assets. Just to be fair, one ought to take off recoveries of debt charges and interest received in the Public Account; interest received on balances of any kind anywhere within the public sector.

If one makes those adjustments for the 1981-82 Budget, one realizes this State had to pay debt servicing of $250·3 million. This year the adjusted figure will be $425 million. Over two years the increase in loan amortization and interest to increase any debt servicing will have risen by a staggering 70 per cent. With the financing methods adopted by this Government, that increase will continue to grow still further.

Is it any wonder we speak about the mounting burden of debt? Is it any wonder we say they are heading this State into bankruptcy? Is it any wonder that the future ahead for Victorians under this Government is of further increasing taxes and charges to pay that mounting burden of debt? Even those figures do not tell the whole story. There are other assets that may have been sold that we do not know of at this stage. In any event, one has only to examine the Works and Services Account to see the perpetration of another fraud, on the sale and lease-back of transport. From where should leasing fees be paid? Should they be paid from the current account or from the capital account? Clearly, if one buys an asset on hire purchase or if one sells an asset one already owns and leases it back, the leasing fees are a current account item.
What has this Government done? On the lease-back of transport, it has charged the fees to the capital account; it has charged the fees to the Works and Services Account. In the 1983-84 Budget $35 million was charged to the Works and Services Account.

In other words, one raises finance and then pays for the interest and repayment of that out of the next lot of borrowings. What sort of system is that? Honourable members should please add that $35 million to the figures I have already provided to see how bad it is. What a trick!

The Hon. D. G. Crozier—It is capitalizing interest.

The Hon. A. J. HUNT—It is capitalizing interest and capitalizing the amortization payments. How could one do that with a credit foncier or a loan from the State Bank? This is the trick the Government has perpetrated on the people of this State.

The Minister for Minerals and Energy, who admittedly got to the core of the debate—I thank him for doing so, unlike other honourable members on that side of the House—accused me of not giving him enough details on the figures. I hope that if there was a fault I have remedied it by providing the figures now. The people of Victoria cannot afford this profligate Government and the deficit it is building up for the future. The House should pass the motion and pass it in a way that lets the Government know precisely what we think of its "creative financing", which will only store up problems for the future of this State and its people.

The House divided on the motion (the Hon. F. S. Grimwade in the chair).

Ayes 22
Noes 19

Majority for the motion 3

AYES

Mr Baxter  Mr Wright
Mr Block  Mrs Baylor
Mr Bubb  Mr Birrell
Mr Chamberlain  Mr Butler
Mr Crozier  Mr Dixon
Mr Dunn  Mr Henshaw
Mr Evans  Mrs Hogg
Mr Grant  Mr Kennan
Mr Ward  Mr Kent
Mr Wright  Mr Kennedy
Mrs Kirner  Mr MacKenzie
Mr McArthur  Mr Mier

NOES

Mr Guest  Mr Houghton
Mr Butler  Mr Murphy
Mr Bubb  Mr Pullen
Mr Chamberlain  Mr Sandon
Mr Crozier  Mr Sandon
Mr Dunn  Mr Sgro
Mr Evans  Mr Walker
Mr Grant  Mr White
Mr McArthur  Mr Arnold

Tellers:

Mrs Baylor  Mr Mier
Mr Birrell  Mr Murphy
Mr Pullen  Mr Sgro
Mr Sandon  Mr Walker
Mr White  Mr Arnold
Mrs Coxsedge  Mr Landeryou

PAIR

Mr Guest  Mr Landeryou

ENVIRONMENT PROTECTION (UNLEADED PETROL) BILL

The Hon. E. H. WALKER (Minister for Planning and Environment)—I move:

That this Bill be now read a second time.

Motor vehicles are major contributors to air pollution in Melbourne. They are almost entirely responsible for high levels of lead and carbon monoxide in areas of heavy traffic, and they produce more than half of the emissions which cause photochemical smog.

The Government has, therefore, embarked on a four-stage programme to tackle the problem of motor vehicle emissions. Firstly, the Environment Protection Act was amended in June 1982 to reduce the lead content of petrol sold in Victoria after 1 January 1983 from 0.45 to 0.30 grams per litre, the lowest in Australia.

Secondly, amendments were introduced in December 1982 to improve the Environment Protection Authority's ability to enforce existing emissions standards. Inspection and testing of new and in-use vehicles for compliance with the regulations began in the second half of 1983.

The third phase of the programme is to amend the Act to make unleaded petrol available at most service stations in Victoria from 1 July 1985, and to provide offences and heads of power for all aspects of the unleaded petrol strategy adopted by Australian Governments in 1981. The Bill will achieve these purposes.
Finally, regulations will be made under the Act to implement the strategy by prescribing new emission standards and mandatory use of unleaded petrol for new cars made after 1 January 1986, and by specifying new design and labelling requirements for vehicles and petrol pumps. In particular, new vehicle emissions of hydrocarbons and carbon monoxide will be halved. Also, smaller petrol tank filler inlets and petrol pump nozzles will be used with unleaded petrol, so that a larger nozzle which dispenses leaded petrol cannot be inserted into the tank of an unleaded vehicle. This is necessary because many car manufacturers will use catalyst emission control technology to meet the standards, and catalysts are poisoned by lead.

Clause 1 provides the short title. Clause 2 provides for commencement upon receipt of Royal assent. Clause 3 identifies the Environment Protection Act 1970 as the principal Act.

Clause 4 creates new offence provisions by adding two new sub-sections to section 42 of the principal Act. The regulations will require new vehicles to be constructed to operate on unleaded petrol, labelled accordingly, and fitted with smaller fuel filler inlets. Sub-section (2A) makes it an offence to construct, manufacture, assemble, sell or offer to sell a vehicle which does not meet these requirements. In addition, existing regulations prescribe requirements for the maintenance and adjustment of vehicles. Sub-section (2B) makes it an offence to sell or offer to sell a vehicle which does not comply.

Clause 5 introduces a new section 42a to the principal Act to require unleaded petrol to be widely available in Victoria on and after 1 July 1985. Sub-section (1) contains definitions of petrol, petrol supplier, retail petrol seller and unleaded petrol. A specification for unleaded petrol in the regulations is enabled by later provisions in clause 6. Sub-section 42a (2) makes it an offence for a retail petrol seller to refuse or fail to sell unleaded petrol on request on and after 1 July 1985. However, no offence is committed if the retailer is exempted by the authority, or if the retailer is unable or unwilling to comply in one of the situations described in sub-section (7). These include:

(a) Lack of supply due to a strike or tanker breakdown;

(b) failure of a supplier to meet an order placed at least 48 hours previously;

(c) inability to supply due to problems with petrol station equipment, or other circumstances beyond his control; and

(d) refusal to supply where it is reasonable to so refuse.

The exemption provisions are specified in sub-sections (3), (4), (5) and (6). Regular grade petrol will be withdrawn from the market in 1985, so that tanks and pumps currently used for regular will be used for unleaded petrol. Therefore, where a retailer stocks two grades of petrol, no major changes will be necessary to stock unleaded petrol as it will simply replace regular. In the longer term, as unleaded petrol sales grow, some retailers will find it necessary to use super grade tanks for unleaded, or to install an extra tank, if sales volumes and storage capacities are not properly balanced for the two fuels.

The biggest problems will arise for those retailers who store or dispense only one grade of petrol. These will include retailers with only one tank for petrol, or with only one dispensing nozzle for petrol, even though there may be more than one tank. Storage tanks may be available for other fuels such as diesel fuel, but sub-section (5) excludes these from consideration. The Government must weigh the benefits of universal availability at all sites against the costs to single grade retailers.

The Environment Protection Authority has conducted a survey of privately-operated retail facilities and an evaluation of the economic impacts of having to supply unleaded petrol. This work has revealed that some retailers with small sales volumes will incur significant costs, and that single grade retailers with an annual throughput of 240 kilolitres should not have to meet these costs. These retailers operate about 5 per cent of retail sites, and are responsible for less than 0.5 per cent of total sales. Sub-sections (3) and (4), therefore, allow the Environment Protection Authority to exempt these retailers from sub-section (2), and sub-section (6) provides for revocation of any exemption for which a retailer is no longer eligible.

Sub-section (8) makes it an offence for a petrol supplier to fail or refuse to supply
unleaded petrol on request on and after 1 July 1985, except as prescribed in sub-section (10), which allows failure to supply in circumstances beyond the supplier’s control, and refusal to supply where it is reasonable to do so. In addition, sub-section (9) allows compliance if supply by another person is arranged by the supplier.

The sale, or offering for sale, of petrol as unleaded petrol will be an offence under sub-section (11) if the petrol does not meet the specification for unleaded petrol. Sub-sections (12), (13), (14) and (15) specify the same warranty and emergency provisions for unleaded petrol as provided in section 42A in relation to the lead content of petrol. A retailer may request a warranty from his supplier that the petrol is unleaded petrol. Failure to provide such a warranty is an offence. The retailer may then use the warranty as a defence against a prosecution for selling petrol which does not meet the specification. Action may then be taken against the supplier for selling the petrol and for providing a false warranty. Also, in an emergency situation, the Governor in Council may exempt any person from compliance with sub-section (11) for up to one month, may vary or revoke the order, and may make further orders as necessary.

Finally, clause 6 amends section 71 of the Act so that regulations may be made to implement the unleaded petrol strategy. In particular, allowable levels of lead, sulphur and phosphorus in unleaded petrol, and octane quality, will be specified. The construction, operation and maintenance of petrol pumps will be regulated. The fitting of labels to vehicles and petrol pumps, specifying their use with unleaded or leaded petroils, will be required. Powers will also be provided in clause 6 to prohibit the use of vehicles which are not designed, constructed or labelled as required; or the use of petrol pumps which dispense fuel which is not as specified on the pump label. The use of fuel other than unleaded petrol in new vehicles will be prohibited. I commend the Bill to the House.

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

It was ordered that the debate be adjourned until Tuesday, March 6.

**EVIDENCE (AMENDMENT) BILL**

The Hon. J. H. KENNAN (Attorney-General)—I move:

That this Bill be now read a second time.

The purpose of this Bill is to make several unrelated amendments to the Evidence Act 1958, to which I shall refer as “the Act”. Many of the amendments are intended to correct anomalies, whilst the major part of the Bill introduces a simplified procedure for the taking of affidavits and declarations, and for the appointment of commissioners for taking affidavits.

The first amendment will insert a new division into Part 1 of the Act, entitled “Disclosure of Information relating to Applications for Legal Aid”. This will correct a discrepancy which exists at present between the confidentiality provisions which bind officers of the Legal Aid Commission, and the workings of other legal aid bodies. As the law stands, it is doubtful whether an employee of, for example, the Fitzroy Legal Service, could claim that information received in processing an application for legal aid was privileged from production in legal proceedings, although, obviously, confidential matters must be discussed to assess the applicant’s position.

The situation has arisen in which officers of a legal aid body were subpoenaed to give evidence as to information provided to them in the course of processing an application for legal aid was privileged from production in legal proceedings, although, obviously, confidential matters must be discussed to assess the applicant’s position.

The Legal Aid Commission Act includes provisions to ensure confidentiality, and the proposed amendment seeks merely to clarify the situation which clearly should exist in relation to all legal aid applications, including those made to community legal services and to legal assistance schemes operated by industrial organizations for the benefit of their members, whether employee or employer bodies.

The situation has arisen in which officers of a legal aid body were subpoenaed to give evidence as to information provided to them in the course of processing an application for legal aid. This is contrary to the basic proposition that the law does not require self-incrimination and that in seeking legal advice confidential communications should remain so.

The Legal Aid Commission Act includes provisions to ensure confidentiality, and the proposed amendment seeks merely to clarify the situation which clearly should exist in relation to all legal aid applications, including those made to community legal services and to legal assistance schemes operated by industrial organizations for the benefit of their members, whether employee or employer bodies.

The proposed amendment to section 23 of the Act will ensure that the evidence of a child may be given on affirmation. As the section stands, a child’s evidence may be taken on oath, where the court is satisfied
that the child understands the meaning of an oath, but the complementary provision in section 102 of the Act which applies when a person objects to taking an oath, as on religious grounds, may not apply to children. The proposed amendment will rectify this situation.

Section 28 of the Act will be amended to provide for waiver of medical privilege in certain circumstances. The present section is deficient in that, after the death of a patient, the circumstances in which a medical practitioner may reveal details of the patient's treatment are severely limited. The information may be crucial to proceedings, and so clause 6 provides for the divulging of otherwise privileged information with the consent of the deceased's legal personal representative, spouse or child.

Clause 10 provides for the administration of an affirmation to a person whose religious beliefs render it difficult to administer an oath. At present, section 102 of the Act permits no such alternative, so that substantial delays may be caused in the courts whilst the appropriate religious tract is located so that an oath may be administered. The amended section will provide for an affirmation made in such circumstances to have the same weight as an oath made in accordance with the deponent's religious belief. There is also provision made for simultaneous affirmations to be taken from two or more people, as has long been the situation with oaths. It is not unreasonable to provide parallel procedures for oaths and affirmations in a culture as diverse as ours has become.

The major part of the Bill proposes the introduction of new provisions on affidavits and declarations—clause 11. Without taking honourable members through this part in detail, I shall address the problems sought to be remedied, and the means proposed.

The Bill seeks to simplify an unnecessarily complex situation. Affidavits for use in Victorian courts are presently of two distinct types: Affidavits for use in the Supreme Court, and affidavits for use in any other court. The latter may be taken by a range of persons, including commissioners appointed pursuant to the existing provisions of the Act, but such commissioners cannot take an affidavit for use in the Supreme Court unless they are also a commissioner of the Supreme Court appointed by the judges of the court. The reasons for this confusing diversity are historical.

The amendments propose that there be one category of commissioner, who will be empowered to take an affidavit for use in any court in Victoria. The availability of persons who may take affidavits will also be vastly improved by the provision that any solicitor holding a current practising certificate may take an affidavit. The Bill also permits the appointment of commissioners who are interstate residents, which remedies an anomalous situation, particularly in State border areas.

The provisions of the new divisions to be inserted by clause 11 of the Bill are largely procedural, and vary little from the existing procedures for appointment and registration of commissioners under the present Act.

Finally, I refer to clauses 7 to 9 inclusive, which provide for specification of certain officers by Order in Council, and for the prescribing of fees by regulation. These provisions make no change to the law, but will simplify the procedure in future of altering fees, the names of offices or the title of officials without the necessity of amending legislation. I commend the Bill to the House.

On the motion of the Hon. HADDON STOREY (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until Tuesday, March 6.

CRIMINAL PROCEEDINGS BILL

The Hon. J. H. KENNAN (Attorney-General)—I move:

That this Bill be now read a second time.

The Criminal Proceedings Bill is designed to give courts in Victoria the power to make orders to close a court and to give directions prohibiting information with respect to the proceedings and related orders in circumstances where the court considers it expedient to do so in the interests of the national or international security of Australia or in the interests of the physical safety of the accused or a witness or any other person.
The law as it presently stands in relation to the Magistrates Courts empowers magistrates in committal proceedings to close a court if it is “desirable to do so in the interests of justice” or to order prohibition on the publication of reports of proceedings if the magistrate thinks it desirable to do so “on the grounds of public decency and morality”.

Similarly, the County Court Act gives a judge power “if he thinks fit” to make an order prohibiting the publication of a report of any proceedings and to order persons to be excluded from a court “if it appears desirable on grounds of public decency and morality”. The Supreme Court Act enables a judge to prohibit publication of reports of proceedings “on the grounds of public decency or morality” and gives a judge power to exclude the public from the court on the same grounds.

It will be seen that the powers of the courts arguably do not address problems which may arise in relation to matters affecting the national or international security of Australia or the physical safety of the accused or a witness or any other person.

The Government has a policy that no one is above the law and desires that the law be such that the police or the Director of Public Prosecutions can conduct prosecutions of persons without fear that the prosecution of those persons and any attendant publicity will threaten either national or international security or the physical safety of the persons referred to.

Therefore, to ensure that the courts have sufficient power to exercise their discretion to hear proceedings in camera and to prohibit publication of proceedings the Government has introduced this Bill which will give the court such a power. It may be noted that in the United Kingdom the Official Secrets Act provides a similar power to be exercised on grounds relating to “national safety”.

I stress that whether or not this power is to be exercised will be a matter for the court on application of the Attorney-General of the Commonwealth or Victoria. Secondly, the Government has seen fit to include a sunset clause of two years in relation to these provisions. The purpose of the sunset clause is to enable the Act to have effect in the immediate future, but because the Government has high regard for the principle that criminal proceedings should normally take place in an open court and is conscious of the fact provisions such as the one before the House may be used in a manner conceivably outside the present intent of the provisions, it is appropriate to include a sunset clause on the provisions. I commend the Bill to the House.

On the motion of the Hon. HADDON STOREY (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until Tuesday, March 6.

EQUAL OPPORTUNITY BILL

The House went into Committee for the further consideration of this Bill.

Discussion was resumed of clause 4, as amended.

The Hon. HADDON STOREY (East Yarra Province)—I move:

4. Clause 4, page 5, line 40, after “person” insert “or the status or condition of being—
   (e) a parent;
   (f) childless;
   (g) a de facto spouse”.

The Committee may remember that these words were included in the definition of marital status and, by an earlier amendment, they were deleted from that definition on the understanding that they were to be replaced in the definition of status. Hence, the words are still encompassed within the provisions of the Bill, but are comprehended within the general description of status rather than the general description of marital status.

The amendment was agreed to.

The Hon. HADDON STOREY (East Yarra Province)—I move:

5. Clause 4, page 6, line 22, omit “or by reason of the private life”.
6. Clause 4, page 6, lines 24 and 25, omit “or the reason of the private life”.

This and many other proposed amendments to follow are consequential in a sense upon the amendment that was debated last night and which resulted in the deletion of the definition of “private life”. It was
understood that, if that amendment were agreed to, these consequential amendments would be moved to remove all references to private life throughout the Bill.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 5 to 15.

Clause 16

The Hon. HADDON STOREY (East Yarra Province)—I move:

7. Clause 16, lines 28 and 29, omit "or by reason of the private life".

8. Clause 16, lines 35 and 36, omit "or by reason of the private life".

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

Clause 17

The Hon. HADDON STOREY (East Yarra Province)—I move:

9. Clause 17, line 8, omit "or by reason of the private life".

10. Clause 17, lines 10 and 11, omit "or with a different private life".

11. Clause 17, line 13, omit "or with a different private life".

12. Clause 17, line 24, omit "or with the private life".

13. Clause 17, line 27, omit "or with the private life".

14. Clause 17, lines 30 and 31, omit "or with a different private life".

15. Clause 17, lines 33 and 34, omit "or by reason of the private life".

16. Clause 17, lines 37 and 38, omit "or with a different private life".

I commend the proposed amendments on the same grounds as were advanced earlier.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 18 and 19.

Clause 20

The Hon. HADDON STOREY (East Yarra Province)—I move:

17. Clause 20, page 12, line 4, after "(b)" insert "knowingly".

The purpose of the proposed amendment is to make it abundantly clear that an employer will not be liable for the offence created under the Bill of sexual harassment by permitting an employee to engage in harassment other than knowingly.

The point has been made to the Opposition that it could be read in a way that an employer, with the best will in the world and having given all the appropriate instructions to the employees and taken all reasonable precautions, could still be found to have offended against this section because it could be argued that the employer permitted the employee to engage in the particular harassment.

The Opposition is opposed to sexual harassment and believes employers must bear the responsibility. However, I move the amendment to clear up the apprehension that was expressed to the Opposition.

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

Clause 21

The Hon. HADDON STOREY (East Yarra Province)—I move:

18. Clause 21, page 13, lines 23 and 24, omit "or by reason of the private life".

19. Clause 21, page 13, line 33, omit "or by reason of the private life".

The amendments were agreed to.

The Hon. HADDON STOREY (East Yarra Province)—I move:

20. Clause 21, page 14, line 7, omit "(/)" and insert "(d)".

The proposed amendment is consequential upon another proposed amendment to be moved. The next proposed amendment to be moved is No. 21, which is to delete sub-clause (4) (c) and (d) from clause 21. Sub-clause (4) (c) deals with discrimination on the ground of the holding of any political belief and, as the private life provisions have gone, this must also fall.

Sub-clause (4) (d) is rather more widely expressed and refers to discrimination on the ground of a person's failure to hold union membership. It falls with the exclusion of the definition of private life. Accordingly, these two clauses should be deleted and, if they are deleted, the following clauses need to be renumbered and that which is
numbered (f) referred to in sub-section (4) (a) will become (d).

Hence, the proposed amendment I have moved seeks to delete paragraphs (c) and (d') of sub-clause (4) as they at present stand so that (e) would become (c) and (f) would become (d'). Hence, the reference to (f) in sub-clause (4) (a) needs to be a reference to (d'), but (d) as it presently stands will be removed.

The Hon. J. H. KENNAN (Attorney-General)—In so far as the amendment is consequential on private life, I do not wish to address an argument to that because I already put those matters last evening and last year. I must reiterate that the Government is opposed to the removal of clause 21 (4) (d). The provision relates to an exemption with relation to discrimination by an employer or a prospective employer on the ground of a person holding union membership.

It must be understood that the Bill is about equal opportunity and not about industrial relations. Any understanding of industrial relations will lead to two conclusions. The first is that the Australian industrial relations system expressly encourages the formation of unions and union membership. Section 2 of the Australian Conciliation and Arbitration Act includes a provision expressly to promote unions and union membership, and, indeed, some 40 sections of the Act are concerned with the regulation of union affairs.

Further, the Conciliation and Arbitration Act, as do most State Acts, provides for preference to be given to unionists in employment. This preference is a real issue. Many awards—both State and Federal—contain clauses that give preference to unionists in various circumstances of employment, in relation to both engagement and matters pertaining to dismissal.

The way in which the Australian industrial relations system expressly operates is said to be perhaps one that discriminates in favour of both employer organizations and trade unions and the members thereof. The Government does not propose to turn around the basis of the Australian industrial relations system through the Equal Opportunity Act. The Government understands the ideological approach taken by the Liberal Party. If it wishes to pursue that approach, it should do so at the Federal level and attempt to repeal most, if not all, of the Conciliation and Arbitration Act.

Collective bargaining could be introduced instead of regulation of employer or employee organizations and if that were done, there would be no industrial tribunals with awards containing preference clauses. If the Liberal Party wishes to go in that direction, so be it, but no doubt it will be torn to shreds at the next election as it was at the last election. It is blindness for the Opposition to suggest through amendments to the Bill that, contrary to 80 years of Federal and State industrial practice, employers should not have regard to union membership. One can only consider the authoress of these amendments to have an extraordinarily limited understanding of Australian life at both the political and industrial levels.

The suggestion emanating now from Mr Storey is only slightly less breathtaking than Mr Crozier's troglodytic argument that the Bill is part of a Communist plot. In many respects that argument is both troglodytic and pig ignorant. If the Liberal Party is really saying that the employer should not be allowed to discriminate in union membership, it must also deal with the inconsistencies of Federal awards.

Any basic understanding of Federal Constitutional and industrial law will inform the Opposition that where there is an inconsistency between a State Act and a Federal industrial award, the Federal industrial award will prevail. If the Opposition wishes to pursue the matter logically, it should do so at the Federal level, not at the State level.

The Government does not propose to introduce a provision which will turn Australia's industrial relations system on its head.

If Mr Dunn, who is interjecting, is concerned about freedom, he can certainly take up that matter at the Federal level, but the fact is that many of Mr Dunn's supporters would be members of employer organizations registered and operating under the Federal Conciliation and Arbitration Act. There has been no great movement by a body of workers or employers to scrap the underlying intentions of that Act.

The Government is certainly surprised by the Pavlovian response of the Opposition to any reference to recognition of or preference being given to persons holding
trade union membership, which promotes the scrapping of such a provision from any proposed legislation. The suggestion is highly objectionable and will inevitably lead to inconsistencies in Federal law.

The Hon. HADDON STOREY (East Yarra Province)—The speech by the Attorney-General was interesting. If there are any misconceptions, they are his misconceptions of what the clause and the amendment are about. The amendment is consequential.

Firstly, the particular sub-clause is about an exemption to what would otherwise be a prohibition and discrimination. There will be no prohibition or discrimination left in the Bill once one removes the reference to private life that has any relevance on the grounds of whether one holds trade union membership. The deletion of any reference to private life removes any prohibitions or discriminations on political grounds and so on.

I do not wish to get into an argument but also I would not wish to stop anyone from arguing the matter. As the person who has moved the amendment I point out for the interest of the Committee that it is only consequential.

The Hon. B. P. DUNN (North Western Province)—I understand the amendment is consequential on the next amendment, which, if agreed to, will take out lines 15 through to 24. I suppose honourable members can canvass the issue to some extent, as the Attorney-General has.

As I said during the second-reading debate, the National Party believes the Government has set a double standard when framing measures on equal opportunity and the freedom of the individual. On the one hand the Government purports to be protecting the freedom of the individual through the Equal Opportunity Bill, yet, on the other hand, it will set a double standard by allowing employers to discriminate on the grounds of union membership or otherwise. That is a double standard.

The National Party strongly opposes any move that is aimed at forcing compulsory unionism or forcing employers to employ only those who hold union membership. By allowing an exemption provision to be included in the Bill, employers will be allowed to discriminate on that ground. That removes the rights of an individual who may not wish to be part of a union or any other such group.

On that basis, and as a matter of principle, the National Party will support the amendment, which will lead to the next amendment to omit that section from the clause. That will return us to the status quo we enjoy today.

The Hon. CLIVE BUBB (Ballarat Province)—In reply to the remarks made by the Attorney-General, I point out that all honourable members should understand preference in employment and preference in conditions of working because of union membership. It is not a settled issue for employers, the trade union movement or the Australian Conciliation and Arbitration Commission. Many awards have no such clause. The minority of awards would include preference clauses.

The Attorney-General would be aware that many appeals have been made against clauses that have been inserted in Federal awards. A number of those awards have been successful. No doubt the Federal Act, as the Attorney-General rightly stated, is predicated upon persons who belong to either an organization of employers or an organization of employees.

In that sense, what he said was right. Perhaps the right place to start is to look at the Federal Act and to seek changes and exemption from compulsory unionism. Be that as it may, the point Mr Dunn made quite clearly has been a platform of the Liberal Party for a long time, that a person should have a right to be or not to be a member of an organization whether he or she be an employee or employer and, on that basis, this amendment has been moved.

I do not view it as a matter which would reverse the intent of the Bill. It would be reversed by enabling an employer to discriminate against a person on the basis that he or she was not a member of a union or an association. The Bill seeks to do the opposite: It seeks to allow people to be discriminated against. While part of what the Attorney-General said is true, there is a valid reason for excluding union membership as a basis for discrimination.

The Hon. J. H. KENNAN (Attorney-General)—I still have great difficulty in understanding Mr Storey's argument that the
amendment is consequential. If he is right about that he may well have taken the view that this provision is unnecessary in any event whether or not it was "status" or "private life". If he were putting it on that basis, I would understand the consistency of the argument and I would see some purpose, but the Government's purpose in this provision, even though it was prefaced by "status" and "private life" originally and now by "status" only, was to make it clear that the Government does not intend to interfere with preference to unionists where that applies and the Government did not want any suggestion in the Bill that it was interfering with the industrial relations system. For that reason, the Government does not accept Mr Storey's amendment, even in the consequential context in which he puts it.

The Committee divided on the question that the expression proposed by Mr Storey to be omitted stand part of the clause (the Hon. K. I. M. Wright in the chair).

Ayes 18
Noes 20

Majority for the amendment 2

AYES
Mr Butler Mr Murphy
Mrs Coxsedge Mr Pullen
Mrs Hogg Mr Sandon
Mr Kennan Mr Sgro
Mr Kennedy Mr Walker
Mr Kent Mr White
Mrs Kirner
Mr Mackenzie
Mr McArthur
Mr Mier
Tellers: Mrs Dixon Mr Henshaw

NOES
Mr Baxter Mr Knowles
Mr Birrell Mr Lawson
Mr Block Mr Long
Mr Connard Mr Radford
Mr Crozier Mr Reid
Mr Dunn Mr Storey
Mr Evans Mr Ward
Mr Granter
Mr Hayward
Tellers: Mr Bubb Mr Chamberlain

PAIRS
Mr Arnold Mrs Baylor
Mr Landeryou Mr Guest

The amendment was agreed to.

The amendment was agreed to.

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

Clause 22

The amendment again follows from the decision concerning the "private life" issue.

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

Clause 24

The amendment again follows from the decision concerning "private life".

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

Clause 25

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

28. Clause 25, page 19, line 39, omit “or by reason of the private life”.
29. Clause 25, page 20, line 3, omit “or by reason of the private life”.

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

Clause 26
The Hon. HADDON STOREY (East Yarra Province)—I move:
30. Clause 26, page 20, lines 17 and 18, omit “or by reason of the private life”.

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

Clause 27
The Hon. HADDON STOREY (East Yarra Province)—I move:
31. Clause 27, line 14, omit “or by reason of the private life”.

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

Clause 28
The Hon. HADDON STOREY (East Yarra Province)—I move:
32. Clause 28, page 21, line 21, omit “or by reason of the private life”.
33. Clause 28, page 21, line 27, omit “or by reason of the private life”.
34. Clause 28, page 22, lines 29 to 34, omit all words and expressions on these lines.

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

Clause 29
The Hon. HADDON STOREY (East Yarra Province)—I move:
35. Clause 29, page 22, line 37, omit “or by reason of the private life”.

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

Clause 30
The Hon. HADDON STOREY (East Yarra Province)—I move:
36. Clause 30, page 23, line 19, omit “or by reason of the private life”.
37. Clause 30, page 23, line 28, omit “or by reason of the private life”.

The amendments were agreed to.

Clause 31
The Hon. HADDON STOREY (East Yarra Province)—I move:
38. Clause 30, page 25, line 1, omit “marital”.

39. Clause 30, page 25, line 22, after “discrimination” insert “against a person”.
40. Clause 30, page 25, line 23, omit “sex, race or marital status” and insert “status other than impairment”.
41. Clause 30, page 25, line 25, omit “the one sex, race or marital” and insert “that”.

The amendments arise from amendments made to the definitions of “marital status” and “status”, so that it is necessary in paragraph (a) of sub-clause (7) to delete reference to “marital status” to ensure that that paragraph will still apply to the whole range of persons who are covered by the definition of “status” as it now stands.

Sub-clause (8), as drafted, refers to “sex, race or marital status”. Because of the definition of “status”, it is now appropriate to refer only to “status” for it to be covered by that paragraph. The end result is that it will now apply to discrimination on the ground of status, other than impairment.

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

Clause 32
The Hon. HADDON STOREY (East Yarra Province)—I move:
42. Clause 31, page 26, lines 5 and 6, omit “or by reason of the private life”.
43. Clause 31, page 26, lines 11 and 12, omit “or by reason of the private life”.
44. Clause 31, page 26, line 19, omit “or by reason of the private life”.
45. Clause 31, page 26, lines 21 and 22, omit “or with a different private life (as the case may be)”.
46. Clause 31, page 26, line 26, omit “or with the private life”.

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

Clause 33
The Hon. HADDON STOREY (East Yarra Province)—I move:
47. Clause 32, line 1, omit “(1)”.
48. Clause 32, line 4, omit “grounds of status or private life” and insert “ground of status”.

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49. Clause 32, lines 5 to 8, omit all words and expressions on these lines.

These three amendments are tied up together. They arise from the deletion of the reference to "private life", which also renders sub-clause (2) no longer material.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 33 to 38.

Clause 39

The Hon. HADDON STOREY (East Yarra Province)—I move:

50. Clause 39, page 28, line 37, omit "or private life".

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

Clause 41

The Hon. J. H. KENNAN (Attorney-General)—I move:

51. Clause 41, page 30, line 19, omit "43" and insert "44".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 42 and 43.

Clause 44

The Hon. HADDON STOREY (East Yarra Province)—I move:

52. Clause 44, line 14, omit "or by reason of the private life".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 45 to 58.

Clause 59

The Hon. J. H. KENNAN (Attorney-General)—I move:

Clause 59, sub-clause (1), after this sub-clause insert "Penalty: 2 penalty units."

The amendment was agreed to, and the clause, as amended, was adopted, as were the remaining clauses and the schedule.

The Bill was reported to the House with amendments, and passed through its remaining stages.

NATIONAL PARKS (AMENDMENT) BILL

The debate (adjourned from November 29, 1983) on the motion of the Hon. R. A. Mackenzie (Minister for Conservation, Forests and Lands) for the second reading of this Bill was resumed.

The Hon. R. I. KNOWLES (Ballarat Province)—The Bill extends the national parks system within Victoria. Before I deal with the Bill specifically, I should like to comment on two general matters. The National Parks Service in this State has been developed over the past twenty years and more particularly over the past ten years in a time when there has been much concern that areas of outstanding features should be managed in such a way as to preserve them for the enjoyment of not only the present community but also for future communities.

The system that has been developed for establishing those features has been by recommendation of the Land Conservation Council, a programme that was started by the previous Government some years ago. Although that system has created much controversy, it has brought into open discussion and debate the 78 competing interests involved in public land use throughout the State, and has, by a process of discussion and study, reached recommendations which will be presented to the Government of the day and which will ultimately end up being enshrined in legislation.

The Land Conservation Council has now almost completed its study of Crown land in Victoria and has identified areas which it believes should form part of the National Parks Service responsibility. The Bill, once passed, will increase the area to something like 1-3 million hectares. It is important to state that this move is towards the end of a process by which public land in this State has been examined and those areas of some significance, either because of their natural landscape or the flora and fauna, have been identified and will be incorporated within the responsibility of the National Parks Service, and thus provide the basis of the management and planning of those areas.

I am concerned that the community and Parliament know that that process has been completed and that those areas of outstand-
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...ing significance have been recognized. The Opposition is opposed to the concept that has been adopted by the Government of referring, by political direction, certain areas back to the Land Conservation Council for reconsideration. In this instance, I refer to the recent alpine study. In that case, the Land Conservation Council identified the areas of outstanding significance in its earlier consideration. The findings of the council were discussed by Parliament, and Parliament resolved to set aside areas of outstanding significance under the National Parks Service.

The second area of general concern relates to the administration of the National Parks Service. It has been a separate service up until recently, until the Government embarked upon a reorganization of the departmental structure.

Under the National Parks Act, it is the Director of National Parks who has the responsibility for the management and maintenance at a high level of the areas designated by Parliament as national parks. That system is now in jeopardy, and there is much concern throughout the community about the basis of the structure that is to replace that service.

The service is similar to that provided by the Forests Commission, the Soil Conservation Authority and the Department of Crown Lands and Survey. It is being restructured to such an extent that the Director of National Parks will have no direct responsibility—and he will certainly have no control—over what happens to management of the grounds within the National Parks Service. That will significantly weaken the management of those areas.

A similar criticism is applicable to those areas reserved for the State Forests Department, the Soil Conservation Authority and the Department of Crown Lands and Survey. The new structure is to embrace a totally integrated public land management system with enormous responsibility being placed on the regional managers; and the Government is determined that there are to be eighteen regions throughout Victoria.

The concern of those who are interested in this field is that this management structure will be significantly weakened. I share that concern. Those are the two main areas of concern I wished to discuss with regard to national park management. I know that other members of the Opposition wish to speak further on those matters.

The Bill creates six new parks. This provision is a result of the examination by the Land Conservation Council, and the parks designated are in line with the council's recommendations. It also extends fifteen existing national parks. Of the new ones being created, the most significant is the Grampians National Park. As the Minister's second-reading notes indicate, it is an area of significance and one that is well known throughout Australia for its wildflowers. At the time of the Land Conservation Council examination, there was much local concern about the administration of that area being transferred from the Forests Commission to the National Parks Service. Much of that concern was based on the need to make provision for fire management, as that park is in a high fire-risk area, as well as the need to provide for access to the area. Concern was also expressed about the residents in the cottages located on Crown land within the area.

As I stated earlier, the area is significant, and there are a number of species of flora and fauna that are recorded as occurring only in the Grampians area. It is within the definition of a national park; it is a most suitable area, and meets the description as defined within the National Parks Act.

However, there are a couple of areas of concern. The first involves the management plan. Although I am aware that the Government is involved in the approval of that management plan, one would hope that those responsible for it would undertake local community consultation with individuals and municipalities so that their concerns, relating to fire control and fire vehicle access, are taken into consideration.

I have received representations from a number of the occupiers of Crown land area leases who have cottages on the land and who have informed me that they have expressed their concerns to the Government and sought assurances of tenure or at least an explanation of what the future of those residences, holiday homes and camps will be. However, at this stage they have had no indication of what the future holds for them other than being told the matter is being...
considered. Many of those people have spent a considerable amount of money in establishing cottages and residences of a substantial nature. I have not seen all of them, but I have seen a number and they certainly would not detract from the concept of a national park, despite the necessity for an exclusive occupancy within the boundaries of the national park.

I seek from the Minister for Conservation, Forests and Lands a commitment that the Government will sympathetically consider the future claims of those occupiers. Perhaps the experience in the Lower Glenelg National Park provides a basis for consideration because those people were given fifteen years' notice prior to the National Parks Service resuming the area. Some sympathetic handling by the Government of this issue will allay many of the genuine fears of these people.

I will not speak on all the proposed new parks covered by the Bill because they are spelled out in the Land Conservation Council report. The Bill extends fifteen existing parks and some of those extensions are the result of purchase of additional areas while others are gifts of various areas that have been incorporated in existing parks. I shall speak on the proposal to take part of the Mount Hotham reserve away from the control of the committee of management. The purpose of the proposal is to protect the breeding ground of the pigmy possum and this has created a lot of concern in the skiing industry.

The area to be excised represents about one-sixth of the area comprising the Mount Hotham reserve. There has been some difficulty experienced by offices of the Fisheries and Wildlife Division in making the committee of management fully understand the need for careful consideration of the breeding ground of the Bartramys parvus, but I am not sure that the solution proposed by the Government is necessarily the only one available. In relation to restructuring, the Minister has a strong influence on the committee of management and one would have hoped it was possible for a more sympathetic approach to be taken by the committee of management to preserve the breeding grounds for the possum rather than the excision of the area from the Mount Hotham reserve and placing that area in a national park.

Professor Lee, the Associate Professor of Zoology at Monash University, considered the issue over the Christmas period. Although his findings were that the species is in need of protection as it is in some danger, he suggested that it might not be necessary to exclude all development from that area as it would be possible still to maintain the essential breeding ground for the possum.

The Parliament recently established the Alpine Resorts Commission. This commission holds the potential for promoting growth in Victoria by making a significant contribution to the State's economy. The areas suitable for the development of the skiing industry are limited and any decision to exclude areas from that limited area should be closely examined if Victoria is to fully realize its potential.

I urge the Government to reconsider the line of approach it has taken in trying to protect the Bartramys parvus. I am not suggesting that the Opposition wants to increase the likelihood of the demise of that animal. It is a unique animal and one whose preservation is important and the Opposition certainly supports the Government's proposals. However, I ask whether the area needs to be excised from the ski resort and is that the only way of protecting that species?

The Bill increases the national park areas in Victoria to 1.3 million hectares. That requires a strong commitment on the part of Government resources to maintain the high standard of national parks that have been developed in Victoria. The National Parks Service is one that is admired throughout Australia. The Opposition is concerned that the new structure that the Government is developing is likely to weaken that service and to reduce its capacity to maintain the high management patterns that have been set for national parks management in Victoria. The Opposition is not opposed to the Bill.

The Hon. D. M. EVANS (North Eastern Province)—The National Party believes the introduction of the proposed legislation provides a reasonable opportunity to examine the whole question of national parks and their management. I was interested to hear the comments of Mr Knowles which indicate that the Opposition has similar concerns to the National Party and believes
similarly that some form of review may be required.

Victoria currently has 1.115 million hectares of national parks and this will be further increased by 186,000 hectares if the Bill is passed and the national parks areas set out in the Bill are established and subsequently proclaimed.

The declaration of such large areas of public land in the past few years has required the development of a whole new service, the National Parks Service, which has proved to be always short of resources and has had a constant requirement to recruit from other departments within the Victorian Public Service.

Additional areas of land have constantly been declared as national parks, and there has then been a constant scramble for the services of experienced officers to provide the necessary resources to manage those parks. I am not sure that there has not been a desire by the National Parks Service to increase its importance by increasing its area and then having the requirement for additional personnel. That is not a good method of reaching appropriate land management decisions, but I am afraid some of the pressure that has built up has come from that source.

There are increasing problems of management of public lands, which are based more on arbitrary boundaries—and frequently decided on a straw poll of invited submissions by the Land Conservation Council—than on sensible management appropriate to the natural terrain and distribution of flora and fauna. The more land that is designated as national parks, the more likely it is that areas of land which should be managed for multiple use will be included in national parks.

It may be emotionally satisfying—and I do not doubt that it is so for those remote from the practical workforce and the basis of Victoria's prosperity—to point to the creation of large areas of national parks. It would be more reasonable to point to well and appropriately managed public land meeting as nearly as possible the varying requirements of the community, including the preservation of natural flora and fauna, and including places of outstanding beauty—and there are many in the alpine and mountain areas—the provision of public recreation and public access and the need to provide renewable resources on a continuing basis.

To most people a national park evokes a picture of natural beauty or natural significance for flora and fauna. To some, any intrusion of man is inappropriate, and they make it a point of honour to exclude man from the greatest possible area. That is just not a practical approach in today's circumstances.

Even the policy of the Australian Labor Party recognizes that when it states on page 4 of its policy document:

In those areas designated as being of prime conservation value there should be no mining, forestry, grazing or other commercial activities allowed. Any such activities in present national parks will be phased out.

Further on page 9 it states:

Forests are an important source of economically valuable materials, primarily timber and other wood products. However, it is important that all forest values be safeguarded so that the great majority of forests should be managed in accordance with multiple use objectives.

The Hon. E. H. Walker—Do you disagree with that?

The Hon. D. M. Evans—No. I am advancing this as part of the argument in the debate. If too large an area is included in designated national parks, one finds community needs for many activities such as timber, grazing, mining, the quarrying of needed metals and even recreation such as horse riding or ski-ing being seen as inappropriate, with conflict occurring.

It would be far better if those areas of flora or fauna of significance—and there are many—were defined as national parks by way of a detailed management plan with legislative protection and managed on a functional basis by the National Parks Service. One cannot do that effectively by broad brush lines on a map. Nature does not work that way and neither should man.

Honourable members have seen the total change in the environment of flora and fauna that can occur within a few metres with a change in elevation, soil type and the direction of the slope. The Minister for Planning and Environment and the Minister for Conservation, Forests and Lands saw it, as did other honourable members, during a tour through forest areas where one saw one species on one slope and a totally
different species on another facing slope. During the tour with the mountain cattle-
men, honourable members saw those changes of environment and species within a few yards on the different slopes and on the different water courses.

The Hon. E. H. Walker—What is your point?

The Hon. D. M. EVANS—If one does not have a management plan with the lines of demarcation drawn according to nature's rules, one gets an inappropriate land use and an inappropriate management plan. One cannot do it by drawing lines on a map, otherwise one gets conflict amongst those people who have an interest in the issues.

The use of public lands can reasonably change in the course of time. For example, an area of logged-out forest properly re-generated can become a magnificent public recreation area for a considerable period or one of quiet solitude within a few short years and remain so for many years.

I should point out that the Black Spur area north of Melbourne is seen by many people as a most beautiful natural forest that should not be touched by man. I wonder how many people take the trouble to stop on the roadside through that forest and examine the fact that so many of the trees are in straight lines—planted there by man!

Areas of undisturbed forests will, under present prescription, be left adjacent to and provide the diversity of varying stages of development. Under the prescription of the Forests Commission areas such as those bordering water courses, certain areas of natural beauty and areas that are too steep to harvest will be left to provide a mosaic through the forest areas. In addition, corridors of natural forest will be left for the passage of native animals. That is the prescription under which the Forests Commission works.

On the trip through the forest areas with the mountain cattlemen, I have no doubt that the two Ministers would also have noticed and appreciated that an area of mountain ash in one place had been set aside at the instigation of the mountain cattlemen to provide a different area and a different example. That is how overseas nations work. I have seen it in Canada and the United States of America. I guess one can learn a little from their example. That is how they work their forests. It is in tune with the natural cycle of birth, growth, maturity and decline that occurs in forests.

It is far better to work in tune with nature and in accordance with her rules than to have unwieldy areas of national parks. It is better than having emotional arguments about their uses when those uses are termed inappropriate, because the legitimate needs of the community must be met from within the national parks areas. One cannot be run by the cargo cultists who apparently believe the resource needs come mysteriously from somewhere out there. One must use these areas of public land.

The Hon. E. H. Walker—Who are the cargo cultists?

The Hon. D. M. EVANS—They are the people who imagine that one can have timber without cutting down trees; that one can have paper without using forests and that one can grow timber without using public land. Those people are prevalent in some areas.

The National Party policy is firmly in favour of the development of the Ministry of Natural Resources because of the natural and critical interrelation between soil, water and forests. The National Party is interested in restructuring the process currently being carried out in that department. I am aware that three of those designated areas will be managed as pilot areas over the next few months to determine whether the operational plan is practical. There are no certainties about the rearrangement yet; it is still in the developmental and experimental stage.

The National Party is concerned that in the processes the integrity of the Forests Commission, the Soil Conservation Authority, the National Parks Service and the Ministry for Conservation may be destroyed. At the same time, if the restructure retains those departments at least in their form and gives them more of a functional role, rather than an area responsibility, it will provide a more modern, appropriate and efficient public land management service capable of responding to Government policy and community needs and in tune with natural systems.

I do not believe that the best method of land management is to designate huge areas of a particular classification and then to
proceed to use them in a manner that many people would consider inappropriate. I have heard considerable concern expressed by people who favour the creation of national parks, that huge areas will be utilized for logging, or that at least on a restructured basis, grazing, quarrying, and mining in certain circumstances will continue to be carried out. Because of the creation of inappropriate areas, conflict has been created in the public mind. That is not good management.

The Hon. E. H. Walker—You would rather not have national parks at all.

The Hon. D. M. Evans—That is not so. If the Minister had listened to my remarks he would know that I indicated that many areas are obviously appropriate to be determined as national parks because they provide for the preservation of natural beauty, ecology and native flora and fauna. I have suggested that areas for multiple use need to be set aside. I indicated that this has been done overseas. It is a much more modern process of land management than what is being done presently by the Victorian Government. In view of those facts, I move the following reasoned amendment:

That all the words after "That" be omitted with the view of inserting in place thereof "this Bill be not read a second time until the proposed restructuring of the Department of Conservation, Forests and Lands has been completed and suitable management procedures for all public land in Victoria have been drawn up".

In the second-reading speech the Minister advanced an argument in favour of the course of action I propose. He stated:

Many of the staff and some of the resources required for the new national park will be transferred from the Forests Commission to the National Parks Service.

He also stated:

I pay tribute to the Forests Commission, which has been responsible for most of the area for many years. I congratulate the commission and its officers for a job well done.

That is a fair comment by the Minister. There can be no argument advanced that urgent action is needed to protect the land from damage. In that way, problems of management resources will be avoided. It may be said that the Government is only following the Land Conservation Council recommendations, but the council itself did not have knowledge of the restructuring proposals put forward by the present Government when it made its determinations. Its determinations and opinions are now out of date.

I am one of a growing band who are becoming concerned at the increasing evidence that the decisions of the Land Conservation Council are based on poor or inaccurate data. Honourable members had examples of that in a trip through the high country. The Minister was clearly impressed by the obvious fact that the Land Conservation Council did not understand the topography of the country, soil types or the proper management or delineation of the area. It came to some foolish conclusions, at least in the Mount Hotham area and other parts of the alpine area, simply because its data was not accurate. The Minister may care to repeat the statement that the Australian Labor Party election promise was to create the Grampians National Park. I accept that promise and consider it reasonable that it be put up for consideration by Victorian people.

I recognize the sensitivity of the Government in keeping its promises. However, I point out that the Prime Minister, Mr Hawke, about a week ago changed his mind on realizing that he had made a mistake on the assets test issue and said his Government would have the courage to recognize its mistakes and rectify them. The Government did not make a mistake in making that promise a couple of years ago. Events have caught up with it and it is appropriate that it revise its opinions. I was disgusted at the comment made behind me by little Mr Birrell, who is not present in the Chamber, that the National Party is against the creation of national parks.

The Deputy President (the Hon. K. I. M. Wright)—Order! The manner in which Mr Evans alluded to Mr Birrell is not acceptable in this House.

The Hon. D. M. Evans—At your request, Mr Deputy President, I withdraw the phrase, "little Mr Birrell", but I am still disgusted at what he said. He was interjecting for the sake of making his voice heard in the House and he had not listened to what National Party members had said. My party accepts that some areas of Victoria are appropriately managed for the preservation of Victoria's flora and fauna, as a place of beauty, quiet recreation and for preserva-
I am arguing that both cannot be effectively done, with public credibility, simply by drawing lines on a map. Land and nature do not behave in that fashion.

I make it clear that this is not an attempt by the National Party to reduce the area of national parks, but simply to make the areas determined as national parks appropriate and areas that the public will regard as managed in an appropriate manner. As I commented previously, the National Party considers it stupid to declare an area as a national park and then be criticized by people because the activities carried on there are not appropriate. Multiple-use park areas may be required. Two classifications of parks would provide a more appropriate land management method.

Honourable members must be certain that they do not yield to emotional pressure by people who have a particular view and who do not know the practicalities of running the State. I have been impressed by the responsible change in attitude demonstrated by the Minister for Conservation, Forests and Lands. I am aware that he sincerely and reasonably held certain views. I am also aware that the practicalities and responsibilities of Government and Ministership have forced him to understand and recognize that he has had to change his emotional views. Responsibility brings about different attitudes. It is fine for people in the community to hold an emotional view and put it to the decision makers. However, it is wrong when the decision makers are unduly swayed by that emotionalism. We must make well-founded decisions. The National Party considers that some decisions made in declaring national parks are inappropriate, that they will cause additional conflict and that they do not represent good management procedures.

It is for that reason the National Party puts forward the argument I have advanced in the remarks I have made today. Because of the restructuring taking place within the departments, it would be more appropriate at this stage to defer the declaration of the national parks. Clearly, no danger is involved to the areas concerned. According to the Minister's second-reading speech, the areas are well managed and additional staff will be required to come across. It would be more sensible to defer the decision at the moment than make a hasty decision which may be regretted in a year or two.

On the motion of the Hon. C. J. KENNY (Waverley Province), the debate was adjourned.

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

ADJOURNMENT

Portland Technical School—Proposed marina at Sorrento—Sidney Myer Music Bowl—Shooters' licences for interstate visitors—State Electricity Commission dwelling, Cheltenham—Crown land auctions—St Arnaud court house—Student hostels—Leasing of Government land

The Hon. E. H. WALKER (Minister for Planning and Environment)—I move:

That the Council, at its rising, adjourn until Tuesday, March 6.

The motion was agreed to.

The Hon. E. H. WALKER (Minister for Planning and Environment)—I move:

That the House do now adjourn.

The Hon. D. G. CROZIER (Western Province)—I raise a matter of some urgency with the Leader of the House representing the Minister of Education. I do not need to remind him or any member of this House of the extraordinary situation pertaining in the staffing of Victorian schools at the outset of this year. In spite of the unprecedented increase in the level of State taxes and charges, which has increased the Victorian public expenditure from $5.4 billion to $7.8 billion in two Budgets, it is dismally apparent that many schools, particularly secondary schools in country Victoria, are acutely short of key staff. I refer specifically to the situation applying at Portland Technical School. The Leader of the House can be excused for not knowing about the school, but the Minister of Education undoubtedly is aware of it because he has recently been reminded.

Apart from suffering from a shortage of staff, the Portland Technical School has the peculiar problem of having two courses which, the previous year, had been shared by an arrangement with the Portland High School, namely, a domestic science course and a textile course. In 1984, the courses
were to be conducted exclusively by the Portland Technical School.

To assist that programme, a relocatable class-room was moved from Hamilton and was installed at Portland as part of the Portland Technical School complex. The final irony in this situation is that, in spite of all the preparations, planning and approvals, and the hopes of the students, parents and staff, the school year commenced without suitably qualified teachers for either of the two courses.

I ask the Leader of the House to take up as a matter of urgency this absurd and anomalous situation currently plaguing the Portland Technical School.

The Hon. B. A. CHAMBERLAIN (Western Province)—I refer the Minister for Planning and Environment to the environmental panel that has recently concluded its deliberations on the proposed marina at Sorrento. The Minister will be aware that the issue has provoked considerable public interest and that the panel hearing was both lengthy and well attended. I was able to attend some part of the hearing.

Will the Minister inform the House when he expects the Government to make a decision regarding the recommendations of the panel, and is it within the terms of reference of the panel to recommend some variation of the proposal put forward by Mr Long?

The Hon. M. A. BIRRELL (East Yarra Province)—I raise a matter with the Minister for Planning and Environment representing the Minister for the Arts and the Minister for Local Government.

I am concerned about the recent decision of the Melbourne City Council to ban large-scale concerts at the Sidney Myer Music Bowl.

The music bowl is, without question, one of Australia's most outstanding and popular outdoor venues for music and the performing arts. Now, due to the reactionary and short-sighted decision of the Melbourne City Council, it is to be put "off limits" to all but the smallest concerts.

I ask the Government to consider the implications of this absurd situation. The 17,000 young people who enjoyed the last rock concert at the bowl in December 1983, and who behaved "excellently", according to the police, will be forbidden from attending similar events in the future. The 50,000 people who participated in the recent Australia Day pageant at the bowl, and who were also well behaved, will not be able to go back in 1985. The council has said that the pageant is too popular and must be held elsewhere.

Victorians are effectively being told that the music bowl will be shut down, all because the council lacks the imagination and maturity to properly manage and police the venue. Will the Minister take steps to bring the council to its senses? This head-in-the-sand attitude cannot be allowed to continue.

The Hon. N. B. REID (Bendigo Province)—I refer the Minister for Conservation, Forests and Lands, representing the Minister for Police and Emergency Services, to the opening of the duck season in Victoria, which is to take place on Saturday. I have been aware of publicity that the Minister for Police and Emergency Services has given to the rights of interstate shooters from New South Wales and South Australia who have shooters' licences.

The Minister has made it known that those shooters will be able to come to Victoria and obtain a Victorian shooter's licence without fulfilling the three-week administrative delay period which is currently the law in Victoria as proclaimed on 25 January this year. An instruction has been given to the Victoria Police to issue the shooters' licences to interstate visitors, but that is illegal.

I ask the Minister to inform me what legislation he is using to issue the instructions to the Victoria Police and whether he is discriminating against Victorian shooters who have to fulfil the three-week administrative delay period. The matter further highlights the bungling by the Government in the implementation of the Firearms (Amendment) Act 1983.

The Hon. G. P. CONNARD (Higinbotham Province)—I refer the Minister for Minerals and Energy to the activities of the State Electricity Commission at Cheltenham. I have been informed by the Cheltenham Chamber of Commerce that the commission has purchased a shop and dwelling in Station Street, Cheltenham, with the intention of converting it into a car park.

Cheltenham is a regional development centre and because of its proximity to the
Southland shopping centre, it is a centre for several bus lines servicing Beaumaris, Black Rock, Dandenong and Moorabbin. I have spoken previously of the necessity to separate the railway lines at Cheltenham.

Station Street, Cheltenham, has contained a State Electricity Commission depot for many years. Originally it was on the outskirts of the shopping centre. However, Station Street is developing rapidly and further shops are being built in the area. The council is planning the construction of libraries and other services and the depot is now surrounded by excellent commercial properties. The commission paid $115,000 for the site and it will be unavailable for shopping development. A sum of $60,000 will have to be spent on the site for demolition, drainage and sewerage, which would make each car park have a value in excess of $9000.

Only last week my colleague, Mr Lawson, and I took the shadow spokesman for minerals and energy, Mr Crozier, to view the site. Today the Moorabbin Standard reported the following comments by Mr Crozier:

"It seems totally incongruous for a prime piece of commercial real estate to end up as an SEC car park at a cost of some $9000 per car space," he said.

Mr Crozier supported the local chamber of commerce in its call for consideration of the long-term future of the existing SEC depot in Station Rd.

"If Cheltenham's shopping centre is to develop as envisaged when the city was declared a commercial development centre, every encouragement should be given for business to expand in this part of the city.

I therefore ask the Minister the review the purchase of the land and also to consider the transfer of the depot to Braeside. I am aware that the Minister has responded to his colleague in another place saying that he cannot intervene in the use of the car park. I suggest that the Minister confers with his colleague, the Minister for Planning and Environment, about the development of a car park in this prime commercial area and also intervene in the relocation of the depot to Braeside where it would be more better placed.

The Hon. D. M. EVANS (North Eastern Province)—I refer the Minister for Conservation, Forests and Lands to an article that appeared in the volume 4, No. 1, February 1984 Real Estate Institute Bulletin. Attention was drawn to the fact that the former method of dealing with Crown land auctions, that is, the commissioning of a registered real estate agent to conduct the auction and the sale of the Crown land, is apparently no longer being followed.

The bulletin points out that the current practice is for Government officials, who are unlicensed auctioneers, to carry out the auction process despite the fact that licensed auctioneers have carried out that function for almost 100 years. Some concern is expressed because the Government officials are not experienced in land auctions and perhaps the presentation and conduct of the auction may not be as professional and the best and fairest result may not be achieved for the general public and interested people.

Although I have no doubt that the institute is keen to maintain a privilege it has had or seeks an opportunity for further business, nevertheless, the argument being advanced is that it would better advantage the community if professional auctioneers were appointed.

The Hon. R. A. Mackenzie—People do not do it for nothing. Have you seen the fees?

The Hon. D. M. EVANS—I understand that. Will the Minister be prepared to comment on the article—rather than by interjection—and provide the reasons why the Government has taken this course of action and whether the article is one which should be taken into account by the Minister?

The Hon. J. W. S. RADFORD (Bendigo Province)—I direct a matter concerning the resident clerk of courts at St Arnaud to the Attorney-General. For the past century the St Arnaud court has provided an excellent service to the township of St Arnaud and the surrounding district which comprises 4200 people. The Attorney-General should have received a letter dated 16 January 1984, from Mr Breisch, one of the local solicitors. The letter states:

Apart from Court duties the clerk in the country performs further considerable services to the community such as providing legal advice and directions to the community especially the under privileged, matrimonial disputes, administration of the poor box, . . .
I realize the Attorney-General has difficulty in understanding the problems of small communities. The letter continues:

... small estates, assisting people with social service directions and solving minor disputes between traders and consumers thus often also curtailing expensive and traumatic court proceedings for the community.

I ask the Attorney-General to ensure that a resident clerk of courts is retained at St Arnaud. If that is not the case, once again the Government will be seen to be giving an even poorer service to the community when compared with the good service it has experienced in the past. I ask the Attorney-General to give favourable consideration to this request.

The Hon. ROBERT LAWSON (Higinbotham Province)—My remarks are addressed to the Minister for Planning and Environment who represents the Minister of Education in this place. I refer to the recent closure of student hostels for country students. By way of introduction, I refer the Minister to page E4 of the Australian Labor Party State education policy, which states that no changes must take place without detailed study of the impact of the changes proposed at all levels—local and state—and that all studies must be conducted publicly.

In the case of the closure of the student hostels, no studies were conducted and no hostel students or primary, secondary or tertiary institutions were consulted. However, the student hostels were closed regardless. I have a letter from the Student Housing Officers Association which lists the amounts that have to be paid in general for various forms of accommodation. The letter refers to colleges and halls of residence, full board, private hostels, public housing, and private rental. None of these housing alternatives is easy to obtain and many are almost impossible. The rental figures quoted are prohibitive for students on Tertiary Education Assistance Scheme allowances.

The result of the difficulty in obtaining accommodation for country students means that insufficient country students are able to undertake study in the city to become teachers. They have a natural desire to serve in the metropolitan areas. Naturally it is easier for country people to serve in country schools. Will the Minister take up the matter with the Minister of Education and study the long-term implications of the policy of closing down hostels for country students?

The Hon. D. K. HAYWARD (Monash Province)—I raise a matter for the attention of the Minister for Conservation, Forests and Lands representing the Minister of Transport. The matter concerns the firm of Duncan and Russell Ltd which leases land from the Port of Melbourne Authority. The current leasing arrangements involve a rental of $13,415 per annum. The indicated new rental from 1 January 1985 will be $40,500 per annum, an increase of 300 per cent. This seems to be exorbitant and I would appreciate an indication of whether this is in accordance with Government policy.

The firm also feels threatened by a further aspect. The firm has been involved in beach renourishment, a desirable activity with which the Minister would have sympathy. This activity is also important from the tourist and recreation points of view. Duncan and Russell Ltd is the only firm in Victoria that has the specialist skills and equipment required to perform this work.

The Government has indicated that it will not continue to support the beach renourishment activity with the result that the firm is already putting its equipment up for sale and once the equipment is sold, obviously the employment and the skills of the fifteen people involved will be lost. Beach renourishment is an essential community service.

I would appreciate it if the Minister would look into this matter. Two aspects are involved: The dramatic increase in the rent plus the shutdown of the beach renourishment activity, which will put the firm out of business.

The Hon. E. H. WALKER (Minister for Planning and Environment)—Mr Crozier raised a matter that, as he pointed out, is more properly a matter for the Minister of Education. The matter concerns staffing in schools, particularly at Portland Technical School. I have made some notes on the
matter and will see that it is referred to the Minister of Education.

Mr Birrell raised a matter which spans a number of jurisdictions. It is partly related to the Minister for the Arts and is certainly related to the Minister for Conservation, Forests and Lands and is certainly within the jurisdiction of the Melbourne City Council. I will have the matter referred to them. I must add that I am in some sympathy with the remarks made by Mr Birrell.

Mr Lawson raised a matter which I will also have transferred to the Minister of Education in connection with the closure of student hostels.

Mr Chamberlain raised a matter in connection with the proposed marina at Sorrento. He asked when will the Government make a decision and whether it is possible to provide some variation in the location and size of the proposal.

In regard to the decision, the environment effects statement was on exhibition from November until 11 January. Three or four hearings were conducted by an illustrious panel in mid to late January. The panel was chaired by Sir Louis Matheson. I was pleased that he could undertake the job as he is a well-known mechanical engineer. The two members were Mr Alan Bunbury, who is an experienced panel member, and Dr R. G. Downes, a former member of the Soil Conservation Authority.

I asked those three gentlemen to sit as a panel and hear submissions. Many submissions were made. I had hoped to have received the report of the panel by now, but have not yet received it. I understand that it is a matter of days away. I believe discretion rests with me as the Minister responsible for the Environment Effects Act to determine a final decision on environmental issues. There are, however, further planning issues and planning procedures to occur and I am not able at this stage to give an exact time, but unfortunately, a final decision will have to be a matter of some months away. I would prefer that it was quicker. There may, of course, be appeals to the Planning Appeals Board.

In response to Mr Chamberlain's question, "Is it possible to provide some variation in terms of location and proposed size"—
Under the Act, the land must be valued by the Valuer-General and the land cannot be sold below the Valuer-General's valuation. If that price cannot be realized at auction, then the sale is called off. The officers have noted the criticism that was made some time ago by the RESI in regard to advertising. The pamphlets that are now being sent out in regard to auctions are equal to, if not better than, those issued by private industry. I see no reason why I should not have trained officers, who are capable and legally qualified, carry out auction sales instead of using the taxpayers money to pay agents. Private agents are used if there are too many auctions for the officers of the department to handle.

Mr Hayward raised a matter that was raised last night in regard to some land that is under the control of the Ministry of Transport and the fact that a leaseholder who paid $13,000 rental last year is now being asked to pay $40,000. I will raise that matter with the Minister of Transport. It may be that the Ministry has brought its rentals into the twentieth century, the same as the Lands Department. I would like to know the valuation of the land to determine what percentage the rental represents. The normal practice of the Lands Department on a commercial basis is to charge 7 per cent of the unimproved value of the land.

I also understood Mr Hayward to say that the firm is involved in beach renourishment. I do not believe the Government is disbanding the beach renourishment programme. I will inquire into the matter. A different system is being used and a coastal unit is being set up and that unit will designate the areas that need to be beach renourished rather than the Ports and Harbors Division looking after the area. I have not heard that it is the intention of the Government to reduce beach renourishment, which is helpful in many cases. I will raise both of those matters with the Minister concerned.

The Hon. J. H. KENNAN (Attorney-General)—I will take on board the matters raised by Mr Radford in relation to the resident clerk of courts at St Arnaud, and report to him in due course.

The motion was agreed to.

The House adjourned at 6.10 p.m. until Tuesday, March 6.

QUESTION ON NOTICE

APPLICATIONS BEFORE REGISTRAR OF TITLES

(Question No. 318)

The Hon. B. A. CHAMBERLAIN (Western Province) asked the Attorney-General:

(a) How many applications to bring land under the Transfer of Land Act 1958 are currently before the Registrar of Titles?

(b) How many applications were lodged in 1982-83?

(c) How many applications were completed in 1982-83?

(d) What total fees were collected in respect of such applications in 1982-83?

(e) What is the shortest time and average time between lodgment and issue of titles?

The Hon. J. H. KENNAN (Attorney-General)—The answer is:

(a) There are 853 applications to bring land under the Transfer of Land Act 1958 currently before the Registrar of Titles.

(b) 195 applications to bring land under the Transfer of Land Act 1958 were lodged in 1982-83.

(c) 178 applications to bring land under the Transfer of Land Act 1958 were completed in 1982-83.

(d) $138,197.40 was collected in respect of fees for such applications in 1982-83.

(i) The shortest time between lodgment and issue of titles is 8½ months.

(ii) The average time between lodgment and issue of titles is 2½ years.

I have requested my department to urgently carry out an investigation and make recommendations on measures necessary to reduce these delays.

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The PRESIDENT (the Hon. F. S. Grimwade) took the chair at 3.3 p.m. and read the prayer.

DAILY "HANSARD"

The PRESIDENT—I advise honourable members that, for some time, moves have been in progress towards the production of a daily Hansard for both the Legislative Council and the Legislative Assembly. In fact, last week, the Government Printer and the Hansard office had a trial run towards achieving this objective. We hope to have another week's evaluation of the system that is currently being used and, perhaps by the next week's sitting, it may be feasible to produce a daily Hansard of the proceedings of the Council; at that stage, it may be only of the Council and, as we learn to understand the problems that are created, it is hoped to have a daily Hansard of the Legislative Assembly as well.

The co-operation of honourable members is sought in this matter. Honourable members' alterations to their speeches should be confined to the correction of errors; corrections which alter the sense of the member's speech are not permissible. During the trial period, the time deadline endorsed on the pink slip accompanying a member's speech will be observed strictly.

Honourable members are asked to make available to Hansard all extract matter, including books, documents and notes containing names of persons, places and so on. It would be useful if those were in photostat form.

QUESTIONS WITHOUT NOTICE

LIVE SHEEP EXPORTS

The Hon. D. G. CROZIER (Western Province)—In view of the renewed threats of physical violence on the Portland waterfront by the Australasian Meat Industry Employees Union, and in the light of the continuing importance of the live sheep export trade to the rural economy, will the Minister of Agriculture give the House an unequivocal assurance that all necessary steps will be taken to ensure that the movement and loading of sheep will proceed without interruption?

The Hon. D. E. KENT (Minister of Agriculture)—I am not aware of any threats of violence. I am aware that the union has stated that it will picket the loading of live sheep in approximately one month's time. The Government will continue, as it has done ever since it has been in office, to endeavour to find a peaceful and harmonious solution to the problem.

DAIRYING INDUSTRY

The Hon. B. P. DUNN (North Western Province)—Can the Minister of Agriculture advise the House of the current situation concerning the possible introduction of production controls in the dairying industry? Does the Government support the introduction of an entitlement scheme; if so, would complementary State and Commonwealth legislation be required to implement such a scheme?

The Hon. D. E. KENT (Minister of Agriculture)—As most honourable members are aware, concern exists in the dairying industry about increasing levels of production which would have to be sold on markets that would be completely unprofitable for Australian producers. This situation has been caused by products from the European Economic Community and the United States of America being placed at low prices on markets that Australia would like to enter. The industry has been deeply concerned about this developing situation. Many suggestions have been made, including the establishment of a national entitlement scheme and a suspension of the issue of new licences.

The Government has not determined a policy on these matters. The current inquiry will report later this month and the Government will take note of that report. The Government's ultimate decision will depend on what is acceptable to the industry. It appears extremely unlikely that other States will agree to a national entitlement scheme. The Victorian Government will formulate its policy after consultation with the industry, in an endeavour to protect the future viability of persons engaged in the industry.
PORT PHILIP BAY

The Hon. M. J. SANDON (Chelsea Province)—I address my question without notice to the Leader of the House in his capacity as the Minister for Planning and Environment. Recently, the Minister became involved in a "bottom-of-the-harbour" scheme when he dived to the bottom of Port Phillip Bay on the occasion of a "clean up the bay" day. I ask the Minister to inform the House whether he can give any practical examples of what eventuated from that exercise.

The Hon. E. H. WALKER (Minister for Planning and Environment)—Mr Sandon has been most active in his concern for Port Phillip Bay, and I commend him for that. He could almost be called the honourable member for Port Phillip Bay.

It can now be revealed that it was Mr Sandon who coaxed me into diving in the first instance. It is now a matter of history that he and I have been diving in the bay two or three times in regard to this matter of litter and garbage on the bottom of the bay. A "clean up the bay" day that was recently held was a most successful venture and it is hoped that, with the help of the Keep Australia Beautiful Council and the Environment Protection Authority, it can be made an annual event.

The role of volunteers was extremely important. Nearly 200 divers, fully equipped, were involved on that day in twenty locations around the bay and a week later a team was involved in a similar venture in Geelong. On that day approximately 30 cubic metres—several truckloads—of garbage came off the bottom of the bay and a week later another 7 or 8 cubic metres of garbage came off the bottom of the bay in Geelong. It was a most successful venture. I thank Mr Sandon for his involvement and encouragement to ensure that this activity continues.

CRIMINAL PROCEEDINGS BILL

The Hon. P. D. BLOCK (Nunawading Province)—The Attorney-General would be aware that Mrs Cox sedge has publicly stated on at least one radio station, and probably in other media, that it is her intention to use Parliamentary privilege to name those people connected with the Australian Secret Intelligence Service raid. In the light of the Criminal Proceedings Bill at present before the House which will call for those named in the raid not to be mentioned in an open court, has the Attorney-General received an assurance from Mrs Cox sedge that she will not proceed with her stated contempt and, if the honourable gentleman has not received such an assurance and Mrs Cox sedge goes ahead and reveals the names, why should this House continue with the Bill?

The Hon. J. H. KENNAN (Attorney-General)—I am grateful for the question. I thought it was going to be about the reserve liability of shareholders of the Trustees Executors and Agency Co. Ltd. The answer to the question is "No". I have not had discussions with Mrs Cox sedge about the allegations that Mr Block makes. If the situation arises, I may or may not discuss it with her.

LOGGING ON ERRINUNDRA PLATEAU

The Hon. D. M. EVANS (North Eastern Province)—I refer the Minister for Conservation, Forests and Lands to an article in the Age of 1 March in which a Mr Chris Harris from the Australian Conservation Foundation alleges that certain reports to the Forests Commission with regard to the cessation of logging in certain areas of the Errinundra plateau have been disregarded. Can the Minister inform the House whether Mr Harris has obtained such information under the Freedom of Information Act or does he have a written authority from the Minister to obtain access to the Forests Commission's files to study such matters?

The Hon. R. A. MACKENZIE (Minister for Conservation, Forests and Lands)—I am aware of the article in the newspaper and I did have it followed up. The particular report that Mr Harris referred to was a report made by a Forests Commission officer in 1981, and what it said was that the Ranuka Creek reserve, which had been set aside as a special flora reserve, was suffering problems with the dieback disease. An investigation was carried out by the Forests Commission at that time and discussions took place on whether the Ranuka Creek reserve should be logged because its value was decreasing due to the dieback problem. Discussions were held on whether another area should be examined to replace the Ranuka Creek reserve. The report mentioned that one of the areas that should be consid-
erred to replace the Ranuka Creek reserve was the controversial Compartment 3, and that was the only mention the report made.

Subsequently, this action was not carried out. It was felt that the natural course of events should be allowed to remain in the Ranuka Creek reserve, and the report was never acted upon. That was the article which was referred to. I have made information available not only to the conservation movement but also the timber industry and the general public which have access to Forests Commission records. The Labor Party has an open government policy.

I cannot answer exactly whether Mr Harris received the information under the Freedom of Information Act, but I should think that the information would have been made available as part of the policy I have of allowing those records to be made available.

ENVIRONMENT PROTECTION AUTHORITY AFTER-HOURS COMPLAINT SERVICE

The Hon. JOAN COXSEdge (Melbourne West Province)—I ask the Minister for Planning and Environment: What steps have been taken by him to improve the Environment Protection Authority after-hours complaint service, which has received much criticism in the past and which was identified as a major source of dissatisfaction during the western suburbs planning and environment study?

The Hon. E. H. WALKER (Minister for Planning and Environment)—Mrs Coxsedge is correct in saying that much public dissatisfaction has arisen. I am pleased to indicate that the Environment Protection Authority has now commissioned a commercial service that will provide a manned after-hours answering service. The advantages of the service are obvious as complaints will be dealt with on a person-to-person level.

In the past, funding has been available only for recorded messages, which has proved unsatisfactory, for many complaints on environmental matters and referrals of matters do not relate directly to the Environment Protection Authority. During a 24-hour cycle, calls are made that do not relate directly to the authority. Referrals will be made to relevant authorities on matters concerning noisy parties, dog barking and so forth, that relate to local government. On serious complaints, the response of the Environment Protection Authority will be more rapid. The time in which an actual response to a call will be received directly is being extended to 10 p.m. During the rest of the 24-hour cycle, someone will answer the telephone and make a referral.

In response to Mrs Coxsedge, I indicate that, following work she has done arising from the western suburbs study on environmental issues, a service is now available and it is hoped to be able to make available a service with a direct response to problems for 24 hours a day.

PROPOSED MARINE PARK

The Hon. A. J. HUNT (South Eastern Province)—I direct a question to the Minister for Planning and Environment. I advise him that I have been informed, by an authority I believe to be reliable, that the Government intends to proceed with proposals to create another marine park or reserve between Cape Paterson, near Wonthaggi, and Point Smythe near Inverloch. Will the Minister inform the House when this will occur, on what basis the consultation and research is occurring and whether he will make available that research for my perusal?

The Hon. E. H. WALKER (Minister for Planning and Environment)—If I understood the honourable member correctly, he is saying that a further proposal for a marine park to be located between Cape Paterson and Point Smythe is under consideration by, I imagine, the Land Conservation Council.

The Hon. A. J. Hunt—By the Government.

The Hon. E. H. WALKER—In the proper course of events, it would be on the advice of the Land Conservation Council. I have no personal knowledge of the proposal, but I will inquire into the matter to determine whether it has any substance. I will inform the honourable member of the outcome.

USE OF FARMLAND

The Hon. L. A. McARTHUR (Nunawading Province)—The Minister of Agriculture is probably aware of a need that seems to be expressed by rural groups for an alternative profitable use of farmlands and perhaps the necessity for some farmlands to be used in a different way. Will the
Minister inform the House of any plans for research on the economic viability of agroforestry?

The Hon. D. E. KENT (Minister of Agriculture)—I appreciate the keen interest that Mr McArthur shows in an issue of concern to Victoria. Most honourable members are aware that since the European settlement in Victoria a massive removal of trees has occurred for farming. Although it was economically productive to do so, in many cases it proved to be environmentally disastrous over time. Victoria is approaching its 150th anniversary celebrations. Victoria’s 150th anniversary celebrations funding committee has provided $210 000 to set up an agroforestry unit, which will be in collaboration with the Department of Agriculture and the Forests Commission for the purpose of conducting research into agroforestry.

It will be a combination of tree growing and wood reduction with normal agricultural production. It is appropriate that this take place at this time because of the awareness of the damage that has been done in the State. Five sites which have been selected for trial by the unit may prove to be difficult because previous experience in these areas has not been obtained on these enterprises.

The five 20-hectare sites are at: Carngham in central Victoria, which is already under development; Hamilton; the Strzelecki Ranges in Gippsland; Maryborough in northern Victoria; and the Ovens Valley in the north-east. As a result of that research the Government believes it will be able to provide information that will be of inestimable value to agriculture and to the development of a more wholesome environment in Victoria.

RESTRICTIONS ON AGRICULTURAL EXTENSION OFFICERS

The Hon. N. B. REID (Bendigo Province)—Is the Minister of Agriculture aware that extension officers in the Department of Agriculture are restricted in the use of vehicles to 80 kilometres of travel a week? If so, what does the Minister propose to do about the restriction?

The Hon. D. E. KENT (Minister of Agriculture)—In response to the clamour by members of the Opposition about care in Government expenditure, the Department of Agriculture has taken steps to carefully control any expenditure in any part of its operations. Careful budgets have been introduced and the dispersal of funds for particular purposes is under the control of the extension director in a particular area.

No restriction to 80 kilometres a week has been placed on the use of vehicles by extension officers, but the amount of travel over the year must come within the limits imposed for that period. It is inappropriate to suggest that a restriction is placed on weekly mileage.

PROPOSED SUNRAYSIA WATER BOARD

The Hon. K. I. M. WRIGHT (North Western Province)—I refer the Minister of Water Supply to the proposed formation of the Sunraysia water board which will be responsible for the provision of sewerage and water supply in the Mildura township and district. Can the honourable gentleman inform the House of the interim arrangements he has in mind for the board?

The Hon. D. R. WHITE (Minister of Water Supply)—It is correct to say that steps were taken to form the Sunraysia water board following the Sixth Report of the Public Bodies Review Committee, but both the shire and city councils of Mildura stated their intention to amalgamate. They wanted the Government to postpone the emergence of the water board so that proper consideration could be given to the amalgamation of the two local government units with the intention of absorbing both the water and sewerage functions.

The councils have exhausted discussions on the matter and indicated that they no longer wish to pursue the amalgamation. It is now the intention of the Government to resume the steps taken to establish the Sunraysia water board. Discussions will be held with the relevant bodies in Mildura that will be directly affected and a time-table will be set for the future emergence of the water board.

ASSOCIATIONS INCORPORATION ACT

The Hon. J. L. DIXON (Boronia Province)—Can the Attorney-General inform the House of the operation of the Associations Incorporation Act and whether the Govern-
The Hon. J. H. KENNAN (Attorney-General)—As the House will be aware, the Associations Incorporation Act came into operation in July 1983, and it would be ungracious of me not to recognize Mr Storey's role in the preparation of that Act. As the House appreciates, it has provided a simple and efficient means by which unincorporated associations can obtain the benefits of incorporation. A total of 760 associations have been incorporated under the Act in the past eight months.

Two major amendments are being considered, the first concerning the manner by which members of the old association resolve to become incorporated. At present, a majority of all members of the association is necessary before incorporation can occur. I am considering an amendment to the Act so that the only majority needed is the majority of those present at the meeting or voting by proxy.

The second proposed amendment concerns trading restrictions applying to incorporated associations. Associations whose main objectives are to trade for profit cannot be incorporated under the Act and, similarly, associations that are incorporated are prohibited from trading except where trading profits are not substantial in number and are ancillary to the major objectives of the association.

It appears there may be a problem, for example, concerning an opportunity shop, which has trading activities of a reasonable scale but which is prohibited by the present Act from applying for incorporation for that sort of enterprise; therefore, the Government is considering an amendment to overcome that problem, also.

VITCLAY PIPES PTY LTD

The Hon. CLIVE BUBB (Ballarat Province)—I refer to the proposed closure by Vitclay Pipes Pty Ltd of its Ballarat plant on Thursday this week, throwing approximately 100 people out of work.

Has the Minister for Minerals and Energy been approached by the company about the probable closure of the plant? If not, as a matter of urgency, will he meet with company representatives and local members to talk about this issue?

The Hon. D. R. WHITE (Minister for Minerals and Energy)—The honourable member will know that as a member of the State Development Committee I had a lot to do with the debate concerning the future of the Ballarat Vitclay pipe plant. I have visited that plant on a number of occasions and I share the honourable member's concern about any move to close it as a result of the problems the company has had.

I am not aware of the imminent closure and I assure the honourable member that I look forward to receiving a deputation from Vitclay Pipes Pty Ltd at short notice if the honourable member is prepared to organize such a deputation. I am sure other Ministers would equally welcome the opportunity to be involved. I urge the honourable member to have discussions with the Department of Industry, Commerce and Technology as well. I reiterate that I look forward to receiving a deputation.

ARCHAEOLOGICAL AND ABORIGINAL RELICS PRESERVATION (AMENDMENT) BILL

The Hon. E. H. WALKER (Minister for Planning and Environment), by leave, moved for leave to bring in a Bill to amend the Archaeological and Aboriginal Relics Preservation Act 1972.

The motion was agreed to.

The Bill was brought in and read a first time.

CRIMES (GENERAL AMENDMENT) BILL

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to amend the law relating to crimes and criminal law procedure and for that purpose to amend the Crimes Act 1958, and other Acts and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

VAGRANCY (AMENDMENT) BILL

The Hon. J. H. KENNAN (Attorney-General), by leave, moved for leave to bring in a Bill to amend the Vagrancy Act 1966.

The motion was agreed to.
The Bill was brought in and read a first time.

MINISTERIAL STATEMENT

Delays in the courts

The Hon. J. H. KENNAN (Attorney-General)—I wish to make a Ministerial statement about delays in the courts. It has been a high priority for the Government in the area of the Attorney-General's portfolio to make a sustained attack on the ancient problem of delays in the courts. It has often been said that the rule of law is the hallmark of democracy, the most important single factor distinguishing democracy from tyranny. However, the notion of equality before the law is of much reduced significance if there are persisting and unacceptable delays in the hearing of cases by the courts. Resolution of litigation whether civil or criminal within a reasonable time is essential to a sound system of justice.

In Victoria over the past fifteen years or more, delays and associated inefficiencies in the courts have led to community exasperation with the system. One consequence has been the growth of administrative tribunals as Governments have sought to respond to the problem of delayed justice by turning to the alternative of administrative tribunals rather than persisting with the court system which has not responded and in which there has been a loss of confidence.

However, it is the policy of the Government to ensure that the Victorian court system operates efficiently and that in future the court system enjoys greater confidence than it has enjoyed in the recent past. In recent years there has been a growing effort to research the problem of delays in the courts and to make the administration of the judicial system more efficient. Judges, the legal profession and politicians have all contributed to these developments.

Indeed, until recently, the subject of delays in the civil courts had received only sporadic attention in Victoria. In 1899 the Higgins Royal Commission made a number of recommendations which significantly affected the operation of the courts. In 1975 the Victorian Law Reform Commission produced Working Paper No. 3, and followed it with Report No. 4 in 1976, both of which were entitled "Delays in Supreme Court Actions". The reports put forward a number of proposals designed to increase the proportion of settlements and to reduce backlogs and delays. One significant result was the prothonotary summons although this is since thought to be ineffective.

The most significant research conducted into delays has been done by the Civil Justice Committee which I will discuss in more detail below. Apart from the work that I have just referred to it is fair to say that there have been no other works of substance produced in relation to delays in the civil jurisdiction.

In the criminal jurisdiction the Victorian Criminal Bar Association published a major report—the Fagan Report—in 1980 on the system of listing of criminal trials in the County Court and this dealt with the question of delays in the criminal jurisdiction both between arrest and committal and committal and trial.

In its attack on the delays in the courts, the Government has taken a number of steps. Some of these steps affect both civil and criminal delays. Some have been designed to deal with delays in each particular jurisdiction. These steps include:

1. The appointment of an extra Supreme Court judge and the raising of the constitutional limit on the number of judges to 30.
2. The appointment of three extra County Court judges.
3. The development of four extra County Courts at 471 Little Bourke Street.
4. A fourfold increase of the jurisdiction of the County Court limit to $100 000 in personal injury cases and to $50 000 in other cases.
5. The establishment of the Office of the Director of Public Prosecutions.
7. The reference of the matter of delays in the courts to the Legal and Constitutional Committee of the Victorian Parliament.
8. The establishment of the Civil Justice Committee.
9. The appointment of a Deputy Secretary of the Law Department responsible for
court administration. The review work programme of the deputy secretary and his staff includes consideration of a number of issues of which the following are broadly representative:

Administration systems used in courts; application of modern technology, particularly computer technology, could substantially reduce resources required in courts and improve the levels of service.

Regionalization of the management of courts.

Strengthening of staff development and career path structures.

Identification of issues concerning courts administration on which there should be consultation among interested parties and the development of appropriate consultative mechanisms.

Overhaul of the government shorthand writer's office and court reporting branch and the introduction of modern technology to improve cost effectiveness.

Development of a prioritized courts facilities programme based upon a rigorous analysis of future needs and existing courthouse structures.

I will now give particular attention to the criminal and civil jurisdictions before turning to some broader issues.

DELAYS IN CRIMINAL TRIALS

The most intractable delay problem has traditionally been identified as the delay between committal and trial. Until 1983 and the reorganization achieved by the Office of the Director of Public Prosecutions, more than 900 criminal cases awaited trial after committal. A delay period of between one and four years before committal and trial was not uncommon. The Fagan report found that in November 1980 there were 713 cases awaiting trial in the County Court alone, and the backlog had increased between 1972 and 1979 from 619 persons to 892 persons awaiting trial in the County Court.

The Director of Public Prosecutions has, as part of his responsibilities, the preparation of prosecutions for trial in the County Court and the Supreme Court. In order to achieve this he has taken over the Criminal Preparations Branch of the Law Department. This has resulted in an administrative reorganization and he has been supplied with additional resources. There has been a very substantial reduction in the number of cases awaiting trial from a figure in the vicinity of 920 in 1982 to a present figure of slightly in excess of 600. The optimum figure is in the region of 400 which would produce an average of three to six months' delay between committal and trial which would be sufficient to allow for adequate preparation by the Crown and defence of their respective cases.

Consequently, it may be said that the problem of delays between committal and trial has been substantially solved. It is worth noting that at the time of the appointment of the Director of Public Prosecutions there had not been in operation any efficient monitoring system of the cases in the Criminal Preparations Branch of the Crown Law Department. Some cases languished for years. The operation of the Director of Public Prosecutions has meant that this sort of situation cannot and will not occur again.

THE CRIMES PROCEDURE ACT

In order to see that time lines are put on the prosecution authority, now the Director of Public Prosecutions, the Crimes Procedure Act was introduced in 1983. This Act enables the Attorney-General to prescribe time limits for the filing of a presentment after the committal and for the commencement of the trial after the filing of presentment. At present I am conducting a trial with the Director of Public Prosecutions in order to see what the appropriate time limits will be for 1984. It will be open to the parties to apply to the court for an extension of time but this procedure will do two important things—

(a) it will ensure that the officers responsible for the preparation of cases know that there are legislative time lines laid down; and

(b) it will give the court early control of criminal cases.

Until a presentment is filed, a court has no jurisdiction to make any order with respect to the course of a criminal trial. Therefore, until the implementation of the Crimes Procedure Act it had not been possible for an accused person to see that a prosecution is brought on at any particular time. However, under the Crimes Proce-
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The Crimes Procedure Act also contained a broad facilitating power enabling courts to deal with issues relating to the admissibility of evidence and other issues prior to the empanelling of a jury. Until the enactment of that provision the law was that the jury had to be empanelled even if they were to be sent away, in some cases for days or even weeks, prior to the actual commencement of the trial while counsel argued before a judge questions relating to the admissibility of evidence.

In a recent County Court case where such a pre-trial argument went for in excess of ten days it was estimated that there was a saving in excess of $6000 in jury fees as no jury had to be empanelled, not to mention the great saving in inconvenience and frustration to jurors who under the old system had to be empanelled only to be sent away for some considerable time prior to the commencement of their hearing of the evidence.

This Act was discussed at the Supreme Court Judges Conference in Melbourne in January when judges from the Supreme Courts all over Australia met to discuss a number of matters and it was generally thought that such a provision was a model provision to be copied in other States.

The Crimes Procedure Act also contains provisions to facilitate the proving of prior convictions of a person who has been convicted by a jury, without necessitating a jury trying those questions. This will lead to a streamlining of the hearing of such matters in many cases.

DELAYS IN THE CIVIL JURISDICTION

There has been a substantial build-up of cases in the civil lists in the Supreme Court. During recent years this build-up was severe and certainly the unacceptable delay of twelve months to two years from setting down to trial in many cases was common. Such problems have been present in the Supreme Court for twenty years or more.

The Government's response in 1983 was twofold. Firstly, it substantially increased the jurisdiction of the County Court. The limit in personal injury cases was lifted from $25 000 to $100 000 and in other cases the limit was lifted from $12 000—$2000 in a matter such as that dealing with partnership or trusts—to $50 000. This quadrupling of the jurisdiction was one of the most radical changes in the jurisdiction of an intermediate court ever achieved in the common law world. However, it is expected and all the evidence already indicates that the increase will substantially solve the problem of long delays in the civil lists in the Supreme Court.

Early indications are that more than half the existing lists in the Supreme Court will either be settled or will transfer to the County Court. In the immediate future there will be a diminution in the number of cases dealt with by the Supreme Court by at least 50 per cent.

The early figures are most encouraging. For instance, in the main causes list where the entire list of 733 cases awaiting trial was called over, 297 cases or 40·6 per cent were transferred to the County Court; 135 or 18·4 per cent were struck out; 69 or 9·4 per cent were settled; and 232 or 31·6 per cent were left in the list.

The Government, recognizing the need to maintain the utmost flexibility in its options for future action, amended the Constitution Act to lift the limit on the maximum number of Supreme Court judges from 21 to 30. It appointed an additional judge bringing the number to 22 and the accommodation for judges in the Supreme Court is now at its limit.

Further, the Masters Lists have been coordinated by the Senior Master in such a way as to eliminate delays and inefficiencies in the Masters Lists.

In order to ensure that we were simply not transferring a delay problem from one court to the other, steps have been taken to ensure that the County Court has the capacity to deal with the increased civil business. Three additional judges have been appointed to the County Court, one of whom is sitting on the Workers Compensation Board as the Government has increased the number of workers compensation boards from five to six. The Government will shortly increase them to eight, with the appointment of two additional boards.

The accommodation of the County Court building has been stretched beyond its lim-
its and on the first sitting day of February the County Court began to use four new court rooms at 471 Little Bourke Street. Additional County Court judges will be appointed during 1984 as the need arises and subject to budgetary limitations. However, it must be noted that the existing delays in the civil lists in the County Court are very moderate. In February the civil lists indicated that the oldest case which had been set down for trial was set down only as recently as August 1983. Secondly, the Chief Judge with my enthusiastic support has instituted pre-trial conferences in personal injury cases. These pre-trial conferences are being conducted by an officer of the court and we are currently looking at making provision for permanent accommodation for these conferences. At the moment they are being carried out in one of the court rooms at 471 Little Bourke Street. The early figures for settlement at these pre-trial conferences are very encouraging.

It may also be noted that the listing system in the County Court has been working extremely well.

CIRCUIT COURTS

There are generally no delays of any substance in the Supreme Court or the County Court in circuit towns. It is the policy of the Government to retain circuits in country Victoria, although with the jurisdictional change obviously some regionalization is necessary. In particular, it is unlikely that as many Supreme Court circuits will be needed in the country in the future as have been needed in the past. A revised roster for 1984 was issued in late 1983 and it is likely that this roster will be adequate. The business in the County Court in the country will expand and where necessary an additional circuit of the County Court will be held.

However, the Government has been keen to see that short and inefficient circuits, such as fortnightly circuits, be abolished in favour of having the court sit for a month instead of a number of fortnightly sessions. There have been some towns, such as Ararat, where the level of business in the last two years simply does not justify the continuation of a circuit and the circuit has for the time being been suspended. Should, in the future, the increase in the County Court jurisdiction mean towns which have had a circuit suspended can now justify a circuit sitting for, say a month, then that will certainly be provided.

THE CIVIL JUSTICE COMMITTEE

Rarely in the history of Victoria has there been an authoritative body with a singular function of analysing the operation of the civil justice system. The Higgins Royal Commission established in 1897 was perhaps the last example. The Civil Justice Committee was established in December 1982 by the then Attorney-General, the Honourable John Cain, with a brief in general terms to inquire into the nature and extent of the adjudicatory services required in the State of Victoria for the proper administration of civil justice.

The committee is chaired by the Chief Justice, Sir John Young, and other members of the committee are His Honour Judge Waldron, the Chief Judge of the County Court, Mr W. Clancy, a solicitor, Mr R. Stanley QC, Mr W. Byrt, an organization and management expert, Ms N. Patton and Mr B. J. Leonard, the Deputy Secretary of the Law Department. The committee is supported by a full-time research staff and is funded by the Victoria Law Foundation.

The genesis of the committee lay in a resolution of the Council of Law Institute in 1979 to the effect that the existing system was antiquated and needed an overhaul. The Law Institute subsequently invited the Victoria Law Foundation to carry out a research programme based upon a paper prepared by Professor Ian Scott. Professor Scott has remained the principal architect of the research of the Civil Justice Committee. A close liaison has been maintained with the Australian Institute of Judicial Administration which, since late 1982, has been looking at delays in certain Supreme Courts and which has also provided a great source of initiative in educating the legal community about the techniques of judicial administration.

One of the problems confronting researchers in this area has been the paucity of statistical data as well as the lack of written information concerning the administration of the courts. Consequently, much of the research work has been directed toward filling these gaps. Detailed surveys of cases in the Supreme Court, the County Court and the Magistrates Court have been conducted and there has gradually been a fund of information compiled regarding the
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administration of the courts and their operation. In May 1983 it was found that delays between the issue of a writ and setting down for personal injury cases reaching the listed stage ranged from 13.9 to 19.9 months and delays between cause of action arising and the issue of proceedings accounted for a delay of about nineteen months. Delays from setting down to disposition varied from 11.3 to 13.4 months.

It has become apparent that the Supreme Court's own information system is not sufficiently sophisticated to give an accurate indication of active pending cases, of disposition rates and current delays in cases proceeding in the courts. Such figures, as are routinely made available, do not give an accurate indication of how the court is managing to cope with its work and till this position is rectified it would be premature to prescribe remedies for the delay problems that exist.

In addition to carrying out its research work, the Civil Justice Committee has released three discussion papers dealing with topics of particular importance to practitioners and users of the civil justice system. The first considered costs related to contentious civil work and canvassed the option of having a single cost fixing authority in substitution for the present multiplicity of cost setting authorities.

The second discussion paper dealt with minor civil disputes and pointed out that minor civil disputes formed by far the majority of cases which are adjudicated in the civil justice system. The paper canvassed alternative methods such as arbitration, conciliation and mediation.

The third paper dealt with the principles and procedures for case distribution and raised the issue of whether there is a rational basis for distinction between the various Victorian courts having jurisdiction over civil matters: Relatively novel principles dealing with principles of court control, party control, case seriousness, case release and common form process were discussed and set out for comment.

All three discussion papers were distributed to a wide range of interested persons and organizations and comment was sought. The committee is anticipating making a report by the middle of this year and the broad range of experience on the committee together with the extensive research facility headed by the world renowned expertise of Professor Scott will ensure that its recommendations will be of fundamental and far-reaching proportion.

It might be said at this point that the Government has accepted the criticism made by Professor Scott and others that hitherto there is not, and never has been, a rational distinction between the workload of the Supreme Court and the County Court. It has, therefore, become the policy of the Government to see the County Court evolve as the major trial court for civil and criminal matters in this State. This does not mean that the major trials will be held in the County Court but rather the County Court will be the venue for the great bulk of ordinary civil and criminal trials. The court is well equipped for this function and its information systems and its listing systems are very good.

Further, it has a proven track record and a very satisfactory rate of disposal of cases. The Supreme Court will remain as the court which deals with appellate matters, the major criminal and civil trials and will operate the important functions of the practice court providing urgent injunctive and like relief to litigants, particularly in the commercial area. The quadrupling of the County Court jurisdiction has been the keystone of this policy to date and it may well be that as a result of the Civil Justice Committee that there will be a further broadening of the jurisdiction of the County Court in furtherance of the goal of the County Court becoming the major trial court.

It may be seen from the above that the Government has been particularly active in the field of delay reduction and I ought to state very clearly that the time is most opportune for the development and promotion of delay reduction strategies as there are so many interested parties in the legal community now working in this field. It is also worth noting that in debates in the Victorian Parliament this issue has been treated on a bipartisan basis, as there is a recognition among all working in the area that the question of delay reduction can be best approached from the point of view of the application of proper principles of judicial administration. The growing commitment to these principles certainly crosses the lines of political parties.
I should also pay tribute to my predecessor, the Honourable John Cain, who laid so much of the foundations of the Government's delay reduction strategy including the establishment of the Director of Public Prosecutions and the Civil Justice Committee.

In summary, it may be said that the unacceptable delays in indictable criminal trials between committal and trial have been substantially resolved and that the outstanding delays in the civil lists of the Supreme Court are being substantially reduced already and are likely to be reduced to a satisfactory point during 1984. Further, there is every reason for confidence that the satisfactory state of the County Court lists will continue to remain despite the increase in its business during 1984 and beyond.

**FUTURE ISSUES**

In order to build upon the substantial progress already made we must continue to examine the system to see that the courts are administered as efficiently as possible. We must ponder the fundamentals of the system. It is not enough to rely on a flurry of activity from time to time to burst particular bubbles of delay. We should be concerned to structure our institutions so that resources necessary for the proper functioning of the justice system are allocated and that those resources are used efficiently and that the goals of the system are properly achieved. In short, the system has to be administered properly. For too long Governments have neglected the vital issue of court administration.

A major issue which will have to be addressed by the Civil Justice Committee and by all of us in the community is the question of who is to run the courts. At the moment, there is a confusion as to who is in fact responsible for the running of the courts. The Law Department has a very large say in the operation of the Magistrates Court, whereas in the case of the County Court and the Supreme Court the responsibilities are divided between the Chief Justice and the Chief Judge in each case and the Law Department. Until recent years there has been little attention given to the problem of judicial administration but we must now address some fundamental questions. Who should run the courts? Can and should the judges be judges and administrators? If so, are they equipped to do it? What support do they need to be given? By what criteria are they to operate? To whom are they to be responsible for the administration of the courts system? If they are to be administrators, should the same sanctions be applied to them if they fail as are applied to other administrators who fail? Should they be dismissed or redeployed? Is there a conflict between their adjudicative and their administrative role? To what extent should the Law Department be involved in administration? What information systems need to be developed by it? What support should be given to the judiciary by the Law Department? Who should control the listing function? Who should make decisions about case allocation between the County Court and the Supreme Court? Who should determine how many judges sit in crime and in the various civil lists? By what criteria are such decisions to be made?

What is to be the role of the legal profession? Should its members be encouraged to have a say in the administration of the courts? Should the profession be better acquainted with the discipline of judicial administration? Should our law schools be teaching the subject of judicial administration? Should there be training courses for both the judges and practitioners on the subject? As has been indicated above, the Government is moving to evolve a rational distinction between the County Court and the Supreme Court in the sense of developing the County Court as the major trial court. Further, we propose to take the magistrates out of the Public Service and open the ranks of magistrates to the ranks of practising barristers and solicitors. It is also the policy of the Government to have magistrates themselves perform all the substantial work in the Magistrates Court and not have justices of the peace sitting in a judicial capacity on matters of any substance. In particular, I do not think justices of the peace should sit in cases where a penalty of imprisonment is provided. However, the timing of the implementation of this policy will depend on the availability of magistrates. Victoria has lagged behind other States in raising the legal status and independence of the Magistrates Court and some 20 per cent of summary jurisdiction in criminal or quasi-criminal cases is still handled by totally unqualified part-time justices of the peace.
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In order to plan for the future development of our courts and for more efficient administration, we need to develop an agreed statement of objectives and contents of the courts' administration function. There are no clear lines of managerial authority in some matters; there is a lack of accountability for the over-all effectiveness and efficiency of our courts.

In addition to highly diffused patterns of authority and accountability, administration is highly fragmented and reflects the three tiered structure of the court system. As a result, the potential advantages of an integrated administration have not been grasped. These advantages include:

- Economies of scale, particularly in the introduction of new technology, the ability to redeploy resources smoothly to reflect changing needs and priorities across the system. The capacity to develop more appropriate career paths with promotion based on merit, and the ability to plan, set priorities and co-ordinate.

With the lines of responsibility and authority so blurred, it is small wonder that developments relating to the courts have been piecemeal.

Other jurisdictions faced with similar problems arising from similar historical circumstances have engendered recommendations for the creation of a unified courts administrative structure. Most well known are the Beeching Commission in England and the model proposed by Commissioner Campbell in the report of the Royal Commission on Australian Government Administration.

I think that we need to give consideration in Victoria to establishing a statutorily based independent courts commission with the responsibility for the administration of all courts in the judicial hierarchy. This commission could operate in a number of ways. In its most basic form it could be composed of the Chief Justice, the Chief Judge of the County Court, representatives of the bar and the Law Institute, the Legal Aid Commission, the magistracy and consumer interests. It could at least perform an annual judicial audit of the performance of the courts and make recommendations in an annual report to Parliament for the courts. It would not, therefore, alter the present balance of power in the system, but it would invest in a single statutory authority the responsibility and capacity for making an annual report to Parliament on the performance of the court system and would involve all those connected with the court system in the process and it would institutionalize pressure on Government to devote more resources to the court system than it has in the past.

A more sophisticated courts commission could take over many of the responsibilities of the Law Department and have the day-to-day responsibility of running the courts as well as the responsibility of making an annual report to Parliament. These sorts of ideas, I think, need careful consideration in the coming months.

Whilst it is inevitable in the foreseeable future that State Governments will have great difficulty in substantially increasing expenditure and whilst we will never be able to achieve all that we would like in terms of new court buildings and additional facilities and resources for the courts, I am determined to see that the court system operates as efficiently as it possibly can within those constraints and I am determined to see that as much in the way of resources as can possibly be devoted towards the efficient running of the courts is so devoted.

As can be seen, the response to delays in the courts is not simply more judges be they in the city or the country. The solution is to make a concentrated effort on a number of fronts utilizing modern management techniques and the expertise of bodies such as the Civil Justice Committee. This Government is determined to solve the problem of delays in the courts and one cannot but agree that the Government has made substantial progress in this task.

Further initiatives will be forthcoming when the Civil Justice Committee reports. In the coming months we will also have to consider the institutional structures which will ensure that the age-old problem of delays in the courts is permanently solved.

However, there is every reason for confidence about ongoing delay reduction in the light of the real determination on the part of the Government and all those concerned with the administration of justice to get on top of the problem. The progress made to date is most encouraging.

The Hon. HADDON STOREY (East Yarra Province)—I move:
That the Ministerial statement be taken into consideration later this day.

The motion was agreed to.

PAPERS

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


Education Act 1958—Resumption of land at Boort—Certificate of the Minister of Education.


Police Service Board—Determinations Nos. 391 to 394 (four papers).


Water and Sewerage Authorities (Restructuring) Act 1983—Minister’s written reasons date 1 March 1984 for proposed recommendation to Governor in Council re an Order to constitute the Mitchell Water Board and abolish certain waterworks trusts.

On the motion of the Hon. HADDON STOREY (East Yarra Province), it was ordered that the reports and the Minister’s reasons pursuant to the Water and Sewerage Authorities (Restructuring) Act 1983 be taken into consideration on the next day of meeting.

EVIDENCE (AMENDMENT) BILL

The debate (adjourned from February 29) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. HADDON STOREY (East Yarra Province)—This Bill effects a number of unrelated amendments to the Evidence Act and in doing so improves it and brings it more up to date. The Opposition is not opposed to the Bill.

The Bill extends the confidentiality provision which relates to the Legal Aid Commission and to other legally aided bodies which receive instructions from clients in a situation where confidentiality ought to be preserved. This is desirable. Some provisions deal with the way evidence can be given. For instance, a child may give evidence on affirmation. At present, if a child is deemed to have the capacity to understand the meaning of an oath, that child can give evidence but the law does not permit the taking of an affirmation. This measure seems appropriate in the case of a child who has such an understanding.

The Bill enables the waiving of medical privilege in certain cases. This may be where a person is deceased and an event may come about which requires evidence of what the deceased person may have said to a medical practitioner. It may be a claim under the Wrongs Act and it may be in the interests of the deceased person’s spouse or children that this evidence be given. Some provisions allow the court to take judicial notice of the signatures or seals of certain titleholders in connection with this provision. I note that the previously existing Act spelt out the titleholders of whose signatures judicial notice could be given, and this measure extends that.

The Bill allows an affirmation to be given in place of an oath where a person objects to being sworn or where it is inconvenient to administer an oath in accordance with that person’s religious beliefs. There may be cases where a person’s religious beliefs require some act to take place at the time of the giving of the oath. An example of that may be a person of an Eastern religion under which the equivalent of swearing on the Bible is to kill a chicken in the presence of the witness. Clearly on most occasions, that is not an appropriate happening in a court. The Bill allows an affirmation to be taken in a case such as that.

From my own experience, I remember an occasion many years ago when I appeared in court and a witness declared that the only way he could take an oath was by blowing out a candle. However, no candle could be found anywhere in the courts. In the end, a compromise was reached where a lighted match was held up in front of the witness, who blew it out. Apparently, that satisfied the witness’s religious needs for taking an oath. Therefore, the amendment is convenient.

I turn to the provision of the Bill dealing with the appointment of commissioners. In the past, two forms of commissioners have existed: Commissioners appointed pursuant to the existing provisions of the Act and commissioners of the Supreme Court appointed by the judges of the court. The Bill brings together the two types of commissioners into one public commissioner who can take oaths in all courts. Lawyers and other people, such as teachers and prin-
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principals in the teaching service, policemen and councillors will be permitted to take declarations under this provision. Affidavits may be sworn and taken before any solicitor or any person authorized to take affidavits.

The Bill provides more convenient access to a person who can take oaths or before whom affidavits can be sworn. The amendments are unrelated, but they improve the effectiveness of the Evidence Act, and the Opposition commends the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party supports the Bill as it believes the amendments are desirable improvements to the Evidence Act. It is highly proper that the matter of oaths and affirmations be clarified. It is a procedure in the courts that has some significance and, obviously, if delays have been caused—particularly in a multicultural society as Australia is—because of differing religious beliefs, the options provided in the Bill are highly desirable, certainly where they relate to children.

I also entirely agree with the abolition of the two classes of commissioners for the taking of affidavits. Whatever the historical precedent may be, it is quite appropriate in this day and age that there be one class of person for the taking of affidavits.

I am intrigued by the clause in the Bill inserting a new Division 8, which sets out certain classes of persons before whom documents may be sworn. Without attributing any disrespect to any class of person, the classes of persons listed are so wide that one wonders why it is necessary to retain that provision and why a signature cannot be witnessed by any citizen. A postmaster or person in charge of a post office is eligible to witness signatures. In many small towns, the post office is situated in the corner store and the lady behind the counter is in charge of the post office. Presumably, she will be entitled to witness signatures. It may well be a sixteen-year-old shop assistant who is in charge of the post office.

A stationmaster or person acting as stationmaster of any railway station is eligible to take and receive a statutory declaration. Many country stations are unmanned and a local person has nominal charge of that station, therefore, falling within the ambit of the provision. Attention should be given to making any citizen eligible to witness signatures rather than spelling out classes of persons on official forms. It takes up a lot of space and it causes people concern as to why they must find someone of a certain class when it appears as though almost anyone could do the job.

To some extent, the Bill expands the ability of the Governor in Council to set fees by regulation. Over the past 22 months, honourable members have witnessed the Government's activity in a number of cases where fees that were previously designed to recover the cost of executing a service have been increased to such an extent that they are now raising revenue. I cite the example of the Titles Office—the cost of the registration of dealings with the Titles Office must be over and above the cost of the service. Although not opposing the extension of the regulation power in this instance, I ask the Government to be careful in its recommendations to the Governor in Council so that the fee increases are only to the extent necessary to recover costs and do not become a taxing measure.

The motion was agreed to.

The Bill was read a second time.

The Hon. J. H. KENNAN (Attorney-General)—By leave, I move:

That this Bill be now read a third time.

I thank Mr Storey and Mr Baxter for their comments. I have some sympathy with the points made by Mr Baxter about the extensive classifications of those persons before whom a statutory declaration can be sworn. The provisions have been in existence for some time, but attention will need to be given to the suggestion made by Mr Baxter.

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

INTERPRETATION OF LEGISLATION BILL

The debate (adjourned from February 28) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. HADDON STOREY (East Yarra Province)—As I mentioned directly after the Minister's second-reading speech, the Bill re-enacts, with amendments, the Acts Interpretation Act. The Bill is called the Interpretation of Legislation Bill be-
cause it covers not only legislation in the nature of Acts of Parliament but it also covers subordinate legislation. It is an extension of the provisions of the original Acts Interpretation Act, and it is extremely desirable.

The Bill was first tabled in another place and then referred to the Legal and Constitutional Committee which conducted a thorough examination of it, took evidence on a number of matters and recommended a number of amendments to the then Bill. The Government has accepted those amendments by and large, with one or two minor changes, and the result is the present Bill.

I draw attention to the form of the present Bill. It has adopted a recommendation of the committee that side notes be printed as sub-headings in bold type and that there should be a table of provisions at the commencement of the Bill. It was the committee's view that this would make it easier for people to follow a Bill and to find the relevant provisions in it.

There was a deal of debate in the committee as to the best approach to this and the report of the committee sets out a number of different ways of doing it, which were prepared by the Government Printer for the committee's assistance, variously showing side notes in bold type, italic and ordinary type and as sub-headings and, in the end, it is really a matter of impression. I am grateful to the Attorney-General and to the Government that they have brought out the Bill in this form because it enables the House to decide whether it prefers this form.

The committee recommended that there should be sub-headings in bold type as shown in the Bill and also that there should be side notes referring to the history of the legislation. One often finds in an Act a side note or marginal note in a section showing its history, that is, referring to earlier Acts of Parliament where the same provision can be found. This has been done in the schedule of the Bill where there are amendments to various Acts. It is not done in the main text of the Bill and I will be interested to know if there is any particular reason for that.

I have never been quite sure what the general rule is under which sometimes one finds marginal notes contained in a Bill and sometimes one does not. There are many clauses in the Bill which will become sections of the Interpretation of Legislation Act and it would be convenient for people to know, in the case where it is identical with an earlier provision, that the earlier provision was section so-and-so in the Act No. such-and-such so that they can see whether there has been a judicial decision on that to enable them to interpret the differences in the sections.

The Bill contains many provisions that were exhaustively analysed by the Legal and Constitutional Committee. I shall refer to two. One is the old business of what is meant by "shall" and "may" in legislation. Lawyers always seem to have no difficulty in saying "may" means "shall" from time to time, and vice versa. The draft Bill going to the committee contained provisions on this and the committee recommended a strengthening of this provision so that in future "shall" means "shall" and "may" shall mean "may", and that has been adopted in this Bill.

The Hon. J. H. Kennan—About time—it was opposed in some quarters.

The Hon. HADDON STOREY—Almost certainly. The major factor distinguishing this Bill from the earlier Bill is the provision dealing with the ability of courts to have access to extrinsic evidence in interpreting a provision of an Act. The committee heard a lot of evidence saying that the courts should be entitled to look at the records of Minister's second-reading speeches, debates in Hansard and other documents which may throw light on why a particular form of words was used in an Act. In that way courts would derive a great deal of assistance in interpreting an Act if there were some ambiguity that needed to be resolved.

The committee also heard evidence from others who said there should be no provision to this effect, that courts should interpret the words as they appear, that the meaning ought to be found from the words as they appear in the Act and that there should be no recourse to extrinsic evidence.

The committee's view was based on the fact that practising people look at extrinsic evidence from time to time; on a number of occasions in the High Court and in other courts where judges have said it is permissible and desirable in appropriate cases. Eventually, the committee decided there should be access to extrinsic evidence and
that there ought to be some statement of the provision that would be looked at. This does appear in clause 35.

Members of the legal profession and others will say this is not an appropriate provision, but the committee’s view was that it ought to be spelt out to make it clear to courts that they may have access to this information to help with interpretation. But the committee noted that courts cannot depart from the clear meaning of the words and that they should have access to this sort of evidence only where there is some doubt as to the meaning of the words in the section, and where they can derive some assistance from looking at what appears in the records of proceedings of the House and in similar documents.

I commend the Attorney-General for introducing the Bill and for taking note of the committee’s report. I acknowledge the assistance given to the committee by many people who gave evidence before it, particularly Parliamentary Counsel, Mr Eamon Moran, who had done a thesis on the subject of the Acts Interpretation Act and was able to assist the committee considerably. The Liberal Party supports the Bill.

The Hon. W. R. BAXTER (North Eastern Province)—The National Party supports the Bill and is pleased the Government has acted on the report of the Legal and Constitutional Committee. It is a proper function of the committees of Parliament that they bring in reports which in due course, by and large, are acted on. I am somewhat concerned that since the coming to office of the Cain Labor Party Government, the restructuring of the committee system from eight to twelve, the appointment of high-powered staff, the earlier sittings of the Parliament and the like, are somewhat interfering with the efficient operation of the committees that have been experienced in the past.

It would appear from this report that at least the Legal and Constitutional Committee is still able to function efficiently and adequately, and honourable members have before them an example of its work.

I am pleased by the move towards simplifying the language, construction and setting out of Acts of Parliament. Not only are they consulted by people who are skilled in the law and who are accustomed to reading complicated documents, but increasingly more average citizens are resorting to the statute-book, and it is difficult for the average person to gather the exact meaning of many of the laws of this State. However, I am not sure that we have gone far enough.

I have selected at random a passage from page 14 of the Bill. It reads:

30. Where a subordinate instrument or a provision of a subordinate instrument is repealed and re-made (with or without modification) then, unless the contrary intention expressly appears—

(b) insofar as any subordinate instrument made or other thing done under the repealed subordinate instrument or provision, or having effect as if so made or done, could have been made or done under the re-made subordinate instrument or provision, it shall have effect as if made or done under the re-made subordinate instrument or provision.

I should have thought that most citizens would have difficulty in coming to terms with what that means; however, progress is being made. I am impressed by the use of bold type headings in the Bill. That will enhance understanding and render easier the location of specific passages.

We have a long way to go in respect of the reprinting of Acts of Parliament. Nevertheless, I give the Government credit for appearing to expedite the process; reprints are appearing more quickly than in the past. As an example of the urgent necessity of getting on with the job, I refer to the Local Government Act, which is consulted widely. It was last reprinted in December 1975 and has since been amended by 69 amending Acts. It is now an absolute jumble so that it is difficult to understand the gist of it, even for those of us who work in this place and have the benefit of the amendments being inserted in the correct place by the staff in this building. Other persons do not have that facility.

The Hon. B. A. Chamberlain—A reprint is due this month.

The Hon. W. R. BAXTER—I am grateful for Mr Chamberlain’s comment that a reprint is imminent. Nine years is too long a period to wait for a reprint on such a widely consulted piece of legislation.

The Bill deals with what it refers to—purposive interpretation of Acts of Parliament—and that is desirable. I have often felt that interpretations handed down by the courts, by public servants administering the
Acts of Victoria and by other instrumentalities, have had insufficient regard to the spirit of the legislation or the will of Parliament. I hope the classes of extrinsic matter that are specified in the Bill will assist in interpreting the will of the legislature on particular aspects of legislation. I am not certain that a lot of difficulties will not be encountered; it may be necessary in the future to be even more specific, but the Bill represents a bold and worth-while step. Experience will indicate whether it is desirable to go further in this direction.

I note the reference in the Minister's second-reading speech to the use of gender neutral terms. As he indicated, that did not need legislation per se, but the Government has issued an instruction that gender neutral terms are to be employed. That is what one might expect, but I am not sure that it adds much to the productive capacity of the nation. I believe much time will be spent and a lot of complications will be added by insisting on gender neutral terminology. I should have thought that the previous provision in the Acts Interpretation Act, under which the masculine denoted the feminine, was sufficient.

The Hon. Joan Coxsedge—You would! That is why you have such a large following.

The Hon. W. R. Baxter—I will give Mrs Coxsedge an example of how stupidity can reign supreme in the use of gender neutral language. Recently, I attended a function in the Civic Theatre at Albury, which was staged by the Albury-Wodonga Fruit Fly Circus. It was a well-attended function and, in view of the mirth emanating from the Government benches, I will explain that the Nanjing Acrobatic Troupe from China also performed; the five performances were sold out. At the opening ceremony, which was attended by guests, a lady was introducing another human being who was standing beside her. So far as I could see, this human being was male: He was wearing the customary male garb of a pin-striped suit, he had a moustache and spoke in a deep voice. However, apparently the lady was not too clear as to the gender of the other human being because she introduced him as the Chairperson of the Australia Council. That to me is an illustration of how silly one can become. The person was obviously male and thus the Chairman of the Australia Council. Why was he not introduced as such?

Having made that point, I indicate that the National Party supports the Bill.

The Hon. N. B. Reid (Bendigo Province)—The Bill is the result of considerable work by the Legal and Constitutional Committee. Its purpose is to shorten and simplify the language used in Acts of Parliament. I am sure everyone welcomes the simplification of language in any legislation because of the difficulties that can result from the interpretation of legislation.

I raise for the consideration of the Attorney-General an item referring to the use of extrinsic material in the interpretation of an Act or subordinate instrument, as dealt with in clause 35 of the Bill. Clause 35 (b) (iv) provides:

In the interpretation of a provision of an Act or subordinate instrument—

(b) consideration may be given to any matter or document that is relevant including but not limited to—

(iv) reports of Royal Commissions, Parliamentary Committees, Law Reform Commissioners and Commissions, Boards of Inquiry or other similar bodies.

All of the organizations mentioned have legal status in the eyes of both the community and the law, yet tacked on to the end of the paragraph specifying those bodies are the words "or other similar bodies". Consideration needs to be given to whether anyone interpreting these provisions of an Act should take into account the use of extrinsic material which is provided by "other similar bodies", whatever they may be, if they do not have legal status in the eyes of the law or the community that those bodies already have, such as Parliamentary Committees which are able to call for persons papers and other documents.

In that case, people have a legal responsibility to appear before the committee and to give evidence, on oath, providing one with an assurance that the information given is true. The committee has the status to call people to appear before it, the same as applies to a Royal Commission, which is charged with a legal responsibility and is empowered to call witnesses before it. People are required to give information to a Royal Commission, which has status in the eyes of the public and of the legal profession.
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I raise this for consideration by the Attorney-General because I am concerned about whether the reference "or other similar bodies" should be deleted from the clause and the provision tightened up so that the bodies specifically mentioned in that clause are the only bodies which can provide additional extrinsic material relating to the interpretation of a particular Act.

The Hon. JOAN COXSEDGE (Melbourne West Province)—I wish to speak briefly in support of this measure and to make a few comments. Firstly, I should like to thank Dr Scutt who has been an inspiration to the Legal and Constitutional Committee by the way she has been totally dedicated to her job and by her capacity to bring about such a pioneering piece of proposed legislation. The measure is certainly a first so far as the "gender neutral" provisions are concerned.

Of course, what Dr Scutt has recognized, and incidently she had the full support of the committee, and what she was taking into account, was the changing role of women in our society. She is recognizing that we women are actually sharing positions of power, even if somewhat slowly—as in places like the Legislative Council. We no longer consent to having the "he" somehow or other being meant to include the "she".

We believe we are entitled to be recognized as individual people, and the whole use of language was one area where this was not always the case. It is something that actually took place a couple of hundred years ago when women seemed to take a more subservient role. As honourable members would know, historically, women are now playing a very important part in society. Then, for various reasons, women played a less obviously important part in society. In saying that, I am not demeaning—and I point this out to Mr Ounn, who is looking at me most anxiously—the majority of women who choose to stay at home; if that is their choice, to look after the family, and so on, so be it.

But there ought to be recognition on Mr Dunn's part that more and more women, for a great part of their lives, wish to take part in society in the broadest possible way. In other words, they want to work in the professions; they want to be able to come into Parliament, and they want to do the particular jobs that reflect their skills. It is important for that to be recognized and to be supported by our language, particularly in legislation, because Parliament is a lawmaking body, and yet, by using the word "he" in all the language, it is in a way diminishing and not recognizing the role of women in the 1980s.

It is not before time that we at last accept the fact that language reflects power in our society—very much so—and although people like Mr Baxter and others are very slow to wake up to the changes that have taken in our society—

The Hon. C. J. Kennedy—They are slow learners.

The Hon. JOAN COXSEDGE—They are very slow learners, indeed. Surely they must look around them and see that what we are really doing in this Bill is recognizing reality. We are not suggesting anything that is not already happening. I am sure that honourable members will find that women's groups generally will applaud the Bill on this aspect alone, forgetting all the positive aspects that have been raised by other members during the debate.

The measure is worthy of recognition and will be used by other legislatures around the country and, I suspect, around the world, as a model for similar types of legislation. Again, I wish to recognize the work of Dr Scutt in the preparation of this Bill.

The DEPUTY PRESIDENT (the Hon. K. I. M. Wright)—I am of the opinion that the second reading of this Bill is required to be passed by an absolute majority.

As there is not an absolute majority of the House present, I ask the Clerk to ring the bells.

The motion for the second reading of the Bill was agreed to by an absolute majority of the whole number of the members of the House, and the Bill was read a second time.

The Hon. J. H. KENNAN (Attorney-General)—By leave, I move:

That this Bill be now read a third time.

I should like to reply to some of the comments that have been made during the debate. I am grateful to Mr Haddon Storey for his comments, and I should indicate, as I did on an earlier occasion, that the Government acknowledges his excellent work in
the preparation of the earlier Bill. It was ultimately introduced by this Government. I also acknowledge the work of the Legal and Constitutional Committee, which, as Mrs Coxedge said, has produced from our researchers—and I say "our" because I was a member of that committee until September last year—probably the most comprehensive report of its kind in the common law world, and the committee is to be congratulated. I should also remark on the work done by Mr Eamon Moran, to whom Mr Storey referred.

Mr Baxter made a useful contribution to the debate. I might add that his view about the "gender neutral" clause was not shared by his colleague, Mr Milton Whiting, in his enlightened approach as the chairman of this constructive all-party committee.

I remind the House that the Government is anxious to implement reports of this kind where all-party committees have reached a consensus view or, in this case, on most issues, a common view of a majority.

Finally, I should like to refer to the points raised by Mr Reid, which related to clause 35 (b) (iv). Mr Reid would be aware that the committee considered some six alternatives in relation to the old clause 32 (2). It was one of the most contentious matters at the time. We had to decide whether, if we were to have reference to extrinsic materials, we should go to the short form that would mean any material that the court may think relevant, or whether we should try to categorize them and, if so, what would be the cut-off point.

This was one of the issues the committee considered and eventually resolved. In clause 35 (b) (iv) it should be noted that the reference to Royal Commissions, Parliamentary committees, law reform commissioners and commissions, boards of inquiry or other similar bodies, refers to bodies that have a certain status; but they are not necessarily exhaustive. There may be bodies other than those that fall within the precise definition that make reports. A situation may occur where legislation is recommended as a result of those reports and the legislation may end up in the courts for purposes of interpretation. In seeking to interpret the purpose behind a particular clause, the court may want to examine the report upon which the Government acted in introducing the legislation.

One may have, for instance, an inquiry into a corporate collapse or some difficulty in the commercial world. The inquiry may not be by a Parliamentary committee, a board of inquiry or a law reform commission; it may be by a board of inquiry constituted, for the sake of argument, under the Evidence Act. It may be an inquiry that does not fit within those precise definitions, but it would be a body that would make recommendations that would ultimately result in legislation in the same way as these other committee reports do and as the report of the Legal and Constitutional Committee has done in this Bill. Indeed, the report of the Legal and Constitutional Committee may well be looked at by a court in seeking to interpret the purpose behind particular clauses in this Bill.

Finally, I wish to refer to one other matter that Mr Storey raised, and I am sorry I did not do so earlier. Mr Storey asked why there are no sidenotes, as recommended by the committee, giving the legislative history. Can I give a bold answer? The Government regarded the Bill as day 1.

The Hon. B. A. Chamberlain—You do not recognize anything that occurred before that?

The Hon. J. H. KENNAN—No. Future amendments will certainly contain the legislative history.

The motion for the third reading of the Bill was agreed to by an absolute majority of the whole number of the members of the House, and the Bill was read a third time.

WRONGS (ANIMALS STRAYING ON HIGHWAYS) BILL

The debate (adjourned from February 28) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. HADDON STOREY (East Yarra Province)—This small Bill modifies the common law relating to animals straying onto the highways. Although it appears to be a small Bill and although it was introduced by the Attorney-General as though it were a most eminently reasonable provision, in fact it has a long history.

The principle of common law which is sought to be repealed by the Bill came about in England in the last century at the time when there were not as many fences on land or highways as there are now and when there
were no motor cars. In those circumstances at the time it appeared to the common lawyers, the judges and the courts that people who owned or controlled land adjoining a highway should not have responsibility for straying stock. Therefore, that exception was drafted into the law. Although in every other circumstance it was recognized that, if a person acted without reasonable care and as a result of that lack of reasonable care somebody suffered some injury, the person who suffered injury was entitled to damages from the person who failed to exercise that duty of care. That provision is held not to apply in the case of animals straying onto highways.

Times have changed to such an extent that that rule was repealed in England in 1971. It was held in Canada no longer to be part of the common law. However, some years ago when a case arose in Victoria—the case of Brisbane \textit{v.} Cross—the court was required to decide whether it was still part of the law of Victoria. The case of \textit{Brisbane v. Cross} is illustrative of the problem.

On 31 March 1975 a motor cyclist was travelling along a country road at about 50 miles an hour when he collided with an Angus steer which was running across the road; the motor cyclist suffered injuries and claimed damages. The collision occurred outside the property of the steer's owner, who admitted that the steer was very wild and had previously escaped three or four times. It did not matter that the owner had admitted that because the Full Court of the Supreme Court of Victoria held that the rule known as the rule of \textit{Searle v. Wallbank} still applied in Victoria and that the owner was not liable for the injury which was suffered by the motor cyclist.

The court said that it was part of the common law of England that Victoria had inherited and, therefore, was still part of Victorian law and that it was not for the court to change the law but that it was up to the legislature. The matter was later referred to the Statute Law Revision Committee, which examined the matter and heard a great deal of evidence. It is interesting that some matters of great moment go before Parliamentary committees and not many submissions are received. However, on this matter there were written submissions from as varied a group of people as representatives of the Royal Society for the Prevention of Cruelty to Animals, the Royal Automobile Club of Victoria, the Mountain District Cattlemen's Association, the Law Institute of Victoria, the Conservation Council of Victoria and so on.

The Hon. D. M. Evans—And the Australian Appaloosa Association.

The Hon. HADDON STOREY—Yes. That association formed part of an additional 45 submissions given to the committee, which came out with a set of recommendations, the essence of which was that, although the rule was an undesirable rule, it was also undesirable to repeal it. The committee recommended the introduction of some concept of what was reasonable behaviour and what was not reasonable behaviour on the part of a landowner, and if the landowner did not comply with the suggestions set out in the report of the committee then and only then would the landowner be liable if some damage were caused.

The recommendation was not brought into law and it does not answer the general principle raised, which is whether a person should be responsible for the result of his or her lack of care. The Liberal Party has given this matter much consideration and is of the view that the general principle should apply equally to landowners as to anybody else. When damage is caused through lack of reasonable care on the part of someone, the person who suffers the damage has a right of action against the person who failed to exercise reasonable care. I stress that that does not mean that there is any absolute liability on the landowner. The landowner must prove that he exercised reasonable care. It casts no burden on the landowner.

If someone suffers injury or damage as a result of straying cattle, the onus is on that person to prove lack of reasonable care on the part of the landowner. It is only when the person who suffers the injury can prove a case that there is a cause of action available to them, or will be when the Bill is in operation. Many people, particularly in country areas, are genuinely concerned that the proposed change to the law will impose an unreasonable obligation upon them and place them in a position in which they will not be able to answer claims made against them. I hope the Attorney-General will point out that that is not the effect of the provision. Its effect is to render the owner liable only if it is proven by the person who brings action against the owner that the owner has
failed to exercise reasonable care. On that basis the Opposition does not oppose the Bill.

I have noted that the provision contained in clause 5 is in similar terms to the English amendment and will undoubtedly produce the same result. I have also noted that clause 2 provides that the measure will come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. It is important that the Government gives wide publicity to any change in the law resulting from the Bill in plenty of time before it comes into operation so that people may take whatever steps they consider appropriate to fix fences or to take out public risk insurance. They should be warned that the law will be changed before the Bill comes into operation. The Opposition does not oppose the measure.

**The Hon. W. R. Baxter** (North Eastern Province)—Mr Storey noted that this is a small Bill. He said that sometimes small Bills have serious ramifications. I could not agree with him more. I am disappointed that the Opposition intends to support the Bill because the National Party proposes to oppose it most vehemently. It is taking the situation from one extreme to another.

I noted in a debate earlier today that the Government has been acting on a Parliamentary committee report. Unfortunately, I am unable to pay the same tribute on this occasion because the Government, to some extent, has ignored the report and is flying in the face of its recommendations. The report was brought down by the Statute Law Revision Committee in 1978. Mr Storey alluded to the report in his remarks. I shall direct the attention of honourable members to the rather illustrious honourable members who comprised that 1978 committee. They included the Honourable Fred Grimwade, who is now the President of the Legislative Council, a man experienced in country activities and farming enterprises; Mr John Galbally, a very experienced member of Parliament and a Queen’s Counsell of significant reputation, whose opinion I would have thought would count; the former, but not lamented, Leader of the Opposition, Mr Landeryou, whose opinion I would have thought still counted with the Government, notwithstanding that he is no longer a member of the Ministry; my colleague, David Evans, who is well experienced in country affairs, and who has practical experience in keeping stock and whose opinion should have counted; Mr Tom Edmunds, who is now Speaker in another place, and a man of significant reputation; and other members who had experience to contribute to the committee. I am disappointed that the Government has seen fit to ignore the report of that committee.

That ruling in *Searle v. Wallbank*, which was clarified by the House of Lords in 1946, states:

1. That the owner of land adjoining a highway is under no duty to users of the highway so to maintain his hedges and gates along the highway as to prevent his animals from straying on to the highway; and

2. That the owner of land adjoining a highway is not under a duty as between himself and users of the highway to take reasonable care to prevent any of his animals, not known to be dangerous, from straying on to the highway.

In opposing the proposed legislation, members of the National Party are not supporting the ruling in *Searle v. Wallbank* in its entirety and in its literal interpretation. We believe farmers have a responsibility to keep fences in order and gates closed and to take steps so that cattle do not stray on to highways. Times have changed and, as Mr Storey indicated, when the common law case arose centuries ago, there were no motor vehicles moving at a rapid rate. There were not many fences and it was customary for cattle to wander largely at will. It was highly unlikely for a horse and dray to collide with a steer or, if it did, the speed of the impact made it unlikely for damage to result. The situation has changed entirely. People now drive fast cars along roads that they expect are clearways for them. Paddocks are customarily fenced in Victoria, although there are some exceptions.

Mr Storey mentioned the submission of the Mountain Cattlemen’s Association, which dealt with alpine areas of unfenced leasehold land. In some areas, particularly in New South Wales, large holdings are unfenced, and it is customary for warning signs to be seen indicating that stock are likely to be on the road for so many miles ahead.

The National Party does not consider that the legislation should remain as it is. Some clarification is necessary and probably is overdue. However, we are concerned that
the Bill will take the situation from one extreme to the other and it appears to place total onus on the farmer.

Clause 5 provides:

So much of the common law relating to liability for negligence as excludes or restricts the duty which a person might owe to others to take reasonable care to see that damage is not caused by animals straying on to a highway is hereby abolished.

That provision places the onus entirely on the farmer to prove that he had taken necessary care. I am supported by the former Statute Law Revision Committee in suggesting that the measure will lead to endless litigation. It will be a barristers' banquet to determine who is liable.

If the Bill had been cast along the lines of the recommendations of the Statute Law Revision Committee's report, at least farmers would know where they stand and there would be less cause for litigation and less need for case law to be built up. It would be clearer where the responsibility lies. If one examined the submission made by the Law Institute of Victoria to the committee in 1976, one would see that the institute expressed the view that:

(a) a change in the law should take the matter no further than to impose the ordinary common law rules of negligence upon owners of animals which stray on to the highway;

(b) the operation of the proposed legislation should not be limited to any particular area or classes of area, and the standard of care for any area should be decided by the courts on the particular facts of cases.

Again I shall use the often repeated term of Mr Landeryou; it will be a barristers' banquet. The Bill will invite litigation in the courts and the farmers will have to prove time and again whether they are liable. The submission continues:

(c) the type of animals to which a duty of care should attach should also be left to the courts.

Once again the provision will lead to more litigation. The National Party will suggest a reasoned amendment to provide that the Bill be withdrawn and re-drafted to embody the recommendations of the Statute Law Revision Committee. I shall invite members of the Opposition to support the fore-shadowed amendment.

The Victorian Farmers and Graziers Association, on seeing one of its kindred bodies mentioned by the Attorney-General, corresponded with me and with the Attorney-General on 1 March about the proposed legislation. I wonder whether the Attorney-General will take any notice of the representations made to him by the association. Not unnaturally the association suggested that no change should be made to the law but, like the National Party, it recognized a good and sound reason for its clarification and updating. On balance it comes down to the type of suggestion which was made by the Statute Law Revision Committee in its report, that special circumstances ought to be spelt out in the Bill on the farmers' liability.

The special circumstances were spelt out by the committee; it felt that it could not adhere to the existing law because the rule in Searle v. Wallbank may lead to some uncertainty. The committee suggested that the rule gave no protection to the motorist and that the Bill absolved landowners from any responsibility even if negligent. The National Party will not try to justify that. The committee suggested that the special circumstances should be spelt out in the Act. I suggest that that is the course of action that the Government should have followed.

The rule of Searle v. Wallbank should be retained but the special circumstances should be spelt out as follows:

(a) a landowner could not reasonably be expected to be held liable for damage incurred by a road user if--

(i) the road user is negligent;

(ii) the owner is unaware of the straying stock.

In many instances the owner has no way of knowing that his stock might be out on the road. It continues:

(iii) the stock escaped due to a third party's negligence.

Quite often that happens. For example, many farmers have no objection to people picnicking, mushrooming, shooting or the like on their private land but in many cases, even if the people respect the rights of the farmer, their visitors leave gates open when they leave the property. Those visitors may leave the property as they found it but, if gates are left open either inadvertently or deliberately, in the minority of cases, stock may stray on to the road without the farmer having any control or means of knowing that the gate has been left open.
Another example is where a motorist runs off the road and breaches a fence. The damage to the car may be insignificant and the driver may be able to drive away, but he or she may not report the incident to the police or the farmer. The fence that has been damaged enables the stock to wander on to the road but the farmer has no means of knowing that the damage has occurred. In that case the farmer may have to go to court to prove that he is not responsible.

On the face of the Bill as it is drafted—which the Opposition supports—the farmer will have to go before the court to prove that the incident that occurred was beyond his control and that he had no way of knowing that it had occurred. The farmer is put to unnecessary expense and ensuing litigation clogs up courts unnecessarily. The fourth circumstance that was included in the special circumstances was:

... the stock escaped due to some "Act of God".

Similar circumstances to the two that I have outlined may apply during a storm when branches of trees are brought down and breach a fence. In that case stock may escape. A fire might also enable stock to escape. The Statute Law Revision Committee referred to those circumstances as special. That is overstating the case. They are not special circumstances; they are ordinary, everyday circumstances that can occur at any time.

Those circumstances may apply in any rural district. The proposed legislation should specifically take account of them rather than allowing the resort to litigation and the incurring of high legal fees in sorting out the matter. The definition of special circumstances continued:

(b) a land owner could be deemed to be negligent if—

(i) he was aware that his livestock were on the road and had not taken adequate action to remove them; and

(ii) he was aware that stock could stray on to the road and had not taken adequate action to prevent them or to remove the stock from the boundary paddocks;

They are fair qualifications. Obviously if the farmer knows his stock are on the road and takes no action to remove them as expeditiously as possible, negligence should accrue to him. Part (c) of the special circumstances states:

(c) a land owner should be regarded as being aware of the above situation if he—

(i) had been advised by the police;

(ii) had been advised by the local council; and

(iii) had not taken sufficient action to either remove livestock or prevent them from wandering on to the road.

The National Party wishes the provisions to go further than that. Section 546A of the Local Government Act gives municipalities the right to issue a notice to ratepayers to keep their fences in order and restore them if they are becoming decrepit. The provision is to keep stock within the boundaries of the property. That is fair.

If a landowner has received a notice from his municipality to repair his fences, that should be considered as advice received by the local council. In other words, if a landowner has received the notice on a particular date yet six weeks later he has not acted upon it and some of his cattle have strayed out on to the road and caused an accident, the farmer should be taken to be aware that the cattle either were on the road or were likely to stray on to the road.

To that extent, the National Party is going somewhat further than the Statute Law Revision Committee did at the time.

The Hon. R. J. Long—that section is rarely used by municipal councils.

The Hon. W. R. Baxter—it is rarely used and I believe councils should have greater resort to that section. My own experience in local government endorses Mr Long's view. I recall it being used on only two occasions when I was in local government. Nevertheless, it is a section that may have greater use in the future. The Law Institute's recommendations to the committee appear to be what both the Opposition and the Government want to prevail and I advise the House of the committee's views on the concept of leaving it to common law. Paragraph 49 of the report states:

The Committee now turns to the proposals of the Law Institute of Victoria as an alternative to the rule in Searle v. Wallbank. The Institute seeks to impose the common law rules of negligence in place of the existing rule. The Law Institute has argued that the objective of its proposal is to remove the uncertainty which surrounds the Searle v. Wallbank rule. The Committee, however, believes that the proposals will
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not achieve their desired objective. The main criticism of imposing the law of negligence is that it will result in much uncertainty.

That is the point stressed by members of the National Party. The Bill exchanges one uncertainty with another. The report continues:

The courts over the years will establish just what action, or lack of action, is deemed to be negligent. The Committee considers that, as a result, an owner of livestock will not know his actual responsibility until years of litigation have defined it.

Again, as I have indicated, much expense will be incurred in the way of lawyers' fees and much time will be lost in establishing the precise situation. The report continues:

The Committee also agrees with the evidence presented that the onus would appear to be placed considerably upon the land owner and he could have great difficulty in proving in court that he had discharged his duty of care.

This is my point in answer to Mr Chamberlain's earlier interjection. Why should Parliament foist on stock owners and on farmers the onus that an owner has discharged his duty of care? The paragraph concludes:

It is also probable that he could have great difficulty in proving contributory negligence on the part of the motorist.

Obviously, that is so. Many accidents that occur are not reported to the Police Force. The farmer is not there to witness the accident. It is simply a report given by the person involved and his view of the circumstances. The farmer would have tremendous difficulty in proving negligence by the motorist.

The Hon. R. J. Long—What about the farmer who never fixes his fences?

The Hon. W. R. BAXTER—I have already alluded to section 564A of the Local Government Act which has some regard to the problem and, certainly, the circumstances I have set out would cover that situation as well because if the farmer habitually allowed fences to fall into ruin, it could not be held that he was not aware that his stock was straying or likely to stray onto the road. Therefore I move:

That all the words after "That" be omitted with the view of inserting in place thereof "this Bill be withdrawn and re-drafted to embody the recommendations for legislative change contained in the report of the Statute Law Revision Committee upon the Law relating to Animals on Highways dated 2 November 1978". I invite the House to support the reasoned amendment so that the Bill can be given a fresh examination. I implore members of the Opposition, many of whom claim to represent country provinces, to give the amendment full support.

The Hon. D. G. Crozier—Not claim to represent, do represent.

The Hon. W. R. BAXTER—I take Mr Crozier's point. As a practical farmer, he knows that most of the farmers in the province that he represents are concerned about the implications of the Bill as presently worded. I am quite sure many country members of the Opposition will be prepared to support the National Party's amendment. I reiterate that the National Party is not opposing a change to the law; it concedes that the law at present is unclear and needs updating, but it is opposed to the sweeping change that is going from one extreme to the other.

I am somewhat surprised at the wording of the Bill. I am not sure how one abolishes common law—I thought one could abrogate it but common law, being as it is, is difficult to expunge and abolish.

The Hon. B. A. Chamberlain—is that a legal opinion?

The Hon. W. R. BAXTER—It is not a legal opinion. It strikes me that the wording of the clause would lead to all sorts of litigation to decide what it means. It refers to animals straying onto a highway. What is the definition of straying? For example, would it be a defence by an owner accused of allowing his animals to stray onto a highway to say that he did not allow them to stray, that he put them there on purpose and, therefore, his animals were not straying?

The Hon. D. G. Crozier—A brilliant defence from Mr Baxter, QC!

The Hon. W. R. BAXTER—I am glad that Mr Crozier supports my interpretation of the clause.

The Hon. R. J. Long—He did not say that it was successful!

The Hon. W. R. BAXTER—The National Party is very concerned about the Bill. It believes a change to the legislation is necessary, but it is not convinced that the
Bill is appropriate and, therefore, seeks to have it withdrawn so that further consideration can be given to it and that the unanimous recommendation of what might be considered a very expert committee of Parliament can be embodied in the proposed legislation. I invite honourable members to support the amendment that I have moved.

The Hon. M. J. Arnold (Templestowe Province)—The Government is opposed to the National Party's amendment. The purpose of the Bill is to abolish an anomalous common law rule that an owner or occupier of land has no duty to users of the adjoining highway to maintain fencing or otherwise prevent livestock from straying onto the road no matter how grave a risk the livestock creates or how easy it is to prevent the risk occurring. In view of the allegations Mr Baxter made that the purpose of the Bill is to create a "barristers' banquet", I declare my interest in that I am a solicitor—and perhaps I can declare the interest of the Attorney-General also. As I believe there always will be life after the Legislative Council, it probably is necessary to declare our interests.

The common law rule was reaffirmed in the case of Searle v. Wallbank, as has been discussed previously. The decision was handed down in 1947 and was eventually abolished by the English Animals Act 1971. The rule has been the subject of extensive criticism by the judiciary, by academic commentators, by the Law Institute of Victoria and various law reform commissions, as pointed out by Mr Baxter.

The abolition of the rule in Victoria has fairly universal support. It is supported by the Law Institute of Victoria, the Municipal Association of Victoria, the Royal Automobile Club of Victoria and the Insurance Council of Australia. The reform is also generally supported by the United Dairy-farmers of Victoria and, to some extent, by the Victorian Farmers and Graziers Association. The abolition of the rule is also supported by an organization known as the Provincial Cities and Towns Association of Victoria. That organization replied in the affirmative to a letter from the Country Residents Committee of the Law Institute of Victoria and is fully in support of the abolition of the rule. It is incongruous that the National Party seeks to oppose the Bill which is obviously strongly supported in country and provincial cities. This is evidenced by the support the proposed legislation is given by country members of the Liberal Party.

The Hon. W. R. Baxter—You have not heard from them yet. Wait on!

The Hon. M. J. Arnold—Judging by the reactions of the country members of the Liberal Party to the bush lawyer's comments made by Mr Baxter, I will have no doubt they will all fall in behind the Government in solid support of the Bill which could have been introduced probably some ten years ago.

The Bill strikes a balance between safeguarding users of the highway without imposing an undue burden upon owners and occupiers of land. The National Party is concerned that an undue burden is placed on the farmers. This is not so. All that is required of farmers—as is the case with all Victorians—is that they observe a reasonable standard of care and, providing that is the case, they will not be liable for any damages for any injuries they may cause. There is no doubt that Victorian farmers realize the need for fencing and have demonstrated this in the excellent way they fence their properties.

The likelihood of being "litigants uncontrolled", so to speak—as mentioned by Mr Baxter—is not a probability providing the proper duty of care is exercised and proper fencing is carried out. If this is the case the incidence of cases coming before the courts will be limited. One must take into account the disproportionate burden that falls upon a motorist or the passenger of a motor vehicle which might come into collision with an animal that has strayed onto a highway.

The motorist or passenger could be severely injured and, under the current circumstances, can be left with inadequate compensation. This could easily be overcome if proper fencing were provided and care exercised.

The Hon. R. I. Knowles—What is proper fencing?
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The Hon. M. J. ARNOLD—The type of fencing that a reasonable farmer would have in all the circumstances. The two jolly backbenchers from Ballarat would have a sound idea of what would constitute reasonable fencing for farmers to provide. If perchance there were some act of negligence on the part of the farmer he could take the precaution of obtaining insurance which every other businessman and citizen in every other circumstance must acquire.

Is there any reason why a farmer should be placed in a privileged position? I think not. Farmers are responsible members of the community. They understand the burdens they can cause others by negligently allowing animals to stray on to highways. They can take action either by providing proper fencing or, to cover any negligence cases, they can take out insurance. That would not be regarded as a disproportionate burden.

The various law reform committees that have reported on the matter have concluded that abolition of the rule should not result in a significant financial burden being imposed upon owners and occupiers and that it might not increase at all the costs of those farmers and graziers who employ sound farming and grazing practices. That is the reason why Mr Chamberlain, Mr Crozier and other country members support the proposed legislation. They understand the sound farming practices that fall in line with the proposed legislation. The proposal put forward by Mr Baxter is tantamount to saying that farmers are negligent and do not adopt proper grazing practices. We deny that emphatically.

The abolition of the rule merely gives road users the same legal rights to compensation as are currently available to all persons in the community who suffer personal injury or damage due to another's negligence. It is therefore consistent with established legal principles accepted by the legal profession and the public both in the rural and urban areas.

The abolition of the rule and the application of the normal principles of negligence would not in all circumstances require the keeper of animals to keep his or her animal from straying on to the highway. Nor would it impose on occupiers of land adjoining the highway an automatic and general duty to fence. Rather it would impose upon landowners a duty to take such care as is reasonable in all the circumstances. In practice most owners would insure against the risk and thus would not bear any financial burden other than the increased premium cost. This is a cost that most prudent householders and businessmen and women would take.

The Hon. D. G. Crozier—Do you know what the cost will be for a typical farmer?

The Hon. M. J. ARNOLD—At present I do not have the cost figures at hand. I am sure the insurers and the Insurance Council of Australia, which support the proposed legislation, would be able to accurately point out that it would not impose a substantial burden on farmers, particularly when compared to the burdens imposed on those people who may suffer injury as the result of accidents that occur in the circumstances.

Mr Storey was concerned about the date of proclamation of the proposed legislation and the need for the Government to give due publicity to the Act prior to its proclamation to ensure that landowners and occupiers can ensure that they have adequate fencing and insurance. I am certain that that undertaking can be given so there will not be an early proclamation and farmers and graziers are able to take adequate safeguards.

The Hon. B. A. CHAMBERLAIN (Western Province)—It is important to concentrate on the principle at issue and that is the need to have consistent legal principles applying and the application of equal protection to all users of the road who are injured through whatever circumstances.

The National Party suggests that a person who is injured as a result of the negligence of another driver when driving a motor car on the road should have the right to compensation but that a person who is injured as a result of colliding with a wandering animal which is on the highway, with the knowledge and sanction of the property owner, should have no right to compensation. That is nonsense and is unfair.

I have believed for a long time that the law is anomalous. I am concerned for the users of the road, and for their families. These are not just people from the city but many are from the country. At the moment a farmer can know that his fences are bad and can know that his stock is wandering...
on the road but that farmer also knows that he has no potential liability arising out of those circumstances, even though the presence of his livestock on the highway could cause injury or death.

The Hon. W. R. Baxter—The National Party is not opposed to that provision being included.

The Hon. B. A. Chamberlain—In that case the National Party should support the proposal contained in the Bill because a farmer who acts prudently in the management of his property and animals has nothing to fear from the proposal.

On the other hand, a farmer who knows or who ought to know that his stock is wandering on the highway, thereby causing danger to others, should bear the economic consequences of doing so.

The Hon. D. M. Evans—Has Mr Chamberlain read the Statute Law Revision Committee report?

The Hon. B. A. Chamberlain—Yes, I have read that report, and it is one of the poorest reports ever produced by that committee. The committee squibbed its responsibilities and came up with a recommendation that was neither one thing nor the other.

It is important to emphasize that what is proposed is not a system that imposes absolute liability on the owner of the property whose stock wanders on to the highway: it provides that if in fact a plaintiff suffers injury or damage to his property and he can demonstrate upon the balance of probabilities that that injury was due to the negligent management of the owner of the property then the plaintiff has a right to compensation.

That is the same provision that operates for ordinary highway users. If I am driving home at the end of this week and I am involved in a road collision and I am injured, and I can demonstrate that that injury was caused as a result of the negligence of the driver of another vehicle, I have the right to compensation. That is the only system I want. On the other hand, if the other driver can demonstrate that I was driving too fast and therefore I contributed to the accident or that I was on the wrong side of the road and caused the accident myself, then I am not entitled to compensation or my compensation is reduced.

The normal principles of negligence should apply in this case. One has to look at the matter from the point of view of the users of the road. The concept of negligence is flexible—it is not hard and fast. It takes into account what is reasonable in all the circumstances of the case.

The Hon. D. M. Evans—That has to be decided by the court.

The Hon. B. A. Chamberlain—Yes, of course, it does in every case of negligence. One has to bear in mind that the majority of cases do not go to court but are settled out of court because the parties handling the case are experienced in assessing the factors involved.

In high country areas there is very little in the way of fencing and obviously different standards of care apply compared with settled farming areas such as that in which I live. In the desert, it is common knowledge that fences are poor because of the sandy conditions and stock is likely to be on the roads. Signs usually indicate that stock may be on the roads. Different considerations apply.

The law of negligence takes into account the different types of territory involved and whether a farmer knew his fence had been breached. Honourable members are aware that occasions occur where people run a car through a fence and keep going without telling anyone that the fence is down. There are also cases where a shooter will deliberately cut a fence to get into a property. The law would work in such a way so as not to penalize the farmer. The obligation is still on the plaintiff to demonstrate, on the balance of probabilities, that he has a right to compensation.

The Hon. D. M. Evans—On the one hand this, on the other hand that—it depends which hand.

The Hon. B. A. Chamberlain—All Mr Evans is doing by interjecting is demonstrating his ignorance in this area. The issue of the law of negligence is well settled. There are very few cases that lead to new principles. It is a settled law which is fairly safe— that if a person acts in such a way that he ought to realize that as a result of certain action someone else can suffer injury, he is responsible to compensate the injured party.

My family and the family of Mr Evans who use the roads of the State, are entitled
to reasonable protection and to know that there is an obligation on the farmer to keep his stock fenced in.

The Hon. D. M. Evans—There already is.

The Hon. B. A. Chamberlain—Mr Evans is confusing two different issues. There is certainly a provision in the Local Government Act that boundary fences must be kept secure. There is also a provision in the Motor Car Act that a person shall not speed. If a person is speeding on the road and causes an accident he has to bear the economic consequences. That same principle should apply in this case. The Local Government Act provides that property should be fenced, but if a person deliberately does not fence his property and knows his stock is wandering, he should be liable for any damage caused by his stock wandering on the road.

The Statute Law Revision Committee was too blinkered and too restricted in its approach. I understand that it was Mr Baxter who suggested that the farmer could get out of his responsibility by putting the cattle on the road. If the farmer put his cattle on the road the general principles of negligence would apply. If the farmer does not manage his stock properly and injury is caused to others he is responsible.

I suggest to the Attorney-General that he insert, in clause 2, after the words, "come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette", the words "not being before July 1984."

The Hon. J. H. Kennan—That is acceptable.

The Hon. B. A. Chamberlain—I thank the Attorney-General for indicating that the provision will not operate before 1 July 1984. That will give the community time to repair fences and make the necessary insurance arrangements.

I cannot support the amendment moved by the National Party because it is not in the interests of the majority of people in the electorate I represent. The majority of farmers look after their stock and fences and have nothing to fear from the proposed legislation, but if the Bill is not passed, road users will be denied the protection of the road laws. That is not acceptable to me.

The Hon. D. M. Evans (North Eastern Province)—This small issue has engendered a lot of heat, although not a lot of light. There has been a considerable amount of argument and the two main protagonists fall into two groups—on the one side, the lawyers and, on the other side, honourable members such as Mr Baxter and those who support the motion moved by him.

The only real issue in this matter is the right to sue for damages. If a farmer allows his animals to stray on to the road, he will transgress by-laws of the local municipality. He will be subject to penalties under those by-laws, including the penalty of the impoundment of his animals, and if he does not collect them within a reasonable time and pay the charges that accrue because of his stock being impounded, they can be sold. He may be forced to go to court and to erect fences on his property.

The Hon. B. A. Chamberlain—What about the person he has made a quadriplegic?

The Hon. D. M. Evans—in that case, the passenger in a motor car would be able to sue the driver under a third-party liability claim.

The Hon. B. A. Chamberlain—I am referring to the driver himself. What if your wife was driving along the road?

The Hon. D. M. Evans—I am not sure on that point. If there is no negligence by the farmer or the animal owner, even under the argument that Mr Chamberlain has advanced—the debate has concentrated too much on farmers—the driver, regardless of whether he can obtain damages from some other source, would not be able to obtain them from the animal owner. It states in clause 4 "Animals Straying on to a Highway". I am assuming a "highway" means any road, byway or freeway on which traffic normally travels and one that is maintained, at least in part, by public expense. I am not sure of the definition of "animals" and do not know which animals are included.

It is clear from the debate that honourable members anticipate it will include cattle, probably horses and perhaps sheep. I wonder whether it extends to other animals such as goats, chooks, pigs or dogs.
The Hon. D. G. Crozier—Or even kangaroos?

The Hon. D. M. Evans—I was going to come to kangaroos, wallabies and wombats. There is the possibility that children may be walking the family dog down a city street, the dog breaks away from them, runs in front of a motor car, causing it to swerve and have an accident. That situation could quite reasonably be subject to litigation under the clause. The Statute Law Revision Committee which has been the subject of some quite stringent criticism by Mr Chamberlain—and I believe it is unfair criticism—examined this case very closely and, as Mr Baxter and Mr Storey have stated, took evidence from a large number of groups and individuals. I was a member of the committee which travelled interstate to Perth and examined the law in Western Australia with members of its Law Revision Committee.

The Hon. J. H. Kennan—Was that a junket; is that why you misunderstood the law? You have got the law wrong.

The Hon. D. M. Evans—It was not a junket. The committee examined the law in a number of different States. The Attorney-General is rather a rude person. The Statute Law Revision Committee examined this matter to try to see whether fairness and equity could be obtained. Quite clearly the purpose of the proposed legislation is to define under what conditions a person can sue and obtain damages for negligence. The crime of allowing animals to be unlawfully on any road is already dealt with under the Local Government Act. Penalties are provided whether or not there is an accident and despite damage being caused. The crime of allowing animals to be unlawfully on any road is already dealt with under the Local Government Act. Penalties are provided whether or not there is an accident and despite damage being caused. If an animal is the cause of an accident, one is quite properly subject to penalty. The provisions of the Fences Act can be applied to a farmer or animal owner whose fences are not in good order, regardless of whether his animals are out on the road or whether they are creating a problem. He can be forced by law to bring his fences up to a reasonable standard. Presumably if he does not do so, a transgression of the law of allowing animals on the road may occur.

There are many different ways in which animals can go on to the highways without them being under the control of the owner, and Mr Baxter has already mentioned them. There can be situations where there is an accident and a car goes through a fence, a storm where a tree falls across a fence, or a tree falling across a fence with no storm. Unlawful entry by a person is quite common and I have had personal experience of people entering my property, unlawfully breaking down gates and causing damage, and leaving the property in a way in which animals in the paddocks could have travelled on to the road and been the cause of accidents.

This is an increasing problem for landowners and it will become an increasing problem in the future for people living closer to metropolitan areas. There is a requirement for landowners to make the publicly-owned land adjacent to their properties available for public ingress. Honourable members will be aware that under current law a landowner who has an unused Government road alongside his property has the responsibility to fence that road or to lease it. Fencing is an expensive item and it leaves the farmer with the additional problem of lack of control over weeds on the adjacent road. The wild growth of weeds can cause problems with fires, so normally the owner leases the land. It is necessary that he have an unlocked swing gate installed to allow access to the public. There is a requirement along water frontages for the landowner to allow public ingress and to lease the frontage if he is to retain the riparian rights to the stream. There is the added problem of losing the fences when that land is flooded, so he may not always fence the land. However, there is still the problem of allowing public ingress. All these requirements relate to the number of animals on his farm.

The Attorney-General has explained that a person taken to court as a result of damage caused by animals straying on to the road has the right of defence. Even if the animal owner does not go to court, he may receive a letter from a solicitor suggesting that his animal was involved in a collision and there will be a claim for damages. He will still be subject to the expense of consulting a lawyer. The moment he walks into his lawyer’s office, a bill is prepared to compensate for the lawyer’s time.

The Hon. R. J. Long—What about you, if you drive a car you get the same treatment?

The Hon. D. M. Evans—That is quite correct. It does not seem to adequately set
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the scene for a suit for damages to be successful. The Attorney-General has argued that the National Party's claim concerning certain conditions of a negligence case is not likely to succeed. The National Party is arguing that under the Statute Law Revision Committee recommendations one should set out the conditions where the claims will not succeed. Under the Act if a farmer is a negligent farmer and has his stock on the road, he will be put under notice by the local council. The police may also have the right to do that for a period until his negligence has demonstrably ceased and during that time he may be sued for negligence.

Some farmers may not have public risk insurance. I believe they would have rocks in their heads if they did not, but negligent farmers may not carry liability insurance. If they are put under notice, there is the additional opportunity of informing those farmers that they will be subject to paying for damages. Those farmers would probably find it difficult to obtain insurance and it would be an additional penalty.

The provision suggested by the Statute Law Revision Committee is extremely wise. It recognizes the difficulties that landowners have. Section 33 of that report stated:

...that the imposition of the ordinary common law rules of negligence would impose unreasonable burdens on land owners because they would face substantial difficulties of proof in attempting to show that the duty of care had been discharged.

That was not the opinion of the committee; that opinion was submitted to it and it was taken up by the committee. Submissions advocating changes in the law stress the point that such changes should not reverse the current situation and place complete liability on the landowner, but rather should make the law just as equitable for both sides.

In 1975, in his judgment in the case of Brisbane v. Cross in Shepparton, Mr Justice McInerney considered it difficult to formulate special circumstances under which a claim for negligence and damages could succeed, and various attempts were made by the Statute Law Revision Committee to define such circumstances. The suggestion was made in the Statute Law Revision Committee report that the landowner could not reasonably be expected to be held liable for damage incurred by road users if the road user was negligent, the owner was unaware of straying stock, the stock escaped owing to third-party negligence, or the stock escaped owing to some act of God. The landowner could be deemed to be negligent if he was aware that his livestock were on the road and had not taken adequate action to remove them or if he was aware that stock could stray on to the road and had not taken adequate action to prevent them or to remove them from the boundary paddock. A landowner should be regarded as being cognisant of the above situation if he had been advised by the police or the local council and had not taken sufficient action to remove livestock or to prevent them from wandering on to the road.

The committee of which Mr Chamberlain was so stringent in his criticism also said, in section 48 of the conclusion on page 9:

The Committee believes there must be a clear responsibility on the landowner to keep his stock securely enclosed on his own property.

Some of those quotations should build a suspicion in honourable members' minds that the Statute Law Revision Committee did its work extremely well and understood the situation better than did city lawyers. The committee has come up with a reasonable and equitable change to the law and this is what the House should endeavour to achieve—reasonableness and equitableness.

It has been suggested that certain procedures should occur, under which a case for damage due to negligence could reasonably succeed. I believe the case put up by my colleague, Mr Baxter, is sensible and fair. It takes into account a large degree of responsibility by the landowner and the need for the motorist who is injured as a result of a clear case of negligence to be cared for.

The Hon. Haddon Storey—I draw attention to the state of the House.

A quorum was formed.

The Hon. D. M. EVANS—Attention has been drawn to the various submissions and conclusions that have been made on this issue by the Municipal Association of Victoria, the Provincial Cities and Towns Association of Victoria, the United Dairyfarmers of Victoria, and so forth. Those bodies suggested that action should
be taken. There is no suggestion by Mr Baxter, the National Party or me that action should not be taken. The issue is the reasonableness of the action that is to be taken, and it is suggested that the Statute Law Revision Committee, an all-party committee, could turn in sensible, well-balanced and constructive recommendations, having taken the time over several months to hear evidence from a large number of interested parties from both sides.

In the majority of cases where damage is due to negligence, on one side the protagonist will be the farmer whose animal was on the road, and who will have to prove that his negligence was not responsible for the damage, and on the other side there will not be the injured motorist or passenger but rather the insurance company with all the resources and capabilities at its command. Under those circumstances, because each case will have to be treated differently, as Mr Chamberlain said in response to the interjection I made to him, it will be necessary in many cases for the law to run its course.

Certainly some cases will be unlikely to be successful and those cases will not proceed further. Even on those occasions, it is likely that the landowners concerned will be faced with bills that could run into hundreds or thousands of dollars and, if the cases should succeed, will be involved in substantial expense in obtaining legal opinion.

In the case of the motorist, almost without exception those who have the capacity to be sued and meet damages will be people who have comprehensive and third-party insurance. There will be no monetary penalty on the individual unless it is by an additional insurance premium. The whole of the cost will be covered by the insurance the motorist carries.

In the case of the landowner, unless he has taken the decision to carry public risk insurance, the cost will be borne by him. Certainly, that was part of the considerations by the Statute Law Revision Committee. The House has debated and considered this matter for a very short space of time. I suggest that the majority of honourable members have given little more than cursory consideration to the matter. The Statute Law Revision Committee lived with the report for an extensive time and had the opportunity of considering it over that period. It is likely and reasonable that it has arrived at a well-judged decision. Honourable members would be advised to consider and note the advice given by the Statute Law Revision Committee. I strongly support the amendment moved by my colleague and commend it to the House. It has a great deal of common sense and in 1978 had the support of all three parties on the committee.

The Hon. D. G. CROZIER (Western Province)—As honourable members may well appreciate, as a member representing a rural electorate which boasts itself as the wool capital of the world—the City of Hamilton may also boast that it has the highest concentration of beef cattle in any comparable area in the Commonwealth—I might be expected to have more than a passing interest in the Bill, apart from my own personal interest as a stock owner. I regret to say that on this occasion the arguments advanced by Mr Baxter and Mr Evans have not convinced me, and I was hoping that they would.

However, on this occasion I cannot escape the conclusions reached by my learned colleagues, Mr Storey and Mr Chamberlain, that to substantiate an exemption to the law of negligence—which, I agree with the Attorney-General, constitutes an anomaly based on a rule of eighteenth century England, is totally untenable in 1984. Mr Baxter interjects that the National Party was not proposing that the Searle v. Wallbank rule be sustained. However, the Statute Law Revision Committee decided that it should be retained, subject to certain qualifications. Therefore, the principal thrust of the Bill was not addressed and the principal arguments advanced by the Government and supported by the Opposition have still not been addressed.

I submit to members of the National Party that correctly pointing out that this matter is related to section 546A of the Local Government Act is evading the main argument. Even when that section is policed—and I suspect that it is not well policed both in relation to the requirement for adequate fencing and animals straying on roads—it is not really the point. Members of the National Party are saying that the Searle v. Wallbank rule is a legal anomaly and should be removed, but not totally—it should be qualified. The Bill seeks to remove a quaint,
archaic and legally unsustainable exemption to the duty of care in the ordinary law of negligence.

I understand perfectly well that many country people are concerned about any change in the law, and I do not dispute that. However, I suspect that that concern, far from being allayed, will be inflamed and exacerbated by the comments made by Mr Baxter and Mr Evans. It may not escape the reasoning of honourable members that that may well be the intention of members of the National Party. Honourable members know that they are good politicians, but their argument, in spite of the effort that was put into it, was similarly unconvincing in terms of the central thrust of the Bill, and that is what the argument should be about.

I have some queries about the Bill and, if the Attorney-General eventually rejoins the debate, I should like him to take some notes. My first point, which has been alluded to by other speakers, relates to insurance. No question exists that there will be an added impost on stock owners, whether they are occupiers or owners of land. It is apparent from the comments made by Mr Arnold that the Government has given no real consideration to attempting to quantify what the additional insurance costs are likely to be.

The Hon. B. P. Dunn—It will cost your constituents tens of thousands of dollars.

The Hon. D. G. CROZIER—I am not in a position to quantify the extra cost of expending a public liability policy to include that contingency, but the onus is on the Government to inform the House what the extra impost is likely to be.

The second query I have relates to unfenced areas. Mr Chamberlain referred to the section of the Minister's second-reading speech where he pointed out that:

In practice, the court would look at all the circumstances of each case including such matters as the nature of the general locality, traffic flow, the condition of the road, fencing practice in the area, the extent of previous accidents and warning signs.

I am curious to know what will be the situation in areas of the State that are unfenced. Everyone knows, and the Minister pointed out, that most rural areas are fenced, but some are not. What is the liability of a grazing licence-holder in an unfenced area in the case of an animal owned by him causing an accident? When the Attorney-General replies to the comments of members of the Opposition, I would like him to inform the House of how the Bill is likely to be interpreted and what will be the liability for those owners who hold alpine leases and other grazing leases in areas that are unfenced. As a layman reading the Bill, I have no idea.

Under the provisions of the Bill, the Crown is not bound. In many Bills, the Crown is bound, but in this Bill it is not. What will be the situation if a beast owned by a Government instrumentality, such as the Rural Finance Commission, is responsible for an accident? Is the commission liable as would be any other landowner? I hope the answer is "yes", but as the Bill does not bind the Crown, I would like clarification on that point.

I now query the Attorney-General on the impact of the Bill in relation to other animals. Mr Evans spoke about the definition of animals. The Local Government Act provides a definition of cattle, and honourable members know broadly what that means. However, this Bill mentions animals, and I can only assume that, for instance, if a camel escapes from a circus, it will come within the ambit of the Bill.

In the diverse and productive electorate that I represent, one successful cattle owner, who is a lover of nature and kangaroos, has a mob of tame kangaroos on his property, and it is quite a local attraction. If the kangaroos stray to a neighbour's property, they are gently steered back. Therefore, they spend most of their time on the land of the cattle owner. For all practical purposes, the kangaroos are under the control of the landowner. I am hopeful that the Attorney-General will address the question of the potential liability of the owners of other animals that are not normal domestic or commercial animals.

I will develop the argument further. When addressing the anomaly regarding the exemption of stock owners, I hope the Government will address another anomaly—the liability of the Government for accidents and damage caused by animals under its jurisdiction.

In the province that I represent, for every steer or cow hit by a car I guarantee five or ten cars are damaged by kangaroos.
Mr Deputy President, you may have had this experience; I know other members of the Liberal Party and of the National Party have, and perhaps one or two members of the Labor Party. It has happened to me and members of my family and when I drive at night in most areas of the province that I represent I am more concerned about hitting a kangaroo than I am about hitting a bull, a cow, a steer or a sheep.

I should like the Attorney-General to enlighten the House, if stock owners generally are to be accountable on the law of negligence and the duty of care, whether he considers the Government should be likewise bound.

I invite some interest in this matter from the Minister for Conservation, Forests and Lands also because, I reiterate, it is all very well to impose on livestock owners the additional responsibilities, the reasons for which I and my colleagues have said the Opposition accepts, but it would be incomplete unless some attention was given to the very real menace that is posed by the wildlife under the jurisdiction of the Government, principally through the Minister for Conservation, Forests and lands.

The Hon. J. H. KENNAN (Attorney-General)—Mr Baxter and Mr Evans referred at some length to the Statute Law Revision Committee to support their argument on the amendment that Mr Baxter moved. As Mr Chamberlain correctly pointed out, the report does not do the Parliament, as it was then composed, any credit. The subject was misunderstood and the report was based on a false premise on both the law of negligence and the burden of proof. For instance, the committee said that it agreed with evidence presented that the onus would be placed on the landowner and that is not the case. The burden of proof or onus in a civil action is always on the plaintiff, the injured person.

Paragraph 32 of the report states that landowners would be subjected to factors beyond their control. Of course, if factors are literally beyond their control, the defendants will not be found guilty of negligence or acts following from that. The committee said that landowners would have difficulty proving that they had taken reasonable care. That is a misunderstanding of who bears the burden of proof. The plaintiff has to prove his case, not the defendant.

In the substantive part of the report at paragraph 49 the committee says that the defendant could have great difficulty proving that he had discharged his duty of care and proving contributory negligence.

The Searle v. Wallbank case is an exception to the ordinary principles of negligence and the creation of additional exceptions would really only add to greater uncertainty and more litigation, not less.

The ordinary rules of negligence have applied for generations for highway and motor car accidents as well as a whole range of other accidents and have been well understood. No one suggests that the law of negligence should be codified for accidents on the highway generally, or motor car accidents or industrial accidents, yet the committee says that it should be complicated by having explicit exceptions.

By listing special circumstances the committee attempted to define negligence in defence yet it omitted to refer to the need to have regard to matters such as traffic flow, warning signs, the extent of previous accidents, and so on, which it had itself referred to as matters that should be taken into account. The tests proposed by the committee were subjective rather than objective and did not take into account whether landowners should have been aware that livestock was on the road or whether livestock could stray on to the road.

It appeared to suggest that road users who were in any way negligent, even if only 5 per cent negligent, should be unable to recover either and that is a grave departure from the ordinary rules of contributory negligence because where the plaintiff has been guilty of contributory negligence his damages can be reduced by the appropriate percentage and the old common law rule says that contributory negligence denies one any access. That is a matter of the past that has been fixed up by the Wrongs Act for many years.

As Mr Arnold said, the Bill has been supported by a wide range of people, including the Law Institute of Victoria and all the country presidents of the institute in 1979 and in 1981, the Provincial Cities and Towns Association, the United Dairyfarmers of Victoria, and so on. The Government has had greater consultation with persons in country areas than has the National Party.
In a letter to me in February, the United Dairyfarmers of Victoria stated:

In response to your letter dated 24th January I wish to advise that our organization appreciates the problems of animals straying on roads and highways and if a stock owner has been negligent in the case of animals on highways then the stock owner should be responsible for the negligence.

The Hon. W. R. Baxter—We are not arguing with that.

The Hon. J. H. KENNNAN—It appears that the National Party is, in proposing its amendment.

The Insurance Council of Australia—which goes to the point that Mr Crozier raised—said that the council would support such a move provided sufficient time is given following the passing of the measure for landowners, should they wish, to arrange suitable insurance protection.

The Western Australian Law Reform Commission report also referred to matters of cost and found on the evidence in Western Australia that the cost would be small.

As Mr Arnold pointed out also, the unfortunate circumstances involved in this Bill, and Mr Baxter should take heed, are that cases of accidents on the highway, where a farmer would be negligent under the law as it will stand after passage of the Bill, are really few and far between and the average cost spread on an insurance base would be insignificant. However, the loss to the person who is injured and who cannot recover would be very great. Although these cases are not all that numerous and costs spread across the board of the insurance base would be insignificant, the loss that falls on the individual is significant and that is the point.

On the other points Mr Baxter made, and which in some senses were adopted by Mr Crozier, on what would be negligent, I should have thought that in the circumstances of alpine leases and the vast tracts of alpine land where there are no fences, where people understand there are no fences, and where people driving on those roads understand there are no fences, and where in the warmer months cattle are grazing there, it would be difficult for a motorist to have a successful action against the owner of cattle straying on to the roads because the courts would look at what is reasonable, which is far different from what is accepted in other farming areas. The Government rejects the amendment and stands by the Bill.

The House divided on the question that the words proposed by Mr Baxter to be omitted stand part of the motion (the Hon. F. S. Grimwade in the chair).

Ayes . . . . . . . . . . 34
Noes . . . . . . . . . . 4

Majority against the amendment . . . . 30

AYES
Mr Arnold
Mrs Baylor
Mr Birrell
Mr Block
Mr Bubb
Mr Butler
Mr Chamberlain
Mr Connard
Mrs Cosseidge
Mr Crozier
Mr Hayward
Mr Henshaw
Mr Hunt
Mr Kennan
Mr Kennedy
Mr Kent
Mrs Kirner
Mr Knowles

Tellers:
Mr Lawson
Mr Mackenzie
Mr McArthur
Mr Mier
Mr Murphy
Mr Pullen
Mr Radford
Mr Reid
Mr Sandon
Mr Sgro
Mrs Dixon
Mrs Hogg

NOES
Mr Dunn
Mr Wright

Tellers:
Mr Baxter
Mr Evans

The House divided on the motion (the Hon. F. S. Grimwade in the chair).

Ayes . . . . . . . . . . 34
Noes . . . . . . . . . . 4

Majority for the motion 30

AYES
Mr Arnold
Mrs Baylor
Mr Birrell
Mr Block
Mr Bubb
Mr Chamberlain
Mr Connard
Mrs Cosseidge
Mr Crozier
Mrs Dixon
Mr Hayward
Mr Henshaw
Mr Hunt
Mrs Kirner
Mr Knowles
Mr Lawson
Mr Mier
Mr Murphy
Mr Pullen
Mr Radford
Mr Reid
Mr Sandon
Mr Sgro
The Bill was read a second time, and it was ordered that it be committed later this day.

The sitting was suspended at 6.41 p.m. until 8.18 p.m.

MINISTERIAL STATEMENT

Grain harvest, 1983–84

The Hon. D. E. Kent (Minister of Agriculture)—I desire to make a Ministerial statement on the handling of the 1983–84 grain harvest.

A record harvest of over 5 million tonnes of grain will be received by the Grain Elevators Board during 1983–84. This is compared to a previous peak of 4·26 million tonnes in 1979–80 and a low of 0·33 million tonnes in 1982–83. The concentration of the receivals is illustrated in table 1. Over 40 per cent of the predicted total harvest was received in the fortnight ended 25 December 1983.

The record receivals required the construction by the Grain Elevators Board of bunkers and pad storages and the rebuilding of old bunkers for the receival of over 1·3 million tonnes of grain at approximately 160 locations throughout Victoria. Many of these bunkers operated long hours for receivals; some up to 20 hours a day.

A central receival point system was introduced as a result of serious consideration the Grain Elevators Board members gave to the possible problems. As an alternative to the previous methods of receiving and transporting grain from over 400 silos, this has reduced handling and transport costs. For the 1983–84 season, growers delivered grain to fourteen central receiving points and about 70 overflow silos. A further 600 000 tonnes of grain was delivered from areas outside the central receiving point overflow silo zone.

Whilst some growers carted grain extra distance by road, generally speaking this was compensated by improved service at receivals through extended operating hours at the central receiving points. The record size of the crop generated queues, which would have still been the case using the traditional receival pattern.

In the previous 1979–80 record crop, the railways moved almost the entire amount in the following twelve months. The plan this year is that V/Line will move approximately 4·5 million tonnes before the next harvest with a carryover of 700 000 tonnes of wheat in country bunker storages, including a significant proportion of damaged wheat.

Road movements from the Riverina areas of New South Wales during December–January were a record 104 000 tonnes out of a total of 240 000 tonnes of road receivals at Geelong. Road operators experienced some delay while waiting to discharge their loads. This was necessary in order to minimize disruptions to rail deliveries at Geelong.

Other interstate grain traffic moved by rail, included 30 000 tonnes from Tocumwal, 20 000 tonnes from the New South Wales Barley Marketing Board silos at Oaklands and 43 000 tonnes from South Australia. Approximately 25 000 tonnes of grain on the Paniyia line will be moved to Port Adelaide during the 1983–84 harvest. The transport of 10 000 tonnes of barley from the Paniyia line to Port Adelaide provided relief for silos at Tuty, Murrayville and Cowangie during the overflow.

Despite the record harvest the Grain Elevators Board was more than five weeks ahead in passing the 4 million tonnes receival level than in 1978–79 and more than two weeks ahead of the 1979–80 performance.

In the period to 30 January V/Line achieved higher productivity levels than for any previous harvest, with an average turnaround of three days for the VHGY wagons and seven days for the antiquated four-wheel—GH and GY—wagons, with 34 per cent—30—fewer locomotives available for use. This was achieved despite a four-day strike in December 1983 and four major mainline derailments. A record monthly rail discharge rate was achieved in January when
almost half a million tonnes of grain was unloaded throughout the State.

For the two months up to the end of January 1984 just short of 1 million tonnes had been moved by V/Line. The target average monthly rate to the end of June is 350 000 tonnes and between June and November 390 000 tonnes. A team comprising officers of V/Line, the Grain Elevators Board and representatives of the various grain boards is applying improvements to the operational methods of loading from bunkers into block trains to achieve the post-harvest plan.

A consultant study of the handling of the 1979-80 harvest estimated that the revenue covered the costs attributable to the rail transport of grain. Subsequent research has indicated that this was not so and that the earlier study did not cover all rail costs applicable to grain. Whilst the financial evaluation of the 1983-84 harvest is not yet available, I am advised that the latest review by a group of Canadian consultants—CANAC—indicates that the current rates still do not provide cost recovery. A detailed assessment of this matter has been initiated.

While there has been criticism of the queuing at several locations during the peak of the grain delivery, generally speaking, growers understand the causes and in the context of the record crop are satisfied with the over-all service.

Rain during the early part of the Mallee harvest put it back to be much more than usually concurrent with the Wimmera harvest. The working time lost from harvest and so delivery and removal can never be fully regained, particularly in a record crop season. Heavy rain in the period after 1 January affected the harvest and required a complete change in bin planning and operations by the board. Receivals since this period were almost entirely general purpose grains, and these took place at over 190 locations. The situation was complicated by the segregation requirements for the damaged wheat and the record barley receivals.

The main difficulty with the size of this year's harvest was that the amount of fixed storage in country silos was insufficient for more than 3 million tonnes of grain. Also, due to years of Government neglect, rail rolling-stock is not up to scratch to fully utilize improvements at Geelong and Portland. As well, the receival capacity at the Grain Elevators Board country facilities was inadequate to receive and move a 2 million tonne overflow of grain within December and January. The solution lay in the construction of low-cost bunker storages for wheat that meet the standards of the marketing authorities. While this was done at short notice, by its nature it disrupted the operating plans.

Another deficiency is the poor condition of the track. Inadequate maintenance and capital expenditure in the past has lead to derailments, particularly on the Portland line. The CANAC study is addressing the catch-up investment programme necessary to sustain an efficient grain handling and transport system.

More of the antiquated GY wagons than expected had to be used on the Geelong services. This reduced the capacity of the terminal and caused teething problems in the operation of the new loop at Geelong. The record road movements previously mentioned, competed with rail for the limited receivals capacity. During the peak period this resulted in an average shortfall of one block train delivery a day at Geelong, compared to a target of eight trains a day. I am informed that this situation is now rectified.

A four-day strike during the week ended 5 December disrupted the receivals and transport operations, but within three weeks planned wagon supply levels were regained.

The inclusion of the Grain Elevators Board and the port authorities within the Ministry of Transport has led to demonstrable improved co-ordination of grain handling and transport than has been the case in the past. The commonality of purpose should lead to improved performance in the future. Associated with this improved co-ordination, CANAC is just completing a four month study to identify possible future directions. Early indications by CANAC are that an extension of the central receival point system is beneficial and that more efficient grain movements would be achieved through further use of block train running. For successful operation this will require catch-up investment in locomotives, wagons, handling equipment and track upgrading to provide a modern efficient grain handling and transport system.

The current backlog of deteriorating tracks, antiquated signalling, the ageing fleet of locomotives and wagons, plus inade-
quate terminals, imposes constraints on speed and loads. Track upgrading costs are high. Locomotives cost $1.8 million each and a number of these are to be purchased. Fifty new bottom discharge bogey wagons—VHHY—for hauling grain to terminals with a maximum turnaround of three days are to be provided in the coming months and consideration is being given to the purchase of an additional 50 in time for the 1984-85 harvest. These wagons cost $78,000 each. The older four-wheel wagons could then be progressively scrapped.

No logically thinking person could be anything but satisfied with the over-all performance of the grain handling system considering the harvest rate and level experienced during the December-January period. There were problems—no one could or would deny that—but their solution was never possible in the period between when the size of the crop was known and when harvest began.

Significant innovations have occurred and will occur in the handling system. This will be continually addressed in the light of prospects for continued growth in grain production as technology and enterprise choice create the potential for increased cereal production in the future. The likelihood is that the recent crop will be exceeded in the not-too-distant future and not necessarily in a year of record per hectare yields. But the moderating consideration on future investment must be the cost of a system to both the cereal producers and the community as a whole.

The Hon. D. G. CROZIER (Western Province)—I move:

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

The motion was agreed to.

VAGRANCY (AMENDMENT) BILL

For the Hon. J. H. KENNAN (Attorney-General), the Hon. E. H. Walker (Minister for Planning and Environment)—I move:

That this Bill be now read a second time.

The purpose of the Bill is to repeal section 6 (1) paragraphs (a), (b), (c) and sub-section (2) of the Vagrancy Act 1966, which contain a number of offences related to consorting. Section 6 (1) provides that:

Any person who—
(a) is the occupier of a house or place that is frequented by reputed thieves;
(b) is found in a house or place in company with reputed thieves who, on being thereto required by the Court, does not give to the satisfaction of the Court a good account of his being in such house or place upon some lawful occasion;
(c) habitually consorts with reputed thieves or known prostitutes unless such person, on being thereto required by the Court, gives to the satisfaction of the Court a good account of his so consorting;

shall be guilty of an offence.

The consorting offences have, for many years, been the subject of wide-ranging criticism. In the report from the Statute Law Revision Committee on the proposals contained in the Vagrancy Amendment Bill 1974—the report being made in 1976—it was recommended that the offences of habitually consorting with known prostitutes and persons who have been convicted of having no lawful means of support be repealed. It was further recommended that the committee be empowered to undertake an examination of all the provisions contained in the Vagrancy Act 1966. The committee did not recommend that the offence of habitually consorting with thieves be abolished; however, Governments have been in receipt of representations about this matter since then. Indeed, the arguments against the retention of these consorting offences may be summarized as follows:

The offence is unknown to the history of the criminal law in England.

Paragraphs (a) and (b) were introduced into Victoria to accord with the provisions introduced into the New South Wales penal colony in 1835.

Paragraph (c) was introduced into Victoria in 1931 to break up criminal gangs by preventing the regular meeting of particular classes of prescribed persons.

No reference to the offence of consorting is to be found in legislation otherwise in jurisdictions outside Australia and New Zealand.

As section 6 refers only to reputed thieves, one can legally consort with murderers, arsonists and other criminals, providing they are not reputed thieves or prostitutes.
Paragraph (c) reverses the traditional burden of proof so that it is incumbent on the defendant to establish his innocence.

The section does not require that the thieves or prostitutes be in fact thieves or prostitutes, or in fact have convictions as such, but merely have the reputation of being such.

The provisions are capable of application in seemingly innocent situations—see, for example, the situation of a man charged with consorting with his wife—Victorian Parliamentary Debates, 1971 page 2889.

The offence violates the basic principle of the necessary proof of some criminal act in so far as the mere occupying of a house or keeping company with a certain class of persons becomes an offence without any criminal act being carried out.

The section assumes guilt by association unrelated to any harmful activity.

If the criminal law should be related to harmful activity, then the offence of consorting should be abolished and the onus placed on the prosecution to prove, as with the offence of criminal conspiracy, if the association is for an unlawful purpose.

The offence restricts the social life and association of persons who have been convicted of theft or prostitution.

The offence denies that a person with a reputation of a thief or prostitute is entitled to have friends.

The offence is enforced spasmodically, especially in times of unemployment and social distress.

Statistics indicate a very wide use of the provisions in situations where a charge of criminal conspiracy cannot be sustained.

The High Court has confirmed that evidence that the consorting was for social purposes does not constitute evidence of a good account of consorting and therefore may constitute an offence.

The Government's position on this matter has been well understood for many years. In 1979 the now Premier, when he was then shadow Attorney-General, introduced a private member's Bill in identical form to the present Bill. In relation to the argument that consorting was an important weapon against the planning of major crimes, he said this:

In this day and age to suggest that crimes are plotted in hotel bars, or other places where the public may congregate, is quite absurd. We all know that any planning so far as future criminal activity is concerned takes place in much more covert surroundings. The telephone is a very common medium for such activities. It has been suggested by some that planning for some of the most serious criminal activity in the white collar field take place in some of the best clubs and boardrooms of this city.

He went on to say:

It generally operates against people with convictions, no matter how trivial or no matter what lapse of time there may have been between that conviction and the charges or bookings for consorting being laid. It is discriminatory in that it operates primarily against the poor. It is also most likely that it will be used against persons who have recently been released from jail after serving sentences. In such circumstances it can inhibit and frustrate their attempts at rehabilitation and reabsorption into society.

In July 1981 the President of the Law Institute wrote to the then Attorney-General asking him to support the repeal of the consorting provisions in the Vagrancy Act. The letter pointed out that the institute had strongly supported the repeal in submissions to the Statute Law Revision Committee in 1976 and it indicated that the reasons for supporting the repeal of the law were as follows:

(1) That the present legislation was draconian.
(2) That the procedures outlined in the section of the Vagrancy Act were outmoded.
(3) That the section serves only to harass people.
(4) That a logical view of the decision of the Full Court of the Supreme Court in Johanson v. Dixon (1978) VR 377 is that once a person is a reputed thief he cannot mix with other persons without those other persons being liable to prosecution under the Act.
(5) The section has no rehabilitative effect at all.
(6) The reasons outlined by Mr Cain in his second-reading speech in Parliament.
In September 1983 the then President of the Law Institute, Mr J. H. Harty, wrote to the Attorney-General urging him to repeal the consorting provisions of the Vagrancy Act and referred to the support that the Institute had given to Mr Cain's private member's Bill in 1981. Mr Harty went on to say:

Exactly the same reasons for repealing these sections exist today, but have added weight because of the social and economic changes which have occurred since Mr Cain's Bill was introduced. The gross unfairness inherent in these provisions is likely to result in harsh punishment to those who are poor, socially disadvantaged and unable to find employment. Further, they are likely to adversely affect the youth, and particularly those seeking to rehabilitate themselves.

Modern living conditions and lifestyles make a mockery of the retention of the laws which may have been relevant centuries ago. Their use today is dangerous and discriminatory, and in effect does not apply to all citizens by reasons of their inherent discriminatory nature and selectivity.

The Equal Opportunity Advisory Council has considered the consorting provisions and at its October meeting it recommended that the provisions be repealed. The Council adopted a report from its vagrancy sub-committee which had earlier described the provisions as retarding "the rehabilitation of offenders" and being discriminatory against persons with a criminal record. The sub-committee said:

It is against the tenets of the freedom of association to create an offence according to the company you keep.

It is relevant to note the statistics in relation to the number of bookings for consorting compared with the number of persons charged and the number of persons convicted. For instance, in 1982, 3020 bookings were made, three persons were charged and only one person was convicted. This would seem to lend support to the view that in many cases the philosophy of "guilt by association" has led to unwarranted restraints on individual freedom and infringement of civil liberties. I seek leave to incorporate a table of recent bookings and charges.

In view of other provisions in the criminal law which rests investigatory powers with the police, the Government considers that the consorting law should be repealed because of its relative insignificance as a tool of law enforcement and its potential to seriously infringe basic freedoms and promote socially undesirable features.

The President—Order! I hesitate to interrupt the Leader of the House. The honourable gentleman sought leave to have a table incorporated in Hansard; the table is at the back of the second-reading speech.

This matter was not raised with me prior to the Minister mentioning it in the second-reading speech; nevertheless it seems to be appropriate and should be incorporated. Leave was granted, and the table was as follows:

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<th>TABLE</th>
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<tr>
<td>-------</td>
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<tr>
<td>1. No. of bookings made for consorting:</td>
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<tr>
<td>2. No. of persons charged with consorting:</td>
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<tr>
<td>3. No. of persons convicted of consorting:</td>
</tr>
</tbody>
</table>

Source: (i) As to 1971—1979, Answer to Parliamentary Question No. 310 of 1980.
(iii) As to 1983, Victoria Police Statistician.

* Not compiled
# Not yet available
The Hon. E. H. Walker—I cannot emphasize too much that it is fundamentally offensive to create an offence out of the association with persons who enjoy reputations as thieves or prostitutes. The notion of guilt by association with not all persons convicted of criminal offences, or who have reputations as being criminals, but simply with those particular reputations, is really quite extraordinary. Further, the reversal of the burden of proof heightens and twists this extraordinary offence into one which no decent Government can tolerate. As to the suggestion that this constitutes an effective weapon in the armoury against organized crime, no one who understands the way in which organized crime operates today and no one who understands the working of recent Royal Commissions such as the Stewart Royal Commission and the Costigan Royal Commission could possibly with a straight face make the claim that consorting is an important weapon in the armoury against organized crime. It is, unfortunately, true that organized crime is much more sophisticated and well planned than to be caught by such a draconian provision as consorting. It is a provision which is out of its date and out of its time and ought to be repealed.

The Government's attitude to this issue has been consistent for many years and reaffirms our desire to strike a balance between the proper role of law enforcement and the protection of civil liberties and freedom. In particular, I would urge the House to note that we are moving in relation to the clarification of the police powers of interrogation and other police investigative powers. In the last sessional period we introduced the Crimes (Procedure) Bill, which was an important reform of the criminal law, and we have recently introduced some miscellaneous amendments to the Crimes Act which introduced further important reforms to the criminal law. In the near future we will also be seeking to implement the report of the Criminal Law Working Review Committee in relation to the codification of the law relating to conspiracy and incitement. Our approach to the criminal law is balanced and constructive; and the law relating to consorting in this context has no further relevance. I commend the Bill to the House.

On the motion of the Hon. A. J. Hunt, for the Hon. HADDON STOREY (East Yarra Province), the debate was adjourned.

It was ordered that the debate be adjourned until Tuesday, March 13.

CRIMES (GENERAL AMENDMENT) BILL

The Hon. J. H. Kennan (Attorney-General)—I move:

That this Bill be now read a second time.

The Crimes (General Amendment) Bill represents a further stage of the Government's commitment to modernizing the operation of the criminal law in the State. The Bill deals, principally, with matters of procedure and sentencing. In the area of criminal procedure, the Bill builds on a number of the reforms effected by the Crimes (Procedure) Act 1983. In the area of sentencing, the Bill seeks to widen the range of options available to courts and to alleviate, to some extent, the burden borne by the Full Court. The changes made by the Bill result, in large part, from recommendations made by the Chief Justice, the Law Reform Commissioner and the Chief Justice's Law Reform Committee, some of which were made several years ago.

Amendments related to procedure:

(i) Relevance of prior convictions in subsequent criminal trials

Sections 376, 377, 378 and 395 of the Crimes Act 1958 and section 47 of the Children's Court Act 1973 are concerned with the relevance of prior convictions in subsequent criminal trials, especially in relation to the exercise of the sentencing discretion of the courts and in cases where the accused puts character in issue.

The Crimes (Procedure) Act 1983 has already effected one reform in this area. Previously where a dispute arose as to the fact of prior convictions the jury had to determine the issue. Now that determination is left to the judge. Several other difficulties have been experienced with respect to geographical and other limitations affecting the averment, and proof, of prior convictions. In line with a report of the Chief Justice's Law Reform Committee requested by the previous Government and presented in
June 1981, the following amendments are proposed:

(a) To amend the relevant sections of the Crimes Act and Children's Court Act to allow, prima facie, proof of conviction by a certificate of the Prothonotary of the Supreme Court or the Register of the County Court or their deputies.

(b) To remove the geographical limitations with respect to the prior convictions of the accused that may be proved at present limited loosely to the South Pacific region.

(c) To make convictions in the Children's Court recorded more than ten years prior to a trial inadmissible as prior convictions.

The relevant amendments are contained in clauses 6 and 19 of the Bill.

(ii) Presentation of defence case

Section 418 (c) (ii) of the Crimes Act 1958 allows the defence in a criminal trial to open its case to the jury only as to the evidence of witnesses other than the accused. The defence opening may not include the evidence of the accused himself. Obviously the defence's opening is substantially weakened if the bulk of the evidence is that of the accused. It is proposed to amend section 418 (c) (ii) to allow the defence to open its case to the jury with any evidence including any evidence or statement of the accused.

Section 418 (d) of the Crimes Act 1958 requires the jury to be sent out at the close of the case for the prosecution so that the judge may ascertain what course the defence proposes to follow in the trial. The sending out of the jury serves no purpose in many cases and should be left to the discretion of the judge. It is proposed to amend section 418 (d) to remove the requirement to send the jury out at the close of the case for the prosecution.

Both of these proposals were raised by the Chief Justice, Sir John Young, and agreed to in 1980-81 by the then Crown Solicitor and then prosecutor for the Queen. The relevant amendments are contained in clause 7.

(iii) Extension of powers of Registrar of Criminal Appeals

The Chief Justice has advised that the work of the Full Court would be facilitated and some saving of judicial time effected if amendments were made to the Crimes Act conferring power on the registrar of Criminal Appeals to enable him to make orders enabling appellants to the Full Court who are held in custody to be absent from prison in order to attend court for the purpose of the appeal proceedings. At present the power to make such gaol orders is restricted to the Full Court or a judge of the Supreme Court. The necessary amendments are found in clauses 11, 12 and 13.

(iv) Use of Depositions at Trial

Section 163 of the Magistrates (Summary Proceedings) Act 1975 limits the use at trial where the depositions—that is, evidence given on oath prior to the trial—are unable to be called at the trial. Only depositions taken by the justice of the peace or coroner who directed the accused to stand trial may be tendered at the trial. The admissibility of the deposition is further limited by the requirement that it must have been taken in the presence of the accused who must have had the opportunity in person or by counsel of cross-examining the witness. This latter limitation is a substantive protection properly afforded to an accused person where there will be no opportunity of cross-examining the witness at the trial.

The first limitation is unnecessary. It provides no real protection to an accused and can cause properly obtained evidence to be inadmissible in a subsequent trial on the mere technicality that the justice or coroner who took the deposition was not the justice or coroner who committed the accused for trial or the justice or coroner may not have committed anyone for trial. There is no good reason for the retention of this limitation.

The amendment proposed will allow the deposition to be used in a subsequent trial of the accused person so long as it is taken by a justice or a coroner in the presence of the accused who had the opportunity in person or by counsel of cross-examining the deponent. This change was recently suggested by the Director of Public Prosecutions. It is implemented by clause 22.

(v) Coroner's power to grant bail

At present a coroner or magistrate who commits a person for trial for murder, does not have power to grant bail when committing a person for trial on a charge of murder.