As a result of the consequential amendments to the present Act, the definition of “relic” becomes so wide-ranging as to be unworkable.

The House will have seen that from the examples I gave a moment ago. The letter concluded:

There is no provision within the Bill for the keeping of a register of Aboriginal objects/places, such as exists under the current legislation.

That is a brief summary of the submissions by the archaeological profession and I will not go into them in detail.

The Hon. J. H. Kennan—Read clause 1 (b) out loud!

The Hon. A. J. Hunt—That clause states:

The purposes of this Act are—

(b) to encourage public awareness and appreciation of that heritage, especially through education by Aboriginal people.

An honourable member interjecting from my left asked, “What about Aboriginal people?” There is no unanimity among Aboriginal people. I have a letter from the Yorta Yorta Aboriginal Heritage Council which is unhappy with the Bill in its present form. It submitted a detailed list of suggested changes that should be made to the Bill and I am certain that those suggestions would have been made available to the Minister.

One of the gentlemen from the group of Aborigines who visited the Chamber yesterday also left with me what amounts to a summary of complaints about the Bill. He is from a group other than the Yorta Yorta tribe. A group of Aborigines saw me at Parliament House a few weeks ago and various members had different complaints about the Bill. I must say that soon after the Government heard that this group representing a number of Aboriginal tribes had made representations to me, it must have taken fright because I subsequently received three telexes on the one sheet withdrawing complaints from the three groups. There is no unanimity among Aboriginal groups.

The environmental law section of the Law Institute of Victoria has provided the Minister with a detailed set of improvements to the proposed legislation.

The Bill in its present form has not been agreed to by the Aboriginal community as a whole. It is not a Bill which is agreed to—because of its deficiencies—by the archaeological profession, which believes that it will have disastrous results. It is not a Bill which complies with the principles that are necessary if we are to have a bipartisan, long-term, lasting policy on this issue which will protect cultural heritage for all time. It is not a Bill that ought to be passed in its present form.

I refer to The Plundered Past by Karl E. Meyer who, at page 208, states:

In the world’s cost accounting, the past is a small item; it makes a negligible contribution to the Gross National Product; its preservation is scarcely a central concern of the modern state. But one can manifestly contend that if the remains of the past should disappear, our lives will be poorer in ways that the statistician can never measure—we will live in a drabber world, and will have squandered a resource that enlivens our existence, offers a key to our nature, and, not least, acts as a psychic ballast as we venture into a scary future.

We need a Bill which integrates all aspects of the protection of the cultural heritage of this country, both Aboriginal and other; which does give a measure of real say to the Aboriginal people in the custodianship and protection of their own heritage but which nevertheless recognises the legitimate interests of the community at large; which does so within an overall framework to which all parties can subscribe, not only now but also for all time—that is the objective, protection for all time—and which does so in a way which the community as a whole will accept. I, therefore, move as a reasoned amendment:

That all the words after “That” be omitted with a view of inserting in place thereof “this Bill be withdrawn and redrafted in consultation and agreement with the traditional elders of recognised Aboriginal communities and with the Victorian Archaeological Society, so as to properly take into account the widespread criticisms
The Hon. W. R. BAXTER (North Eastern Province)—This is a Bill with a sound intent but it is a bad Bill because its provisions are unworkable and it will lead to the intentional destruction of Aboriginal relics because it does not provide any incentive whatsoever for those relics to be preserved.

The Hon. Jean McLean—By whom?

The Hon. W. R. BAXTER—By people who come across them, whether it be on private land or elsewhere. As Mr Hunt has so eloquently spelt out to the House tonight, because it is not at all selective in its classification and simply attempts to preserve relics, it cannot provide any incentive to preserve. I wholeheartedly support the analogy he drew of retaining domestic garbage simply because it fitted within the definition, as would be the case with the definition that is included in the Bill.

Surely if relics and items which have some cultural and historical significance are to be preserved in any society, one has to be selective and keep only the best and the essential.

One of the arguments that I have with the Victorian branch of the National Trust of Australia is that too often it attempts to retain edifices just because they are old regardless of whether they have any particular significance, are unique or are examples among many hundreds. That is exactly the scenario that would apply in this instance because there is no selectivity in the Bill.

Under the Bill any item that happens to have some archaeological significance from an Aboriginal point of view must be retained. What will be the upshot of that? A farmer working his land coming upon a midden will plough it under rather than report it, notwithstanding that thousands have been identified around the countryside. Why should the Bill impose upon that landowner some responsibility to retain some indication that Aborigines happened to camp on that site years ago when many other such sites have been identified?

Worse than that the Bill proposes to appoint Aboriginal inspectors to go around the countryside snooping upon private landowners, creating a private police force and presumably being provided with motor cars with red number plates to drive around in, too! The Bill does not impose sufficient restraints upon such inspectors and the National Party opposes the principle of appointing such inspectors.

One of the most disappointing features of modern day society, and one which I abhor, is the propensity to destroy those things that do have significance. For example, in the Barmah State Forest there is a canoe tree that should be preserved at all costs. I know where it is, as do a number of other people, but it is impossible to put up a sign saying "Canoe tree" because I know exactly what will happen. It will be vandalised within the week.

It is unfortunate that it is not possible publicly to identify some of these features that ought to be preserved. I support the preservation of these features.

The National Party is opposed to doing what the Bill envisages doing—protecting every item that can be identified as having some historical or Aboriginal significance. The Bill will be totally unworkable and it will lead to the purposeful destruction of such items because there is no incentive for the person who happens to discover them. The Bill will impose restraints and conditions which that person could not possibly live with in his or her normal business activities.

I do not want to canvass all the matters Mr Hunt has gone into, but I congratulate him upon his contribution. He has directed attention to the deficiencies in the definitions clause. Those definitions are far too wide and meaningless.

I support Mr Hunt's 28 items or principles for a bipartisan heritage policy. The document that he has incorporated in Hansard provides a very sound basis for the drafting of a Bill.
that will be acceptable to an Aboriginal community and that could very well be a bipartisan policy for whichever party is in government, and would lead to the sort of continuity that I know the Government is seeking and the sorts of policies I believe the Aboriginal people are seeking.

This Bill does not provide for that. It is not in accord with the discussion paper that was circulated twelve or eighteen months ago and which had wide support among the Aboriginal community. There are wide divergences from the recommendations of that discussion paper. No convincing reason has been given why that is so. Certainly, I support the reasoned amendment.

The Hon. G. A. SGRO (Melbourne North Province)—Tonight the House is discussing the Aboriginal Cultural Heritage Bill. When one talks of the Aboriginal people and their history, one goes back 45 000 years. From time to time people like Mr Baxter and Mr Hunt travel overseas—Mr Baxter and Mr Hunt can go overseas at the taxpayers' expense—and when they see a 1500 year old building, they say how beautiful that building is, but it is only 1500 years old. In Australia, the Aboriginal history is 45 000 years old and, if people like Mr Baxter and Mr Hunt had their way, they would destroy it.

When I entered Parliament in 1979 I thought, and I still think, that Mr Hunt was one of the best politicians in this place. Mr Hunt is honest and whenever he speaks it is from the heart. Mr Hunt can speak in the House without the need for notes, but, tonight he needed a piece of paper to make a speech that someone else told him to make. The bit of paper was tough and rough enough to be used for other purposes.

The Hon. A. J. Hunt—I did not read it.

The Hon. G. A. SGRO—Mr Hunt presented the House with a lot of rubbish in 28 points that he called principles for a bipartisan heritage policy. In point No. 22 he said that there is a specific duty to identify, restore, maintain and manage the cultural heritage of Aboriginal people. Only yesterday, Mr Hunt—and the Liberal Party had the support of the National Party—spoke on a Bill to give a piece of land back to the Aboriginal people. They said, "No way; we cannot give the Aboriginal people too much land because if too much land is given to the Aboriginal people, the white people will object and a division will be created". Of course, it will create a division. The Opposition and National Party have to create the division because their policy is to divide and conquer—that is what they are doing.

How can anyone talk of heritage and culture if the people concerned do not have the land? When we talk about culture and heritage, we talk of people, and people have their feet on the land, but the Opposition and the National Party object to these ideas.

Yesterday, Mr Hallam and Mr Hunt said that although they would not mind giving the Aboriginal people a bit of land, they were frightened to give away too much land because a division will be created between the Aboriginal people and the white people. Tonight, Mr Hunt spent 20 minutes talking about the policies of the United Nations and what the United Nations was trying to say.

Mr President, I have been in this country 35 years—Mr Baxter and his forebears have been in this country 150 to 200 years. However, whenever I disagree with them, outside the House they have said to me, "Why don't you go back?".

The Hon. W. R. Baxter—I have never said that.

The Hon. G. A. SGRO—I did not say that you did, Mr Baxter, but many times I have been told outside this House whenever I disagree or criticise the policies presented by those people, "Why don't you go back"! Nobody should say the same thing to me about people who have been here 45 000 years!

When I came to Australia in 1952, I stayed at the migrant camp at Bonegilla. From there I went to Cobram where there were 20 Aboriginal families. I could not believe my eyes when I saw how those people, the indigenous people, were treated.
Today, Mr Hunt came here with a four-page document on what the Liberal Party believes should happen to the Aboriginal people. Australia should heed the views of the rest of the world, including the United Nations, about these issues. In Australia, not so long ago, white people hunted Aborigines with shotguns. The Aborigines could not defend themselves because they had only spears. They were overcome.

All over the world other people talk about the history of Australian Aborigines, but in Australia people forget about that. The white people who have been in Australia for only 150 to 200 years want to destroy that history. It is one thing for Mr Hunt to say, "Tell the world", but Mr Hunt's speech was one of the worst speeches he has made because he did not believe what he was saying.

He talked about educating the Aboriginal people, and other honourable members have agreed that this should be done. However, they are only mouthing words and do not really support the Government and the Aboriginal people in that desire. The Aborigines must be educated.

The Liberal and National parties have mentioned the United Nations and what some archaeologists have said—everybody knows that archaeologists just want the benefits for themselves. Mr Hunt knows that; he is not a fool. Honourable members should forget about what the archaeologists say; we are talking of people.

After nearly 200 years of the white race—and I leave myself out because I have been here only 35 years, although I have done some damage because I came from another country; I am a white man and I am considered European—

The Hon. W. R. Baxter—What damage have I done?

The Hon. G. A. SGRO—I do not know, but a few minutes ago you mentioned your land. For example, Mr Baxter has a property. If, when he is ploughing the ground, he comes across the body of an Aboriginal or an Aboriginal relic, the Government says that the area should be left to be protected, but the National Party says, "Blow that". A farmer will want to plough over and destroy those relics.

We do not accept that. The Government and the Minister have all the right in the world to say and do what they have. I agree that Australia has a lot to show the world. The Aboriginal culture is the oldest heritage in the world.

They are the oldest indigenous people in the world and they have a tremendous amount of culture to show the rest of the world; but not on our terms, not in the way we see things with only one eye open and not in the way Mr Hunt sees things. They do not want us to tell them how they should present that culture to the world.

When Pope John Paul visited Australia last week he mentioned the Aboriginals in one of his speeches. I do not condemn the Pope, but it would have been better if he had paid more than lip-service to what he was saying. When I was in Rome three months ago, I noticed a beautiful art display depicting works by Aboriginal people.

Rome, which belongs to the average person, was displaying art from this part of the world and it would have been nice if the Pope had said, "Here you are, you can take responsibility for your own heritage"; but he did not. He did what Mr Baxter and Mr Hunt did tonight. It is one thing to talk about Aboriginal rights but action is another thing altogether. After visiting Rome and seeing the beautiful art and hearing the exhibitors speak about the Aboriginals, it made me wonder whether this so-called Christianity is really for Christians.

The Leader of the Opposition in this House, Mr Chamberlain, is a devoted Catholic. He is not in the Chamber tonight but it would be good if he came in and supported the Bill because, although the Pope told him to do so, he will not support the Bill. It is one thing to display to the world the art of the Aboriginal people but it belongs to them and we should recognise that fact. White man is greedy. He grabs the Aboriginals' land. The Bill is necessary for the world to see that Victoria recognises the history and the culture of
these people and the Bill is presented not because the Government does not want the rest of the world to see what the Aboriginal can produce but because it is their history.

The white people, the Europeans of this country, if they had had their own way up until now, would have destroyed what the Aboriginals produced. If we want to live with them in harmony, a Bill such as this is necessary. Unfortunately, the Bill will not be taken literally as the people of this State and this country destroy anything that is different.

Only last week I had the honour of visiting the Grampians where I saw one large rock on which was painted Aboriginal drawings. To me it did not mean much, it was merely a few white lines, but is was an important piece of Aboriginal art. Unfortunately, the rock had been completely enclosed in a cage because the people we speak about, the people whom Mr Hunt and Mr Baxter want to see enjoying the art, go to these areas and destroy the art. The Aboriginal heritage means nothing to them.

The Bill is saying, "We want the heritage of the Aboriginal people to remain for the Aboriginal people because white people cannot be trusted any more". White people should apologise to the Aboriginals for what they have done to them for the past 200 years. I will never forget that when I arrived in Australia in 1952 I used to see this name Namatjira, the name of the famous Aboriginal painter, but to me the name meant nothing. After two or three years, I started to understand how great he was because I am a painter myself—I paint with a 6-inch brush, but nevertheless I do mix the colours. All of a sudden I realised what this man had done and what a famous painter he was.

Unfortunately, Namatjira gave a drink to two or three fellow Aboriginals and, because of our law, not their law, we put him in gaol and we killed him.

The Hon. W. R. Baxter—You can't allege that!

The Hon. G. A. SGRO—We did not shoot him like we used to shoot others but we killed him because we shut him up in gaol, and that is worse. We demoralised the man yet, according to Christian law, he did nothing wrong. He merely gave a drink to his fellow man, like I did in 1952 in Cobram.

I used to go on the booze myself and get drunk like many others but those poor buggers were outside; they could not come in. I had to go inside and get a drink for those people who were outside because they could not come inside to drink; they are the sorts of people that the Bill is trying to protect. They have been in this land for 45 000 years and now we are trying to protect them. How can they trust us? Not until we all work together and we are prepared to educate our people!

Experience shows that we cannot be trusted with their beliefs, with their history, with their art or with their land and, until we can be trusted, we should say to them, "Here you are, look after it yourself and then, when we can be trusted to join you, we will join together and show art to the rest of the world". The rest of the world should see the art of the oldest indigenous people in our country.

The Hon. JEAN McLEAN (Boronia Province)—I have listened carefully to what Mr Hunt and Mr Baxter have said tonight. I must say that there was one clear difference between them and that is that Mr Baxter seems more worried about the possibilities of finding some Aboriginal relics on his property and having to protect them instead of ploughing them under; whereas Mr Hunt seems to feel that the Aboriginal community, as mentioned in the Bill, is not really necessarily capable of looking after its cultural heritage.

The Bill, which has taken two and a half years to draft after consultation with the Aboriginal community, is allowing—for the first time in Victorian and Australian history—the Aboriginal people to be in charge and control of their own cultural heritage. I, for one, certainly believe they are in the best position to be able to do this.

White Australians have attempted, in every possible way, to wipe out the Aboriginal community over the past 200 years and, having failed to totally do this, have suddenly
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decided it is worthwhile, for historical and archaeological reasons, to start collecting and preserving in some way or another the cultural relics of the Aboriginals.

I have spent quite some time in the Museum of Victoria over the years and the area where the Aboriginal relics are on display is in the dungeons of that museum building. The Liberal Government, during its 27 years in office, apparently did not seem to think it was necessary to spend money on protecting Aboriginal culture in this State and much of it is disintegrating.

Surely the Aboriginals are the only people who can decide what parts of their culture need to be protected, rather than Mr Hunt's suggestion that, somehow or other, there needs to be some superior body to make these decisions on what parts of the culture needs to be preserved and controlled.

I, for one, believe our local Aboriginal communities throughout Victoria are quite capable of making those decisions to protect their culture. The European society has made a very good job of trying to make sure that there is no future culture of the Aboriginal people, and I think it is of great importance and a testimony to the Aboriginal people that, over the past 150 years in Victoria, they have managed to continue to pass down their cultural heritage in a situation where we have deprived them of any decent living conditions at all.

In the Bill, the Minister has set down very reasonable principles to enable the Aboriginal people to maintain for themselves, for us and for all the people in the future the protection of their culture. It is rather unreasonable on the part of Mr Hunt and many others to suggest that we need more superior archaeological brains rather than the Aboriginal community to make those judgments.

The Hon. A. J. Hunt—I suggested that Aboriginal cultural heritage has to be seen in the context of the whole.

The Hon. JEAN McLEAN—Of course it would be on the whole. They have 50,000 years as against our 150 years. I fail to see any reason why the Opposition cannot support the Bill as it stands.

The Hon. B. A. MURPHY (Gippsland Province)—I support the Bill and shall demonstrate the sham of what Mr Hunt is saying. I am disappointed in what he had to say about the Bill and, in a moment, I shall prove the falsity of his document entitled "Principles for a Bipartisan Heritage Policy".

There is nothing bipartisan in the Aboriginal community with respect to Aboriginal artefacts. Aborigines want their artefacts and sacred sites preserved for themselves. They do not want them to be on display in glass cases or shown to white people as something that represents a lost civilisation. Aborigines see themselves as part of a viable civilisation, and I am sure it is so.

I had the honour of visiting, with the Minister and Mrs McLean, what are still regarded as sacred sites. We were shown items of value that were given to us—if honourable members like—in some sort of confidence by the Aboriginal people. The information was passed to me originally by the late Mr Philip Pepper, who was an elder of the Aboriginal people who live in Gippsland.

We all learned something of value. We saw stones that were used to sharpen weapons which were used by Aborigines to hunt for food and to protect their tribes. We learned about Aboriginal grave sites at Ramyuk and Boney Point and so on. We were able to see these items because of the knowledge that has been passed from Aboriginal father to Aboriginal son and from Aboriginal mother to Aboriginal daughter.

It was only because we bothered to speak with the Aboriginal community that we were shown these items. They showed us valuable sites that are not generally shown to white people, because they would be devalued or ruined within a few weeks if they were shown to the general public.
That was one of the first lessons we learnt. One cannot put irreplaceable items on display because they will be ruined by vandalism. Mr Hunt said that archaeologists want the right to control Aboriginal artefacts.

The Hon. A. J. Hunt—I did not say that.

The Hon. B. A. MURPHY—That is what Mr Hunt's comments amounted to. Mr Hunt said they should be put on display somewhere or hidden away in a museum. The Aboriginal people want their artefacts where they belong; in graves, caves and tree sites, if that is where the skeletal remains have been placed. They want their special sharp stones and so on kept the way they were kept thousands of years ago.

I shall now refer to the items listed in Mr Hunt's document. Paragraph No. 1 states:

International trafficking in important items of cultural heritage should be prevented, and carefully controlled in respect of other significant items.

All honourable members will agree with that. However, what did Mr Hunt and the former Liberal Government do when skeletons were removed from the cave site at Benambra? Mr Hunt was possibly the Minister in control of the removal of the skeletal remains in the early 1960s. Those remains are still in the museum in Melbourne.

What about the artefacts collected by Professor Strehlow which were sent overseas to his widow? Did Mr Hunt make a public statement saying that those artefacts should not have been removed? The person who removed them thought they belonged to the professor's relations who wanted to keep the collection for future generations of that family. What about the Aboriginal people who were the rightful owners of the artefacts?

What has happened to the valuable stones and other artefacts? The argument of Mr Hunt is pretty hollow. However, paragraph No. 1 is probably one of the stronger points he had to make. There should not be international trafficking in Aboriginal artefacts. However, what did Mr Hunt do about this when he was Minister? Paragraph No. 2 states:

A national (or State) inventory of protected cultural property to be established.

That would be wrong. Should we place in the Government Gazette a list of 15,000 valuable sacred sites and say, "Here they are", so that students of Aboriginal studies can observe them? Those items of cultural property are sacred. We do not want to say, "Here is a grave, go and have a look; if you dig up the grave you will find the body". That is not what should be done. Mr Hunt should be criticised for even thinking that the Government should publish a list of remains.

Paragraph No. 3 states that there should be reasonable protection and supervision of archaeological sites. What does Mr Hunt mean by "reasonable"? How far does one dig? How does one judge whether something should be protected? Does one make a cut-off point at 40,000 years or 70,000 years? I do not think there is any such thing as "reasonable protection". One should have full protection and the Aboriginal people should decide what is right.

Paragraph No. 4 states:

There should be adequate State support for authorised collecting institutions, including archaeological bodies and museums.

I suppose Mr Hunt is referring to funding so that white people can dig up Aboriginal bones or collect stones of value, identify them and take them to Melbourne.

I am not sure what paragraph No. 5 means. Perhaps it means that the bones should be painted to make them whiter!

Paragraph No. 6 states:

Heavy emphasis should be placed on measures for education of the public generally and of those likely to deal with cultural property in particular.
What does Mr Hunt mean by that? Does one have to have a degree or some sort of title to search for artefacts? Does this apply only to professors or students? Will Aboriginal people be allowed to search for remnants of their own cultures? Perhaps those opportunities, according to Mr Hunt, should be available only for scientists.

Paragraph No. 8 states:
The process of protection needs to be selective, emphasising objects that are of particular importance, and the ground rules for selection should be clearly stated.

This is the worst of all. How typical of the Liberal Party to say that only certain people should be able to look after these items. Does one have to be a student or a professor with a degree after one's name to be able to select these items? Clause 19 states:

The Minister may, in writing, appoint any person nominated by a local Aboriginal community to be an inspector for the purposes of this Act if the Minister is satisfied that the person has knowledge and expertise in the identification and preservation of Aboriginal cultural property and is able to undertake the duties of an inspector under this Act.

That is included in the clause which I think Mr Hunt opposes. Mr Baxter opposes them! The Bill provides for an Aboriginal inspector but perhaps he should have a degree. I am not sure what university one would have to go to to study Aboriginal culture. I am aware of a course on Aboriginal history which is being started in Gippsland. Perhaps the inspector will have to undertake one of those courses.

Paragraph No. 10 states:
Items and areas not considered sufficiently important to justify classification and special protection should be free from controls.

In other words if someone does not sight a place of spectacular value or an item of sufficient importance, it is not controlled. Perhaps one might find a skeleton up a tree. Honourable members may laugh, but when I was young I knew of such an incident.

Often when farmers are digging, they find skulls and they use them for doorstops. They are good for that. If that paragraph were accepted one would have the freedom to do what one liked to any unidentified artefact.

Paragraph No. 11 states:
There must be ongoing research into the relative importance of new items and areas, and of presently classified items and areas.

In other words, perhaps another degree will have to be obtained to undergo this type of research. Perhaps the present standards will have to be increased. Maybe we should ask some Americans to come to Australia to study the Aboriginal people rather than requesting the Aborigines to undertake this type of research themselves.

Paragraph No. 12 states:
This may result, from time to time, in additions to the inventory, reclassification of items or areas within it, or release of items or areas no longer considered to be of sufficient importance.

Mr Hunt might have been thinking about returning the skeletal remains to somewhere like Gippsland from where they originally came!

Paragraph No. 13 states:
Significance to a group or locality must be seen in the context of the importance to the wider community.

Would that mean that sewerage works would go through a midden in Lakes Entrance or Mallacoota? After all, the sewerage works are more important than the Aboriginal culture which has survived the past 30,000 or 40,000 years.

Paragraph No. 14 is:
Consideration of the interests of that wider community, and the various groups within it, should be integrated so far as possible within a single legislative framework, and not fragmented.
Is Mr Hunt suggesting that the three Bills should be brought together? If the Opposition does not block the Bill, the Bills could be drafted into one Bill which recognises Aboriginal land rights.

The Hon. A. J. Hunt—That is right.

The Hon. B. A. Murphy—I should like to see that. I shall be waiting for it. Paragraph No. 15 reads:
Archaeological research should be assisted and encouraged, rather than discouraged or—or—worse—prevented.
I am not sure who would prevent archaeological research. I know that Aborigines are prevented from undertaking research. The Bill will allow them to do this work. If the Opposition’s amendment is agreed to, Aborigines will not be allowed to do this research.

Paragraph No. 16 is:
That research must, nevertheless, be carried out subject to adequate protective conditions.

Does Mr Hunt mean that people will have to have tents over their heads while they dig up the bones or that something will have to be built to prevent the skeletal remains from being removed? I am not sure what that paragraph means.

The Hon. Robert Lawson—The Government administers the Bill!

The Hon. B. A. Murphy—I did not write that paragraph; Mr Hunt wrote it.

Paragraph No. 17 reads:
Clear requirements for reporting of discoveries must be laid down.

This is the central point. To whom does one report? Is it the local Aboriginal community, the Age or the person in control of the register of the artefacts, so that the discoveries can be studied by everyone in the world?

Paragraph No. 18 reads:
Clear powers are required to give directions or to make orders to safeguard significant items of cultural property or areas containing or believed to contain them, including acquisition if necessary.

Over the past 150 years anything that could have been acquired was killed. That means the person was shot on the spot and the body was removed silently overnight. When the bones are dug up, they are placed in museums around Melbourne and regarded as valuable archaeological items.

Paragraph No. 19 reads:
The powers should be so expressed as to safeguard against arbitrary exercise.

As I am not a lawyer, I do not understand what that means. Paragraph No. 20 is as follows:

There should be provision for fair compensation for those adversely affected by the exercise of powers designed to protect heritage for the community.

Perhaps Mr Hunt means the farmer at Stratford who allowed his cattle to wander into an Aboriginal and white man’s cemetery. The fence was pulled down and the gravestones knocked down by the farmer's cattle because he thought the cemetery was an impediment to his farm. Should that man be paid compensation? I am not sure, but I should not think so because for many years to come he will pay for that in his conscience.

Paragraph No. 21 states:
The obligation of everyone to safeguard and protect the nation’s cultural heritage should be heavily emphasised and publicised and reinforced by sanctions.

I am not sure whether Mr Hunt is referring to something like Professor Strehlow’s collection.

Paragraph No. 22 states:
There is a specific duty to identify, restore, maintain and manage the cultural heritage of our Aboriginal people.
This is what the Bill is all about. It is aimed at protection, not at restoration. We do not know what the Aboriginal people want.

The Hon. G. R. Crawford—it is like the town of Gordon. The local council erected a public toilet in the old cemetery that has not been used for the past 100 years.

The Hon. Robert Lawson—that is a white man's sacred site.

The Hon. B. A. Murphy—Mr Crawford is right.

The Hon. R. S. de Fegely (Ballarat Province)—On a point of order, Mr President, the Gordon cemetery has nothing to do with the Bill. It is a white people's cemetery. What has been said is correct but it has nothing to do with the Bill.

The Hon. B. A. Murphy (Gippsland Province)—I take note of the point of order. The point being made was that it is not only a white man's cemetery; Aborigines are also buried there. Nevertheless we should not build major public toilets on cemetery sites whether they are for black, white or brindle.

Paragraph No. 23 states:

This is required for all who live in Victoria and, by extension in Australia, now and in the future, whether they are of Aboriginal descent or descendants of other races.

The Hon. A. J. Hunt—Do you disagree with that?

The Hon. B. A. Murphy—I do not agree with it because we are talking about Aboriginal relics from a civilisation 40,000 or 100,000 years old. I am not talking about the past 150 years of white civilisation: we have looked after ourselves well.

Paragraph No. 24 is:

This must necessarily involve both Aboriginal and non-Aboriginal people if the objective is to be successfully achieved.

The Government does not believe that. It believes Aboriginal people must decide their objectives and how they will look after their artefacts. It is their history.

Paragraph No. 25 states:

For this purpose the most important activity will be to develop in an ongoing way, an awareness and appreciation in the general community of the nature and value of Aboriginal culture, and its permanent and viable place in Australia's heritage overall.

Although that may sound good and may pay lip-service to the Aboriginal culture, it is still demeaning because it treats the culture as a tourist attraction which people can observe, rather than appreciate that Aborigines have an awareness of their history.

Paragraph No. 26 states:

Effective consultation will be required at every stage, with genuine respect and concern for the views of Aboriginal communities and of others affected.

Why have genuine consultation between white and black communities? It is the black people's heritage, not ours.

Paragraph No. 27 states:

Emphasis should be placed on voluntary agreements rather than legal requirements and sanctions, wherever practicable.

I am aware of no legal requirements in the past that have done anything for the Aboriginal people. They have allowed them only to be shot at, slaughtered and poisoned by white people. I gave examples in a debate last night of how in Victoria's first 150 years it almost wiped out an entire race. White Europeans were responsible for destroying the food and heritage of Aborigines. Aborigines now have a little history and they are starting to regain
their pride in themselves. That approach by Aborigines should continue at their own pace, not at the direction of white people. Paragraph 28 of Mr Hunt's principles states:

Further development and implementation of the policy to build on the past, retain and improve the proven, refine the existing and seek to remedy deficiencies in past policies and their administration.

That is codswallop, and I am not afraid to tear up the Opposition's principles!

The Hon. J. H. KENNAN (Minister for Planning and Environment)—The reasoned amendment moved by Mr Hunt seeks to have the Bill withdrawn. It seeks to ensure that no separate Aboriginal Cultural Heritage Act should apply in this State now or ever.

As I stated yesterday when the Aboriginal Land (Lake Condah) Bill was being debated, given the ravages of Europeans since the time of invasion, the most extraordinary thing about the Aboriginal people is that they have survived at all. It is not their survival that is extraordinary but that they still have some history, culture, Aboriginal objects and legends—it is a living culture.

My predecessor, the Honourable Evan Walker, recognised that and funded consultation programs through the Ministry for Planning and Environment in which Aboriginal communities discussed cultural heritage legislation for the Victorian Aboriginal community.

There was considerable discussion and a variety of views were expressed. However, one view that came through strongly was that separate and special recognition needed to be given to Aboriginal culture, that there had to be some measure of self-determination, that the existing Act was not good enough and that there should be a separate Act which recognised the importance of Aboriginal culture and which gave effect, so far as possible, to the principles of self-determination.

After two years of discussion a draft Bill was first circulated in the middle of this year based on the principles that came out of those discussions. Some six meetings, including two general meetings of the Aboriginal community at Camp Jungai in August and at Ballarat in September, were held.

The Bill, which the reasoned amendment wants to have withdrawn, was the first piece of proposed legislation in the history of this country that was drafted substantially by Aboriginal people. The Bill, which the Opposition seeks by this amendment to have withdrawn and which has been treated with such an appalling lack of sensitivity, sought to give effect in legal terms to the principles that the Aboriginal people wanted; but it also went through six drafts that were circulated after each meeting over successive weeks. Clause by clause those drafts were worked on repeatedly and input from representatives of Aboriginal communities from all over Victoria resulted in the final draft. Of course, there was not unanimity. How could there be unanimity?

What a cheap and nasty point for Mr Hunt to make! It is absurd to talk about unanimity among Aboriginal people who have lived here, as the eloquent speakers before me have stated, for 45 000 years, especially when a European Government is endeavouring to legislate to preserve their Aboriginal culture. There was not unanimity but there was agreement that there should be separate legislation. There were certainly objections that the Bill did not go far enough.

All objections received by Mr Hunt were not about the fact that there was to be separate Aboriginal legislation in Victoria. Aborigines did not call for integration of this Bill with the Victorian Act, as Mr Hunt has done. They all went the other way: they wanted additional definitions here and tighter controls there. None of the objections on which Mr Hunt relies to support his reasoned amendment is in his favour.

Mr Hunt is seeking to do what has been done for far too long by white people in Australia. He is seeking to divide the Aboriginal people, and I find that to be contemptible. It is disturbing that a person who has been a member of this Parliament for 25 years should do that. As I pointed out in another debate yesterday, this House is not a place that
Aboriginal Cultural Heritage Bill

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has ever done anything for Aboriginal people. It does not have a happy history for Aboriginal people. Aborigines have never had much of a say in any legislation affecting them.

After all that consultation the Government has introduced this important Bill but the Opposition has moved an amendment to have it withdrawn. I recognise that the love, generosity and sense of community spirit among Aboriginal communities is much greater than that experienced in many parts of white society, but it is extraordinary that members of the opposition parties, when faced with a Bill involving Aborigines, do not want to have it debated. They do not even want it to go into Committee where it would be examined clause by clause and where some amendments could be made. The Government has been prepared to listen to various interest groups and make amendments since discussions have occurred. The Opposition does not want to do that; its amendment simply seeks to have the Bill withdrawn and to have a revamped singular Aboriginal Bill introduced. There would be no special recognition of Aboriginal people.

I should have thought after the debate on the Lake Condah Bill and 150 years of ill-treatment of Aboriginal people that the Opposition would be delighted to go into Committee and debate this Bill. However, the Opposition does not even want the Bill to go into Committee. The reasoned amendment seeks to take that opportunity away.

Mr Hunt said that objections had been made by archaeologists in support of his reasoned amendment. The Government has spoken to these people. Talk about archaeologists’ ethics! Archaeologists believe their ethics transcend Aboriginal cultural values. They say when a white scientist has an attachment to an archaeological relic, that must override the wishes of the local Aboriginal people.

The Hon. A. J. Hunt—I said nothing like that.

The Hon. J. H. KENNAN—I have no trouble in this House or anywhere else saying that I reject that argument. I will reject it outside the House whenever it is put to me. If the Government were not faced with this reasoned amendment, it would move some amendments to ensure that there was no gap between the Bill and the Victorian Aboriginal Act. The Government could provide for the objection of archaeologists involving Aboriginal relics and Aboriginal cultural remains. That is a simple problem; it can all be resolved. As with much legislation that comes to this Chamber, amendments can be moved to improve the measure.

It is particularly sickening in this case that the House will not be able to debate the Bill because the Opposition does not want the Bill to reach the Committee stage; it simply wants to block the Bill.

I wish to put on record my gratitude for the patience, compassion and goodwill of all Aboriginal communities in Victoria who have been prepared to go through this process and work through the Bill while recognising, as with the land Bills that the Minister for Conservation, Forests and Lands has introduced into Parliament, that after all this time nothing has changed: the invaders are still running the show. Not much has changed since the flour and the waterholes were poisoned. The Opposition does not want to give the Aborigines any chance. It does not want to debate any Aboriginal Bills and has said to the Government to take them away because it will not give any special recognition to Aboriginal people.

That is a ridiculous attitude for the Opposition to take; but, fortunately, in this case, the Government has a remedy. This evening, I went to see the Federal Minister for Aboriginal Affairs, Mr Holding, and I gave him a letter, a copy of which I seek to have incorporated in Hansard.

The PRESIDENT—Order! I have examined the document and there is no reason why it cannot be incorporated in Hansard if leave is granted.

Leave was granted, and the letter was as follows:
4 December 1986
The Hon. Clyde Holding, MHR
Minister for Aboriginal Affairs
House of Representatives
CANBERRA, ACT 2600

Dear Mr Holding

ABORIGINAL CULTURAL HERITAGE BILL 1986 (VICTORIA)
ABORIGINAL LAND (LAKE CONDAH) BILL 1986 (VICTORIA)
ABORIGINAL LAND (FRAMLINGHAM FOREST) BILL 1986 (VICTORIA)

The above three Bills have been introduced into the Victorian Parliament. The Aboriginal Cultural Heritage Bill and the Aboriginal Land (Lake Condah) Bill have been passed by the Legislative Assembly and are presently on the Notice Paper in the Legislative Council.

The Opposition parties in Victoria have foreshadowed a reasoned amendment to the Aboriginal Cultural Heritage Bill calling for its withdrawal. The Opposition parties have made it clear that they oppose the notion of an Aboriginal Cultural Heritage Bill and that the most that they would be prepared to accept would be some amendments to the existing Archaeological and Aboriginal Relics Preservation Act.

You will be aware of the extensive consultation with the Aboriginal community which gave rise to the Aboriginal Cultural Heritage Bill. The Bill reflects the wishes of the majority of the Aboriginal people as expressed in meetings specially convened to consider the Bill. It provides, for the first time in Victoria, a cohesive and comprehensive framework for the protection and enhancement of Aboriginal cultural heritage in Victoria. However, it has no prospect of being passed by the Victorian Parliament because of the attitude of the Opposition parties in the Legislative Council.

The Aboriginal Land (Lake Condah) Bill has passed the Legislative Assembly and has been debated in the Legislative Council, where further debate on the second reading has been adjourned. The Opposition has foreshadowed amendments to the Bill which would result in the title being given as a freehold title to the Aboriginal community and allow the property to be alienated in the future. In addition, the Opposition have moved amendments repealing the mining provisions. The Kerrup-Jmara community have indicated that the proposed amendments are unacceptable to them. They do not want the Bill to proceed in these circumstances.

The Aboriginal Land (Framlingham Forest) Bill would undoubtedly be treated in the same way by the Opposition parties to the Aboriginal Land (Lake Condah) Bill if it were to proceed to the Legislative Council.

In the light of the effective obstruction by the Opposition in the Victorian Legislative Council to these three Aboriginal Bills, I am now writing to you on behalf of the Victorian Government to request your Government to exercise its constitutional powers and enact those three Bills through the Federal Parliament. That request will meet with an early and sympathetic response.

When the Government is faced with blockages and this reasoned amendment, it is sweet irony and it will be a day of enormous celebration when, despite the efforts of the Opposition, finally, in 1987, there will be a little bit of justice for the Aboriginal people by the Federal Government having the constitutional power that the people of this country—a country with a poor history in referenda—passed overwhelmingly in 1967. I look forward to that day and I am sure that Aboriginal people of Victoria also look forward to it.
The reasoned amendment is nothing but a tribute to the fact that, so far as the Opposition is concerned, nothing has changed for 100, 150, or 200 years. We have heard nonsense from Mr Hunt quoting a white archaeologist who claimed that the Bill says nothing about educating the wider community. Mr Hunt read out clause 1 (b), which states:

- to encourage public awareness and appreciation of that heritage, especially through education by Aboriginal people—

How terrible for Mr Hunt to have to recognise that! Mr Hunt ignored the clause because it uses the words “especially Aboriginal people”. Mr Hunt read out the words and it was as if they did not exist; that is what it is about so far as Mr Hunt is concerned. I just hope Mr Hunt goes, and goes quickly!

On the motion of the Hon. JOAN COXSEDGE (Melbourne West Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

MOTOR CAR TRADERS BILL

The debate (adjourned from the previous day) on the motion of the Hon. J. E. Kirner (Minister for Conservation, Forests and Lands) for the second reading of this Bill was resumed.

The Hon. G. P. CONNARD (Higinbotham Province)—This rewrite of the Motor Car Traders Act 1973 reflects the fundamental difference between the two major political parties and a fundamental difference between the two parties in approach to consumer affairs. The basic approach of the Labor Government is that all business is rotten and that all traders are dishonest. The approach of the Bill is that all buyers are good and all traders are bad. The Liberal Party certainly does not agree that the reverse is true but claims that the reality lies between the two.

I remind the House that the then Liberal Government was the first political party to consider consumer affairs and it laid in place most of the current legislation. At that time, the Liberal Government was careful to recognise both the legitimate rights of consumers who had been ill-treated by traders and the rights of traders conducting orderly and respectable businesses.

In 1973 the then Liberal Government introduced the Motor Car Traders Act. In her second-reading speech, the Minister for Conservation, Forests and Lands stated that the Act had successfully curbed major abuses. It is now 1986 and some amendments probably need to be made. However, in completely rewriting the Act, the Government has produced a monster.

The Bill gives no consideration to the genuine trader. The thrust of the Bill is total consumerism. It should be recognised that, like all associations or groups, the motor traders may have an occasional rotten egg. However, the majority of traders are honest. The Government has reacted to consumerism, which is fundamentally anti-business.

The activities of the motor industry are extremely important to the economies of the nation and the State. One of the two economic indicators in the State is the motor industry, the most important sector of which is the motor traders—those people who sell the cars at the end of the production line.

The Victorian Automobile Chamber of Commerce has produced figures indicating that new vehicle sales in 1984–85 were 172 841 and that used car sales for that year were approximately 345 682, totalling 518 523. In 1985–86, new vehicle sales numbered 158 561 and used car sales numbered 317 122, totalling 475 683. That represents a decrease of 5.26 per cent in sales over those two years. The comparable figures for September for new vehicle sales in 1985 and 1986 show a decrease of 15.96 per cent.
I quote those figures to outline the decline of this important industry. Despite that, the Bill puts up massive barriers to motor traders. In its annual report of 1986, the Ministry of Consumer Affairs indicates that it received 1237 complaints about new and used vehicles out of total sales in that year of approximately 475 683.

That represents a claims ratio of 0.26 per cent. What draconian measures we have in this Bill for an infinitesimal number of complaints! I quote these figures to nail the lie that the motor car traders are dishonest or corrupt.

The Liberal Party was tempted to move a reasoned amendment to refuse to read the Bill a second time, thus throwing out the measure. However, it was considered that this action was irresponsible. If the Bill had been thrown out, the Minister could have implemented these draconian measures, or worse, under the regulation-making powers that he already has. That would satisfy neither the Victorian Automobile Chamber of Commerce, its members, nor the Liberal Party.

I shall now comment on matters of concern to the Opposition and the motor car traders.

Firstly, I direct attention to the incredible increases in penalties, and I commend the reading into Hansard in another place by my colleague, the honourable member for Bennettswood, who listed a large number of increases. I shall quote one or two to indicate the extent of the increases.

Clause 35 deals with the keeping of a dealings book. Breaches of this provision under the existing legislation attract a penalty of $100, which is increased to $1000 in the Bill—a tenfold increase.

Clause 7, which deals with trading in motor cars, carries a penalty of $1000 under the existing legislation; and the Bill increases that penalty to $10 000—another tenfold increase.

Clause 83 deals with the failure to disclose. Under the present Act a first offence attracts a penalty of $500 which is increased to $1000 for a subsequent offence. That is increased to $2000 under the Bill.

Worst of all is the example of clause 38, which concerns odometer tampering, firstly, by a natural person. The current legislation provides for a penalty of $500 in respect of a first offence and $1000 in respect of a further offence. The Bill increases the penalty to $10 000—a tenfold increase. The penalty for odometer tampering by a corporation is increased from $500 for a first offence and $1000 for a subsequent offence to $50 000.

I shall not go through the extensive list of penalties, of which those I have quoted are but indicators. Penalties of such magnitude are almost impossible to consider, unless one has the real belief in consumerism that is basically anti-business.

Clause 43 of the Bill as presented in the other place represented real difficulties for the Opposition. It deals with the cooling-off period and the provision was not practicable. After the Liberal Party's argument and discussion with the Minister, the Government conceded in the other place and clause 43 was tidied up. Similarly, the Liberal Party insisted that clause 45 should be amended to allow a reduced period for rescission as the period stipulated was unrealistic. Again, that clause was tightened up in the other place. The Opposition is grateful for the cooperation of the Minister in the attainment of those objectives.

The Bill contains many harsh provisions and I shall touch upon one or two to indicate that the Bill should be withdrawn and redrafted. However, for the reasons that I outlined earlier, the Opposition cannot afford that luxury.

Clause 3 (3) (a) exempts certain transactions from the definition of “trading in motor cars”. I find it difficult to understand why licensed motor car traders are included in that area at all. In my view, that provision ought to be deleted.
Clause 5 deals with trading in six or more motor cars and defines what a motor car trader is. It contains two subclauses, and it seems to me that there is no real purpose in having those subclauses. The clause provides:

(1) If a person buys, sells or exchanges six or more motor cars other than from, to, or with a licensed motor car trader in any period of 12 months, that person is deemed to be a motor car trader (whether or not he or she is a motor car trader by reason of any other provision of this Act) unless the person proves that he or she did not, in that period, trade in motor cars or hold out as carrying on the business of trading in motor cars.

(2) Sub-section (1) does not prevent a person who buys, sells or exchanges less than six motor cars in any period of 12 months from being a motor car trader within the meaning of this Act.

Subclause (1) deems a trader who disposed of six motor cars a trader, and subclause (2) says that a trader of less than six vehicles may also be a trader—subclause (2) should be omitted and rewritten.

Clause 7 provides that a motor car trader is to be licensed. If he is not licensed, he will be fined $10,000 for every motor car bought or sold. That is a remarkably severe penalty. However, the clause does not protect the consumer in any way. The provision is redundant and it is inappropriate in a consumer affairs Bill.

Clause 8 refers to the issue of licences, and subclause (5) provides:

An application must specify—

(1) the type of trade in motor cars which the applicant proposes to conduct and the financial resources of the applicant to conduct that type of business.

The requirement to include financial resources in the original application is difficult to come to grips with. Indeed, the licensing authority would have difficulty in indicating what those financial resources should be. If the authority were to do its job properly, it would take so long that the lessee would be broke before he received his licence!

I refer again to clause 13 which deals with the grant or refusal of licences. Subclause (4) provides:

An application for a licence made by a natural person must be refused if it appears to the Authority—

(4) the applicant does not have, or is not likely to continue to have, sufficient financial resources to carry on the business of trading in motor cars proposed by the applicant; or

I shall not repeat the argument that I used in relation to a previous clause about the financial resources, but the provision seems to be completely unnecessary. The same can be said for subclause (4) (f), which provides:

An application for a licence made by a natural person must be refused if it appears to the Authority—

(f) the applicant does not have sufficient expertise or knowledge of this Act and regulations to enable the applicant to carry on such a business.

Clause 16 provides for the authority to sell motor cars at public auction. It reads:

16. (1) A licensed motor car trader may apply to the Registrar for an endorsement to the licence authorising the holder to conduct sales of motor cars at public auction.

That clause will require redrafting at some stage. In my view, it should read, “A licensed motor car trader may apply to the registrar for an endorsement for a licence endorsing the holder to sell at a motor auction”. That has a substantially different nuance from that expressed in the Bill, which is totally impractical.

Clause 35 refers to the dealings book and states:

Every motor car trader must cause a dealings book in the prescribed form to be kept at the premises at which the business of trading in motor cars is carried on.

Clause 35 (2) specifies that a motor car trader must include the time of purchase and all details of the transaction. Clause 35 (3) states:

A motor car trader must not make a false or misleading entry in a dealings book.
The penalty is 50 units or $5000. I shall explain the impracticality of that clause. A large motor agency, such as Reg Hunt Motors, with several units of saleyards around the suburbs, could purchase a vehicle at its agency in Northcote and immediately transfer that vehicle to its agency in Brighton. The dealings book is held at the head office of that firm. The Bill requires the dealer to include all details of the transaction on the same day as the transaction takes place. It may not be possible for that firm to complete the book work at one office and transfer it to another office on the same day. That makes it an impractical procedure. Yet an enormous penalty of $5000 applies.

An unacceptable provision is included in clause 38 which relates to odometer tampering. Severe penalties are incurred if odometers are tampered with. The National Party has difficulty in coming to grips with clause 38 (2) which is almost impossible to understand. However, I believe it is a reversal of normal justice. It implies that the responsibility to prove is not on the prosecution but on the defendant. It states:

(2) If it is proved that any instrument or device in a motor car for recording the distance travelled by the motor car has been tampered with or substituted whilst the motor car has been on the premises of a motor car trader or in the possession, custody or control of a motor car trader, the tampering or substitution shall, unless the motor car trader proves the contrary, be deemed to have been done with intent to deceive by or on behalf of the motor car trader.

The operative phrase is "unless the motor car trader proves to the contrary". We have had discussions with the Government during this afternoon and I shall be proposing an amendment to that clause during the Committee stage.

Clause 43 is also impractical. I shall not cover the view expressed by the Liberal Party in the other place. Suffice to say that the Government accepted our amendment to clause 43, and we are grateful that the Government was able to see sense.

Clause 45 relates to rescission. The Bill originally stated that a purchaser under an agreement for the sale of a motor car may apply to a Magistrates Court not later than one year after the agreement is entered into for an order for the rescission of the agreement. The Liberal Party was concerned about the period allowed. The Government has wisely followed our suggestion and reduced that period to three months. We are grateful for that, too.

The sale of unregistered motor cars is covered in clause 53. The Liberal Party believes that wholesalers should be exempt. The clause provides:

Except as otherwise provided in the regulations, a licensed motor car trader must not sell a motor car that is not registered under the Road Safety Act 1986 to a person other than another licensed motor car trader or a special trader unless the licensed motor car trader provides to the purchaser all certificates and documents required under that Act to enable the motor car to be registered on payment of the appropriate fee.

This precludes the sale of unregistered motor cars. Honourable members will be aware that young people buy unlicensed motor cars and have a lot of fun and experience doing them up and having them registered. The provisions of this clause would prevent a young person from purchasing a suitable unregistered car from a motor trader. That seems to be neither fair nor wise.

Within the meaning of another Act, a wrecker is a licensed motor trader. If a motor trader receives an unregistered car as a deposit, he cannot dispose of that car to a wrecker under the provisions of clause 53. If that clause is not amended now, it will come back for amendment in the future.

In Part 7 of the Bill, the Motor Car Traders Licensing Authority will be set up under the provisions of the Bill. In recent times, the Government has defined the members of the authority extremely loosely.

The Opposition suggests that the authority should consist of a definite number of people from definite categories. The constitution of the authority as set out in clause 91 (1) states:

(a) a Chairperson appointed by the Governor in Council; and
The Government may appoint 1, 2, 50 or 100 persons to represent the interests of the motor car industry. It also states:

The Government may appoint 1, 2, 50 or 100 persons.

Clause 91 (2), which I think is rather quaint, states:

The Chairperson may be referred to as the Chairman or the Chairwoman, as the case requires.

Perhaps the Minister for Conservation, Forests and Lands will comment on that section because noting her prejudices concern equal opportunity, I thought it may concern her. Clause 91 (1) is almost farcical as the Motor Car Traders Licensing Authority may not have an appropriate balance between people who represent the interests of the motor car industry and those who represent the consumers. There may be one person who represents the interests of the retail motor car industry and twelve people who represent the consumers.

It does not require much of an imagination to know the result of that. The authority would be stretched to the limit in the directions in which it will operate as delineated in the Bill.

My party is genuinely concerned that the Bill is ill-drafted and draconian. One could say a great deal about the Bill. Because of the lateness of the sitting I have attempted only to touch upon the major matters of concern. I shall finish my remarks by saying that the Bill is not the sort of Bill the Liberal Party would have introduced.

The Hon. W. R. BAXTER (North Eastern Province)—This is a serious measure. It is horrendous proposed legislation. It is anti-business, and is particularly anti-motor car trader. I believe it must be opposed at every turn. I liken it to the Residential Tenancies Bill dealt with in the last sessional period. It goes too far in one direction to the total disregard of the other side of the equation.

The Residential Tenancies Bill was all on the side of the tenant and placed onerous duties on the landlord. The proposed legislation is all on the side of the so-called consumer and places onerous responsibilities and duties on the motor car trader. Mr Connard enumerated the tremendous difficulties and deficiencies of the proposed legislation. I shall invite him in a moment or two to support the reasoned amendment that I propose to move, which will enable the Bill to be reconsidered so that a better balance can be provided.

The Bill extensively amends the Motor Car Traders Act 1973, which was trailblazing legislation in this field. The Act has worked remarkably well. The Motor Car Traders Committee, under the chairmanship of Mr Chick Lander, has cleaned up some of the shonky practices that were rife prior to 1973 in the motor car trade. There is no dispute about that; the committee has a proud record. One has only to examine its annual reports. I am a keen student of the committee’s annual reports.

The latest report of the committee for the year ended 31 December 1985 indicates at page 4 that there were 3274 licensed motor car traders in Victoria and that during the year four licences were revoked. That is a minuscule percentage of the number of licensees, which indicates that the industry is conducting itself responsibly.

If one looks further at the number of complaints that the Ministry of Consumer Affairs has received about motor car traders, one has only to have regard to the annual reports of the Motor Car Traders Committee to see that in 1983–84, 458 complaints were received about motor car transactions, but surprisingly, when one examines the statistics one realises it is a relatively small number of complaints, bearing in mind that there are more...
than 400,000 motor vehicle transactions a year in Victoria. Upon examination one finds that 219 of the 458 complaints were unjustified; another 66 involved no apparent breach of the law; and the investigations were inconclusive in a further eight cases. More than half of the complaints did not lead to any further prosecution of the dealer.

This further indicates to me that the industry is conducting itself in a responsible manner. Another point that needs to be borne in mind is that more than 65 per cent of the car sales in Victoria a year are private transactions between the owner and the seller—obviously unlicensed sellers because they are private owners disposing of their vehicles. The Bill will not impinge upon those transactions, and I am not suggesting it should, but obviously there are shifty practices occurring in the private car sales market. People advertise cars in newspapers every Saturday, and sell cars privately. I am not objecting to that practice, but there are obviously some practices that are not all they seem to be.

The Bill is directed entirely at licensed motor car traders who, according to statistics I have quoted, are guilty of few breaches of the law. The Minister should have done much more to demonstrate to the House why the proposed legislation was required. The statistics do not indicate any need for action.

I do not propose to go through the clauses and enumerate those with which I disagree, because Mr Connard has done the job for me in an excellent manner.

I invite honourable members to consider Mr Connard’s remarks carefully. I reiterate some of them. Mr Connard mentioned that the penalties are horrendous and that is true. The penalties are as high as $50,000. That is an extraordinary penalty to impose upon any one dealer. Another penalty for disrupting the hearing of the tribunal is three months’ gaol. Has anyone ever heard of sending a person to gaol because he has disrupted the hearing of a tribunal? One would think it is the High Court of Australia where the most stringent sanctions are required! It is an indication of the sorts of draconian penalties that are included in the Bill.

The clause regarding the licensing of motor car traders has the most stringent conditions in the broadest language with no indication of how the licensing committee will apply such things as “sufficient expertise” or “knowledge of the Act or regulations”, or that the motor car trader is a fit and proper person, that he has suitable premises or that he has sufficient financial resources. No indication is given of how that criterion will apply.

The clauses dealing with the tampering of odometers reverse the onus of proof, an issue that Parliament has resisted at every turn and should do so tonight.

Mr Connard pointed out the extraordinary difficulties and deficiencies in complying with clause 35, the dealings book. Large motor car traders in the city with branches in the suburbs or country will find it totally impossible to comply with that clause.

The clause dealing with the cooling-off period has, to some extent, been corrected in another place, but it is still part of the Bill. How far must Parliament go in protecting people from themselves? There is a limit to that.

Clause 57, applying to the Guarantee Fund Claims Committee, provides an opportunity for financiers to recover moneys from the fund for bad debts. I am not sure that the Government wants to help financiers, because it spends most of its time criticising them. The Government does not realise what the clause says.

The Bill has many deficient clauses and I have prepared 29 amendments should my reasoned amendment be unsuccessful. I have been brief, because I have relied on the points Mr Connard has made. I support him entirely in his enumeration of the defects in the Bill. I invite the House to support my reasoned amendment, and I move:

That all the words after “That” be omitted with a view to inserting in place thereof “this House refuses to read this Bill a second time until further consideration of the ramifications of the Bill is undertaken by all interested parties”.

That all the words after “That” be omitted with a view to inserting in place thereof “this House refuses to read this Bill a second time until further consideration of the ramifications of the Bill is undertaken by all interested parties”.

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That all the words after “That” be omitted with a view to inserting in place thereof “this House refuses to read this Bill a second time until further consideration of the ramifications of the Bill is undertaken by all interested parties”.
A similar reasoned amendment was moved in another place by the honourable member for Murray Valley. That amendment was supported by the Opposition in another place. I invite the Opposition to support the reasoned amendment in this House.

The Hon. K. I. M. Wright—To be consistent.

The Hon. W. R. BAXTER—I take up the interjection, to be consistent, because I do not want any party to take the easy way out and vote one way in one Chamber where it does not matter, but go to water in the other Chamber where it does matter. Mr Connard has described the proposed legislation as monster legislation, ill-drafted, draconian, not the sort of legislation that a Liberal Government would introduce and not genuine consumerism. Mr Connard has attacked the proposed legislation at every turn. If the Opposition is not prepared to support my reasoned amendment it will stand condemned in the eyes of motor car traders for its inconsistency. I refer the House to a circular from the Victorian Automobile Chamber of Commerce that went to all motor car traders. It stated:

Dear Member

VACC has had extensive discussion with the Ministry of Consumer Affairs and the National and Liberal parties over proposed changes to the Motor Car Traders Act.

Some of the changes will have dramatic impact on the way you conduct your business.

There is no question about that. Mr Connard enumerated the effects at length. This is the reply the chamber received:

Ministry of Consumer Affairs—The attitude of Government is to proceed with the Bill.

The Government, for all its talk of consultation, ploughs on regardless, particularly when it is dictated to by some ideologues outside the Parliament who are anti-business. The reply continues:

National Party—Greatly concerned over the effect of the proposed changes and very supportive of the VACC submission.

—I say "Hear, hear!" to that—

Liberal Party—Supportive, but appears to be unconvinced that the changes will cause undue difficulties for traders.

Mr Connard laid it on the line and enumerated the difficulties that the Bill will impose on motor car traders. Surely Mr Connard cannot vote against the reasoned amendment, having made the speech he has just made!

The only reason Mr Connard gave for not supporting the reasoned amendment is because he has been threatened by the Minister for Consumer Affairs who has indicated that if the Opposition supports the amendment he will withdraw the Bill and impose the provisions by regulation. I do not bow down to threats and I should have thought that the Opposition did not bow down to threats. Parliament is its own master. It has the right to disallow regulations that Ministers might try to foist upon the House. The Minister is acting in contempt of Parliament. The Opposition should not be so cowardly in backing down because of the threats by the Minister. The Minister stands condemned for threatening representatives of the Victorian Automobile Chamber of Commerce, which his officers did today. I ask the Opposition to support the reasoned amendment.

The Hon. R. I. KNOWLES (Ballarat Province)—I wish to explain why the Opposition is not supporting Mr Baxter's reasoned amendment. It has nothing to do with the argument that Mr Baxter and Mr Connard advanced. Mr Baxter, at the commencement of his speech, indicated that the Bill proposed a number of amendments to the existing Act. The Bill proposes to repeal the existing Act so that if the House supports Mr Baxter's reasoned amendment, the Bill is defeated, and Parliament is left with the existing Act.

Mr Baxter indicated that he was concerned that the Minister for Consumer Affairs was threatening the Opposition and the Victorian Automobile Chamber of Commerce. The
threat is not an idle one. The Act has wide regulation-making powers and many of the draconian changes proposed in the Bill, changes that concern the honest, decent motor car trader, can be given effect by changes to regulations.

Mr Baxter indicated that Parliament has scrutiny of those regulations. Yesterday the House saw the capacity of Parliament to reject a regulation that was reported on by an all-party committee which recommended that the regulation be disallowed. What happened! The House carried the motion but it did not get to first base in the Lower House.

What sort of opportunity is there for this House to provide for those decent, honest traders by saying that we have the power to scrutinise the regulations that the Minister for Consumer Affairs has decided will give effect to many of the draconian changes indicated by him?

We will not be doing the right thing by decent and honest motor car traders by saying we are supporting and defending their interests by supporting Mr Baxter's reasoned amendment, no matter how much we agree with the views he has expressed.

The Opposition is changing its stance on the reasoned amendment. It is not supporting it only because it wants to keep the Bill alive so that it can make additional changes which would meet other real concerns of the motor car industry.

The Government has already accepted two amendments to the Bill in another place. Those two amendments were moved by the Liberal Party and they have addressed two major concerns that the Victorian Automobile Chamber of Commerce advised regarding the Bill. One related to the cooling-off period, and one related——

The Hon. W. R. Baxter—The National Party had a similar amendment; you might have said that they were joint.

The Hon. R. I. KNOWLES—Mr Baxter is right, but the crucial thing is the Government accepted the amendments because if it had not done so they would not have been agreed to in the other place.

The other amendment related to the length of time required for the revision of the contract. Without being involved in the background of the Bill or in any of my party's consideration of it, I attended a meeting with representatives of the VACC who were asked point blank, “Do you want us as a party to defeat the Bill?” Their answer was, “No”. We asked, “Do you want us to support it as it currently is?” The answer was, “No”. We asked, “What amendments do you want?” They indicated a whole list of amendments but we were able to tell them that the stance of the Government was that it was not going to accept a whole host of amendments. If the Government was prepared to do that it would have happened in another place, because those amendments were advanced and supported by the Liberal Party.

The Hon. W. R. Baxter—it was guillotined over there; it did not get a chance.

The Hon. R. I. KNOWLES—Mr Baxter, the amendments were presented and debated there.

The Hon. W. R. Baxter—they were not.

The Hon. R. I. KNOWLES—Most of them were, and they were supported by the Liberal Party. The Government rejected most of them; it accepted only two amendments and they were proposed by the Liberal Party and, admittedly, supported by the National Party.

We are in a situation where we, as members of the Liberal Party, are prepared reluctantly to accept the Bill as it is currently drafted with one additional amendment, which I understand the Government is prepared to accept and which will give the motor car industry a little more confidence than it presently has in the Government if the Government tries to effect changes through regulations.
Mr Connard made it plain that this was not a Bill that the Liberal Party introduced. If it had been the first time that we were trying to regulate the motor car industry we would be supporting Mr Baxter's amendment because there would not be an established power to effect the changes that the Minister for Consumer Affairs has made plain he wishes to give effect to.

But that is not the real world; the real world is that there is already an Act in place which has wide regulation-making powers, and if the Bill is defeated the Minister has made it plain that he will use the regulation-making powers and that some of the amendments that we have extracted from the Government will be back on the agenda. What sort of protection will that be for the motor car traders who are concerned about the adverse effect of the length of the cooling-off provision of the contract?

What sort of protection would there be for those traders who are concerned about the clause? We will seek to amend the onus of proof in the provisions dealing with tampering with the odometer. That clause as drafted is a direct lift from the existing Act. The industry was concerned about the way that clause was drafted.

The difficulty is that the level of fines is increasing from a maximum of $1000 to a maximum of $50 000.

If a motor car trader who is honest and honourable was set up he runs a real risk of losing his whole business as a result of the onus of proof established in the Bill. That was the outstanding issue that the VACC put to the Liberal Party yesterday, and it said that the Liberal Party should seek to amend that clause. In fact, it said that if the Liberal Party could get agreement from the Government to do something about that onus of proof, eliminating or qualifying the reverse onus of proof, the VACC would consider the Bill, as amended, as the best that could be achieved from the Government. The Liberal Party supports the views and concerns that have been expressed by both Mr Connard and Mr Baxter but what it is endeavouring to achieve is the best possible outcome, given the present arrangements and given the Minister's clear determination to effect changes and his capacity to do that under the existing Act.

The Opposition is seeking to end up with a result which will remove some of the worst possible problems that might be created by the Government if in fact the House is irresponsible. It is for that reason alone that the Opposition is not supporting Mr Baxter's reasoned amendment, and it is for that reason alone that the Opposition is not able to support Mr Baxter's foreshadowed amendments that he will be moving in the Committee stage.

We do not disagree with the thrust of his argument but because it has been made clear that the Government will not accept the amendments and that it will use the existing Act to achieve the changes it wishes, many of which are embodied in the Bill—they will go further—they will return to the agenda those concessions that have already been won by the Liberal Party.

It is our considered view that the most responsible approach we can take for those honest motor car traders throughout Victoria is to follow the course I have indicated, and that will at least give the Liberal Party the opportunity of reviewing the operations of the Bill when it is returned to Government and for it to remove other more draconian clauses that are proposed.

Again I make it clear that our decision to vote against the reasoned amendment is not because we disagree with its content or with the arguments advanced by Mr Baxter; it is only to preserve the Bill so that we can make further amendments and achieve the best decision in the final analysis given the circumstances.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I oppose the reasoned amendment and ask the National Party to reconsider its position. It seems to me that decent, reasonable traders have nothing to fear from the Bill.
The Hon. R. I. Knowles—Mr Connard has told you what they have to fear.

The Hon. J. E. KIRNER—I am talking to Mr Baxter. If they have something to gain from the Bill—indeed, the figures that Mr Connard used were selective figures; he was actually talking about prosecutions.

Mr Baxter was not referring to complaints. He well knows that 9·6 per cent of all complaints received by the Ministry of Consumer Affairs involve motor cars; that is a much higher percentage than complaints received about clothing or electrical appliances. There are further causes for concern that Mr Baxter did not describe, and which are not adequately covered by existing legislation.

In supporting his reasoned amendment, Mr Baxter spoke at length about the views of the Victorian Automobile Chamber of Commerce. However, as Mr Knowles pointed out, the position of the chamber is that it would prefer to amend the Bill and have it proclaimed than to have the Government take action which could not be enforced by Parliament and which the chamber could not participate in by suggesting amendments.

The Government wants the Bill for similar reasons. The introduction of a Bill into this House is a much more up-front way of regulating an industry. It is usually the way in which the National Party asks the Government to operate. The National Party has continually asked the Government to introduce Bills and to have open debate in this House rather than to regulate.

The Hon. W. R. Baxter—I am not suggesting you should use regulations.

The Hon. J. E. KIRNER—What does Mr Baxter suggest the Government do about the many faults and complaints received about the motor car industry? The National Party should withdraw its reasoned amendment and allow the debate to proceed so that amendments can be proposed in the Committee stage. For those reasons, the Government opposes the reasoned amendment.

The Hon. ROSEMARY VARTY (Nunawading Province)—Having been involved in the preparation of submissions for the original Motor Car Traders Act when it was introduced in 1973 and having been the holder of licence No. 409 under that Act, I believe I have a good understanding of how the motor car trade operates. The reality is that most new and used motor car traders are franchised dealers and they continue to operate only because of repeat business. If they intend to continue offering a level of service and products, they must be of the highest quality.

The Bill suggests that these dealers are all bad and that the product they sell is also bad. That is not true. The Bill appears to have been drafted to cover one or two dealers who have been involved in recent incidents. I suggest that is no way to deal with an important widespread industry that contributes a significant amount to our economy and employs a large number of people.

Most problems with motor cars arise as a result of private sales and through unlicensed dealers. What should be done is to apply the existing legislation rather than to introduce another Bill. The Government should be cracking down on those people.

The course of action proposed by Mr Baxter is unrealistic. It will not achieve what he wishes it to achieve. As Mr Knowles has stated, the end result will be that the Government will use regulation if it is not successful with this Bill.

Why should the motor car trade be treated more harshly than any other private enterprise operation? Has it been proven that the industry is much worse than other Victorian industries? I suggest that is not so. A number of other industries are responsible for many more complaints to the Ministry of Consumer Affairs. Has a steady stream of proposed legislation been introduced into Parliament to regulate those activities? Of course not.

I shall refer to one or two provisions in the Bill to highlight the problems that arise. The first relates to the cooling-off period. The Bill sets out three business days. That is fine in
theory, but what if public holidays are taken into consideration over the Christmas period where people can have a break of seven or eights days, including weekends, in which the purchaser has the use of the vehicle? It is not realistic to impose that sort of restriction on a motor car dealer.

**The Hon. D. M. Evans**—They can take it away for the Christmas holidays!

**The Hon. ROSEMARY VARTY**—Exactly! A person can take the car interstate, run it into the ground, and return to the dealer and say that he no longer wants the car. By that time, the vehicle may have travelled an additional 4000 kilometres. That is a nonsensical provision.

I am delighted that the rescission provision was amended in the other place to bring the period from twelve months back to three months. However, that still presents immense problems if contracts are rescinded. How will that provision operate? How can a decision be made about what recompense will be provided? Will the sale price be used? What happens when a trade-in is involved? How can anyone come to a decision? From an administrative viewpoint, the provision would be a nonsense.

My colleagues have already referred to penalties. I do not believe such penalties can be incorporated in a Bill for the type of offences that have been outlined. The Bill is saying that the motor car trade does not know what it is doing, that it does everything badly and is not to be trusted. Of course, that is totally unacceptable.

I shall not go into any further detail because the main concerns have been adequately elaborated on by previous speakers. However, I point out that from my fifteen years' experience in the motor car trade running a franchised new and used car operation, the provisions that are included in this Bill are completely unrealistic.

The House divided on the question that the words proposed by Mr Baxter to be omitted stand part of the motion (the Hon. R. A. Mackenzie in the chair).

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Majority against the amendment 31
The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 31 were agreed to.

Clause 32

The Hon. W. R. BAXTER (North Eastern Province)—I move:

1. Clause 32, line 23, after "13," insert "14, 16."

I foreshadow a number of other amendments but I move this amendment to test the feeling of the Committee. The effect of the proposed amendment is to extend the right of appeal to the Administrative Appeals Tribunal into a number of additional areas where that right of appeal ought to exist.

For example, clause 14 imposes conditions on the licence. There is no doubt that some onerous conditions may be imposed on a licence and there ought to be a right of appeal. Clause 16 deals with authority to sell cars at a public auction. Likewise, a right of appeal ought to exist.

With regard to clause 32, it totally escapes me why these two additional provisions were overlooked because there is every justification for a right of appeal, and I commend the amendment to the Committee.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The Government opposes the amendment. It is an unnecessary extension of the clause.

The amendment was negatived, and the clause was agreed to, as were clauses 33 to 37.

Clause 38

The Hon. W. R. BAXTER (North Eastern Province)—I move:

2. Clause 38, line 28, omit "(1)"

Clause 38 is the draconian clause which deals with tampering with odometers. It imposes quite horrendous penalties. I remind the Committee that during the second-reading debate, Mr Connard was particularly scathing about the penalties. My subsequent amendment goes to that matter. This amendment is really consequential, in reverse, on my fourth amendment, which seeks to delete subclause (2), which imposes the reverse onus of proof on the motor car trader if the odometer is tampered with or appears to be tampered with. If a car is not within the care and protection and charge of the motor dealer at all relevant times, and he is not in a position to know whether someone else has tampered with the odometer, either maliciously or otherwise, or with intention to deceive, there is no way that the motor car trader can prove one way or another as subclause (2) suggests. There is another scenario from my personal experience which could have led to a motor dealer being charged under this provision if it had been in effect at that time although the dealer would have been entirely innocent.
I owned a 1975 model motor car. In those days, odometers customarily went to 99,000 kilometres whereas now they tend to go to 999,000 kilometres. When I traded in that car it had 5000 kilometres on the clock. The assumption was made by the dealer—the car being in good condition—that it had done only 105,000 kilometers and, on that basis, the dealer advertised the car for sale, whereas the car had done 205,000 kilometres because the odometer was on its third way round.

If someone had access to the service records of the car, they would have clearly seen that at the relevant times it had been serviced at 150,000 kilometers, and so on, until the time it turned over again at 200,000 kilometers and started recording again at 1 kilometer. This could entrap a dealer who was entirely innocent of any crime and he could not prove it one way or another. In order to do justice to the licensed motor car trader, the best thing the Committee can do is accept my amendment.

I know that Mr Connard has another amendment which goes to the same matter, which has been cooked up by the Minister for Consumer Affairs in the other place.

The Hon. R. I. Knowles—Not right—accepted by the Minister, not cooked up by the Minister.

The Hon. W. R. BAXTER—Accepted by the Minister because it goes to what he wants, whereas the National Party's amendment does not give him what he wants. I believe the Committee would be best employed if it accepted my amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The Government opposes the amendment. Members of the opposition parties will know that it is extremely easy for any ethical trader to avoid being wrongly charged with odometer tampering. All the trader has to do is to ensure that when he buys a trade-in or wholesale vehicle he promptly records the odometer reading in the purchases book and obtains the selling party's counter signature. Responsible dealers already take this procedure to ensure that the situation Mr Baxter described does not occur whereby a dealer is blamed or prosecuted for tampering which happened before he took the vehicle into stock.

The amendment was negatived.

The Hon. W. R. BAXTER (North Eastern Province)—I move:

3. Clause 38. line 36, omit "500" and insert "100".

My third amendment goes to the matter of the horrendous penalties that the Bill imposes upon people who are convicted under the proposed Act. Clause 38 provides in the case of a natural person a penalty of 100 penalty units; in other words, $10,000. That is a severe fine in anyone's language. In the case of a body corporate it is 500 penalty units or $50,000, which is a frightening penalty. No doubt it is predicated on the assumption—and, again, it illustrates the total lack of knowledge and understanding by the Government of the business world and the various corporate structures in the motor car industry—that bodies corporate are large organisations, and a $10,000 fine would be a fleabite to them; therefore, a significant fine needs to be imposed.

I point out to the Minister for Conservation, Forests and Lands, that many car dealers, particularly in country areas, and, no doubt, in the suburbs, operate in a corporate structure but are nothing more than individual one-man or family enterprises. They would be bankrupted by the sort of penalty that is envisaged by the clause.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The Government opposes the amendment. I point out that the Government is not talking about motor car traders generally but about those motor car traders who falsify a reading to sell a car and, by falsifying a reading, sell under false pretences. The Government is not talking about traders generally because most traders will not be affected by the provision.

If motor car traders do the wrong thing, the penalties are set to have a deterrent effect. The penalties have not increased since 1973. Honest traders have absolutely nothing to
fear. What is more, the VACC, which Mr Baxter quotes constantly, in its submission to
the Government asked for significant increases in penalties so that the honest can be
sorted from the dishonest.

The Hon. R. I. KNOWLES (Ballarat Province)—In another place, the Opposition
supported a similar amendment. On that occasion the Government's defence was that the
penalties listed in the Bill were similar to those set out in the fair trading legislation.
However, the Opposition shares the concern that Mr Baxter has indicated that it is a
reverse onus of proof, at least to a limited degree. I know the Government will argue that
there is an onus on the prosecution to prove that the instrument has been tampered with
and that the vehicle was under the control of or on the property of the motor car trader.

However, as it is currently drafted, the provision suggests that if both those criteria are
met the motor car trader must then prove that the odometer tampering did not occur with
his knowledge.

I know the provision has been lifted directly from an existing Act and inserted in the
Bill. However, as the Victorian Automobile Chamber of Commerce points out, the present
penalty is $1000, whereas, as Mr Baxter has indicated, under the Bill as currently drafted,
the penalty for a body corporate is a maximum of $50 000.

The Opposition in another place supported a similar amendment proposed by the
National Party. The Government made it clear at that stage that it would not accept the
amendment and, as a result—because this is the clause that most concerns the VACC—
my colleague, Mr Connard, has circulated copies of amendments he proposes to move
that will address that onus of proof.

The Opposition does not now support Mr Baxter's amendment, because the Government
has indicated that it simply will not accept it. The Opposition is prepared to accept the
penalty of up to a maximum of $50 000, given that a similar penalty is contained in the
Fair Trading Act.

However, we believe the issue of reverse onus of proof ought to be addressed and, if Mr
Baxter's amendment is negatived, Mr Connard will move an amendment that will address
the matter.

The Hon. W. R. BAXTER (North Eastern Province)—I point out to Mr Knowles that
the penalty is not a maximum of $50 000 in the case of a body corporate; the provision
states simply the amount of $50 000.

The Hon. B. A. Chamberlain—That is what it means—up to $50 000. That is the form
of expression.

The Hon. W. R. BAXTER—That is not the way that penalties are worded in some of the
other Acts.

The Committee divided on Mr Baxter's amendment (the Hon. G. A. Sgro in the chair).

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Majority against the amendment 26
The Hon. G. P. CONNARD (Higinbotham Province)—I move:

1. Clause 38, page 20, lines 1 and 2, omit "", unless the motor car trader proves the contrary, "".

2. Clause 38, page 20, after line 3 insert—

"( ) It is a defence to a prosecution under sub-section (1) for the motor car trader to prove that the tampering or substitution was not done with intent to deceive by or on behalf of the motor car trader."

As I said during the second-reading debate, in general, clause 38 is the main provision with which the Opposition has had difficulty. Of course, the reality of life is that checking to ensure that there has been no odometer tampering is only one of the indicators used by someone wishing to purchase a second-hand vehicle. Much emphasis has been placed on this provision, and it is considered to be important by the Victorian Automobile Chamber of Commerce and the motor car traders.

As I pointed out in respect of clause 31 (2), the wording of the sentence makes it difficult to understand what the department is on about. The insertion of my proposed amendment makes the situation quite clear that it is a defence to a prosecution under proposed subsection (1) for the motor car trader to prove that the tampering or substitution was not done with intent to deceive on the part of the motor car trader. The motor car trader might well have a vehicle in his yard and not know whether the odometer had been damaged or not.

Subclause (2), as it stands, means that the trader had to prove that he did not know that it had been tampered with. This clarifies the position so far as the reverse onus of proof is concerned. The matter has been discussed with the Minister and with the Government and, with great reluctance, the Minister has indicated that the Government will support the amendment.

I should say at this time that Mr Baxter, whose great thespian abilities honourable members enjoyed earlier tonight, has not really been constructive so far as his position is concerned. As Mr Knowles pointed out, it was the best set of circumstances we could obtain for the motor car traders, particularly given the intractability of the Minister, who would not have proceeded with the Bill and who would, as Mr Knowles correctly pointed out, have proceeded to insert even worse sections by regulation.

The amendments vastly improve the Bill and allay the concerns of the VACC. I encourage the Committee to vote for them.
The Hon. W. R. BAXTER (North Eastern Province)—I have to place on record my utter disappointment that the Opposition has allowed itself to be swayed by the Minister in arriving at this compromise deal. The acceptance of the National Party amendment would have been a far greater benefit to the vast majority of motor car traders in this State who the Minister has already conceded are honest citizens in any event.

I am concerned about the clause. It is fraught with all sorts of difficulties and, as I have said on a number of occasions during the debate, this Government seems to believe every motor car trader is a crook and that every consumer is lily white. That is certainly not the case.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The Government accepts the amendments as a reasonable arrangement for motor car traders.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 39 to 44.

Clause 45

The Hon. W. R. BAXTER (North Eastern Province)—As the Opposition has bowed down to threats made by the Minister and, in the interest of time, I do not propose to proceed with my amendments Nos 5 to 12 inclusive.

The clause was agreed to, as were clauses 46 to 52.

Clause 53

The Hon. W. R. BAXTER (North Eastern Province)—I invite the Committee to vote against the clause outright because it is another unworkable clause dealing with the sale of unregistered motor cars.

I shall put two scenarios to the Committee which demonstrate the unworkability of the clause. The clause prevents a licensed motor car trader from selling an unregistered motor vehicle. What is the situation when a motor car trader has a fairly old vehicle which he is anxious to sell for spare parts? For example, in the country a farmer may be interested in acquiring a second-hand Holden utility to use as spare parts for another vehicle he may have at home.

If the Committee agrees to the clause the motor car trader could not sell the vehicle to the farmer unless he provided the farmer with all the necessary paperwork to have the vehicle registered, which would include a roadworthy certificate. That might cost more than the vehicle is worth. The farmer may not necessarily be buying the vehicle to use on the road; he may be buying it to cannibalise for spare parts.

What is the situation in the border area along the River Murray where vehicles may be sold in Victoria and taken into either New South Wales or South Australia and required to be registered in those States? For example, a dealer in Wodonga who sells a car to a New South Wales purchaser would have to supply him with the paperwork necessary to have the vehicle registered in Victoria. That is of no use to the prospective purchaser. If anything, he would want to have the vehicle registered in New South Wales and would require the roadworthy certificate and the other paperwork that is required when one registers a vehicle in New South Wales.

I believe the clause is unworkable. In his second-reading speech, the Minister for Consumer Affairs did not advance any reasons why he wants to prevent traders from selling unregistered vehicles. It is a totally unfair impediment on the activities of motor traders.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The Government will not vote against the clause. As Mr Baxter is aware, the clause begins with the words "except as otherwise provided in the regulations". It is possible to allow for exemptions to this clause to be undertaken by way of regulation and, if there are examples and difficulties—which will be in the minority—they can be coped with by regulation.
The clause was agreed to, as were clauses 54 to 56.

Clause 57

The Hon. W. R. BAXTER (North Eastern Province)—I move:

13. Clause 57, line 11, omit "at least".

The clause deals with the proposed Guarantee Fund Claims Committee. The wording of the clause is fascinating. It states that the composition of the committee shall be a chairperson—that should be chairman—who must be a barrister of not less than five years standing. I do not object to that.

Subparagraphs (b) and (c) are worded extraordinarily:

(b) at least one must be a person with experience in the business of motor car trading; and

(c) at least one must be a person who has knowledge of the interests of natural persons who use the services of motor car traders.

The National Party believes clause 57 ought to spell out who will be the members of the Guarantee Fund Claims Committee.

Honourable members should consider my subsequent amendments Nos 14 and 16. Amendment No. 14 inserts in subparagraph (b) the words:

and selected from a list of three names provided by the Victorian Automobile Chamber of Commerce.

That amendment would meet with the current wording of subparagraph (b), which specifies that one of the members of the committee must have experience in the business of motor car trading.

Amendment No. 16 inserts the following words in subparagraph (c):

and selected from a list of three names provided by the Royal Automobile Club of Victoria.

That applies to the category of persons who use the services of motor car traders. It would be accepted generally that the Royal Automobile Club of Victoria would be the most obvious organisation in this matter.

If the clause were left as it is presently worded, it would allow the Minister, who has on many occasions demonstrated a total disregard for numerous organisations that are under the umbrella of his department, to appoint whomever he wished. Parliament ought to contemplate that point and should clearly set out that the representatives appointed to the Guarantee Fund Claims Committee, according to the provisions of subparagraphs (b) and (c), are truly representative of the organisations that Parliament intends to be represented. Clause 57 does not specify that. I invite the Committee to accept my amendment.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—The Government opposes the amendment. The proposed structure follows the Credit Act and the Travel Agents Act, and allows flexibility to empanel nominees. The words are important to that flexibility.

The Committee divided on the question that the words proposed by Mr Baxter to be omitted stand part of the clause (the Hon. M. J. Arnold in the chair).

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<th>Ayes</th>
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Majority against the amendment 25

AYES

Mr Chamberlain
Mr Connard
Mrs Coxsedge
Mr de Fegely
Mrs Dixon

NOES

Mr Dunn
Mr Evans
Mr Wright
The clause was agreed to, as were clauses 58 to 71.

Clause 72

The Hon. W. R. Baxter (North Eastern Province)—I move:

17. Clause 72, page 34, line 20, omit “10” and insert “5”.

Clause 72 deals with contempt of the committee. A person must not insult a member in the performance of functions and so forth. I do not know exactly what the Minister and his department had in mind when they set such heavy penalties for what appears to be a relatively minor misdemeanor.

The penalty is a fine of $1000 or imprisonment for three months. Those are heavy penalties for a relatively minor offence. I suggest that the fine be reduced to $500 and that there be no imprisonment penalty.

The amendment was negatived, and the clause was agreed to, as was clause 73.

Clause 74

The Hon. W. R. Baxter (North Eastern Province)—I move:

19. Clause 74, page 35, lines 7 to 8, omit “(or who the claimant reasonably believed was)”.

Clause 74 (3) deals with the Motor Car Traders Trust Fund and states:

(3) There shall be paid out of the Fund an amount in respect of any loss described in section 76 which is admitted by the Committee to have been incurred by any claimant by reason of any failure referred to in that section of a motor car trader who, at the relevant time, was (or who the claimant reasonably believed was) a licensed motor car trader. . . .

I believe that that goes too far towards the consumer’s interests and is likely to bankrupt the fund. Surely Parliament does not have to go to extraordinary lengths to protect people from themselves. If a purchaser is not prepared to inquire whether a person is a motor car trader or not I do not believe Parliament should go to this length to provide a remedy for him.
Clearly it is in the interests of the purchaser to ascertain whether he is dealing with a licensed trader. It would be foolish for him to go ahead without ascertaining that fact and I do not believe that provision should apply.

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

Clause 75

The Hon. W. R. BAXTER (North Eastern Province)—I move:
20. Clause 75, line 15, omit “may” and insert “must”.

This clause deals with the duties and powers of the Treasurer in respect of investing funds. I suppose if it was not this hour of the night we would engage in a philosophical argument as to the meaning of “may”, “must”, or, as I would prefer it, “shall”. Of course it does not come within the definition of “Kennanisation”. We can no longer use “shall”.

One complaint that has consistently been made by the motor car traders since 1973—and, indeed, by the committee—is that the money in the fund has either not earned any income and has languished in the Treasurer’s department or, if it has earned income, that income has not been passed on to the committee.

My proposal is that Parliament direct the Treasurer to invest the money and to pay into the fund any interest received from the money invested. It seems only equitable to me, as the licensed motor car traders are contributing to this fund by way of licence fees, that any income earned should go to the fund.

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

Clause 76

The Hon. W. R. BAXTER (North Eastern Province)—The amendment circulated in my name goes to a matter that I did not proceed with earlier. I shall not proceed with this amendment.

The clause was agreed to, as were clauses 77 to 90.

Clause 91

The Hon. W. R. BAXTER (North Eastern Province)—Amendments Nos 22 to 27 deal with the personnel and composition of the Motor Car Traders Licensing Authority. As the Committee has failed to support me on similar amendments earlier and as each amendment specifies who ought to be on the relevant committee—and because it seems to be a waste of time—I do not propose to proceed with the amendment.

The Hon. Robert Lawson—You are getting the message!

The Hon. W. R. BAXTER—But let me nevertheless express my utter disappointment with the Committee’s failure to support me and its indication that it would not support me if I proceeded now. The National Party believes it is important, indeed, that the personnel be specified.

Clause 91 is far too vague; it allows the Minister to appoint whomever he likes and I certainly object to that.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I thank Mr Baxter for not proceeding and I point out that the industry is guaranteed membership on the committee. The Minister in the other place has given an undertaking that membership will include a representative of the VACC.

The clause was agreed to, as were clauses 92 to 101.

Clause 102
The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:
1. Clause 102, clause 31. after “member” insert “selected by the Chairperson”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 103 to 109.

Clause 110

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:
2. Clause 110, line 23, omit “the” and insert “a”.

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 the report was adopted.

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I move:
That this Bill be now read a third time.

In so doing, I thank members of the Opposition for their cooperation.

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

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (AMENDMENT) BILL (No. 2)

This Bill was received from the Assembly and, on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs), for the Hon. D. R. WHITE (Minister for Health), was read a first time.

INFORMATION OF SECOND-READING NOTES

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—After discussion with the Leaders of the two other parties, an agreement has been reached without prejudice and on a special basis that I should incorporate the second-reading notes of four Bills into Hansard with a short description of the objectives of the Bills.

It is not my intention to make it a common practice, but, on the second last day of the sessional period, this action will save 1 hour and 10 minutes. I seek formal leave of the House to proceed in that manner. The Bill that has just been read a first time is one of the Bills to be affected.

Leave was granted.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (AMENDMENT) BILL (No. 2)

For the Hon. D. R. WHITE (Minister for Health), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The Bill has four major objectives; firstly, it allows the Minister for Labour to enter into agreement with the Minister for Public Works to provide reciprocal benefits to those construction workers who have been employed both in the private sector and the Public Works Department Construction Group. Secondly, the Bill enables the Construction Industry Long Service Leave Board to pay workers who have accrued a long service leave entitlement. Thirdly, the Bill alters the payment period of long service leave charges to employers. Fourthly, it changes the current exemption provisions relating to certain interstate employers.

I seek leave to have the remainder of the second-reading notes incorporated in Hansard.
Leaves granted, and the notes were as follows:

The Public Works Department Construction Group has recently undergone major review and change, designed to make it operate on a more autonomous and commercial basis. These new arrangements provide for greater utilisation of short-term employment to enable peak workloads to be accommodated. These changes will lead to a greater interchange of labour between the private sector and the construction group. Already, the group's employees are covered by the building industry's various State and Federal awards.

At the present time, construction group employees are excluded from the operation of the Construction Industry Long Service Leave Act 1983. Therefore, if an employee of the construction group has service in the private sector credited to him by the board, he or she cannot use that service towards long service leave in the construction group. Further, if an employee who has had service with the construction group leaves to work in the building industry, he or she cannot use the construction group service in the building industry.

The Bill recognises the major changes that have occurred in the operation of the Public Works Department Construction Group and the greater movement of workers between that group and the private sector. The Government believes workers who provide service to the Public Works Department Construction Group should not be disadvantaged relative to their private sector counterparts, and their service should be recognised as service in the construction industry.

The Bill provides for full portability of service entitlements between the construction group and the private sector under the construction industry long service leave scheme.

Members will note that certain parameters are established for an agreement that will be entered into between the Minister for Labour and the Minister for Public Works. This agreement will contain the administrative details necessary to give effect to the principle of portability of service entitlements and must be published in the Government Gazette to allow full scrutiny by anyone who is interested in its contents. The administrative details are not included in this Bill simply because their inclusion would add an excessive number of sections to the principal Act.

I emphasise that the Bill is strictly limited to construction and building workers in the Public Works Department Construction Group and does not, and will not, extend into other areas of the Public Service or private sector. Further, this Bill does not affect the existing long service leave accrual provisions of the Public Works Department Construction Group employees.

The second objective of the Bill is to ensure that all workers under the ambit of the Construction Industry Long Service Leave Board receive payment for their long service leave at their current rate of pay. Currently, a provision exists within the Act which prevents the board from paying these workers who accrued leave prior to 1 February 1977 at their current rate of pay. These workers have to be paid at the rate applicable at the time of accrual of entitlement. Workers whose entitlement accrues after that date are paid at their rate of pay applicable at the time of taking leave.

This situation arose as a result of adopting existing provisions in the former Building Industry Long Service Leave Act 1975 when the Construction Industry Act 1983 was drafted. A retrospective date limit was set in the former Act to protect the then newly established fund from potentially extensive claims. As the Construction Industry Long Service Leave Fund is now in a position to accommodate all claims, the existing provision can be removed.

The third objective of the Bill is to extend the payment of the long service leave by employers from the current monthly requirement to a two-month period. Studies undertaken by the Construction Industry Long Service Leave Board have shown that this proposal is cost-effective and will allow administrative costs to be contained.

This proposed change to the billing cycle will be beneficial to both employers and employees. It will significantly reduce the clerical work and administrative time for employers in handling contribution forms. It will allow more accurate and up-to-date information on contribution forms and board records, and enable the board to provide more effective responses to inquiries relating to claims, entitlements and registrations.

The fourth objective of the Bill is to broaden the ability of the board to grant an exemption from the scheme to interstate employers who also bring workers to work for a short period in Victoria.

At present, the Act only allows for an exemption to be granted to an interstate employer if the employer is making contributions on behalf of workers in another scheme. The amendment gives the board the ability to grant an exemption when it is satisfied that a payment has been made in regard to a worker's entitlement irrespective of the source of the payment.

This proposed amendment is a consequence of recent changes to the New South Wales construction industry long service leave scheme, where employers do not make contributions on behalf of individual workers, and only provide a record of service for each relevant employee to the equivalent board.

This amendment is in no way designed to reduce the coverage of the Victorian Construction Industry Long Service Leave Board, but recognises and accommodates changes in other jurisdictions.
This Bill has been prepared following extensive consultation with the relevant departments and the Construction Industry Long Service Leave Board. I remind Parliament that the board is comprised of representatives from the Victorian Trades Hall Council and four persons representing major construction industry employer organisations.

The Hon. E. H. WALKER—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 the next day of meeting.

SUPREME COURT BILL

This Bill was received from the Assembly and, on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs), for the Hon. J. H. KENNAN (Attorney-General), was read a first time.

STATE CONCESSIONS BILL

This Bill was received from the Assembly and, on the motion of the Hon. C. J. HOGG (Minister for Community Services), was read a first time.

ENVIRONMENT PROTECTION AGENCIES STAFF TRANSFER BILL

This Bill was received from the Assembly and, on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs), for the Hon. J. H. KENNAN (Minister for Planning and Environment), was read a first time.

For the Hon. J. H. KENNAN (Minister for Planning and Environment), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The Bill safeguards the salaries, superannuation and leave entitlements of staff who choose to transfer from the Latrobe Valley Water and Sewerage Board and the Dandenong Valley Authority to the Environment Protection Authority.

I seek leave to have the remainder of the second-reading notes incorporated in Hansard.

Leave was granted, and the notes were as follows:

These transfers are the result of the Government’s decision that pollution control throughout Victoria should be consolidated under the direct and sole control of the Environment Protection Authority.

The Environment Protection Act 1970, which established the Environment Protection Authority, gave the authority overall responsibility for protecting the environment of this State. At the time, it was recognised that in its early days the authority would not have sufficient resources, or expertise, to cover all aspects of this task. Provision was made for existing agencies to help out, as delegated agencies of the authority.

Delegations were seen as an interim measure, and pollution control powers delegated to three agencies have been progressively withdrawn. The delegation to the then Health Commission was withdrawn in 1981, and delegations to the Rural Water Commission and the Melbourne and Metropolitan Board of Works were withdrawn at the start of 1985.

The withdrawal of the Latrobe Valley Water and Sewerage Board and Dandenong Valley Authority delegations will complete this process, which complements the reform of environment protection legislation and its administration already achieved by this Government. We now have the strongest and most comprehensive environmental legislation in Australia, and the withdrawal of the delegations will give the authority greater flexibility to make the best use of this legislation with the resources at its disposal.

In making changes to enhance our ability to meet environmental challenges, this Government must make sure that staff in the delegated agencies who have played such an important part in pollution control during the formative years of the authority are not disadvantaged.

Delegated agency people whose jobs have been funded by the authority and who have built up expertise and experience will be offered Public Service jobs within the authority, without loss of salary and with a choice of
superannuation arrangements. There are up to 29 staff involved. This will be done within the existing Environment Protection Authority budget.

A working party convened by the Department of Labour and including the relevant unions and the Public Service Board is presently formulating detailed staff transfer conditions.

The Hon. E. H. WALKER—I commend the Bill to the House.

The Hon. A. J. HUNT (South Eastern Province)—The Opposition does not oppose the Bill. It is similar in form to those which have existed on other occasions when reorganisation of Government business necessitated it. I instance the Bill to enable transfer of planning staff from the Melbourne and Metropolitan Board of Works to the Ministry for Planning and Environment. This Bill is exactly the same.

The Opposition criticises the circumstances and administrative decisions that have made this Bill necessary. The Dandenong Valley Authority and the Latrobe Valley Water and Sewerage Board had on their staff environment protection officers whose job it was to ensure that those bodies observed the proper standards. The association of environment protection officers with the actual authorities was a good discipline, indeed, and it meant a sensible decentralisation.

The Government has taken over environment protection control from those bodies and centralised it. Rather than having officers who formerly did the job and who are trained to do it left twiddling their thumbs, the Government has taken over those employees. In most cases they have already been seconded. Now they are being transferred to the Public Service instead of working with the authorities that were actually doing the job.

That appears to be a very foolish and unnecessary step. It is a centralisation of power in a way that was quite unnecessary and it is taking the heat off the bodies concerned to observe environmental standards and putting it back on to the Environment Protection Authority. The Opposition does not like that decision but it is an administrative decision the Government has made and already implemented. That is the foolish circumstance that gives rise to the Bill. The Opposition opposes the decision but does not oppose the Bill.

The Hon. D. M. EVANS (North Eastern Province)—I have perused both the Bill and the second-reading notes. The National Party offers no objection to it.

Clause 5 (5) must be the worst expressed clause that I have seen in quite a while. I have studied it for 10 minutes and I think I know what it means.

The Hon. F. J. GRANTER (Central Highlands Province)—As one who has been involved with both the Dandenong Valley Authority and the Latrobe Valley Water and Sewerage Board, I echo the sentiments expressed by Mr Hunt. The previous system worked well to the advantage of the ratepayers of the area. The Bill is unnecessary. There appear to be a large number of staff involved. I record my reservations at the action.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

WATER ACTS (FURTHER AMENDMENT) BILL

This Bill was received from the Assembly and, on the motion of the Hon. D. R. WHITE (Minister for Health), was read a first time.

TRANSPORT (AMENDMENT) BILL

For the Hon. J. H. KENNAN (Attorney-General), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.
The purpose of the Bill is to make a number of amendments to the Transport Act 1983 which, in summary, will:

- improve the regulation of commercial passenger vehicles and tow trucks;
- provide for new methods of granting taxicab licences;
- provide for the abolition of the Victoria Transport Borrowing Agency;
- strengthen enforcement provisions relating to offences occurring on railway property;
- and
- improve the operation of the Transport Act in a number of miscellaneous areas after experience of the Act in operation.

I seek leave to have the second-reading notes incorporated in Hansard.

Leave was granted, and the notes were as follows:

**TOW TRUCKS**

Amendments are proposed to the Transport Act to implement a number of the recommendations arising from a review by the Road Traffic Authority of the towing industry in Victoria. The review was completed in May 1986.

The review was concerned primarily with the availability and quality of towing services in Victoria and, in particular, accident towing services in Melbourne, together with the likely effects on accident towing of some deregulation of non-accident towing—that is, trade towing. The review was also concerned with a number of associated issues.

At present, all tow trucks within Victoria must be licensed by the Road Traffic Authority. Licences may be issued with any restrictions which the authority deems necessary. There are approximately 800 licences Statewide with about 400 of these licensed to operate within the metropolitan area. Of the latter group, 377 are licensed to undertake accident tows as well as other towing work, whilst about twenty have licences which restrict their operations to trade towing. The majority of country licences are for both accident and trade towing.

During the inquiry, approximately 50 submissions were made regarding malpractices within the tow truck industry, pointing to the need for increased penalties to act as a deterrent. The current level of penalties provided for in section 184 of the Transport Act—$200 for a first offence to $800 for a third or subsequent offence—is too low to be an effective deterrent.

Accordingly, it is proposed to increase the penalties up to a maximum of $1000 for a first offence and, for a second offence, up to a minimum of $400 and a maximum of $1500. The maximum penalty for subsequent offences will be $2000. In addition, it is proposed that a court be able to make, in appropriate cases, an order that in the case of a second offence, the licence/driver certificate be suspended for three months and that, in the case of a third offence, the licence/driver certificate be revoked.

It is also proposed that the maximum penalty which may be prescribed by regulations relating to tow trucks be increased from $800 to $3000. The need for the increased penalties arises particularly from the need for a greater deterrent to discourage unauthorised tow trucks attending the scene of an accident.

As part of the proposals to increase penalties to deter malpractices in the industry, it is also proposed that the regulation-making powers in the Transport Act with regard to tow trucks be amended to make it clear that regulations providing for the operation of the allocation centre allow suspension of operators from the accident allocation roster for offences against the allocation scheme.

Other proposed amendments relating to tow trucks will provide for deregulation of trade towing for automotive wreckers. They are considered to be a special case because their industry undertakes sufficient towing to suggest that adequate resources would be committed to provide a high standard service if not regulated.

The proposed amendments will also enable controls to be imposed on the charging of quotes for repair work and the recovery of excessive charges, and will provide the ability to regularly review the basis on which charges are made by operators of tow trucks for the towing and storage of damaged motor cars.

The amendments proposed relating to tow trucks have been discussed with and have the support of the Victorian Automobile Chamber of Commerce.

**TAXICABS**

The amendments proposed in relation to taxicabs will provide the legislative capability to implement the major recommendations of the taxi inquiry, relating to the Melbourne and metropolitan area—Foletta report—and to make consequential changes in the regulation of taxicabs.
In recent years, the level and quality of taxi services in the metropolitan area has declined and vehicle standards have deteriorated. The market value of taxi licences has risen rapidly, but there has been no increase in the number of licensed taxis, despite increased business through the Government-subsidised scheme for disabled persons and the effect of drink-driving legislation. The agreement that governs the remuneration of drivers has not been renegotiated since 1974.

In April 1985, the taxi industry asked for a 15 per cent increase on the ground of unprofitability of the industry in the face of rising costs. At that time, licences for Melbourne taxis were changing hands at more than $60,000 in the metropolitan zone to $95,000 in the Dandenong zone.

In October 1985, an interim fare increase of 4 per cent was approved and Mr Bruce Foletta of the Road Transport Licensing Tribunal was appointed to conduct a public inquiry into methods of improving Melbourne's taxi services.

During the course of the inquiry, submissions were received from a large number of interested individuals and bodies. There has been widespread consideration of the issues following the publication of the report of the inquiry.

The Foletta report of March 1986 made recommendations dealing with a wide range of regulatory and operational matters including batch-licence issues, fare structure, vehicle standards, regulation review and industry representation.

The Foletta report noted that the present licensing procedures in the Transport Act, in common with earlier legislation, envisage that new licences will be issued to individual applicants after consideration of a wide range of factors, including the effect on existing operators. There is no clear statement of the objectives of regulation and, partly because of the difficulty in determining when and how many licences should be issued, no new licences have been issued in the metropolitan zone for more than ten years.

A major change recommended in the report was the issue of at least 300 additional licences immediately, and up to 100 per annum thereafter. The report also recommended that, in contrast to past issues on a free basis, new licences should be issued for a fee payable in instalments over five years.

When introducing the Bill into the Legislative Assembly, the Minister for Transport announced in this second-reading speech the intention to issue 300 licences gradually over the next twelve months as a first step towards implementing this recommended change.

Since then, the Government has had further discussions with the Opposition and the taxi industry on the number of licences to be issued. It has taken further account of the concerns of the industry and those people who work on it. As a result, it has decided to reduce the number of new licences to 150 to be issued over nine months.

This release will be monitored and evaluated by the proposed Victorian Taxi Advisory Council, which will advise the Minister on the number and timing of further issues.

We share the Opposition's concern about the possible impact of new licences on the earnings of existing operators. Although we believe the proposed changes to be welcome and necessary, the impact of new licences is to some extent unpredictable. We believe that our concession to reduce the issue to 150 licences adequately recognises those concerns.

After detailed consideration of the issues involved, it is proposed that the measure should also be wide enough to permit the periodic batch issue of new taxicab licences with the licence fee to be determined on either a fixed price or tender basis as considered appropriate. In either case, applications would be sought by the Road Traffic Authority from experienced taxi drivers.

Where the fixed price method is used and the number of applicants exceeds the number of licences to be issued, the selection method will involve ranking drivers on length of driving experience. Where tender is considered to be more appropriate, applicants will be successful or not according to the amounts bid. Under the proposed amendments, the Road Traffic Authority has discretion to decide which method of issue will be used. Under either method the amendments provide for licences to be issued gradually so as to minimise the impact of increasing licence numbers on existing operators.

The report recommended the amalgamation of the Frankston and Dandenong zones with the metropolitan zone. The Government has decided instead to create a new, separate outer suburban zone by amalgamating the Frankston zone with the Dandenong zone. This approach is seen as protecting the already high level of local service while promoting local competition. The amendments will simplify the procedure for achieving this change and other changes involving variations of taxicab licence conditions.

In addition, the amendments will provide for charging annual fees to cover the costs of regulating the taxi industry, together with the abolition of transfer fees.
Implementation of other recommendations made by the Foletta report will be achieved by changes to the regulations made under the Transport Act or by non-legislative means as appropriate. Amendments to the regulations will include a change to permit taxi drivers to refuse passengers who wish to smoke.

It is accepted that an increase in the current fare level might be necessary and a proposal is currently being examined by the Victorian Prices Commissioner. It is envisaged that the next fare increase will include a change in the fare structure to provide incentive to service short trips.

The taxi industry has conceded the need to renegotiate the basis on which taxi drivers are employed and will be developing options which favour improved remuneration and conditions.

To assist in the future direction of the industry, it is intended that a taxi advisory council be established under the existing provisions of the Transport Act relating to the establishment of such bodies. Early items for consideration by that council will be the matter of vehicle standards and the future demand for taxi licences.

VICTORIA TRANSPORT BORROWING AGENCY

As honourable members will be aware, one of the reasons for the establishment of the Victorian Public Authorities Finance Agency—VICFIN—in 1984 was to try to reduce the variety of Victorian semi-Government securities available in the market in the hope that more uniformity would enhance secondary market trading and improve the liquidity of Victorian semi-Government stock.

On 19 May 1986, following an agreement between the Department of Management and Budget and the Ministry of Transport, the activities of the Victoria Transport Borrowing Agency—VTBA—were assumed by VICFIN.

It is desirable to abolish the VTBA by legislation as soon as possible rather than continue to have the VTBA operate as a shell agency purely for the purpose of administration of existing VTBA liabilities prior to 19 May 1986. In particular, it serves no useful purpose for accounts and budgets of the VTBA to continue to be prepared under the existing provisions of the Transport Act.

The merger of the operations of the Victoria Transport Borrowing Agency into those of VICFIN will strengthen the position of VICFIN as a major statutory borrower in Victoria and increase the liquidity of VICFIN stock. This in turn should make VICFIN stock more attractive to the market and result in lower overall costs.

The proposed amendments also implement the arrangement referred to by the Treasurer in his Budget speech for 1986–87 for achieving lower servicing costs for the accumulated debt of the transport authorities by transferring this debt to VICFIN. Once the accumulated debt is consolidated in this way there will be a comprehensive review of the debt with a view to restructuring and refinancing existing debt so as to achieve lower debt servicing costs and reduce the real levels of transport debt.

ENFORCEMENT FUNCTIONS

The Transport Act contains a number of provisions related to the enforcement of offences occurring on railway property. These provisions are in need of amendment as, increasingly, courts are dismissing prosecutions for offences because of perceived deficiencies in the provisions. In addition, the existing provisions place limitations on the areas of railway property where the enforcement functions can be undertaken.

The amendments proposed are designed to overcome these deficiencies and will give the enforcement officers, being primarily the railway investigation officers, more adequate powers in relation to offences occurring on any land or premises owned or occupied by the State Transport Authority or the Metropolitan Transit Authority.

The railway investigation officers play an important role in ensuring adequate security for passengers and goods using rail transport. As any diminution in the level of security has a serious impact on the quality of service that can be offered, it is essential that the railway investigation officers have adequate legislative backing to enable them effectively to discharge their functions.

One major deficiency is in the existing power of arrest conferred by section 219 of the Transport Act. At present, the power of arrest may be exercised only where it is believed that a person has committed an offence against the Transport Act or regulations and the person's name and address are unknown. The person arrested must be given in charge to a member of the Police Force.

In practice, this gives rise to difficulties. Arrest may be avoided by the giving of a false name and address. A further difficulty is that, in practice, there are many occasions when the police have not been able to respond to requests to take a person in charge because of other priority calls. The amendments proposed will overcome these difficulties by removing the present limitation on the power of arrest to where a person's name and address are unknown and by enabling a person arrested to be given in charge either to a member of the Police Force or to an officer of the State Transport Authority or the Metropolitan Transit Authority authorised for this purpose.

Another deficiency is in the power to bring proceedings for offences provided for in section 229 of the Transport Act. In order to overcome technical objections being raised in court proceedings to officers other than the informant conducting the proceedings, the proposed amendments will make it clear that proceedings may be conducted by the informant or another authorised officer or by a solicitor or counsel briefed by the authority.
The amendments also make it clear that the foregoing will apply to prosecutions for summary offences or for indictable offences triable summarily and committed on any property owned or occupied by a transport authority. These offences are provided for in legislation other than the Transport Act and cover such offences as indecent exposure, assault and being armed with an offensive weapon under the Summary Offences Act and theft and attempting to derail a train under the Crimes Act. Difficulties have been experienced in bringing prosecutions for such offences under these Acts where the proceedings are conducted by a person other than the informant and the proposed amendments will overcome these difficulties.

Apart from ensuring the security of passengers and goods, the improved law enforcement powers for railway investigation officers will also assist in the protection of railway property. It is important that this be done as vandalism and graffiti alone are estimated to cost the State Transport Authority and Metropolitan Transit Authority approximately $4.5 million per annum.

In an endeavour to combat an increase in the "Bronx" graffiti style of painting trains and the authorities' buildings by organised gangs of youths, a graffiti task force squad was established in the investigation department in May 1986. Since that squad commenced operations, 117 persons had been detected in the period ending 4 October for a total of 480 offences, including theft, burglary, criminal damage to property, trespass and handling and receiving stolen goods. Honourable members will be interested to learn that the age of offenders detected ranged from 11 to 31 years with the bulk of the offences being committed by 14 to 16-year-olds.

The proposed amendments to the enforcement powers have been discussed with and agreed to by the Victoria Police.

OTHER AMENDMENTS

The amendments proposed to the Transport Act also make various changes in a number of miscellaneous areas designed to improve the operation of the Act. These amendments are proposed in keeping with the assurances given when the Transport Act was enacted in 1983 that the provisions of the Act would be kept under constant review.

The Hon. E. H. WALKER—I commend the Bill to the House.

On the motion of the Hon. ROBERT LAWSON (Higinbotham Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

**TAXATION ACTS (AMENDMENT) BILL**

For the Hon. D. R. WHITE (Minister for Health), the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs)—I move:

That this Bill be now read a second time.

The Bill provides for the following Budget initiatives at a total estimated cost of $4 million in 1986–87 and $5.7 million in a full year:

(a) Abolition of stamp duty on marine insurance (goods in transit and commercial hulls) in order to encourage Victorian companies to increase their share of this insurance business, particularly insurance on export cargoes;

(b) Abolition of stamp duty on large corporate debentures issued into the wholesale market in order to encourage the development of a corporate debt market in Melbourne; and

(c) Extension from two to ten days of the settlement period allowed between the purchase of shares on a broker's own behalf and their non-dutiable sale in order to facilitate the creation of a more liquid and efficient stock market.

I seek leave to have the second-reading notes incorporated in *Hansard*.

Leave was granted, and the notes were as follows:

The announcement of these measures to assist the business sector has been welcomed in the insurance and financial markets. Indeed a note issue by BHP for $US200 million has already gone ahead in Melbourne, rather than overseas, since the Budget announcement.

The Bill also provides for the removal of the stamp duty exemption available to first home buyers. This will save—in revenue otherwise forgone—$6 million in 1986–87 and $9 million in a full year. The proposal should
be seen in the context of an overall increase of $290 million, or over 20 per cent, in Consolidated Fund expenditure on housing in 1986–87.

The Bill also includes important amendments designed to combat blatant avoidance of stamp duties.

A major anti-avoidance measure is one to put paid to a contrived scheme which currently exploits differences between laws in Victoria, other States and the Northern Territory to avoid stamp duty on large share transfers. Under the scheme, prior to the transfer of a valuable parcel of shares, share registers are closed in Victoria, a branch register is opened in Darwin and a principal register is opened in another State. The shares are transferred in Darwin but are never entered on the Darwin register. That register is closed and the shares are entered on the principal register set up in another State.

This scheme is very costly to the revenue. Single cases are known where duty of some millions of dollars has been avoided.

Artificial schemes involving share transfers are also undermining Victoria's land transfer duty. It is possible to effect a transfer of land owned by a company by transferring the shares in the company rather than executing a document of transfer of land, thereby substantially reducing the stamp duty liability. This scheme has received recent media attention.

The Bill also attacks an avoidance practice under which stamp duty on land transfers is being avoided by artificial splitting of land holdings for transfer purposes.

A provision to achieve this same result was rejected by the Legislative Council in the spring session of 1985. The revenue loss from this failure of Parliament to act is currently running at the rate of $10 million a year.

The current provisions have been restructured having in mind the reasons which were advanced at the time against the earlier proposed amendments.

The Bill provides that, where two or more instruments are executed within twelve months of each other and between the same persons, those instruments shall be presumed to arise from one transaction or one series of transactions, unless the contrary is shown. The Bill provides, however, that the onus of proof is discharged by a statutory declaration.

Under the current proposal, where separate parcels or interests in land are transferred bona fide, the aggregation provisions will not apply. For example, a purchaser at an auction of several units in one block of flats would not be affected, nor would individual purchasers of separate parcels of farmland where the purchasers buy the parcels independently of each other and for independent use.

A further amendment counters an avoidance practice by imposing stamp duty where redeemable preference shares are issued to avoid mortgage duty. These shares, in effect, secure the repayment of investors' funds, but for highly technical reasons are not caught by the mortgage provisions under the Stamps Act.

There is a further provision requiring that where documents are submitted to the Stamp Duties Office for opinion, an estimated amount of duty should be paid. Any appropriate adjustment would be made later by further payment of duty or by refund. This measure is to prevent the exploitation of current provisions whereby a taxpayer can unreasonably defer payment of duty by many months by lodging a document at the end of the penalty-free period for lodgment prescribed under the Act. In these cases, it is usually necessary to seek further information to make an assessment. Tardy responses can cause inordinate time delays.

The Bill includes provisions similar to those in the Business Franchise Acts and the Commonwealth Income Tax Act for a notice of assessment under the Stamps Act 1958, the Energy Consumption Levy Act 1982 and the Financial Institutions Duty Act 1982 to be conclusive evidence of the making of an assessment and to be presumed correct unless the taxpayer avails himself or herself of the objection and appeal procedures available under those Acts.

The Bill also provides for powers under the Stamps Act similar to those existing under the Business Franchise (Tobacco) Act to enable the comptroller to seek information from persons and to require persons to attend and give evidence relating to stamp duty matters.

The Bill includes a number of provisions which rectify anomalies or reduce the administrative requirements placed on the taxpayer:

(a) A stamp duty exemption is provided where there is a transfer of assets between parties to a de facto relationship in circumstances where an exemption now applies if the couple are or have been married;

(b) Registered used car dealers are to be given 21 days to lodge their monthly returns instead of seven days;

(c) Deed duty on powers of attorney is to be abolished;

(d) Some technical changes are proposed to make the arrangements for the issue of bookmakers' certificates more convenient for the taxpayer; and
(c) A further technical change will ensure that where a car has been acquired by a nominee for a minor a stamp duty is no longer payable a second time when the vehicle is transferred to the minor once he or she has attained the age of eighteen years.

Finally, the Bill includes a number of technical provisions intended to streamline administration and to facilitate enforcement of the Act. These are described in the explanatory memorandum, which also includes more details on the amendments I have outlined.

The Hon. E. H. WALKER—I commend the Bill to the House.

On the motion of the Hon. H. R. WARD (South Eastern Province), the debate was adjourned.

It was ordered that the debate be adjourned until the next day of meeting.

ADJOURNMENT

Bus service for handicapped children in Central Highlands Province—Do Care submission—Christmas tree for Old Treasury Building—Monnington Centre for Handicapped Children—Nunawading railway stabling yards—Municipal election irregularity—Advertisements for condoms

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
That the Council, at its rising, adjourn until 10.30 a.m. this day.

The motion was agreed to.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—I move:
That the House do now adjourn.

The Hon. F. J. GRANTER (Central Highlands Province)—I direct the attention of the Minister for Agriculture and Rural Affairs, representing the Minister for Education, to a matter concerning handicapped children and their parents in the Kyneton, Gisborne, Taradale and Heathcote areas. The bus service has been withdrawn for two of these children. Their parents have contacted me saying that their children are emotionally upset and asking that the Government restore the service. The service entails one driver and a chaperone to look after the children while they are in transit.

I ask the Leader of the House to take up my request with the Minister with a view to having him reconsider the withdrawal of the service and of the chaperone. These children and their parents need a little more consideration than children who are not so handicapped.

The Hon. R. M. HALLAM (Western Province)—I raise with the Minister for Community Services a matter that has been directed to my attention by the Domiciliary Services Officer of the City of Portland who reminds me that the community strongly supported the establishment of Do Care in Portland at a meeting held on 3 April and attended by some 58 people.

The letter points out:
Please find enclosed copy of a submission made through Community Services (Victoria) to the Home and Community Care Program. We had been led to believe that a decision on the submission would be forthcoming in April 1986. The matter has obviously been delayed.

The community strongly supported the establishment of “Do Care” in Portland when a public meeting held on 3 April 1986 was attended by fifty-eight (58) people. More than thirty (30) volunteers registered their interest at the meeting.

With the delay that has occurred, the program has been introduced on a voluntary basis to avoid losing the momentum gained at the public meeting. However, the development of the program is dependent on a funding basis.

Will the Minister advise me of the fate of that submission?

The Hon. G. P. CONNARD (Higinbotham Province)—I take up with the Leader of the House a matter that is of interest to most honourable members. It has for some years been
the practice for the Government to erect a Christmas tree on the steps of the Old Treasury Building and it normally is erected and lit well before 1 December. This is 4 December and I ask: is it the Government's policy to turn out the lights in Collins Street, or will it erect the Christmas tree, which is an advantage to the city and to tourism? I ask him to make inquiries overnight and respond tomorrow.

The Hon. B. P. DUNN (North Western Province)—I raise with the Minister for Community Services a matter relating to the Monnington Centre for Handicapped Children. It is a special education centre and concentrates on children from birth to age four years. A belief is abroad that the centre may be closed as from the commencement of next year and its services discontinued.

Parents of handicapped children from country areas have expressed concern to me about the matter and I have a letter from a young mother at Manangatang, which is a relatively isolated area, stating that the centre has provided tremendous support for her eighteen-month-old son who was diagnosed on his first birthday as deaf. The centre has provided outstanding support to that family and has even called together a community group and informed it of the child's handicap, as well as briefing the parents on handling the situation. The mother summed up the feelings of the family by saying that without the Monnington centre they would be almost on their own. She said that people from the centre come to the home to see the child in his own environment and that the parents notice an improvement in Adam every time those people come. She added that their visits are also an enormous boost to the parents.

That sort of support is invaluable to parents and to handicapped children. I was horrified to learn that the centre may be closed and the service discontinued. I know that the Minister has an interest in these issues and in the problems of isolation in country areas, and I ask her to take up this matter and provide me with an answer at the earliest opportunity.

The Hon. ROSEMARY VARTY (Nunawading Province)—I raise with the Minister for Planning and Environment a matter concerning the proposed Nunawading railway stabling yards. I read in the local press today that it is anticipated that work will begin on the environment effects statement in January, will be completed by May and will go on exhibition for three months and that concurrently the proposal to rezone the designated area of railway land will also go on exhibition.

Is it the usual procedure to have the environment effects statement on exhibition or to call for submissions while the rezoning is going on?

The Hon. REG MACEY (Monash Province)—I raise a matter for the attention of the Minister for Community Services for transmission to the Minister for Local Government. It relates to an incident that is of some concern to my local community. I shall read an extract from a statutory declaration from Nancye Rae Durham of 4 Belmont Avenue, Clayton, which states:

On Saturday August 2nd, 1986 I was handing out "How to Vote" cards outside the Eastern Road State School Polling Booth, South Melbourne. At about noon that day a man who identified himself as a person involved with overseeing the election came out of the booth and approached one of the candidates, a Mr Robert Girdwood. He said to Mr Girdwood words to the effect that Mr Girdwood's "How to Vote" cards were being printed on a copying machine within the booth and that this was against the Local Government Act and he ordered that it be stopped.

Mr Girdwood denied any involvement in the printing of the cards within the booth.

The only people standing at the entrance to the booth at the time whose names I know are Dorothy Bell, Patricia Brown, Councillor Paul Dahan and, of course, Mr Robert Girdwood.

I have followed up this matter with the Chief Executive Officer of the South Melbourne City Council who confirmed that he was the person who approached Mr Robert Girdwood and that he had discovered that a copying machine in the polling booth was being used to produce how-to-vote cards on the election day.
It is an offence even to distribute how-to-vote cards in a polling booth, much less to print them there. I have since discussed the matter with the school principal, Mr Ian Dunne, who confirmed that no-one had permission to use the copying machine that day although, as a matter of courtesy, the school had made available to the council's polling booth staff the room where the copying machine was kept.

I ask the Minister to take up this matter with the Minister for Local Government and to ensure that investigations are carried out. So far as I can ascertain, the Chief Executive Officer of the South Melbourne City Council has not pursued the matter.

The Hon. B. A. CHAMBERLAIN (Western Province)—I raise with the Minister for Health a matter arising from the Prostitution Regulation Bill. It concerns the sale and advertising of condoms. The Minister was not present during the debate yesterday, so I did not raise the matter at that stage.

The effect of the Bill is to remove the restriction on the exhibition of condoms and to water down the restrictions on advertising so that registered contraceptives can be advertised and there is little restriction on the form of advertising that may be approved by Health Department Victoria.

I ask the Minister for an assurance that the Government will keep a watching brief on the type of advertising for condoms to ensure that advertisements are in keeping with community standards. Obviously, there would be general acceptance of advertising, but standards should be set which keep that advertising within the bounds of decency and do not overstate the nature of those objects.

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—Mr Granter raises for the attention of the Minister for Education a matter concerning transport of small children in the Kyneton area. I shall have the matter transferred to the Minister for response.

Mr Connard is concerned that the Christmas tree outside the Old Treasury Building is late this year or—horror of horrors!—may not appear. One wonders whether the Christmas tree budget for that part of town was not spent on cleaning up the statue of Mr Justice Higinbotham around the corner! I shall put in train some inquiries to ascertain whether the Christmas tree is to be erected and, if so, why it is not already in place, and I shall try to do that by tomorrow.

The Hon. D. R. WHITE (Minister for Health)—In response to Mr Chamberlain, the answer is, “Yes”.

The Hon. J. H. KENNAN (Attorney-General)—I shall certainly give every attention to the matter that Mrs Varty raised.

The Hon. C. J. HOGG (Minister for Community Services)—In answer to the matter raised by Mr Hallam I am aware of the Do Care submission. Of course, it is a Statewide organisation. I believe in June it put in a proposal to the home and community care office to regionalise its operations. The submission to which Mr Hallam refers will be considered with other priorities as soon as developments are in hand, before Christmas. I understand that the decision will specifically be made within the next two weeks.

In answer to the query of Mr Dunn, I am well aware that rumours abound about specialist services. I am always being confronted by rumours of closure of a variety of services on which families depend. I am interested in the information given to me about the Monnington Centre for Handicapped Children. It is not a centre that I have visited. I am not aware of any dramatic changes to be made to it next year. However, I shall make inquiries about that and inform the honourable member.

In answer to the extraordinary case brought to my attention by Mr Macey, which refers to a single copying machine for producing how-to-vote cards, I shall raise what appears to be a most irregular matter with my colleague, the Minister for Local Government.

The motion was agreed to.

The House adjourned at 12.52 a.m. (Friday).
Friday, 5 December 1986

The PRESIDENT (the Hon. R. A. MacKenzie) took the chair at 10.33 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

HOSPITAL WAITING LISTS

The Hon. M. A. BIRRELL (East Yarra Province)—I refer the Minister for Health to today's alarming revelation by Professor Aubrey Pitt, director of the Alfred Hospital's cardiology service, that patients needing heart surgery were dying because of long waiting lists in Melbourne's public hospitals; and I ask: will the Minister give any commitment as to whether his health policies will ever lead to a cut in surgical waiting lists; if so, when does he believe waiting lists will begin to fall?

The Hon. D. R. WHITE (Minister for Health)—I cannot question or debate the statements by two eminent doctors who say that patients have died while waiting for coronary bypass surgery.

These seriously ill patients can die at any time and I am advised that some recognised coronary patients die while awaiting full investigation and surgery, even in the absence of the delays caused by the current nurses' strike. The situation is being monitored continuously.

The State Director of Critical Care Services, Dr Bernard Clarke, is available around the clock to achieve placement of patients who need care urgently. I have appointed Dr James Breheny, a respected and experienced medical administrator and a past president of the Australian Medical Association, to liaise with hospitals and providers and to ensure that I am informed accurately on the adequacy and efficiencies in the provision of care at this time.

The Australian Medical Association is involved to assist and to ensure maximum cooperation of doctors throughout the State. I am enormously grateful to the nurses who have remained on duty, to the resident medical officers, the volunteers and members of the Hospital Employees Federation (Victoria No. 1 Branch), the State enrolled nurses, who have remained on duty and who are cooperating magnificently to ensure the safe care of their patients.

Dr Clarke and Dr Breheny are directing their efforts to ensure that we maintain the best care possible within the limits of present resources. Neither of these doctors has been advised of any specific instances where death can be attributed directly to the present strike.

If any section of the medical profession, whether of a medical or surgical nature, is having difficulty over and above the normal circumstances during this industrial dispute in the placement of elective patients in a semi-urgent condition, whose condition is deteriorating, I would urge them in the first instance to contact Dr Breheny or Dr Clarke with a view to having them assist in trying to locate that person as quickly as possible either in one of the major teaching hospitals or in a private hospital.

MEAT INSPECTION FEES

The Hon. B. P. DUNN (North Western Province)—I ask the Minister for Agriculture and Rural Affairs to advise what is the current state of domestic meat inspection services in Victoria? Has the 100 per cent fee for service been introduced by the Victorian Government and is the Minister aware that Domestic Abattoirs has taken steps in its...
management to make savings in its operation to ensure there is no flow-on effect of these increased charges to either the producers or the consumers of this State?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs)—The current condition in regard to meat inspection in this State is that, following two attempts on my part to convince the opposition parties that the dual meat inspection in this State is not worth sustaining and that meat inspection should be the responsibility of the Federal Government, and their failure to accept that, I assured meat inspectors in this State that, as it was not possible to get that agreement, I would not continue to introduce Bills in this House and that I would make arrangements to ensure that the State inspection service was maintained but, on a different basis in terms of charges. Following that I have taken the action that I said I would. The State inspection service will be maintained and the basis of the funding will be a 100 per cent recovery of costs to the State.

The country abattoir association and others involved in the industry are aware of that and have accepted that approach. I cannot assure the honourable member that all arrangements have been finally made because I will have to check that today, but I believe we are within a day or two of all of that being in place on an official basis or by regulation.

I moved quickly once it was clear that it would not be possible to get through this House a Bill transferring the meat inspection services.

Mr Dunn asked whether the 100 per cent fee recovery situation had yet been applied. I believe it has. If it has not, it is within a few days of being applied and the whole industry is aware of that.

He also asked where will the savings come from and who will bear the cost of the 100 per cent cost recovery. That is a difficult question. It could be the abattoirs themselves, and, as the honourable member suggested, they may have to move to make their operations more efficient. I am sure they will try to do that. It may be the producer and I know that the pastoral group of the Victorian Farmers Federation is concerned that the producer may have to bear that extra cost, or it may be passed on to the consumer. It is a question that I cannot answer directly. By being more efficient the operators will be able to take in most of that increase.

We are not talking about a huge increase in comparison with the cost of a beast. If a beast for slaughter is worth approximately $500, the extra charge to bring about a 100 per cent recovery would be approximately $5, a 1 per cent increase. Nevertheless, it has to be taken up by one or another part of the industry. I hope it will be taken up by an efficient industry.

The only condition on which I would consider a review of my position would be if at some time in the future the opposition parties came to me and said they thought the approach taken by the Bill seeking to transfer meat inspection services was worth while.

**COMPUTER-RELATED CRIME**

The Hon. B. W. MIER (Waverley Province)—Will the Attorney-General advise the House of discussions of the Standing Committee of Attorneys-General on computer-related crime?

The Hon. J. H. KENNAN (Attorney-General)—The Standing Committee of Attorneys-General has been considering this matter for some time; it has considered a Bill and a report from the Tasmanian Law Reform Commission suggesting that special legislation is necessary.

The Government believes there is a need for consideration of a uniform Bill. When the Attorneys-General meet next in February, I expect progress to be made on the matter.
PRESENCE OF URANIUM NEAR SWAN HILL

The Hon. N. B. Reid (Beidigo Province)—The Minister for Conservation, Forests and Lands is aware of the possible presence of uranium close to the site of the mineral reserve basins scheme near Swan Hill. What actions have been taken to investigate the information that has been raised with the Minister?

The Hon. J. E. Kirner (Minister for Conservation, Forests and Lands)—I am not sure of Mr Reid’s position on this issue: is he asking me to investigate the matter so that the Liberal Party can at some future time implement its proposals for uranium mining in Victoria; is he asking me to investigate the previous proposals, or is he asking me to simply endorse the Government’s position that there will be no uranium mining in Victoria?

Mr Reid asked about the proximity of uranium to the mineral reserve basins scheme. As a member of the Parliamentary inquiry on salinity, Mr Reid would well know that some investigations were carried out a few years ago. At the time, concerns were expressed about the possible relationship between the mineral reserve basins and uranium in the soil. It was decided it was not a major concern, and I still believe that to be the case.

I am disappointed that Mr Reid, who knows that the Government is working closely with the communities of Kerang and Swan Hill on the salinity and mineral reserve basins issues, should raise the matter in this way to seek to detract attention from what are the real issues in solving the salinity problem.

HOME-HELP AND ATTENDANT CARE PROGRAMS

The Hon. W. R. Baxter (North Eastern Province)—The Minister for Community Services will be aware that some municipalities have withdrawn specific home help to some severely disabled persons apparently at the direction of Community Services Victoria. The direction was apparently on the basis that such services would be picked up by the attendant care program announced in the recent Federal Budget, but which has not yet commenced. I understand that the Minister has had discussions with her Federal colleague, Senator Grimes, on the implementation of the Federal program, and I ask her to advise the House of the state of the negotiations and when the program is expected to commence?

The Hon. C. J. Hogg (Minister for Community Services)—I am aware of the case to which Mr Baxter is referring. So far as I am aware, it is the only case where services have been withdrawn in anticipation of a more appropriate attendant care arrangement.

In response to the broad question that I believe Mr Baxter is asking, the Federal Budget included an increase to get off the ground an attendant care scheme. It was to be of limited scope during the first twelve months because, quite obviously, attendant care can be limitless in some ways. In the first twelve months, the scheme was to be put in place to enable people who are currently inappropriately placed in nursing homes for the elderly—inappropriately because they are 30 or 40 years of age—to leave the nursing homes and live independently in the community.

I understand that Senator Grimes is considering several models to make that scheme work and to implement the program he has in mind. I have not caught up with the detailed progress of his attendant care pilot program. It may be different in New South Wales from the way it is in Victoria.

I shall certainly follow up the matter mentioned by Mr Baxter because it involves a particularly difficult and sad case. Perhaps special assistance and acknowledgment can be obtained from the Federal Government for that case.

SEXUAL ASSAULT CLINICS

The Hon. Joan Coxedge (Melbourne West Province)—Will the Minister for Health inform the House of the future of the Queen Victoria Medical Centre sexual assault clinic when that hospital is relocated to Clayton?
The Hon. D. R. WHITE (Minister for Health)—The sexual assault clinic at the Queen Victoria Medical Centre is one of a number that have been established to deal with a major social problem permeating our society. Others operate in Warrnambool, Ballarat, Bendigo and Geelong, and I am pleased to inform honourable members that I have today allocated funding, totalling $500 000 in a full year, to enable sexual assault clinics to be opened at the Royal Women’s and Royal Children’s hospitals. The clinic at the Royal Children’s Hospital will be the first such service in Victoria to be established specifically to deal with child sexual assault cases.

This will bring to five the number of sexual assault clinics that will operate in the metropolitan area within the next twelve months. The others will be based at the Austin and Western General hospitals.

The clinic at the Queen Victoria Medical Centre will continue to provide an invaluable service after the hospital is relocated at Clayton, and that is now imminent.

Honourable members should note that, in the six months to May 1986, 263 victims attended the Queen Victoria Medical Centre sexual assault clinic. It is my view that that number represents only the tip of the iceberg in terms of the extent of sexual assault in the community. With the establishment of locally-based services, I believe more victims will be encouraged to seek assistance and counselling.

Sexual assault is a major social problem that requires medical, social and psychological responses. More importantly, a major change in community attitude to what is acceptable sexual behaviour is needed. A major function of the clinics will be the provision of community education programs, which I hope will help in changing those attitudes.

I also take the opportunity of thanking Mr Knowles for his support for this measure.

NOXIOUS WEED CONTROL ON ROADSIDES

The Hon. R. S. de FEGELY (Ballarat Province)—My question is directed to the Minister for Conservation, Forests and Lands. Under the Act governing the control of noxious weeds on roadsides, and Government land, adjacent landowners are responsible for the eradication of those weeds. Since the Act was introduced, many municipal councils and departmental officers have expressed concern that farmers may not attend to this responsibility and that, as a consequence, weed problems will increase—more particularly, since the recent directive to officers of the department, which advised them to discontinue assistance to farmers in this area.

Is the Minister concerned that this decision could lead to an increase in noxious weed problems on roadsides? Is she currently reviewing the situation with a view to having the Act amended or allowing her officers again to assist farmers to eradicate weeds on those areas of Government land? Can the Minister advise the House of any determinations that have been made on this matter?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—This question has vexed the minds of Ministers, members of local government and land-holders for a long time. The Act goes back to before the Labor Government came to power. I believe the reason why it has never been changed either by a Liberal Government, even under the influence of the National Party, or even by a Labor Government is that it is essential, in order to get land-holders to accept responsibility for taking action on the weed issue, that land-holders are in fact deemed responsible.

That is not to say that in cases of severe weed infestation my department will not assist—it does and it will. It has a number of important projects operating, such as the hardhead project along the River Murray. My department takes action both on private land and on public land to eradicate the problem.
I do not intend to change the Act. However, I intend during the next sessional period of Parliament to make some changes to the schedule in the Act which will benefit landholders and local government. The primary responsibility must remain with the landholder and, in most regional areas, local government, officers of the Department of Conservation, Forests and Lands and landholders are cooperative in their approach to the weed problem.

As we now have a Land Protection Advisory Committee system in each region, I believe a sensible attack on the whole issue is much more likely to be made than it was under previous processes.

CAT SCANNER

The Hon. K. I. M. WRIGHT (North Western Province)—I direct a question to the Minister for Health concerning the computerised axial tomography—CAT—scanner that the Minister has authorised to be installed at the Mildura Base Hospital. I thank the Minister for the decision to install that apparatus because it will surely save lives in the area.

Unfortunately, the Building Workers Industrial Union of Australia, whose members are constructing the building to house the CAT scanner, has blacked the project and, naturally, local residents and Parliamentary representatives are concerned.

Would the Minister indicate to the House what action has been taken to have that work proceed?

The Hon. D. R. WHITE (Minister for Health)—I would appreciate some more detail about the circumstances. In conjunction with Mr Wright, I would be available to make contact with the Chief Executive Officer of Health Department Victoria to find out some detail and I shall arrange for officers from the regional director's office and the industrial relations section of Health Department Victoria to have discussions with Mr Wright.

“ENJOY VICTORIA'S PARKS”

The Hon. B. A. MURPHY (Gippsland Province)—All honourable members would be aware that the Government has adopted the theme “Enjoy Victoria's Parks” for the summer holiday period. Can the Minister for Conservation, Forests and Lands indicate to the House her department's contribution to this theme?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—I am sure Mr Murphy will be living up to the theme over the holidays and will be enjoying Victoria's parks as will anyone else who visits them.

Honourable members should know that the Government's theme for the summer holiday period is “Enjoy Victoria's Parks”. It is a theme that my department has been pursuing over the past twelve months with significant success.

In the past twelve months, we have had 7.86 million visitor days in our parks—a record number. I am delighted to inform the House of that fact because far too often we are accused of using our national parks to lock up the land and stop people enjoying them. Those figures prove that the opposite is the case.

One of the reasons for increased visitor access is our excellent interpretation program. When people go to parks they are informed of special activities available. They then view the park through different eyes. In order to provide this service, information centres are needed. This year we have opened a new visitor's centre at Mount St Gwinear, and next week I shall open the Mount Buffalo National Park information centre, which is an excellent concept that began with you, Mr President.
We shall also release in January the draft management plan for the Point Nepean Park. This will be an important park for people on the Mornington Peninsula and by 1988 some 300,000 people a year are expected to visit that park.

There is also a growing increase in the members of Friends of Parks, which is an important park movement in America now developing in Australia. There are currently 26 friends and groups in the parks and it would be difficult for the parks to be managed as successfully as they are without their assistance, and I thank them for that.

Some of the special activities organised for the Christmas period show the diversity of our people in the parks program. They include, along the east coast, fishing tours on the Tambo River close to Lakes Entrance—and Mr Murphy has offered to assist with them—animal tracking walks at Wilsons Promontory; along the west coast, boat cruises around parts of Port Phillip Bay and the Marine Studies Centre at Queenscliff.

In the alps, I am sure visitors will enjoy using the new alpine areas map and in the Grampians and central highlands a number of other activities are planned.

I should like to conclude by congratulating my staff in the Department of Conservation, Forests and Lands on the work that has been put into the parks holiday program.

**TIMBER INDUSTRY STRATEGY FUNDS**

The Hon. ROSEMARY VARTY (Nunawading Province)—Under the timber industry strategy, funding is provided for road maintenance and construction as part of the implementation of that strategy. Can the Minister for Conservation, Forests and Lands indicate the reasons for and the extent of reallocation of those funds away from east Gippsland to other regions and whether this is to continue?

The Hon. J. E. KIRNER (Minister for Conservation, Forests and Lands)—Mrs Varty is quite correct in indicating that under the timber industry strategy, considerably increased funds have been allocated to roads used solely for timber extraction. I do not have the actual figures in front of me but obviously, the emphasis in funding goes to those areas where the greatest development is taking place and, in fact, a similar question was asked by Mr Evans earlier this week.

The balance of the two questions indicates the shift of emphasis in timber operations from east Gippsland to, in the case of softwoods, the north-east and, in the case of hardwoods, to the central highlands. Therefore, although there has been a shift, there is certainly no diminution in the commitment to funding.

Mrs Varty would be well aware of the Government's and my commitment to the proper development of the timber industry in east Gippsland; however, there will be a reduction in timber harvesting in order to retain a substantial yield with the resources available. The Government will be using mainly existing roads in east Gippsland so that the transfer in the road funding may be to areas where there will be greater emphasis and we need new extraction roads.

**HOME AND COMMUNITY CARE PROGRAM**

The Hon. M. A. LYSTER (Chelsea Province)—I address my question to the Minister for Community Services. An earlier question referred to one aspect of the initiatives relating to care of the aged and disabled in their own homes. To address the broader issues involved, earlier this year under the Home and Community Care Program, funding was given for local services planning projects and I ask the Minister whether she can report progress, to date, on those projects?

The Hon. C. J. HOGG (Minister for Community Services)—I am pleased to say that last Friday, along with Mr Jock Granter and the honourable member for Whittlesea in another place, I was able to launch the first of the Home and Community Care Program local service plans.
We had an enjoyable morning with the Shire of Kilmore and representatives of the Shire of Broadford who got together to prepare their local planning project report. Indeed, we enjoyed their hospitality until quite late in the morning!

The planning project involved reviews of existing services, surveying unmet needs and developing strategies to meet those needs through expansion of existing services or proposals for new services. Interestingly enough, a number of recommendations in the report are already being worked through by the Home and Community Care Program. Some of those major recommendations involve: the strengthening of home help services and a possible expansion to meet the kinds of needs identified for respite care—and I have spoken about those needs from time to time—and the establishment of linen and laundry services in home help—and that is something to which the Home and Community Care Program development team ought to give serious consideration.

The investigation of the establishment of a home maintenance service, the need to establish better information about home and community care and the need for improved day centre and paramedical services are matters that are being considered by the home and community care committee at present. I am happy to say that many of the priorities identified by the organisations in Kilmore and Broadford are matters already being worked on.

However, there were some new directions into which we could be guided. I was delighted to launch that plan because it is the first of 28 that have been commissioned. I am advised that the other 27 plans are well under way and, by 1 June 1987, all 28 local service plans should be in the hands of the home and community care committee and we should be working through the recommendations and putting them into place.

BUSINESS OF THE HOUSE

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—I wish to make a few comments about the sitting today and advise honourable members of what we hope to achieve. I preface my remarks by complimenting honourable members on the way they have treated the last sessional period. It has been a remarkably stress-free sessional period. In my view, on two or three occasions this week the quality of debate has been extraordinarily high. Members have handled the proposed legislation carefully and properly and I compliment them.

The Notice Paper contains thirteen items of business and it is my hope, and the hope of the other Leaders of the parties, to complete that proposed legislation today. There are three or four Bills which possibly could be amended in this House and may, therefore, need to be dealt with in another place. It is, therefore, my intention that the Council should sit during the same hours as the Assembly.

The Assembly hopes to rise by dinner time. I hope the Council can do the same. The reason I say that is that we need to have a transfer of proposed legislation between Houses on a day like today because of amendments that occur. That may not be possible and I ask honourable members to be cooperative, if they will, and to exercise a certain discipline—not to speak unless they feel they must and, when they do, to be direct and to the point.

I do not want to treat any proposed legislation in less than the proper manner. We have adhered to that principle in the past and will continue to do so. As the day goes on it will be possible to give a clearer idea of the time we expect to finish. That is the best indication I can offer at present. I have spoken to the members of other parties and their Leaders and I am hoping to have cooperation in that regard.
MORTUARY INDUSTRY AND CEMETERIES ADMINISTRATION COMMITTEE

Mausoleums

The Hon. J. G. MILES (Templestowe Province)—By leave, I move:
That the report of the Mortuary Industry and Cemeteries Administration Committee on mausoleums be taken into consideration on the next day of meeting.

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:


Exhibition Trustees—Reports for the years 1983–84 and 1984–85.

Freedom of Information Act 1982—
Report on operation for the year 1985–86.

Public Service Board report to the Attorney-General on administration for the year 1984–85.


Rural Water Commission—Minister’s report, dated 4 December 1986, of failure to submit an annual report to him by 30 September and the reasons therefor.

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

BUSINESS OF THE HOUSE

The Hon. B. A. CHAMBERLAIN (Western Province) (By leave)—On the general issue of annual reports, under legislation most agencies are required to report to the Minister by 30 September 1986 and the Minister is required to table those reports in the House fourteen days later or explain to the House why that has not happened.

Has the Leader of the Government any indication of the number of agencies that have breached those provisions and have yet to report to the Minister? This matter is relevant to the consideration by the House of various measures, including the Budget.

The other issue is that of access of honourable members to answers to questions on notice. Will the usual practice of forwarding answers to questions to honourable members during the recess occur on this occasion?

The Hon. E. H. WALKER (Minister for Agriculture and Rural Affairs) (By leave)—I do not have information in front of me about the status of reports from departments and agencies. As Mr Chamberlain said, the expected and proper practice is to table those reports well before now. I shall make it my business during the next few hours to obtain a summary of the reports that have not yet been tabled and inform Mr Chamberlain.

On the second matter, it has been the Government’s practice to forward to honourable members answers to questions on notice, and it will continue to be the practice during the recess. Therefore, honourable members can expect to receive the responses.

The Hon. B. A. Chamberlain—Some questions have been on notice for fourteen months.
The Hon. E. H. WALKER—I appreciate that. The usual practice will continue with answers to questions on notice being provided to honourable members when they are made available.

BAIL (AMENDMENT) BILL (No. 2)

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

That this Bill be now read a second time.

The objects of this Bill are to restrict the availability of bail for persons charged with serious drug offences and to apply the Bail Act 1977 to persons in custody pending the hearing of an appeal to the County Court. I shall deal with those aspects separately.

BAIL IN DRUG CASES

Last year, Mr Chamberlain, the Leader of the Opposition in this House, introduced a Bill to require persons charged with offences involving a certain quantity of drugs to apply to the Supreme Court to be granted bail. As I pointed out in the debate on 29 October 1986, that Bill was flawed in several respects but I agreed to examine ways in which the intention of that Bill to restrict bail in serious drug cases could be effected, in conjunction with other necessary amendments to the Act.

This Bill will impose a number of additional restrictions on bail in drug cases. Firstly, it will require a person charged with conspiracy to traffic in, or conspiracy to cultivate, a drug to show cause why bail should be granted, as persons charged with trafficking or cultivation must do. Many serious cases involve conspiracies. It is anomalous that the offence of conspiracy to traffic or cultivate should be treated more leniently than the substantive offences when the same penalties apply.

Secondly, the Bill will extend the reverse onus to Commonwealth drug cases involving more than a trafficable quantity of prohibited drugs. These offences are of a very serious nature and carry very heavy penalties. The Federal Director of Public Prosecutions has expressed concern to me about the present situation under which State drug offences attract the reverse onus but Commonwealth ones do not. The disparity is highlighted particularly in cases involving joint Federal-State task force investigations. The Bill will correct this anomaly.

Thirdly, in certain very serious drug cases, the Bill will require the accused not only to show cause why bail should be granted but also to show that exceptional circumstances exist. This restriction will apply if the offence allegedly relates to more than 30 grams of heroin or more than 100 grams of cocaine or a prescribed quantity of another drug. The concept of “exceptional circumstances” is a well-known one in relation to bail because the courts apply this criterion in murder cases and pending the hearing of an appeal from a conviction or sentence in the higher courts.

The Bill will, therefore, impose a strict regime relating to bail in drug cases and will not affect the power of the Director of Public Prosecutions—or his Federal counterpart in Commonwealth cases—to appeal to the Supreme Court if, despite these restrictions, bail is granted. The amendments are a reflection of the seriousness with which the Government regards drug offences and are consistent with the comprehensive strategy against drug abuse adopted by the Government as part of the National Campaign Against Drug Abuse.

BAIL PENDING APPEALS

A recent decision of the Supreme Court has highlighted an important deficiency when a person sentenced to imprisonment by a Magistrates Court appeals to the County Court against the conviction or sentence. In re Barnett, Mr Justice Hampel held that under the terms of the Magistrates Courts Act 1971, the appellant in these circumstances must be immediately and unconditionally released. I am grateful to His Honour for drawing the decision to my attention.
This situation needs to be remedied urgently, because it allows the possibility of tactical appeals designed only to secure the release of the appellant from custody. This creates a significant risk of absconding.

An appeal to the County Court proceeds as a rehearing, with the appellant again presumed to be innocent. Therefore, whether it is necessary that the appellant be detained in custody should be determined according to the same criteria as those which apply before a Magistrates Court hearing. The Bill will allow an appellant in custody to apply for bail to either a Magistrates Court or a justice. The application will be determined in accordance with the Bail Act and the same rights to appeal or seek a variation of bail will apply.

CONCLUSION

These amendments correct a number of anomalies and address concerns that have been expressed about the Bail Act. I have also asked my department to keep the Act under review and monitor the operation of these new provisions. I believe criminal justice issues should not be used as a political football and it is in a spirit of bipartisanship that I commend the Bill to the House.

The Hon. B. A. Chamberlain (Western Province)—The Opposition is delighted to support this measure. The Opposition has not had the opportunity of checking the technicalities of the Bill, but it wholeheartedly supports its principles. I thank the Attorney-General for giving me some indication some time ago that these amendments would be made.

The gap in the law involving Commonwealth offences and the Victorian Bail Act has been recognised for some time. I hope the Attorney-General's colleague in another place will also realise the importance of this measure and the problems that will be caused if it is not passed by the other place today.

The Hon. J. H. Kennan—There are the constitutional problems about the Customs Act.

The Hon. B. A. Chamberlain—Whatever those technical problems may be, the Opposition does not want the existing legislation, with all its problems in relation to bail, to continue to operate.

The Bill is designed to solve the issues about which I have spoken since November last year.

Although the Attorney-General recognised those issues, his Bill does not fully tackle the problem. There is still one gap in the law and that is the question of "exceptional circumstances". My private member's Bill proposes that that be redefined so as not to include delays in bringing cases to trial. I have quickly read the second-reading notes and I do not believe the Minister has taken up that provision; there is still a gap.

The House will recall examples I gave where judges have said they were most reluctant to grant bail. One case involved a bikie who was facing serious charges. The judge said he was most concerned and reluctant to grant bail to that person but he was doing so because it would be twelve months before the police could proceed with the case because of delays in forensic examinations.

The Federal police has its material examined in two days by the Customs laboratory. There is no reason why the Victoria Police Force cannot have an arrangement with the Federal authorities. The absence of such an arrangement should not be used as an excuse. I can recall raising the matter eighteen months ago and I have since raised it four times. Every time I have raised it, the Attorney-General has said, "I agree with you", but the issue has become bogged down in the system.

Resources exist in both private laboratories and the Commonwealth Customs laboratories to deal with this narcotic material and to give an expert assessment within days. If the will exists, an arrangement can be made between the State and the Commonwealth. I again urge the Attorney-General to take up this matter with his colleague.
in another place, the Minister for Police and Emergency Services. The connection between drugs and major crime has been well established.

I commend the Attorney-General for bringing in the Bill. Although it is a long time since I brought these matters to the attention of the House, I now wish the Bill a speedy passage.

The Hon. W. R. BAXTER (North Eastern Province)—I am pleased to support the Bill on behalf of the National Party. It is a marvellous example of Parliament working in a cooperative and efficient manner.

Although it is some time since Mr Chamberlain introduced his private member's Bill—it was debated only four or five weeks ago—the matters he referred to have been taken up by the responsible Minister and a Bill has been brought back to Parliament, which is quick action.

As Mr Chamberlain indicated, there are one or two further outstanding issues to which I should like the Attorney-General to attend as early as possible in 1987.

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 Chamberlain and Mr Baxter for their cooperation. I deliberately did not pick up the matter relating to delays because some checks need to be kept on the prosecution levels. I did give consideration to it, but that is the reason for not incorporating it—some checks need to be kept. There are problems. The desirable way to proceed, as Mr Chamberlain pointed out, is to reduce the delays in the first place.

I shall certainly take up the matter with my colleague in another place, the Minister for Police and Emergency Services. We are taking steps, especially in homicide, to use private laboratories. Recently we used a private pathologist who can give us a fourteen-day turnaround.

We are taking some managerial steps to make greater use of that service by the Law Department. The steps that Mr Chamberlain outlined in relation to police should also be followed. That is the view that I shall put to my colleague, the Minister for Police and Emergency Services.

The Hon. B. A. Chamberlain—Can you get it through the Assembly today?

The Hon. J. H. KENNAN—I hope I can.

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

ANNUAL REPORTING (AMENDMENT) BILL

The debate (adjourned from October 7) was resumed on the motion of the Hon. D. R. White (Minister for Health):

That this Bill be now read a second time.

and on Mr Guest's amendment:

That all the words after "That" be omitted with a view to inserting in place thereof "this Bill be withdrawn and redrafted to ensure that reporting requirements are determined by Parliament and not subject to Ministerial discretion so that—

(a) each department and body is obliged by force of statute to report each year on its operations;

(b) the composition, form, content and relevant accounting standards of reports and accounts are prescribed by regulation subject to disallowance by Parliament; and
The Hon. J. V. C. GUEST (Monash Province) (By leave)—As a result of negotiations between the parties, agreement has been reached on the course to be taken. Accordingly, I do not propose to proceed with the amendment that I have moved, and I seek leave to withdraw it.

By leave, the amendment was withdrawn.

The Hon. W. R. BAXTER (North Eastern Province)—After very extensive consultations with the Treasurer and officers of the Department of Management and Budget, agreement has been reached on the Bill to the extent that the provisions to which the National Party objected will be removed. Therefore, the National Party is able to allow the Bill to proceed.

The Bill, as originally worded, gave tremendous powers to the Treasurer to permit departments and authorities to delay or postpone the presentation of reports to Parliament. Although there may be sufficient reason to justify some delay, the powers given to the Treasurer were too wide.

Earlier, Mr Chamberlain referred to the availability of publications and reports to honourable members during the Parliamentary recess. It is important for the Parliament to have access to reports.

As suitable agreement has been reached between the parties on the Bill, the National Party is prepared to allow the Bill to proceed in an amended form. The lead speaker for the National Party, Mr Hallam, will refer more specifically to these issues.

The Hon. R. M. HALLAM (Western Province)—The Annual Reporting (Amendment) Bill is the most important Bill on the Notice Paper. It will amend the Annual Reporting Act 1983. When I read the Minister's second-reading notes, I wondered what the fuss was about. It was suggested that the Bill covered only relatively minor administrative matters. The National Party is very supportive of the original Act. The fundamental principle is that the people of Victoria are entitled to the best possible information.

The second-reading notes state that the Bill intends to extend the original Act, and to improve the timeliness and quality of reports. The National Party supports that endeavour. Annual reporting requirements will be readily updated to reflect modern reporting standards. The National Party agrees with that. The Bill paves the way for additional bodies to be brought under the provisions of the Act. It allows reporting standards to be the subject of ongoing review. The National Party supports those principles and believes it is a fundamental right of members of Parliament to receive reports that are timely, comprehensive, relevant and, above all, usable. These principles are covered by the Minister's second-reading speech.

However, the Bill does none of those things; in fact, the reverse is the case. How naive does the Government think the National Party is? The Bill gives the Government an extraordinary level of discretion. It enables the Treasurer, at his discretion, to make determinations on the reporting of administrative units. The National Party believes that is wrong. The Bill provides that the Treasurer may make a determination at the request of the relevant Minister or, indeed, otherwise. The National Party cannot support that discretion.

The Bill also contains provisions that apply to reports that may be consolidated. Where administrative units are similar or related in operation, it makes good sense to consolidate reports. The National Party believes it is important also that units report individually, or at least that that information be available to honourable members.

Further, the Bill in its original form provided the Treasurer with the right to exempt a Minister from the requirements of the Bill. The National Party is delighted that, as a result of negotiations that have taken place since the Bill was introduced, this clause will be deleted.
Several other matters have been subject to negotiation. They cover the majority of the National Party's objections to the Bill. The proposed amendments, which result from the discussions and negotiations between the parties, do nothing more than capture the spirit of the Minister's second-reading speech. The National Party believes that is a very important principle because the thrust of the Bill is akin to appointing an umpire and then allowing the captain of one of the teams to change the rules during the course of the game, and that is a very dangerous precedent.

I reiterate that there have been extensive discussions and negotiations between the parties on the parameters of the proposed amendments and, as a result, the National Party is prepared now to support the Bill in the form in which it subsequently will be amended.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 3 were agreed to.

Clause 4

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


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

Clause 5

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

2. Clause 5. lines 33 and 34. omit all words and expressions on these lines and insert—

“(c) add the name of any administrative unit, public body or office to column 1 of Schedule 2; and

(d) add the name of any class of public body to column 2 of Schedule 2; and”

3. Clause 5. line 35. omit “(d)” and insert “(e)”.

4. Clause 5. lines 37 and 38. omit all words and expressions on these lines and insert:

“(f) add the name of a trust, fund, account or superannuation scheme to column 2 of Schedule 3”.

5. Clause 5. page 3. line 5. after “specified in” insert “column I of”.

6. Clause 5. page 3. line 11. omit “or accounts” and insert “accounts or schemes”.

7. Clause 5. page 3. line 12. omit “administrative unit” and insert “office or body”.

8. Clause 5. page 3. line 25. after “any body” insert “(including any trustee or trustees) who or”.

9. Clause 5. page 3. line 27. omit “or account” and insert “account or superannuation scheme”.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 6.

Clause 7

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

10. Clause 7. line 31. after “year” insert “in addition to any other report required to be prepared under this Act”.

11. Clause 7. page 5. lines 1 to 10. omit all words and expressions on these lines.

The Hon. J. V. C. GUEST (Monash Province)—I understood that the Minister would amend his amendment No. 10 by adding to it the words “or any other Act”.

The Hon. D. R. WHITE (Minister for Health)—I gratefully accept the suggestion proposed by Mr Guest. I move:

That amendment No. 10 be amended by the insertion, after the word “Act”, of the words “or any other Act”.

The amendment on amendment No. 10 was agreed to, and the amendment, as amended, was adopted, as was amendment No. 11.
The clause, as amended, was agreed to.

Clause 8

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

12. Clause 8, page 5, lines 14 to 40, and page 6, lines 1 to 5, omit all words and expressions on these lines.

13. Clause 8, page 6, line 7, omit "15H" and insert "15A".

The Hon. J. V. C. GUEST (Monash Province)—These are important amendments and I should like to put on record the position of the Opposition in relation to the negotiations that have occurred to date.

Proposed section 15A would have allowed the Treasurer to make determinations with the most tremendous effects on the accountability of departments and agencies to Parliament and to the public in respect of their duty to report and the variation in the contents of reports.

Accordingly, the Opposition—and, I understand, also the National Party—took the position that any such determinations should be effectively under the control of Parliament as if they were items of ordinary legislation. An analogy would be the old provisions of the Ninth Schedule of the Companies Act, as it used to be, laying down accounting and auditing requirements for bodies which were at arm’s length from the Government, unlike the departments and agencies, which are intimately associated with the Treasurer and which the Opposition believes should not be completely under his control in relation to their accounting.

It is perhaps desirable for me to read the brief letter that the shadow Treasurer wrote to the Treasurer recently—as the shadow Treasurer is the official Opposition spokesman on this Bill—expressing the views of the Opposition. The shadow Treasurer, referring to a letter from the Treasurer dated 21 November, wrote to confirm a recent conversation and said:

In the above letter you propose that proposed section 15A be amended so that determinations by the Treasurer would be subject to disallowance by resolution of both Houses.

This does not meet the substantive objection of the Liberal Party concerning lack of accountability of the Executive to the Parliament.

The Annual Reporting Act has the effect that instruments under the Act will prevail over an express provision in any other Act. Hence the Act, if amended as you propose, would allow an instrument issued by the Treasurer to prevail over the intention of the Parliament itself expressed in statute.

The Liberal Party is concerned about the wide discretionary powers the Bill would place in the hands of the Treasurer.

The abovementioned provision serves only to heighten our concern.

The Liberal Party recognises the administrative ease of prescription of standards by determination. But administrative ease is a lesser value than effective accountability to the Parliament. We would be prepared to support the use of determinations if effective accountability mechanisms are included. Since the Government will always and necessarily control the Legislative Assembly, your proposed amendment would prevent the proposed mechanism being effective.

We consider that our proposal makes a suitable compromise between administrative ease and appropriate accountability.

I request your agreement to vary the proposed new sub-section 15A (6) to read as follows:

“(6) Determinations made under this section may be revoked or amended by a resolution of either House of Parliament.”

I have consulted with representatives of the National Party and understand that that party concurs in the views expressed.

The shadow Treasurer also mentioned that he had forwarded copies of that letter to the Leader of the National Party in another place, Mr Ross-Edwards, and to Mr Hallam and me.
The Opposition regrets that it has not been able to accommodate the Treasurer's reasonable requirements because he has been unable to realise the significant constitutional and Parliamentary case for allowing his determinations to be, as such, subject to control by Parliament in the same way as if he were to come to Parliament and propose accounting standards and rules for compliance with the form of accounts being legislated for by Parliament.

The best compromise has been reached. The Treasurer has not sought to proceed with proposed section 15 as contained in clause 8 of the Bill.

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

Clause 9

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

14. Clause 9, after line 20, insert—

"(h) For section 8 (7) substitute—

"(7) The Treasurer must advise each House of Parliament of any extensions of time granted to Ministers under sub-section (6) and the reasons for the extensions."

This is an amendment that is consequential upon the amendments that the Committee has just accepted.

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

Clause 10

The Hon. D. R. WHITE (Minister for Health)—I invite the Committee to vote against this clause. This is consistent with my other amendments.

The clause was negatived.

New clause

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

16. Insert the following new clause to follow clause 9:

Schedules 1, 2 and 3 inserted.

AA. After section 16 of the Principal Act insert—

SCHEDULE 1

Administrative Units

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<td>Department of Community Services</td>
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The new clause was agreed to.

The Bill was reported to the House with amendments, and passed through its remaining stages.

TRANSPORT ACCIDENT BILL

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

That this Bill be now read a second time.

From the outset, the Government has treated the question of transport accident compensation reform as a matter of utmost importance to the State. Its approach has been directed towards solving an extremely complex problem in the best interests of the Victorian people.

At all times, the Government's guiding concern has been to produce a result that:

restores the system to financial viability;

guarantees financial security, and adequate medical and rehabilitation services to all those seriously injured on the roads;

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Public Bodies

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SCHEDULE 3

Trusts, Funds, Accounts and Schemes

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<td>Metropolitan Fire Brigades Superannuation Board</td>
<td>Hospitals Superannuation Fund established under section 10 of the Hospitals Superannuation Act 1965.</td>
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<tr>
<td>State Employees Retirement Benefits Board</td>
<td>Metropolitan Fire Brigades Superannuation Fund established under section 8 of the Metropolitan Fire Brigades Superannuation Act 1976.</td>
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<tr>
<td>Emergency Services Superannuation Board</td>
<td>State Employees Retirement Benefits Fund established under section 12 of the State Employees Retirement Benefits Act 1979.</td>
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<td>Emergency Services Superannuation Scheme established under section 15 of the Emergency Services Superannuation Act 1986.</td>
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</table>

The new clause was agreed to.
delivers benefits in a speedy and effective manner; and

sets a premium closely related to claims experience, at a price that does not represent either a severe impost on household budgets, or a competitive disadvantage to Victorian business.

It is necessary for all of us to recognise that the present scheme embodies inequities and inefficiencies that are no longer tolerable in a caring community. For that reason, the Government has concentrated on the issues of and the need to educate the community to the dimensions of the problem.

This Bill is also a product of a lengthy stage of negotiation with the State Liberal and National parties. Mr Baxter and Mr Guest from this place have been directly involved in that process, and it is right that their involvement be noted.

Highlights of the Bill are:

no-fault benefits for all people up to three years or $65 000—whichever comes sooner. This excludes an impairment lump sum—also payable;

no-fault benefits to proceed past this point only for those who are 50 per cent or more impaired and who have not been successful at common law;

damages at common law may be recovered if a person has a serious injury as defined by the Bill. An accident victim who is assessed under the Bill as having an impairment of 30 per cent or greater is deemed to have a serious injury;

if a person is assessed as having an impairment of less than 30 per cent they may still recover damages if:

(a) the Transport Accident Commission, which will run the new scheme, is satisfied that there is a serious injury and consents to the case proceeding or;

(b) a court gives leave to bring the proceedings on the basis that there is a serious injury;

(c) awards of damages for pecuniary loss will be made only where the loss is more than $20 000 and these damages will have a ceiling of $450 000. Common-law damages may not be recovered for pecuniary loss in the first eighteen months following injury. A $20 000 threshold will also apply to pain and suffering damages with a ceiling of $200 000; and

(d) awards of damages in death claims will have a ceiling of $500 000.

It is in this context that the meanings of the following terms should be noted:

“Pain and suffering damages” means damages for pain and suffering, loss of amenities of life or loss of enjoyment of life.

“Pecuniary loss damages” means damages for loss of earnings, loss of earning capacity, loss of value of services or any other pecuniary loss or damage.

“Serious injury” means:

(a) serious long-term impairment or loss of a body function; or

(b) permanent serious disfigurement; or

(c) severe long-term mental or severe long-term behavioural disturbance or disorder; or

(d) loss of a foetus.

This package is considerably different from that originally proposed by the Government, and the changes involved do come at a cost.

Motorists will pay $250 a year if their car is garaged in the high risk zone, $218.70 in the intermediate and $187.50 in the low risk zone.
This is some 23 per cent more than had been envisaged under the Bill first put to the other place.

The Treasurer has made it clear that the package before the House is a vast improvement on the existing scheme.

He has also said that it is not the Government's preferred position.

This scheme will care for the seriously injured and allow us to bring third-party insurance in this State under financial control.

With that objective in mind I am pleased that all three political parties in the other place have joined in with the view that costs—including those aspects of the scheme which are adjudicated, through the courts—should be strictly contained.

To this end a review committee will be established by the Government to monitor the new system. I commend the Bill to the House.

The Hon. B. A. CHAMBERLAIN (Western Province)—The Opposition is happy to support the Bill. I pay tribute to my colleagues in this House, Mr Guest and Mr Baxter, for the enormous amount of work they have put into this issue, and the honourable member for Brighton, Mr Stockdale, in another place. Earlier this year the Liberal Party produced a definitive policy entitled “Liberal Motorcare”, which examined the current system of motor accident compensation. It pointed to the no-fault system that Victoria had had for a number of years under the Motor Accidents Board which was established by the former Liberal Government. It also pointed to the common-law system which has run in tandem with the no-fault system.

The Opposition, in that policy, recognised that dramatic changes were required to the system of motor accident compensation. It realised, and everyone realised, that the present system could not be allowed to continue to operate in the form that it has. Costs have blown out and, with virtually no controls, there are considerable opportunities for fraud in the system.

The Liberal Party policy pointed to a number of measures that the Government could have taken at that stage which would have reduced the cost of the third-party insurance scheme enormously. Some of those issues were subsequently recognised in Mr Baxter’s private member’s Bill and some of the points taken up were identical to those in the “Liberal Motorcare” policy. If those points had been taken up eighteen months ago, Victoria would have saved tens of millions of dollars. The “Liberal Motorcare” policy was well researched. It was based upon actuarial calculations and recognised the severe problems with the present system. It urged that a number of changes should take place.

The Liberal policy recognised that the individual who is seriously injured as a result of the negligence of another person should have the right to recompense for that injury, and that recompense should not be limited to a pension. It recognised the need for recompense to address that wrong in a meaningful way.

The circumstances of individuals vary considerably. A public servant who is injured in the long term has superannuation schemes and other schemes available to him to look after his everyday needs. A business man who is part of a large enterprise can easily be replaced without requiring much reorganisation of the enterprise, but when a single businessman, such as a farmer who runs a property, is seriously injured, a replacement is required to run his business or property.

Because the variety of circumstances were so enormous, the Opposition considered it essential to retain the basic common-law rights to recompense people seriously injured through negligent action by another person. The policy which the Government first introduced proposed no such right. It proposed to treat the careless driver who causes an
injury to another by gross negligence, as well as causing injury to himself, in exactly the same way as a pedestrian who is injured as a result of a driver's negligence.

The Opposition felt it was not fair and that such a system did not encourage drivers to be at all careful about how they handled their vehicles.

The Liberal Party proposed a streamlined scheme of common-law rights, a threshold. In other words, the law should make provision, in a common-law sense, for those who are seriously injured. The Liberal Party also suggested that the system had to be tightened up to get rid of obvious abuses. There are abuses, both in the common-law scheme and the Motor Accidents Board scheme, but the Liberal Party felt it was essential to confine those common-law rights to the cases that I have spelt out.

It is said that because the Opposition indicated that the Government's proposals had no hope of succeeding, the Government was forced to the negotiating table. That is politics. As a result of that process extensive negotiations have occurred week after week.

Again I pay tribute to Mr Guest and Mr Baxter for the work they have put in on behalf of the opposition parties. This is a major issue that will affect motor transport in the community and the consequences of motor transport for a long time.

The Hon. D. R. White—It has to be monitored closely.

The Hon. B. A. Chamberlain—It will be monitored closely. All parties in the Chamber have considered a number of important issues: the need to contain costs, the need to provide a scheme that is self-funding, a scheme that does not blow out like the present scheme has.

The Hon. D. R. White—We do not want to wait eighteen months to see if it has blown out.

The Hon. B. A. Chamberlain—Of course. There has to be monitoring from day one. I am sure that the Opposition will be happy to be part of the monitoring process. Although the Treasurer has admitted that the Government did not really want to go this far, now Parliament is on this path, three-party cooperation is in the interest of everyone.

I said before that the basic precepts of the "Liberal Motorcare" policy are adopted in these measures and the Liberal Party is pleased with that. In one measure at least there was a substantial improvement under the Liberal Party's initial proposals, and that is the improvement suggested by Mr Stockdale in another place to deal with the situation of people who have long-term injuries as a result of motor car accidents but who do not have a common-law right, in other words, those people who are unable to rely on the negligence of another party.

Under the present law under the Motor Accidents Board, motor car accident victims, although they have their hospital and medical expenses paid indefinitely, have their loss of income limited to two years and at a certain level. Once they move past that two-year period they have to rely on a social security pension. Under the provisions of the Bill, these people will be looked after for the rest of their lives. It is an important measure that has now been agreed to by all parties. I congratulate my colleague, Mr Stockdale, for his work in that regard.

The Opposition supports the compromise on the Bill. The Government has not got all it wants and the Opposition has not got all it wants, but the middle ground that has been achieved is in the public interest in the long term and in the interests of the innocent injured parties in our community. It is in the interests of the economic well-being of the community, because to let the present system continue as it is would have serious implications for the finances of the State. The Opposition will support the measure.

The Hon. W. R. Baxter (North Eastern Province)—In the normal course of events on a Bill of major importance such as this I would have made a lengthy contribution to the debate, but as the matter has been well canvassed over the past two or three months in
the negotiations that have taken place between the parties and because of the pressure of
time upon the House, I do not propose to take that course, but to give a general overview
and pay tribute to some of the people who have facilitated the agreement that is recognised
in the Bill.

There is no argument or dispute that the existing scheme needed radical surgery. It has
blown out in cost for a number of reasons, one being fraud in both the no-fault area and
the common-law area. The article on the front page of last Monday's *Age* indicated the
sorts of fraudulent activities taking place under the existing third-party scheme and the
difficulty of stopping that fraud.

If I may make one side observation, I find it extraordinary that the computer systems
operated by the Motor Accidents Board and the State Insurance Office are unable to
communicate with each other. One would have thought that provided a definite opportunity
of arresting the fraud taking place.

The Bill proposes one single body, the Transport Accident Commission, to take over
the existing authorities. I look forward to stringent management practices being put into
place to overcome the fraud in the system. It is widely acknowledged that the existing
scheme is costing too much in the small claims area. Small claims are difficult and
expensive to administer and have provided lump sums, albeit small, to people who do not
deserve a lump sum because their recovery has been 100 per cent and they are back at
work earning income. The community cannot afford that.

The current system in Victoria is extraordinarily generous by world standards. It provides
a no-fault scheme for the first two years' loss of income and then resort to common law
virtually without restriction. It is a marvellous scheme if the community can afford to pay
for it. The reality is that for some years the community has not been paying the premiums
commensurate with the cost of running the scheme and a $1.5 billion contingent liability
has built up because of the under-funding of premiums.

The blow-out in liabilities has only occurred in recent years and although it might be
said that the former Liberal Government should have seen the alarm bells ringing when
the private insurers dropped out one by one and left only the Royal Automobile Club of
Victoria and the State Insurance Office in the third-party field and, eventually, only the
State Insurance Office, the fact is that at the change of Government in 1982, the deficiency
in the State Insurance Office third-party area was less than $100 million as against the
current liability of $1.5 billion. It does not warrant accusing the former Liberal Government
of inaction, because the situation was just beginning to develop at the time of the change
of Government.

One of the injustices that occurred earlier on was the claim by both the Premier and the
Treasurer that there would be premiums of $500 unless the Liberal and National parties
bowed down to the changes proposed by the Government. The suggestion was that the
Liberal and National parties were satisfied with the existing scheme continuing and the
$500 premium was predicted on the basis that there be no change to the system. That was
not in the real world. Everyone agreed that there had to be changes but the dispute was as
to the nature and extent of the changes.

The no-fault scheme proposed by the Government was inequitable and, although it
might have been possible to run that scheme on the figures the Government was quoting,
$202 for an urban motor vehicle, it would have been an unjust scheme or, to use a term
that I used earlier, it would have treated individuals as "meccano men" and worked
entirely on the impairment table without taking any account of the relative significance of
a particular injury to the individual.

The table treated the loss of a finger, for example, in exactly the same manner whether
the person happened to be an office worker or a concert pianist. Obviously, there is a lot
of difference between the situations of different persons losing that particular part of the
anatomy.
One could go on and give numerous examples of the injustices imposed on people by the use of the American impairment table, which would mean that bureaucrats would be making decisions on individual losses on a mechanical and bureaucratic basis with no opportunity to consider the cases individually.

I believe a scheme has been arrived at that will provide for resort to common law in the case of serious injury and will enable individual assessment of the cases, which surely must lead to people being compensated more in keeping with the degree of damage and loss and pain and suffering that they have been subjected to.

Although common law has been retained—with some resistance by the Government—it has been retained in a tightly drawn manner. Resort to common law is provided for only when the injury is more than 30 per cent on the impairment table or the injured person is able to demonstrate either to the Transport Accident Commission or by way of preliminary hearing in the court that the injury falls within the definition of "serious injury".

I invite honourable members to examine the definition of "serious injury" and to see how stringent it is because this is a matter on which it took a long time for consensus to be reached at the various meetings that took place. It is one of the most stringent definitions of serious injury in any of the schemes we have examined.

It is more stringent, for example, than the definition used in Michigan in the United States of America. That scheme is generally considered to be the most stringent of the schemes that operate in the various States of the United States of America.

It needs to be borne in mind that there is no opening of the floodgates to common law under the scheme that has been agreed on. It is tightly drawn and there is not only this threshold but also there is the monetary threshold of at least $20 000 under either of the two heads of damage—pecuniary loss or pain and suffering.

It should be plainly understood that, although the common-law avenue has been retained, it has been so contained in the Bill that it will cut out approximately 70 to 75 per cent of common-law cases and it will allow only those people who are suffering severe disabilities to take that route.

I do not believe it will generally do justice to everyone as some people will suffer injuries that disrupt their lives considerably but will find difficulty in crossing the two thresholds. Mr Chamberlain has noted that it is a matter of compromise to come up with a scheme that covers the bulk of cases at a cost the community can accept.

I believe the premium levels go to that matter. Although there is a lot of talk about premiums being increased by 23 per cent because of the common-law provisions, that is incorrect. The premiums will rise by 16.4 per cent on what people are currently paying and not all of that increase is due to the retention of the common-law component.

It should be borne in mind that approximately $46 to $50 in each premium makes up the shortfall that has accumulated over the past four years. Had the Government acted sooner after coming to office, once it became clear that the outflow from the State Insurance Office needed to be staunched, there would have been a much lower premium increase than the one we will now have.

I do not propose to go through the Bill in any detail but I do want to pay tribute to a number of people who have assisted us in reaching agreement.

The Leader of the National Party, Mr Peter Ross-Edwards, acted as a facilitator in this matter. Until he became involved the Government had refused to meet the Law Institute of Victoria face to face because the Premier, notwithstanding that he is a former president of the institute, seemed to have a mental block about it. He appeared to equate the institute with a trade union of the stature of the Builders Labourers Federation.

The Hon. J. H. Kennan—That misrepresents him.
The Hon. W. R. Baxter—The Premier constantly asserts that the institute had no interest in the matter other than self-interest. Of course, lawyers in this State have some interest in the matter from their own professional point of view but they also have the expertise in this field.

I should have thought it would have been useful for the Government to have spoken to the institute prior to introducing the proposed legislation into Parliament. Once a face-to-face conference was arranged between the institute and the Government, it became aware early in the piece that the Treasurer had not even read some of the documentation provided by the institute and some of the so-called “experts” in the Department of Management and Budget who concocted the scheme had not read it, either.

It is fair to characterise Mr Ross-Edwards as being the facilitator in getting these people around the negotiating table to resolve the differences, which, initially, were stark.

I commend Mr Bernard Teague, the president of the institute, Mr Ian Dunn and Mr David Miles, who are senior members of the institute, and their staff because the National Party, and I know others, relied heavily on the advice from the institute.

Day and night, those three senior practitioners in law in this city dropped whatever they were doing and at our request came up to Parliament House for further discussions and negotiations. It was a big effort on the part of those three senior people in the institute. Parliament ought to know about their efforts and more particularly solicitors throughout Victoria ought to have some knowledge of the work that their institute put into reaching this agreement.

The Hon. J. V. C. Guest—And also Mr Charles Perry and Mrs Jane Fenton.

The Hon. W. R. Baxter—Certainly. I was coming to them. Charles Perry and Jane Fenton certainly deserve commendation because they did burn a good deal of the midnight oil on this exercise.

I also acknowledge the work of Mr Hayden Cock, the National Party research officer, who carried a fair bit of the load. I pay particular tribute to the shadow Treasurer in the other place, the honourable member for Brighton, Mr Alan Stockdale, who, in the final analysis, put the words on paper. Full marks need to be given to Mr Stockdale for his work.

I wish that I had kept a diary from the start of this matter, two or three months ago, because there were so many meetings in the Premier’s office, the Treasurer’s office and in so many rooms in Parliament House that I have lost count. However, when the reality of the numbers in this place and the strength of purpose in the Liberal Party and National Party became obvious to the Treasurer, agreement was finally reached.

I acknowledge that Dr Sheehan was instrumental in finding answers when he came into the negotiations midway through.

I also note for future reference that I believe more work needs to be done, particularly on the provision that medical expenses up to $269 incurred in the first week are the responsibility of the injured person.

There has been some doubt whether those expenses will be picked up by Medicare. From the negotiations that have taken place between the State and Federal Governments, I understand that those medical services which are currently covered by Medicare will continue to be covered. However, the services of physiotherapists are not covered by Medicare, yet physiotherapy is instrumental in returning accident victims to the work force. I am concerned that injured people must meet the costs of physiotherapy from their own pockets, and that may lead to one or two undesirable results. It could lead to a bad debt for a physiotherapist or, worse, it could lead to people postponing vital and necessary treatment because they must pay for it themselves.
I do not know what will be the situation; however, honourable members should consider a family of four who are all injured in a motor car accident and are responsible, therefore, for more than $1000 in medical costs. If a portion of medical treatment is rendered by a physiotherapist, the family will by subject to substantial expense. That problem needs to be addressed.

The Bill is not sufficiently explanatory in the assessment of earnings for self-employed persons. I had prepared a series of proposed amendments that would have dealt with that problem. However, I shall not proceed with them because the parties have reached agreement on the principle of the Bill, and the assessment of earnings is a matter of detail.

Parliament will have to reconsider the Bill in the autumn sessional period. When one is negotiating and drafting legislation under pressure, as occurred with this Bill, obviously a few matters will need correcting. I shall raise the matter of assessment of earnings at that stage.

It has been the long-held policy of the National Party announced in a document issued in January last year that consistently bad drivers—those who either have accidents or incur fines and penalty points—should pay a surcharge on their licences, with the funds thereby generated being paid into the Transport Accident Fund. I am glad Mr Murphy concurs with that suggestion.

The proposed amendment I had in mind was for drivers who incur twelve penalty points in three years to pay a surcharge of $200 when they renew their licences and those who incur twelve penalty points within twelve months to pay a surcharge of $400.

Those compilations are included in section 27 of the Motor Car Act, which is about to be overtaken by the Road Safety Act. However, the demerit point system will continue. The public believes that people who constantly flout the law should make a greater contribution and should incur a penalty, regardless of whether they have an accident.

Fraud has been endemic in the current scheme, and no-one is claiming that it will not occur in the new scheme, although it will be far more difficult to perpetrate. The Transport Accident Commission will need to put in place stringent management and supervisory techniques to ensure that the type of fraud that has been exemplified in the press this week, cannot occur. It is totally unjust for the average citizen to have his third-party insurance premium loaded simply because certain groups in the community have made a practice of defrauding the system.

By interjection, the Minister for Health indicated that an early identification of blow-outs is necessary. Certainly the suggestion has been made that there ought to be a monitoring committee to keep track of developments. No-one claims that this scheme is infallible, although it has been put together with the best possible advice and with the most skilful actuarial advice. The Leader of the National Party, with the assistance of the Government, employed Mr Richard Cumpston, a well-known actuary, to cost the proposal. The Government's actuaries concurred with those costings and I believe the system will work without the type of blow-outs to which the Minister for Health referred.

A monitoring committee should be established to foresee any potential blow-outs. The Minister for Health indicated that we will not get a good idea of how the system is working from the common-law point of view until eighteen months down the track because common-law actions cannot commence until the impairment assessment is made, which is normally done eighteen months after an accident, except in certain defined cases.

I shall give an example of what the monitoring committee can achieve and what should have been achieved years ago if Governments had been more on the ball. In 1977, the High Court, in dealing with Griffiths v Kerkemeyer, ruled that in awarding damages under common law, regard could be had for the cost of domiciliary nursing care for 168 hours a week, which is 24 hours a day, seven days a week. That was obviously too generous, yet it has been in the award since that time. Governments should have abrogated that ruling.
years ago when it became obvious that it was becoming a large, yet unwarranted, component of awards.

The monitoring committee could make a substantial contribution to ensuring that the new scheme does not blow out in costs with regard to the discount rate. Since a High Court decision of some years ago, that rate has been 3 per cent. My private member's Bill, which will now be overtaken by this Bill—and I concur with that—suggested a discount rate of 5 per cent. The Bill sets the rate at 6 per cent. That rate should have been increased from 3 per cent years ago.

I am pleased to have been a part of the negotiating team that worked on this Bill. While the scheme that has been finally agreed upon can be characterised as a compromise in that no party is entirely happy with the results, it is an equitable scheme with a premium the public will be prepared to pay knowing that the benefits exceed the benefits in the Government's original scheme.

The Hon. J. V. C. GUEST (Monash Province)—The weeks of negotiation leading up to the Bill before the House culminated last week with negotiations that involved two or three meetings a day. It is not surprising that those of us who took part in the negotiations have a detailed knowledge of the Bill. I agree with virtually everything that Mr Baxter said. I will not even do what I would like to do by thanking people, including Dr Sheehan and, especially, the honourable member for Brighton in the other place, because Mr Baxter has already done that.

This compromise will leave more hard cases than the Liberal Party's "Liberal Motorcare" policy, which was announced earlier this year, would have left. For example, there will be people who do not have a common-law claim but are not 30 per cent impaired and will not get benefits continuing to the age of 65. There will be people who are seriously injured by the standards adopted by the Bill but who do not come up to the 30 per cent impairment level. Others will be deterred from pursuing litigation because barristers and solicitors will advise them that they are at substantial risk if they have to meet a $20 000 threshold for each of the heads of pain and suffering, damages and pecuniary loss, because they face the prospect of having to pay at least their own costs although they would not have to pay the defendant's costs, if they were seriously injured according to the narrative threshold, and will thereby lose a substantial part of the $65 000 of benefits that would otherwise be available for them.

Another feature of the Bill emphasises the different priorities of the Government and the Opposition. There is no doubt that the guilty motorist, the truly negligent and self-destructive motorist who injures himself severely, will be much better off under the Bill than the unfortunate person who dives into a shallow pool and ends up a quadraplegic or any other seriously injured person who at least is not driving a vehicle, possibly while under the influence of alcohol, on the public roads and endangering others.

As I pointed out, there is the possibility that innocent victims who are more than 30 per cent impaired will not be able to claim from anybody.

There are minor criticisms that could be regarded as relating to the major principles. The Opposition finds it unsatisfactory that the impairment table is not published as part of the Bill, even though the Bill had a long gestation period that should have made it possible for that to be done.

The 6 per cent discount rate is another element of compromise. Actually, it is not so much a compromise as a rather desperate grab for a way of economising where the people who will pay will not complain much, because it will inevitably be at the expense of people with substantial earning losses over a very long period—in other words, the young. They will get substantial lump sums if they recover at common law for loss of earning capacity, but they will need to be able to earn 6 per cent in real terms on their funds to justify the assumptions that are made in adopting the 6 per cent discount rate.
In my view, 5 per cent would have been a high rate to apply in respect of the average person injured in a motor accident who, after all, is not a stockbroker, investment adviser or similarly qualified financial market professional. A 4 per cent discount rate would historically be most appropriate; 4 per cent corresponding to the traditional first mortgage interest rate applying in times when there was no significant inflation.

The scheme is no longer to be fully funded, and that is a matter of great satisfaction to the Opposition, which feared that the Government, as on its normal run of financial practices, was displaying a wish to put off wherever possible the obligations of today to the future; and to adopt a pay-as-you-go scheme would involve the cost of the scheme eventually catching up and the premiums having to rise substantially.

Proposed section 110 provides for CPI indexation of the transport accident charge, as it is called. Some $15 from the metropolitan motorists' premium could have been saved by adopting indexation based on average weekly earnings—an entirely appropriate measure, having regard to the relationship to average weekly earnings of the benefits that are provided by both the common-law provisions and the no-fault provisions of the Bill.

In the end, there will be only one way to ensure that the scheme remains fully funded. The Opposition believes the Government will attempt at the outset to set a premium that will cause it to be fully funded. The only way in the end will be to have a regular actuarial determination of the premium. As it is, the premium is intended to ensure that the accumulated losses of the State Insurance Office for third-party motor insurance—$1.6 billion was the last public reckoning before the 1985-86 year—at a 5 per cent discount rate and with other retroactive adjustments to the common-law cases, is paid off over a ten-year period on the premium adopted.

As Mr Baxter has pointed out, a very substantial part of the premium that would be necessary is on account of the neglect of the past four and a half years of accumulating losses; and even the $50 approximately that is required for that purpose is a much lower figure than could legitimately have been laid at the door of the Government. I think it would have been closer to $75.

It will be recalled that the Liberal Party's "Liberal Motorcare" policy provided, as a matter of principle, that the general taxpayer of Victoria should have paid for the past liabilities accumulated not by motorists failing to do anything but by the Government, the representatives of the general taxpayers and road users of Victoria, failing to take action in time.

The Opposition would hope that, in due course, the scheme could be modified to allow the benefits of private insurers being able to offer premiums and adopt some of the measures mentioned briefly by Mr Baxter to ensure that the careful motorist will pay less than the careless motorist.

I am pleased to have played a part in the constructive resolution of the problems that all parties have recognised. We should all be proud of the constructive role played by the Legislative Council in achieving this generally acceptable Bill on this extremely important subject.

I wish to place on record a letter from the Treasurer to the shadow Treasurer dated 4 December which makes express comment on the legal interpretation to be placed on some provisions.

Leave was granted, and the letter was as follows:
Mr A. R. Stockdale MP
Member for Brighton
Electorate Office
4 Male Street
BRIGHTON VIC 3186

Dear Mr Stockdale

TRANSPORT ACCIDENT BILL 1986

I have taken the opportunity of obtaining additional legal advice in relation to a number of matters which you raised in the Committee stage of the passage of the above Bill through the Legislative Assembly yesterday. In view of the time constraints the advice has not been given in formal written form, but it was given with some confidence.

In relation to clause 41, on the basis of this advice, it is believed that the provisions of this clause could not reasonably be construed as applying to a person who is merely travelling to an organised motor car race or speed trial. Apart from any other consideration, for the provision to apply, the relevant transport accident must involve a motor car which is “taking part in” the relevant event.

In a similar vein, it is believed that the clause would not be construed as applying to a person who was “testing” a motor car in the manner you described where the testing involved had no specific connection with the race or type of event involved and would be indistinguishable from a testing of the vehicle for ordinary road use.

I am able to give an assurance that the Transport Accident Commission will not apply clause 41 to exclude persons injured in transport accidents arising in the above circumstances.

In view of this and perhaps also bearing in mind that persons excluded by clause 41 retain full common-law rights, it is suggested that the operation and parameters of clause 41 are matters which may best be dealt with in the context of the monitoring and review process in relation to the new scheme.

In relation to the matter of an application to the Transport Accident Commission for an early impairment assessment for the purposes of bringing a common law action, quite definite advice has been given that a decision to refuse such an application is capable of being the subject of an application to the Administrative Appeals Tribunal for review of the decision pursuant to clause 77 of the Bill. This view accords with that of the Chief Parliamentary Counsel who was asked to specifically address that point in the preparation of these amendments.

Similar comments apply in relation to decisions by the Commission in relation to decisions of the Commission as to payment of reasonable costs or expense under clause 60 of the Bill.

My advice is, and I think you may have alluded to the same problem, that the insertion of specific provisions singled out these types of decisions as being appellable has dangers of its own in relation to the raising of implications for other areas of the Bill.

Once again there is no disagreement as to how the provisions of the Bill are to be applied in these areas, and these aspects will be included as part of the monitoring and review process.

In relation to minors, my advice is that the limitation period for bringing common law actions for personal injury does not commence to run until the minor attains the age of majority, save that, of course, an action may be commenced earlier.

It is not believed that the Bill alters this position and I confirm that it was not the intention to do so.

Yours sincerely

R. A. Jolly
TREASURER

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.

In doing so, I thank honourable members opposite for their contributions.

The motion was agreed to, and the Bill was read a third time.
SHOP TRADING (TEMPORARY PROVISIONS) BILL

The debate (adjourned from December 3) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. R. S. de FEgely (Ballarat Province)—The objects of the Bill are to make provision for trading by shops, other than butcher shops, until 5 p.m. on 13 and 20 December 1986.

The Bill is specific in setting down those two dates and it excludes the butchery trade and butcher shops from its provisions. It also overrides labour and industry and liquor control Acts and the hours of trading to which businesses are restricted under those Acts. In that way, it allows bottle shops and supermarket liquor outlets to operate until 5 o'clock on those two days.

The Minister stated in his second-reading notes that major Victorian retailers and the Shop, Distributive and Allied Employees Association representing shop workers had been canvassed regarding changes to trading hours and it would seem to me that it has been a fairly cosy arrangement that has been arrived at between the larger operators in the retail business and the union.

The Bill is a very timid approach to the extension of shop trading hours. Although all members on this side of the House would agree that the extension on those two Saturdays prior to Christmas is worthwhile, because of the view in the Miller report presented earlier this year, the Government should have been considering further extensions to shop trading hours across the board.

The farming industry and those involved in the production of red meat will be especially disappointed that that section of the retail industry has not been included in the Bill. The Opposition canvassed the people involved in that industry and the distributive people involved and received a categorical, "No" on any thought of extension. Obviously some conservative thinking still exists in that area of the retail trade.

The requirements of people in the community are changing, especially among the working population where both members of a family work in many instances. A change in shopping hours is needed to make it easier for those people to shop together and to give them differing shopping hours from work hours.

Country communities have mixed feelings about the extension of trading hours. I am sure that most people will accept the extension for the two Saturdays before Christmas, but some people are strongly opposed to the extension of hours in general.

A deal has been done by the big traders and the Government that shops will not open on the Saturday following Christmas, 27 December. Although no restriction is included in this Bill, that deal has been done for 27 December. That may affect a number of smaller operators who may want to open but whose employees may feel they suffer by comparison with those in the bigger organisations.

The Bill is a step in the right direction toward more liberal trading hours, albeit a small step. The Liberal Party supports the Bill.

The Hon. W. R. Baxter (North Eastern Province)—The National Party does not oppose the Bill but it does not greet it with any enthusiasm. It certainly rejects the negotiations that led to the Bill being introduced because it appears that a deal was cooked up between the Government and "the big five" with little regard to the intentions of other shop traders or the costs that might be imposed on them by way of overtime on these two Saturdays if they are forced by competitive pressure to open.

That is one of the aspects that the Opposition should consider in its policy. It is all very well to advocate open slather trading hours, but one must take account of the overheads incurred thereby. I do not believe that has been done.
I totally reject the Premier's suggestion that shops should not open on 27 December. There is no legislative requirement for shops not to open on that day. There will be overwhelming public demand for the shops to be open on the morning of Saturday, 27 December.

Any suggestion being made by the Premier that traders should bow to pressure from the Shop, Distributive and Allied Employees Association is blackmail, as Mr Knowles says, by interjection; but the National Party will not oppose the Bill, even though it was ill conceived.

The Hon. L. A. McCarthy (Nunawading Province)—I should say at the outset that I support the Bill because I have made more speeches on the subject of shop trading hours than I have asked questions of the Minister for Agriculture and Rural Affairs. In all of those speeches, I have opposed consistently the extension of shop trading hours which is more than I can say for the wild motions and irresponsible policies espoused by the Liberal Party.

The Bill is sensible because it allows a better break for the retailer over the Christmas and Boxing Day holiday period. It is sensible for the customers because it gives them increased time in which to do their shopping and all honourable members would appreciate that, with social and work commitments at this time of the year, it is a busy time.

I trust that the traders will use the extended hours to accommodate the customers shopping for Christmas gifts. It is a sensible move for the shop trader who is a sole employee in a business because he or she can spend more time with the family. There is no doubt that sole traders have a greater strain placed on them but perhaps they will be compensated by a better break of four or five days to recover from this most profitable time of the year when they actually record 40 per cent of their annual takings. I am sure that even one of the honourable members for Western Province appreciates the large takings at Christmas time!

My support for the Bill is not confused like the opinion of Mr Ken McDonald, the executive officer of the Retail Traders Association of Victoria. This organisation represents the big retail traders and a few of the medium-sized traders and the organisation is completely split down the middle on retail issues and so, apparently, is Mr McDonald. On the Michael Schildberger program on radio station 3LO, Mr McDonald opposed the Bill. He seemed to think it was something to be abhorred whereas the same gentleman, in a circular to his members on 13 November, stated that the council of the Retail Traders Association of Victoria, recognising the changing environment, had voted to support extended trading hours by all shops to 5 p.m. on Saturdays.

Therefore, in one breath he is recommending to his constituents that shop trading hours be changed to 5 p.m. on Saturdays and by a different medium, he decides to be a mugwump and have his head on one side of the media fence and his rump on the other. On most issues, there are grave differences of opinion between Mr Baxter and Mr Knowles and myself, but on this shop trading hours bill, our opinions are very similar. I applaud this most sensible Bill.

The Hon. F. J. Grant— I support the Bill although I realise that only a small concession has been made to the retail traders. When one considers what happened in New South Wales, it does not appear that Victoria has moved fast enough. I hope, in the new year, that the Government will reconsider its position and relax the restrictions on retail trading hours.

I should like to support my colleague, Mr de Fegely, in his plea for a similar concession in the trading of red meat. This week, in answer to a question from me, the Leader of the House indicated that a Bill would be presented to Parliament in the spring sessional period to relax the trading of red meat.

I know he was sincere when he said that but it has not happened and I am wondering whether the Minister in charge of the Bill could indicate to the Opposition just when that
relaxation will take place because the red meat traders are at a distinct disadvantage as against the white meat traders.

Approximately 62 per cent of poultry is sold for consumption during the time when red meat trading is restricted so even if the Government is not introducing a Bill for that purpose in this sessional period—and I realise the session is almost over—I hope the Minister in charge of the Bill will indicate to the House just what is the Government's future program in this area.

The Hon. R. I. KNOWLES (Ballarat Province)—I wish to respond briefly to the point made by Mr McArthur when he attacked Mr Ken McDonald, accusing him of taking a different stance on two different media. This is absolute nonsense when one considers that Mr McArthur is supporting a Bill that has been introduced only on the proviso that the major retailers agree, by private treaty, not to open on Saturday, 27 December.

The Government is saying, “We will provide very limited extension for trading on two Saturdays but the condition is that you must privately agree—we will not cover it in the Bill; we do not want to change that—that you will not open on Saturday, 27 December”. What sort of support is that for the consumers of this State? Surely it is a matter for the trader and the consumer. If the consumer provides the demand and the trader is prepared to meet that demand, what business does the Government have of trying to negotiate private deals?

It was appalling to hear Mr McArthur attack Mr McDonald when the whole background of the Bill represents the greatest nonsense of all times. The Government has said, “We are going to extend trading hours but we will do it only if you privately agree that you will not open during a period when, by statute, you are allowed to open”.

The motion was agreed to.

The Bill was read a second time.

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

That this Bill be now read a third time.

In doing so, I point out to Mr Granter that another Bill is being presented in another place, which includes consideration of the issue of extended trading hours on red meat, and I recommend that the honourable member give consideration to that Bill.

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

STATE CONCESSIONS BILL

The Hon. C. J. HOGG (Minister for Community Services)—I move:

That this Bill be now read a second time.

The purpose of the Bill is to consolidate in a single Act the definitions of eligibility for State concessions, which are currently scattered through a number of statutes. The new Act will result in a consistent and accurate definition of eligibility for State concessions, in line with Government policy.

Following the passage of this Bill, the definition of eligibility for the municipal, water and sewerage rates, motor registration/third-party insurance, water by measure, stamp duty, land tax and shooters' licence concessions will be by reference to the State Concessions Act 1986. This will mean that any future reforms, whether in response to major Commonwealth changes in the social security or veterans' affairs areas or as a result of new policy decisions by the Victorian Government, will now require only one legislative amendment.

The Bill has provided an opportunity of scrutinising existing legislation for any errors or omissions. Honourable members will be aware that eligibility for State concessions is
linked to the health cards issued to pensioners, beneficiaries and low-income earners by the Commonwealth. It is, therefore, essential to ensure that references to the relevant Commonwealth legislation are accurate and up to date. The State Concessions Bill removes obsolete references in Victorian legislation and accurately defines eligibility for the pensioner health benefits card, the health benefits card and the health care card. The Government may now be assured of uniformity between concessions and of complete coverage of all the groups to whom it wishes to grant State concessions.

The Bill is part of the review and expansion of the State concessions system which has been under way since the Government took office in 1982. Under the auspices, first, of the Ministerial Committee on State Concessions, and now of the Social Development Committee of Cabinet, the Government has introduced a range of new initiatives and acted to extend the equity of State concessions.

Expenditure on State concessions has risen from $189 million in 1981-82 to an estimated $352.3 million in 1986-87, reflecting the Government's strong commitment to assisting the most disadvantaged groups in the community even in a climate of severe economic constraint.

In the most recent State Budget, two new measures of assistance to low-income people were announced. The first is a new concession for users of life support machines, such as dialysis machines and poliomyelitis respirators, to assist them with the electricity and water costs associated with the operation of the machines.

The second reforms the existing land tax concession to provide automatic waiver of land tax on the principal residence for all holders of the pensioner health benefits card. Both these concessions are part of an overall Government strategy to assist people on low incomes to remain in their own homes.

In addition, in June this year the Victorian Government agreed to extend full State concessions to the new categories of carer's pensioners. People who care for aged or invalid near relatives in their own homes will now be eligible for concessions on a range of State taxes and charges. All these measures form part of an ongoing and comprehensive response to the difficulties faced by low-income Victorians. I commend the Bill to the House.

The Hon. R. I. KNOWLES (Ballarat Province)—The Opposition supports the measure. Essentially it is an administrative change to consolidate into one Act any reference to State concessions. That, in no way, is to underestimate the value of State concessions to those low-income earners who are able to lead lives that are a little more comfortable than they would be without the concessions.

The municipal water and sewerage rate concessions commenced under the administration of the former Liberal Government. The principle behind the measure was to encourage people to continue to live in their own homes. This significant scheme has been successful and, as the Minister said in the second-reading speech, the Government has extended the range of concessions.

The concessions are very much appreciated by those who receive them. There are—and there always will be—difficulties in the cases of people who just miss out on eligibility. One person may not be eligible for the concession and yet the next-door neighbour, who may have only a slightly different income, receives the concession.

In money terms the concessions amount to a significant amount each week. The Opposition supports the Bill.

The Hon. B. P. DUNN (North Western Province)—The National Party supports the Bill. One of the difficulties faced by honourable members is to try to pull together all the various forms of assistance provided by individual departments under differing sets of criteria when people come into one's electorate office seeking information. It is an almost impossible task and many electorate officers spend hours of work just trying to track these provisions down through the individual departments.
It is not an easy task and if they are pulled together under one piece of legislation it will be of assistance. I hope documentation will be available to honourable members for use in their electorate offices that will bring together the complete range of Government concessions and support programs encompassing all departments. That would be an advance and a big step forward.

A number of aspects concerning the concessions worry me. I have mentioned this subject in the House on previous occasions. Much of the support and concessions available discriminate against people who have assets and who may reside on farming properties. It is not easy for those people to obtain many of the concessions even though, on an age basis, they may qualify. They may own assets in their own names but, to quote a common term, they are asset rich and income poor. Their assets do not earn them any real income and they find that they are unable to obtain concessions.

One might ask the question: why do they not sell their properties and move into the town? Many people cannot afford to do so because the farms are operated by other members of the family and the parents do not have enough money to buy a residence in the town in which to live.

One sees this situation occurring all the time with farming families. The parents of farming families often live in poverty on the property while their sons and daughters try to make livings from properties that once sustained two families and now sustain only one family. Those parents often do not qualify for pensions or concessions and have to live in relative poverty.

I am not exaggerating the situation in any way. In the province I represent many people who have farmed all their lives are now living on incomes below $5000 or $6000 a year. That is not a great deal of money in anyone's terms. The improvements to the discriminatory assets test were in no way adequate. Many farmers spent four or five years fighting in the war. They worked their farms and paid taxes all their lives and, on reaching 70 years of age, are excluded from receiving pensions and concessions because they have minor property interests that exclude them. The assets they own do not earn any real income; often their incomes are below the poverty line.

That is not good enough. It is not equitable and the problem should be addressed at the Federal level. The National Party will be doing everything it can to make sure changes take place. Enormous costs are incurred by the Government in providing concessions and it is up to the Government to determine whether it is prepared to meet those costs.

To incorporate all the concessions into one Act is a step in the right direction and the provision of concise information about the services provided by individual departments to members of Parliament will be a great advance.

The motion was agreed to.

The Bill was read a second time.

The Hon. C. J. HOGG (Minister for Community Services)—By leave, I move:

That this Bill be now read a third time.

I thank the opposition parties for their contributions and for the cooperation they have extended during the debate.

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

WATER ACTS (FURTHER AMENDMENT) BILL

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

That this Bill be now read a second time.

The purpose of the Bill is to continue the streamlining of the administration of the water sector, particularly relating to the present operations of the rural authorities.
The Bill proposes amendments to the Water Act, Dandenong Valley Authority Act, Groundwater Act, River Improvement Act, Sewerage Districts Act and the West Moorabool Water Board Act.

These amendments do not involve any significant changes in water policy and, save for one matter to which I will refer later, are of a machinery nature. The Bill’s proposals include:

A. The correction of an anomaly which currently exists in the Water Act which requires funds reborrowed by the Rural Water Commission of Victoria to repay existing “interest only” loans as they mature, to be subject to appropriation by Parliament. This amendment will remove this anomaly but, at the same time, ensure that such borrowings continue to be subject to any restrictions imposed by the Treasurer.

B. Provisions to deal with landowners who continually divert water illegally.

C. Provisions to enable water boards to fix a scale of charges for excess water by resolution or by by-law. This proposal is submitted to rectify the current anomalous situation where water rates are fixed by resolution and excess water charges by by-law. When a resolution procedure is followed the decision will have to be advertised, in the same way as is a by-law now.

D. An amendment relating to agreements for the provision of a water supply service to enable work to commence, without the need for Ministerial approval, where no objection is raised by the landowners involved.

E. A provision to enable the Rural Water Commission of Victoria to sell surplus houses to its employees, or to former employees or other persons who are tenants in those houses.

F. An amendment to the Dandenong Valley Authority Act to extend the special precept provisions to maintenance funding. At present the Act provides for a special precept to be issued to fund the construction of works which are of particular benefit to an area within the authority’s district. The amendment enables a special precept to be issued annually, with the Minister’s approval, to provide funds for the operation and maintenance of any work constructed by a special precept.

As well, several other minor amendments to the Act are proposed to increase the autonomy of the authority in accordance with similar powers recently given by Parliament to other local water and sewerage servicing authorities.

G. Amendments to the Groundwater Act, firstly, to enable members of public statutory bodies to be eligible for appointment to the Groundwater Appeal Board. This will provide a greater scope for the appointment of qualified persons from institutions, such as universities and the Commonwealth Scientific and Industrial Research Organisation, and, secondly, to simplify the issue of licences where there is more than one bore on a holding.

H. The coexistence, under the River Improvement Act, of river management boards and river improvement trusts. Although it is intended to name all such bodies river management boards, considerable consultation with consumers is necessary before their roles are expanded to include waterway management on a whole catchment basis.

I. An amendment relating to agreements for the provision of a sewerage service under the provisions of the Sewerage Districts Act. This mirrors the amendment to the Water Act, which I previously described.

J. Provision under the West Moorabool Water Board Act to give the Auditor-General responsibility for auditing the accounts of West Moorabool Water Board. This proposed amendment will replace the present requirement for the appointment of auditors by the Governor in Council and brings the arrangements for this board in line with comparable bodies.

The matter to which I referred earlier is a validation provision contained in clause 10. This clause is the one which proposes that water boards may fix charges by resolution or
by by-law. This provision ensures the validity of any scale of charges fixed by resolution in the past, but with an exemption so that the rights of parties already involved in legal proceedings about any such charges are not affected.

As previously stated, the Bill deals basically with house-keeping matters only and will complement the water law review which, as honourable members are aware, is currently underway. I commend the Bill to the House.

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

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

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

AMBULANCE SERVICES BILL

This Bill was received from the Assembly and, on the motion of the Hon. E. H. Walker (Minister for Agriculture and Rural Affairs), for the Hon. D. R. WHITE (Minister for Health), was read a first time.

SUPREME COURT BILL

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

That this Bill be now read a second time.

The Bill has been through another place and has been distributed in this place. As the Bill is not controversial and is eight pages long, I seek leave of the House to have the second-reading notes incorporated in Hansard.

Leave was granted, and the notes were as follows:

OBJECTS OF THE BILL

The major objects of this Bill are:
1. To amend and consolidate the law relating to the Supreme Court;
2. To amend various procedural provisions of the Supreme Court Act to dovetail with the General Rules of Procedure in Civil Proceedings 1986;
3. To introduce statutory provisions for the taxation of barristers' fees;
4. To amend the law to permit solicitors to deliver and in certain circumstances sue on lump sum and interim bills of cost;
5. To repeal obsolete provisions of the Supreme Court Act; and
6. To redraft the provisions of the Supreme Court Act in simpler and clearer English.

BACKGROUND TO THE BILL

The Supreme Court is the superior court of the States' judicial system. It was established by statute in 1852 and currently comprises a Chief Justice and 21 judges. The court deals with criminal and civil matters both at first instance and on appeal.

The court is governed by the provisions of the Constitution Act 1975 and the Supreme Court Act 1958. The Constitution Act sets out the provisions relating to the jurisdiction of the court and the appointment and retirement of judges and members of the court. The Supreme Court Act deals with most of the substantive matters concerning the operation of the court and its regulation of legal practitioners. It has 220 sections.

In addition to these Acts, the practice and procedure of the court is set down by the Rules of Court which are made under the express power conferred by section 25 of the Supreme Court Act. Honourable members will recall that in the autumn sittings Parliament passed the Supreme Court (Rules of Procedure) Act which had the effect of facilitating some fundamental changes to the practice and procedure of the court and, in doing so, expanding the power of the court to regulate its own procedure. That Act also ratified the General Rules of Procedure in Civil Proceedings 1986 which commence operation on 1 January 1987.

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Honourable members should be aware that modern lawyers are more concerned with substantive legal rights rather than the procedures by which they are enforced. In past ages, however, a different philosophy prevailed and as the eminent legal historian J. H. Baker has said:

"... the learning about writs, forms of action and pleading was fundamental to the old common law, not simply because lawyers were more punctilious about forms than they now are, but also because the procedural institutions preceded the substantive law as it is now understood. The principles of the common law were never mapped out in the abstract, but grew around the forms by which justice was centralised and administered by the King's Courts. There was a law of writs before there was a law of property, or contract or of tort".

The process of reform to break the law free of the ancient procedural approach began in earnest in England with the Uniformity of Process Act 1832, gathered momentum with the Common Law Procedure Act 1854 and stabilised with the Judicature Act of 1873. In general, each of these reforms was adopted in Victoria with little or no change and over a period of time, were incorporated into various consolidations of the Supreme Court Act.

The 1958 consolidation of the Supreme Court Act, which is replaced by the Bill, is a collection of provisions derived from the nineteenth century English legislation and reflects a nineteenth century view of the law, both in the concepts expressed and the manner of expression. Many of its provisions consist of a large number of words, for example, section 72 has 247 words, section 75 has 191 words, section 81 has 320 words and section 117 has 491 words to name just a few. These provisions are also made very difficult to understand because of the antiquated words used, and the fact that many different topics are dealt with in a single paragraph, often with little or no punctuation.

The last significant review of the Supreme Court Act was carried out by Sir Leo Cussen during the 1928 consolidation. In 1975 the Attorney-General, the Honourable Haddon Storey, QC, commenced a fundamental overhaul of the legislation and procedures governing practice in the court. This review was welcomed by the judges and the legal profession.

In 1980 the project to rewrite the rules was begun in earnest. The Rules Committee, a body comprising judges and members of the legal profession undertook the task: much of the work was carried out by Mr Neil Williams, author of a standard text on the subject. At a later stage, work on the Bill was commenced and was carried out in consultation with the judges and legal profession.

As part of the fundamental overhaul of the court and its administration now being carried out, the Act has been revised and consolidated to take into account the significant changes of the last five years and to get rid of the anachronisms it now contains. This view has been supported by the legal profession.

In addition, the opportunity has been taken at this time to modernise the law dealing with solicitor costs and to allow for the review of fees charged by barristers.

**MAJOR FEATURES OF THE BILL**

**AMEND PROCEDURAL PROVISIONS**

The Bill has amended the existing provisions of the Supreme Court Act by deleting all references to such ancient writs as quo warranto, ne exeat colonia, replevin and others, which are vestiges of a dark age of legal history when a specific writ was used to achieve a specific result and to err in the choice of writs was fatal to one's case. The modern tendency, which is reflected in the Bill and the new rules, is to simplify the means of applying for remedies. Under the new procedures there are two ways of commencing a civil case: by writ where there is a dispute on the facts and by originating motion which generally applies when points of interpretation or law, but not facts, are in dispute. The new procedures are aimed at getting to the heart of the matter between parties, rather than being a series of technical impediments to full justice being achieved.

Another significant reform in the Bill is the abolition of the distinction between "court" and "chambers". Originally courts sat for only short periods during a year and this has been explained by J. H. Baker in the following way:

"The original reason may have been the Canon law prohibition of litigation at certain seasons, combined with the need for the King's judges to be at home or with the King at the chief festivals of the church... In addition, the three religious seasons of Christmas... Lent... and Trinity were to be kept free. These three periods were therefore "vacations" in which no legal process moved at Westminster and the courts closed down. A fourth vacation, the 'Long Vacation', kept the summer months free for home pursuits in weather which made town life unsafe... The total number of working days in Elizabeth I's time was only 99, later reforms took away about ten more days, so that for as much as three quarters of the year there were no common law courts sitting at Westminster..."

As a result, the practice grew of judges making various types of orders out of court in their chambers or at their homes. Generally these orders related to procedural matters but could involve the summary determination of certain types of cases. Over the centuries some of the powers exercisable in chambers devolved to other court officials known as masters.
Under the existing procedures and practices of the court, there is no easy way of determining whether an application should be brought in chambers or the court. In some instances, statutory provisions give a direct indication that matters are to be brought in chambers; in other cases it is simply implied or arises as a matter of practice. The importance of the distinction in practice is that different procedures apply to court matters than to chamber matters, which on the whole are more informal. In real terms, however, the distinction is arbitrary and represents yet another procedural maze through which people must pass to have matters heard.

The abolition of distinction between chambers and court effected by the Bill when coupled with the changes to the rules, greatly simplifies procedures on interlocutory matters.

Section 29 of the Supreme Court Act permits the court to make an order excluding members of the public from courtrooms on the grounds of public decency and morality. The court may also prohibit the publication of proceedings on the same ground.

Honourable members may recall the ASIS raid on the Sheraton Hotel on the night of 30 November 1983 and the need for the passage of the Criminal Proceedings Act 1984 to ensure that the court hearing proceedings against the people involved could exclude the public and prohibit publication on security grounds. That incident highlighted the limitations of section 29 and similar provisions in the County Court Act.

Further problems with section 29 were examined by the Chief Justices Law Reform Committee on the Prohibition of Publication of Reports on Proceedings in the Supreme Court which reported in October 1985. That committee's recommendations have been substantially incorporated into clauses 18 and 19, which now replace section 29 of the Supreme Court Act.

Clause 21 simplifies what is now section 33 of the Supreme Court Act. On the application of the Attorney-General, the court may declare a person a vexatious litigant. No proceedings may be commenced or continued by a vexatious litigant unless leave has first been obtained from the court. Clause 21 now makes it clear that a vexatious litigant need not receive an effective life sentence for the court may at any time vary or revoke its order which gives statutory recognition to the decision of the Supreme Court in 1982 in the case of Bienvenue v. The Attorney-General for Victoria. Section 33 has been rarely used. Since the section was introduced into the Act in 1928, only eight people have been declared vexatious litigants. It is not a section which I have had the opportunity to invoke, but it is one of which I am constantly mindful.

Honourable members may recall that in 1984 section 62 (lc) of the Supreme Court Act was enacted to allow the bringing of representative actions in certain circumstances. That provision was considered by the Supreme Court on 25 June 1986 in the case of Marino v. Esanda Limited where it was held that representative proceedings could only be brought where the represented parties relied on exactly the same transactions and there were no other matters such as damages to be separately assessed. Clause 34 has been drafted to overcome this decision and to make it clear that the provision gives a "self-contained" right of proceeding which may be used even if different transactions are involved or damages need to be separately assessed for each party.

MODERNISATION OF PROVISIONS DEALING WITH SOLICITORS' COSTS

In modern times solicitors have adopted the practice of interim billing. This means in effect that instead of one large bill being sent on the completion of work done for the client, at various times and on the completion of significant stages of the work, clients are billed for the work in that stage. Most clients welcome this because in lengthy transactions it assists them to plan for the payment of legal costs and it allows them to accurately gauge the cost to them at any given time.

The Supreme Court Act does not give a statutory recognition to this practice and the Bill redresses this. Under the Bill, a solicitor is given a right to deliver an interim bill of costs to a client. If the client is dissatisfied with that bill, it can be reviewed by the Taxing Master who may allow or reduce it. A solicitor is only able to recover the amount agreed to by the client or allowed by the Taxing Master.

Another matter addressed by the Bill is the statutory acknowledgement of use of lump sum bills of costs which are bills that give a general description of work done and the total charge for the work but not the cost for each item and disbursement making up the bill.

As the law presently stands, a lump sum bill of costs is not one which a solicitor can sue. If a solicitor brings a proceeding to recover on such a bill, the client can object to the bill and have the proceedings dismissed. In practice, this means that if a solicitor intends to sue for legal costs, an itemised bill of costs should be delivered before proceedings are started. Thus a great deal of time and expense must be spent on preparing a bill which, in many instances, the client does not really want.

The Bill amends the existing law by permitting a solicitor to deliver a lump sum bill to the client and to sue upon it if the client does not ask for an itemised account within one month.

The clients' right to have a bill in taxable form is retained as is the right to taxation of the bill. Similar provisions are in force in South Australia under the Legal Practitioners Act 1981.
TAXATION OF BARRISTERS' FEES

Unlike in the case of solicitors, under the existing law, there is no simple and cheap means provided by which a client may have his or her barrister's fees reviewed. This is clearly an undesirable position and has been recognised as such by the Victorian Bar.

An important change introduced by the Bill, therefore, is the introduction of a means by which barristers' fees which are not agreed to in writing before the barristers accept the work, may be reviewed by the Taxing Master of the Supreme Court. In essence a client is given the right to apply to the Taxing Master for a review of a barrister's fee and that application is to be made within two months of receiving a bill for it. If the bill is sent to the solicitor, then the solicitor may apply for taxation within one month of receiving it.

In such cases an excessive fee may be reduced and the barrister can only recover the amount allowed by the Taxing Master. The Victorian Bar fully supports these provisions.

REDAFRT INTO SIMPLER ENGLISH

As I have already indicated, many of the provisions of the Supreme Court Act are written in the most archaic language and without any concern for effective communication. In the Bill those provisions have been rewritten in plain English and in doing so care has been taken to ensure that the intention of Parliament when originally enacting those provisions has been retained. In some instances, however, references to procedural matters have been deleted because they were inconsistent with the procedures laid down under the rules, for example, in clause 48 where the manner of pleading a defence under that provision has been deleted. The substantial legal rights conferred by such sections have been retained.

CONCLUSION

The Supreme Court Act has long been in need of review. The new rules which come into operation on 1 January 1987 will streamline and fundamentally improve the procedures of the court, and the Bill will change outmoded and inappropriate concepts and terminology currently contained in the Supreme Court Act. This ensures that both the Act and the rules are consistent and create no potential for confusion. This will mean that the Victorian Supreme Court will be governed by the most advanced and rational legislation and rules possible.

The Hon. J. H. KENNAN—I commend the Bill to the House.

The Hon. W. R. BAXTER (North Eastern Province)—As the Attorney-General has stated, the Bill has been dealt with in the other place and I do not propose to deal with it in detail. It is one of a series of Bills that the Attorney-General has introduced to generally revise, enhance and modernise court procedures in Victoria.

The Attorney-General has done that by way of amendments to the various Acts, including the Supreme Court Act, the County Court Act and the Magistrates' Court Act, and also in relation to companion amendments to the Crimes Act, the Summary Offences Act and so on.

I commend the Attorney-General for having taken such a keen interest in modernising some of the moribund, outdated and spent provisions that have accumulated in various Acts over the years. I suppose to some degree it has been due to the inactivity of his predecessors who, although they may have been interested in introducing new initiatives to change the law, were less keen about good housekeeping. I give the Attorney-General full marks for that interest.

My only concern is the rapidity of these amendments and the difficulty they must cause to practitioners and lay people to keep up with the various changes.

I do not wish to slow down or dampen the enthusiasm of the Attorney-General, but I wonder whether it might be better in future to accumulate various changes to Acts so that they can be introduced by one Bill each year rather than the series of Bills that have been introduced since the Honourable Jim Kennan assumed the role of Attorney-General in this State.

If people are to be kept up to date with changes to the law, it appears to me rather than having frequent changes spread over the calendar year, it is preferable to accumulate the changes and to introduce them once a year, as is done in the local government area.

Having said that, I indicate that the National Party concurs in the various changes to the Supreme Court Act. The Bill is virtually a housekeeping measure and will amend
some procedures in the courts and in a number of other Acts. The National Party supports the Bill.

The Hon. B. A. Chamberlain (Western Province) — The Supreme Court Bill will amend and consolidate the law relating to the Supreme Court; it will introduce various rules of procedures to tie in with civil proceedings; it will introduce statutory provisions for the taxation of barristers' fees; it will introduce provisions to permit solicitors to deliver and sue on lump sum and interim bills of cost; and it will repeal obsolete provisions and redraft provisions of the Act in simpler and clearer English.

This Bill has been unfolded before members of the legal profession for a long period and the profession has been significantly involved in the drafting process. The Bill has the support of the Bar Council, and that does not surprise me, given the provisions about their costs which have been written into the Bill.

The Hon. J. H. Kennan — Come on, I was reasonably even-handed.

The Hon. B. A. Chamberlain — Barristers are now in a good position because their fees are guaranteed while solicitors' fees are not. The Opposition is pleased to support the Bill and wishes it a speedy passage.

The President — Order! I am of the opinion that the second and third readings of this Bill are required to be passed by an absolute majority.

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.

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.

In so doing, I thank Mr Baxter for his typically constructive and highly professional comments on the Bill and I also thank Mr Chamberlain for his contribution. I am a little concerned if the Law Institute of Victoria were suggesting that I was pro-barrister on this occasion.

The Hon. B. A. Chamberlain — I have not had a reply!

The Hon. J. H. Kennan — It is the first time barristers' fees have been able to be taxed in this State and that is a major breakthrough. There has been good consultation between the Bar Council and the Law Institute on this Bill; and I thank the council, the institute and members of the judiciary for their part in redrafting the Supreme Court Act.

I thank the opposition parties for the speedy passage of the Bill, especially as the judges have written the rules and would have been in difficulty if the Bill had not been passed.

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.

TRANSPORT (AMENDMENT) BILL (No. 2)

The debate (adjourned from the previous day) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. Robert Lawson (Higginbotham Province) — The Transport (Amendment) Bill (No. 2) is intended to abolish the Victoria Transport Borrowing Agency, to improve the regulation of commercial passenger vehicles and tow trucks, to introduce an additional method of granting taxicab licences; and to strengthen enforcement provisions relating to offences occurring on railway property.
The Opposition does not oppose the Bill, although it believes the Bill is misguided in some parts and will move some amendments. I also understand that the National Party proposes to move some amendments.

In relation to the first object of the Bill, I point out that the Victoria Transport Borrowing Agency was formed by this Government to borrow money so that finance would be available for its public transport schemes. According to the 1985-86 report, the agency borrowed $558.6 million. The report states that that was a 12.2 per cent increase over the 1984-85 amount of $489 million.

In two years the Victoria Transport Borrowing Agency borrowed more than $1000 million, which has been added to the State debt. The Bill will abolish that agency and all its loans will be transferred, on behalf of taxpayers, to VICFIN.

The Government has used an ingenious sleight of hand to transfer the debts of the various transport agencies to the Treasurer. It is like the Thomson dam debt in reverse. In that case the debt was transferred to the Board of Works, but this time it is being transferred back to the centre, namely, the Treasurer. It is significant that $1 billion worth of debt will be transferred from the Minister of Transport to the Treasurer. The debt for the Thomson dam was $25 million. It is all very well for the Government to shuffle these debts around like that, so long as no money is lost in the process.

It is a bad effort for any borrowing agency to borrow more than $1 billion in two years and then by a sleight of hand have the debt transferred to some other area. That is the problem for the taxpayer to worry about and, no doubt, it will all work out.

I foreshadow amendments during the Committee stage on the allocation of taxicab licences. There has been much publicity in the press and the electronic media on the possible allocation in one year of 500 new taxicab licences. This has caused consternation in the industry.

After negotiation the taxicab operators have, to a large extent, been placated by Government promises. Because very few new taxicab licences have been issued in recent times, it is necessary to issue more. The relative proportion of taxicabs to population is now less than it was in our day and an effort is being made to rectify the deficiency. However, 500 new taxicab licences will not be issued in the one go.

The Bill also improves the regulation of commercial passenger vehicles and tow trucks. Some free spirits operate in the tow truck industry and they have been causing a lot of trouble one way and another. Every now and then a Bill is brought before Parliament in an effort to regulate the activities of tow truck operators but with little success because these free spirits do require a lot of controlling. The Bill is another attempt to regulate and to curb some of their activities.

In the main the Opposition does not oppose the general thrust of the Bill.

The Hon. D. M. EVANS (North Eastern Province)—The National Party generally accepts the various provisions in the Bill and recognises that it is a major restructuring within the transport industry. It is a Committee Bill because its provisions are disparate and refer to a number of different activities in Victoria.

The honourable member for Lowan in another place, Mr McGrath, in close cooperation with the Opposition spokesman for transport, Mr Brown, have conducted extensive negotiations and investigations on the proposals in the Bill. They have conducted interviews and discussions with many of the groups who will be most vitally affected by the provisions, especially bus proprietors, taxi owners and farmers.

Concern has been expressed to both myself and other people by the Victorian Farmers Federation and sawmillers in east Gippsland. The federation believes clause 8 provides too much discretion to the Minister for Transport. I foreshadow amendments to that clause.
Taxiowners are concerned that certain provisions will allow for a substantial additional number of taxi licences to be issued, which will put considerable economic pressure on those people who have a major investment in the taxi industry.

It is reasonable and fair to offer some degree of protection for taxi drivers. However, the public has a real and direct interest in the matter. A good and efficient taxi service that is reasonably available at reasonable hours throughout the day is an essential part of the service that a large city should provide. A balance needs to be struck between those, perhaps at times, competing interests.

The sawmillers of east Gippsland are under considerable economic pressure because of a diminishing resource in the area and because of proposals advanced by the Land Conservation Council that appear to have found some favour with the Government. Clause 46 places additional cost and efficiency pressures on the timber industry.

There has been substantial debate on this issue in another place. I foreshadow amendments during the Committee stage, when it would be more appropriate to further debate these issues. The National Party generally does not oppose the passage of the Bill.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 7 were agreed to.

Clause 8

The Hon. D. M. EVANS (North Eastern Province)—I invite the Committee to vote against this clause. The omission of the words “of policy” wherever occurring in the sections of the Act referred to in the clause give the Minister substantial powers that are not reasonable. Virtually, the clause makes the transport tribunal unworkable or of little value, and it creates a number of undesirable effects.

The Hon. ROBERT LAWSON (Higinbotham Province)—The Liberal Party agrees with the arguments of the National Party.

The Hon. J. H. KENNAN (Attorney-General)—The Government opposes the omission of the clause and supports the Bill as it stands.

The clause was negatived.

Clauses 9 to 11 were agreed to.

Clause 12

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

1. Clause 12, lines 12 to 17, omit all words and expressions on these lines and insert—
   “(h) specify whether the fees to be paid for taxi-cab licences are to be determined by tender or are to be a fixed price;”.
2. Clause 12, line 18, omit “(d)” and insert “(c)”.
3. Clause 12, line 20, omit “licences under this section” and insert “taxi-cab licences”.
4. Clause 12, line 21, omit “(c)” and insert “(d)”.
5. Clause 12, line 22, omit “licence under this section” and insert “taxi-cab licence”.
6. Clause 12, line 23, omit “(f)” and insert “(e)”.
7. Clause 12, lines 23 and 24, omit “licences under this section” and insert “taxi-cab licences”.
8. Clause 12, line 25, omit “(g)” and insert “(f)”.
9. Clause 12, line 32, omit “licence to operate a taxi-cab” and insert “taxi-cab licence”.
10. Clause 12, lines 35 and 36, omit “licence to operate a taxi-cab under this section” and insert “taxi-cab licence”.

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10. Clause 12, lines 35 and 36, omit “licence to operate a taxi-cab under this section” and insert “taxi-cab licence”.
The amendments delete paragraphs (b) and (c) of proposed section 143A and substitute instead:

"(b) specify whether the fees to be paid for taxi-cab licences are to be determined by tender or are to be a fixed price;".

At present, any licences handed out by the Government become very valuable once they are in the hands of the licensee—for example, fishing licences and other licences which can then be traded to other persons. Considering their value, they should be sold by tender or at some fixed price.

The Hon. J. H. KENNAN (Attorney-General)—The Government opposes these amendments. Their intention is to amalgamate the existing method of payment and the proposed new method that is designed to apply in the larger zones. The Opposition's amalgam will provide for all new licences to be available for a fee at a fixed price or on a tender basis. There would be no reference to maximum number or to an Order in Council, and the detailed review process which the Bill intends to abolish will be restored.

One of the purposes of the proposed new batch-issue method envisaged in the Bill is that licences will be available for a fixed price or tender, a maximum number will be specified, fees will be set by Order in Council, and determination of the number issued will follow an administrative review of service levels and subsequent applications received during a specified period.

No additional taxi licences have been issued over the past ten years or so. Under the existing method, each new licence application has to go through a detailed review assessment process. The Government is trying to get rid of that somewhat cumbersome process and to trial, as it were, this batch procedure. The difficulty I have with the Opposition's amendments is that they do not meet that objective and impose a more bureaucratic and regulatory system than the Bill envisages.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 13 to 16.

Clause 17

The Hon. D. M. EVANS (North Eastern Province)—I move:

2. Clause 17. line 9, after "vehicles" insert "or vehicles licensed to carry six or more passengers."

The amendment provides a more appropriate provision than that proposed in the Bill. Again, the arguments in that case have been advanced in another place by my colleague, the honourable member for Lowan, who is the National Party's spokesman on transport. The National Party's view is supported by the Bus Proprietors' Association (Vic.) Inc., and the taxiowners association. I have had discussions with their representatives over the past few days.

The Hon. J. H. KENNAN (Attorney-General)—The Government opposes the amendment. The clause, in an unamended form, exempts all public commercial vehicles, Government buses and private buses engaged solely in providing those services. Regulatory costs should be recovered from all existing taxicab licence holders, as well as the new. The Government opposes the refinement suggested by the National Party.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 18 to 45.

Clause 46

The Hon. D. M. EVANS (North Eastern Province)—I invite the Committee to vote against the clause. The effect of the clause is to enforce more vigorously a requirement on
east Gippsland timber firms particularly and timber producers and timber distribution agencies that the rail service be used for transport of timber from east Gippsland. It has been stated that it is essential for the economic continuance of the Orbost rail link that the legislation be changed to require a greater percentage of the timber production and merchantable timber from east Gippsland to be transported by rail.

The rail service from east Gippsland is slow, less efficient and imposes an additional cost on the east Gippsland timber industry, which makes it less competitive. The east Gippsland timber mills—in Orbost, particularly—are the only timber mills anywhere in Victoria that suffer this additional legislative restriction on their ability to compete. No other timber mill suffers from this problem.

This is being done simply to try to retain some viability of a railway line. The Minister for Transport has stated that publicly. However, the same requirements are not placed on timber merchants from other States or in other parts of Victoria, and this places the east Gippsland timber industry at a competitive disadvantage because it will be unable to have a good, efficient delivery of its product at competitive freight levels.

If, as has been stated, it is essential for viability of the Orbost line that timber transport cartages and tonnages be kept above the current level, two points make a nonsense of this clause.

Firstly, the cut in production that will be forced on the east Gippsland timber industry, simply because for the next several years a sufficient amount of the resource will not exist physically; and, secondly, the proposals put by the Land Conservation Council, which appear to be finding favour with the Government, will effect a further reduction by the inclusion in national parks of substantial areas of timber, particularly the timber resource that has the capacity to provide value-added production.

Virtually the whole of the value-added production capacity of the timber resource in east Gippsland is likely to be locked up in national parks under the proposals of the Land Conservation Council. That, in itself, is a decision of the Government that is likely to reduce the volumes of timber carried on the Orbost line.

Therefore, to state that by inserting this clause we will increase the amount of freight cartage on the Orbost line is a nonsense.

The present situation, which gives the east Gippsland timber millers and merchants a reasonable chance to be competitive, should not be removed by legislation. For this reason, the National Party invites the Committee to vote against clause 46.

The Hon. R. J. LONG (Gippsland Province)—I believe, in all humility, that I can claim to be the first person to have picked up this matter. This is the second occasion since 1983 that the Government has endeavoured to impose this sort of regulation on east Gippsland sawmillers.

I point out that this is the only restriction imposed on undressed sawn hardwood in any place in Victoria, and it is imposed on east Gippsland sawmillers only. That is what the Government is trying to do. That, in itself, is unfair. If the Government intends to impose such a regulation, it should do so throughout Victoria.

The second point, to which Mr. Evans also made reference, is that, through its policy of adopting Land Conservation Council recommendations, the Government has already reduced the sawmill output of east Gippsland by approximately 50 per cent. To then rely on the cartage of undressed sawn hardwood as an excuse to bolster the rail freight of east Gippsland is unreal, because one policy is laughing at the other.

I, therefore, hope the Government will at last receive the message that the Opposition will not, under any circumstances, agree to such an amendment of Schedule 8 at any future stage. As I said, this is the second time that the Government has attempted to do this, and it should be the last.
The Hon. J. H. KENNAN (Attorney-General)—Schedule 8 to the Transport Act currently proscribes the carriage of undressed sawn hardwood by a commercial goods vehicle from any sawmill situated to the east of a north-south line drawn through the centre of the town of Cowwarr to any place within a radius of 72 kilometres of Melbourne.

As members of the Opposition no doubt know, the fact is that a number of sawmillers have been circumventing the spirit of the Act by the use of commercial devices whereby the timber is consigned from the sawmill, which is owned by, for instance, corporation A, to a timber yard that is owned by a related corporation, say corporation B.

Corporation B can then legally move the timber from its yard to Melbourne by road. The amendment to the schedule overcomes this device—which is a device, of course, and another example of misuse of the corporate veil—by substituting the word “place” for the word “sawmill”.

The Hon. R. M. Hallam interjected.

The Hon. J. H. KENNAN—It certainly shows ingenuity, as Mr Hallam says, as did bottom-of-the-harbour schemes and a whole range of misuses of the corporate veil. That is probably why Governments of all parties have had to take up much of their time legislating to close off these loopholes.

I make it clear on behalf of the Government that the omission of the clause will mean that the Orbost line will have to be closed. The Bairnsdale-Orbost line will not survive as a result of the omission of the clause, and the opposition parties will have to bear responsibility for that.

Mr Lawson interjects and says that it is a good idea that that line be closed. It must be recognised that, since 1979-80, the tonnage carried has dropped from some 126 000 tonnes to 66 000 tonnes. The essential rail infrastructure can be maintained in an economical manner only if the bulk of the timber traffic is carried by rail—that is, approximately 160 000 tonnes rather than a mere 66 000 tonnes.

The future of this line rests clearly with the opposition parties. Members of both opposition parties have spoken today and made their positions clear, saying that they intend to vote against the clause. They must take full responsibility for the decision to cease operations on that section of the line resulting from the failure to close the legal loophole in Schedule 8.

The Hon. R. J. LONG (Gippsland Province)—What the Attorney-General carefully avoided answering was my question relating to why the Government wants to impose this restriction only on east Gippsland sawmillers. That is the problem.

How does the Government expect east Gippsland sawmillers to compete with other sawmillers within this State, when, if this amendment to the schedule were carried, they would be obliged to pay additional freights? I keep saying that that is unfair and discriminatory. Surely the Attorney-General does not believe in discrimination against a particular section of industry in this State because it happens to be in east Gippsland. That is the problem.

If the Government applied the same rule to the remainder of Victoria, the Opposition might consider it differently, but, at this stage, it is absolutely discriminatory and will not be tolerated by east Gippsland, in particular.

The Committee divided on the clause (the Hon. G. A. Sgro in the chair).

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Majority against the clause 3

AYES
Mr Arnold
Mrs Coxsedge

NOES
Mr Baxter
Mr Birrell
The schedule was agreed to.

The Bill was reported to the House with amendments.

The Hon. J. H. KENNAN (Attorney-General)—Although I am in a slightly moth-eaten condition, I move:

That the report be now adopted.

The motion for the adoption of the report was agreed to.

The Hon. J. H. KENNAN (Attorney-General)—Despite the moth ravages, I move:

That this Bill be now read a third time.

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

ROAD SAFETY BILL

The debate (adjourned from November 18) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. ROBERT LAWSON (Higinbotham Province)—At the outset I indicate that the Opposition does not oppose the Road Safety Bill. Like the other two parties in Parliament, the Opposition is concerned about road safety, and will willingly take any action it can to assist in ameliorating the tragedies on our roads. However, the Opposition has doubts about the Bill itself, and proposes to move amendments.

I do not wish to speak at length on the Bill at this late stage in proceedings, but for my own part I regard the Bill as legalistic, harsh and largely ineffective. I hope I am wrong and that it will have some effect on the road toll. After perusing the Bill, I believe the decision by the Government to increase penalties for various infringements of the law will have little effect. The Government should examine the issues behind the road toll and its social implications. It should establish why Victoria has such an enormously high road toll.

The purpose of the Bill is to provide for safe, efficient and equitable road use; to improve and simplify procedures for the registration of motor vehicles and the licensing of drivers; to provide for the safe use of recreation vehicles; and to ensure the equitable distribution within the community of the costs of road use.
The two main purposes of the Bill are, firstly, to do something about road safety and, secondly, to raise money for the Government. Many of the penalties have been raised considerably. Comparatively small fines have been turned into harsh fines. That is not the way to reduce the road toll. If people want to break the law, they will do so no matter what the penalty is. The law is often broken because people in a drunken state drive, or simply because people are careless or fall asleep at the wheel. No increase in penalties will stop human error and foolishness of this kind.

My party will have nothing to do with establishing inflation by legislation. I direct attention to clause 97 which provides for the indexation of fees for various services to the community by the Road Traffic Authority. Such a concept is foolish in the extreme. The Opposition believes no legislation should fuel the inflationary spiral that plagues our economy. The Opposition will argue that clause 97 should be eliminated for that reason.

As I have said, many of the problems connected with road safety are social problems that cannot be tackled by harsh penalties. I direct attention to alcohol and drug problems. Apparently, for many people it is considered manly or macho to drink to excess and then drive on the roads.

Many young people consider it an acceptable practice to be drunk. Society must tackle the whole problem rather than peck away at the edges as is proposed in this legislation.

People have not changed much during the past few years, but the speed and power of motor vehicles has increased considerably. Modern motor vehicles can drive at double or even triple the speed limit. Young people, when watching television or going to the movies, see cars being driven at reckless speeds and often, after multiple crashes between vehicles, the drivers or passengers walk away from those accidents uninjured. In these unreal situations one often sees a drama or a comedy where police are pursuing criminals in vehicles, accidents occur and the driver concerned escapes unscathed.

Some years ago there was a series on television called The Dukes of Hazzard which repeatedly featured car crashes and the principals escaped unharmed from crash accidents.

The Liberal Party has advocated that the former all-party Road Safety Committee should be re-formed to tackle the problem. That committee was successful and helped Victoria lead the way in road safety because of the legislation it recommended. In those days legislation introduced into our Parliament was a model for the whole of Australia and many parts of the world.

I appreciate that the Social Development Committee is charged with investigating road safety, but that is only a small part of its duties.

The Bill contains provisions allowing police to take breath-tests up to 3 hours after an accident or after a driving offence. The Liberal Party has no objection to this, but under the proposed legislation it may be possible for a police officer to enter a private dwelling for the purpose of taking a breath-test.

The Liberal Party will move to amend that provision to ensure that a police officer has a warrant before he or she is entitled to enter a private dwelling to conduct a breath-test and we consider this an important defence of the right of ordinary individuals.

Schedule 3 of the Bill contains a provision that removes the right of councils to declare certain roads in their municipalities to be limited for traffic purposes and not to be used by vehicles over a specified tare weight. If that provision were passed, councils would not be able to declare certain roads off limit to certain vehicles without the permission of the Road Traffic Authority. Councils have had that right since time immemorial and I shall speak further on the matter during the Committee stage.

The Hon. B. P. DUNN (North Western Province)—It is a pity that honourable members have to limit their comments on the Bill because it is a significant measure. I spent twelve years on the all-party Road Safety Committee. That was an interesting committee to work on and I have always advocated that Parliament should have a specific Road Safety
Committee. I have read reports emanating from the Social Development Committee and I have a high regard for the members of that committee, but the committee has too many references and cannot concentrate or develop the expertise to deal effectively with road safety.

The members of the former Road Safety Committee developed a wide experience in road safety matters which assisted the committee in compiling approximately 26 reports which were the forerunners for legislation on road safety. Those measures have been adopted in large part by other States of Australia and other countries throughout the world. Victoria can be proud of its record on road safety.

I am concerned at the Government's approach to road safety. A cynical attitude has developed among motorists and the community that the Government is more interested in gaining revenue from the motorist than in coming to grips with the real needs of road safety.

Rather than concentrating on penalties and enforcement, the Government should be examining the educational aspects of road safety. Admittedly, the number of police on the roads and the level of penalties have a deterrent effect on people. Penalties need to be at a level where they act as a deterrent. However, that side of road safety is only a small part of the total scene. I suspect that the Government is continually increasing fines, charges and penalties to give the appearance that it is making significant efforts towards road safety, but in reality it is overlooking the need for education, the need for driver training, the need to tackle the problems before they develop. Motorists are developing a cynical attitude towards the revenue gaining measures that they believe the Government is engaged in.

The Bill introduces some incredible measures. The Government has decided that the regulations shall be removed from Parliamentary control. Regulations can and will be changed without Parliamentary debate or Acts of the House. Many important issues are contained in the regulations already. The National Party objects to that. Obviously many provisions need to be in the regulations, otherwise Parliament would have an incredible number of Bills merely to make minor adjustments to the legislation. However, some matters contained in the regulations go to the heart of road safety. The Bill provides only a skeleton and framework for the operation of the Act. The details will be fleshed out in the regulations.

If it were possible, the National Party would ensure that more of the regulations were written into the Act and that it would require an Act of Parliament to make the changes.

During past years legislation has been introduced dealing with compulsory seat belt wearing, child restraints, 05 legislation, random breath-testing and so on.

Now, most of those things will be able to be adjusted, fine tuned and manoeuvered by the Government at its whim through regulations. The National Party is concerned about that.

There is another aspect of road safety that needs to be addressed. When one observes other motorists, as we all do, one sees constantly children who are unrestrained in motor vehicles. It horrifies me when I drive around the city or country Victoria to see parents with their children unrestrained, either in the front or back seat, and in some cases standing on the floor in the back looking over the front seat.

The Hon. J. H. Kennan—And their parents are buckled up.

The Hon. B. P. DUNN—Yes, one sees the parents are buckled up. There is evidence to show that children, even in minor accidents, become missiles within cars; they become projectiles, even when the vehicle is travelling at 30 kilometres an hour at which speed a collision is minor. Even if the speed is only 15 kilometres an hour, a collision can cause excessive damage to a child's face or fractures to the child's skull.
How can parents accept that? I believe it is basically out of ignorance. Many believe that if a child is standing behind the front seat he or she is safe from impact. Frankly, I have never had any difficulty in encouraging my children to wear seatbelts and I am sure with proper training and education most others would find the same.

I believe child restraint legislation needs to be enforced rigidly. We are failing in that area. I also believe more could be done in relation to motor vehicle design. This is an area of road safety that has not been tackled by motor vehicle manufacturers as well as it might have been.

Most manufacturers have been prepared to try to lower the cost of vehicles and reduce their weight without necessarily improving safety for the occupants. Imported vehicles certainly make provision for safety factors around the occupants but many cars produced in Australia do not address the need for occupant safety.

The other area of road safety that needs to be addressed is poor driving standards. I direct the Minister's attention to the fact that there is only one driver training complex in this State; that is a disgrace! Some schools have driver training programs—Warracknabeal High School has had one for years and there are many others also. Most of those programs are funded and supported by motor car companies.

However, little support is given by the Government and little assistance is provided by the Government in the training of teachers to run those driver training projects. In the mid-1970s the Road Safety Committee recommended the provision of more driver training complexes to provide training and education in this area through our schools. Constant road offenders need to attend such a place to improve their skills. There is a need to follow up people who have been convicted of driving with a blood alcohol level of over -05 per cent. Those are the matters that should be addressed. If we are fair dinkum about road safety it is pitiful that we have only one major driver training complex in the State.

The Government has been heavy handed with regard to penalties for offences and with its deterrents but it has not done enough overall to improve the standards of driving and attitudes and mentality of the drivers themselves.

I shall address some aspects of the Bill clause by clause. As we will be moving to the Committee stage, what I have to say will be generally across the amendments to be moved in the Committee stage, during which I shall restrict my comments to the expression of the National Party's attitude on each clause. There are many causes for concern and I shall move through them one at a time.

The first matter that has concerned the National Party is the definition of "trailer" on page 5 of the Bill, which states:

\((a)\) a vehicle, implement, machine or other structure without its own motive power which is capable of being drawn by a motor vehicle; and

This provision allows the Governor in Council to:

\((d)\) declare any vehicle, implement, machine or other structure or class of vehicles, implements, machines or other structures to be a trailer or trailers for the purposes of this Act.

The National Party is concerned about the movement of farm machinery. Honourable members would be aware that in the farming community very often we have to move machinery and often it is fairly large machinery, particularly in the area I represent where there are broad acres of wheat and grain cultivation. The crop is often widely spread and usually farmers move the machinery for long distances.

In our case we have to move across a road or a number of miles down the road, which is an earth road with no other traffic except local farmers who may be moving along it; there is no through traffic.
The farming community is concerned about what a Government could do if it lacked sensitivity, as it could make it difficult to move farm equipment. A farmer could be required to obtain a permit to move a cultivator or a combine from one side of the road to another, from one paddock to another or from one property to another. There are many instances where that is necessary. The views that we have been receiving from around the area reveal that people want a clarification of the proposed legislation in relation to the movement of farm machinery.

I understand that we have agreed now, in discussions with the Victorian Farmers Federation, that the matter will remain part of the regulations and they will be able to govern the movement of farm machinery. I understand that it is the Government's intention that there will be permits in certain instances for the movement of machinery over a certain width. I believe the federation is prepared to accept that.

The Government, we believe, has given an assurance that the need for permits for agricultural machinery to travel on roads will be kept to a minimum, consistent with road safety, and that permit conditions, particularly those requiring escort vehicles, will not impose requirements that are unduly onerous or expensive.

It is impractical to have a situation in which a farmer would require a permit and escort vehicles with flashing lights every time he moved on the road with machinery, as that is a daily or weekly occurrence in various areas of the State.

The National Party understands that these vehicles, up to certain widths, will be exempt from the need for permits and that in those cases the normal safety requirements will be required, such as triangular safety signs on tractors and flashing lights.

Once the vehicle is over a certain width it may be necessary to obtain a permit, which I understand could be an annual one, to allow a farmer to move farming machinery over longer distances.

The National Party believes there has to be some resolution of this situation and it hopes the Victorian Farmers Federation, through the committee that has been established to consider standards and sizes of farm machinery, will be able to satisfactorily resolve the matter in the interests of the farming community.

The next matter relates to the power to demand entry and to inspect vehicles, which is provided for in clause 13. That clause allows an officer of the authority or a member of the Police Force, at any time, to require to be produced for inspection a motor vehicle or trailer which is being used or which the officer has reasonable grounds for suspecting has, within the preceding 30 days, been or will be used.

The amendment the National Party will propose will allow an officer or a member of the Police Force to inspect a motor vehicle on a highway if he has reasonable grounds to believe it does not comply with the Act. The proposed amendment provides that an officer can inspect a vehicle if it is on the road, but it does not allow him to go to premises and ask for vehicles that may have been used any time within the past 30 days to be presented for inspection. That would go too far. It would create a police state where officers could go to the premises of a transport operator or a bus depot and demand entry to inspect motor vehicles. I will explain my proposed amendment further at the appropriate time.

The National Party was concerned about tractor permits, but that problem has been overcome. At present it is permissible to drive a tractor on a road even though it does not qualify for a normal licence, and the Bill will not change that.

Mr Lawson has explained the undertaking he will seek on clause 28 in regard to speed limits on freeways. That matter can be taken up during the Committee stage.

One of the controversial clauses of the Bill relates to the cancellation of the motor vehicle registration of an unlicensed driver. Under the Bill, it would be possible for an unlicensed driver to have the registration of his vehicle cancelled. That provision goes too far because its effect would be devastating on a single-car family.
The provision also has implications for employees and employers. An employer who has just employed a driver may not be aware that that person is unlicensed. If the person is caught driving a company vehicle, the registration may be cancelled. It may be a commercial vehicle, a bus or a truck, and that would have devastating effects on a company. That provision is unacceptable to the Victorian Road Transport Association, which has suggested the following amendment:

A court convicting a person of an offence against section 31 may, if the circumstances warrant it, order the cancellation of the registration of any motor vehicle owned by that person and order the authority not to register that vehicle again during such time, if any, as the court specifies.

If an unlicensed employee were driving a vehicle that was not his own, the registration of his vehicle could be cancelled. The National Party was going to propose such an amendment, but as Mr Lawson is proposing an amendment to that effect, the National Party will support that.

The power to demand inspections of vehicles will also be written into the clauses relating to recreation vehicles.

The most controversial aspect of the Bill is the provisions relating to alcohol and other drugs. The Bill makes a number of changes which, in the belief of many people, go too far. The Bill extends the power of the police to enter a person's residence and request the person to take a breathalyser test within 3 hours of the time the person arrived home after driving a vehicle. The clause provides no defence for that person.

Clause 49 (6) states:

(6) In any proceedings for an offence under paragraph (f) or (g) of sub-section (1) evidence as to—

(a) the consumption or non-consumption of alcohol by the defendant at any time before furnishing the sample of breath for analysis or having the sample of blood taken from him or her; or

(b) the effect of the consumption of alcohol on the defendant; or

(c) the general inaccuracy of breath analysing instruments of the type used— is inadmissible for the purpose of establishing a defence to the charge.

In other words, there is no defence. A person could come home from work, sit down to dinner and drink a bottle of wine and, 2 hours after the person arrived home, the police could turn up and take a breath analysis of the person who could then be charged for having a blood alcohol content above the legal limit. In a court, that person would not be able to give evidence about the alcohol he consumed between the time he arrived home and the time the breath analysis was taken.

The National Party supports the need for police to crack down on drink-drivers. There is no excuse for people driving while under the influence of alcohol, and the National Party will not pull back from being tough in that regard. However, clause 49 is draconian and takes away the rights of people.

Probationary drivers must have a zero blood alcohol content and the implications of the clause on those drivers are frightening. A probationary driver may have one drink after arriving home from work and, 2 hours after arriving home, he may be asked to furnish a breath analysis, which could cause all sorts of trouble. The probationary driver would not be able to give evidence that he had had a drink at home.

That clause needs to be amended, and the National Party will propose amendments, as will Mr Lawson. The amendments will amend clause 49 (6) so that persons will be able to use as evidence factors such as when they consumed alcohol. The clause basically states that there shall be no defence against a charge of a blood alcohol content above 0.05. People in the legal profession and the Police Force have expressed alarm about the clause and believe it needs to be amended.
Clause 51 refers to the immediate suspension of driver licences or permits in certain circumstances. That is a severe move, but perhaps the charges involved need to be dealt with severely.

The tough provision concerning the 0.05 blood alcohol level needs to be interpreted carefully by the police and those assessing young people. I hope it has had some real effect. Young people who are going to drive should not drink at all, but there is room there for error, and I understand that that is taken into account to some extent.

The PRESIDENT—Order! Would the honourable member prefer to raise these points in the Committee stage?

The Hon. B. P. DUNN—You were not present when I began my comments, Sir. I said I would basically make some general remarks on the Bill, even though some of them were tied to particular clauses, and then restrict myself to minor comments in the Committee stage. I have almost completed my remarks.

The regulations are to be extensive and the National Party is concerned about some of those areas. For instance, it was proposed by regulation to prohibit the fitting of bull bars to cars. People in country areas could not live with a regulation like that. Bureaucratic regulations can be brought into effect and prove to be impracticable, as would be the case here. I understand Mr Lawson seeks some assurance from the Government to overcome this problem. I am informed that the Minister has backed away from the proposal.

The National Party disagrees with the proposal to increase fees by regulation. Surely interested parties should have an input into such an issue. People generally disagree with the indexation of fees, fines and charges that lock us into the consumer price index and inflation when we should be fighting against inflation.

The final issue I take up relates to the clause and the section of the schedule dealing with local government. This is again a frightening provision which shows a lack of understanding and sensitivity. The National Party will move amendments to that clause in the Committee stage.

The Bill proposes to remove the right of local councils to make their own decisions on limiting heavy vehicular traffic on roads that it has to pay for and on roads and streets that it must maintain. Councils would be required to seek approval of the Road Traffic Authority prior to erecting signs. The provision is totally unacceptable.

The Municipal Association of Victoria was quick to contact most councils. It said:

The amendment will substantially affect the ability of councils to adequately regulate and control the use by heavy vehicles of streets and roads which are under the care and management of councils.

Of equal concern to the MAV is the gradual indirect erosion of local government autonomy through legislative amendments. The proposal for amendment in the Road Safety Bill would appear to indicate an inconsistency in the treatment of local government.

Many councils wrote to the National Party on this matter. My colleague who shares with me the representation of the North Western Province, the Honourable Ken Wright, has conveyed representations to me, as have Mr Hallam, Mr Evans and certain honourable members from the other place. Councils should have the ability to make decisions in their own interests, particularly when they must meet the high cost of maintenance of these roads and streets.

The National Party will support the Opposition's proposed amendment and would have moved such an amendment itself, had the Opposition not proposed to do so.

It is a difficult Bill to handle in a short time; it is really a Committee Bill. I shall reduce my comments in the Committee stage. Generally, the Bill is supported by the National Party but needs major amendment to make it practicable and acceptable to the people of Victoria.
The PRESIDENT—Order! Because of the temperature in the Chamber, honourable members may remove their jackets, if they so desire.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 and 2 were agreed to.

Clause 3

The Hon. B. P. DUNN (North Western Province)—Can the Minister give honourable members any assurance concerning that clause? I understand his difficulties as he is not the Minister for Transport. The clause relates to the handling of farm vehicles—in particular, trailers. I understand that the Minister was prepared to give some assurance that the Government would limit permits so far as possible. The Minister states that in paragraph 3 of the statement that I understand was handed to my colleague in another place, and I ask whether the Attorney-General is prepared to place that assurance on the record.

The Hon. J. H. KENNAN (Attorney-General)—On behalf of the Minister for Transport, I am prepared to place on the record the following undertaking.

In 1984 the Government convened a representative working party to recommend improvements in the laws governing the movement of agricultural machinery on the roads. The working party is broadly based and includes representatives of the Victorian Farmers Federation, the Municipal Association of Victoria, the Tractor and Machinery Association, the VACC, the Police Force, the Road Construction Authority and the Road Traffic Authority.

The working party has recommended a number of changes in the provisions relating to the movement of machinery which exceeds the normal dimensions allowed for motor vehicles and trailers. The Government intends to implement these changes in the regulations and instruments to be made under the Road Safety Bill.

It is the Government's intention that the need for permits for agricultural machinery to travel on the roads should be kept to the minimum consistent with road safety and that permit conditions, particularly in respect of machinery requiring escort vehicles, should not impose requirements which are unduly onerous or expensive. The regulations and exemptions to be provided under the regulations will lay down practical conditions under which most agricultural machinery can be moved without the need for permits.

The present exemption of agricultural implements, bulk grain bins and bulk fruit bins from the trailer registration requirements will be continued under the regulations. In addition, the exemption will be extended to header comb trailers.

The present stamp duty exemptions and concessions for agricultural machines and implements will continue unchanged under the Stamps Act.

The clause was agreed to, as were clauses 4 to 12.

Clause 13

The Hon. B. P. DUNN (North Western Province)—The amendments to clause 13 are basically all related to the same principle which is designed to limit the power of inspection of motor vehicles to those that are on a highway at the time and also to delete the provision that will allow an officer of the authority or a member of the Police Force to demand at any reasonable time entry into premises for the purposes of inspecting a motor vehicle or trailer.

I move:

1. Clause 13, lines 24 and 25, omit "or require to be produced for inspection, ".

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2. Clause 13, lines 25 to 27, omit "••", or which the officer or member has reasonable grounds for suspecting has within the preceding 30 days been used or will be used, "."

3. Clause 13, page 9, lines 30 to 42, and page 10, lines 1 to 3, omit all words and expressions on these lines and insert—

"( ) An officer of the Authority who is authorised in writing by the Authority for the purposes of this section or a member of the police force may, by notice in accordance with sub-section (3), require to be produced for inspection at a place specified in the notice a motor vehicle or trailer which the officer or member has reasonable grounds for suspecting has within the preceding 30 days been used or will be used on a highway and which the officer or member believes on reasonable grounds does not comply with this Act or the regulations.

( ) A notice must be in writing and must be served on the registered owner or, if the motor vehicle or trailer is not registered, on the owner.

( ) An inspection may include any tests which the inspecting officer or member of the police force decides to be appropriate.

( ) A person who refuses or fails—

(a) to allow a motor vehicle or trailer to be inspected when required under this section; or

(b) to produce a motor vehicle or trailer for inspection at the place specified in a notice within 7 days after service of the notice on that person.

is guilty of an offence."

With amendment No. 1 an officer can demand a vehicle to be produced for inspection. The amendment will limit it to vehicles that are found to be on the highway.

The Hon. ROBERT LAWSON (Higinbotham Province)—I express the support of the Liberal Party for these amendments. The clause states that an officer is able to inspect a vehicle that has been used on a highway at a "reasonable" time. If a vehicle were being driven on a highway and were required to be inspected by an officer, the time that that vehicle was being driven would be a reasonable time. It may be that the defective vehicle is being driven on the highway in the middle of the night.

The Hon. B. P. DUNN (North Western Province)—No, the clause states that an officer may at any reasonable time inspect a motor vehicle that has been used on a highway. Amendment No. 1 takes away the power of a police officer or a member of an authority to demand the vehicle to be produced. The word "reasonable" is inserted to make it clear that an officer may demand to inspect a vehicle at any reasonable time. If that word is taken out, it means that a member of the Police Force is able at any time to inspect the vehicle that it is believed does not comply with the regulations.

The effect of the amendment is that officers will not be allowed to demand entry to premises to inspect vehicles such as those owned by a bus operator, a transport operator or a farmer, whereas the Bill provides that an officer could demand entry and inspect all vehicles if that officer had grounds to believe that in the prior 30 days those vehicles had been used.

The amendment will limit that and the officer will need, by notice, to ask for a vehicle to be produced for inspection at a particular place specified in the notice. Mr Lawson has suggested that the word "reasonable" in clause 13, line 24, is not required.

The Hon. J. H. Kennan—I think it might as well stay there. I see no vice in it.

The Hon. B. P. DUNN—There is no problem with it.

The Hon. J. H. Kennan—I think it is reasonable to leave "reasonable" there.

The Hon. Robert Lawson—I consider it reasonable not to object.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 14 to 30.

Clause 31
The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

1. Clause 31, line 9, omit "or of any motor vehicle" and insert "if that motor vehicle is".

Clause 31 relates to the conviction of a person and the deregistration of that person’s motor vehicle. If a person owned two or three motor vehicles, all could be deregistered at the same time. That is unreasonable. It may be a family situation and the spouse of the person losing the licence may need to use another car belonging to that person.

If the person who has lost his or her licence and has the vehicle concerned in the incident deregistered, goes home and drives another vehicle belonging to the family, he or she is in serious trouble. However, I do not see the necessity for deregistering all the motor vehicles owned by a person under those circumstances.

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

Clause 32

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

2. Clause 32, after line 34 insert—

“(3) A person who is employed to drive a motor vehicle on a highway is guilty of an offence if he or she does not notify his or her employer if he or she does not hold or continue to hold a permit or licence which authorises him or her to drive such a motor vehicle.”.

If an employer were to employ someone who was unlicensed and that person was allowed to drive a motor vehicle belonging to the employer, the employer would obviously be guilty. However, if the driver had lost his or her licence and had not notified the employer of the fact, it would be unreasonable to prosecute the employer for employing an unlicensed driver.

The Hon. B. P. DUNN (North Western Province)—The National Party supports the amendment. In that instance, it is obviously the responsibility of the employee and that should be included in the Bill.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 33 to 39.

Clause 40

The Hon. B. P. DUNN (North Western Province)—I move:

4. Clause 40, lines 37 and 38 omit “, or require to be produced for inspection,”.

5. Clause 40, page 21, lines 38 and 39, and page 22, line 1, omit “, or which the officer or member has reasonable grounds for suspecting has within the preceding 30 days been used or will be used,”.

6. Clause 40, page 22, lines 4 to 19, omit all words and expressions on these lines and insert—

“( ) An officer of the Authority who is authorised in writing by the Authority for the purposes of this section or a member of the police force may, by notice in accordance with sub-section (3), require to be produced for inspection at a place specified in the notice a recreation vehicle which the officer or member has reasonable grounds for suspecting has within the preceding 30 days been used in a public place and which the officer or member believes on reasonable grounds does not comply with this Act or the regulations.

( ) A notice must be in writing and must be served on the registered owner or, if the recreation vehicle is not registered, on the owner.

( ) An inspection may include any tests which the inspecting officer or member of the police force decides to be appropriate.

( ) A person who refuses or fails—

(a) to allow a recreation vehicle to be inspected when required under this section; or

(b) to produce a recreation vehicle for inspection at the place specified in a notice within 7 days after service of the notice on that person—

is guilty of an offence.”.
Those amendments are effectively the same as amendment Nos 1, 2 and 3 moved by me, except that they relate to recreational vehicles instead of normal vehicles.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 41 to 47.

Clause 48

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

3. Clause 48, after line 37 insert:

"(4) For the avoidance of doubt it is declared that nothing in this Part requires a person who is in a dwelling to allow a member of the police force or an officer of the Authority to enter that dwelling without a warrant.”.

The Opposition asserts the old principle that a person’s home is his or her castle. There was perhaps some unnecessary controversy about this matter because of the fear that police in pursuit of an offender would be permitted to take blood tests up to 3 hours after an accident and would be able to go into a person’s home to take those tests.

The amendment will ensure that if a police officer wishes to do such a thing, that officer must first obtain a warrant.

The Hon. B. P. DUNN (North Western Province)... The National Party supports the amendment. It is horrific to think that the Bill could have been passed with a provision allowing for a police officer to walk into one’s home 3 hours after one has driven a car, be breathalised and leaving one with virtually no defence whatsoever.

It is completely unacceptable and it is a real police state type provision and should not even have been suggested. I am amazed that the clause passed through the other place, particularly being introduced by a party that prides itself on individual rights and freedoms of the people.

I am sure the Government would not have allowed the clause to be there, had it known of its full impact and this amendment will go some of the way towards correcting the principle, as will further amendments, and the National Party supports it.

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

Clause 49

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

4. Clause 49, page 25, line 22. after “analysed” insert “within 12 months after it was taken.”.

5. Clause 49, page 26, lines 6 to 13. omit all words and expressions on these lines and insert “the effect of the consumption of alcohol on the defendant”.

Amendment No. 4 deals with blood samples and their analysis. If the analyst has not got around to analysing a blood sample twelve months after it was taken from a suspect then the analyst has missed out on any chance of prosecuting the suspect.

Amendment No. 5 deals with the effect of the consumption of alcohol on a defendant and Mr Dunn spoke on this subject at some length during his second-reading speech. The amendment concerns evidence of the effect that alcohol has on a suspect. I shall not repeat the arguments of Mr Dunn.

The Hon. B. P. DUNN (North Western Province)—Nor will I, but just so it is on record in the Committee stage, the National Party did propose an amendment to this clause as well. It allows certain evidence to be used in the establishment of a defence and that is the way it should be. One will now be able to use, as evidence in one’s defence, the issue, for instance, as to when one consumed the alcohol and the fact that it may well be that the alcohol was consumed after one had driven home and safely parked the car in the garage.

That is the way it should be and the National Party supports the amendments.
The amendments were agreed to, and the clause, as amended, was adopted as were clauses 50 to 55.

Clause 56

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

1. Clause 56. page 34, line 11. omit “and a Hearings officer”.

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

Clause 57

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

6. Clause 57. page 35, line 10, after “analyst” insert “within 12 months after it was taken”.

The amendment is consequential on a previous clause relating to the twelve-month limit on the analysis of blood samples from a suspect.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 58 to 67.

Clause 68

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

7. Clause 68. after line 15 insert—

“( ) The Minister may, on the application of a motoring organisation, by notice published in the Government Gazette declare that the provisions of sub-sections (1) and (2) and of any regulations (except as specified in the notice) do not apply with respect to any function or event that is organised and conducted by that motoring organisation.”.

8. Clause 68, line 27, after “(3)” insert “or (4)”.

Honourable members may recall, in the controversy leading up to the production of the Bill in Parliament, that some of the organisations, such as those covering people who own veteran motor cars, were concerned that the new regulations in relation to races and so on, would affect them, so amendment No. 7 will enable the Minister to give them what amounts to a permanent exemption from some of the provisions of the law that they find so worrying.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 69 to 73.

Clause 74

The Hon. ROBERT LAWSON (Higinbotham Province)—I do not wish to amend this clause, I wish to comment on it.

It appears on page 48 of the Bill and is headed “Offence to sell, use or possess, anti-speed measuring devices.” The principal speed measuring device used by the police is the radar gun and because of the march of modern science, a number of drivers are now able to have radar detectors. The amendment will abolish the use of radar detectors within Victoria.

The same idea was put forward by the Minister for Transport in New South Wales but then the idea was temporarily abandoned while the manufacturers and importers of these radar devices put their views before the Minister.

According to the firm that sells the radar detection devices, this particular clause could be in breach of the Australian Constitution because the radar devices are imported from overseas and as they are sold in New South Wales there is nothing stopping Victorian motorists from sending off to New South Wales to purchase these speed measuring devices. According to the arguments put forward, they are small devices which are undetectable. They emit no detectable impulses of their own and they can be slipped off the dash—if
that is where they are situated—and placed in the shirt pocket of the driver and there is no way that the police can detect them unless they frisk the driver.

The people who sell the speed measuring devices do not advocate jamming. In any case, if one had a radar jammer, one would be in trouble because it is easily detectable because of the wave length principle on which the device works.

I do not intend to oppose the clause; I merely direct the attention of the Attorney-General to the arguments of the radar device retailer.

The clause was agreed to, as were clauses 75 to 94.

Clause 95

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

9. Clause 95, line 2, omit "The" and insert "Subject to sub-section (8), the".

10. Clause 95, page 62, after line 2 insert—

"( ) Regulations made under this Act must not—

(a) prohibit the fitting of bull-bars to motor vehicles; or

(b) require annual tests of roadworthiness of registered motor vehicles or trailers."

My amendments provide that regulations made under this Act must not, firstly, prohibit the fitting of bull-bars to motor vehicles or, secondly, require annual tests of roadworthiness of motor vehicles or trailers.

Mr Dunn canvassed the arguments about the fitting of bull-bars and their necessity in country areas. Common agreement exists that bull-bars should not be prohibited. The Opposition opposes annual roadworthiness tests on the grounds of expense and believes they are not necessary.

The Hon. B. P. DUNN (North Western Province)—The National Party strongly supports the amendment. I have canvassed the arguments relating to bull-bars and I understand the rationale for the suggestion that they be banned from use because they cause a lot of damage to pedestrians if a person driving a vehicle with bull-bars fitted is involved in a pedestrian accident. That is understandable, but I think it would be a fairly rare occurrence.

One has to consider the situation of vehicles travelling on country roads, especially at night, early evening or morning. Horrific accidents and damage can occur if vehicles hit kangaroos or livestock. Anyone who has hit a kangaroo or a sheep while driving a motor vehicle will know what I am speaking about. The driver usually thinks everything is coming to an end all at once.

If the driver of a motor vehicle hits a larger animal, such as a bull, cow or horse, he or she is in terrible trouble. Vehicles today are not built to take that sort of impact. It is vital that people be allowed to have bull-bars fitted, especially in some parts of country Victoria.

The National Party does not support annual roadworthiness tests of vehicles. The cost involved would be astronomical. Many farmers have four or five vehicles and the annual roadworthiness test for each of those vehicles would develop a whole new industry and impose enormous costs on country people. There needs to be rigid enforcement of roadworthy standards and provisions to ensure that vehicles cannot be sold unless they are accompanied by a roadworthiness certificate. However, to introduce annual roadworthy tests is going too far. The amendment ensures that this cannot take place under the regulations.

The Hon. F. J. GRANTER (Central Highlands Province)—I support the arguments of Mr Lawson and Mr Dunn in respect of the retention of bull-bars, especially in country Victoria. Like many other honourable members I have received numerous representations from people who are worried that bull-bars will be made illegal. That would have been the case if the Bill had been passed in its present form.
Bull-bars provide good protection when travelling in country districts, as was pointed out by Mr Dunn. If hit by a vehicle, kangaroos, cattle, horses and other animals can cause harm to the vehicle and injury to people. I congratulate Mr Lawson and Mr Dunn for moving the amendment and commend it to the Committee.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 96.

Clause 97

The Hon. ROBERT LAWSON (Higinbotham Province)—I invite honourable members to vote against the clause which relates to the indexation of fees. The Opposition opposes the clause because it will be inflationary in effect and inflation should not be built into any part of the economy by any action of this Parliament.

The Hon. B. P. DUNN (North Western Province)—The clause is totally unacceptable. The National Party wants to halt the inflation spiral and increases in charges, and the clause perpetuates it. Measures such as these enshrined in legislation, or any Government decisions wherever possible, where fees and charges are linked to the consumer price index, should be avoided. The National Party opposes the clause.

The clause was negatived.

Clauses 98 to 103 were agreed to.

Clause 104

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

2. Clause 104, page 66, line 32, after "1958" insert "and to a recreation vehicle within the meaning of this Act includes a reference to a recreation vehicle within the meaning of Part VI of the Transport Act 1983".

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

Schedules 1 to 3 were agreed to.

Schedule 4

The Hon. J. H. KENNAN—I move:


The amendment was agreed to.

The Hon. ROBERT LAWSON (Higinbotham Province)—I move:

12. Schedule 4, page 73, omit item 17.5.

I refer the Committee to page 73 of the Bill. Item 17.5 states:

17.5. In section 543 (3) after "section" insert ". and after obtaining the permission of the Road Traffic Authority established by section 19 of the Transport Act 1983".

This item in the schedule refers to the Local Government Act and is intended to limit the powers of local councils to declare load limits or traffic prohibitions on any of their roads. The outcome of this would be that any local council wanting to limit traffic would have to obtain the permission of the Road Transport Authority. This may or may not be a good thing. However, the point I make is that the Government did not consult with local government on the matter.

The item appears at the back of the Bill and someone in local government was alert enough to notice that a right which local government has had since time immemorial was in danger of being taken away. All honourable members may have received correspondence on this matter and I received letters from the City of Moorabbin while Mr Ward has passed to me a letter he received from the City of Cranbourne. Today, Mr Reid gave me a similar letter he had received from the City of Maryborough. All object to the inclusion of item 17.5 in the schedule.
If the Government agrees to consult with local government and obtain agreement, it can reintroduce the proposal at a later time. Until it does so, my party intends to oppose this part of the schedule.

The Hon. B. P. DUNN (North Western Province)—I shall not canvass the issue I dealt with during the second-reading debate. Councils throughout Victoria have been unanimous in their opposition to this part of the schedule. It removes a right that should rest with local government. The local councils will be responsible for repairing any damage and providing maintenance and upkeep of the roads. Therefore, local government should make the decisions about heavy traffic limits without having to consult the authority. The National Party supports the amendment and would have been moving one itself to bring about the same effect if Mr Lawson had not done so.

The Hon. J. H. KENNAN (Attorney-General)—The Government opposes the Opposition's amendment. The amendment included in the Bill is necessary to remove a conflict between the Local Government Act provision and the arrangements for major traffic control items under the Transport Act. A “no trucks” sign is a major traffic control item and cannot be erected by a council without Road Transport Authority approval under the Transport Act requirements which are now being transferred to the road safety regulations.

One effect of the amendment in the Bill will be to enable the more effective enforcement provisions of the Transport Act and Road Safety Act to be applied where such signs are erected.

The Road Traffic Authority has established a Truck Operations Committee including representatives of the Municipal Association of Victoria, the Local Government Engineers Association, the Victorian Road Transport Association, the Transport Workers Union, the Police Force and the Road Construction Authority to establish guidelines for truck operations and the exercise of the relevant powers which arise under three Acts.

Responsibility will be devolved to councils within the guidelines established by the committee.

The Hon. ROBERT LAWSON (Higinbotham Province)—I understand what the Attorney-General is saying but local councils have had this right for a long time and it has worked well to date. If the Government wishes to change the rules, it should approach local government to obtain its agreement.

The Liberal Party stands firm on its decision to excise this particular section from the schedule.

The Hon. F. J. GRANTER (Central Highlands Province)—The Government has said that it will not accept Mr Lawson's amendment, which is supported by Mr Dunn. The amendment is logical because local government has administered this section of the Act very well for a long time.

As Mr Dunn pointed out, it is the responsibility of local government, which pays the bills, and it should have the right to designate speed and load limits on its roads. I cannot understand why the Government is opposing the amendment because it would have received as much representation from local government as that received by members of the opposition parties. Almost every council in the province that I represent contacted me and my colleague, Mr Grimwade, who is not here today, about this provision. It is only right that the local authorities should retain this power.

The amendment was agreed to.

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

4. Schedule 4, page 80, item 30.1 omit paragraph (b) and insert—

“(b) after the definition of “Motor car” insert—

‘“Motor vehicle” means a motor vehicle within the meaning of section 3 (1) of the Road Safety Act 1986.’;”

"Road Safety Bill 5 December 1986 COUNCIL 1681 \nIf the Government agrees to consult with local government and obtain agreement, it can reintroduce the proposal at a later time. Until it does so, my party intends to oppose this part of the schedule.

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The amendment was agreed to.

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

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“(b) after the definition of “Motor car” insert—

‘“Motor vehicle” means a motor vehicle within the meaning of section 3 (1) of the Road Safety Act 1986.’;"
5. Schedule 4, page 80, item 30.1, after paragraph (b) insert—

"( ) in paragraph (h) of the definition of "Owner" after "(b)" insert—

"for the purposes of Part 10";".

6. Schedule 4, page 80, item 30.1, in paragraph (c) for "for the definition of "Owner" substitute 'after the definition of "Owner" insert'.

7. Schedule 4, page 80, item 30.1, omit paragraph (d) and insert—

'( ) for the definition of "Recreation vehicle" substitute—

"Recreation vehicle"—

(a) for the purposes of Part 10, has the same meaning as in section 86 of the Transport Act 1983; and

(b) otherwise has the same meaning as in the Road Safety Act 1986.'

8. Schedule 4, page 81, omit item 30.2 and insert—

‘30.2. In sections 35 (1) (b), 36, 39 (1), (2), (3), (4) and (5), 40, 41 (1), 64 (1), 65 (1), 93 (2) (b), 94 (1) (a), 94 (2) (a), 94 (13), 95, 96 (1), 96 (2) (a), 97 (1) and (3), 98, 99 (1) and (3), 100 (1), 101 (1), 102 (1), 102 (1) and (2), 103, 108 (1), 109 (1), (3), (4) and (5), 110 (1) and (5), 111 (1) and (2) and 112 (1) and (2) for "motor car" (wherever occurring) substitute "motor vehicle".".

9. Schedule 4, page 81, after item 30.2 insert—

‘30.3. In sections 3 (1) (definition of "Driver" and "Transport accident") and 3 (3) (c) after "motor car" (wherever occurring) insert "or motor vehicle".".

10. Schedule 4, page 82, item 30.13, omit "100" and insert "109".

11. Schedule 4, page 82, item 30.14 omit "100" and insert "109".

12. Schedule 4, page 82, item 30.15 omit "100" and insert "109".

13. Schedule 4, page 82, after item 30.15 insert—

‘30.16. In section 102 (2) (b) for "referred to in section 80B of the Motor Car Act 1958" substitute "under section 49 (1) (a) of the Road Safety Act 1986".".

14. Schedule 4, page 82, item 30.16, omit "103" and insert "112".

15. Schedule 4, page 82, item 30.17, omit "112" (where twice occurring) and insert "121".

16. Schedule 4, page 83, item 30.18, omit "123" and insert "132".

17. Schedule 4, page 83, item 30.18, in paragraph (a) after "as" insert "traffic infringements or".

18. Schedule 4, page 83, item 30.18, omit "112" (where twice occurring) and insert "121".

19. Schedule 4, page 83, item 30.18, omit "after" (where last occurring).

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

New schedule

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

20. Omit Schedule 1 and insert—

"SCHEDULE 1

MINIMUM DISQUALIFICATION PERIODS

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The new schedule was agreed to.

The Hon. J. H. KENNAN (Attorney-General) (By leave)—I wish to comment on clause 95, which I omitted to comment on earlier. Mr Lawson and Mr Dunn expressed the position of their parties in support of Mr Lawson’s amendments.

My concern for that part of the clause applying to annual roadworthiness tests is that it may be desirable at a future date to enforce annual roadworthiness tests for motor vehicles. I remember that when I was living in England some fifteen or sixteen years ago people had to have roadworthiness tests on their motor vehicles every time the vehicles were registered. That was a good measure.

I was somewhat surprised to find that the same provision had not been introduced in Victoria at an earlier time. The Government would have liked the regulations to have been wide enough to enable that to happen at a future time.

As the Bill stands amended, we shall have to come back to make a statutory amendment to it in this regard. I should be interested to know whether the opposition parties, especially the Liberal Party, oppose annual roadworthiness tests for ordinary vehicles.
The Hon. ROBERT LAWSON (Higinbotham Province) (By leave)—The Liberal Party believes annual roadworthiness tests would be onerous and expensive, and the cost would not be justified by any advantage. Every time a car is sold, a roadworthiness test is required. The police also can institute roadworthiness tests on vehicles that they consider to be unsafe. That safeguard is sufficient for the public of Victoria.

The Bill was reported to the House with amendments, and passed through its remaining stages.

LOCAL GOVERNMENT (GENERAL AMENDMENT) BILL

This Bill was returned from the Assembly with a message relating to amendments.

It was ordered that the message be taken into consideration later this day.

TAXATION ACTS (AMENDMENT) BILL

The debate (adjourned from the previous day) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. J. V. C. GUEST (Monash Province)—The Bill is not what the Government claims it to be nor is it a fair reflection of the Treasurer's Budget speech. There are four passages in the Budget speech that relate to the Bill.

At page 16 a fulsome paean is sung to some worthwhile stamp duty amendments affecting the commercial community with an annual cost of revenue of $5·7 million—about 1 per cent of stamp duties.

At page 2 of the speech the removal of stamp duty exemption for first home buyers, proposed in clause 16, was advertised. It was a remarkable example of candour about a broken promise, especially in the light of the surreptitious way in which the Government has introduced its de facto charter for fraud in clause 37.

But the real character of the Bill is revealed by consideration of the Treasurer's claims at page 1 that:

There are no new taxes and no increases in taxes.

and at page 17:

It is proposed to introduce...legislative amendments to...combat avoidance and evasion in relation to stamp duties.

Both statements are false.

Much of the Bill proposes new or increased taxes masquerading in the Government's rhetoric as anti-avoidance measures. That is why we are having to take the action that we are taking on this Bill and have foreshadowed in another place that that action will be taken here.

Almost the whole of the Bill stems from the principle characteristics of the multitude of taxes in Victoria which are grouped together in the Stamps Act.

The first characteristic to which I shall refer is the extraordinarily high rate of stamp duty that prevails in Victoria in relation to some of the most important subjects; the highest in the State for a long time.

The lack of equity and arbitrariness are characteristics which pertain to most stamp duties when one considers them in relation to the impact on individuals or on efficient allocation of resources. The Opposition supports the measures of relief that have been promised by the Government and provided for various activities in the commercial community by this Bill.
So that I do not repeat myself in the Committee stage, I shall take a broad brush approach to a number of matters. It is appropriate to do that because this Bill involves a multiple of different taxes.

Clauses 16 and 37 should be considered together. Clause 16 removes the first home buyer exemption which usually benefited young married couples. Clause 37 provides comprehensive exemption from stamp duties on transactions between a man and woman who are or have recently been "living together on a permanent and bona fide domestic basis". We deplore the former but accept that it is part of the Government's reordering of its budgetary priorities in relation to housing. The Opposition will not oppose clause 37 merely because there are more pressing claims for relief from stamp duty. However, it warns the Government that it is opening a Pandora's box of petty, and not so petty, frauds.

It has been said that the State is required to conform with Commonwealth sex discrimination legislation. I doubt that.

The Hon. M. J. Sandon—Does it become a fact after you doubt it?

The Hon. J. V. C. Guest—It has not been strenuously argued by the Government. If the Opposition had more time to make the considerable excursion into the moral and social effects of clause 37, it might possibly have gone so far as to reject it. However, prima facie, it is giving tax relief and that is what Victorians need most.

It could be said that couples who reach the point of buying property together are in a kind of relationship—no matter what one thinks of the institution of marriage—that should be encouraged.

In view of time constraints, I will refer briefly to other clauses. Clause 5 requires payment of the estimated duty when documents are lodged for the comptroller's opinion. In so far as it is a response to some solicitors using the lodgment for opinion process to defer payment on duty, it is such an overreaction that it can only properly be characterised as a grab for revenue.

Its effect will be to remove all pressure on the Government and comptroller to provide prompt assessment and facilitate the finalising of commercial transactions at the Stamp Duties Office, which is already 60 days for leases. Delays are bound to get worse.

I shall not detail the many objections people dealing with the requirements of the Stamp Duties Office have made, but I refer the House to the obvious solution to the problem confronting the Government which the Opposition will correct by a proposed amendment. Most people who take advantage of the lodgment for an opinion have three months to pay the duty, but they will be required to pay up front the estimated duty. The Opposition believes that will answer the allegation of avoidance.

The Bill also contains an ambit provision which is 1 per cent truth, but it is vastly overshadowed by 99 per cent of untruths about the impact on the innocent. The Bill is essentially a grab for revenue under the guise of being anti-avoidance legislation.

Clause 12 is an anti-avoidance measure. The provision will deal extremely harshly with any person holding property in companies over many years. It is so inaccurately aimed at the alleged abuse of tax avoidance that the following illustration would arise under its terms.

If a father owned 2 per cent and his two sons each owned 49 per cent of a company which owned the family farm, which was the only asset of that company, what would happen if the company was insolvent? If, out of a strong sense of responsibility, the owner of the 2 per cent decided to sell his shares to one of the 49 per cent owners for $1, or even to pay them to take the shares, on the condition that the person who then had 51 per cent control would continue to employ the work force that relied on the farm property as a source of employment, that extremely responsible behaviour would be heavily penalised by this measure. If the property were valued at $1 million but the mortgage of the land exceeded that amount, the transfer of the 2 per cent shareholding would increase from 6 cents under current legislation to $55,000. That is absurd and unjust. If the proposed
legislation is not amended by the Government, the Opposition will seek to omit that clause.

Many extraordinary anomalies have been directed to my attention by a solicitor involved in property dealings. An important question arises concerning the position of a bare trustee. The expression "vested in the corporation" used in a number of places in the clause suggests that the person is nothing but a nominee or a bare trustee. There is the matter relating to the value of the gross assets in this Bill, but the original expression was "gross tangible assets". The matter put to me was at what date would there be a need for evaluation? What about rights of appeal and so on?

I would add that there would be an unjust discrimination between trusts and property holders as well as in the case of properties which have been owned for many years in the company structure.

Above all, the Opposition's reason for saying that clause 12 introduces a new tax is that it turns on the notion that control is being transferred. In other words, it is a new tax on the transfer of control instead of a tax on an instrument giving effect to a transfer of real estate. Yet it may not even be an adequately aimed piece of proposed legislation because to obtain 51 per cent of the shares of a company means nothing if the shares happen to be 51 per cent by number but are non-voting shares. It may be that control in many respects, particularly in the sale of major assets, is not obtained without having the power to amend the articles by having 75 per cent of the shares.

Therefore, it is a very inadequately drawn piece of proposed legislation for purposes which are quite speciously stated.

Clause 14 must also be rejected. Its effect is to create a new tax on the sale of all businesses that happen to have a real estate component. I shall justify that at some length if there is any attempt on the part of the Government to justify the unjustifiable.

Clause 15 has been amended as a result of the Opposition's strenuous objections before the matter reached another place to a form which, I am advised by those who deal with the legal affairs of people buying and selling real estate, whether it be as a business or isolated transactions, is acceptable; although the Opposition had some concern that some provisions were to come into effect on 1 December. People who are concerned with this particular clause, namely, legal practitioners, have been thoroughly circulated by the Law Institute of Victoria and should be well aware of any problems that might otherwise have arisen.

Clause 24 must also be rejected as a new taxing provision that is both unjustified and certain to have unintended consequences that are unjust and damaging to businesses—to the extent that it can be made to work.

It purports to treat the securing of the right to redemption of redeemable preference shares as the equivalent to the securing of debt so that stamp duty on mortgages is applicable.

It is clearly a new tax because redeemable preference shares are plainly equity rather than debt. And there are other objections: the contemporary practice at which the clause is aimed is already moribund. Recent income tax amendments have eliminated the attraction of redeemable preference shares issues and the dividend tax imputation from 1987-88 will further reduce the advantages of preference share issues substituted for debt.

It will catch virtually all conventional redeemable preference share issues because the articles of association will normally contain the provision, "under which payment to a holder of the shares is secure". Even an everyday written contract to sell redeemable preference shares may be caught. Again, a charge on assets is not necessary for the payment to be "secured" by the agreement.

The determined tax avoider will be the very person who may be untroubled by the provision. Apart from any ex-Victorian manoeuvre it would be possible for the
"arrangement in writing" for security to apply only to 99·9 cents in the $1 of the amount to be repaid and thus be outside the terms of the provision, yet nearly all of the quasi debt would be adequately secured.

The other amendments can fairly be described as technical or consequential. Some are open to the criticism that they should never have been necessary and that the credibility of the Government as a taxing authority and as a management team is further undermined. However, some are very sensible. One of those is clause 8, which allows duty stamps to be cancelled by a witness as well as a person executing a document.

The Opposition also foreshadows an amendment to clause 2 (3) because of its retrospectivity and errors made in last year's amendment to the Stamp Act. The Stamp Duties Office nonetheless sent out the wrong advice to people on their obligations and in effect charged them what it had expected last year's legislation to entitle it to charge, but it was wrong. Unfortunately, when the Stamp Duties Office discovered it was wrong, it simply set about having a retrospectivity amendment inserted in this Bill and it did not write to those people affected and explain the problems that had arisen and suggest that they could make claims for refunds. It explained that the retrospectivity amendment was aimed at tidying up what was little more than a clerical error. It simply went about rectifying the error at the expense of taxpayers to the tune of $300 000 over the past year.

The Opposition does not accept that retrospectivity in those circumstances, if ever there might be some circumstances in which the Opposition would.

The Hon. W. R. BAXTER (North Eastern Province)—If one believed everythine the Treasurer said in his Budget speech, the Bill before us now would be a very innocuous measure indeed. In fact, it masquerades as something that it is not. It masquerades simply as a Bill to provide for stamp duty relief in certain cases; to remove the concessions for first home buyers; to extend exemptions to de factos; and one or two other matters about which there could be no contention.

As Mr Guest eloquently outlined, the Bill goes much further than that and attempts to put restrictions on citizens who in good faith arranged their affairs so as to attract the minimum amount of tax and remain within the law, but this Bill is attempting to stylise that as some devious form of tax abuse.

I resent the fact that people who have entered into transactions in good faith are now being considered by the Government to be tax avoiders. Although I do not want to protect or endorse any contrived situations that are created for no reason other than avoiding stamp duty, I certainly do not want to trammel on people's rights to arrange their affairs in a manner which suits them. If this Bill were passed it would interfere with the right of people to arrange their affairs in a manner that suits their family situations, not as a contrived device but simply for the purpose of avoiding the attraction of stamp duty.

I refer especially to clause 15, which goes to the matter the House dealt with twelve months ago when the Stamps Act was amended. Clause 10 of that amending Bill was rejected on the basis that it aggregated a series of transactions, even though those transactions could amply be demonstrated to stand alone and to be independent of each other or to be coincidental.

The undertaking that I thought we had at the time was that the Treasurer would seek negotiations on the matter and if there was a demonstrable abuse, the National Party and Opposition would be prepared to examine methods of overcoming that abuse, but we were not prepared to have transactions aggregated just because that happened to be a revenue grab that suited the Government. Unfortunately, I do not believe those negotiations took place and clause 15 of this Bill goes further than the rejected clause 10 of the last Stamps Bill. I am glad the matters were corrected in another place to overcome the objectionable features of clause 15.

I shall deal with the Bill only briefly and indicate that I am supporting the amendments to be proposed by Mr Guest, as well as voting against clauses 16 and 37. Clause 5 is a
harsh remedy for a perceived abuse and it could be more fairly executed by requiring lodgement prior to the due date and by smartening up the administration of the Stamp Duties Office if the delays in assessing duty are such that it is costing the Consolidated Fund revenue. That is a matter of administration. It should not be a matter of forcing people to pay stamp duty prior to its having been assessed just on the basis that the office cannot do its work expeditiously.

Mr Guest has dealt at length with clause 12 concerning conveyance duty where the land is owned by a corporation and the shares, not the land, are sold. I share Mr Guest’s contention that that is simply a new form of tax. It is a tax that has not been levied in the State before and it is attempted to be introduced in this Bill as if it happened to be a coincidental extension of what we have already. It is not. It is a brand new tax and it should be rejected as such.

Similarly, clause 14 catches chattels where they are sold separately to an associated person. There is every reason to imagine in certain transactions that chattels could be sold genuinely and independently to another person who might be some sort of a connection that came within the definition of associated person. I shall be happy to join Mr Guest in rejecting that extension of taxation.

Clause 16 abolishes the exemption for first home buyers. The National Party proposes to vote against that clause. The Labor Government introduced exemptions of stamp duty for first home buyers. The purchase of homes is increasingly difficult for young people. Many couples plan on the basis that this exemption will be available to them and now it is being withdrawn.

The Bill suggests 1 November as the operative date, which would make this retrospective legislation, and I am glad that the Government has an amendment which means that the commencement is 1 January. That is a modest pull back, I suppose. Certainly, I believe it is a total abrogation of an undertaking given by this Government and it is little wonder that the people believe politicians break their promises. This is a blatant breaking of a promise made by the Government.

Clause 37 deals with de facto couples and extends to de facto couples the same exemption for stamp duty purposes that applies to married couples. This is just another example of the desire of the Government to change the face of Australian society completely. If people wish to live in a de facto relationship that is their business, but they should not expect thereby to be accorded the same privileges that are extended to married couples when they are not prepared to shoulder the responsibilities that apply to marriage. The National Party will vote against clause 37.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

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

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

1. Clause 2, lines 12 and 13, omit sub-clause (3).
2. Clause 2, page 2, line 1, omit "27" and insert "24".
3. Clause 2, page 2, line 3, omit "34" and insert "31".
4. Clause 2, page 2, line 5, omit "Sections 5 and 12 come" and insert "Section 5 comes".
5. Clause 2, page 2, line 6, omit "13 and 33" and insert "12 and 30".

The suggested amendments were agreed to, and the clause was postponed.

Clauses 3 and 4 were agreed to.
Clause 5

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

1. Clause 5, line 21, after “sub-section (1)" insert “more than two months after the execution of the instrument”.

2. Clause 5, line 28, after “it” insert “being facts known to the person or which reasonably ought to have been known to the person”.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 6 to 11.

Clause 12

The Hon. J. V. C. GUEST (Monash Province)—I move:
That it be a suggestion to the Assembly that they make the following amendment to clause 12: omit this clause.

The suggested amendment was agreed to, and the clause was postponed.

Clause 13 was agreed to.

Clause 14

The Hon. J. V. C. GUEST (Monash Province)—I move:
That it be a suggestion to the Assembly that they make the following amendment to clause 14: omit this clause.

The suggested amendment was agreed to, and the clause was postponed.

Clause 15 was agreed to.

Clause 16

The Hon. D. R. WHITE (Minister for Health)—I move:
That it be a suggestion to the Assembly that they make the following amendment in the Bill:
Clause 16, line 11, omit “1 November 1986" and insert “1 January 1987”.

The purpose of the amendment is to avoid any suggestion of retrospectivity in this measure.

The Hon. W. R. BAXTER (North Eastern Province)—I reiterate that the National Party is opposed to this clause for the reasons that I outlined during my second-reading remarks, and proposes to vote against it.

The suggested amendment was agreed to, and the clause was postponed.

Clauses 17 to 23 were agreed to.

Clause 24

The Hon. J. V. C. GUEST (Monash Province)—I move:
That it be a suggestion to the Assembly that they make the following amendment to clause 24: omit this clause.

The suggested amendment was agreed to, and the clause was postponed.

Clauses 25 to 36 were agreed to.

Clause 37

The Hon. W. R. BAXTER (North Eastern Province)—I indicate that the National Party will oppose the clause and will call for a division, if necessary, for the reasons I advanced in my remarks during the second-reading debate.

I also add that the defeat of this clause will not cost the Government money. There will be no cost to the consolidated revenue. In fact, it will be adding to the consolidated revenue because exemptions will not be given in certain of these cases.
The Hon. J. V. C. GUEST (Monash Province)—I reiterate that, although this involves complex issues of social policy and philosophical views, perhaps in addition to its other obvious narrow fiscal significance, we do not wish to be taken as stating a view on those wider issues, and we support relief of taxation in circumstances which could be quite justified.

The Committee divided on the clause (the Hon. M. J. Arnold in the chair).

Ayes 29  
Noes 5  
Majority for the clause 24

AYES
Mr Baxter  
Mr Connard  
Mrs Coxsedge  
Mr Crawford  
Mrs Dixon  
Mr Granter  
Mr Guest  
Mr Henshaw  
Mrs Hogg  
Mr Kennan  
Mr Kennedy  
Mrs Kirner  
Mr Lawson  
Mrs Lyster  
Mr McArthur  
Mrs McLean  
Mr Macey  
Mr Mier  
Mr Miles  
Mr Murphy  
Mr Pullen  
Mr Reid  
Mr Storey  
Mr Van Buren  
Mrs Varty  
Mr Ward  
Mr White

NOES
Mr Dunn  
Mr Hallam  
Mr Wright  

Tellers:
Mr Baxter  
Mr Evans

The remaining clauses were agreed to.

Progress was reported, and the suggested amendments and the amendments were reported to the House and adopted.

It was ordered that the Bill be returned to the Assembly with a message intimating the decision of the House.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (AMENDMENT) BILL (No. 2)

The debate (adjourned from the previous day) on the motion of the Hon. D. R. White (Minister for Health) for the second reading of this Bill was resumed.

The Hon. HADDON STOREY (East Yarra Province)—The Bill makes a number of amendments to the Construction Industry Long Service Leave Act. Most of the provisions are sensible and practical and will facilitate the proper working of the legislation. For instance, it provides for the payment of long service leave to be on a two-monthly basis in lieu of a one-monthly basis. This will assist industry and reduce the cost of administration.
The Bill also broadens the scope of the exemption provisions in section 28 of the principal Act. The new provision will allow the board to exempt an interstate employer who has workers in Victoria from the requirement to pay long service leave charges if the board is satisfied that a similar scheme is operating in the employer's State. That will facilitate the operation of the scheme in both States. There is a provision relating to services that were provided prior to 1 February 1977 and provisions were inserted in the original Act to protect the funds from potentially large claims in its infancy. It is no longer necessary to maintain those provisions.

The one clause with which the Opposition is concerned is clause 7. It provides that the Minister for Labour and the Minister for Public Works may enter into an agreement under reciprocal arrangements in respect of workers who are or have been carrying out construction work for the Public Works Department. The idea of the clause is that there should be portability of long service leave between workers in the Public Works Department carrying out construction work and workers in the construction industry not covered by the Act.

The Opposition opposes that concept. It believes it is not necessary and that it has the potential of causing flow-on effects, because the conditions which apply with long-service leave for workers in the public sector and the Public Works Department are different and much more generous from those applying to workers in private industry. The Opposition is concerned that the net result of the proposition will be flow-on effects which could lead to the general provisions of the public sector being adopted right throughout the private sector. This State and employers cannot possibly afford for that to happen.

As well as that, there are only about 300 employees in the construction industry of the Public Works Department, whereas there are many times more that number in the private sector who are not covered by the provisions of the principal Act because the provisions of the principal Act cover contractors and their employees.

Many people are employed by large companies involved in construction work. Industry is under tremendous cost burdens today, and Australia is battling to try to maintain its position in the world. It will make it more difficult for industry if further burdens are placed on private enterprise.

The Housing Industry Association has directed the attention of the shadow Minister, the honourable member for Hawthorn in another place, to the fact that in one case the Construction Industry Long Service Leave Board used definitions from the payroll tax and WorkCare legislation to define the word "subcontractor" for long service leave purposes. The Opposition believes that is wrong.

The Construction Industry Long Service Leave Act has its own definitions and the board should be concerned only about those provisions and nothing more. It is clear enough that it is not in the best interests of the State to provide portability in this way where different conditions apply between the public sector and the private sector. For that reason, my party will oppose clause 7 in the Committee stage. Apart from that, the Opposition supports the Bill.

The Hon. R. M. HALLAM (Western Province)—The Bill seeks to amend the Construction Industry Long Service Leave Act. It seems to do that in four particular ways, three of which the National Party is prepared to support; it will not support the fourth. In the first instance the Construction Industry Long Service Leave Board under the proposed legislation will be able to pay workers who qualify for long service leave the rate of pay which applies at the time the leave is taken, as distinguished from the rate of pay which would apply at the time the leave became available. That is an important distinction. It has been abused broadly across industry.

In previous days throughout industry it was possible to apply the rate of pay of long service leave as at the date upon which it became available. The problem with that is that, with inflation, it became of benefit to the employer to defer the leave being taken. Because
leave is taken at a time which is at the mutual arrangement of the employee and the employer, this placed an unfair burden on the employee. It has been abused widely.

The National Party is happy to support the principle that when long service leave is taken it should be taken at the rate of pay applying at the time. On top of that, the Bill seeks to alter provisions relating to the payment period and allows employers to pay on a two-monthly basis, rather than a monthly basis. As someone who has struggled to complete those forms every month, I am delighted to see that initiative being taken. I know those who face the same problems will also be pleased about the initiative.

The Bill has provisions relating to employers who bring personnel from interstate and are required, under the laws of the State from which they come, to make payments into funds in that State. Obviously, if the Bill were applied rigidly there would be a duplication. It is a pragmatic measure.

The National Party is unable to support the provision relating to reciprocal agreements which would become available at the discretion of the Ministers involved to provide transportability of benefits where employees are transferred or seek employment in another sector, in other words, where employees are moving from the Public Works Department Construction Group into the private sector or vice versa.

On the surface it appears unfair to differentiate between service built up in the private sector compared with service in the public sector. The awards are already different in those areas. Long service leave at the rate of thirteen weeks becomes available after fifteen years' service in the private sector, but long service leave of thirteen weeks is an entitlement after ten years' service in the public sector. There is already a differentiation between the public and private sectors. To suggest that the proposed legislation is simply overcoming an inequity is misleading.

The concept of long service leave is to reward long and faithful service. That concept is destroyed by the notion of portability. It is a contradiction in terms. The National Party was prepared to concede that where an industry has short-term employment or where employment is spasmodic by nature, there should be some dispensation or consideration given, and they are the conditions applied in the building industry in the private sector. In that sector, in particular, there is an argument for portability of benefits.

The National Party did not oppose that concept when first introduced, but to take that one step further and apply the same principle to the public sector takes on a different hue. The National Party believes it is a different situation on two grounds: firstly, where long service leave benefits are more attractive anyway, and secondly, where employment in the public sector does not have the same spasmodic or itinerant nature as employment in the private sector.

The concept of portability in long service leave in the building industry was introduced specifically and precisely to recognise the spasmodic nature of that employment. The National Party believes that cannot be applied to a sector of the industry where those conditions do not apply. It is on that basis that it is prepared to support the Bill with the exception of clause 7, relating to transportability of long service leave.

Once the concept of transportability is taken away from that sector where Parliament agreed it was applicable and is applied to other sectors, it will open the door to a range of claims which, on top of the cost spiral, will be an additional burden on industry. It is on those grounds that the National Party cannot support clause 7.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2
The Hon. D. R. WHITE (Minister for Health)—I refer to a comment made by an honourable member in another place during debate on the Bill.

The honourable member referred to the Construction Industry Long Service Leave Board’s 1984–85 annual report where it was stated that the board had used its discretionary power to allow certain workers to retain service credits accrued in the private sector while they were working in the Public Works Department Construction Group.

This discretionary power falls under section 34 (1) of the Construction Industry Long Service Leave Act and only relates to recognition of continuous service credits previously accrued. It does not allow the board to count service in the construction group as work in the construction industry for the purposes of accruing long service leave entitlements.

The Hon. HADDON STOREY (East Yarra Province)—I thank the Minister for giving that explanation as undertaken by the Minister in another place.

The clause was agreed to, as were clauses 3 to 6.

Clause 7

The Hon. HADDON STOREY (East Yarra Province)—I shall not go through the matters I addressed in my second-reading speech, but I place on the record that the Opposition is opposed to the clause, for the reasons I gave during my second-reading speech, and will vote against the clause.

The Hon. R. M. HALLAM (Western Province)—I shall not canvass the arguments that I put earlier to the House. I indicated in my earlier remarks that the National Party will oppose the clause.

The clause was negatived.

The Bill was reported to the House with an amendment, and passed through its remaining stages.

PORT AUTHORITIES (AMENDMENT) BILL

The debate (adjourned from November 26) on the motion of the Hon. J. H. Kennan (Attorney-General) for the second reading of this Bill was resumed.

The Hon. ROBERT LAWSON (Higinbotham Province)—The Port Authorities (Amendment) Bill amends the Transport Act and has several purposes. These are:

(a) to streamline commercial operations in ports; and

(b) to facilitate the implementation of major Government projects associated with ports.

When the Government indicates its intention to streamline the operations of anything, the warning bells should sound and orange lights go on indicating the necessity of caution, because the general result of such streamlining by the Government is chaos. The Opposition does not expect much difference with the proposed legislation.

The Opposition does not intend to oppose the Bill, although it does have four amendments to make during the Committee stage.

Most of the amendments are cosmetic. However, one important aspect of the Bill is to remove from the Act the pejorative title of “Harbor-master”, because apparently the-socialist sisterhood of the Labor Party has decided that “Harbor-master” is unsatisfactory and sexist. The proposed legislation will replace that title with “authority officer”. It seems a pity that this ancient title will disappear from the legislation. However, be assured that
if the harbor master in the port of Melbourne wishes to continue to call himself "harbor-master" then he shall, but the title will be deleted from the Act and any reference to it is deleted from the proposed legislation.

The Bill provides for a second representative from Western Port on the Port of Melbourne Authority and it is this part of the Bill that the Opposition intends to oppose. I foreshadow that I shall be moving amendments to that clause during the Committee stage.

So far as the Port of Melbourne Authority is concerned, it has been subjected to the ministrations of the Government since 1982 and it is now in desperate straits. I refer the House to the annual report of the Port of Melbourne Authority for the year ended 30 June 1986, and to the profit and loss statement. It tells a sorry tale of what has happened to the port authority since it was taken over by the "mandarins" who were to turn it into a streamlined modern operation.

The condition of the authority is in desperate straits and this is demonstrated clearly in the profit and loss statement. The operating revenue for 1986 was approximately $92 million and for 1985 it was almost $86 million, so the operating revenue was somewhat up on the previous year.

The operating expenses for 1986 were $67 million and for the previous year they were $64 million, so that operating profit before abnormal items and finance charges was $25 million in the 1986 year, whereas it was only $21 million for the previous year.

Then the crunch came because the loan expenses, the net interest expenses and the foreign exchange losses totalled $30 million for 1986. Last year there was a loss of $25 million. Honourable members can see that this will considerably cut down any profits gained by the authority.

In fact, in 1985 the authority made a loss of $6 621 000 and in 1986 it made a small profit of $1 741 000. Having got that far, its problems were not yet over because last year, after the public authority dividend of $6 million had been removed from the finances of the authority, it was left with a deficit of $5 494 000. That had to be carried over to this year and so in the column for this year there is a loss of $5 494 000.

That figure is put against the profit of $1 741 000 that was made this year and the column there shows a transfer from the general reserve funds of $15 million. When the loss of $5·5 million was subtracted from the transfer from the general reserves it left a total available for appropriation of approximately $11 million.

Then the trouble commenced again. The Government was a little more lenient on the authority this year than it was last year because it took only $5 million for the public authority dividend out of the accumulated losses. So, after the transfer of $15 037 000 from the general reserve funds the authority has been left with retained earnings of $6 284 000.

This illustrates clearly the desperate position in which the authority finds itself because year by year it is being drained, with $6 million last year and $5 million this year being taken by the Government for its public authority dividend. One cannot do this sort of thing to an authority or a firm— one cannot take these enormous amounts of money away year after year—without affecting its operation and financial standing. The authority is already heavily in debt and has lost $6 million on foreign exchange—things are going from bad to worse!

The authority will be further interfered with by the Government because of this nonsensical business of changing the title of the harbour master to something else and by putting another person on the board in order to make things worse—so far as we can understand it.

The best thing for the Government to do is to leave the Port of Melbourne Authority alone so that it may get on with its business and not to take these enormous sums of money away from it. Let it build up its reserves and let it pay off its debts and in the
normal course of business, let it make a profit so that it can put the money towards paying off its debts.

This is not happening. The public authority dividend is taken by the Government year after year. It has totalled $11 million in the past two years. We do not know what the end will be, although we know it will not be good.

There are a number of matters I shall refer to in the Bill. The Government claims that it will repeal the outmoded provisions. Dealing with the need for each authority to provide a fit and convenient public office for those who must attend such an office, the new price is included in the Bill and the Opposition has no objection to this because obviously the authority must have an office of some kind.

The Port of Melbourne Authority Act provides that the chairman of the authority cannot take other employment, and he cannot be an employee of the authority itself. This is to be changed and the chairman will be able to work part time. The Opposition has no objection to this; it does not intend to oppose this provision.

It will be easier after the proposed legislation is passed for the authorities to buy and sell land and form trusts for commercial purposes. It makes me a little uneasy that the authorities will be able to sell land because the Government does not have a good record in the matter of selling public land. The Opposition believes once this Bill is passed that it will be a further green light for the Government to sell off its public assets without consideration of the public interest in it as it has done in the past.

The Bill provides for procedures that will streamline the setting of tolls, rates and charges. The Government claims that at present the system is unduly complex and the Opposition has no argument with that statement. If it can streamline these things the Opposition has no difficulty with the Bill.

As I said before, the Opposition is not enthusiastic about the Bill as a whole and it does not intend to oppose it but there are certain clauses to which we foreshadow that we have amendments, which we believe will eliminate those provisions that the Opposition finds obnoxious.

The Hon. D. M. EVANS (North Eastern Province)—This is the latest Bill dealing with the three port authorities in Victoria and to some extent it has come into existence because of the defeat of the previous Bill that proposed to amalgamate the Port of Melbourne Authority, the Port of Geelong Authority and the Port of Portland Authority. That proposal found no favour with any organisation or with many clients of the ports and certainly not with the National Party or the Liberal Party.

The Minister's second-reading speech gives a clear indication as to why that may have been so, because it says that ports have a most significant involvement in the international development of marketing and trade.

Our ports are a vital part of our trading links with the world and trade is the lifeblood of Australia. Efficient trade and efficient movement of goods, particularly outwards, has immense reflection on our ability to pay our way as a nation.

The $15 billion trade deficit that is currently concerning the country, and which should concern the Federal Treasurer and Prime Minister, can be vitally affected by Australia's reputation as a reliable supplier. As the Minister's second-reading speech stated, ports have an extremely important international involvement in the marketing and development of trades. They are an essential link.

The way that Victoria's ports are operated has an influence on overseas trade, our prosperity as a nation and our ability to survive as a major trading nation. Any changes to port authorities must be right from the start and must have the support of all the client organisations. The previous proposed changes did not; however, the amendments in this Bill do.
The National Party spokesman for transport, the honourable member for Lowan in another place, Mr Bill McGrath, wrote to the chairmen of the three port authorities prior to 17 November last. He also sent a copy of the Bill and the Minister's second-reading speech. Instead of receiving a letter or some contact from those three gentlemen, the honourable member received a letter from the Minister stating that all of the chairmen of the port authorities agreed with the proposed legislation. Clearly, those men were gagged and not permitted to express any view but the Minister's view.

The Bill provides for three separate authorities, and it has no direct opposition, with the exception of the provisions in clause 7. The National Party will not impede the passage of the Bill, but during the Committee stage it will closely consider clause 7.

The motion was agreed to.

The Bill was read a second time, and it was ordered that it be committed later this day.

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

That it be an instruction to the Committee that they have power to consider a new clause amending the Land Acquisition and Compensation Act 1986 to introduce updated references regarding acquisition powers upon the operation of that Act.

The motion was agreed to.

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

Clause 1 was agreed to.

Clause 2

The Hon. ROBERT LAWSON (Higinbotham Province)—I direct the attention of the Committee to the four amendments standing in my name. Amendments Nos 1 and 2 are consequential on the passage of amendments Nos 3 and 4. If they are not passed, there is no point in moving amendments Nos 1 and 2.

The Opposition suggests that clauses 6 and 7 be omitted from the Bill. Those clauses would permit the Government to appoint a representative from the port of Western Port to the Port of Melbourne Authority. The Port of Melbourne Authority is being run in an efficient manner. If the Government left it alone, it could make a profit. It is the largest and most efficient container port in Australia and the Opposition believes these clauses will introduce an element of destabilisation into the authority. The Opposition is supported by the Melbourne Chamber of Commerce in its intention to excise these clauses. For these reasons, I move:

1. Clause 2. line 9. omit "33" and insert "31".
2. Clause 2. line 11. omit "33" and insert "31".

The Hon. D. M. EVANS (North Eastern Province)—As I have indicated, the National Party is concerned about clause 7. As I understand it, the four amendments proposed by Mr Lawson remove proposed section 7a. I am persuaded by the logic of Mr Lawson, and the National Party supports the amendments.

The Hon. B. A. MURPHY (Gippsland Province)—I oppose the amendments as they are completely ridiculous. In the interests of decentralisation and allowing country people to have a say in the running of country ports, the amendments should not be agreed to. Mr Lawson did not give a reason why a representative from the port of Western Port should not be appointed to the Port of Melbourne Authority.

In recognising the contribution of country people, the Minister for Transport has appointed an advisory committee for the Gippsland area and the Government now wants to take it a step further and appoint a representative from the port of Western Port to the Port of Melbourne Authority. If the Opposition does not agree with that, I shall ensure that the people of Western Port know.
The Hon. J. H. KENNAN (Attorney-General)—Mr Murphy has quite accurately reflected the position of the Government; I cannot understand why the Opposition wants to deprive the local community of a representative on the Port of Melbourne Authority.

The Hon. ROBERT LAWSON (Higinbotham Province)—On the same basis, why is there not a representative from the ports of Geelong and Portland on the Port of Melbourne Authority? I intend to proceed with the amendments.

The Hon. J. H. KENNAN (Attorney-General)—The answer to Mr Lawson is that the Port of Melbourne Authority does not administer the ports of Geelong and Portland but it does administer the port of Western Port. That is why the Government wants a representative of the port of Western Port on the Port of Melbourne Authority. The analogy with the ports of Portland and Geelong is misconstrued. The Opposition is denying local representation.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 3 to 5.

Clause 6

The Hon. ROBERT LAWSON (Higinbotham Province)—For the same reasons as I stated before, I invite the Committee to vote against this clause.

The Hon. J. H. KENNAN (Attorney-General)—I make it clear that the Government will lose no opportunity of pointing out to the people of Western Port what the opposition parties have done to deprive them of representation on a body that administers an important matter relating to that region. It is a denial of regional representation. The Government is in favour of that regional representation for the cogent reasons Mr Murphy has expressed, and the opposition parties have made it clear that they are insistent on using their numbers to deny the Western Port region additional representation on that body.

The clause was negatived.

Clause 7

The Hon. ROBERT LAWSON (Higinbotham Province)—For the reasons stated, I also invite the Committee to vote against this clause.

The clause was negatived.

The remaining clauses were agreed to.

New clause

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

1. Insert the following Part heading and new clause to follow clause 82:

   "Part 7—AMENDMENT OF LAND ACQUISITION AND COMPENSATION ACT 1986"

AA: The Schedule to the Land Acquisition and Compensation Act 1986 is amended as follows:

   (a) in the item relating to the Port of Geelong Authority Act 1958—
       (i) omit the proposed amendments to section 25 (2); and
       (ii) in proposed section 27A (1) after "Act" insert "or, with the approval of the Minister, for any other purpose"; and
   (b) in the item relating to the Port of Melbourne Authority Act 1958—
       (i) after proposed section 48 (1) insert—
           "(2) For any purpose that is approved by the Minister, the Authority may purchase by agreement, or acquire compulsorily any land or any easement, right or privilege in, over or affecting water, if the Minister so approves."; and
       (ii) in proposed section 48 (2), for "(2)" substitute "(3)"; and
       (iii) omit the proposed amendments to section 49 (1); and
in the item relating to the Port of Portland Authority Act 1958, in proposed section 18 (1), for "for the purpose of enabling or facilitating the establishment of any trade or industry in the vicinity of the port" substitute ", with the approval of the Minister, for any other purpose".

This amendment overcomes the inconsistency between the Bill and the amendments made to the Port of Geelong Authority Act, the Port of Melbourne Authority Act and the Port of Portland Authority Act by the schedule to the Land Acquisition and Compensation Act 1986.

The amendments made by the Bill to the three port authority Acts in clauses 16, 46 and 69 allow the port authority to acquire land for any purpose approved by the Minister, regardless of whether acquisition is for the purposes of the port authority Acts.

The amendments made to those Acts by the Land Acquisition and Compensation Act, which has just been passed, will have the effect of removing these additional acquisition powers, once that Act comes into operation. Unless the Land Acquisition and Compensation Act is now amended as proposed, the port authorities will be restricted in the flexibility that the Government intended to give them under the Bill to be able to carry out projects associated with port activities but not expressly covered by the port authority Acts, the management of which has now been placed in the hands of port authorities.

This amendment endeavours to restore the position that was intended prior to the passing of the Land Acquisition and Compensation Act. It was a question of whether the amendments were made by that Act or by this Bill. It was decided that, because they related to the ports, it was more logical to put them in this Bill and to amend the Act that has just been passed, rather than doing it the other way around.

The Hon. A. J. HUNT (South Eastern Province)—I understand what the Attorney-General is saying. Regardless of whether the powers are in the Portland and Geelong port authority Acts at the moment, it seems very wide and unusual—perhaps almost extraordinary—for an Act to give a public authority power to compulsorily acquire not only for its own purposes but also for other purposes.

The Hon. J. H. Kennan—We could report progress.

The Hon. A. J. HUNT—That would be helpful, but I am raising the matter because it would assist in our consideration if the Minister could answer now.

Regardless of whether the power was there, it is a most unusual course because Parliament has always kept tight control on acquisition powers. It appeared that the schedule to the Land Acquisition and Compensation Act was bringing the position of the port authorities into line with that of all other statutory authorities, and this amendment seems to be restoring what was in any event an anomaly.

That is the way it appears at first glance, but I make it clear that that is on a very quick reading. I have not had time to consider all of the implications. If the Minister can help us, I shall be grateful.

The Hon. J. H. KENNAN (Attorney-General)—I thank Mr Hunt for his contribution. It is wider than just ports because there may be projects, such as the Bayside development, that are not directly related to the operation of the port where the port authorities and other authorities will want powers that are associated with the port but do not relate to the port itself.

The Hon. A. J. Hunt—Like the World Trade Centre?

The Hon. J. H. KENNAN (Attorney-General)—Yes. I suggest that progress be reported.

Progress was reported.
COMMONWEALTH POWERS (FAMILY LAW—CHILDREN) BILL

This Bill was returned from the Assembly with a message relating to an amendment.

Assembly's amendment:
Schedule, after “Community” insert “Welfare”.

On the motion of the Hon. D. R. WHITE (Minister for Health), the amendment was agreed to.

RETIREMENT VILLAGES BILL

This Bill was returned from the Assembly with a message relating to amendments.

It was ordered that the message be taken into consideration later this day.

WATER ACTS (FURTHER AMENDMENT) BILL

The debate (adjourned from earlier this day) on the motion of the Hon. D. R. White (Minister for Health), for the second reading of this Bill was resumed.

The Hon. R. J. LONG (Gippsland Province)—This is the second Bill this session amending the Water Act. In fact the last clause of the Bill amends the Bill that was passed earlier in this session.

The Bill deals with a number of unrelated matters. It has been canvassed widely by my colleague in another place and, in view of the constraints of time, I inform the House that the Opposition supports the Bill.

The motion was agreed to.

The Bill was read a second time, and passed through its remaining stages.

AMBULANCE SERVICES BILL

For the Hon. D. R WHITE (Minister for Health), the Hon. C. J. Hogg (Minister for Community Services)—I move:

That this Bill be now read a second time.

I seek leave to have the second-reading notes incorporated in Hansard.

Leave was granted, and the notes were as follows:

This Bill enacts the legislative framework for the restructuring of ambulance services in Victoria. It sets out to make ambulance services more accountable to the communities they serve.

Ambulance services perform an essential role in the provision of health care in this State. This encompasses emergency care and transport and patient care, assistance in first aid training, stand-by services at certain public events, and assistance in counter-disaster planning and operations. There are sixteen major ambulance services operating in Victoria. A seventeenth ambulance service is provided on a voluntary basis by the Alexandra and District Ambulance Service.

Honourable members will recall that the Public Bodies Review Committee commenced a comprehensive review of the ambulance services in this State in December 1983. In its final report on Victoria’s ambulance services tabled in October 1984, the committee acknowledged the high quality of ambulance services received by the people of Victoria. Nevertheless, it noted that serious problems did exist which would be exacerbated unless strong action was taken. The committee went on to put forward a number of constructive recommendations to improve the efficiency and effectiveness of our ambulance services.

The major proposals of the committee related to organisational structure. Among the more important was its recommendation that the sixteen major ambulance services now existing should be replaced by five autonomous non-metropolitan, and one metropolitan ambulance service under boards of management. This Bill will enable effect to be given to that recommendation.
The legislation is the result of a great deal of work by an implementation committee which included representatives from existing ambulance services, the Victorian Ambulance Services Association, the Ambulance Employees Association, the Victorian Ambulance Administrative Officers Association, the Victorian Ambulance Superintendents Council, and the Ambulance Officers Training Centre.

I take this opportunity to thank the members of the implementation committee and its chairman, Mr Robert Miller, for their contributions to the formulation of this Bill.

The heart of the Bill is its provisions which deal with the restructuring of ambulance services in Victoria. The provisions concerned are modelled on similar mechanisms contained in the Water and Sewerage Authorities (Restructuring) Act 1983. Like that Act, the Ambulance Services Bill will enable new services to be established, and existing services to be abolished, by administrative arrangement.

New services established under the Bill will be bodies corporate, and appropriate provision is made for Orders in Council to deal with related matters such as the transfer of assets and liabilities, and the appointment of an initial regional superintendent. The new regional ambulance services will have their own committees of management. All the new services will come within the umbrella title of "Ambulance Service Victoria".

The Government, of course, recognises the importance of continued local involvement in the decision making process and will ensure that the interests of the communities to be served by the regional ambulance services will be reflected in appointments made to the committees of management.

With this in mind, it is the intention of the Government to consult widely before making appointments to the committees with the aim of having a variety of skills and expertise among their membership.

The provisions enabling ambulance services to be restructured are broadly worded and, indeed, maximum flexibility will be essential during the transitional period bearing in mind that new services will need to be phased in progressively to minimize disruptions to existing services.

Among other things, the Public Bodies Review Committee recommended that the Alexandra and District Ambulance Service should continue to exist as an independent entity. The Government appreciates the unique character of Alexandra and proposes to continue to confer with that service as to its role and future in the context of the restructuring proposals.

The creation of a Victorian Ambulance Board under the aegis of Health Department Victoria is the second key feature of this Bill. As foreshadowed in its response to the report of the Public Bodies Review Committee, the Government, with the support of the relevant ambulance interest groups, has not agreed to the establishment of a separate Victorian ambulance commission as recommended by the committee.

The Government does accept that there is a need for a central focus for ambulance services, but believes that this objective can be achieved without establishing another statutory authority.

The Victorian Ambulance Board located within Health Department Victoria as proposed in this Bill is based on the principles embodied in the ambulance commission advocated by the committee. The proposed board will have twelve members, drawn substantially from people in the ambulance industry. It will act as the central source of advice to the Minister and the chief general manager on ambulance matters.

It will enable ambulance services to participate more directly in, and contribute to, the development of policy within the department. The establishment of the board will ensure that the needs and aspirations of ambulance services receive greater recognition in departmental planning.

Responsibility for the corporate aspects of ambulance services, such as industrial relations, and the coordination of operational activities, including the air ambulance, will be vested in the chief general manager. Nevertheless, in practical terms, these functions and responsibilities will be undertaken by a Director of Ambulance Services.

The director will head the Central Ambulance Unit to be set up within the department to service the board and will exercise those powers delegated to him or her by the chief general manager.

The third feature of the Bill to which I would direct the attention of the House is the proposals relating to the Ambulance Officers' Training Centre. The Public Bodies Review Committee recommended, in part, that the Ambulance Officers' Training Centre should continue to exist, and that it should have major roles in the initial and in-service training of ambulance personnel. This recommendation is taken up in the Bill.

The centre, which already operates as an unincorporated body, will be responsible under the Act for staff training, and various other educational activities associated with ambulance services. As in the case of ambulance services established under the Act, the Ambulance Officers' Training Centre will be incorporated, and governed by a committee of management.

Ambulance services represent a substantial investment by the community in manpower and other resources. It is, therefore, incumbent upon the Government to ensure that these resources are used to the maximum benefit of all Victorians.
The restructuring of ambulance services which will be made possible by the Bill offers many advantages over the present structure of services. These include economies of scale, better career and staff opportunities, improved coordination and use of vehicles, greater flexibility in use of ambulance crews, and reduced pressures on the costs of providing a vital health care service.

The Bill is the result of recommendations made by a Parliamentary committee on which all parties are represented, and the work of an implementation committee whose members typify ambulance interest. The principles on which the Bill are based have been thoroughly canvassed within and have received the substantial support of the ambulance industry.

The Hon. C. J. HOGG—I commend the Bill to the House.

The Hon. M. A. BIRRELL (East Yarra Province)—This is a major Bill that has caused a great deal of public debate and, in some quarters, public controversy. We make it clear from the outset that the Liberal Party, based on the representations made to us and our assessment of the needs of the ambulance industry, does not oppose the Bill but has over the past week sought a number of amendments from the Government, which have been agreed to.

In that context, the Bill is now one that has led to a certain degree of consensus in an area that requires considerable change, and will lead to the alteration of services in some areas.

Honourable members will be aware that the ambulance industry came under a great deal of scrutiny by the Public Bodies Review Committee which, in November 1984, tabled its final report on Victoria's ambulance services. That report has largely led to this Bill although there are some notable exceptions where its recommendations were not picked up by the Cain Government.

At page 8 of that report, the Public Bodies Review Committee concluded as follows:

From its own observations and from the evidence presented to it, the Committee has concluded that on-the-road ambulance operations in Victoria are generally highly effective and that they appear to compare very favourably with ambulance services elsewhere.

The Committee notes the generally high level of professionalism with which the on-the-road operations of the Ambulance Services are carried out in response to calls to emergencies. It appears that response times to such cases are usually satisfactory, the training and operational standards of the emergency crews are of a high standard, and most of the equipment available in vehicles is also of good and reliable quality. As a result, the scope for rapid and dramatic improvement in the effectiveness of service provided to the public is not large: situations or patients not adequately cared for at present tend to be those that are most difficult to treat, because of their isolation, the nature of their illness or accident, or some similar reason.

Despite these reservations, the Committee believes that with a small number of major changes and numerous minor changes, the State's Ambulance Services will be able to achieve considerable gains in the quality of service provided and in the efficiency with which resources are used, without losing some of the present highly desirable characteristics.

Those conclusions, which reflect the major themes of a 400-page report, indicate that after thorough scrutiny an all-party committee did not find the ambulance services greatly wanting but it did believe there was room for some improvement.

I put it in that context because we should pay credit to the existing ambulance services for the outstanding work they have done for the Victorian community over the years and particularly the ambulance services which were established on the basis of being volunteers.

As I shall be discussing in the balance of my speech, the Liberal and National parties have some difficulties with certain parts of this proposal but we are aware of a number of amendments that the Government has agreed to move which reflect the views of people in the community that the original proposal put by the Government simply was unacceptable.
Those amendments are based on the fact that we want to retain the outstanding characteristics of many services, particularly the dedication and local involvement with those ambulance services throughout metropolitan and country Victoria.

From the days when Victoria's first ambulance service was established by the St John Ambulance Association in the 1880s, our services have seen much improvement and expansion. With this Bill, we take a further step forward.

The Liberal Party believes that step must be taken in a cautious manner to ensure that the existing assets of the service are not compromised in any way or somehow run down.

A key aspect of the Bill is the establishment of the Victorian Ambulance Service Board. In addition to that, the existing sixteen major ambulance services will be replaced with five autonomous country boards and one metropolitan board. We make it clear that we do not oppose that broad movement towards reform.

We have consulted in some detail with the Victorian Ambulance Services Association, the Ambulance Employees Association and many individuals who are involved in either working for the ambulance services throughout this State or acting in a voluntary capacity for them.

There is broad support for the Bill—indeed, in many quarters, strong support.

I shall raise a number of concerns. After discussing these with the Minister and Mr Bob Miller, who has taken a guiding role over this Bill, we are pleased with the response that the Minister has promised to give and the amendments that he is soon to move.

The first issue that has been of concern to us is managerial control and, in particular, whether the Chief General Manager of Health Department Victoria will use all of the powers that are given to him by the Bill.

In an extreme, there is always a need for some reserve powers and it would be illogical not to provide them in a Bill; however, the wish of the Opposition is to extract from the Minister for Health comments that indicate how practical the use of those powers will be and whether it really is his intent to delegate those powers to local managing bodies so that there is grass roots management, as currently exists in many areas of Victoria.

The Opposition has spoken with the Minister at length about this matter and, as he is prepared to make those commitments, the Opposition looks forward to those undertakings being given in the Legislative Council.

The second issue that is of concern is the allocation of funding to the proposed Ambulance Service Victoria, as it will be established. The Government has said, on some occasions, that all of these changes have begun within existing resources. That concept flies in the face of reality. There needs to be increased funding in some areas of ambulance services and, even if that is of a short term nature, it would be a nonsense to suggest that a major restructuring can occur and be imposed on existing services without extra funding.

The Minister should come clean on that point and make clear that he will not run down any existing service simply because he is going through a restructuring proposal that would otherwise be logical and legitimate.

The third issue that is of great concern relates to the committee of management that will be established under the Bill. One of the great and admirable characteristics of ambulance services in Victoria, and particularly in rural Victoria, is the involvement of the local communities in those services, either in human terms or financial terms, and that ought to be encouraged. The role of the volunteer is, too often, overlooked and ambulance services deserve volunteer support. In many cases, community involvement is necessary as in the provision of other important health and social services.

In that context, the Opposition welcomes the amendments that have been discussed and which the Government intends to move, which will ensure proper representation of
people on the committees of management to be established under the Act, so that there can be a spread of influence on the direction to be taken by those committees of management rather than there being the potential of having all decision making and all input centralised in one area.

Worst of all would be if decision making were centralised in Melbourne, vis-a-vis country ambulance services.

The fourth issue relates to a specific ambulance service, the Alexandra and District Ambulance Service. It is unique, to say the least, in that it is a volunteer service with extraordinary local community support and backing. The cynics who looked at it at first blush said it was a hangover from the past and should be abolished. It may be a hangover from the past, but it is an element of history that should be kept intact.

It enjoys broad backing from individuals who otherwise may take no interest in an ambulance service. It is effectively cost free for the State but it provides a fast, efficient and popular service and the Minister was a touch cute in his second-reading speech by talking about the Alexandra and District Ambulance Service in terms of preserving its integrity but not quite saying so. After criticisms of that statement were expressed against him personally, he has made it quite clear that he is prepared to go a lot further.

The Opposition seeks an unequivocal statement from the Minister that the service will not be abolished, that it will remain as it is now and that it will not be interfered with. The Opposition looks forward to that statement and believes it vital that it be made.

In addition to that, there needs to be some changes to the Bill to safeguard the position of the Alexandra and District Ambulance Service so that there is no doubt about its legal status. That was supported by the Public Bodies Review Committee and such a move has universal support and there should be provided a universal safeguard. Therefore, the Opposition will be supporting a Government amendment to the Bill that will provide that there will have to be a full inquiry before the abolition of any ambulance service takes place and that such an abolition would have to come before Parliament to be ratified. Such a proposed abolition could always be rejected.

It is an important safeguard that should be adopted on behalf of the Alexandra and District Ambulance Service and, after having discussed the proposition with Mr Granter and Mr Grimwade and members of the National Party, the Opposition believes that anything less than that would be totally unacceptable.

The amendment to clause 23 is vital and the Opposition is pleased that the Government has agreed to amend the Bill. The amendment is based on the existing section 28 of the Hospitals and Charities Act; therefore, the precedent should be followed.

The fifth issue I wish to raise relates to the Peninsula Ambulance Service. Mr Hunt and Mr Ward have made strong representations to me, along with many of my colleagues in another place. The Peninsula Ambulance Service has long been a service that attracts enormous community support on the Mornington Peninsula and is respected well beyond the Mornington Peninsula.

It has to be said that, historically, the Mornington Peninsula has been left out when it comes to obtaining top flight ambulance services. The Mornington Peninsula had to establish the Angel of Mercy helicopter because it was not getting the services that it needed. The local ambulance service had to be beefed up with local support because Ambulance Service Melbourne did not provide enough support. In other words, the people on the Mornington Peninsula did the job that the Government did not do at that time, and which the ambulance service as a whole has not done.

Full regard must be given to that local input and the extraordinary feeling in that area supporting their emergency services.

The Opposition wants to ensure that, with the Government’s decision to amalgamate the Peninsula Ambulance Service into an overall metropolitan service, the essential and
important characteristics of that service are not compromised and not lost. Hopefully, they will be replicated elsewhere and, in doing so, the Opposition seeks from the Government an undertaking in the Legislative Council that there will be proper involvement from members of the Peninsula Ambulance Service on the new committee of management to be established under the Bill, so that the voice of the Mornington Peninsula is well and truly heard and the good thoughts of people on the Mornington Peninsula are acted upon.

The Hon. M. J. Sandon—You support local representation, do you?

The Hon. M. A. BIRRELL—We absolutely support local representation and it is through the Opposition’s effort, Mr Sandon, that it will now be in the Bill.

The Hon. M. J. Sandon—The previous Liberal Party did not support it!

The Hon. M. A. BIRRELL—It was not in the original Bill.

The Opposition has taken up those issues on behalf of the people of the Mornington Peninsula and we will continue to ensure that these people receive the ambulance service that they so clearly need. They have been prepared to contribute their own money over the years to ensure that it is provided.

The sixth matter I raise is a smaller one but it is no less important. It is an issue raised by Mr K. J. Swanson, the Chief Executive Officer of the Order of St John Priory in Australia. The St John Ambulance Association and the St John Ambulance Brigade are voluntary services in the State and enjoy a long and proud history.

Often, when forming proposed legislation, members of Parliament overlook points of detail in a Bill and, unless amended, this Bill would overlook an important point of detail; that is, it would rob the St John Ambulance Association and the St John Ambulance Brigade of the right to use the word “ambulance” in their title.

It is an unintended consequence, to use the common parlance, and I am pleased that the Government has, therefore, agreed to amend clause 40 so that the St John Ambulance Association and the brigade can continue to be called as such.

They were somewhat offended that the only exception given under the clause was that one is allowed to call an animal ambulance service an animal ambulance and they thought that the Order of St John Priory in Australia might be an exception. I thank the Government for seeing the light and including it.

The St John Ambulance Association comprises some 4000 volunteers and 70 vehicles and it deserves the support that Parliament will now accord to it.

These issues are important for the Opposition. I point out, as I did at the start, that fortunately, after what has been a fairly tiring process of consultation for everyone, we have reached a degree of consensus which is admirable. It is fitting that this was done in the Legislative Council. Dare I say it; but in the other place it may not have been achieved. I pay full commendation to those in Health Department Victoria and the consultants in the department for bringing together some conclusions.

The Opposition does not oppose the Bill; it supports the amendments which will improve the Bill substantially.

The Hon. K. I. M. WRIGHT (North Western Province)—I am pleased, on behalf of the National Party, to be debating the long awaited Ambulance Services Bill. It enacts the legislative framework for the restructure for the regionalisation of ambulance services in Victoria.

In his second-reading speech the Minister said it would make ambulance services more accountable. The National Party does not quite see it that way because of the way the system will be changed from elected members to appointed members. It might be fair to say that we are moving from a democratic process to an undemocratic process. It leaves
the system open to abuse for political appointments. This applies to parties of any political persuasion. The current Minister should not necessarily go overboard in that regard.

Most of the ambulance services were established in the late 1940s and 1950s. I think my continuous involvement with the North-West Victorian Ambulance Service since 1951 is well known. Therefore, I guess one might say that I have an interest.

At the outset I commend our ambulance officers for their skill and dedication. When I first became involved with an ambulance service one needed only a certificate of a fairly low degree and one could become an ambulance officer. Now there is a central training school and it is necessary to undertake that training and attain competence before becoming an ambulance officer on the road.

First-class services have been established and maintained. Originally the cost of the ambulance service was shared three ways: a third by the Government; a third by membership subscriptions; and a third by transport fees. Most of the fees involved repatriation cases, workers compensation cases and so on.

We now have sixteen ambulance services with more than 1500 ambulance officers and crews. The Government's decision to establish two-man crews and a 24-hour roster increased the number of staff and the overall costs. At present the Government's contribution towards the running of ambulance services ranges from 10 per cent to 60 per cent. In a way one could say that he who pays the piper calls the tune. I do not know whether that would be the case with those services where the Government contributes only 10 per cent of funding. Those services are mainly in the Geelong area and perhaps you, Mr President, would know about that.

The Victorian ambulance service has more than 600 vehicles. I have a lot of statistics to which I was going to refer but, in the interests of time, I shall not do so. Suffice it to say ambulance service vehicles travelled almost 20 million kilometres in the year 1985–86.

Closer to home, in 1985–86 in the four services based on Bendigo, Echuca, Mildura and Swan Hill, which will be the proposed north-west region, 58 000 patients were transferred and the ambulances travelled 2·6 million kilometres. In that proposed region there will be 178 ambulance officers and 30 administrators, which is a ratio of 6 : 1. There are 80 ambulance vehicles and eleven administrative vehicles, which is a ratio of 8 : 1.

No doubt the National Party representative on the committee, Mr Evans, will have something to say later about these recommendations. At this stage I personally could not see that regionalisation would result in even one less staff member or vehicle overall.

I understand that the Minister now has in mind the transfer of control district staff to the regional office over a period. That may result in some savings. Wide consultation took place in respect of the proposed legislation not only by the National Party, but also by the Liberal Party and others, including VASA—the Victorian Ambulance Services Association.

The services themselves and the unions were consulted. The National Party had discussions with Mr Wayne Simmonds of the Ambulance Employees Association, who is a reasonable and responsible officer. Mr Mia Darveniza, the President of the Victorian Ambulance Services Association, indicated his association's support for regionalisation and the proposed new commission. Most of the services I contacted were of the same point of view. I was rather surprised with that recommendation and I guess that over a period of time they were brainwashed into believing it would be a fait accompli.

I discussed regionalisation with ambulance service superintendents in my province. I point out that the services in that area are efficient and effective. The most senior highly respected Superintendent/Secretary of the Central Victorian Ambulance Service, Mr Jack Rowe, who is nearing retirement, Mr Jim Mason, the Superintendent/Secretary of the Mid-Murray District Ambulance Service, who is an early favourite for a regional
superintendent position and Gerry Thomas, the Superintendent/Secretary of the North-West Victorian Ambulance Service, who has come through a difficult period with flying colours, were also consulted.

I thank the Minister and Mr Robert Miller, the chairman of the ambulance implementation committee, for their decision to make permanent Mr Thomas's position. The President of the North-West Victorian Ambulance Service, Mr Col. Thomson, the President of the Centre District Ambulance Service, Mr Alf Greerson, and their committees played a responsible part. They regarded regionalisation as a fait accompli and, in fact, they still do.

The North-West Victorian Ambulance Service covers Ouyen, Murrayville, Robinvale, Mildura and the area to the South Australian border. The all-party Parliamentary Public Bodies Review Committee received a term of reference to review ambulance services. That included all the factors to which I referred. The committee received 160 submissions from all over Victoria.

I commend my colleague, Mr Evans, who was very much involved in ironing out some of the complicated problems involved in the proposed regionalisation. I also commend Mr Sandon, Mr Arnold, Mr Chamberlain and Mr Bruce Evans, my colleague in another place, for their work on the committee.

The principal recommendation of the committee was the formation of a proposed Victorian ambulance commission. It also recommended that six regional services replace the existing sixteen services, the retention of the officers' training centre and the retention of the Alexandra and District Ambulance Service as the only voluntary ambulance service in Victoria.

The other service which will make up the new ambulance service for Victoria in the north-western region is the northern service which will be based at Echuca. The superintendent/secretary is Mr Kevin Devereaux.

The ambulance implementation committee recommended the addition of Patchewollock and Gisborne, and this was accepted by the Minister. I acknowledge the good work of a former Parliamentary colleague, Mr Robert Miller, who is the chairman of the committee. The National Party and the Liberal Party have had many discussions with him. I can say only that we have had tremendous success in our negotiations in overcoming problems we found in the proposed legislation. It is a pity that some of these could not be included.

During this period capital works have not come to a halt. A new administration building was constructed at Mildura and, only a few months ago, I had the privilege of officially opening a new branch station at Ouyen.

Furthermore, on Sunday week I have been invited to officially open a new branch station at Inglewood and I know I can express the best wishes of the Minister on this occasion.

It is an understatement to say that the National Party is disappointed that the linchpin of the recommendations of the Public Bodies Review Committee for a Victorian ambulance commission will not be implemented. The National Party thought this was most important. The proposed Victorian Ambulance Board will be created and located within Health Department Victoria.

A central ambulance unit will be established to service that. Responsibility for corporate aspects will be vested in the chief general manager. In reality these functions and responsibilities will be undertaken by a Director of Ambulance Services.

In a letter sent to me by the Minister on 19 August 1986 I was informed that appointments of a Director of Ambulance Services and three regional superintendents would take place. The reason why not all six regions will be dealt with at the one time is the costs associated with restructuring.
This surprised me because the whole exercise was supposed to save money. The reason why the three services are being arranged this way is that the restructure of the metropolitan area will be first, then the south-eastern area which has a number of existing vacancies and then the north-western, which is the largest country region.

In the short term the regionalisation will not save money; it will cost money because in each region there will be a superintendent plus three or four staff, vehicles and an office. That will cost money. Will that cost be borne by Health Department Victoria?

The National Party has had some discussions with the Minister and I understand that he is prepared to give an assurance that the cost will be made a Ministry Budget item. I have discussed this matter with Mr Wayne Simmonds of the Ambulance Employees Association and he told me that he was concerned about this and other points. He is pleased with the resolution of the problem.

The Bill is silent about air ambulance services. On 24 April 1986 the Minister provided the House with a progress report on restructuring. The report promised to allow Victorian ambulance services to continue to exist after 22 October 1985. An air ambulance advisory committee was established, the Metropolitan Ambulance Service was to be responsible for its day-to-day running, and charter companies were to be contracted. I sound a note of warning to the Government that often when one considers the lowest tender submitted, one must also consider the maintenance policy of the company and the age of the charter aircraft. Can the Minister advise honourable members why air ambulance services are not provided for in the Bill?

I thank the Minister for making Mr Robert Miller and Mr Adrian Nye available to attempt to resolve the differences. The honourable member for Mildura in another place was also involved in these discussions, which have been successful.

The Bill seems to follow the committee recommendations which I shall not comment on any further. Clause 7 deals with the membership of the board and specifies that the Minister can make appointments. The Bill should stipulate in writing whom the Minister can nominate to the board. I made that request of the Minister in order to give the Bill more clarity and I understand he will agree to the forthcoming amendments in this respect.

The invitation for a nomination of a member to be appointed to the board could be made over the telephone. That message might not be received or a dispute might arise; the fact that it would not be in writing could cause difficulties.

Clause 9 deals with the functions of the chief general manager and the contracts for the supply of vehicles. I have already stated that that particular reference should be made to ambulances and not to vehicles. The ambulances are made at Clayton. All the cars should be purchased locally, preferably in the control district.

This would continue local interest and support. In mid-Murray, Jim Mason is the regional superintendent and in the north-west Gerry Thomas is the regional superintendent; they both brought this fact to my notice graphically. I had intended to do them the justice of reading their comments into the record but I shall not do so now because of the time factor. Public relations are most important. I hope the Minister will explain how these problems will be overcome.

Clause 16, which allows ambulance services to provide services to members of or contributors to health funds is a mystery. The most important clause is clause 17 which deals with committees of management, which will have eight to twelve members. One member shall be the regional superintendent; one is to be from the employees of the ambulance service; and others will be recommended by the Minister.

Some discussion took place about whether the regional superintendent should have a vote. On hospital boards of management the manager or chief executive officer does not have a vote. Clause 17 is a departure from that situation. The Minister accepted that the
employees' representative would be able to discuss any matter fully and have a vote on any issue and that the regional superintendent should be able to do likewise.

Provision for the Minister to nominate other committee members is an undemocratic departure from the present situation and could encourage political appointments because the Minister has the right to nominate five members of the committees of management. The north-west committee of management told me, in no uncertain terms, that the general community should be encouraged to participate at all levels.

My strong belief is that the proposed legislation should stipulate that at least two representatives should be from each control district. I referred the matter to the Minister who replied to me as late as 25 November 1986. In part, he said:

I propose a similar system to that which operates in public hospitals in respect of the formulation of nominations to regional committees of management. Under this system, advertisements will be placed in public newspapers inviting nominations and the regional ambulance services committees consulted.

The National Party had proposed an amendment in this regard. We discussed the matter with the Minister and explained that it was crucial to have continuity of interest and representation in this area. The community owes those services considerable gratitude.

The Public Bodies Review Committee recommended in its final report that the committee structure of the ambulance services should continue in the same manner. I repeat: community representation should continue.

Following discussions with the Minister's advisers, I thank the Minister for indicating that he will compromise in this regard and will allow nominations to be submitted by each of the control districts. They will now have a minimum of two representatives who will be selected from three names submitted to the Minister.

Clause 20 deals with meetings of the committees of management. The Government has not attempted to appoint the chairman of the new regional ambulance committees. The committees of management have been given that democratic right. This is of particular interest considering proposals for the Loddon-Campaspe Regional Planning Authority.

Clause 21 deals with the appointment of the regional superintendents and clause 22 deals with their suspension and dismissal. I have suggested that any suspension or dismissal should be made only after consultation. I understand that that will be done. A superintendent will be allowed to appeal to the Minister about this suspension or dismissal. Mr Wayne Simmonds of the Ambulance Employees Association and a number of other ambulance services stressed the need for an appeal mechanism. I am pleased that the Minister has agreed to that.

The National Party believes the appeal should go to the Public Service Board or to the wages board responsible for ambulance services. The National Party is not impressed with clause 23 because it provides for the Governor in Council, after consultation with the Minister, to abolish any ambulance service. A mechanism should be available to ambulance services to prove that they can operate efficiently and effectively.

I now refer the House to the wonderful ambulance service operating in Alexandra. The service is comprised of volunteers, similar to those who serve on school councils and in organisations such as the Country Fire Authority. My colleague, Mr David Evans, the honourable member for Benalla in another place, and Mr Jock Granter have actively been putting forward the views of the Alexandra and District Ambulance Service.

The sitting was suspended at 6.31 p.m. until 7.33 p.m.

The Hon. K. I. M. WRIGHT—Page 306 of the final report on Victoria's ambulance services states:

Recommendations 5.5: The Committee recommends that the Alexandra and District Ambulance Service continue to exist and that it continue to provide ambulance services to that area included in its present boundaries.
Many representations have been made by the Alexandra and District Ambulance Service to the National Party, the Opposition and the Government. Today I received a telegram from Mr S. T. Reynolds, the President of the Alexandra and District Ambulance Service, which states:

Re Ambulance Bill stop our committee request that you support having a clause included in the Act such that it will require a future amendment to the Act before the Alexandra and District Ambulance Service can be abolished or restructured stop it would also be a further safeguard if ambulance services could continue to remain registered as benevolent societies stop.

Following some meaningful and fruitful discussions with the Minister’s advisers, the Opposition and the National Party, a solution has been reached that will be good for the Alexandra and District Ambulance Service.

Clause 39 (1) states:

The accounts and records referred to in section 38 must be audited annually by the Auditor-General.

The North-West Victorian Ambulance Service has informed me that it is totally impractical and uneconomical for that to occur. The Auditor-General’s office is up to seven years behind in its auditing function and its changes are much higher than in the commercial sector. I suggest that each ambulance service should be allowed to appoint an auditor for a limited term, subject to commercial tendering.

I have also been referred to an article in the Swan Hill Guardian headed “Audit fee angers water board”, which states:

Swan Hill Water Board is up in arms for the second year in a row over its audit cost.

The Auditor-General says the fee will be at least $7000.

Last year the fee climbed from $3400 to $6300.

This matter was discussed with the Minister and his advisers and it was discovered that the Auditor-General will not be doing the audit himself. He has given an undertaking that he will refer the auditing function to local firms of accountants that will audit under the control of the Auditor-General. The National Party is delighted with that.

In summary, I point out that concern has been expressed throughout the ambulance industry that the Public Bodies Review Committee recommended that the number of ambulance services in Victoria should be reduced from sixteen to six.

The areas served by ambulance services are already large and they have operated efficiently and effectively. All ambulance services have active auxiliaries working to raise funds to assist in the purchase of equipment, buildings and so on. Over time there appeared to be an acceptance by the ambulance services and the Victorian Ambulance Services Association that the recommendation was a fait accompli and that it was the way to go.

The National Party was prepared to go along with that, but there were two or three problems. The major problem involved the representation on the Victorian Ambulance Board, the Alexandra and District Ambulance Service, the audit function and where the funds would come from.

As I stated earlier, meaningful discussions have taken place with the Minister and his advisers. I thank them for their cooperation. The result is an excellent illustration of what commonsense, communication and cooperation can do. The National Party supports the Bill.

The Hon. A. J. HUNT (South Eastern Province)—As representatives for the South Eastern Province, my colleague, Mr Roy Ward and I, and most members of the opposition parties, totally and utterly oppose the merger of the Peninsula Ambulance Service with Ambulance Service Melbourne. We do so not only because that merger is opposed by virtually the whole of the population we represent but also because it is unnecessary, unwanted, unfortunate and will achieve absolutely nothing.
The merger would be counterproductive and the Government would have to bear the costs. Peninsula Ambulance Service is a highly respected, locally-controlled ambulance service; it is cost effective and does the job properly, sensibly and with sensitivity to local needs.

The Hon. D. M. Evans—A top operation!

The Hon. A. J. HUNT—It is indeed a top operation. It was founded for local people, by local people and run by them for the benefit of people in a larger area who, thirty-five and a half years ago, were comparatively underserviced.

The local people took steps to form their own ambulance service and it was run efficiently by volunteer drivers. I am happy to have been one of those volunteer ambulance drivers. Local tradesmen and professional people made their services available to provide a service that the Government of the day was not providing to local people.

From that emerged a highly efficient service tailored to meet local needs, alive to local opinion and understanding local problems, and serving and meeting them well.

Because of that, it engendered local support. It still has great local confidence and goodwill. What more can a Government ask than that a service founded by local people, originally a voluntary one, maintains local confidence and respect? How many Government services organised from the centre command that local support and respect?

I am not talking only about ambulance services but about a range of Government activities. When the local input is removed, somehow those services “lose” in the public mind; somehow they appear to become less efficient and effective. They certainly have to be efficient and effective when they are supported financially by local people.

However, the argument one is given is that there are economies of scale. The merger of a service such as this with Ambulance Service Melbourne will have a dramatic effect. Ambulance Service Melbourne did not do the job properly before the Peninsula Ambulance Service was formed.

I have not found in the field of human services that anything is to be gained through economies of scale, unlike the merger perhaps of two businesses. My belief is that it is generally the opposite when one seeks to create larger organisations in the public sector. What one finds when one has the merger of an efficient and effective unit is that all one really has is more fat cats, more administrators, more of the upper level officers costing more. That is what will result in this case. When two ambulance services are merged the overall annual cost will be high. It will be more costly to the State and to the people who use those services and subscribe to them.

However, in addition to the greater annual costs, the capital cost of the merger will be $1.3 million. Where is the capital cost of $1.3 million for this unnecessary merger coming from? Who will pay it? Why is it necessary, in any event?

How foolish it is to have a merger that will cost more than $1.3 million to achieve. I hope the Minister for Health will inform the House how the Government will meet the cost or whether it will be another burden on local people. Why seek the merger in any event if there is no efficiency to be gained? Apart from the Alexandra and District Ambulance Service, which is a voluntary one, the Peninsula Ambulance Service is the most cost efficient in the State.

How will the Mornington Peninsula community gain from the merger? What could conceivably be gained that could not be gained by greater cooperation between Ambulance Service Melbourne and the Peninsula Ambulance Service? There is already cooperation between the twenty ambulance services so that each can back up the other if there is any breakdown. No doubt that could be improved. Already there is cooperation on the maintenance of equipment and vehicles, which again can be further improved far short of a merger. Already there is greater joint purchasing of equipment and materials by the two
bodies. If there is any need for improvement, surely that could be achieved on a cooperative basis short of a merger.

If there is a need under the present policy to retain vehicles for 200,000 kilometres or six years, whichever occurs first, and there is a need to get the best use out of those vehicles by transferring them between areas of Melbourne where they can see out the balance of their six years at points where they get lighter use, that can be achieved by cooperation and not entirely by merger. That would bring about some economies without the capital cost and without the added annual cost of the merger itself.

I have dealt with the importance of maintaining local interest and control, which will be lost as a result of the merger. I should like an undertaking from the Minister on how many people from the Mornington Peninsula will be on the new Victorian Ambulance Board because there will be a major loss of local control and influence. I should like an undertaking from the Minister that a local office will be maintained where local complaints will be resolved and which can be a contact point where payments can be made.

It appears likely that the great bulk of administrative officers will be moved to Melbourne. It will not be possible to resolve complaints or inquiries locally. It will not be possible to resolve challenges to or queries about accounts, yet that is an important aspect in maintaining goodwill.

It is sound public relations that any service seeking to provide a proper service to the public should have a contact point at which complaints can be resolved locally. It is also sad that the effective decisions are going to be made farther away from local people. It is also sad that the Government will export the industrial relations problems of Ambulance Service Melbourne to the Mornington Peninsula, which residents on the Mornington Peninsula could well do without.

I instance only two of the restrictive practices adopted within the Ambulance Service Melbourne area. One concerns the use of emergency vehicles. At every ambulance station a vehicle is retained in the Melbourne area for what are called “emergencies”, and they sit there all day. No matter how many calls there may be, the ambulance is not used while waiting for an emergency which may or may not occur.

The waiting time for ambulances, for ordinary purposes, is constantly extended; 4 hours is not unusual for non-emergency calls in the area covered by Ambulance Service Melbourne.

There is no such restriction on the Mornington Peninsula. Emergencies are looked after by reason of the fact that there is always an ambulance vehicle operating or waiting which will be immediately diverted from non-urgent tasks to urgent tasks. That results in a far more effective and efficient use of vehicles and it results, too, in far less waiting time for patients who are regarded by authorities and unions as not being real “emergencies”. However, if you, Mr President, or I were a patient waiting for transfer to a hospital or to some place where tests were to be made, we would regard that as important. We would regard it as worthy of the ambulance service’s time to get us to where we have to go for our tests or our checks. That is the difference.

Peninsula Ambulance Service sees people as individuals. The ambulance drivers who live in the area are known by the local population and they treat them as individuals, and that affects the industrial relations.

The other industrial relations example I shall give relates to night service. With Ambulance Service Melbourne there is no night service between 11 p.m. and 7 a.m., except for bona fide emergencies.

Within the Peninsula Ambulance Service, ambulances operate day and night as intended, without artificial constraints of emergency. Of course, the fear is that the Peninsula Ambulance Service, being the smaller one, will be forced to adopt the union rules and requirements that apply to Ambulance Service Melbourne. It is the lowest common
denominator. That has a profound effect on the service that is available to local people and has a profound effect on the cost efficiency of the service. What can be expected from this merger is nothing but a reduction in service to local people who, as costs rise, will be faced with paying more through ambulance subscriptions.

I accept the fact that the Public Bodies Review Committee's recommendation was made in the best of good faith. It was made in difficult circumstances and before the recognition that amalgamations in the public sector did not necessarily mean more service at lower costs. In fact, they are likely to mean less of both and, at least, they mean less local control and less input into the real decision making.

The community would like to hear from the Minister for Health what he will do to minimise these conditions. I should like him to give the undertaking for which I have asked. The capital cost of this unnecessary merger will be met by the Crown. There is no reason why it should be met by the people of the area concerned; they having nothing whatever to gain. I should like the Minister to indicate that he will take the arguments I have put to the House into consideration and, even at this late stage, consider again the question of the merger, for I point out that the Bill does not require the merger; all it does is give the Minister the power to effect it. He knows, as well as I do, that there has been a spontaneous and adverse reaction against that merger.

Several months ago, in August of this year, I made a press statement based on a letter I had written to the Minister about the consequences of the merger. My information is that that engendered about 300 letters to the Minister in opposition to the proposal—spontaneous letters, not form letters of any kind. There are not many issues where a Minister receives correspondence like that upon a local issue, and that sort of local reaction ought, I believe, to be taken by him into account as one that deserves very serious consideration in a democracy.

If I had felt it proper to do so, I would be voting against this Bill, but I realise two things: firstly, the Bill deals with much more than the merger of these two ambulance bodies. In fact, the Bill does not even directly deal with them, it merely enables the merger. Secondly, as the Minister knows, I have long adopted the belief and acted upon the belief that the organisation of Government services is a matter for the Government of the day and not the Opposition. That is the reason why I, for one, am not voting against the Bill no matter how much I deplore the prospective merger.

The Minister is getting the Bill by default, not on the merits of what is going to happen, but on the basis of those principles—more on the demerits, as Mr Ward interjects.

I ask the Minister to treat seriously the issues I have raised; I believe them; I have put them forward seriously. I have done so by letter and I have had no substantive reply. I could have expanded upon this issue in much greater detail, but I have refrained from doing so because of the hour and the particular day. I ask for a serious and considered response from the Minister.

The Hon. F. J. GRANTER (Central Highlands Province)—This is a very interesting Bill brought about by the Public Bodies Review Committee's recommendations to the Government. I have a great deal of sympathy for the argument put by Mr Hunt on behalf of the Peninsula Ambulance Service and, no doubt, that will be emphasised by my colleague, Mr Ward, shortly.

The Bill will be administered by regional committees. One will operate in Melbourne and five outside Melbourne. I share Mr Hunt's concern that there may be a case of too many in the regions. However, the Government has made a decision, and it will put it into operation.

My interest is in the Alexandra and District Ambulance Service. I join with my colleague, the Honourable F. S. Grimwade, who was prominent, as the Minister knows, in his representations of behalf of the Alexandra people for the retention of the ambulance service. I was grateful that, with Mr Evans and the honourable member for Benalla in the
other place, the Minister received a deputation from the Alexandra ambulance committee, approximately ten and half months ago. I gained the impression from the meeting with the Minister and his advisers that he was impressed with what he heard of the activities and workings of the Alexandra ambulance committee.

It is a volunteer organisation. It has been an unqualified success. It is administered in an excellent manner, and it is financial. The committee has the funds to support any expenditure that may be needed. There is community support and reserve funds have been built up from contributors' funds.

The ambulance service serves the residents with sincerity and it serves visitors travelling to Lake Eildon and the resorts in the area that cater for other sporting activities. That service is much appreciated. It is supported also by the service clubs such as the Rotary and Lions Club organisations.

I thank the Minister for the consideration he gave to the deputation. He must have been impressed by the doctor who demonstrated that the medical services of the town and the medical profession were satisfied with the service that the ambulance body provided for the hospital and the doctors.

I am aware that the foreshadowed amendment will be considered in the Committee stage. In conjunction with my colleagues, Mr Evans and the honourable member for Benalla in the other place, as well as my very good colleague, Mr Birrell, who put the case very adequately for the Opposition, I thank Mr Robert Miller, the chairman of the Minister's ambulance committee and other Ministry officers for their expertise and consultation with us in the drafting of an amendment that will give security to Alexandra in its continuation of the ambulance service.

The Opposition was not worried, so long as the present Minister remained as Minister but the concern was that there may be a change of Minister—that does happen! If another Minister took over, he may not see the situation in the same sympathetic way as has the current Minister for Health. Therefore, the amendment was introduced and I am sure that Mr Alan Wieks, who is the secretary, and a very hard working secretary, and Mr Stan Reynolds, president, of the ambulance service in Alexandra, will also be satisfied.

I pay tribute to a couple of ambulance administrators and they are, firstly, the Central Victorian Ambulance Superintendent and Secretary, Mr Jack Rowe, whom Mr Wright has already mentioned. He has given excellent service to the ambulance stations in Bendigo and in Maryborough. He is also the superintendent who guides, if I can put it that way, the ambulance station in Heathcote. I had the pleasure of opening that centre not long ago and it was a real credit to the ambulance service; it is a fine station.

Finally, I mention Mr Alf Grierson who is the chairman and has been the chairman for some years. I have known him for 30 years and he has given outstanding voluntary service to many organisations. All volunteers should be encouraged by the retention of the Alexandra service. I am hopeful that, perhaps, the Minister can do something for the Peninsula Ambulance Service also, about which Mr Hunt has spoken and I am sure that Mr Ward will emphasise it. I thank the Minister for Health for the consideration he has given to the Bill.

The Hon. D. M. EVANS (North Eastern Province)—I particularly desire to make a few comments on the Bill because I was a member of the Public Bodies Review Committee when the report and recommendations were drawn up; and, also, I had a direct involvement with the drafting of the Bill as a member of the drafting subcommittee. Also, as a member of the committee, I was present on a number of occasions at which public evidence was taken and I was also present on many inspections throughout Victoria. The matters I wish to raise are already on the public record and are available to anyone, as are the comments I made in that committee.
Perhaps the outstanding feature that came through in the evidence was the very real pride existing in the sixteen ambulance services throughout Victoria and the community services provided for them.

These people are keen—and this came through clearly in the evidence given—to retain as much autonomy as possible but, at the same time, to maintain and improve the services to the community.

The services themselves and also the then Health Commission were critical at that time of the role the then Health Commission had been able to play in the support of ambulance services. Indeed, it was a clear conclusion that could be drawn both from the evidence given directly and indirectly, that the then Health Commission had been of little use to ambulance services throughout Victoria.

Quite trenchant criticisms were given during the course of the evidence and a couple of points shone through. The first one was the need to maintain and foster, so far as possible, the continuing local involvement of those persons who gave their services so freely on a voluntary basis to maintain, so far as was possible, the local contact with the greatest possible degree of autonomy within the service.

It was those factors that led to the report coming forward with its recommendations in the form that it did. The report came through in two separate and distinct sections. The first section provided that while there should be a reduction in the number of ambulance services from sixteen to six, the Alexandra and District Ambulance Service—as we heard from a number of other members—should remain in existence while it was capable of continuing its voluntary service to the community. Although there was to be a reduction in the number of services; the volunteer aspect was to be retained.

The second section of the report recommended that a Victorian Ambulance Commission be established with representatives from the six remaining or amalgamating districts—the ambulance officers themselves, the employees and representatives appointed by the Minister. That body would report directly to the Minister but would not be absorbed within the now Health Department Victoria.

When one takes into account the criticisms of Health Department Victoria, that was a fairly logical and sensible conclusion to reach but, that was only the committee’s recommendation; that is not the way the Bill has been presented to the House, which was “We will organise ambulance services from now on”.

Secondly, the Bill reduces the effectiveness of voluntary input into ambulance services throughout Victoria. Going back over the history of our ambulance services, which began as a volunteer community service with members who either paid an annual subscription or, in many cases, a life subscription to get an ambulance service under way, one finds a major change in the way the service has operated from then until now. The service will never be the same again. It will rapidly become another arm of a community service but centrally funded and, according to at least some of the provisions within the Bill, there is a substantial opportunity for the funding to come not from subscriptions or fees for service, as has previously been the case, but from one or other of the health funds. I assume that that may mean Medicare by some form of arrangement with the Federal Government.

The report of the Public Bodies Review Committee also included clear directions that while there should be an amalgamation of the sixteen services into six, clear provision should be available for the existing regional services to remain in the form of district services and to have elected, by their local contributors, a committee that would serve the community directly. Those district services should have the opportunity of sending their representatives to the six regional bodies. In that way, there would be a full devolution from the contributors right through to the managing service on a regional basis. That is the way the Public Bodies Review Committee report came out.
Clearly, Health Department Victoria saw this as a challenge to its authority and an area in which it suddenly decided it had been deficient and wanted to take greater control. It beavered away, if you like, underneath the surface until eventually, through the implementation committee—and I understand after consultation with the Ambulance Employees Association—the final form of the Bill emerged and we have a service far less oriented to voluntary contribution and far more oriented towards a Statewide service. It may well be that that would be the best possible service. I hope it is.

However, it should be made clear that it is some distance away from the report of the Public Bodies Review Committee. Another issue of concern in the committee’s report was that of inter-hospital transfers. The committee addressed that issue at considerable length as well as the issue of adequate training and adequate work conditions for the ambulance officers themselves. There were some clear concerns that the advanced life support services, which were available through the MICA—Mobile Intensive Care Ambulance—service, should be spread more widely.

Ambulance officers are highly trained persons and it is reasonable to have additional life-preserving medical procedures available to them. The committee believes the services and the additional responsibilities should be passed forward to properly trained officers.

The committee was also impressed, a matter that was clearly spelt out in the report, with the volunteer contribution and the assistance given, particularly in the more remote areas of the State by those volunteers. Volunteers were prepared to act as drivers, particularly during off-peak periods when there was only a single officer available at the station. The service could be more readily available by that practice and yet the cost was kept within some bounds.

I trust that within the new service the system of allowing volunteers, in their own community, to make a voluntary contribution, to act as honorary ambulance drivers, if you like, and to take care of those who need an ambulance service, will remain to service those people.

If that does not occur one of two things will happen: a huge increase in the cost of the service, particularly in remote areas; or a reduction in the service itself. At no stage did the committee hear anything but praise for the service provided by ambulance officers throughout the State. Some criticism was made, from time to time, of certain administrative matters, especially of a particular ambulance service, but that again is in the report and I shall not particularise it.

I now turn to the Alexandra and District Ambulance Service. When its representatives first came before the Public Bodies Review Committee, like many other members, I formed an opinion that they were an odd-bod group and that they should come within the general umbrella of the ambulance service that operated throughout Victoria. That impression lasted approximately 5 minutes after they began to give evidence to the committee and once dispelled it never returned in any fashion.

Those people who have heard of the Alexandra and District Ambulance Service may wonder why so much has been made of that service in the House today and on other occasions. I suggest they inspect the service, talk to the people concerned and, perhaps, like myself and every other member of that committee, they will understand and appreciate why so much time and effort has been given to its preservation.

Approximately 40 volunteer officers and a number of local medical doctors are constantly involved, not only in the training of the ambulance volunteers in Alexandra and Eildon, but also in many cases going out on the ambulances. Where it appeared that the call was of a serious nature, the service provided the advanced life support that very few other services were able to provide and it has probably given a service equal to the MICA service in Melbourne, simply because a qualified medical practitioner was there. It is no wonder the Alexandra and Eildon community want to retain that service.
The control panel in the Alexandra service station, which is run in conjunction with the Country Fire Authority and the State Emergency Service, compared more than favourably with the control system at Ambulance Service Melbourne, which has a bigger control service, but is less modern and less efficient.

The Alexandra and District Ambulance Service does not call for much money outside the contributions and fees for service. A small amount is paid by the State Government, less than $1000 in registration fees. The service has four ambulances, $80,000 or $90,000 in the bank, saving the community and the State money and is doing its own thing.

Amendments will be made to the Bill which will assist in preserving the right of the Alexandra and District Ambulance Service to remain as it is. In fact, the Bill as originally presented would have taken away a good deal of the protection that the ambulance service has, but the amendments will restore that protection, no more, no less.

The Alexandra people themselves are aware that it will be necessary to retain the present high standards of service if they are to remain in existence. They are well prepared from time to time to submit their organisation to proper review and evaluation and they expect that. The amendments that will come forward will preserve their position. I thank the Minister sincerely for being prepared to accept those amendments. I know the Minister believes that the Alexandra service should continue to exist and the amendments will ensure that is so.

I thank Mr Robert Miller, from the implementation committee, for his assistance and he has been most valuable in drawing up the amendments. I thank my colleagues, the honourable member for Benalla in the other place, Mr McNamara, Mr Granter, and particularly Mr Grimwade, for achieving the results that have been achieved. I thank the House for the opportunity to make these few remarks and wish the Bill and the ambulance services well in the future.

The Hon. H. R. WARD (South Eastern Province)—I support the remarks of Mr Hunt regarding the demise of the Peninsula Ambulance Service which provided a remarkable service for many years. I put on record the great service of the chairman of that ambulance service, Mr Les Payne, now retired, who lives in Chelsea and Mr Vic McComb, among a number of other people, who spent a considerable part of their lives in the expansion of the service and encouraging volunteerism. The report of the Public Bodies Review Committee wants to rid the service of volunteers.

The other person whom I commend is the late Dr Tom Ready, who supported the introduction of the Angel of Mercy service and the helicopter service. He was a far-sighted person and was able to see the value of those services.

The report of the Public Bodies Review Committee may be well written, but thank heavens Rupert Murdoch or Robert Holmes a Court did not read it or take it to heart because if they did they would not be where they are now. The report says nothing about economies of scale, it passes the buck. All the troubles itemised in the report have been caused by Health Department Victoria and the Department of Management and Budget. The report talks about accounting philosophy. What good is that? The community wants to run ambulance services efficiently and effectively for the service of people. It is no wonder that those people who achieve things in life do not read the philosophy of accounting—they go and do something about it.

The report recommends the merging of administrations, but provides little evidence about why that ought to be done. People will move into the head office on a temporary basis, but those people soon become permanent and obtain an assistant and a deputy assistant, a clerk and a paper boy. Soon there will be people running around looking for work. It is similar to the last rationalisation of the Government that occurred in the water resources area. The Government was going to keep the water rates down. There has been
no decline in the rates for people on the Mornington Peninsula. There is a magnificent building, motor cars and a large staff. One does not receive any service, only a smile.

There are no figures put forward for future costs of the services—it is just talked about. I can give honourable members some 1981-82 figures but the Minister has not provided the House with this information. However, we do know that staff will be increased. There will be more temporary staff—only for a year—but honourable members should try getting rid of temporary staff.

The Public Bodies Review Committee Final Report on Victoria’s Ambulance Services has great aims throughout that volunteers are not needed. That is the philosophy of the Government; get rid of volunteers!

I shall turn to one or two points in the report that emphasise the remarks that I have just made about the question of the accounting philosophy—anybody can write this sort of thing.

The PRESIDENT—Order! Would the honourable member return to the Bill.

The Hon. H. R. WARD—The Bill is based on the Public Bodies Review Committee report. The report itself talks about the present role of Health Department Victoria. On page 124 of the report it states:

The Health Commission considers that the present method of budgeting enables it to comply with the funding guidelines set by the Government and applied by the Department of Management and Budget.

It states further that that is really not the case at all.

There are problems with Health Department Victoria and the Department of Management and Budget. There are many indications throughout the report, from which the proposed legislation was produced, indicating that the ambulance services are working effectively, but Health Department Victoria is not.

This report reminds me of another report on the State Electricity Commission powerlines in which the committee was hoodwinked by the commission.

The Hon. R. J. Knowles—Which one?

The Hon. H. R. WARD—Both of them were hoodwinked. This is the greatest piece of hoodwinking and it has taken 402 pages to put it over. The attitude is, “You poor suckers outside this House, you can pay for this the way you pay for everything else”, and that is because of the term “rationalisation”.

That is exactly what this Bill is about—the appointment of regional superintendents and the bureaucratic structures and other forms of administration. We will not achieve the success that has been proclaimed by so many others. The Bill sets out the failure of Health Department Victoria and the Department of Management and Budget.

The Hon. C. F. Van Bure—Rubbish!

The Hon. H. R. WARD—Mr Van Bure will get his opportunity of speaking.

The operation of the proposed legislation does not give me much heart about the success of ambulance services in the future. There have been weeks of failure of Health Department Victoria and with the proposed legislation this will provide for years of failure of the ambulance services, which have previously been outstanding in Australia.

I do not have any faith in the Bill and to have it rushed into the House without proper consideration is a disgrace. I am reluctant to support it and to see the Peninsula Ambulance Service—which is an effective ambulance service—inherit all the problems that there are in the metropolitan area is unfortunate.

I do not believe that the Alexandra and District Ambulance Service will escape the same fate unless proper provision is inserted in the Bill. The Bill sets out the number of regions.
It establishes the chief general manager, regional superintendents and how money will be spent on all sorts of things, but there is little on how the money will be obtained. We are encouraged that the Labor Party people are going to give a few dollars.

The report is nothing more than an exercise on accounting philosophy. The Bill hails the demise of volunteers, the burgeoning of costly administration and a demonstration of no economies of scale whatsoever. This has not been put before the House; it is another case of legislation that establishes rationalisation. It is another monster for which the taxpayer will pay dearly.

The Hon. G. P. CONNARD (Higinbotham Province)—As Mr Birrell has said, the Liberal Party does not oppose the Bill. It has expressed concerns about it but for my part I believe the ambulance services throughout the State, with their hard-working personnel, have been extremely effective. There is no doubt there is expertise and differing expertise in the various ambulance divisions. However, I suspect the Bill is a typical example of the Government wanting a centralised core of authority. I am not convinced that a centralised core of authority is a good thing.

On reading through the Bill I do not note anything about patients, and the care of patients and I believe this is what the workers within the ambulance industry would have liked the Bill to have dealt with. It is a lengthy Bill having 28 pages. The Bill is a matter of process and management; it does not set out what the ambulance industry should be about; what the workers within that industry believe they are employed to do and that is to provide the most effective care in the transporting of patients from one place to another.

It is a Bill about apparatus and mechanisms. Frankly, there are several areas of concern. I refer particularly to clause 9, in which are set out the functions of the chief general manager in relation to ambulance services. Clause 9 (i) states:

> to provide a central industrial relations and advocacy service and to represent employer interests before the appropriate industrial relations tribunals;

Frankly, the chief general manager irrespective of the events of the nursing dispute in recent times and in his dealings with industrial relations in hospitals or in any other divisions sadly lacks compassionate expertise and yet the Minister has got the impertinence to refer industrial relations to this ineffective department.

There have been problems in the industrial relations area in the metropolitan division of ambulance services. Those industrial relations problems have to be worked upon; they are not by any means finished yet. The Government is now going to give that department the authority to represent the interests of the employers. Until now, the various divisions have had satisfactory industrial relations.

Mr Hunt and Mr Ward referred to the Peninsula Ambulance Service which has, in the past, also had industrial relations problems. However, they have been attended to in the shortest possible time and the workers have been satisfied. In that case, the workers were dealing with a small committee of management that was able to react to problems. The Government is creating a Statewide bureaucracy at 555 Collins Street that will not understand the genuine interests of workers.

Members of the Opposition have stated several times over recent years that when the Labor Party came to power and immersed the Victorian Hospitals Industrial Council into the bureaucracy, industrial relations deteriorated, and that has resulted in the disastrous nurses’ strike that has continued for so long. Given the inability of the Minister for Health to attend to industrial relations problems, those problems will be increased by creating a centralised bureaucracy.

I am concerned about clause 9 (j) which states:

> to prepare a consolidated budget including fees, subscriptions and benefits for ambulance services . . .

Many Victorians contribute to Ambulance Service Melbourne for a marginal amount; the fee is approximately $28 a year. When the Minister has firmly put in place the bureaucracy
at 555 Collins Street, I shall bet any money that the contribution to Ambulance Service Melbourne will double or treble over the next five years.

Clause 9 places too much power in the hands of the Chief General Manager of Health Department Victoria. There are regional committees of management and local committees of management, but the power is in the hands of the chief general manager. I should have thought that he had enough to do trying to run a reasonable health system without any additional load.

Irrespective of the fact that the report presented by the Public Bodies Review Committee was good, I believe its conclusions were wrong. The committee should have been more conscious of regionalisation. The report does not recognise the regional committees and local boards of management and I regret that the report ignored them.

I shall now refer to the Peninsula Ambulance Service. I have lived all my life in an area 1 or 2 kilometres from that service. Mr Les Payne, OBE, has devoted his life into building up that organisation and Mr Vic McComb has also put in a lot of effort. The service is now headed by Mr Bill Lumley, who is also the Chairman of the Chelsea Bush Nursing Association. He is devoted to the interests of the community. The expertise of those gentlemen that has been generated over many years is being dissipated. Those men know what they are doing for their local communities and have run an efficient service in a frugal and proper fashion.

Industrial problems have occurred from time to time, but they have been rectified with direct and proper consultation with staff. That contrasts with Ambulance Service Melbourne. I fear for the citizens of the Mornington Peninsula when the Peninsula Ambulance Service is joined with the metropolitan service as I believe the standard of service will decrease.

I shall comment on the duties and functions of the committee of management as outlined in clause 28. I refer to my earlier remarks that the clause contains nothing about patients but refers only to functions. Ambulances are provided for patients and the Bill ignores that the continued health of patients while being transported to hospitals in ambulances is important. The Liberal Party does not oppose the Bill, but I do not enthusiastically support it.

The Hon. J. G. MILES (Templestowe Province)—I support the Bill, and it has been reasonably obvious that the Liberal Party supports it. I refer to the provision dealing with ambulance officer training centres. I raised this matter with the Minister for Health in the last sessional period, and I referred to land in the province I represent in Manningham Road. A nursing home and day care centre presently occupies the land and various community organisations in the area believed, until fairly recently, an elderly citizens' home would be built in front of the nursing home and day care centre. That seems logical.

The local people are most concerned that the Government proposes to build an ambulance officers training centre on the land. The Opposition supports the Bill even though it has been rushed through at the last minute. However, I make the point that an ambulance officers training centre in Manningham Road is not appropriate. If ambulance officer training centres are established in areas where they are not appropriate, the Minister should take note of the concerns of local communities.

The motion was agreed to.

The Bill was read a second time and committed.

Clause 1 was agreed to.

Clause 2

The Hon. D. R. WHITE (Minister for Health)—It is not the Government's intention to consider merging the Melbourne and Mornington Peninsula services, but it will take steps to minimise any dislocation to the provision of ambulance services on the Mornington
Peninsula and to retain those features of the service that Mr Hunt and Mr Ward correctly identified as being not only of merit but also worthy of retention.

In respect of the question of capital costs, I shall look into the matters raised and the commitment sought from the Government, and I shall respond at a later stage. Clearly, the Government has significant obligations in this area.

The clause was agreed to, as were clauses 3 and 4.

Clause 5

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

1. Clause 5, page 3, line 5, before “hospitals” insert “employee organizations, employer organizations,”.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 6.

Clause 7

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

2. Clause 7, line 24, omit “an officer of” and insert “a person nominated by”.

3. Clause 7, lines 24 and 25, omit “nominated by the Council”.

4. Clause 7, line 31, after “body” insert “in writing”.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 8.

Clause 9

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

5. Clause 9, page 7, after line 17, insert—

“( ) to consult with employee and employer organizations on matters relating to employment in ambulance services and the Centre;”.

The Hon. K. I. M. WRIGHT (North Western Province)—I understood that the Minister would say something about the rights of ambulance services with respect to the supply of vehicles. I certainly put it to the House that local areas should still have some input, particularly in regard to the vehicles—not so much the ambulance vehicles as other vehicles, which should be purchased and serviced in the local areas.

The Hon. D. R. WHITE (Minister for Health)—The Bill imposes on the chief general manager a wide range of responsibilities and powers relating to the activities of ambulance services and the Ambulance Officers Training Centre. However, it has been put to the Government by the Ambulance Employees Association that the Bill does not impose a specific obligation on the chief general manager to consult with employee or employer organizations on questions relating to employment in ambulance services and the centre.

The Government recognizes the value and importance of consultation and this amendment to clause 9 of the Bill is designed to extend the functions of the chief general manager to include a specific function of consulting with employee and employer organizations on employment matters.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 10 to 12.

Clause 13

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

6. Clause 13, page 9, line 11, omit “adversely”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 14 to 16.
Clause 17

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

7. Clause 17, after line 9, insert—

"(c) two people from each control district within the area over which the ambulance service of the committee of management has administrative jurisdiction recommended by the Minister from—

(i) a list of three people (if there are two vacancies to be filled); or
(ii) a list of two people (if there is one vacancy to be filled)—submitted by the control district advisory committee of the control district; and"

8. Clause 17, after line 10, insert—

"(c) If a list referred to in sub-section (2) (c) is not submitted to the Minister within one month after the Minister has asked the control district advisory committee in writing for a list, the Minister may make a recommendation without the submission of a list."

9. Clause 17, line 13, after "(c)" insert "or (d)".

10. Clause 17, line 28, omit "(c)" and insert "(d)".

The Hon. M. A. BIRRELL (East Yarra Province)—The Liberal Party strongly supports amendment No. 7 and believes it is fundamental to the success of ambulance services that there be sufficient local involvement and representation. This amendment improves the Bill and, having sought its inclusion, the Opposition welcomes the fact that the Government has moved the amendment.

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

Clause 18

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

11. Clause 18, page 11, line 6, before "regional" insert "employee organizations."

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 19 to 22.

Clause 23

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

12. Clause 23, line 27, omit "transfer to an ambulance service" and insert "provide for the employment by an ambulance service of".

13. Clause 23, page 14, after line 32, insert—

"(c) that the Alexandra and District Ambulance Service should be abolished or removed from the list in Schedule 1; or

(b) that any other ambulance service should be abolished or removed from the list in Schedule 1 after the expiration of 18 months from the commencement of this section—

the Minister must—

(c) cause careful inquiry to be made into the intended abolition or removal; and

(d) hear the committee of management or give the committee of management an opportunity to be heard; and

(e) at least 28 days before submitting the recommendation to the Governor in Council, give to the committee of management notice in writing setting out the substance of the recommendation and stating that the Minister proposes to submit it to the Governor in Council.

( ) If an Order is made under sub-section (b) abolishing the Alexandra and District Ambulance Service or removing the Alexandra and District Ambulance Service from the list in Schedule 1, the Minister must cause a copy of the Order to be tabled before each House of the Parliament forthwith or, if a House is not then sitting, on the first sitting day of the House after the Order is made.

( ) A House of Parliament may, by resolution made before the expiration of 14 sitting days of the House after the Order is tabled, disallow the Order.

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The Hon. M. A. BIRRELL (East Yarra Province)—The Liberal Party regards this amendment as fundamental in that it safeguards the future of the Alexandra and District Ambulance Service. That is supported by the Public Bodies Review Committee, and the Minister enjoys the support of the Opposition.

The Hon. D. R. WHITE (Minister for Health)—The Government gives an explicit and strong commitment to the continuing existence of the Alexandra and District Ambulance Service.

The Government will not move in any way to affect the continuing existence of the Alexandra service prior to a review in 1990, as recommended by the Public Bodies Review Committee, unless the service itself is desirous of some change.

Indeed the amendment to clause 23 requiring an inquiry and consultation will reinforce the Government's commitment.

The Hon. D. M. EVANS (North Eastern Province)—On behalf of the Alexandra and District Ambulance Service and the willing volunteers who support that service, I thank the Minister for moving the amendment and for the steps he has willingly taken to ensure that the service can proceed, not only protected but with confidence, into the future.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 24.

Clause 25

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

14. Clause 25. lines 14 and 15. omit all words and expressions on these lines and insert—

"(b) to provide technical training associated with ambulance services;".

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 26.

Clause 27

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

15. Clause 27. page 16, line 6. after "body" insert "in writing".

16. Clause 27. page 16. line 17. omit "(5), (6), (7) and (8)" and insert "(6), (7), (8) and (9)".

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

Clause 28

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

17. Clause 28. line 40. before "hospitals" insert "employee organizations,".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 29 to 36.

Clause 37

The Hon. D. R. WHITE (Minister for Health)—I invite the Committee to vote against this clause.

The clause was negatived.

Clause 38 was agreed to.

Clause 39
The Hon. D. R. WHITE (Minister for Health)—I move:

19. Clause 39. line 37. omit "38" and insert "37".

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

Clause 40

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

20. Clause 40. after line 31 insert—

"(c) This section does not apply to the use of the words "ambulance" or "ambulance service" by—

(a) the St. John Ambulance Association; and

(h) the St. John Ambulance Brigade."

The Hon. M. A. BIRRELL (East Yarra Province)—I thank the Minister for ensuring that the rights of the St John Ambulance Association and the St John Ambulance Brigade are maintained. They were threatened and have now been restored.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 41 to 44.

Clause 45

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

21. Clause 45. page 25. line 27. omit "44" and insert "43".

22. Clause 45. page 25. line 28. omit "44" and insert "43".

The amendments were 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 the report was adopted.

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

That this Bill be now read a third time.

In doing so, I thank honourable members for their support of the measure, particularly Mr Evans, Mr Arnold and Mr Sandon, who are members of the Public Bodies Review Committee which examined this matter.

I also take this opportunity of providing three assurances to the House. Firstly, in respect of the contracts for the supply of vehicles, I point out that contracts for the supply of purpose-built ambulance vehicles are currently arranged on behalf of ambulance services by Health Department Victoria.

Other ambulance vehicle contracts are handled by the ambulance services. However, all of these vehicles are supplied through local dealers. The Government is committed to maintaining this system of supply through local dealers.

Secondly, it is to be appreciated that it would be impossible for the Auditor-General and his staff to complete the audits of all the bodies that the Auditor-General's department is required to undertake. Many audits of public bodies are conducted on behalf of the Auditor-General's department by the commercial sector.

These audits are conducted under a selection and registration system for commercial firms. The registration and selection system enables local audit firms to participate. In fact, there are local auditors currently engaged by the Auditor-General's department. The Government is strongly committed to that concept.

Thirdly, the Peninsula Ambulance Service is assured of continuing recognition for its community under the merger with Ambulance Service Melbourne.
Operationally, the existing service will become a control district within the new service and, as such, will have a control district superintendent and staff responsible for the provision of ambulance services to the Mornington Peninsula area.

The Peninsula Control District can also have a local committee to provide advice on planning and operation of the ambulance service in the control district and to perform any management function delegated by the new services committee of management.

With the Government having agreed to an amendment to clause 17 of the Bill, the Peninsula Control District is guaranteed at least two representatives on the committee of management of the new service.

The change in structure should not be viewed as a diminution of the previous excellent service, for this will be maintained and enhanced.

The change in structure is in recognition of the growth of the metropolitan area and the need for it to be efficiently and effectively coordinated and serviced.

The Hon. K. I. M. Wright (North Western Province)—I thank the Minister for the assurance that he has given with respect to the supply of vehicles and also the audit requirements.

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

PORT AUTHORITIES (AMENDMENT) BILL

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

Discussion was resumed of new clause AA.

The Hon. Robert Lawson (Higinbotham Province)—The Liberal Party does not intend to oppose this amendment, although it views it with a suspicion natural in the circumstances for anybody who has had a great deal to do with the Government. However, it is prepared to accept it on face value and hope for the best.

The new clause was agreed to.

The Bill was reported to the House with amendments, and passed through its remaining stages.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) BILL

This Bill was returned from the Assembly with a message relating to amendments.

Assembly’s amendments
1. Clause 9, page 5, line 5, omit “(3)” and insert “(4)”.
2. Clause 9, page 5, line 34, omit “incorporated” and insert “registered”.
3. Clause 9, page 6, lines 4 and 5, omit “, variation or reversal” and insert “or variation”.
4. Clause 9, page 6, line 14, omit “have” and insert “has”.

On the motion of the Hon. J. H. Kennan (Attorney-General), the amendments were agreed to.

TRUSTEE (AMENDMENT) BILL

This Bill was returned from the Assembly with a message relating to an amendment.

Assembly’s amendment:
Clause 6, line 23, omit “section” and insert “Part”.
The Hon. J. H. KENNAN (Attorney-General)—I move:
That the amendment be agreed to.

The Hon. HADDON STOREY (East Yarra Province)—When these matters come forward towards the end of a sessional period and it is difficult to obtain communication between both Houses, it is desirable at least to have some opportunity of examining the amendments that are proposed.

The motion was agreed to.

LOCAL GOVERNMENT (GENERAL AMENDMENT) BILL

This Bill was returned from the Assembly with a message intimating that they had made the amendment insisted upon by the Council and had made further consequential amendments with which they desired the concurrence of the Council.

Assembly's further consequential amendments:
1. Clause 18, line 33, omit “18” and insert “17”.
2. Clause 28, page 22, line 7, omit “28” and insert “27”.
3. Clause 34, page 25, line 16, omit “34” and insert “33”.

On the motion of the Hon. C. J. HOGG (Minister for Community Services), the further consequential amendments were agreed to.

RETIREE VILLAGES BILL

This Bill was returned from the Assembly with a message relating to amendments.

Assembly's amendments:
1. Clause 3, page 5, line 2, after “pays” insert “or is required to pay”.
2. Clause 6, line 24, after “relate” insert “and must be accompanied by the appropriate prescribed fee”.
3. Clause 43, line 4, after “indexing” insert “(by reference to a document or otherwise)”.
4. Clause 43, after line 14 insert:
   “(i) provide for the collection of prescribed fees; and
   (ii) prescribe different fees in respect of different classes of persons organizations or cases; and”.
5. Schedule 3, Part 1, after “future needs?” insert:
   “Have I enquired about pets, visitors, car parking and public transport?”. 
6. Schedule 3, Part 2, omit “Have I enquired about pets, visitors, car parking and public transport? How will I have to adapt and alter my existing lifestyle to comply with the regulations and restrictions of life in the village?” and insert “What is the position regarding pets, visitors, car parking and public transport?”.

On the motion of the Hon. J. H. KENNAN (Attorney-General), the amendments were agreed to.

PAPERS

The following papers, pursuant to the directions of several Acts of Parliament, were laid on the table by the Clerk:
Statutory Rules under the Public Service Act 1974—PSD Nos 41, 43, 44, and 46.
Ministerial Statement

Eltham Cemetery

The Hon. D. R. WHITE (Minister for Health)—I desire to make a Ministerial statement.

During the adjournment debate on 2 December, Mr Miles, the honourable member for Templestowe Province, raised the question of the Eltham Cemetery and land subject to the report of the Mortuary Industry and Cemeteries Administration Committee.

The Government intends to settle the question of the use of the land in the near future and a statement will be made in the next sessional period of Parliament.

As the honourable member for Templestowe Province, members of the committee and residents of Eltham are aware, the issues involved are not straightforward. The fact that the decision of 1985 to dispose of the vacant land stands in opposition to the recommendations of the committee illustrates the complexity of the matter.

There is a recognised need to regularise the boundaries between Montsalvat and the land under dispute.

Those familiar with the reports and the 1985 decision will be aware that there is no dispute that some land should be sold back to Montsalvat.

This is the only general point of agreement between the two positions on the future use of the land. Considerable discussion has yet to occur before a firm view is adopted. If the Government comes to accept the findings of the committee it will be because they are consistent with other strategies and policies. It was not in the committee’s brief to consider wider issues. That is the role of Government as a whole.

I welcome the committee’s contribution to discussion on the land and I am sensitive to the local needs expressed through petitions, representations and correspondence received to date.

A significant element in the Government’s final decision relates to strategy on the location of cemeteries in the outer metropolitan segment that takes in Eltham.

A considered strategy and a settled view of the Eltham land question will be available in the new year.

Whatever the outcome, the decision will be the better for the extensive discussion that has taken place to date.

The Hon. J. G. MILES (Templestowe Province)—I move:

That the Council takes note of the Ministerial statement.
I thank the Minister for Health and Health Department Victoria for their cooperation in this difficult matter. On behalf of the residents of Eltham I reiterate the necessity for a final Government decision on this issue early in 1987 so that by early in the autumn sessional period next year that decision will have been made. This matter has been raised in the House on several occasions. Before the Mortuary Industry and Cemeteries Administration Committee issued the report, it was not appropriate for members of the committee to debate the issue at considerable length. However, there comes a time when the role of an honourable member as a local member becomes more important.

In the past six months since the matter was originally raised, there has been much controversy in the electorate, which is still continuing. I appreciate the strain that the Minister for Health has been under recently with a difficult problem, but I still consider the Government has been rather tardy in acting on this unanimous, all-party report of the Mortuary Industry and Cemeteries Administration Committee.

Eltham people are ringing up almost every day inquiring about the decision. I thank the Minister for at last making a Ministerial statement on the issue, but I feel that he should have gone further and announced a decision. The Minister has indicated that a final decision will be made early in the new year.

The motion was agreed to.

ADJOURNMENT

Christmas felicitations

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

That the Council, at its rising, adjourn until a day and hour to be fixed by the President, which time of meeting shall be notified to each member by telegram or letter.

On behalf of my Leader, the Minister for Agriculture and Rural Affairs, it is appropriate at this time of the closing of the spring sessional period to recognise and wish everyone well for Christmas and the new year and, in so doing, recognise the manner in which the House has operated throughout the year. This is all the more clearly seen in the absence from the House of the two Leaders.

I thank you, Mr President, particularly, for your role and patience throughout the year, especially to the Attorney-General on many occasions and to your reluctance to leave the Chamber even on those occasions when no Ministers were present.

I thank Mr Sgro for his work as Chairman of Committees and the number of aspirants for that position who assist from time to time. I thank other members of the House, particularly the Leaders and Deputy Leaders of all parties and George Oliver and his staff. I thank the Clerks of the House, the Hansard staff and all those who have assisted throughout the year in ensuring that the House, despite the fact that the Government is in the minority, works so much more efficiently and effectively than the other place. I wish all members a merry Christmas and a happy new year.

The Hon. HADDON STOREY (East Yarra Province)—I am pleased, on behalf of my Leader, to share in the views expressed by the Minister for Health.

I thank you, Mr President, for the forbearance that you have shown to all members of the House. Not that you have had to show as much forbearance to this side of the Chamber as to the other side, but honourable members still appreciate your work very much.

At an earlier stage of the sessional period, honourable members thought that some members might be removed from the House, but your unfailing patience, courtesy and judgment avoided that situation and we thank you for that.

I thank the Leader of the House for his conduct, in conjunction with the Leaders of the other parties. The House has avoided the late sittings that have afflicted it from time to
time in the past. That is a tribute to Mr Walker and Mr Hunt, when he was the Opposition Leader, now Mr Chamberlain and Mr Dunn.

The spirit of the House has been better in this sessional period than it has been in some other sessional periods that I can think of in the past and that is a tribute to the way everyone has worked together. I extend my thanks to the Deputy Leaders of the other parties, to the Whips, for the work that they perform and, in thanking the Whips, I particularly mention the Whip for the Opposition, Mr Ward, who works hard and is ably assisted by Mr Knowles from time to time. The work of the Whips does facilitate the running of the House.

I thank also the Clerks of the House, George Oliver and his staff, the people in the Papers Room and the Hansard staff, who have had a very difficult time this sessional period because not only have they been expected to handle the proceedings of the House, but also the proceedings of the Estimates Committee and the Privileges Committee in another place, and they have coped well with that.

On behalf of the members of my party, I extend to everyone Christmas felicitations and I hope all honourable members have a good break and return for what will be a different year with different sessional periods starting earlier and finishing earlier. No doubt the House will quickly become accustomed to that and I look forward to the interjections of the Attorney-General and other entertainment during the course of the next sessional period.

The Hon. B. P. DUNN (North Western Province)—I also join in the felicitations. I thank you, Mr President, for your patience which we know has been tested to the limit at times. You have been fair and have been able to handle the difficult times that have arisen on occasions with considerable fairness.

I also thank the Chairman of Committees, Mr Sgro, for carrying out his responsibilities and the fairness that he exhibits.

I thank my colleagues, each of whom carry a heavy workload, Mr Bill Baxter, the Deputy Leader and Whip, for his support and assistance in covering the heavy legislative load put forward by the Attorney-General, in particular, Mr Ken Wright, Mr David Evans and Mr Roger Hallam. I thank Mr Hallam for the many hours of work that he put into the Estimates Committee.

I convey my thanks to the Leader of the Government, Mr Walker, who I believe has been responsible, in cooperation with the other Leaders, for the program of the House. The Chamber has maintained reasonable sitting times, particularly when finishing at night. The Leader of the House has stuck to that rigidly and I compliment him on it.

I thank Mr Hunt for his assistance during the year and the cooperation of Mr Chamberlain, the new Leader of the Opposition.

I also thank the Ministers, who carry an exceptionally heavy workload. They have generally gone out of their way to cooperate with honourable members and assist in answering the many queries that we have.

I thank the Clerks and George Oliver and his staff, who are always happy and who are the first people honourable members see when they arrive and the last people they see when they leave. I thank Hansard for the heavy workload it has carried. The Hansard staff have been loaded up with committee work as well as the reporting of the House and I thank them for their efforts throughout the sessional period.

I also thank other people who work in Parliament, the Papers Room and the refreshment rooms. The end of a Parliamentary session is always a testing time, but I thank individual members for the contact and friendship that we have had across party lines.

I wish each of you a happy Christmas with your families or wherever you might be. I look forward to meeting with you here again in the next sessional period in February.
The Hon. JOAN COXSEDGE (Melbourne West Province)—I make no apology whatsoever for the following poem which has now become a tradition of this House and honourable members all know I would be the last person in the world to ever attack tradition!

This year’s offering is called:  
In ’86, this Year of Peace
In ’86, this Year of Peace
Holmes a Court could run his rackets
Alan Bond could make his packets
But nurses still chase their increase
In ’86, this Year of Peace.
In ’86, this Year of Peace
Developers kept cashing in
To make a profit’s not a sin
But building sites did swarm with police
In ’86, this Year of Peace.
In ’86, this Year of Peace.
Our yellow cake was sold to France
Upsetting Labor’s previous stance
Which shows that wonders never cease
In ’86, this Year of Peace.
In ’86, this Year of Peace.
We’ve heard about an old New Right
Who really are not all that bright
For golden eggs they kill their geese
In ’86, this Year of Peace.
In ’86, this Year of Peace.
Although we spoke in words terrific
About a Nuclear-Free Pacific
We’re stuck, it seems, with Pine Gap’s lease
In ’86, this Year of Peace.
In ’86, this Year of Peace.
While Reagan screamed about Red Terror
His massive Middle Eastern error
Showed lying is his expertise
In ’86, this Year of Peace.
In ’86, this Year of Peace.
The last of Murdoch’s media kills
Will Herald further media ills
His bank accounts grow more obese
In ’86, this Year of Peace.
In ’86, this Year of Peace.
It’s true we’ll get no satisfaction
Until the people join in action
The only way to get release
If we want real years of peace.

I hope that all honourable members and staff have a relaxing and pleasant Christmas. I urge you all to take care on the roads.

The Hon. G. A. SGRO (Melbourne North Province)—As the Chairman of Committees, I would like to thank all honourable members because sometimes when I am sitting in my chair with the two Clerks who do a marvellous job with points of order and other things, it is hard to cope but somehow we manage.

I thank honourable members for their cooperation and the help they have given me and above all I thank Hansard because sometimes when I speak I wonder how they manage to write down the things I say. But they do manage to do that and do it well. I thank them very much and I thank all honourable members for their cooperation and I wish them well for the new year.
The Hon. M. J. ARNOLD (Templestowe Province)—Mr President, I should like to conclude the year by congratulating you on your efforts during the year and for your unstinting patience with a number of us on this side of the House. I thank you also for allowing honourable members to take off their coats in certain circumstances and that initiative has been taken on in large degree by members on the other side of the House!

I join with my colleagues in thanking the staff who serve us in the House, George Oliver and Clarrie Quinn who do a great job. Clarrie keeps David White entertained during the darkest days with stories and George looks after us in every possible way.

The other staff must be congratulated: the Hansard staff and the Clerks who go through the difficulties of recording the motions and problems that we have in the House. Having sat with them on various occasions, I appreciate their difficulties and I congratulate them.

On a more serious note, on a number of occasions I have raised the matter of a missing case. It has been missing for some time and I sought that all of you would return that case to me, not because of the contents but because of the fact that I felt very close to that case.

It is twelve months on and the case has not been returned. Fortunately, the contents have not been exposed because that may have caused some embarrassment. I threatened last year that it may have caused embarrassment to all.

Because of the failure to find the case I have taken the opportunity of buying another and I should like to show it to honourable members so that you all will know, if you find it in any place, to whom you should return it.

An Honourable Member—It looks like a barrister's case.

The Hon. M. J. ARNOLD—I have plans for the future! I wish all honourable members the best for Christmas and a happy new year.

The Hon. ROBERT LAWSON (Higinbotham Province)—I wish to add my Christmas felicitations to the others that have been expressed. I thank honourable members for their amazing patience. I thank the Clerks and the attendants—we value their friendship and help.

So far as the brief case is concerned, if ever it is found abandoned I imagine the police will put a few shots into it. I congratulate Mr Arnold on getting a lovely case like that one.

The Hon. M. J. Arnold—It is not a going away present!

The Hon. ROBERT LAWSON—It is better than getting a case of AIDS!

I was talking with Mr Sgro and I congratulated him on the panache and the excellent way in which he has carried out his job as Chairman of Committees. We were talking about the first time I ever saw him waving a flag from the balcony.

The Hon. G. A. Sgro—I enjoyed every bit of it!

The Hon. ROBERT LAWSON—You never thought you would be in charge of this place, did you? The honourable member said that it was worthwhile because the Honourable Lindsay Thompson, the former Premier and Minister of Education, went out to what high school?

The Hon. G. A. Sgro—Brunswick High School.

The Hon. ROBERT LAWSON—On the following day or the day after and within a few months work had started on the new school. It shows the value of demonstrating!

If ever I am to get the Cerberus raised I need to go up on the balcony and wave the Victorian flag; there will be no problem at all! I thank honourable members for their attention and I congratulate everyone.

I plead with Jim not to go down to the Lower House as he will not like it very much. He seems to be much happier here. When one goes down there it is dreadful. At one stage I
was a cub master. I left it for a while, but after a while I went back and it had the same effect on me with all the screaming and yelling that was going on all the time. Consider the superiority of this place, the friendship and the good fellowship that one gets from time to time with the exception of when members on the Government benches complain because we are not doing the right thing by a certain Bill.

The Hon. J. H. Kennan—Order!

The Hon. ROBERT LAWSON—It has happened from time to time. Some of the things that happen here are taken very seriously indeed for the time being and then a little later we recover our good humour.

I congratulate my “socialist” bush friends; thank you very much for your friendship and fellowship during the year. I look forward to meeting you all in February, if not before.

The Hon. B. A. MURPHY (Gippsland Province)—I extend best wishes for Christmas to all honourable members. However, I lament on the change in attire that has occurred in this Chamber. Mr President, you started that eighteen months ago when you were the first to take off your wig, and look what has happened since!

We have Mr Crawford with a “half-mast” tie; the Liberal members are without their coats; and the remainder of the House are the usual riffraff.

I lament that after 150 years we have caught up with society. I congratulate all honourable members for being here. I note that there have been some changes on the front bench on the Opposition side but little change has occurred on our side. I congratulate all honourable members and look forward to seeing them next year. I also wish to thank some people who have not been thanked by anyone else tonight—the Press Gallery.

The PRESIDENT—Before putting the motion, I also wish to add my appreciation to everyone for the past twelve months. The years seem to come around a lot quicker as one gets older.

I wish to pay a tribute to our great Parliamentary staff; the doorkeepers and their associates, the Clerks at the table, the Usher of the Black Rod and all who have assisted in making the Parliament move swiftly.

I wish to thank Hansard particularly this year. It has been a difficult year for the Hansard staff. Most honourable members are on committees and Hansard has also been involved in the committee work, which has placed a fair strain on their staff, together with the long sessional periods. I wish to pass on, on behalf of all honourable members, our sincere thanks to Hansard for their work in this difficult year.

I also thank the remainder of the staff who have supported this Chamber, and one group in particular that is often forgotten is the kitchen staff. All honourable members thank them for their efforts over the past twelve months.

Looking back over the year, I am amazed that a new issue always crops up and new ground is covered. There is always a challenge facing Parliament that has not been tackled before.

One of the major advantages of this House is that all honourable members manage to retain a sense of goodwill. The House gets through a significant amount of legislation and has a better record than the other place if one considers the time the two Houses sit. This House certainly gets through its business much quicker and it is not only because we have half the number of members. To counteract that, this Chamber has no gag or guillotine and honourable members can talk on a subject for any length of time.

Having been a member of this House for seven years, I am aware that it is the goodwill that exists that benefits us all. The relationship between the Leaders of the three parties has always been at a high level, which has contributed to the way we manage to get through the amount of business we do.
Although the past few days have been heavy, honourable members should recall that we have sat on only two Thursdays in this sessional period. That is an indication that the Leaders have cooperated a good deal and that a spirit of goodwill exists.

I wish to thank Messrs Evan Walker, David White, Bruce Chamberlain, Haddon Storey and the Leader of the National Party for their help. I also thank the Ministers for the way they have approached their task, and the Attorney-General in his own way. I thank the Deputy President, Mr Giovanni Sgro, for his assistance.

Thank you, each and every one of you for your support. It certainly makes my job much easier and a lot more pleasant knowing that I have the support of the House behind me, and I thank you for that.

It is almost Christmas and I hope all honourable members have a great time with their families. I look forward to renewing our acquaintances again in February next year.

The motion was agreed to.

**TAXATION ACTS (AMENDMENT) BILL**

This Bill was returned from the Assembly with a message intimating that they had made the amendments suggested by the Council on the consideration of the Bill in Committee.

The message was referred to the Committee on the Bill.

Postponed clause 2, including the amendment suggested by the Council as made by the Assembly, was agreed to.

Postponed clause 12, on the suggestion of the Council, was omitted.

Postponed clause 14, on the suggestion of the Council, was omitted.

Postponed clause 16, including the amendment suggested by the Council as made by the Assembly, was agreed to.

Postponed clause 24, on the suggestion of the Council, was omitted.

The Bill, including the amendments suggested by the Council as made by the Assembly, was reported to the House with amendments, and passed through its remaining stages.

*The House adjourned at 9.40 p.m.*

**QUESTIONS ON NOTICE**

**CENTRAL PLANT WORKSHOP, RURAL WATER COMMISSION, BENDIGO STAFF**

The Hon. N. B. Reid (Bendigo Province) asked the Minister for Health, for the Minister for Water Resources:

(a) How many staff were employed at the Central Plant Workshop of the Rural Water Commission at Bendigo as at 30 June 1982, 1983, 1984, 1985 and 1986, respectively?

(b) How many staff were employed by the Rural Water Commission at Alder Street, Bendigo, as at 30 June 1982, 1983, 1984, 1985 and 1986, respectively?

(c) What are the job categories of all new employees recruited during each of those years?

(d) Did the new employees include apprentices or trainees; if so, what were their job categories?
The Hon. D. R. WHITE (Minister for Health)—The answer supplied by the Minister for Water Resources is:

(a)

<table>
<thead>
<tr>
<th>30-6-82</th>
<th>30-6-83</th>
<th>30-6-84</th>
<th>30-6-85</th>
<th>30-6-86</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent staff employed under the Public Service Act</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Staff employed under other awards</td>
<td>34</td>
<td>38</td>
<td>47</td>
<td>41</td>
</tr>
<tr>
<td>Total</td>
<td>39</td>
<td>43</td>
<td>52</td>
<td>47</td>
</tr>
</tbody>
</table>

Note: Between 1983–85 the Central Plant Workshop was operating at a peak level to undertake significant works programs relating to projects being conducted at Goulburn weir and Sandhurst reservoir. Additional staff were employed for these projects and, following the completion of these projects, staff numbers have been reduced accordingly.

(b)

<table>
<thead>
<tr>
<th>30-6-82</th>
<th>30-6-83</th>
<th>30-6-84</th>
<th>30-6-85</th>
<th>30-6-86</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent staff employed under the Public Service Act</td>
<td>73</td>
<td>72</td>
<td>73</td>
<td>66</td>
</tr>
<tr>
<td>Staff employed under other awards</td>
<td>41</td>
<td>42</td>
<td>90</td>
<td>82</td>
</tr>
<tr>
<td>Total</td>
<td>114</td>
<td>114</td>
<td>163</td>
<td>148</td>
</tr>
</tbody>
</table>

Note: The high level of staffing within the commission's Coliban district during the 1984-85 period reflects the additional staff engaged at the Central Plant Workshop as indicated above. Also, the district directly engaged additional field construction and maintenance employees to undertake work associated with Sandhurst reservoir.

Furthermore, 1984–85 was a period of high Community Employment Programme (CEP) recruitment.

(c) The job categories of new employees recruited are engineering administration, field staff, workshop, draughting and casual clerical/typist. Numbers are as follows:

\[
\begin{array}{cccccc}
Engineering & 1 & 3 & 1 & 1 & 1 \\
Administration & -- & -- & -- & -- & -- \\
Field & 1 & 9 & 42 & 19 & 1 \\
Workshop & -- & 5 & 15 & 2 & 1 \\
Draughting & -- & -- & -- & -- & -- \\
Casual Clerical/Typist & -- & -- & -- & -- & -- \\
Total & 2 & 17 & 57 & 21 & 2 \\
\end{array}
\]

(d) Six apprentices were employed in the workshop during this period as follows:

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Apprentice Electrician</td>
<td>--</td>
<td>1</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Apprentice Welder</td>
<td>--</td>
<td>1</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Apprentice Fitter</td>
<td>--</td>
<td>--</td>
<td>1</td>
<td>--</td>
</tr>
<tr>
<td>Apprentice Motor Mechanic</td>
<td>--</td>
<td>--</td>
<td>1</td>
<td>--</td>
</tr>
<tr>
<td>Apprentice Fitter</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>2</td>
</tr>
</tbody>
</table>

FRANKSTON TRAIN SERVICE

(Question No. 148)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Attorney-General, for the Minister for Transport:

In respect of the Frankston line during the period 1 May to 30 September 1986—(i) how many trains have run more than 5 minutes late; (ii) what is the percentage of late-running trains, compared with the total number of runs; (iii) how many trips have been cancelled; and (iv) what is the percentage of cancelled trains compared with the total number of runs?
The Hon. J. H. KENNAN (Attorney-General)—The answer supplied by the Minister for Transport is:

(i) 1802 trains ran more than 5 minutes late.
(ii) 11·8 per cent.
(iii) 442 trips were cancelled.
(iv) 2·9 per cent.

The above figures exclude weekends and public holidays.

Services on the Frankston line are responding to the steps which have been taken to improve reliability, as evidenced by the statistics for August and September 1986.

The percentage of trains running more than 5 minutes late during August was 9·5 per cent and during September 8·2 per cent.

The percentage of trains cancelled was 2 per cent in August and 1·2 per cent in September.

During September 1986, 3087 passenger trains were scheduled to run on the Frankston line; 3051 ran and 2802 of them were on time.

STUDENT CONCESSIONS
(Question No. 176)

The Hon. G. P. CONNARD (Higinbotham Province) asked the Attorney-General, for the Minister for Transport;

(a) How many student concessions, in the various categories, were made available to students in Higinbotham Province in 1985–86?

(b) What was the amount of revenue lost as a result of those concessions?

The Hon. J. H. KENNAN (Attorney-General)—The answer supplied by the Minister for Transport is:

The Metropolitan Transit Authority and the State Transport Authority advise that their records are not structured in a way which would enable the required information to be provided to answer the honourable member's question without painstaking and time-consuming research.

The time and resources involved in extracting the information could not be justified.