Wednesday, 3 December 1986

The SPEAKER (the Hon. C. T. Edmunds) took the chair at 11.5 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

NURSES’ DISPUTE

Mr KENNETT (Leader of the Opposition)—I refer the Premier to the fact that the nurses’ strike began because the Minister for Health raised expectations and then dashed them, and to the fact that the strike is now heading into its sixth week because a succession of Ministers refused constructive negotiations; and I ask: will the Government now seek to end the dispute by agreeing with the Secretary of the Australian Council of Trade Unions who says that it has become necessary to negotiate a new wages and career structure for nurses because the one promoted so heavily by the Minister for Health is unworkable?

Mr CAIN (Premier)—I regret that the Leader of the Opposition is taking a provocative and highly controversial stance on the issue. I believed, perhaps on false grounds, that the Opposition and the National Party agreed that the Government was right in insisting that the arbitration process be honoured and that the integrity of the Industrial Relations Commission be upheld.

The Government notes the involvement of the Australian Council of Trade Unions and the Trades Hall Council, and welcomes it. The ACTU’s proposals seek to bring the Victorian position into line with that of other States.

The Government has always acknowledged that there are enormous difficulties in finding a satisfactory career structure. Reference was made to the Minister’s early proposals. The proposals put early this year had the concurrence and the support of the Royal Australian Nursing Federation. The proposals that were considered by the commission were, in large measure, prepared by the federation with the active help and participation of officers of Health Department Victoria.

I repeat again that the federation has an ongoing responsibility to ensure that the merits of its case in respect of the deficiencies in the structure proposed are heard by the Full Bench. By its continued refusal to return to work, the federation is disqualifying itself from putting that case.

The proper disposition of the matter can occur only after the requirements of the commission, whatever they may be—and there is now a requirement in respect of a return to work—are complied with. The proper and ultimate consideration of the issue is being delayed by the nurses’ continued industrial action.

I repeat what I said yesterday: the Government reaffirms its commitment to do whatever it can to provide a proper nursing professional career structure and, if necessary, to make available additional funds to implement the rulings of the State Industrial Relations Commission.

The provocative and strident tone that seems to be now injected into the attitude of the Opposition is perhaps reflected to some extent by the kind of demonstration that is currently occurring on the front steps.

Mr Kennett—Nonsense!
Mr CAIN—It is not nonsense at all. The same sorts of things are said by the people on the front steps, who are carrying banners about support by the Builders Labourers Federation for the nurses, as the Leader of the Opposition is suggesting here.

Mr Kennett—that is nonsense.

Mr CAIN—It is not nonsense at all. The Leader of the Opposition is suggesting implicitly and explicitly that the Government should go outside the requirements of the commission.

Whatever Mr Kelty or anybody else says, it is subject to determination by the commission. The Government has stood by the decisions and directions of the commission. It is time the Opposition and the National Party—which I thought had a different view—showed their bipartisan support for a Government that is not prepared to step outside the accepted requirements of the Arbitration Commission.

MOCK BANK HOLD-UPS

Mr ROSS-EDWARDS (Leader of the National Party)—I refer the Minister for Education to the extraordinary mock hold-ups of banks which have been staged by high school students and organised by teachers. These mock hold-ups have caused enormous distress and put fear into many people including bank staff, customers and the general public.

Will the Minister give an undertaking to issue a definite direction that this activity must cease and that any further repetition will result in dismissal from the Teaching Service, not only of any teacher actively involved but also of principals or headmasters who realise that the mock hold-ups are being staged?

Mr CATHIE (Minister for Education)—These extraordinary events are extremely serious. They are also extremely stupid and could well have resulted in tragedy.

In the first instance, the guidelines of the Schools Division were not adhered to. The principal of the school in question had not been informed of this proposed activity by the media, the teacher involved or the class. As a result of that, I issued an instruction to the General Manager of the Schools Division to ensure that those guidelines are rigorously adhered to and that specific action must be taken in any case in which they are not adhered to. With regard to the second incident, I shall be following that up today.

"VICTORIAN WOMEN'S BUDGET PROGRAM"

Mrs RAY (Box Hill)—Can the Premier inform the House of initiatives taken under the recent State Budget to inform women of the areas of special interest to them which the State Government provides?

Mr CAIN (Premier)—The honourable member for Box Hill has always shown intense interest in these issues. Today I shall be launching the Victorian Women's Budget Program at the Information Victoria Centre at Little Bourke Street.

Honourable members interjecting.

Mr CAIN—I can make copies of the document available to all honourable members. Many of the honourable members opposite would not even know about the program. They have lost interest in something that concerns more than half of the population of this country.

This is the first time that a Victorian Government has published a women's Budget document. The aim is to provide information on a range of programs that are directly funded by the Government and are specifically applicable to women in this State.
Too often people simply do not know what Government programs are available to them. This document will help overcome this information gap. It will also allow the Government to assess the impact of various programs that are provided for women. The end result will be a much more effective Government administration and programs that meet designated specific needs in a particular area.

I pay tribute to the role that has been played in the preparation of this document by the many women who are members of this side of the House.

They have been a great help in having the document produced and I can say with total confidence that the women on the Government benches appreciate the usefulness and importance of this document to women right across the community. I suppose it is a matter of regret that only one woman graces the Opposition benches.

Mr Perrin—We believe in quality!

Mr CAIN—It is quality, that is true, and a quality that suggests to me that she belongs on the front bench; but she has been disqualified not just because she is a woman but because she stood up to—

Honourable members interjecting.

Mr CAIN—The Opposition does not like to hear about this. It has only one woman member out of 40 members; that is all it can get. Out of all the women who support the Liberal Party in the State—and that is a falling number—only one Opposition member is a woman. It is absolutely extraordinary.

The honourable member for Kew will appreciate this document as an important resource for the many women's organisations with which she has close contact.

I should also say that the preparation of the document has been a useful exercise and, perhaps, a discipline in some ways for Government departments and agencies. It has made them think more about the importance of ensuring programs that will adequately meet the needs of women in this State and that, in itself, is important.

I am delighted to be able to launch the document today at the Government information centre. It is a record of the Government's achievements in the Budget for women in the State and it is a record in what has been, without doubt, the toughest and most difficult Budget the Government has had to deliver. To be able to produce this document indicating what is available for women is another considerable and comprehensive achievement of this great Government.

REINSTATEMENT OF ALISON THORNE

Ms SIBREE (Kew)—I address my question to the Minister for Education, noting from the transcript of the hearing of the Equal Opportunity Board that the Ministry of Education representative in the recent Alison Thorne case said at the hearing that the Ministry did not oppose the reinstatement of Ms Thorne to classroom teaching.

Can the Minister explain whether he or anyone in the Ministry gave instructions to the representative to that effect and, if so, why was that attitude so different from the public attitude now taken by the Government?

Mr CATHIE (Minister for Education)—The action taken by the Government is quite the proper action in the context of this case and the Government makes no apology for it. I did not intervene in the Ministry's submission before the board, nor do I believe I should have.

I wish to make it clear—because it has not been generally understood—that, in the case of Ms Alison Thorne, it is a question of an appropriate placement and, in fact, she has been offered what the Government considers to be an appropriate placement in a TAFE college where she could be teaching students who are over the age of consent. It was her
decision to reject that offer and insist on a placement in a secondary school and it is that request which the Government has rejected.

"TAKING SCHOOLS INTO THE 1990s"

Mr HANN (Rodney)—I ask the Minister for Education: in light of the fact that the Government has now accepted a number of recommendations in relation to the latest final report on Taking Schools into the 1990s, is it a fact that an advisory group is to be established to assist the task force with the implementation of the strategy and, if that is the fact, will the Minister consider placing a representative of the Association of Councils of Post-Primary Institutions in Victoria on that advisory group in light of the fact that they represent 208 post-primary schools and 52 per cent of post-primary students in Victoria?

Mr CATHIE (Minister for Education)—I am not aware of the report to the Government entitled Taking Schools into the 1990s. I am aware of a discussion document. The responses to that discussion document were taken into account by the project team in writing a report and submitting that to the Government. The Government has now adopted a number of recommendations and a number of principles which will determine its approach to those recommendations, as well as a process that has been widely accepted by the educational community and the general community as well.

In that process there is an advisory or reference group which will assist the Ministry in decisions regarding implementation of those proposals and in other matters that still require to be addressed. There has been a case put to me that the Association of Councils of Post-Primary Institutions in Victoria would be an appropriate body to represent school councils.

The Government has always made it clear that, when one is dealing with a body that represents the total number of school councils in this State, that body ought to be the Victorian Council of School Organisations. However, if one is dealing with a specific matter where the school itself or the school council believes the ACPIV is the appropriate school council representative body to represent it in those discussions, the ACPIV is used. I see no reason to alter this policy at this stage.

EXPORT INITIATIVES

Mr FOGARTY (Sunshine)—Will the Minister for Industry, Technology and Resources inform the House of the initiatives undertaken by the Government to encourage and develop export potential? Also, will the Minister inform the House of the Victorian companies that recently won export awards?

The SPEAKER—Order! The first part of the question is far too broad to be asked as a question without notice. It invites the Deputy Premier to make a lengthy explanation. However, the second part of the question is in order.

Mr FORDHAM (Minister for Industry, Technology and Resources)—I thank the honourable member for the question which demonstrates his interest in the Governor’s export awards, an interest—I might add—that is now widespread across Victoria.

With the announcement of the Government’s economic strategy in 1984, one of the key components was to assist Victorian industry to become more internationally competitive to meet the challenge that our manufacturing industries clearly faced at that time.

We are delighted, as a Government, that that imperative is now being understood right across Australia by Governments at all levels and, indeed, by manufacturing industry itself. To the pride of my predecessor and the Treasurer, steps have already been put into place to work with and facilitate Victorian manufacturing industry meeting that export challenge.
A number of initiatives were recently announced to further assist Victorian industry, such as an expansion of the north-west Pacific market entry program, which has proved to be spectacularly successful. A further export program is a new East Asian market entry program with the emphasis on Hong Kong and Malaysia. There will be an extension of the Industrial Supplies Office initiative to allow it to have a greater focus on import replacement and export opportunities and, in addition, there is a development in conjunction with the Centre for International Business at the Chisholm Institute of Technology involving the creation of an export market familiarisation scheme.

These initiatives have been given significant prominence in recent days by the media and they are dealt with in a full-page advertisement in a number of daily newspapers today. Honourable members who are genuinely interested in this area—I know there are many on both sides of the House—are invited to pick up with local firms which are interested in export development the principles and ideas outlined extensively in the media over recent times.

In conclusion, the comments made by the honourable member for Sunshine concerning the recent Governor's export awards have incited a lot of interest in Victorian industry.

Four major awards were made. One was made available to Jet-Pak International Pty Ltd, which is an agricultural firm that exports asparagus to Asia and to other parts of the world. It is based at the well-known centre of Dalmore. The second firm to receive an award was Bendex Mintex Pty Ltd, which is a well-known firm that sells disc brake pads and is based in Ballarat. This company is involved in the automotive industry.

The third award was made to Varian Techtron Pty Ltd, which is involved in scientific equipment. Honourable members appreciate that on a world scale Victoria is very much at the forefront in this area and the industry is based in Melbourne. The fourth award was made to Mr Keith Fletcher, who is General Manager of Pilkington, ACI International Ltd, which is again involved with automotive glass components and which has major exports to Europe and America. The firm is based in Geelong.

A number of those firms are based outside Melbourne, at Geelong, Ballarat and Dalmore, and this illustrates the strength and support of the Government's initiatives for industry outside the Melbourne metropolitan area. Two of the major awards went to companies involved in the automotive industry, which continues to play a key role in industry in the State.

The Federal Government has designated this week as a major initiative for exports. The Premier will play his role, as the Victorian Government has, in assisting the Federal Government in this key export week.

**MUSEUM OF CHINESE AUSTRALIAN HISTORY**

Mr PESCOTT (Bennettswood)—I refer the Minister for Industry, Technology and Resources to the funding of the Museum of Chinese Australian History. Is the Minister aware that the Melbourne City Council has frozen funds to the museum because the museum received an irregular payment of $700 000 on the say-so of Mr Don Dunstan without council approval? Will the honourable gentleman give the council the written assurance that is requested that the Government will indemnify the council against any claims that may be made against that irregular payment?

Mr FORDHAM (Minister for Industry, Technology and Resources)—It is a pity that the honourable member for Bennettswood keeps dragging up this nonsense that he is pursuing. He has provided not one new fact, figure or circumstance. Time and again it has been demonstrated that the honourable member is talking absolute nonsense.

Recently I met with representatives from the Melbourne City Council, including the Lord Mayor and the Town Clerk and we discussed a range of issues concerning the development of the entire Chinatown Historic Precinct. During the discussion the council
took the opportunity of reiterating its strong support for the Government's initiative and its own initiative, which goes back over an extensive period, of developing the precinct and the Museum of Chinese Australian History.

I am sure the matters raised by the council can be resolved to its satisfaction after further discussions proceed during the next few weeks.

COMMUNITY-PROVIDED COURSES FOR WOMEN

Mrs HIRSH (Wantirna)—Can the Minister for Education inform the House whether the review of TAFE priorities that is currently under way addresses the issue of improving the access of women to training and retraining through community-provided courses?

Mr CATHIE (Minister for Education)—I know the honourable member for Wantirna has shown considerable interest in the provision of programs for women in education and the Government has made considerable progress in program provision for women in technical and further education.

The TAFE Board has established a women's reference committee to advise on all issues related to both female staff and students. That has led to the adoption of a draft women's policy that will be jointly launched by the Federal Minister for Education, Senator Susan Ryan, and me later this month.

In 1984 the Footscray TAFE College conducted the “Bridging into Employment in Trade and Technician Training Courses for Women”. Those programs are jointly funded by the Commonwealth and State Governments. The main objective of the course is to provide young people with the knowledge and skills required to pursue a career in non-traditional and more technical occupations that have not in the past attracted women. As a result, courses are now being conducted in many Footscray TAFE colleges. They include subjects such as mathematics, science, technical drawing, communications, literacy and personal development, as well as trade and technical areas.

In 1985, 86 young women commenced preparatory courses leading into those areas. Of those women, 27 per cent went into apprenticeship courses, 17 per cent went into non-traditional, non-trade employment or study and only 23 per cent went into the traditional areas of employment and study for women.

By 1985, of the 346,600 students within the technical and further education system, 191,000 were female. The percentage of enrolments by gender has dramatically changed over the past five years. In 1981, 46 per cent of all those enrolled in the TAFE system were females and in 1985, the figure substantially increased to 55 per cent. That is a clear trend to increasing enrolments of women in a whole range of courses within technical and further education.

The community-based providers remain an extremely important point of entry or access for women into the TAFE system. Through the provision of enrichment and preparatory education, women are led into further education and training opportunities.

That is a good record; more needs to be done and more can be achieved, but the Government is certainly on track in reaching those splendid targets.

CLAIM BY SHOP, DISTRIBUTIVE AND ALLIED EMPLOYEES ASSOCIATION

Mr GUDE (Hawthorn)—In light of the Government's new legislation on shop trading, I ask the Minister for Labour whether he is aware that the Shop, Distributive and Allied Employees Association made an application on 1 December to the General Shops Conciliation and Arbitration Boards to effectively declare Saturday, 27 December a holiday for all full and part-time employees and that they be granted double time and one-
quarter—a new rate—if they are required to work on that day. Does the Minister support this outrageous claim and how many millions of dollars will it cost business?

Mr CRABB (Minister for Labour)—The Government is neither a party to the wages boards nor would it normally be expected to intervene in cases that are taken to the wages boards by the private sector. If that is what the honourable member for Hawthorn is advocating that he would like to do if he were in government, he would need an army of public servants to carry it out. It is not the Government’s intention to intervene in the proper arbitrary processes either in this case or in any other.

FLOOD STUDIES BY RURAL WATER COMMISSION

Mr STEGGALL (Swan Hill)—With some of the flood studies of the Rural Water Commission in northern Victoria now drawing to conclusion, will the Minister for Water Resources advise the House whether compensation will be paid to landowners who are financially disadvantaged by the implementation of the flood plans and how will the remedial work, as a result of the flood studies, be financed?

Mr McCUTCHEON (Minister for Water Resources)—Most of the flood studies have been jointly funded with the Commonwealth. It is intended that that will continue to be the source of funding. However, I shall seek further information and reply to the honourable member in more detail at a later date.

CHILD-CARE FACILITIES

Mrs HILL (Frankston North)—Will the Premier inform the House what steps are being taken to provide additional occasional child-care facilities for the Melbourne central business district?

Mr CAIN (Premier)—Last week—it was a little earlier, actually—I referred to my opening of the Information Victoria Centre in Little Bourke Street next to Myer and within very easy reach of a large number of retail stores and Museum station. That, of course, is to provide information to people so they can make appropriate decisions about Government facilities, how they can set up small businesses, what child-care facilities are available and how to apply for a whole range of things. The most innovative feature that perhaps has not received sufficient attention is the provision for an occasional child-care centre on the first floor of this building. It will be of great benefit to parents wishing to use the various information services or simply to do some shopping or meet other appointments in the central business district.

I am delighted that we have support from the private sector, from Coles Myer Ltd which has offered annual funding together with a capital grant. The Deutsche Bank Australia Ltd has also offered sponsorship. The Melbourne City Council will operate the child-care centre.

I also add that the Victorian information centre has been welcomed by a number of retailers and, in particular, by the Melbourne Chamber of Commerce and its executive director, Mr David Jones, who described the centre as an outstanding development and one which has been greatly needed in our community.

I do hope this is only the start. The Minister for Planning and Environment has accepted the principle of requiring that child-care and other community facilities should be provided as a condition for approval of major commercial developments, including regional shopping centres, and he has asked his Ministry to ascertain how this requirement can be implemented.

I believe the availability of occasional child-care centres in regional shopping centres in particular, and a wide variety of other locations, will be greatly appreciated by parents, particularly women who make a full-time job of caring for their children and are very often unable to make arrangements for temporary care of those children while they do so.
many of the necessary functions that they need to fulfil. We see the steady injection of child-care centres right across this State as meeting a very real need of a whole range of people in this community, men and women, in particular women, to provide a facility to safely care for their children while they go about their business.

I believe the child-care centre in the central business district in Little Bourke Street will be an enormous success. I hope it continues to enjoy the patronage and support of the private sector which, of course, benefits from the provision that has been made.

PETITIONS

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

**Euthanasia**

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY OF THE STATE OF VICTORIA IN PARLIAMENT ASSEMBLED:

The petition of the undersigned citizens of the State of Victoria respectfully showeth:

— that the lives of the aged, the sick and disabled in Victoria are under attack from the euthanasia movement

— that the terms of reference of the “Dying With Dignity” inquiry are not based on the principle that the lives of the aged, the sick and disabled should be protected by law until ended by natural death.

Your petitioners therefore humbly pray that the Government of the State of Victoria will reject any recommendation to introduce euthanasia in any form through either legislation or regulation and will ensure that the lives of all human beings are protected by law.

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

By Mr Maclellan (555 signatures), Mrs Ray (828 signatures), Mr Norris (1138 signatures), and Mr Gude (279 signatures)

**V/Line Freight**

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY OF THE STATE OF VICTORIA IN PARLIAMENT ASSEMBLED:

(1) The humble petition of the undersigned citizens of the State of Victoria sheweth that the current practice of V/Line in renting prime-movers and trailers to carry out freight forwarding, carrying freight previously carried by rail, including at times the duplicating of rail routes and carting between railway stations, by road, is not in the best interests of the economy of our State and the Victorian taxpayer who foots the bill.

(2) That the practice is not only not cost effective, but grossly costly. The rates charged cannot possibly cover the services charged for and cannot be justified.

(3) That the practice of moving such freight by rented trucks instead of V/Line rolling stock duplicates the routes as well as leaving trains running empty, compounding the loss.

(4) That the current resultant practice of offering as an inducement to big business, even cheaper rail rates, as well as, in some instances, making available for purchase, locomotives, at a price much below market value to encourage industry to send freight by rail that has previously been carried by road, makes it even more non viable as well as threatening established business and large numbers of jobs in the already established transport and associated industries.

(5) Your petitioners therefore humbly pray that the members of the Legislative Assembly in Parliament assembled will demand that such a grossly costly exercise of dubious value both to the Victorian taxpayer in general and the already established transport and associated industries in particular will not be either supported or tolerated by yourselves, and that appropriate action will be necessary to bring this situation to an end as soon as possible.

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

By Mr Brown (461 signatures)
Woodchipping

To the Honourable the Speaker and Members of the Legislative Assembly of the State of Victoria in Parliament assembled:

The humble petition of the undersigned constituents of Monbulk respectfully sheweth:

That woodchipping threatens Victoria's last wild places the magnificent natural heritage of East Gippsland's forests.

That woodchipping entrenches the use of clearfelling and intensifies forest exploitation. Clearfelling destroys habitat and complex forest communities and increases soil nutrient loss and stream siltation.

That opposition to woodchipping is not diverted by innocuous names like "integrated harvesting", "residual roundwood" or "waste removal".

That the market proposed for woodchips is Japan. Export plans create pressures to open huge areas of forest. Controls argued by the Government can only be seen as a smokescreen to allow this voracious industry into east Gippsland.

That the economic effects of woodchipping are drastic. It creates few jobs of its own and competition for logs destroys incentives for diversity and increased efficiency in sawmills. Substantial public subsidies are necessary to maintain woodchipping.

Your petitioners therefore humbly pray that:

* Woodchipping under whatever name NOT be allowed in East Gippsland.
* An extensive national parks system, as recommended by the east Gippsland Coalition, be created to protect all flora, fauna and wilderness values of East Gippsland.
* The 400,000 tonnes of sawmill wastes burnt each year in Victoria should be used rather than chipping new forest areas.
* The job creation strategy outlined in the "Jobs in East Gippsland" study be adopted to allow development of environmentally and economically sustainable employment in the region.

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

By Mr Pope (369 signatures)

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

ECONOMIC AND BUDGET REVIEW COMMITTEE

State Insurance Office

Mr Sheehan (Ballarat South) presented a report from the Economic and Budget Review Committee on the State Insurance Office, the accounting measurement of compulsory third-party insurance outstanding claims liabilities, together with appendices.

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

SOCIAL DEVELOPMENT COMMITTEE

Child pedestrian and bicycle safety

Mr Williams (Doncaster) presented the first report from the Social Development Committee on child pedestrian and bicycle safety, together with appendices and minutes of evidence.

It was ordered that they be laid on the table, and that the report and appendices be printed.
AUDITOR-GENERAL'S REPORT

The SPEAKER presented Special Report No. 6 of the Auditor-General on internal audit in the Victorian public sector.

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

COMMAND PAPER

Mr MATHEWS (Minister for Police and Emergency Services) presented, by command of His Excellency the Governor, the report of the Police Department for the year 1985–86.

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

PAPERS

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


GRIEVANCE DEBATE

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:

That so much of Standing Order No. 59 as permits four hours debate on "Grievances" be suspended for tomorrow and the debate on the question that "Grievances" be noted be concluded at 1 p.m.

All honourable members would be aware that the past practices of the House have provided that, towards the end of the sessional period, given the amount of Government Business on the Notice Paper, either the final grievance debate has been removed altogether or it has been curtailed.

In an act of generosity the Government is suggesting the latter course for consideration by the House. I look forward to the support of the House for the motion so that the Government can complete its legislative program.

Mr AUSTIN (Ripon)—The grievance debate is one of the few occasions when members of the Opposition have the opportunity to highlight matters that are of importance not only to their constituents but also to the whole community. The Minister has moved that that opportunity be cut in half.

Early in the sessional period it became obvious that there would be no grievance debate at all. I thank the Deputy Premier for making three days available for grievance debate but it is disappointing to have one of those days cut in half.

The Opposition is prepared to sit for another one or two weeks in December. There is no reason why Parliament has to rise in the first week in December when Christmas is still three weeks away. The Opposition expresses its deep concern at the move by the Government to curtail the grievance debate, which will deny many members of the Opposition an opportunity to express views on behalf of their constituents.

Mr HANN (Rodney)—Although the National Party supports the motion, like the Opposition it does so with some reluctance because it will restrict the opportunity of all honourable members to highlight matters of particular importance or concern to their constituents.

The grievance debate is a useful occasion which, over the years, has enabled honourable members to address some vitally important issues. The National Party has expressed the view that it would be happy to sit for another week in December. Most honourable
members had allocated that space in their diaries, especially in the light of the relatively short spring sessional period, which commenced a week later than normal.

The National Party respects the need of the Government to complete its legislative program this week and, for that reason, is prepared to support the motion.

The motion was agreed to.

**HEALTH SERVICES (CONCILIATION AND REVIEW) BILL**

Mr FORDHAM (Minister for Industry, Technology and Resources) moved for leave to bring in a Bill to provide an independent and accessible review mechanism for users of health services and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

**POLICE REGULATION (PROTECTIVE SERVICES) BILL**

Mr MATHEWS (Minister for Police and Emergency Services) moved for leave to bring in a Bill to make provision for the appointment of protective services officers, to amend the Police Regulation Act 1958 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

**COMMUNITY SERVICES BILL**

Mr SPYKER (Minister for Consumer Affairs)—I move:

That I have leave to bring in a Bill to amend the Community Welfare Services Act 1970, the Children's Court Act 1973 and for other purposes.

Mr DELZOPPO (Narracan)—Can the Minister provide the House with a brief outline of the Bill he has sought leave to introduce?

Mr SPYKER (Minister for Consumer Affairs)—I shall provide an explanatory second-reading speech and the Bill will be held over until the next sessional period. I have arranged for the Minister for Community Services to provide Opposition members with a full briefing on the Bill in the next week.

The motion was agreed to.

The Bill was brought in and read a first time.

**TRANSPORT ACCIDENT BILL (No. 2)**

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

Clause 1

Mr JOLLY (Treasurer)—I should like to make a statement which puts the proposed amendments in context and emphasises the importance of the common-law threshold. The Government accepts the agreed changes to its original proposals and recognises and acknowledges the goodwill and effort of both the Opposition and the National Party in the discussions which led to the formulation of these changes. However, it is accepted that these changes will result in a significantly increased cost of the scheme and will require even greater emphasis to be placed in the operation of the scheme on the containment of cost increases.
Therefore, it is intended that the scheme, including aspects of the scheme which are adjudicated through the courts, will be administered in a way that is consistent with the rights of claimants or plaintiffs and strictly contains the costs of the scheme and minimises cost escalation.

In this regard, the Government will establish a review committee with representation from major interested parties to monitor the operation of the scheme, particularly in relation to common-law claim thresholds and ceilings, quantum of damages, heads of damages and any other matters that will influence the cost of the scheme.

Mr STOCKDALE (Brighton)—I should like to add to what the Treasurer has said. The Liberal Party concurs with the general thrust of the Treasurer’s comments on the way the proposed legislation comes before the House. I cannot allow to pass without comment the Treasurer’s remarks about the effect of the agreement on the costs of the scheme.

It is true that the proposed premiums to be implemented will be higher than those that the Government previously proposed for an inadequate scheme. However, it is unreal for the Government to suggest that the addition of reasonable and proper common-law rights on a severely restricted basis is inappropriate because of the level of premiums under the scheme. The reality is that there is a large number of constituents to the cost of the scheme, each of which is an integral part of the whole. Each has a cost. It is unreal to regard any part of it as a marginal cost or an element to be viewed differently from any other elements.

To illustrate that more clearly, I point to the fact that if the reforms proposed today were made four years ago, or earlier, it would have been possible to reduce the premiums now proposed by more than $50. The proposed legislation is designed to cover the accumulated unfunded liabilities of the scheme. The Liberal Party does not attribute any blame to any party in relation to the total package; it has involved compromise by all parties. The Liberal Party commends the Government on the degree to which it has been prepared to make what are regarded as substantial concessions from its own genuinely and sincerely held position. Likewise, the opposition parties have been prepared to volunteer long before the negotiations started substantial restrictions on common-law rights in the interests of containing costs.

Further substantial concessions have been made by the opposition parties in the course of negotiations to contain costs and to achieve a reasonable cost of third-party insurance for motorists in Victoria. I shall comment further about that a little later, but I reiterate and endorse what the Treasurer has said about the objective of containing the total costs of the system. It is apparent that third-party insurance for Victorian motorists is now an expensive commodity.

The Liberal Party is concerned to ensure that every reasonable step is taken, and it supports the Government in any further reasonable steps to achieve the objective of containing costs and preventing a recurrence of the blow-out that has occurred over the past few years.

On behalf of the Liberal Party, I give a clear commitment that the Opposition will support the Government and that it is intended by all parties represented that the scheme should be applied by the courts and by the administrators in a way consistent with the objective of containing the costs of the scheme.

Mr ROSS-EDWARDS (Leader of the National Party)—I shall not repeat what the honourable member for Brighton has said, but I concur wholeheartedly. This scheme has the endorsement of the Government, the Liberal Party and the National Party, without reservation. It will cost people more than they have paid in the past, and they will receive less, but there is a huge debt to repay. That is history now, but the effect will continue into the future.

I pay tribute to the people involved: in my own party, to the Honourable Bill Baxter, the honourable member for North Eastern Province in the other place, and to a member of my staff, Mr Hayden Cock, Senior Adviser—Researcher, and the Treasurer and the
Premier. I suggest that the Premier has not been involved in any Bill to the extent that he has been involved with this measure. Day after day, hour after hour, the Premier has made a personal contribution to the Bill.

Dr Peter Sheehan, Director-General, Department of Management and Budget, has made a significant contribution and, over the past two or three weeks, I have become impressed by his knowledge. Unlike a number of people who were involved earlier, he has taken a constructive attitude towards resolving the problem. I commend him for that.

The National Party employed the services of an actuary, and in this regard was facilitated by the Government. Mr Richard Cumpston, a remarkable man, made a major contribution and cooperated day and night in assisting to resolve this problem.

There should be no point scoring on this issue. The Premier and I reached an agreement in principle on this issue from the beginning. We agreed a couple of months ago that we had to provide the best scheme possible for the people of Victoria at a premium which could be sold politically. It is that simple. The premium is high, but it covers much more. An attempt has been made to provide much greater coverage than originally envisaged and to phase out, in ten years, the $1·5 million debt accumulated over the past five years. I shall say no more than that.

I have never in my twenty years in Parliament spent so much time on one legislative measure. I cannot say that I have enjoyed it, but it has been an interesting exercise.

Mr STOCKDALE (Brighton)—Clause 1 deals with the purposes of the proposed legislation and that involves attention to detail of the proposed scheme for third-party insurance.

It is a proposed scheme that, as has already been indicated by other speakers, is the result of intensive negotiations between all the parties. It is endorsed by the Government, the Liberal Party and the National Party.

In a moment I shall refer to the details of the scheme but, firstly, I should like to make clear—and, in view of the limited time available, I shall do so only briefly—the objectives of the Liberal Party throughout this exercise and how they relate to the existing agreement between the Government and the opposition parties.

The Liberal Party's purpose has been to pursue three main objectives. Of course, there are many other objectives that are complementary and collateral to those, but I shall refer to the three main objectives.

The first objective was to ensure that the scheme was reformed. Everybody agreed all along that the pre-existing scheme required reform. We simply could not go on with the existing scheme losing, in present values, somewhere between $2 million and $3 million each day, 365 days of the year. Had the scheme not been amended, it was reasonable to expect that this year it would have lost of the order of $1000 million, which represents liabilities that Victorians would have had to meet over the next few years.

Therefore, everybody shared the first objective, particularly members of the Liberal Party, which was a determination to ensure that there was reform which put an end to the accumulating losses, which put an end to losses themselves, and which, indeed, provided scope to fund the scheme efficiently and effectively in the future.

Therefore, everybody shared the first objective, particularly members of the Liberal Party, which was a determination to ensure that there was reform which put an end to the accumulating losses, which put an end to losses themselves, and which, indeed, provided scope to fund the scheme efficiently and effectively in the future.

The second objective was to obtain a reasonable and fair system of benefits. It has always been agreed by the Liberal Party that reasonable benefits should be provided to all Victorians who are injured in motor accidents, irrespective of fault and irrespective of whether they were negligent. However, we always took the view that, ultimately, priority had to be given, on the highest moral grounds, to those who were most seriously injured and to those who were the innocent victims injured as a result of someone else's negligence.

The Liberal Party believes the proposed scheme involves an acceptable compromise between those first two objectives: the objectives of meeting the financial limitations that
the scheme must meet and of providing a fair system of benefits in the light of those limitations.

The third objective was to ensure that third-party insurance was available at a reasonable cost to Victorian motorists. Although one could never be happy about endorsing increases in premiums which exceed the Government's previous commitments in relation to tax increases and which place the cost of third-party insurance on a very high plane, the Opposition believes the total package of benefits is a reasonable compromise and the premiums necessary to fund the scheme are reasonable premiums in light of the totality of the scheme.

I seek leave of the Committee to incorporate in Hansard the agreement between the parties, which sets out the agreed principles upon which the scheme referred to in clause 1 of the Bill is to be structured.

The CHAIRMAN (Mr Fogarty)—Order! The Chair recognises that the agreement covers more than clause 1. I also accept that it is a question of relevance. May I presume that the Speaker has examined the document?

Mr STOCKDALE—Yes, Mr Chairman.

Leave was granted, and the agreement was as follows:

THIRD PARTY REFORM—AGREED PRINCIPLES 28.11.86

A. "NO FAULT" BENEFITS

Irrespective of fault, benefits would be allowed on the bases provided by the basic Government scheme, subject to the following:

1. For all claimants, benefits in relation to loss of income, impairment annuity and loss of earning capacity would cease after the earlier of $65,000 or three years (subject to A2 below).

2. A claimant
   (a) assessed as impaired 50% or more; and
   (b) who has no common law claim, does not pursue a common law claim or who fails at common law

3. Rights of appeal to a Court or the A.A.T. would be provided for claimants in dispute with the T.A.C. about the standard of aids (wheelchairs, etc.), rehabilitation measures, treatment and domiciliary support.

B. COMMON LAW RIGHTS

Common law actions would be permitted on the following bases:

1. Actions would be permitted in relation to the following heads of damage.

   (a) pecuniary loss suffered after impairment assessment provided that where, by agreement, the impairment assessment is made less than 18 months after the date of injury, only pecuniary loss in respect of the time from 18 months after injury would be permitted;

   (b) pain and suffering, loss of amenities of life and loss of enjoyment of life;

   (c) pecuniary loss damage would be subject to deduction of any "no-fault" loss of earning capacity benefits received by the claimant in respect of the period more than 18 months after injury;

   (d) pain and suffering, etc. damages would be subject to deduction of any "no-fault" impairment lump sum or impairment annuity benefit received by the claimant in respect of the period more than 18 months after injury.

2. Common law action would not be permitted in relation to care and maintenance and medical, hospital, etc. costs.

3. An impairment assessment would be required 18 months after injury or, if the claimant's condition was not substantially stabilised at that point, when the claimant's condition had substantially stabilised. Where the Commission agrees the injury is a serious injury an impairment assessment may be made before the end of 18 months. Subject to limitation of actions provisions a common law claim might be instituted at any time after impairment assessment. The six year limitation period would run from the date of the injury.

4. Where, after impairment assessment a claimant instituted common law action the claimant would continue to receive "no fault" benefits subject to the Act provided that:
(a) if the common law claim was not successful, the claimant would continue to receive "no fault" benefits under the Act, subject to the conditions set out in A1 and A2 above;

(b) if the common law claim was successful payment of "no fault" benefits would cease upon receipt of the settlement or award sum and the claimant would receive the judgment sum net of any impairment annuity, impairment lump sum and loss of earning capacity benefit received in respect of the period after impairment assessment required to be deducted under 1 (c) or 1 (d) above but only up to the amount of the award or settlement sum at common law.

5. Common law settlements or awards would not be subject to any limitation or reduction in relation to "no fault" benefits payable in respect of the period prior to impairment assessment.

6. Common law claims would be subject to the following thresholds before reduction for any contributory negligence:

(a) a narrative threshold based on a definition of "serious injury" set out in agreed amended Section 93 (See Attachment); and

(b) judgment thresholds of $50 000 for each of pecuniary loss damages and pain and suffering etc. damages.

7. (a) A claimant would be required to meet the threshold in (a) above and, as the case may be:

(i) if suing for pain and suffering damages—the $20 000 judgment threshold on such damages; or

(ii) if suing for pecuniary loss damages—the $20 000 judgment threshold on such damages; or

(iii) is suing for pain and suffering damages and pecuniary loss damages both the $20 000 judgment thresholds on each of such damages provided that a claimant, suing for both classes of damages and who succeeded in relation to one class only would recover damages confined to the class in relation to which he succeeded.

(b) The $20 000 figures are thresholds and not excesses i.e. a claimant whose claim crosses the threshold would receive damages awarded or settled without deduction of the $20 000 threshold amount.

(c) Any dispute about whether a claim crossed the threshold in 6 (a) above would be determined before a Court as a preliminary issue.

8. Recovery of pecuniary loss would extend to any loss in respect of the period after impairment assessment or, where the impairment assessment was made earlier than 18 months after injury, after 18 months from the date of injury. (Subject to any re-imbursement required under B 4 (b) above).

9. The following indexed ceilings would apply to common law awards and settlements:

(a) damages for pain and suffering etc.—$200 000. Courts would be required to quantify damages on a relative basis where $200 000 damages would be awarded to the worst case.

(b) damages for pecuniary loss—$450 000.

10. A claimant who met the thresholds would receive the sum of damages awarded net of any re-imbursement to the T.A.C. required by B1 (c) or B1 (d) above.

11. A claimant who failed in a common law action by virtue of:

(a) failing to establish liability;

(b) failing to meet any threshold on common law claims;

(c) any other reason

would be entitled to continue to receive no-fault benefits, in the case of income benefits, subject to A1 and A2 above.

12. Agreed principles as follows would apply to pending and new common law claims:

(a) a discount rate of 6% in quantifying future economic loss;

(b) restrictions on domiciliary support damages (Provided that Griffiths v Kerkemeyer damages would be abolished for new claims—refer A3 and B2 above);

(c) restrictions of awards of interest on judgment sums in relation to the period before judgment.

13. Widows and other dependents of a deceased accident victim would retain existing rights to action under the Wrongs Act subject to deduction of "no fault" benefits received. The parties will further consider the application of thresholds and ceilings to such claims.

14. In relation to costs, subject to discretion in the Court:

(a) where any threshold issue was determined as a preliminary matters costs would follow the judgment;

(b) a claimant who failed to establish liability would bear all costs;

(c) where the claim was agreed or held to satisfy the threshold;
(i) if the claimant recovered damages the defendant would bear all costs.
(ii) if the claimant failed to recover damages both parties would bear their own costs.

15. Courts would be required to take account, as at present, of any contributory negligence.

16. The Minister's speech would include an agreed passage emphasising the intention that the cost of the scheme be strictly contained and the need to avoid superinflation.

17. The legislation will establish a suitably constituted committee to monitor the operation of the scheme particularly in relation to common law claim thresholds and ceilings, quantum of damages, heads of damages and any other matters which will influence the cost of the scheme.

TRANSPORT ACCIDENT BILL

1. Add to section 47:

(7) Where the Commission agrees that the injury suffered is a serious injury within the meaning of section 93 an impairment assessment may be conducted less than 18 months after the accident irrespective of the age of the person concerned at the time of the accident.

(8) The person concerned may make an application to the Commission at any time after the accident for its agreement under sub-section (7) of this section and the decision of the Commission in relation to that application shall be a decision of the Commission for purposes of section 77.

2. Amend section 93 to read:

Damages in respect of death or serious injury.

(1) A person shall not recover any damages in any proceedings in respect of the injury or death of a person as a result of a transport accident occurring on or after the commencement of section 34, except in accordance with this section.

(2) A person who is injured as a result of a transport accident may bring proceedings for the recovery of damages in respect of the injury if an impairment assessment has been made as provided in section 47 and the injury is a serious injury.

(3) A person who has been assessed as suffering a degree of impairment as a result of the injury that is 30 per centum or more is hereby deemed to have suffered a serious injury.

(4) A person who has been assessed as suffering a degree of impairment as a result of the injury that is less than 30 per centum may bring such proceedings if:

(a) the Commission:
(i) is satisfied that the injury is a serious injury; and
(ii) issues to the person a certificate in writing consenting to the bringing of the proceedings; or
(b) a court, on the application of the person, gives leave to bring the proceedings.

(5) A court must not give leave under sub-section (4) (b) unless it is satisfied that the injury is a serious injury.

(6) A court must not, in proceedings in accordance with this section, award to a person in respect of an injury:

(a) pecuniary loss damages:
(i) if the total pecuniary loss damages awarded, before any reduction in respect of the person's responsibility for the injury, would be less than $20 000; or
(ii) that exceed $450 000; or
(b) pain and suffering damages:
(i) if the total pain and suffering damages awarded, before any reduction in respect of the person's responsibility for the injury, would be less than $20 000; or
(ii) that exceed $200 000; or
(c) damages of any other kind.

(7) A person may bring proceedings for the recovery of damages in respect of the death of a person as a result of a transport accident.

(8) A court must not, in proceedings in accordance with sub-section (7), award to a person in respect of the death of a person, damages that exceed $500 000.

(9) In this section:
"Pain and suffering damages" means damages for pain and suffering, loss of the amenities of life and 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 disturbance or disorder or severe long-term behavioural disturbance or disorder; or
(d) loss of a foetus.

Mr STOCKDALE—I do not want to go through the document, but I should like to make an important point about it. It is the latest draft of the agreement; the Committee will be aware that the agreement and the Bill have been the subjects of very intensive negotiations for a prolonged period, over many weeks.

The agreement has not received the final imprimatur of each of the parties and, in fairness, I should indicate that it is subject to change as to detail. However, I believe it sets out the substance of the agreement between the parties and it is important that it be a part of the ongoing record of the consideration of this Bill in this Chamber.

I mentioned rather briefly in my earlier remarks on this clause the participation of others in the negotiation process. As one who has been prominently involved in it—to the point where most of us involved are extremely pleased to have reached this point today—it behoves me to compliment some of the other people involved.

I believe the Government had to make substantial adjustments in its approach to the question of reform of third-party insurance. The Government and the Australian Labor Party have had a long and firmly held commitment to introducing no-fault insurance. In the past few weeks the Government has been brought to the realisation that it would have to make some compromises, just as other parties would also have to make compromises to reach an agreed position.

Since the Government reached the position of being prepared to compromise, the negotiations have been handled in a way which I am sure has eased the burden of them for all parties. I compliment the Premier, the Treasurer, the Director-General of the Department of Management and Budget, Dr Sheehan, and those assisting them on the way in which the negotiations have been carried out over the past few weeks.

I also compliment the Leader of the National Party, the Honourable Bill Baxter in another place, and the staff of the National Party, who have done an enormous amount of work, without which I believe the Government would not have been able to obtain the agreement that has been reached.

Of those in the Liberal Party, I compliment the Honourable James Guest from another place and certain members of our own staff who have worked long and hard to provide us with the assurance that the concessions sought and proposed by us were reasonable.

Also, I add our thanks to the Government for providing the services of Mr Richard Cumpston for the work that he did, often at great inconvenience to himself, at all sorts of odd hours. Again, Mr Cumpston’s contribution was invaluable in reaching the agreement.

Without actually naming each of them, I also compliment the officers and members of the Law Institute of Victoria with whom close consultation has taken place. Unfair accusations have been made in the past about the relationship between the Law Institute of Victoria and the Liberal Party.

I repudiate those accusations entirely, but it is nonetheless true that the consultation we have had with officers and members of the institute has been invaluable. Furthermore, I believe it has also been invaluable to the Government. That consultation has been invaluable because they are the people who know the existing scheme best and who best understand the ramifications of changes in the law and the way in which a proposed law is intended to operate.
Members of the Law Institute of Victoria have also, often late at night and on very short notice, been prepared to inconvenience themselves to provide us with the opportunity of giving prompt answers to matters raised by the Government and to discuss with us matters that we wished to raise.

The Victorian community is indebted to the institute for the tremendous amount of research and work it has undertaken on the issue of establishing the question of thresholds on common law claims and the ongoing part it has played behind the scenes in negotiations to reach agreement on the Bill.

Like the Leader of the National Party, I cannot claim to have enjoyed this experience, but I believe it has been educational to us. I conclude by saying that I am absolutely convinced that the scheme of third-party insurance proposed in the Bill is better than any scheme that any of the parties would have been able to originate on its own. That illustrates the value of consideration, consultation and participation of people with differing points of view in the negotiation and settlement of major issues of policy.

Mr ROSS-EDWARDS (Leader of the National Party)—I endorse the remarks of the honourable member for Brighton, particularly in regard to the Law Institute of Victoria, which has made a major contribution for which the public of Victoria should be extremely grateful.

There were probably six or seven employees and office holders of the institute who were involved. For the practising solicitors to sacrifice their time and money to involve themselves in these negotiations is beyond belief. What concerns me a little as a lawyer, by profession rather than by occupation these days, is that I doubt very much whether other members of the profession realise the contribution that those people have made.

They have made a tremendous contribution. Cynics might say that they have done so purely for self-interest. Of course, that is their field and they are experts in it. However, they have been a wonderful devil's advocate for those of us involved, and they have provided their views.

To a large extent, it is the contribution of the honourable member for Brighton which has led to the preparation of the position paper of the Liberal Party and National Party. The honourable member has tremendous energy and enthusiasm; he is a member of Parliament with tremendous ability, and that became very obvious to me over the past two months after seeing the work he has done.

It is a combined position paper with input from the National Party, although it stems mainly from the efforts of the honourable member for Brighton. I congratulate him for the competent way in which he has done it.

Mr JOLLY (Treasurer)—I shall make the Government's position clear on the draft agreement statement. The Government agrees that it reflects the substance of the agreement reached between the three parties. However, the document must be double-checked to ensure there is no misinterpretation on any matter on which the parties have reached agreement. It was on that basis that I was prepared to grant leave for the document to be incorporated in Hansard.

The CHAIRMAN (Mr Fogarty)—Order! I am also pleased that agreement has been reached because originally there were 60 pages of amendments. At this stage the Committee will endeavour to deal with amendments on each clause and to take the intervening clauses together. If any honourable member wishes to speak on a particular clause he or she should tell the Chair.

The clause was agreed to.

Clause 2

Mr JOLLY (Treasurer)—I move:

1. Clause 2, line 8, omit “and 143” and insert “, 152 and 179 (5)“.
2. Clause 2, line 10, omit "172" and insert "181".
3. Clause 2, line 12, omit "172" and insert "181".

Mr STOCKDALE (Brighton)—I place on record the fact that concern has been raised with the Liberal Party and the National Party about whether the Bill as drafted, together with the amendments the Government has proposed, will achieve the objects and purposes desired. I have discussed this matter with the Treasurer and I understand that there is no dissent from what I understand to be the agreement.

There are three matters included in the agreement which would affect the quantum of damages to be awarded in new and pending common-law claims; restrictions on the award of interest on judgment sums in respect of the period prior to judgment; restrictions on what I may generically call domiciliary support benefits, for instance, Griffiths v. Kerkemeyer damages, on a slightly different basis as between new claims and pending claims; and thirdly, the introduction of a 6 per cent discount rate in the calculation of future economic loss. It is agreed that those three matters operate in respect of——

The CHAIRMAN (Mr Fogarty)—Order! Is the honourable member speaking to the amendments? I thought the Committee should put the question that the amendments be agreed to before allowing honourable members to speak on the clause as amended.

Mr STOCKDALE—The amendments are important. I shall finish my remarks shortly.

The agreement is that in respect of those three matters the Act will operate in respect of settlements or awards made on or after the date of commencement of the Act which will be 1 January 1987. In respect of all other matters, it is intended that the Act will operate in respect of injuries occurring on or after 1 January 1987.

Mr JOLLY (Treasurer)—I shall clarify the position in regard to the three agreed conditions regarding the change in common law. They are meant to apply to cases which have not been heard and also prospectively to all the other changes that will come into operation after the date of the new scheme being introduced, which is 1 January 1987.

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

Clause 3

Mr JOLLY (Treasurer)—I move:

4. Clause 3, page 7, lines 1 and 2, omit "to compensation and".
5. Clause 3, page 7, line 3, omit "or compensation" and insert "and, except in section 93, includes a reference to compensation and to an amount paid under a compromise or settlement of a claim for compensation".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 4 to 7.

Clause 8

Mr STOCKDALE (Brighton)—I emphasise that the Liberal Party supports the provisions in clause 8. It has always been the position to which the party adheres, that the preservation of modified common-law rights is consistent with all of the objectives of the proposed legislation and will provide a fair and equitable scheme of compensation. Research by Mr Cumpston and others clearly indicates that the retention of a lump-sum based system will, over time, actually reduce the cost of the scheme compared with a total pension scheme.

Whole-of-life generous pension benefits simply cost more than the practical application of a lump sum approach under a common-law scheme. It is apparent that in the future nothing more than short-term cash flow advantages could be gained by introducing a total pension scheme. The Opposition supports the retention of modified common-law rights, not only on the grounds of equity, justice and fairness but also on the grounds of cost effectiveness. I wish to make that point in the context of the statement of objects of the Act as set out in clause 8.
Mr ROSS-EDWARDS (Leader of the National Party)—It is vital that the objects are complied with because, as the Treasurer said earlier, the commitment in the future is all important. Fraud has received publicity in recent days. Activities in that area have become out of hand. I hope the State will be able to reduce the dreadful wastage that has been occurring for some time, which has been gradually getting worse, and that, without having two different computer systems, the checking up will be more effective. I hope the premium will be adhered to and, apart from what is actually contained in the proposed legislation, I believe control will be an important element in the future.

The clause was agreed to, as were clauses 9 to 14.

Clause 15

Mr JOLLY (Treasurer)—I move:
6. Clause 15, page 14, line 6, omit “for Transport” and insert “administering the Transport Act 1983”.
7. Clause 15, page 14, line 10, after “directs—” insert “one shall be”.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 16 to 24.

Clause 25

Mr JOLLY (Treasurer)—I move:
8. Clause 25, page 20, line 3, after “service” insert “or who became such an officer or employee by reason of section 178 (3) and was, immediately before appointment as an officer of the Motor Accidents Board, an officer of the public service”.
9. Clause 25, page 20, lines 4 and 5, omit “on the recommendation of the Public Service Board”.
10. Clause 25, page 20, lines 5 and 6, omit “on ceasing to be an officer or employee of the Commission”.
11. Clause 25, page 20, line 7, omit “and emolument” and insert “, emolument and leave entitlement”.
12. Clause 25, page 20, line 10, after “Commission” insert “or as an officer of the Motor Accidents Board”.
13. Clause 25, page 20, line 11, after “employee” insert “and as an officer of the Motor Accidents Board”.
14. Clause 25, page 20, after line 20, insert—

“( ) A person who, at any time during the period of six months immediately after the commencement of this sub-section, is appointed as an officer or employee of the Commission and who, immediately before that appointment was an officer of the public service employed in the State Insurance Office, must be appointed as such an officer or employee at a salary not less than that which the person received or was entitled to receive as an officer of the public service immediately before that appointment and with the same accrued benefits and entitlements as those to which the person was then entitled.”.
15. Clause 25, page 20, line 26, omit “(6)” and insert “(7)”.

The amendments were agreed to.

Mr STOCKDALE (Brighton)—The clause concerns the employment of personnel for the proposed Transport Accident Commission. It involves the recruitment of staff currently engaged by the State Insurance Office in its third-party insurance division and those employed in the Motor Accidents Board. It is proposed that at least the bulk of those personnel will be offered the opportunity of transferring to the Transport Accident Commission.

The Liberal Party has received a large number of representations from members of staff of the two organisations, particularly the State Insurance Office, on the proposed terms of transfer. It will be apparent to the Government and even the public that there is grave concern about the possible consequences of the transfers, in particular in the sense that it is proposed the commission will operate outside the Victorian Public Service.

The Liberal Party has, in its policy announcements, proposed that the planned Transport Accident Commission or a like body should have removed from it the restraints of operating under the Public Service Act. To that extent the Liberal Party supports the Government’s initiatives.
It is nonetheless clear that there is genuine concern about their future career prospects amongst the people involved. It is only fair, appropriate and good industrial relations practice for that concern to be recognised and I am sure the Government would want to recognise it. However, it has led to industrial action within the State Insurance Office which has aggravated the difficulties that the office has had in administering the third-party scheme and its role in WorkCare.

I am anxious that the Government publicly indicate that it will take cognisance of the difficulties and move to reassure the staff of those organisations that their transfer will not affect their career prospects.

The Committee should not overlook the fact that the financial and career security of individuals and their families are involved; many of whom have given years of service to the State, the State Insurance Office and the Motor Accidents Board.

I would press the Government to examine the industrial implications of the proposed transfer and to reassure people that they will not suffer in their careers, whether with the proposed Transport Accident Commission or subsequently within the public sector or the Public Service itself, if they accept those transfers.

I request the Treasurer's assurances as follows: first, that there will be no discrimination against State Insurance Office personnel in recruitment into the proposed Transport Accident Commission; secondly, that the experience of State Insurance Office staff during service with that office will be recognised as a qualification for appointment to the proposed commission; thirdly, that pre-existing accrued employment grants of State Insurance Office staff will be preserved; and fourthly, that State Insurance Office personnel will not be disadvantaged in future Public Service employment by virtue of acceptance of an offer to transfer to the proposed Transport Accident Commission.

I extend those comments to seek the same assurances, if necessary, about the present personnel of the Motor Accidents Board and any other body from which it is proposed staff will be invited to transfer to the proposed Transport Accident Commission.

On 5 November 1986 I wrote to the Treasurer seeking those assurances and giving notice that I would seek those assurances from him in this debate. Accordingly, I do request them.

I also indicated to representatives of the staff who have made contact with the Liberal Party that we would seek such assurances. It is in the interests of the efficient operation of the scheme and good industrial relations in the Victorian public sector that the Treasurer should give those commitments or at least go as far as he can in giving those assurances to those people so that they can approach their new careers in the proposed Transport Accident Commission confident and secure in the knowledge that they will not be disadvantaged in any future public sector or Public Service employment.

Mr ROSS-EDWARDS (Leader of the National Party)—I endorse the remarks of the honourable member for Brighton. The National Party has received representations along similar lines. The Treasurer should not only take that action, but take it quickly and today, and also publicise it among the employees concerned. Justice and fairness require it and it could jeopardise the good relationships which have traditionally existed between those public servants and the Government of the day.

Mr JOLLY (Treasurer)—The difficult decision, if you like, was to remove the proposed Transport Accident Commission from the Public Service Act. I note that move has been endorsed by all parties. I have had a number of meetings with the Victorian Public Service Association on this matter and have assured the association that there will be portability of entitlements and that those who are covered by the Public Service Act will have the right to return to the Public Service from the proposed Transport Accident Commission in the future and retain complete entitlements to all benefits.
These assurances were indicated to the Victorian Public Service Association in a letter some time ago, so I regard the position as having already been clarified, but I repeat that it is the Government’s intention to ensure that there is portability of entitlements.

The clause, as amended, was agreed to, as was clause 26.

Clause 27

Mr JOLLY (Treasurer)—I move:

16. Clause 27, line 41, omit “112” and insert “121”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 28 and 29.

Clause 30

Mr STOCKDALE (Brighton)—I wanted to deal with the amendments which had been prepared prior to the agreement which has resulted in the amendments the Committee is now debating in two ways: firstly, to deal with the substance of the amendment. The Liberal Party is concerned about the financial accountability provisions in the Bill. It considers it to be of great importance in the public interest that there should be disclosure to Parliament and the Victorian public of the extent to which moneys transferred to the proposed Transport Accident Commission from the State Insurance Office are insufficient to meet the existing accrued incurred liabilities of Victoria’s pre-existing third-party scheme. Accordingly, the Opposition drafted amendments which would have required the proposed commission, among other things, to keep separate accounts or to separately account for moneys drawn from the assets transferred from the State Insurance Office, the Motor Accidents Board and any of the pre-existing authorities and to provide for public disclosure of the extent to which premiums paid after the commencement of the new scheme are used to meet pre-existing liabilities. That is, the extent to which future generations of motorists are having to pay for losses incurred under the pre-existing scheme.

The Liberal Party still believes that is an important issue and proposes to pursue it with the Treasurer in discussions when the Bill is between here and another place, and subsequently, if necessary, after the Bill has passed Parliament in its present form or a slightly amended form.

That leads me to comment that not only have the negotiations to reach the present position been intense but they have, of course, concentrated on the main issues. In the course of those deliberations a number of other matters which are not part of the main structure of the scheme but which are nonetheless important have not received the attention they warrant.

The Liberal Party is not entirely happy with the reporting and financial accountability provisions in the Bill. I give notice, not in any in terrorem sense, to the Treasurer that the Opposition proposes to take up the suggestion he made yesterday to subject the Bill to scrutiny and to ensure that by the time it comes into operation next year the Opposition is in a position to raise with him, and hopefully resolve, additional issues of importance which will not be dealt with in this debate or in the Bill simply because of the urgency of having the reform incorporated in legislation and having the Bill brought in rapidly now so that it can pass before the end of the session. The Treasurer has given the assurance that he will approach those discussions in good faith.

I am sure all parties will receive representations from bodies outside Parliament which have similar concerns of matters of detail which have not been addressed in the time available and I request the Treasurer to ensure that there are generous opportunities to consider any such matters. I indicate that the Opposition wishes to pursue with the Treasurer further amendments to clause 30.

Mr JOLLY (Treasurer)—Certainly the Government is of the view that with such a fundamental change to the third-party system there may be a need for further refinement
to the Bill during the autumn sessional period after there has been examination of the new Act and its operation. The Government would certainly be willing to consider constructive changes that will assist in the improvement of the scheme and in the containment of costs.

The clause was agreed to, as was clause 31.

Clause 32

Mr STOCKDALE (Brighton)—Clause 32 is a matter about which the Liberal Party is somewhat concerned. The Treasurer has shown a propensity to do two things. Firstly, to include in legislation or regulations wide discretionary powers for the Executive Government to alter the normal train of events in the reporting process and, secondly, in particular, to give power to extend deadlines by which authorities must report.

We cannot, of course, push any argument against that to the extent of saying that there should be no capacity under any circumstances for an authority to fail to meet statutory deadlines, but we are concerned about the wide powers that the Treasurer has sought to give himself in this Bill, and in other Bills, to waive, amend or extend the reporting requirements on statutory authorities.

Again, I merely indicate that this is one of the matters that the Opposition would seek to discuss further with the Treasurer after the Bill has passed through the Committee in its present form.

Mr ROSS-EDWARDS (Leader of the National Party)—This clause concerns me. I do not want to talk about old problems but the Treasurer may well remember that before the last State election great effort was made to get the report of the State Insurance Office and I suspect to this day that that report was delayed because it was not a happy report but as there was an election in the air the Government of the day did not want it tabled.

Having been through that experience, it concerns me that the Treasurer has an open cheque provided in the Bill to grant an extension of whatever time happens to suit him.

There was a similar debate the other day and a compromise was agreed upon. We got the opportunity to provide for an extension for a certain period but not for an open-ended extension. I believe this is a matter that should receive consideration while the Bill is between here and another place.

What has gone on in the past is gone and let us not dig it up—I have done that to some extent—but when a report is due, particularly one covering a large amount of money, the quicker we know the worst the better. We have a huge liability to look after and it is essential that not only Parliament but also Victoria knows the true position as quickly as possible.

I ask the Treasurer to take the initiative and do something about this matter while the Bill is between here and another place rather than having it forced upon him.

Mr JOLLY (Treasurer)—With respect to reporting requirements, I have made my position clear concerning the Annual Reporting Act and the amendments to it. Discussions have been held with both the Liberal Party and the National Party on that issue and I shall wait to see whether the Bill is passed in the Legislative Council.

The position of the Government is to develop consistent standards right across the public sector and, in particular, with the major statutory authorities. I direct to the attention of the Leader of the National Party the fact that, in terms of the extension of time, it is necessary for the Minister to advise or cause to be advised each House of Parliament of each extension granted under this proposed section and the reasons for the extensions. That obviously is an important safeguard.

I also emphasise that the reporting requirements are a lot stricter and a lot more informative and they are closer to the time lines at the end of the financial year than was the position with the previous Administration.
The clause was agreed to, as were clauses 33 to 37.

Clause 38

Mr JOLLY (Treasurer)—I move:
17. Clause 38, line 17, after “injury” insert “or death”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 39 and 40.

Clause 41

Mr STOCKDALE (Brighton)—This is a clause which has been controversial since the Government introduced the original version of the Bill. I am sure the Treasurer—like me—was deluged with protests from motor car enthusiasts, motor car clubs and sporting organisations about the exclusion from benefits under the Bill of people involved in motor sports, including spectators, and even about the terms of that exclusion.

I compliment the Government on the fact that, after consultation with the National Party and the Liberal Party and further consultation with motoring organisations, it did move substantially to recast the provisions.

It is lamentable that we got into the problem that we did have because it seems clear from the representations made to me that this was a case of the original consultations being inadequate but the Government, albeit late in the piece, did enter into discussions with the motoring bodies and it has made substantial changes to the provisions.

Those changes have largely met the difficulties of the motoring organisations and, having further consulted with them myself, I find widespread support for the main thrust of the provisions in the Bill as it now stands and, in particular, for the removal of the double jeopardy element, so that if somebody is excluded by the provisions of clause 41 he retains the limited common-law rights that the Bill provides, which is particularly important.

There are two matters which have potential significance and which I have raised with the Treasurer informally. I now raise these formally with the Treasurer in the Committee stage of the Bill and I ask that he direct further attention to these matters.

Firstly, there is concern amongst motoring enthusiasts and motoring organisations as to the implications of clause 41, which provides for a person who might not even be involved in motoring events himself but who might be involved in transporting a motor racing vehicle to the place of a meeting, a racetrack or some other venue.

We have all seen people driving an ordinary family car around the streets with a trailer at the back containing a hot rod or a racing car, which they are taking to a place where a race is to be held. The issue raised by the motoring organisations is whether that person is excluded from coverage travelling to and from the venue by the provisions of clause 41.

I have looked quickly at the clause and it does seem that there is substantial doubt about this question. I anticipate that the Government would not intend to exclude coverage motorists who are driving their own family vehicles to racing events whether or not they are negligent.

The second matter is equally not within the intentions of the Government but it raises a difficulty, and that is the situation of people who participate in events which the Government does intend to be excluded from coverage, involving rally cars or some other form of vehicle use in races or speed trials but which are registered motor vehicles and which might be used as a means of transportation.

An enthusiast might work on his motor car, perhaps in his own workshop, to get it ready to participate in a race. However, to ensure that it is ready to race, he must test that vehicle. He does not have to do that on a racetrack as he might be interested in rally driving. It would be sufficient for him to drive the vehicle around the streets for an hour
or so to ensure that everything was in order, and it would be similar to driving the vehicle to work. In the course of that test he might comply with every traffic law and create no undue risk to himself or anyone else, but technically he is testing the vehicle for the purposes of a race.

The drafting problems involved with that example may not be difficult to overcome, but I am interested in whether the intention of the Bill is not to fully cover that person under the new insurance scheme. I ask the Treasurer to address those matters, preferably while the Bill is between here and the other place, but certainly before the scheme comes into operation. The Treasurer should clarify the position to ensure that the clause is wide enough to cover people in those circumstances.

Mr JOLLY (Treasurer)—With respect to the transportation of a vehicle to a speed trial, I point out that there is no doubt in the Government's mind that if the vehicle is registered it will be covered by the Transport Accident Act; any individuals injured in an accident would be entitled to receive the benefits under the proposed Act. Following the comments of the honourable member for Brighton, I have sought advice and have been assured that the position is as I have presented it. However, I shall further examine the matter to reassure the honourable member.

A similar situation applies to a registered motor vehicle that is normally used on the roads but which can also be used in rally drives; that vehicle is covered by the Bill.

I am advised that if an individual is testing his motor vehicle before such an event, he will be covered by the Bill. I shall provide the honourable member with the relevant advice on that issue.

The clause was agreed to, as was clause 42.

Clause 43

Mr STOCKDALE (Brighton)—This clause establishes the excess that must be paid by a victim of an accident for the first five days and the first $269, subject to indexation, of treatment costs. The clause raises the issue, in common with WorkCare, of the status of excess provisions in relation to the Commonwealth Medicare scheme.

I have been provided with a copy of a letter to Mr D. J. Hayne, Secretary of the Health Benefits Council of Victoria, from Mr P. Van Prooyen, who has written on behalf of the Acting Regional Director of the Victorian region of the Commonwealth Department of Health. The letter refers to arrangements covered by this clause which would have the prima facie effect of shifting reliance of a claimant on a State compensation scheme to Medicare.

The author of that letter makes it clear that the Commonwealth Government's intention is that Medicare is prepared to bear the cost of excess claims to the extent that they are covered by Medicare, subject to what is called “full cost recovery”. It was not clear what “full cost recovery” meant in that letter, so the people who provided me with a copy of the letter made some inquiries of its author. As I understand it, the Commonwealth Government has suggested that the type of arrangement existing with WorkCare and that proposed for the transport accident scheme will be agreed to only on the basis that the Commonwealth recovers the full cost of treatment payments from the State concerned.

It is not clear whether that will be done by direct reimbursement, hospital funding arrangements or some other revenue offset. I invite the Treasurer to indicate the proposed funding arrangements for third-party insurance and WorkCare in this area.

The Liberal Party believes there is an anomaly arising out of the establishment of no-fault schemes in Victoria and Tasmania. They are the only States at present that have no-fault schemes. That arrangement would have the effect of transferring to Victorian motorists, in this case, costs which in every other State are borne by the Commonwealth Government through Medicare. The latest figures to which I have had access indicate that some $60 million was involved in costs borne by Victorian motorists which in other States
would have been borne by Commonwealth taxpayers. It does not alter the fact that Victorian motorists are Australian and Victorian taxpayers. The question must be asked: where should the burden of these costs fall?

It is clear that Victoria and Tasmania suffer a disadvantage compared with other States. The Liberal Party supports the Victorian Government in its endeavour to mitigate or relieve that financial disadvantage for Victorian taxpayers and motorists.

I remind the Committee and the Treasurer that the Liberal Party's Motorcare proposals included excesses on third-party insurance payments of $650 which were to be indexed and overall would have been similar to the proposals of the Government.

The Liberal Party endorses the concept proposed by the Government and supports the Government's argument affecting Victorian motorists and taxpayers. I ask the Treasurer to ensure that that matter is resolved in the interests of Victorian motorists.

Mr JOLLY (Treasurer)—As the honourable member for Brighton has pointed out, the concepts underlying the approaches of the Liberal Party and the Government on this issue are almost identical. It is appropriate that the liability or loss incurred in the first five days should be provided under normal health insurance arrangements, including Medicare.

I have not had the opportunity of examining the letter that is now in the possession of the honourable member for Brighton, but I shall make the Government's position crystal clear. It is appropriate that expenses associated with medical costs, as determined in this Bill, are met by normal health insurance arrangements, including Medicare. If the Commonwealth Government wants to deprive Victorians and Tasmanians of funds associated with the provision of certain health services, the Cain Government would have to seek resolution of the matter through the Premiers Conference.

I will certainly make it clear to the Commonwealth Government that Victoria would oppose any move in that direction and would be seeking the support of other States to maintain the current position.

Mr STOCKDALE (Brighton)—A second matter of concern involves the position of physiotherapists in the light of provisions included in the Bill. I ask the Treasurer and the Government to address specifically the impact of this excess on physiotherapists. That is particularly important to the success of the proposed scheme because it is not uncommon for a high proportion of treatment costs in the initial stages of treating an accident victim to be physiotherapy costs.

I am advised that Medicare does not reimburse physiotherapy costs and there may be a case for a special arrangement to be entered into for physiotherapy expenses. I urge the Treasurer to consult with the physiotherapists association to ensure that the Government fully understands the implications of the position of the clause which will affect physiotherapists and their patients; if necessary, I ask the Treasurer to come to some arrangement which will protect the interests of patients and physiotherapists.

They are bona fide paramedical providers. They operate almost universally under the control of the leading medical authority—the doctor or the hospital concerned. They are reputable. They are well organised. They are registered. There can be no suggestion that they are engaged in any sort of racket or abuse of the system, as a generality, and I urge the Treasurer to address the specific problems that the excess and, indeed, the general structure of the scheme could generate in relation to physiotherapists.

Mr ROSS-EDWARDS (Leader of the National Party)—I am perhaps forecasting things to come, but I urge the Treasurer to confer with the Australian Medical Association and physiotherapy organisations prior to the scheme coming into operation. As has been stated by the honourable member for Brighton and as has been made clear to me in recent weeks, physiotherapy plays an important part in the recovery of accident victims, especially in the early days.

Mr Maclellan—And in rehabilitation.
Mr ROSS-EDWARDS—And also in rehabilitation; and there is a need during the $269 period for physiotherapists to participate in the treatment. Perhaps it has not been a burning issue in our discussions recently because we have been concerned with many other matters, but it is vital. It would be reassuring to those who are concerned about the matter if the Treasurer would give that undertaking to consult with the Australian Medical Association and the physiotherapy organisations.

Mr JOLLY (Treasurer)—Firstly, it is unlikely that physiotherapy services would initially absorb a large proportion of the first $269.

Secondly, individuals have the opportunity to take out health insurance cover, which covers the cost of physiotherapy treatment regardless of the circumstances.

Mr Maclellan—But only a proportion of the cost.

Mr JOLLY—The third point I make relates to the front end loading issue. The primary reason for it, as is recognised by all parties, is to contain the cost of third-party insurance premiums in this State. However, I am willing to have further consultation on this matter.

It is important to see how the clause works in practice. This issue can be considered in the autumn sessional period if serious problems prove to be associated with it.

Mr MACLELLAN (Berwick)—We need to try to shift the Treasurer from his position on the question of physiotherapy. He suggests that people can take out private health cover, but that covers only a proportion of physiotherapy costs; limits apply even to the highest schedules of private health cover.

In the electorate of Berwick, fewer than 50 per cent of people have private health insurance, yet the people of that area have the highest incentive to take out private health cover because there are no public hospitals in that electorate. The Treasurer should recognise that the vast bulk of our society do not have access to contributions towards physiotherapy costs, yet in many post-accident situations—post-motor accident situations, in particular—physiotherapy is the most important treatment, apart from the initial medical treatment, in the recovery of the patient and in the patient getting back to full work or full living in the community.

It is not enough to say that those people who take out private insurance will have some proportion of their physiotherapy costs refunded. Many of them have to make the choice.

Where married couples and families, for instance, have private insurance, limits apply to the total amount that can be claimed in any one period of twelve months. I know of situations where patients who have commenced physiotherapy have had to stop their treatment and resume it after the twelve months' anniversary. Physiotherapists rightly say that that is a stupid and inefficient way of organising the recovery of patients.

More than 50 per cent of the community cannot afford private health insurance and receive no contribution towards physiotherapy costs, and I want to shift the Treasurer from the attitude that he demonstrated in his remarks.

If we want people to return to full working status and to being contributing members of society, and if we really want people to be rehabilitated, it is necessary to persuade the Commonwealth to shift its attitude; and likewise the States of this nation must be persuaded to incorporate a reasonable level of physiotherapy treatment where it is recommended by a medical practitioner. I do not suggest that people should be able to have physiotherapy simply because they believe it may be efficacious for them; but where a medical practitioner has done his best towards the recovery of the patient and has then referred that patient to a physiotherapist, that service ought to be available, and it should be available to all who need it, including those who cannot afford to be insured and those who have a limit on the amount that they can recover from their private health insurance scheme and who may have to interrupt their treatment perhaps for nine months until the anniversary of the renewal of their premium, when they again qualify for a further refund in respect of
physiotherapy treatment. In the medical and physiotherapy sense, it is ridiculous that a community should give the opportunity for that sort of thing to occur.

It may be possible to discuss the matter with the private insurers along the lines of a patient being able to call up physiotherapy refunds from future years; in other words, it may be possible for a patient to have the whole treatment done and then be allowed no further physiotherapy claims for, say, three years. That may be one way of approaching the matter for those who are in the privileged position of being able to afford private health insurance at the highest level. Nevertheless, I repeat that the vast bulk of the community do not have private health insurance and receive no contribution towards physiotherapy costs. The Treasurer needs to take account of that.

The sitting was suspended at 12.58 p.m. until 2.6 p.m.

Mr MICALLEF (Springvale)—I acknowledge that physiotherapists play an important role in the treatment of injured persons, as do occupational therapists and hydrotherapists. However, there is a difference between over service and rehabilitation that must be taken into account.

Doctors have a responsibility when working in coordination with physiotherapists. Doctors may recommend a patient to have physiotherapy and the treatment given by a physiotherapist may extend for a considerable time. Sometimes after the injury has levelled out, the over servicing continues.

A monitoring system is required to evaluate the effectiveness of that treatment. The service provided by the Victorian Accident Rehabilitation Council is an example of how successfully injured people can be rehabilitated with an overall pattern of control and counselling.

Physiotherapists should not be given an open go. A system of monitoring should be established.

The clause was agreed to.

Clause 44

Mr STOCKDALE (Brighton)—This is an important clause which gives rise to important implications on the modification of common-law rights. It sets out the income benefits under the no-fault part of the scheme and it provides for a maximum benefit in respect of income replacement which, in the future, will be subject to indexation but which is now fixed at the level of $430 a week as the maximum benefit a claimant can receive during the first eighteen months of incapacity.

It is an important and significant concession made by those who support the retention of modified common-law rights, that any person who loses more than $430 a week during the first eighteen months after injury will never be entitled to take common-law action or other action to recover the amount of loss in excess of $430.

That was proposed and accepted by the opposition parties on the basis of its being a substantial cost saving item. We have been advised that, on a rough estimate, the cost of providing that benefit would be of the order of $10 in premium costs; so its exclusion represents a substantial saving measure.

However, that will involve considerable cost to some members of the community and, in a sense, it makes the scheme a heavily progressive scheme in terms of its impact on those who require compensation.

Some victims who are injured in motor car accidents, many through no fault of their own, will lose substantial sums in excess of $430 a week during the first eighteen months.

I highlight the fact that as one measure of the degree to which the opposition parties have been prepared to make concessions in the course of negotiation, they have been prepared to concede that the victim's right to recover that excess loss has been entirely
removed. It is not provided in the no-fault part of the scheme and the right to recover it at common law up to the first eighteen months is completely removed by the scheme proposed. It is not only removed in the sense of not being compensated for under the compulsory insurance scheme but also those victims will lose the right to recover damages to that extent at common law, even outside the compulsory insurance scheme.

The end consequence is that people who are likely to suffer financial loss—substantially in excess of the $430 limit—will be obliged to give consideration to the question of taking out self insurance to protect their income to the extent that it will not be fully recompensable under the scheme.

This means that for many people the premiums that will fund the compulsory insurance scheme will not be the end of costs for them to protect their livelihood, their income and their family's security.

They will have to pay additional costs outside the compulsory scheme, which makes the scheme, both in terms of benefits and in terms of cost, quite a progressive one.

The opposition parties were reluctant to make that concession but did so in the interests of constraining costs. If it proves that the containment of the costs of the scheme is more successful than anticipated and budgeted for, then that is an item that I would consider to be worthy of further consideration in the ongoing review of the scheme.

I am not necessarily suggesting that the Liberal Party would seek to reverse the decision agreed upon but this is an area of potential injustice to a large number of complainants.

Moreover, it is potentially significant because the vast majority of claims will not involve income loss extending beyond eighteen months.

Therefore, those claimants will never receive any offsetting compensation in terms of the provision for common-law rights and other compensation entitlements after the eighteen-month impairment assessment. As I say, it may well be argued that of all the concessions regarding limitations on common-law rights made to obtain agreement to the scheme, that is the one that is most significant in terms of its cost impact and its impact upon particular individuals.

The clause was agreed to, as were clauses 45 and 46.

Clause 47

Mr JOLLY (Treasurer)—I move:

18. Clause 47, page 38, lines 24-32, omit sub-clause (6) and insert—

'( ) If, as a result of two or more transport accidents a person suffers a total degree of impairment that is more than 10 per centum by reason only of the degree of impairment suffered as a result of the last of those accidents, this section and sections 48 and 54 apply—

(a) as if a reference to a degree of impairment suffered as a result of a transport accident were a reference to the degree of impairment suffered as a result of both or all those transport accidents; and

(b) in relation to any subsequent accident as if—

(i) in sub-section (1) (b) of this section the words "that is more than 10 per centum" were omitted; and

(ii) in sub-section (2) of this section and in section 48 (1) for "A-10" there were substituted "A".

( ) The Commission may, on the application of a person who is injured as a result of a transport accident, make an impairment assessment in respect of the injury at a time earlier than the time when it is required to assess an impairment benefit under sub-section (1) if it is satisfied that—

(a) the person requires the assessment for the purpose of proceedings for the recovery of damages in respect of the injury; and

(b) the injury has stabilised or has substantially stabilised.

( ) This section, other than sub-section (7), continues to apply in respect of a person who is injured in a transport accident, despite the making of an impairment assessment under that sub-section unless the person has recovered damages in accordance with Part 6.'.
The amendment was agreed to.

The DEPUTY SPEAKER (Mr Fogarty)—Order! The question is that clause 47, as amended, stand part of the Bill.

Mr STOCKDALE (Brighton)—I should like to direct attention to a number of matters in respect of the clause, in a contextual sense, and matters to which the Treasurer ought to direct further attention.

Firstly, in relation to the operation of the subclause, it is provided that a person who is 50 per cent impaired—on the basis of the impairment assessment will continue to receive benefits beyond the eighteen-month period.

It was proposed that that provision should operate in relation to three classes of persons: firstly, those who have no common-law rights—those who under no circumstances could mount a claim; secondly, those who do not pursue the claim for some reason; and thirdly, that class of person who mounts a common-law claim but is unsuccessful in that damages are not recovered.

The intention is that if any person is impaired to the extent of 50 per cent, such a person would be entitled to receive no-fault benefits, broadly to age 65 years or the retirement age as proposed by the Government.

Secondly, the Opposition has had the potentially serious concern raised with it—and in the time available, it has not been able to satisfy itself as to the accuracy of the premise upon which the concern was based—of the right to institute common-law proceedings, predicated upon the impairment assessment, usually at the completion of eighteen months but, in some exceptional circumstances, at an earlier date. The possible problem concerns the interaction of those provisions and limitation periods in relation to minors—people under eighteen years. The Bill provides that a person under eighteen years of age will not be entitled to have an impairment assessment until he attains the age of eighteen years. The concern is that with a six-year limitation period running from the date of injury, an injured person under twelve years of age may be in a position where the limitation period runs from the date of injury and by the time such a person reaches eighteen years of age, his or her rights have been extinguished.

One view that has been put is that there are general law provisions that would prevent the limitation period running while the claimant is a minor. There is grave concern in that the interaction of various provisions—those of limitation and those of the commencement of the right to take action—will preclude certain people from ever instituting common-law proceedings.

I cannot assure the Committee that that is a real concern but I ask the Treasurer to have those advising him investigate this matter. It obviously would not be consistent with the Government's intention, if it did operate in the way about which there is concern; and, if necessary, I ask the Treasurer to institute amendments to the Bill that would protect minors from that situation.

The last matter is of extreme importance. The Liberal Party and, I think I can say, the National Party, have been concerned that so much of the administration of the no-fault scheme and so much of the access to common-law rights is dependent upon impairment assessment in a context basically dependent upon administrative decisions. The Opposition is concerned that there should be a right of appeal against decisions of the Transport Accident Commission which may deny benefits or adversely affect access to common-law rights.

This provision deals with a case where a request is made to the Transport Accident Commission for an impairment assessment to be conducted before the eighteen-month period has expired. The Liberal Party is strongly of the view that the Bill should make it expressly clear that any denial, deferral or decision of any other kind whatsoever of the commission on such an application should be a decision for the purposes of the appeal
provisions of the Act. It is desirable, if not essential, that there be included a subsection that specifically recites that a decision of the commission is a decision to which section 77 and the following sections will apply so as to give a right of appeal to the Administrative Appeals Tribunal or to a court.

I ask the Treasurer to address that matter to ensure that the intention is clear. In the view of the Opposition, the best way to do that is to include a provision at this point and in another place, to which I will refer later, making quite express provision that decisions of this kind are subject to appeal under section 77.

Mr JOLLY (Treasurer)—First of all, I should make it clear that drafting instructions were given to the Parliamentary draftsperson in respect of ensuring that the no-fault benefits can continue beyond the eighteen-month period in circumstances where that person had no common-law claim, has failed to mount a common-law claim, or mounted a claim and, in fact, lost the common-law case.

The words that appear in the amendment are consistent with that direction—I have been advised that that is the appropriate way of handling it—and if the honourable member for Brighton still has some doubts because of the legal advice he is receiving, I will certainly discuss the matter with him before the Bill is transferred to another place.

Similarly, I sought advice in respect of the treatment of minors under the Bill and whether the period of limitation, combined with the circumstances on that impairment assessment taking place at the age of eighteen years, would, in fact, cause problems from the minor's point of view.

I have received preliminary advice that minors would not be in the position where the impairment assessment could be completed within the six-year period.

Again, as that advice is preliminary, it is a matter that will be examined before the Bill proceeds to another place. I also point out that the administration of no fault and the impairment assessment decisions by the proposed Transport Accident Commission are subject to appeal.

That also applies in circumstances of the commission consenting to allow the impairment assessment to occur prior to the expiration of the eighteen-month period. I emphasise that, by the way the Bill and the amendments are structured, every decision of the proposed Transport Accident Commission is appellable to the Administrative Appeals Tribunal.

Mr MACLELLAN (Berwick)—With respect to the second matter raised by the honourable member for Brighton and responded to by the Treasurer, I ask the Treasurer to consider again the matter of minors and the six-year limit for taking action and the assessment at eighteen years of age. The Treasurer has indicated that it may be appropriate to have an early assessment. In other words, someone can be assessed at an earlier age, rather than tackling the problem of the six-year limit.

I ask the Treasurer to examine the possibility that it may be better to leave the assessment until the eighteenth birthday and to tackle the question of the six-year limit. If one takes the case of a six-year-old child with a six-year limit, that child will be twelve years of age and, after that, will not be able to take action.

The Treasurer seems to be suggesting that an assessment should be made of the child at the age of eleven years, before the expiration of the six-year period. Is it rational and sensible for a child of eleven years of age to be possibly launching a common-law claim at that age while the child would normally be living in dependent circumstances with the family, or even in institutional care if the child is a ward of the State?

I should have thought it might be a better public policy to tackle the six-year limit in respect of minors and say the limitation will not run until five years, before the child turns eighteen, thus allowing twelve months after the child reaches eighteen years for action to be taken, and have the assessment made when the child reaches the age of eighteen years.
There are two reasons for that. There could be a delay in the assessment while the child is in a dependent situation simply because of age and the fact that the child is living with a family. The assessment at the age of eighteen might be different.

Secondly, the child would be going through the developmental teenage growth stage and it is not always easy for medical practitioners to make proper assessments in those circumstances.

Mr Micallef—They may also get better!

Mr MACLELLAN—I was just about to come to the point made by the honourable member for Springvale by interjection. There is an additional benefit, that by the time a child reaches eighteen years of age he or she may have made a much better recovery and the assessment made at the age of eighteen might show that the child really does not need the benefit of common-law proceedings. I think the honourable member for Springvale should be pleased to agree with that. We may find ourselves in agreement.

Mr Sidiropoulos—It does not happen very often.

Mr MACLELLAN—It does. It occurs more often than the honourable member might imagine, both inside and outside the Chamber!

The public policy is better expressed by saying that attention will be directed to the six-year limit in respect of minors rather than forcing an early assessment of somebody prior to their reaching eighteen years of age.

I accept that there might be good arguments for saying that the board may or may not agree to an early assessment in particular circumstances and some formula may be worked out to accommodate that rather than forcing early assessment. By leaving the six-year limit in position, and not altering that, we may have less useful results than we would get if we said that the assessment will, generally speaking, be at eighteen years of age and may be earlier if needed in special circumstances and that the limitation will be removed providing for a period after eighteen years or after assessment in which a common-law action could be commenced, if appropriate.

Mr JOLLY (Treasurer)—In addition to examining the matters that I have already outlined to the Committee, I certainly would be willing to examine that concept. The arguments advanced by the honourable member for Berwick have some merit and need to be examined. We need to examine the total implications of the approach he suggested.

It is important to ensure that minors are looked after in the Bill. However, the point made by the honourable member for Berwick may be one that requires more close examination during the autumn sessional period rather than this sessional period.

The clause, as amended, was adopted, as were clauses 48 to 52.

Clause 53

Mr JOLLY (Treasurer)—I move:

19. Clause 53, line 39, after “53.” insert “(1)”.

20. Clause 53, page 44, after line 13, insert—

“(2) The Commission is not liable—

(a) to make payments under section 49, 50 or 51 in respect of an injury in relation to any period after the settlement or award of pecuniary loss damages within the meaning of section 93 in respect of the injury; or

(b) to make payments under section 47, 48 or 54 in respect of an injury after, or in relation to any period after the settlement or award of pain and suffering damages within the meaning of section 93 in respect of the injury.

(3) The Commission—

(a) is not liable to make payments under section 48, 49, 50 or 51 in respect of an injury in relation to any period after the expiration of the period of three years after the injury first manifests itself or, in the case of a person who was a minor when the injury first manifested itself, after the person attains the age of 21; and
(b) ceases to be liable to make payments to a person under section 48, 49, 50 or 51 in respect of an injury when the sum of the amounts paid by the Commission to the person under sections 44, 45, 48, 49, 50, 51 and 54 equals $65,000.

(4) Sub-section (3) does not apply in relation to payments to a person who is injured as a result of a transport accident if—

(a) an impairment benefit under section 47 has been assessed in respect of the injury; and

(b) the person suffers a degree of impairment as a result of the injury that is assessed by the Commission as 50 per centum or more."

Mr STOCKDALE (Brighton)—I wish to comment on amendment No. 20. Proposed subclause (4) raises the matters I addressed in relation to clause 47 (7) and, in particular, subclause (4) is the provision which actually provides for the impairment assessment to be conducted prior to the eighteen-month period and if the amendment were necessary in the light of the comments I made before, it would actually be an amendment to subclause (4).

I also indicate that it is intended that subclause (3) should establish two limitations on the extent of prescribed no-fault benefits which are to operate as alternatives on the basis of the first of them to take effect determining rights to no-fault benefits of that kind.

I believe there is some doubt about whether that is the result achieved by that provision. However, the Opposition does not put it so highly as to say it is not achieved. It is a matter that ought to be addressed by those advising the Treasurer.

In the final analysis it is a matter of more concern to the Government in any case than to the opposition parties. However, to give full effect to the agreement the intention is that whichever of those two conditions occurs first should determine the no-fault entitlements.

Mr JOLLY (Treasurer)—In respect of the points made by the honourable member for Brighton, it is clearly the intention of the agreement and the Government that the expiry period is either three years or the repayment of $65,000, whichever comes first. This was a drafting instruction given to the Parliamentary draftsperson. It is her view that that clearly meets these drafting instructions, and the key to subclause (3) (a) as expressed in amendment No. 20 is the same as paragraph (a) and is not liable. That leads to the conclusion that it is at the expiration of the three-year period or $65,000, whichever comes first.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 54 to 56.

Clause 57

Mr JOLLY (Treasurer)—I move:

21. Clause 57, page 46, line 30, after "sub-section" insert "(2) and".

22. Clause 57, page 46, after line 35, insert—

"(5) The Commission is not liable to pay a death benefit under this section to a surviving spouse or dependent child of an earner who dies as a result of a transport accident if the surviving spouse or dependent child receives an award or makes a settlement of damages in respect of the death.".

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

Clause 58

Mr JOLLY (Treasurer)—I move:

23. Clause 58, page 48, after line 16, insert—

"(7) The Commission is not liable to make payments under this section to a surviving spouse of an earner who dies as a result of a transport accident in respect of any period after an award or settlement of damages is made in respect of the death.".

The amendment was agreed to, and the clause, as amended, was adopted.
Clause 59

Mr JOLLY (Treasurer)—I move:

24. Clause 59, page 49, after line 38, insert—

“( ) The Commission is not liable to make any payment under this section to or for a dependent child of a person who dies as a result of a transport accident after, or in respect of any period after an award or settlement of damages is made in respect of the death.

( ) If both parents of a child die as a result of the same transport accident and the Commission is liable to pay amounts in accordance with this section, the Commission is not liable to pay amounts that are greater than those it would be liable to pay under this section if only one parent had died as a result of the transport accident.”.

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

Clause 60

Mr STOCKDALE (Brighton)—The opposition parties would like to see this important provision considered before the Bill passes to another place. The compensation scheme proposed in the Bill provides that medical, hospital, rehabilitation and other physical support services for an injured victim of a motor accident are to be provided under the no-fault scheme. In addition, care and attention benefits are to be provided under the no-fault scheme. A corollary of that is that the opposition parties reluctantly agreed to remove entirely the right to sue for damages with respect to care, attention, hospital and all the matters to which I referred. The description given is not exhaustive but it is an illustrative description of the benefits concerned.

The intention of the opposition parties to concur with the total abolition of common-law rights for loss and damage of that kind is completely dependent on the provision of a right of appeal in decisions made by the Transport Accident Commission on those matters. The Opposition is gravely concerned that, especially in the environment of the dire need for cost constraint in the scheme as a whole, individual victims may be disadvantaged and left at the mercy of the scheme with no recourse outside the Transport Accident Commission. I do not wish to be thought to be using those words in a perjorative sense.

The Opposition is adamant that there should be a right of appeal in those matters. A short time ago I referred to another of those cases. The Opposition wishes to see a subclause included in the Bill to make it clear that the appeal provisions of the Act apply to a decision on the form of benefits to be given or not given to the accident victim.

I am happy for the Treasurer to seek advice on how that should be done and on whether it is wise. It may raise an expressio unius position for other parts of the Act. The Opposition may also seek advice on this point. The Opposition is concerned that there be no doubt that a right of appeal against a decision of that kind exists.

It might be helpful to the courts if the Treasurer said that that is the intention of the Government. The Treasurer is prepared to give an assurance during the debate today, which assurance will be put on the record of Hansard for future reference by the courts and other interested parties, about the provision of care and attention, nursing care and the like.

A relatively small number of accident victims require more or less constant medical attention. Often they require 24-hour nursing or medical attention. It is absolutely vital that the Transport Accident Commission accepts responsibility for providing that care in a bona fide case. The opposition parties understand that that is the Government's intention and that it is not intended that any avoidance of that responsibility will take place in the administration of the scheme by the commission.

The preparedness of the opposition parties to consent to the removal of the common-law rights in those areas is utterly contingent on the scheme operating that way in practice. To do otherwise would be to work an enormous injustice on a relatively small number of victims and, in many cases, to simply wreck the lives of their families.
Recently in the debate on the motion for the adjournment of the sitting I raised the case of a young lady named Naomi Foy who was seriously injured in a motor car accident. She cannot care for herself, and her mother's life is being totally devoted to administering to her needs in the family home. The girl's condition is such that when she is institutionalised, even in the best of care, her condition deteriorates. Medically, the best course is for the girl to be cared for in her home but the burden on her family, especially her mother, is potentially soul destroying.

This is a case of a woman in her middle years who faces the prospect of every remaining day of her life being devoted to the constant attention of her sadly crippled daughter. That is not consistent with the bare minimum necessary for human dignity. The scheme should deliver to individuals the care required. The Opposition will do everything in its power to ensure that the compassion necessary in those cases is delivered by the scheme. Its preparedness to accept the abolition of common-law rights in this area is dependent upon that need being met. It wants to ensure that the small number of cases receive the compassionate treatment that they warrant.

I understand that the Treasurer is prepared to agree that the commission will provide that degree of care in bona fide cases.

Mr Jolly (Treasurer)—On the second matter raised by the honourable member for Brighton, the Government intends to ensure that the Transport Accident Commission facilitates the provision of whatever necessary services are required, regardless of whether contributory negligence can be demonstrated. That needs to be linked into the first point made by the honourable member: the right of appeal against any decision made by the Transport Accident Commission in such issues.

I have been advised that any decision made according to the provisions of this clause would be subject to appeal to the Administrative Appeals Tribunal. I am willing to provide the details of that advice to the honourable member for Brighton so that he can rest assured that the appeal process is available.

The clause was agreed to.

Clause 61

Mr Jolly (Treasurer)—I move:

25. Clause 61, page 51, line 17, after "of" insert "$450,000, $200,000.

26. Clause 61, page 51, line 17, omit "$405,800" and insert "$65,000, $40,580, $20,000".

27. Clause 61, page 51, line 18, after "Division" insert "or Part 6".

28. Clause 61, page 51, line 25, after "Division" insert "or Part 6".

29. Clause 61, page 51, line 40, after "Division" insert "or Part 6".

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 62.

Clause 63

Mr Jolly (Treasurer)—I move:

30. Clause 63, line 18, omit "124" and insert "133".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 64 to 68.

Clause 69

Mr Jolly (Treasurer)—I move:

31. Clause 69, lines 20 and 21, omit "in the prescribed form".

32. Clause 69, line 22, omit "132" and insert "141".

33. Clause 69, line 25, omit "136" and insert "145".
34. Clause 69, line 34, omit “in the prescribed form”.
35. Clause 69, line 35, omit “133 or 134” and insert “142 or 143”.
36. Clause 69, line 37, omit “136” and insert “145”.
37. Clause 69, line 43, omit “136” and insert “145”.
38. Clause 69, line 43 and page 56, line 1, omit “in the prescribed form”.
39. Clause 69, page 56, line 5, omit “132” and insert “141”.
40. Clause 69, page 56, line 12, omit “132” and insert “141”.

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

Clause 70

Mr JOLLY (Treasurer)—I move:
41. Clause 70, line 21, omit “request” and insert “make a reasonable request to”.
42. Clause 70, line 24, omit “request” and insert “make a reasonable request to”.
43. Clause 70, line 30, omit “request, or further” and insert “reasonable request, or further reasonable”.
44. Clause 70, line 37, after “fails” insert “without reasonable cause”.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 71 to 91.

Clause 92

Mr JOLLY (Treasurer)—I move:
45. Clause 92, line 25, omit “159” and insert “168”.

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

Clause 93

Mr JOLLY (Treasurer)—I move:
46. Clause 93, after line 30, insert the following heading to precede clause 93:
“Division I—Damages in Respect of Death or Serious Injury”.
47. Clause 93, line 34, omit “Part 3” and insert “section 34 except in accordance with this section.”
48. Clause 93, after line 34, insert—

(2) A person who is injured as a result of a transport accident may recover damages in respect of the injury if—
(a) an impairment assessment has been made for the purposes of section 47 (1) or (7) in respect of the person; and
(b) the injury is a serious injury.

(3) If—
(a) an impairment assessment has been made for the purposes of section 47 (1) or (7) in respect of a person who is injured as a result of a transport accident; and
(b) the person suffers a degree of impairment as a result of the injury that is assessed by the Commission as 30 per cent or more—
the injury is deemed to be a serious injury within the meaning of this section.

(4) If—
(a) an impairment assessment has been made for the purposes of section 47 (1) or (7) in respect of a person who is injured as a result of a transport accident; and
(b) the person suffers a degree of impairment as a result of the injury that is assessed by the Commission as less than 30 per cent—
the person may not bring proceedings for the recovery of damages in respect of the injury unless—
(c) the Commission—
(i) is satisfied that the injury is a serious injury; and
(ii) issues to the person a certificate in writing consenting to the bringing of the proceedings; or
(d) a court, on the application of the person, gives leave to bring the proceedings.

(5) An application under sub-section (4) (d) shall be made by summons and a copy of the summons shall be served on the Commission and on each person against whom the applicant claims to have a cause of action.

(6) A court must not give leave under sub-section (4) (d) unless it is satisfied that the injury is a serious injury.

(7) A court must not, in proceedings in accordance with sub-sections (2), (3) and (4), award to a person in respect of an injury—

(a) pecuniary loss damages—
(i) if the total pecuniary loss damages assessed, before any reduction in respect of the person’s responsibility for the injury, is less than $20 000; or
(ii) in excess of $450 000; or
(b) pain and suffering damages—
(i) if the total pain and suffering damages assessed, before any reduction in respect of the person’s responsibility for the injury, is less than $20 000; or
(ii) in excess of $200 000; or
(c) damages of any other kind.

(8) A person may recover damages under Part III of the Wrongs Act 1958 in respect of the death of a person as a result of a transport accident.

(9) A court must not, in proceedings under Part III of the Wrongs Act 1958, award damages in accordance with sub-section (8) in respect of the death of a person in excess of $500 000.

(10) Damages awarded to a person under this section shall not include damages in respect of—

(a) in the case of an award of pecuniary loss damages under sub-section (7), any pecuniary loss suffered before the entitlement of the person to compensation under this Act was reviewed under section 46; or
(b) any loss suffered or that may be suffered as a result of the incurring of costs or expenses of a kind referred to in section 60; or
(c) the value of services of a domestic nature or services relating to nursing and attendance—
(i) which have been or are to be provided by another person to the person in whose favour the award is made; and
(ii) for which the person in whose favour the award is made has not paid and is not and will not be liable to pay.

(11) If damages are awarded in accordance with sub-section (7) or (9) in respect of the injury or death of a person, the court shall order the payment to the Commission—

(a) in the case of damages awarded under sub-section (7), of such part of the damages as is equal to the sum of payments made by the Commission under sections 47, 48, 49, 50 and 51 in respect of the injury; or
(b) in the case of damages awarded in accordance with sub-section (9), of such part of the damages as is equal to the sum of payments made by the Commission under this Act in respect of that death.

(12) Subject to the discretion of the court—

(a) in proceedings relating to an application for leave of the court under sub-section (4) (d)—costs are to be awarded against a party against whom the decision is made; and
(b) in proceedings for the recovery of damages in accordance with this section—
(i) if no liability to pay damages is established, costs are to be awarded against the claimant; and
(ii) if damages are assessed but cannot be awarded under this section, each party bears its own costs; and
(iii) if damages are awarded, costs are to be awarded against the defendant.

(13) Where an award of damages in accordance with this section is to include compensation, assessed as a lump sum, in respect of damages for future loss which is referable to—

(a) deprivation or impairment of earning capacity; or
(b) loss of the expectation of financial support; or
(c) a liability to incur expenditure in the future—
the present value of the future loss must be qualified by adopting a discount rate of 6 per centum in order to
make appropriate allowance for inflation, the income from investment of the sum awarded and the effect of
taxation on that income.

(14) Except as provided by sub-section (13), nothing in that sub-section affects any other law relating to the
discounting of sums awarded as damages.

(15) A court must not, in relation to an award of damages in accordance with this section, order the payment
of interest, and no interest shall be payable, on an amount of damages, other than damages referable to loss
actually suffered before the date of the award, in respect of the period from the date of the death of or injury to
the person in respect of whom the award is made to the date of the award.

(16) Except as provided by sub-section (15), nothing in that sub-section affects any other law relating to the
payment of interest on an amount of damages, other than special damages.

(17) In this section—

“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.'.

49. Clause 93, page 65, line 2, omit “or”.

50. Clause 93, page 65, lines 3 to 10, omit paragraphs (c) and (d).

Mr STOCKDALE (Brighton)—I shall make two observations about this clause, which
is the nub of the preservation of modified common-law rights. The first concerns the
definition of pain and suffering damages and of pecuniary loss damages, being subclause
17. The Opposition is concerned about the use of the word “or” before the last limb of
each of those definitions. Arguments run either way on whether that word should be “or”
or “and”.

The Opposition’s support is on the basis that each of those limbs is cumulative. By
recovering damages under one limb, a claimant will not be disentitled from recovering
damages on the other. As I understand it, that is also the intention of the Government.
The various limbs of the definition are not intended to be mutually exclusive of each other
and a claimant will be entitled to recover damages under each of the limbs of each
definition. Whether that is achieved by substituting the word “and” for the word “or” I
am not certain, but it would be helpful if that could be confirmed so that, under the
interpretation legislation, reference may be made to the intention of Parliament as expressed
in this debate.

More generally, the clause sets up the limitations on common-law rights that are to be
preserved. I have already outlined in detail the way in which this position has been arrived
at and the central thrust of the preservation of common-law rights. I reiterate that the
scheme as a whole is a compromise to which all parties have subscribed, each agreeing
that concessions from their own positions were necessary.

The clause represents the central objective of the Liberal Party and, as I understand it,
the National Party during the time in which third-party insurance has been under debate
and throughout the period of the negotiations once that point was reached.

I pay tribute to the Government and the work that all parties have done. In some
respects, the clauses in the Bill are more satisfactory than those the Opposition has
originally proposed. In other respects, the Opposition has been prepared to make substantial
concessions from its own well-researched and firmly-held position on the acceptable
degree of modification of common-law rights.
The thresholds in the Bill are difficult obstacles in the way of claimants and will eliminate significantly more cases than the Opposition had originally proposed. The initial narrative threshold has been improved by those participating in the process of negotiation and public debate.

The monetary thresholds will cut out substantially more claims than would have been cut out by the thresholds originally proposed by the Liberal Party. The Opposition subscribes to these measures in the spirit of compromise in which all parties have been prepared to make concessions from firmly-held positions. I compliment the National Party and the Government on their preparedness to join in what have been, in a hackneyed phrase in industrial relations, not only meaningful negotiations but also successful negotiations.

Mr JOLLY (Treasurer)—I certainly concur with the latter remarks made by the honourable member for Brighton. This was an area that received close attention by all parties subject to negotiations on the fundamental reform of the third-party insurance system in this State. I agree with the comments made by the honourable member that the thresholds in the amendments are tighter than any other thresholds that were previously proposed. Clearly, these are tight thresholds and I repeat my opening comments that it is important to ensure that the courts strictly adhere to these thresholds and reflect the intent of the Bill. That is why it is extremely important that the system, when in operation, is closely monitored so that cost containment is achieved.

As to the initial point made by the honourable member for Brighton about pain and suffering damages and pecuniary loss damages, I have been advised that the definition is interpreted in a way that it could be any combination of the various items under pain and suffering damages that could lead to the individual seeking common-law compensation. The same applies in the case of pecuniary loss damages. In other words, if one is considering the threshold issue, for example, in the case of pecuniary loss—which has more relevance when one is considering the cumulative position—it is clear from the advice I have received that one crosses the threshold if one aspect of pecuniary loss or a proportion of each of the various loss damages under pecuniary loss leads one beyond the $20,000 threshold.

The honourable member for Brighton expressed concern about the use of the word “or” rather than “and”. I am advised that the intention is certainly to pick it up in the way expressed by the honourable member for Brighton and in the way that I have indicated.

Mr CAIN (Premier)—I shall make some comments on this clause which deals with common-law rights generally. I concur with what has been said by earlier speakers that it is the desire of all to ensure that what damages flow as a result of rights exercised under this head should be contained. We do not want the situation in which we are currently, with damages burgeoning for a variety of reasons and where the combination of common-law claims with compulsory insurance leads to what has been popularly known as superimposed inflation.

After the examination that was conducted on all of these provisions, the Government was advised that superimposed inflation of the order of 10 per cent, 15 per cent or 16 per cent was not uncommon in recent years. This scheme cannot afford that, and all parties have made it clear that we must be vigilant and take whatever steps are necessary to put a stop to any interpretations, lurks or new heads of damage that lead to that occurring.

The mode of trial is an important consideration in the capacity to react at an early time if it appears that interpretations are leading to generous awards and, therefore, burgeoning costs. The Government has not sought to lay down the modes of trial in the Bill. These matters are to be determined by fact and by an assessment of damages by judges alone or by the introduction of juries. Victoria, if not the only State, is one of the few States that retains juries as an option for these types of claims.
Over the past 25 to 30 years the market appears to have varied. Over some years plaintiffs have felt that judges are more generous than juries and it has moved up and down and across the board, as it were.

It is incumbent upon us all to make some assessment as to which mode of trial is the more likely to contain costs in these claims and to opt for that mode of trial. If we do not, we shall be responsible if one mode of trial allows claims to get out of hand.

I believe I am correct in saying that judges can, by rules, determine what the mode of trial will be. That is something they would be reluctant to change unless they got a clear indication from the Government of what its wishes were.

I merely float the issue at this stage, Mr Chairman, because it has to be faced up to at some stage before this Bill becomes operative so that a very clear direction is given by Parliament to those who are responsible for the interpretation and implementation of these important provisions concerning Parliament's determination that everything possible is done to ensure that the kind of burgeoning costs and damages explosion that has occurred in various forms over the past 25 years does not occur again.

Mr ROSS-EDWARDS (Leader of the National Party)—The clause and the proposed amendments regarding threshold have occupied more time than any other aspect of the proposed legislation. It is difficult indeed to arrive at a satisfactory wording on threshold. If anything, the wording is a little on the hard side. It has been estimated that this provision will create in the vicinity of 3000 new cases each year. I am inclined to believe the figure will be under 3000 rather than over 3000. I know the Premier wanted the figure to be under 3000, but time will tell.

The Premier said that this matter will have to be monitored. I agree wholeheartedly, even though the matter has not been monitored for the past four and a half years, but it will be monitored from now on.

In a spirit of cooperation I suggest to the Premier and the Treasurer that from time to time they invite representatives from the opposition parties to attend a briefing from the monitoring committee. Obviously, those representatives would be the honourable member for Brighton, representing the Opposition, and the honourable member for North Eastern Province in another place, Mr Baxter, and myself, representing the National Party. If the opposition parties were briefed any changes that were necessary could be made in a spirit of cooperation.

Perhaps those honourable members who have not been involved in discussions on the Bill do not realise it, but further amendments will be made in March next year. If my judgment is accurate, it would be impossible with such a huge task to get it right the first time around. Refinements will have to be made but on a continuing basis. Much has been achieved by cooperation but a formal briefing by the monitoring committee for the opposition parties would be very useful.

Mr STOCKDALE (Brighton)—I wanted to comment on the penultimate comments made by the Treasurer and those by the Premier and to emphasise the fact that the context in which the Liberal Party supports the reforms is one that recognises the need for them to be applied in a way that will contain the costs of the scheme. Certainly the Opposition anticipates that the statutory provisions will be applied in that way. As the Treasurer said, they are deliberately tight; they are intended to be seen to be tight and the Opposition has certainly endeavoured to arrive at statutory definitions that will prevent, so far as humanly possible, a repeat of the cost blowout that occurred under the old scheme in recent years.

However, I would want to place one caveat on that: I should not like it argued in any case that the Opposition has in any way suggested that the courts should do anything other than apply the terms to achieve just results within the legislative intention. However, overall it is the intention of the Opposition that the statutory provisions should be tight and that they should be deliberately applied in a tight manner.
Mr JOLLY (Treasurer)—Certainly the emphasis by the Premier and myself on the containment of costs highlights that the narrow definition, as reflected in the proposed amendments before the Committee, should proceed to be applied in that way through the courts. The Government is keen to ensure that no interpretation is given to the definition that would expand the number passing through the threshold to a greater degree than was expected by the costing of the scheme.

The Government would certainly be happy to invite representatives of the opposition parties, especially those who have been involved in negotiations on the third-party insurance reform, to have the opportunity of receiving advice from the monitoring committee on how the common-law process has been operating. Those representatives will be given the most up-to-date advice possible on the costs of the new system. The Government will ensure that the invitation is issued at the appropriate time.

Mr MACLELLAN (Berwick)—I note that the work of the various parties has produced a common approach, but I do wish to put on record that I decline to be led by the Premier to the conclusion that, having drawn the provisions in a tight frame of compromise, there should be some implications that they should be applied in a narrow sense.

Having drawn the provisions tightly, the Leader of the National Party having said that from his point of view fewer cases would proceed to common law than he had originally sought, he believes the provisions are tight; the honourable member for Brighton making the same point, that concessions have been made and that this represents compromise; the concern I have is that the courts in applying the law as passed by Parliament should apply it in a way that is fair and just to the people who have been injured and that the starting point should not be one of economy, of saying that they are to give the least amount or that they are to be concerned with anything other than the facts before them. The facts before them are the injuries, the needs and the liabilities of other people who may have contributed towards accidents.

I do not believe modes of trial should be chosen for their ability to contain costs. The mode of trial and the application and interpretation of the law should be on a basis that the person making the claim is given a fair and just result.

Mr CAIN (Premier)—In relation to the matters raised by the honourable member for Berwick, whether he likes it or not the facts are that there have been periods in litigation when juries have been too generous for a variety of reasons and have had to be pulled back into line by appeals to the Full Court and a whole range of other devices where they have been susceptible to a range of propositions put to them. Jury trials take inordinately longer than trials before judges alone. There are many factors that have demonstrated over a number of years that trials by jury can lead to damages and decisions in respect of liability getting out of hand and having to be pulled back into line.

The Government has to have regard to that; that is something the Government has to look at. The Government has to be aware of that prospect when this new system comes into vogue—nothing more than that. The experience in other States and in other parts of the world has been that juries are not an appropriate forum for consideration of these sorts of matters. We have to make up our minds about it: if the opposition parties want to go up the jury path, they should recognise that at certain times over the past twenty years the jury path has been a very generous one. That is all I am saying. A decision has to be made and it has to be made early. I say nothing more than that.

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

Clause 94

Mr JOLLY (Treasurer)—I move:

51. Clause 94, lines 12–43, omit sub-clauses (1), (2), (3) and (4) and insert—

"Division 2—Indemnity by Commission"

Indemnity.
“94. (1) The Commission is liable to indemnify—

(a) the owner or driver of a registered motor car in respect of any liability in respect of an injury or death of a person caused by or arising out of the use of the motor car in Victoria or in another State or in a Territory; and

(b) the owner or driver of a railway train or tram in respect of any liability in respect of an injury or death caused by or arising out of the use of the railway train or tram in Victoria—

other than liability to pay compensation under the Accident Compensation Act 1985 or an Act or law referred to in section 37.

(2) Sub-section (1) does not apply—

(a) in respect of any period (other than the first 28 days of the period) in respect of which the transport accident charge applicable to the motor car for that period has not been paid; or

(b) in respect of a railway train or tram (other than a railway train or tram operated by the State Transport Authority or the Metropolitan Transit Authority) during any period in respect of which an agreement under section 115 in respect of the railway train or tram is not in force.

52. Clause 94, page 66, lines 2 and 3, omit “against which the owner or driver is insured under a contract of insurance under sub-section (2)” and insert “in respect of which the Commission is liable under this section to indemnify the owner or driver.”

53. Clause 94, page 66, lines 5 and 6, omit “to which the liability of the Commission is limited under the contract” and insert “of the liability of the Commission under the indemnity”.

54. Clause 94, page 66, line 9, omit “(5)” and insert “(3)”.

55. Clause 94, page 66, line 13, omit “(5)” and insert “(3)”.

56. Clause 94, page 66, line 16, omit “(5)” and insert “(3)”.

57. Clause 94, page 66, line 30, omit “to whom a contract of insurance under sub-section (2) relates” and insert “in respect of which the Commission is liable under this section to indemnify the owner or driver”.

58. Clause 94, page 66, lines 37 and 38, omit “to which the liability of the Commission is limited under the contract of insurance” and insert “of the liability of the Commission under the indemnity”.

59. Clause 94, page 67, line 1, omit “(9)” and insert “(7)”.

60. Clause 94, page 67, line 6, omit “(9)” and insert “(7)”.

61. Clause 94, page 67, lines 19 and 20, omit “For the purposes of a contract of insurance under section (2)”.

62. Clause 94, page 67, line 22, omit “insured under the contract” and insert “in respect of which the Commission is liable under this section to indemnify the owner or driver”.

63. Clause 94, page 67, line 39, omit “(12)” and insert “(10)”.

64. Clause 94, page 67, line 41, omit “(13)” and insert “(11)”.

65. Clause 94, page 67, line 42, omit “(13)” and insert “(11)”.

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

Clause 95

Mr JOLLY (Treasurer)—I invite the Committee to vote against this clause.

The clause was negatived.

Clause 96

Mr JOLLY (Treasurer)—I move:

67. Clause 96, lines 23 to 25, omit all words and expressions on these lines and insert—

“96. (1) If—

(a) the Commission has paid an amount under Division 1 of Part 10 in respect of an injury or death resulting from an accident; or

(b) the Motor Accidents Board, before the commencement of this section, paid an amount under the Motor Accidents Act 1973, the Accident Compensation Act 1985 or under section 8 (2A) or (2B) of the Workers Compensation Act 1958 in respect of an injury or death resulting from an accident—

and a person recovers damages from a person who—“.
68. Clause 96, line 26, omit "(a)" and insert "(c)".
69. Clause 96, line 31, omit "(b)" and insert "(d)".
70. Clause 96, line 35, after "Commission" insert "or the Motor Accidents Board".
71. Clause 96, line 36, after "Commission" insert "or the Motor Accidents Board".
72. Clause 96, page 70, lines 1 and 2, omit sub-clause (3).

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

Clause 97

Mr JOLLY (Treasurer)—I move:
73. Clause 97, line 9, omit "95 or 96" and insert "105".

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

Clause 98

Mr JOLLY (Treasurer)—I move:
74. Clause 98, lines 24 and 25, omit "a contract of insurance" and insert "an indemnity".
75. Clause 98, line 27, omit "have not been instituted".
76. Clause 98, line 28, omit "have been discontinued or".
77. Clause 98, lines 30 and 31, omit "institute proceedings or fresh proceedings against the first-mentioned person for that purpose or".
78. Clause 98, line 32, omit "as the case may be".
79. Clause 98, lines 37 and 38, omit "institutes proceedings in the name of a person or".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 99 to 101.

Clause 102

Mr JOLLY (Treasurer)—I move:
80. Clause 102, line 13, omit "100" and insert "109".
81. Clause 102, line 29, omit "100 (3)" and insert "109 (3)".
82. Clause 102, line 41, omit "100 (3)" and insert "109 (3)".

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

Clause 103

Mr JOLLY (Treasurer)—I move:
83. Clause 103, line 11, omit "100" and insert "109".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 104 to 111.

Clause 112

Mr JOLLY (Treasurer)—I move:
84. Clause 112, after line 18, insert—
"( ) an offence in respect of which an infringement notice has been served under section 82c of the Motor Car Act 1958; or"
85. Clause 112, lines 23–25, omit paragraph (d) and insert—
"( ) in case of—
(i) a traffic infringement referred to in paragraph (a); and
(ii) an offence referred to in paragraph (b) if the penalty for the offence is paid under section 82c of the Motor Car Act 1958—"
The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 113 to 122.

Clause 123

Mr JOLLY (Treasurer)—I move:
86. Clause 123, after line 42, insert—
"( ) Scales of costs in respect of proceedings before the Tribunal relating to decisions under this Act.”.
87. Clause 123, page 82, line 6, omit “112” and insert “121”.
88. Clause 123, page 82, line 11, omit “112” and insert “121”.
89. Clause 123, page 82, after line 24, insert—
“(4) Section 50 (2) of the Administrative Appeals Tribunal Act 1984 has effect in relation to proceedings before the Tribunal relating to decisions under this Act subject to any regulations in force under sub-section (1) (g) of this section.”.

The amendments were agreed to.

Mr STOCKDALE (Brighton)—I specifically address subclause 1 (d) which deals with the impairment table. To date, the Government has prepared a first or subsequent draft of an impairment table but it has not yet prepared the final version. I understand that the table will be based on the American Medical Association’s guide to impairment assessment.

I raise two issues in relation to this matter. Firstly, it is proposed that the impairment guide will be included in regulations but it will not be included in the Act either as a provision or as a schedule to the Act. The Opposition regards this as not entirely satisfactory, although in the immediate future it appears to be impracticable to include the guide in the proposed legislation.

The Opposition believes ultimately the table ought to be included in the Act. The table has a central role in the scheme for no-fault benefits. It has a relatively minor but important role in the application of the threshold to common-law rights. I say “minor” because the provisions are deliberately drafted and it will be seen from the agreement that I incorporated in Hansard earlier in the debate that it is intended that the table have a minor role in access to common-law rights, the minor role being that there is a deeming provision that access to common law turns on serious injury and where disablement assessed at 30 per cent or more is deemed to be serious injury.

Mechanical steps are available where an impairment assessment is made at less than 30 per cent, but the Liberal Party’s intention is that access to common-law rights will be determined by whether there is a serious injury as defined and not by the application of the impairment table. Nonetheless, in the no-fault level of the scheme, the impairment table has an important, even central role in the application of no-fault benefits. It is critical that the table be included in the proposed Act and that there be accountability to the Parliament and through the Parliament to the people of Victoria as to the terms of that table, which will be vital in determining the entitlements of people injured in motor accidents on Victorian roads.

At the risk of sounding a slightly discordant note, I comment about the apparent lack of consultation with resources outside the Government circle in the formulation of the table. The Liberal Party, the National Party and several professional bodies have expressed concerns about the material that is made available on the form of the table. The first is an objection of principle that the table, in the uses for which it is proposed to be put, assumes that a common level of injury means the same thing to different individuals.

The Liberal Party takes issue with that on conceptual and philosophical grounds. It is simply not true that the same injury will mean the same thing to individuals. The impairment table is but the beginning of the process of assessing the extent of loss, damage and injury suffered by an individual from a physical injury.
To take an extreme case, I would hazard a guess that there would be no honourable member who would be significantly affected or impaired in a total lifestyle sense by the loss of two fingers of the dominant hand, whether that is the left hand or the right hand. These injuries would not affect the occupations of the sedentary, or, shall I say, the less active. However, a professional golfer or tennis player would be affected significantly by the same injury; it could mean the end of a career. The loss of a leg below the knee may seriously affect an individual. There may be a lot of pain and suffering and mental anguish in the remaining years of that person's life, but that loss might not prevent that person from pursuing an occupation; whereas, in the case of a factory foreman, it might not be practical for him to pursue his occupation. He may suffer severe financial loss and the termination of his career prospects. To another individual, in the overall scheme of things, these hardships might be less significant.

Therefore, the fundamental assumption on which the impairment table is predicated—that the same injury means the same thing to each individual—simply is not borne out. Moreover, the medical profession, including eminent surgeons, such as Mr Buzzard, have been strident in their criticism of the concept and structure of the table the Government has used in the context of the WorkCare scheme and which it apparently wants to be used as the basis of this scheme by the Transport Accident Commission.

That brings me back to the point on which I started: there are in the community groups of individuals with expertise in this area, which could only be of assistance to the Government in refining the work it has already done. Nothing could demonstrate more clearly than the negotiating process on this Bill the value of the Government using the resources that are available in the community.

The medical bodies, the surgeon bodies, the Australian Medical Association, other professional bodies in the medical field and, in particular, the Law Institute of Victoria and the Bar Council of Victoria, have expertise; and if the Government does not use that expertise, the Victorian community is likely to suffer.

The Law Institute of Victoria has expended an enormous amount of time, energy, resources, intelligence and money in researching the questions that arise in relation to structuring compensation schemes. I do not believe it is putting it too highly to say that there are officers and members of that institute who are experts in the field.

There are surgeons who are experts in the field, and I urge the Government to consult fully with those bodies and to make use of the resources that the community has to ensure that the table covers all of the eventualities to the maximum extent possible. This is entirely warranted in view of the critical role that the Government has given the impairment table in the overall structure of the scheme.

Mr JOLLY (Treasurer)—I make it clear to the honourable member for Brighton that the intention of the Government is to have wide consultation about the development of the impairment table. As the honourable member pointed out, it will be set out in regulations and consideration will be given as to whether it is appropriate, after stabilisation of the impairment guides, for it to be considered in legislation.

The clause, as amended, was adopted, as were clauses 124 to 128.

Clause 129

Mr JOLLY (Treasurer)—I move:

90. Clause 129, line 28, omit “136” and insert “145”.

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

Clause 130

Mr JOLLY (Treasurer)—I move:

91. Clause 130, line 9, omit “132” and insert “141”.

The amendment was agreed to, and the clause, as amended, was adopted.
92. Clause 130, page 88, line 21, omit "132" and insert "141".

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

Clause 131

Mr JOLLY (Treasurer)—I move:

93. Clause 131, line 34, omit "132" and insert "141".

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

Clause 132

Mr JOLLY (Treasurer)—I move:

94. Clause 132, page 90, line 10, omit "persons's" and insert "person's".

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

Clause 133

Mr JOLLY (Treasurer)—I move:

95. Clause 133, line 27, omit "130" and insert "139".
96. Clause 133, line 28, omit "132" and insert "141".
97. Clause 133, line 37, omit "132" and insert "141".

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

Clause 134

Mr JOLLY (Treasurer)—I move:

98. Clause 134, page 92, line 12, omit "130" and insert "139".
99. Clause 134, page 92, line 13, omit "132" and insert "141".
100. Clause 134, page 92, line 21, omit "132" and insert "141".

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

Clause 135

Mr JOLLY (Treasurer)—I move:

101. Clause 135, line 3, omit "133 or section 134" and insert "142 or 143".

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

Clause 136

Mr JOLLY (Treasurer)—I move:

102. Clause 136, line 21, omit "113" and insert "122".
103. Clause 136, line 26, omit "113" and insert "122".
104. Clause 136, line 33, omit "113" and insert "122".
105. Clause 136, line 38, omit "113" and insert "122".
106. Clause 136, line 44, omit "113" and insert "122".
107. Clause 136, page 95, line 43, omit "132, 133 or 134" and insert "141, 142 or 143".
108. Clause 136, page 96, line 7, omit "132, 133 or 134" and insert "141, 142 or 143".
109. Clause 136, page 96, line 11, omit "132, 133 or 134" and insert "141, 142 or 143".
110. Clause 136, page 96, lines 18 and 19, omit "132, 133 or 134" and insert "141, 142 or 143".

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

Clause 137
Mr JOLLY (Treasurer)—I move:
111. Clause 137, line 8, omit “136” and insert “145”.
112. Clause 137, line 13, omit “136” and insert “145”.
113. Clause 137, line 16, omit “136” and insert “145”.

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

Clause 138

Mr JOLLY (Treasurer)—I move:
114. Clause 138, line 21, omit “136” and insert “145”.

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

Clause 139

Mr JOLLY (Treasurer)—I move:
115. Clause 139, line 30, omit “140” and insert “149”.
116. Clause 139, line 31, omit “132” and insert “141”.
117. Clause 139, page 98, line 1, omit “section 133 and section 134” and insert “sections 142 and 143”.
118. Clause 139, page 98, line 6, omit “133 or 134” and insert “142 or 143”.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 140.

Clause 141

Mr JOLLY (Treasurer)—I move:
119. Clause 141, line 30, omit “132” and insert “141”.
120. Clause 141, line 37, omit “136” and insert “145”.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 142.

Clause 143

Mr JOLLY (Treasurer)—I move:
121. Clause 143, line 6, after “143.” insert “(1)”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 144 to 163.

Clause 164

Mr JOLLY (Treasurer)—I move:
122. Clause 164, line 39, omit “5” and insert “6”.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 165 to 169.

Clause 170

Mr JOLLY (Treasurer)—I move:
123. Clause 170, page 118, after line 6 insert—

“(5) Part V of the Motor Car Act 1958 as in force immediately after the commencement of section 275 of the Accident Compensation Act 1985 applies to and in respect of contracts of insurance under Division 1 of that Part, whether entered into before or after the commencement of section 275 of the Accident Compensation Act 1985, but nothing in section 42A of the Motor Car Act 1958 affects or prejudices—

(a) any settlement made between the parties; or

(b) any decision made by a court (whether or not the decision is subject to appeal)—
before the commencement of this sub-section in any proceedings relating to any such contract of insurance.”.

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

New clauses

Mr JOLLY (Treasurer)—I move:

124. Insert the following new clauses to follow clause 94:

Survival of actions.

“AA. Without affecting the survival of any cause of action on the death of any person, in the case of the death of the owner or driver of a motor car, railway train or tram—

(a) any reference in this Division to liability incurred by the owner or driver in respect of the death of or injury to any person includes a reference to liability in respect of the death or injury under any cause of action surviving against the estate of the owner or driver; and

(b) any reference in this Division to a judgment against the owner or driver includes a reference to a judgment against the personal representative of the owner or driver; and

(c) any reference in this Division to a judgment debtor includes a reference to the owner or driver or to the estate of the owner or driver.”.

Provision where identity of motor car cannot be ascertained.

“BB. (1) Where the death of or injury to a person is caused by or arises out of the use of a motor car but the identity of the motor car cannot be established, a person who could have obtained a judgment against the owner or driver of the motor car in respect of such death or bodily injury may obtain against the Commission the judgment which in the circumstances he or she could have obtained against the owner or driver of the motor car.

(2) Judgment referred to in sub-section (1) may not be obtained unless—

(a) the person within a reasonable time after he or she knew that the identity of the motor car could not be established gave to the Commission notice in writing of intention to make the claim setting out his or her full name and place of abode, the date and place of the accident, the general nature of the injuries received and a short statement of the circumstances of the accident; or

(b) the claimant satisfies the court that the Commission has not been materially prejudiced in its defence to the claim by any failure of the claimant to give the notice at the proper time or by any omission from or any insufficiency or defect in the notice.”.

Where transport accident charge not paid.

“CC. (1) Where—

(a) judgment against the owner or driver of a motor car, railway train or tram in respect of which the indemnity under section 94 was not in force by reason of sub-section (2) of that section has been entered in respect of the death of or injury to any person caused by or arising out of the use of that motor car, railway train or tram; and

(b) the judgment debtor does not satisfy the judgment in full within one month after it has been entered—the judgment creditor may obtain judgment against the Commission for a sum equivalent to the amount (including costs) unpaid in respect of the first-mentioned judgment.

(2) If execution of the judgment first referred to in sub-section (1) is stayed pending appeal, the time during which the execution is so stayed shall be excluded in calculating the period of one month referred to in that sub-section.

(3) The sum paid by the Commission to satisfy the judgment obtained against the Commission and its costs shall be recoverable by the Commission against the owner or driver of the motor car, railway train or tram but—

(a) it is a good defence in any action against the owner of the motor car, railway train or tram if he or she establishes to the satisfaction of the court that the fact that the indemnity was not in force in respect of the motor car, railway train or tram was not due to his or her own default; and

(b) if the owner of the motor car, railway train or tram is the judgment debtor no sum is recoverable against the driver of the motor car, railway train or tram unless judgment could have been obtained against the driver in respect of the death or injury; and

(c) it is a good defence in any action against the driver of the motor car, railway train or tram if he or she establishes to the satisfaction of the court that at the time of the occurrence out of which such death or injury arose he or she had or had reasonable grounds for believing that he or she had the authority of the owner to drive the motor car, railway train or tram and that he or she had reasonable grounds
for believing and did in fact believe that the motor car, railway train or tram was a motor car, railway train or tram in relation to which the indemnity was in force; and

(d) the sum so paid and the costs shall be recoverable by the Commission against, and the defences are not available to, the driver (whether or not he or she is the owner) of the motor car, railway train or tram if the driver is convicted of having been, at the time of the occurrence out of which the death or injury arose, under the influence of intoxicating liquor whilst driving the motor car, railway train or tram.”.

Apportionment of costs.

“DD. If a judgment for damages is obtained against the owner or driver of a motor car, railway train or tram in respect of the death of or injury to any person caused by or arising out of the use of the motor car, railway train or tram in Victoria as well as in respect of some other loss or damage, the court shall (for the purpose of fixing the liability of the Commission) as part of the judgment adjudge what portion of the amount of the judgment is in respect of such death or injury and shall direct what portion of and in what manner any costs awarded as part of the judgment shall be apportioned to the portion of the amount awarded in respect of the death or injury.”.

Owner to give notice.

“EE. (1) On the happening of a transport accident affecting a motor car, railway train or tram to which an indemnity under section 94 applies and resulting in the death of or injury to any person, the owner as soon as practicable after the accident or, if the owner was not the driver or the motor car, railway train or tram at the time of the accident, as soon as practicable after he or she first becomes aware of the accident, must notify in writing to the Commission of the fact of the accident with particulars as to the date, nature and circumstances of the accident and to give all such other information and to take all such steps as the Commission may reasonably require in relation, whether or not any claim has actually been made against the owner on account of the accident.

(2) Notice of every claim made or action brought against the owner or to the knowledge of the owner made or brought against any other person on account of an accident shall be as soon as practicable given by the owner to the Commission with such particulars as the Commission may require.

(3) The owner of any motor car, railway train or tram shall not without the written consent of the Commission enter upon or incur the expenses of litigation as to any matter or thing in respect of which an indemnity under section 94 applies nor shall he or she without such consent make any offer, promise, payment or settlement or any admission of liability as to any such matter but nothing in this sub-section shall extend to any admission made at the time of the occurrence out of which the death or injury arose and reasonably attributable to mental stress occasioned by the circumstances or to any statement made to any member of the police force acting in the course of duty in hearing or receiving a statement or to any statement made or evidence given in or in the course of any proceedings in any court before any arbitrator.

(4) If the owner without reasonable cause fails to give any notice or otherwise fails to comply with the requirements of this section in respect of any matter the Commission may recover from the owner such amount by way of damages as is reasonably attributable to the failure.”.

Driver of motor car etc to give notice of accidents.

“FF. (1) If, at the time of the happening of any accident affecting a motor car, railway train or tram to which an indemnity under section 94 applies and resulting in the death of or injury to any person, the driver of the motor car, railway train or tram is not the owner he or she shall as soon as practicable notify in writing to the owner or the Commission of the fact of the accident.

(2) If the driver after the notice in writing in that behalf by the Commission without reasonable cause—

(a) fails to furnish the Commission with particulars as to the date, nature and circumstances of the accident, and to give all such information and to take all such steps as the Commission may reasonably require, whether or not any claim has actually been made against such person on account of the accident; or

(b) fails to give notice as soon as practicable to the Commission of every claim made or action brought against him or her, with such particulars as the Commission may require; or

(c) without the written consent of the Commission—

(i) enters upon or incurs the expense of litigation as to any matter or thing in respect of which the indemnity under section 94 applies; or

(ii) makes any offer, promise, payment or settlement or any admission of liability as to any such matter—

the Commission is entitled to recover from him or her such amount by way of damages as is reasonably attributable to the failure to comply with the requirements of this section.
(3) Nothing in sub-section (2) (c) (ii) extends to any statement made to any member of the police force acting in the course of duty in hearing or receiving a statement or to any statements made or evidence given in or in the course of any proceedings in any court or before any arbitrator.”.

Commission may settle claims, &c.

“GG. (1) The Commission—

(a) may undertake the settlement of any claim against the owner or driver of a motor car, railway train or tram in respect of which the Commission is liable to indemnify the owner or driver under section 94; and

(b) may take over during such period as it thinks proper the conduct and control on behalf of such an owner or driver of any proceedings taken or had to enforce such a claim or for the settlement of any question arising in relation to the claim; and

(c) may defend or conduct the proceedings in the name of the owner or driver and on his or her behalf and, if need be, may, without the consent of the owner or driver, to the extent of the liability of the Commission but no further or otherwise admit liability; and

(d) subject to this Part shall indemnify the owner or driver against all costs and expenses of or incidental to any such proceedings while the Commission retains the conduct and control of the proceedings.

(2) The owner or driver shall sign all such warrants and authorities as the Commission requires for the purpose of enabling the Commission to have the conduct and control of any proceedings.”.

Unauthorised or intoxicated drivers.

“HH. (1) If the death of or injury to any person is caused by or arises out of the use of a motor car, railway train or tram and that motor car, railway train or tram was at the time of the occurrence out of which the death or injury arose driven by a person without the authority of the owner or without reasonable grounds for believing that he or she had the authority of the owner—

(a) the driver is not entitled to recover from the Commission any sum on account of any moneys (including costs) paid or payable by the driver in respect of liability in respect of the death or injury; and

(b) any sum paid by the Commission in discharge of the liability of the driver is recoverable by the Commission from the driver.

(2) If the death of or bodily injury to any person is caused by or arises out of the use of a motor car, railway train or tram in relation to which an indemnity under section 94 applies and the driver of the motor car, railway train or tram at the time of the occurrence out of which the death or injury arose is convicted in relation to the circumstances of the occurrence—

(a) a serious indictable offence within the meaning of section 325 of the Crimes Act 1958 with respect to that death or injury; or

(b) of an offence referred to in section 80B of the Motor Car Act 1958—

any sum (including costs) paid by the Commission in discharge of the liability of the owner or driver in respect of the death or injury is recoverable by the Commission from the driver.”.

Agreements by next friends, &c.

“II. If a minor or a person under a legal disability is or appears to be entitled to recover damages for bodily injury caused by or arising out of the use of a motor car, section 168 applies as if a reference in that section to a motor car included a reference to a railway train or a tram.”.

“Division 3—General”

Indemnity by third party.

“IIi. (1) If an injury arising out of a transport accident in respect of which the Commission has made payments under section 44, 45 or 60 arose under circumstances which, but for section 93, would have created a legal liability in a person (other than a person who is entitled to be indemnified under section 94) to pay damages in respect of pecuniary loss suffered by reason of the injury before the entitlement of the injured person to compensation under this Act was reviewed under section 46 or by reason of costs or expenses of a kind referred to in section 60, the Commission is entitled to be indemnified by the first-mentioned person for such proportion of the amount of the liability of the Commission to make payments under section 44, 45 or 60 in respect of the injury as is appropriate to the degree to which the injury was attributable to the act, default or negligence of the first-mentioned person.

(2) The liability of a person under sub-section (1) shall not exceed the amount of damages referred to in sub-section (1) which, but for this Act, the person would be liable to pay to the injured person in respect of the injury.”.
The new clauses were agreed to.
Schedule 1 was agreed to.

Schedule 2

Mr JOLLY (Treasurer)—I move:
125. Schedule 2, item 1, after paragraph (d) insert—
‘(e) in section 99 after “1958” insert “and Divisions 2 and 3 of Part 10 of the Transport Accident Act 1986’ ”.
126. Schedule 2, page 122, item 3 (b), for sub-paragraph (i) substitute—
‘(i) in sub-section (1), for paragraph (a) substitute—
“(a) in proceedings against an insured person or the incorporated nominal defendant in respect of an injury or death caused by or arising out of the use of a motor car before the commencement of section 34 of the Transport Accident Act 1986; or
(ab) in proceedings under Part III of the Wrongs Act 1958 other than proceedings in respect of an injury or death arising out of a transport accident within the meaning of the Transport Accident Act 1986 that occurs after that commencement; or
(ac) in proceedings in respect of an injury or death arising out of a transport accident within the meaning of the Transport Accident Act 1986 after that commencement—
(i) otherwise than under Part III of the Wrongs Act 1958, against the employer or any other person, subject to and in accordance with the Transport Accident Act 1986; or
(ii) under Part III of the Wrongs Act 1958 against the employer or the employer and any other person; or
(iii) under Part III of the Wrongs Act 1958 against a person other than the employer, subject to and in accordance with the Transport Accident Act 1986; or”; and
(ii) after sub-section (1) insert—
“(1A) Part 6 of the Transport Accident Act 1986 does not apply to the recovery of damages in proceedings against the employer, or the employer and another person in respect of loss other than pecuniary loss by a worker in proceedings in respect of an injury or death arising out of or in the course of employment.”; and
(iii) in sub-section (3), after “section 98” insert “or, in the case of proceedings referred to in sub-section (1) (ac) (i), under section 99”; and”.
127. Schedule 2, page 122, item 3 (c) (ii), omit “113 or 136” and insert “122 or 145”.
128. Schedule 2, page 123, item 3 (d) (iv) omit “129” and insert “138”.
129. Schedule 2, page 123, item 3 (d) (v) omit “132, 133 or 134” and insert “141, 142 or 143”.

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

Title

Mr JOLLY (Treasurer)—I move:
130. Title, omit “(No. 2)”.

I have much pleasure in moving this amendment.

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

The Bill was reported to the House with amendments, including an amended title.

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:

That this Bill be now read a third time.

As the Leader of the House I take this opportunity of congratulating the members of all three parties involved for the spirit in which they undertook the Committee stage of a complex measure. It brings great credit to all three parties. The same is also said of the Acting Chairman of Committees who did a marvellous job in difficult circumstances.

Mr KENNETT (Leader of the Opposition)—I endorse the words of the Deputy Premier. The Bill was not an easy measure to deal with. Considerable work has been done by the three lead speakers of all parties and almost, to some degree, in isolation of their parties,
given that vital analysts are the only ones who can come to grips with the complexity of the proposed legislation.

This proves that Parliament can work in a way that is beneficial. The same was true in the debate on the Adoption (Amendment) Bill a year or so ago. It is a pity that some members of the community do not appreciate that, although politicians and members of Parliament are continually maligned, there are occasions when Parliament and the individuals within it can work together across party lines for the betterment of the community.

The SPEAKER—Order! On behalf of the Chairman and the temporary Acting Chairman I thank the House for the compliments they received.

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

POLICE REGULATION (PROTECTIVE SERVICES) BILL

Mr MATHEWS (Minister for Police and Emergency Services)—I move:

That this Bill be now read a second time.

In March 1986, the Premier instigated a full-scale investigation into the security arrangements which apply to senior public office holders, including the Governor, Ministers and the judiciary.

A major finding of that review was the need to establish a group of persons under the command and control of the Chief Commissioner of Police to provide protective services. While the members of this group would not be members of the Police Force, they would enjoy the common-law rights of constables, receive appropriate training and be subject to the discipline standards established under the authority of the Chief Commissioner.

The introduction of this Bill will provide the necessary authority to the Chief Commissioner to appoint protective services officers. The Bill will also empower the Police Service Board to determine their salaries and conditions of employment.

The establishment of this new group will have the added benefit of releasing fully-trained police to other areas of operational duty. However, the major intention of this initiative is to ensure that the level of security pertaining to the buildings which house senior public office holders is maintained and that they are not left vulnerable to the violence and terrorism which we have witnessed in recent times. I commend the Bill to the House.

On the motion of Mr CROZIER (Portland), the debate was adjourned.

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

TRANSPORT (AMENDMENT) BILL (No. 2)

The debate (adjourned from October 30) on the motion of Mr Roper (Minister for Transport) for the second reading of this Bill was resumed.

Mr BROWN (Gippsland West)—The Bill covers a wide range of areas in what it proposes to achieve. In particular, it concentrates on four different areas which are problem areas within the administration of the transport portfolio.

The first area on which the Bill concentrates is the regulation of commercial passenger vehicles and tow trucks in this State. The second area in which the Bill proposes to concentrate is to provide new methods of granting taxicab licences in the metropolitan area. The third range of issues involves basically the abolition of the Victoria Transport Borrowing Agency and handing over its functions effectively, so far as the transport portfolio is concerned, to the Victorian Public Authorities Finance Agency—VICFIN.
The final area that the Bill addresses is the strengthening of enforcement provisions relating to offences occurring on railway property. From the outset I make it clear that the Opposition fully supports the move to strengthen provisions to combat escalating vandalism on railway property and outlandish behaviour generally on trains, trams and buses. The Opposition supports a crackdown in that area. It has been calling for it for some time. The strengthening of the enforcement provisions currently available to officers, particularly railway investigation officers employed by the Ministry of Transport, are fully supported.

The amendments proposed to the Act to implement a number of recommendations that arose from a review of the tow truck industry in Victoria by the Road Traffic Authority is supported by the Liberal Party. During that inquiry approximately 50 submissions were made regarding malpractices within the tow truck industry and the inquiry pointed to the need for increased penalties to act as a deterrent.

The current level of penalties in section 184 of the Act will be increased. At present they are as low as $200 for a first offence and range up to $800 for a third or subsequent offence. The Liberal Party supports the view that considering what has occurred relative to some of the offences it is reasonable to increase those penalties considerably and, in fact, the penalties will be increased to a maximum of $1000 for a first offence; up to a minimum of $400 and a maximum of $1500 for a second offence; and for any subsequent offences the maximum penalties proposed under the Bill will be $2000.

One may wonder why there is a need to have provisions for subsequent offences, but it is a fact that there is a small element within the tow truck industry who are constant offenders. It is totally reasonable that people who constantly offend should face heavy fines and that the ultimate sanction must surely be the loss of their right to operate in that business. If those people continue to flout the laws and regulations that have been prescribed, it is not reasonable that they continue to offend, and accordingly, the Liberal Party will support the general thrust of the proposed amendments to the Act.

It is also proposed that the maximum penalty that may be prescribed by regulation be increased by $800 to $3000 and the reason for increased penalties arises particularly from the need to discourage more tow trucks than are necessary to arrive at the scene of an accident.

The Liberal Party, when last in government, made sweeping changes to the tow truck industry and to the laws under which the tow truck industry operated. Those changes have been, by and large, well received. The central register system means that when a person has an accident that person is not preyed on by a large number of tow truck operators, who many people see as vultures. The system now is more controlled and tow trucks are allocated, as required, to attend to accidents. The central register has a list of which firm is next to obtain a job and it is a matter of rotation. It is a fair system and one which the Liberal Party supports, having introduced the original concept. Where people are flouting the operation of that system, as I have indicated, the Liberal Party is prepared to support changes to that area.

The most contentious issue is the wide-ranging proposal to change the procedure for the issue of taxicab licences. I know that both the honourable member for Lowan and I have had extensive discussions with a large number of individuals and organisations. There is alarm within the taxi industry and, in particular, within the Melbourne metropolitan area as a result of the Government's announcements on this issue. The vast majority of the operators of the 3100 taxicabs in the Melbourne metropolitan area are extremely concerned about the Government's proposal to issue 300 additional taxicab licences forthwith. The Minister said they would be issued within twelve months. My understanding is that if the Minister for Transport had his way 300 extra taxicabs would be on the road in the Melbourne metropolitan zone and the Frankston-Dandenong zone within a short period.

The operators in the industry are concerned about the impact that would have on their present viability. It is obvious that the issue of those extra licences must have a marked
impact on the industry. If the industry were highly profitable and had more work than it could handle, it would be reasonable, in fact desirable, to issue a large number of licences. However, all the representations that the Opposition has received have indicated the exact opposite.

The industry says that the problem is not with the number of taxicabs in the city or the number of licences that have been issued, but that the problem and the reason many people cannot obtain a taxi quickly is because there is difficulty in attracting drivers to the occupation, even on a part-time basis. It was never a problem years ago. It was always good money to earn part time to supplement one’s income, but with the changes taking place, particularly in the past ten years with the welfare system in Australia and in Victoria, it is more desirable for many people to stay at home and draw such income as is now available to a large number of people in the community rather than to work.

I am advised that a large number of people drive taxicabs in Melbourne for approximately $6 an hour. That is a low rate of pay. Usually that is what they call “a hungry shift”. It normally occurs during the small hours of the morning where one is driving a taxicab and when there are inherent risks to people who choose to drive a taxicab late at night, indeed, even at any time of the day or night. Taxicab drivers have been held up occasionally or bashed or stabbed or suffered other forms of extreme violence. There is an element of danger within the occupation and what the industry is saying is quite simple and clear: if 300 more taxi licences are issued within a year the industry will be decimated and it is already in a parlous state.

The Minister for the Arts is acting on behalf of the Minister for Transport in this matter. The Opposition acknowledges and understands that the Minister for Transport is in New Zealand on Government business. The Opposition supports the fact that the Minister is attending a conference of all transport Ministers throughout Australia, but the fact is that the Minister for Transport, as one would expect, would have a detailed knowledge of the matters encompassed in the Bill. I would not expect the Minister for the Arts to respond in the same detail as the Minister for Transport would respond on aspects of the Bill, but I may be surprised and perhaps the Minister for the Arts can handle the complex questions that may arise even better than the Minister for Transport himself—time will tell.

The Opposition is concerned that the Government proposal will lead to a decimation of the taxi industry, as is being claimed. It has been put to the Opposition that a small number of taxicab licences should be issued in the foreseeable future so that the industry can assess the effect of those extra licences and that is a reasonable way to handle the matter. I do not recall anyone coming to me saying that no licences should be issued. Some have taken the view that no licences be issued, but over a period a few taxi licences have been issued and it is reasonable for the Government to argue that it is time for the issue of a number of licences, but it certainly should not be 300 within twelve months.

Following on from that, the Government has announced that it is proposed to issue 100 licences every year thereafter. So, of course, in thirteen months we could be faced with the reality, if the Government’s original announcement is maintained, of there being an additional 400 cabs on the road.

From representations I have received and investigations I have made it seems that if that sort of figure did come to pass, the industry would be decimated, but there would not be more cabs on the road because it is not possible to get drivers for the cabs that are on the roads at present. How will it be possible to get enough staff for the extra 300 or 400 cabs?

It is not a matter of getting only an additional 300 drivers because on the average three drivers are needed to run a cab for 24 hours, so it would be necessary to obtain an additional 900 staff to run the 300 cabs that may be licensed.

Another area of concern to the taxi industry is that during the past three years there has been only one fare increase and that has been against the background of continual requests
to the Government to consider the fact that unprofitability in the industry has become the norm for a large number of operators.

This is one of the classic areas for people who may want to get a start in business without any prior industry experience. There are not many industries in which it is possible to do this. Another such business area is the milk bar but there are not many businesses in which, without experience, one is able to get a start.

An extensive background in a trade or an area of business is necessary before one can move successfully into most businesses. The taxi industry is one business in which if one wants to better oneself and become one's own boss one can enter.

To start a business it is usually necessary to borrow money and in the main one could say that funds are gained with a mortgage against the family home. Everything that the person has hinges upon the profitability of that taxi business. Undoubtedly, if as has happened during the past three years, there is only one fare increase—and it has been to the extent of only 4 per cent—one knows that the profitability of the industry has effectively declined in real terms.

There is no industry in this nation that during the past three years has not suffered dramatic cost increases in its continued operation and no more so than in the running of taxis. We all know what has happened to costs for replacement parts for vehicles. In many cases the cost of vehicles has nearly doubled during the past three years due to particular policies of Governments, both State and Federal.

The situation is that costs of fuel, tyres, repairs and wages have all increased dramatically but during the past three years, by Government edict, the taxi industry has been given only a 4 per cent increase in its fare box. Obviously that leads to a crisis.

We have a situation today in this State in which we are saying to the industry, “We want to put 300 more cabs on the road for which you have received a 4 per cent increase in the fare box in the past three years, and we will go on from there”. Obviously it is an intolerable situation.

The industry needs a better response from the Government and I shall outline in the course of the debate what I have had put to me and what I believe is a reasonable situation. The Foletta report produced in March of this year made recommendations dealing with a wide range of regulatory and operational matters, including batch licence issues, fare structures, vehicle standards, regulation review and industry representation.

The inquiry was instigated by the Government and I believe it was in part as an acknowledgment that there were major problems within the industry. It is a pity it has taken so long to get to the day when we are finally debating the outcome of that report. It certainly indicated that an increase in the number of taxicabs in Melbourne was warranted. It is true that it suggested the number of 300, which I believe is not acceptable.

It is also true to say that it indicated that there had been a lack of increase in fares that should be addressed and it suggested a large number of other proposals that effectively are being addressed by the matters which are now before the House.

From representations I have received relative to the issue of taxi licences, it is evident that four things need to happen and they need to happen almost on a conjoint basis. The Government should announce how many taxicab licences it is prepared to issue as a maximum. I suggest that it is reasonable for 50 taxicab licences to be offered to people who wish to purchase them in the immediate future. Fifty is a reasonable number inasmuch as there are drivers in the industry at present who have been waiting years to get the opportunity to buy their own cabs.

There are three elements to this saga. Firstly, the existing owners and operators of taxicab fleets in Melbourne and in Victoria. Secondly, their staff, the drivers, many of whom have been loyal and longstanding employees and who now wish to move on and start their own
businesses. I believe all honourable members would encourage their aspirations; if people want to become their own bosses and if it is possible, it is something that should be encouraged. Thirdly, and most importantly, there are the consumers. They are the people for whom, after all, the service exists, they are the people of Victoria who want to use the cabs and in the main they are the residents of the city.

However, they are not just the residents of the city but they are also the people who visit Victoria and Melbourne, tourists both national and international, and of course they want a taxi industry that is safe, economical and reliable.

The Opposition is concerned that all three parties involved in this issue get a good outcome as a result of the Bill that is before the House. Firstly, we believe the Government should give an undertaking today through the Minister for the Arts, who is at the table, that no more than 50 licences will be issued within the next twelve months.

Secondly, I had discussions with the Minister for Transport before he went to New Zealand about forming the proposed Victorian Taxi Advisory Council forthwith and suggesting that the proposed council should advise the Government on how best to address the problems in the industry and to evaluate changes.

I suggest the council should be established at the earliest possible time, with industry, driver and consumer representation, as well, of course, as Government representation. That body would be the one best placed to assess what would be the impact on the industry of 50 additional licence holders.

There would be no argument from the Opposition if, after 50 additional licences are granted and if after a period it is evident that there is no detriment to the industry and the community interest is better served, more licences were issued. I make that point clear!

I suggest that then another 50 licences should be granted, and so it should proceed until such time that it becomes evident, via the proposed Victorian Taxi Advisory Council, that taxicab numbers have reached the optimum level.

I cannot say what number that level would ultimately be; I do not know whether it would be with an additional 60 licences, 150 licences or even 200 licences, but I am certain that it is sheer lunacy to issue 300 new licences forthwith, as that would decimate the industry.

Next—and I see it happening conjointly—would be an increase in tariff—the charges that Victorians have to pay to use cabs and particularly on short trips. At present, because of the fact that there has been only a 4 per cent increase during the past three years and bearing in mind that over the same period the increase in costs to operators has been in the region of 30 per cent, it does not take Einstein—and even some members of the Liberal Party could work it out—to realise that the industry has been going backwards to the tune of approximately 24 per cent in real terms during the past three years so far as its operating costs are concerned.

That is outrageous. No industry can survive under those constraints. A new fare structure should be formulated and the Victorian Taxi Advisory Council should be involved in any decisions on how much the fare increase should be.

The fourth element involves the drivers. If the Government wishes to attract more drivers to the industry, it must offer better pay and working conditions. People will stay at home and receive welfare benefits rather than risk their necks, cop abuse and put up with other difficulties for a paltry sum of $6 an hour.

This fourfold endeavour should be examined and implemented by the Government. I have no doubt that if it were handled sensitively and with due regard to the current position of existing operators, the Government would be successful and would not cop the flack that has been created by the way it has handled this matter. Taxi operators would not then go to the wall financially.
The Victorian Taxi Association has gone to great lengths to hold back owner-drivers. Taxi owners have been champing at the bit to get stuck into the Government because of the proposed legislation. In discussions that the National Party spokesman and I have had with taxi industry representatives, we have advised them not to take action and to allow Parliament to resolve this matter. I do not believe strikes, the closing down of depots and other retaliatory action is warranted. There is a strong push within the industry to close up shop for a period if the Bill is passed. Can honourable members imagine the chaos that would be created in Melbourne and Victoria if no cabs were available for an extended period?

If the Government does not handle this issue in a sensible and rational manner, it will have to contend with that action in the not-too-distant future.

The Bill also proposes other areas that are in need of change. One of those areas involves the abolition of the Victoria Transport Borrowing Agency. That agency was established in 1983 when the Transport Act was introduced by the Cain Government. Only three years after the Labor Government established that agency, it has decided to scrap it. The Government believed that was the way to go but it has now come to a different decision.

Although the Victoria Transport Borrowing Agency will be abolished, lenders will be pleased to hear that the Government does not propose to expunge its debts and it will still borrow money. The Government proposes to honour its obligations and the role of the agency will be taken over by an existing arm of the Government—VICFIN. I am certain the transport debt to be taken over by VICFIN will cause concern to any bureaucrat responsible for that debt.

As at 30 June 1986 the transport debt was $2.827 billion, which included the total debt of the State Transport Authority of $769 million; the Metropolitan Transit Authority of $1289 million; the Road Construction Authority of $340 million; the Road Traffic Authority of $16 million; the Port of Melbourne Authority of $297 million; the Port of Portland Authority of $31 million; and the Grain Elevators Board of $85 million.

Mr W. D. McGrath—No wonder the Treasurer was not too impressed!

Mr Brown—The Treasurer was not impressed. When the Liberal Party was in office four and a half years ago the total transport debt was $448 million. This Government of high flyers has lifted the transport debt in that short space of time to almost $3 billion. I am certain that it will exceed $3 billion because of the way this Government borrows and squanders its money.

Another aspect of concern to the Opposition is that the Bill requires that the entities that have borrowed moneys will, by Government edict, have to pay administrative transfer costs to another Government entity. If the Government has decided to do that, why should authorities foot the bill for administrative change?

The Minister for Transport wrote to me in answer to my query in the following terms:

You queried the cost of issuing replacement securities pursuant to clause 3 (11) (b). This is estimated to be between $4000 and $8000. VicFin will only issue replacement certificates if specifically requested by holders. All holders will however receive a “stock certificate” confirming their total holdings as inscribed in VicFin’s ledger.

On the assumption that the Minister was not trying to mislead me, I understand that letter to mean that the cost of the administrative change that will occur as a result of the abolition of the Victoria Transport Borrowing Agency will cost the authorities that I have named no more than $8000.

I ask the Minister for the Arts, who is at the table, to give this House an undertaking that if administrative costs exceed that figure, the Opposition will be notified. The Opposition is prepared to move amendments to ensure that authorities that have borrowed funds should not have to foot the bill for administrative costs which they have not requested.
The Bill intends to change enforcement functions within the Ministry of Transport which are to apply particularly to the behaviour of vandals and louts on properties owned in the main by transport authorities. On a daily basis loutish behaviour occurs on trains, trams and buses. However, trains are the major cause for concern because drivers are not able to oversee what occurs in all carriages, whereas tram drivers and bus drivers have more control over passengers. There is a relatively low incidence of behaviour problems arising on trams and buses in Victoria.

It is proposed that a large number of amendments will be moved to give railway investigation officers more powers and to significantly increase penalties.

The Opposition supports those moves. Apart from securing the safety of passengers and goods, the law enforcement powers for railway investigation officers will assist in the protection of property. This is important because vandalism and graffiti alone cost the Victorian taxpayer something like $4.5 million a year—an astronomical cost. The move to increase the powers of those who police these activities has the full support of the Opposition.

Some time ago I forcefully raised a matter with the Minister to ensure that problems with railway investigation officers be investigated and remedied, and I am pleased that moves are on foot at the present time in that area. The vast majority of officers, both male and female, in the investigation branch are the very best employees one could wish to have. The problem element that existed—and probably still exists to a small degree, although many have been given other duties—rested with a handful. It was a pity that that entity was brought into disrepute. However, the Government has in large measure addressed the matter and is still addressing it. I have no doubt that those very good officers, men and women alike, will welcome the additional powers to enable them to combat unacceptable standards of behaviour.

I have no doubt that the Minister is well able to handle this element of the Bill because, as Minister for Police and Emergency Services, he would probably have problems of the activities of louts and vandals somewhere throughout the State cross his desk every day.

I received a timely letter last week from constituents who reside at Bass. That letter, dated 17 November 1986, outlined the story of a horror trip that my constituents had undertaken on Friday, 7 November this year, from Melbourne to Murray Bridge on the Overland train. My correspondents described the journey as a highly distressing experience, not only for themselves, but also for other passengers who shared the carriage. I shall quote part of the letter because it gives an insight into some of the problems that have to be countered not only by passengers but by the staff of V/Line. The letter says:

Having boarded the train, we quickly became aware that we were sharing our carriage with a group of about ten people on their way to attend a sporting fixture in Adelaide. From 8.30 p.m. until approximately 10.00 p.m. the majority of the group stayed in the “Club Car”, whilst a small number remained in our carriage. The latter group were drinking and were boisterous, but good humoured. Around 10.00 p.m. the remainder of the group returned to their seats toting cans of beer and mixed spirit drinks. Their entire complexion soon changed from being a happy, excited group to that of an objectionable, inconsiderate and threatening group of louts. Our fellow passengers and ourselves were treated to noise, obscenities, insults and drunken ramblings well into the morning. More than one of the group vomited in his/her seat and the behaviour continued until about 3.00 a.m. when most of the group fell asleep. They reawakened around 3.30 a.m. and recommenced drinking and vomiting and were still doing so when we disembarked at 5.30 a.m. at Murray Bridge, exhausted and distressed, having had no sleep.

Anybody who had to endure such a trip as that would be horrified. It is a tale of woe that would turn many people off travelling on that trip at whatever time of year.

The staff tried to combat the problem but there was an excessive number of louts as against the staff, and I acknowledge that that is an invidious position. I should not like to be a staff member where the public were saying, “What are you going to do about it?” knowing that I was confronted with a group of drunken louts who could turn against me en masse and take control on the basis on the law of the jungle.
The staff made it clear that that type of incident is a fairly common occurrence. The letter went on to say:

I understand that this is not the first time such an incident has occurred on this train, indeed one conductor, in trying to control the situation, told the group (and I quote) "We've thrown forty people off this train in the last two weeks and a few more won't make any difference."

That sort of loutish behaviour is totally unacceptable in a civilised society. The Liberal Party will support any action that needs to be implemented by legislation to enable such behaviour to be combated. I should have thought that the staff on that train should be able to communicate with the police so that the train could be stopped and those louts put off. It is easy for us to sit here in Spring Street, not knowing the problems faced by the staff of V/Line, but they should have the power to act against such problems, and they should have the right of prosecution. For those types of louts to be put off a train and not have to suffer any further penalty is not a real deterrent. If they could be hauled before a court and convicted of an offence, they would be less likely to offend.

The Opposition has also received representations from the Bus Proprietors Association, which expresses concern about three elements of the Bill. I understand that my National Party colleague will address these matters by amendment.

I have indicated that many areas such as the question of taxi licences are of concern to the Opposition and will be addressed by amendment in the current debate.

I conclude by raising only one other issue. One could perhaps say that a totally unrelated proposal in the Bill deals with the transportation of undressed sawn hardwood from timber mills in east Gippsland. The law at present provides that timber that is milled at a mill in east Gippsland and is to be taken to any place within a radius of 72 kilometres from the General Post Office, Melbourne, must effectively be transported by rail. The Government proposes to tighten a loophole by changing the wording to provide that timber that is to be transported from any place, rather than any mill, in east Gippsland must be transported by rail; because it is possible—I understand it may even be happening on occasions—that timber goes from a sawmill to some other place for a while and is then transported from that other place to Melbourne.

Again, the Opposition has received a large number of representations on the matter. I acknowledge that it involves the issue of the rail service in the area. However, having considered all of the issues involved, the Liberal Party proposes to move an amendment to ensure that the status quo is maintained. The Opposition believes the Bill as drafted is as far as we should go in imposing constraints on the operators of sawmills in east Gippsland and will, in the Committee stage, move an amendment to maintain the status quo.

With those qualifications, I conclude by saying the Opposition supports the Bill and its general intent. We received some representations to oppose it on the basis that no new taxi licences should be issued.

However, that is not a reasonable attitude. The Opposition is prepared to accommodate the fact that new taxi licences could be issued. The only argument we have with the Government in this debate is about how many new licences will be issued and over what period of time this will occur. The Government should hasten slowly and show much more consideration than it would appear to have shown to date so that the interests of existing operators are protected.

The Opposition nominates that 50 new licences be issued in the next twelve months. The Government can then assess the situation and issue more licences if it deems that those extra licences will not be to the detriment of the industry. In that way, the present operators will be protected, the public will benefit and the new people coming into the industry will be assured of a viable operation into which most of them will be investing their life's savings to procure their own businesses.
Mr W. D. McGrath (Lowan)—This is the second time that the Transport Act 1983 is being amended. Of course, the principal Act was a major piece of legislation and reconstituted many of the transport authorities in the State. As the Minister in his second-reading notes has outlined, principally five different areas are addressed by these amendments, as follows:

- 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.

The first amendment relates to the intention to improve the regulation of commercial passenger vehicles and tow trucks. The Minister stated in his second-reading notes that Victoria has approximately 800 tow truck licences, 400 of which are for operation in the metropolitan area. Of those, 377 are for undertaking accident tows as well as other towing work, while about twenty licences restrict operations to trade towing. The majority of country licences are for both accident and trade towing. He goes on to state that approximately 50 submissions have been made about malpractices within the tow truck industry.

I have been concerned for some time about overzealous tow truck operators who converge on accidents on streets or highways and, in many cases, harass accident victims in their pursuit of the contracts to tow wrecked vehicles away from accident sites to either their own panel beating works or to panel beating operations for which they are agents.

The National Party hoped that the principal Act would overcome many of the problems associated with tow truck operators. However, the Minister has decided that higher penalties should apply to those in the tow truck industry who act in an indiscriminate manner in the course of the operation of their business.

The National Party supports the increase of those penalties because it has been concerned over the years that Parliament should provide an effective and efficient control over the industry. Some operators are abusing the system and the introduction of higher penalties will be an inducement for them to work within the regulations that have been set up to control the industry.

Commercial passenger vehicle services are a different area altogether. Honourable members have been attempting to examine the operation of bus companies and taxi services in this State. Amendments have been prepared by the honourable member for Gippsland West and me and they will be proposed during the Committee stage. We have been fortunate in having extensive consultation with the Bus Proprietors Association and the Victorian Taxi Association (Inc.). I express my thanks to Mr Nelson English and Mr Alan Lang from the taxi association and Mr Kevin Morris from the Bus Proprietors Association for expressing their concerns and also giving us an appreciation of aspects of the Bill that they believe will assist or restrict the overall operation of their industry.

From their viewpoint, the Bill is not necessarily good news. They are appreciative of some of the proposals in the measure but they have concerns about others. The honourable member for Gippsland West and I have taken their concerns on board and have formulated them in amendments that we believe, if adopted, will lead to a more effective Bill.

I turn now to the arguments put forward by members of the taxi industry. As the Minister outlined in his second-reading speech, the Bill will provide new methods by which taxi cab licences will be granted. He mentioned that no new taxi licences had been issued in the metropolitan area for the past ten years. In fact, the number of taxis has stayed relatively constant at around 3000.
One needs only to consider the Foletta report on the taxi industry in the Melbourne and metropolitan areas to see that the taxi industry has not had a substantial fare increase for many years. In fact, the only fare increase that has been afforded the industry was a 4 per cent increase, in October 1985.

The Foletta report contains a table that shows that the average age of taxis in the fleet of 3000 on the street was: 3.7 years in 1981; 4.9 years in 1984; and by 1985 it was 5.1 years. That demonstrates to me that taxi operators are finding it increasingly difficult to change over their taxis and bring new vehicles into operation. They seem to be under some type of economic pressure that is restricting their ability to maintain their taxi fleet in a relatively new condition.

The graph highlights that point very well. It is identified in the Foletta report in table 6. Page 45 of the report shows the numbers and ages of taxis in the metropolitan zone as at 30 June 1981, 1984 and 1985. In 1981 the taxi fleet was 2878 and in 1985 it was 2890.

The other interesting aspect of the report is the number of personnel employed within the taxi industry in the State. If one again examines table 1, the Metropolitan Transit Authority services operating statistics on page 5 of the Foletta report, it shows that the total number of employees working on trains, trams, Government buses and private buses adds up to 13 700. The number of employees in the taxi industry adds up to 8000. These figures indicate that the taxi industry is certainly labour-intensive and, as a percentage of personnel employed in the public transport system in this city, taxi drivers make up a significant proportion. Therefore, the concerns expressed by the taxi industry must be given a great deal of authority and consideration.

I direct the attention of the Minister to the recommendations in the Foletta report. On page 4 it is recommended that the Government, through the Minister for Transport and the Road Traffic Authority, define and publicise the role of the taxi industry in the metropolitan areas, the minimum quality and level of service and the performance targets to be achieved.

The report further recommends that the Government facilitate the achievement of its policy objectives by:

(a) improving communication and consultation between representatives of taxi owners, drivers and users of taxi services;
(b) providing a sound, economic operating environment through a revised fare structure;
(c) modifying traffic management measures to assist the more efficient operation of taxis;
(d) developing better security and support for the late-night operation of taxis; and
(e) ensuring predictability regarding the regulatory environment.

In examining those recommendations I take up the point made by the honourable member for Gippsland West in relation to establishing a Victorian Taxi Advisory Council. The recommendation that the Government define and publicise the role of the taxi industry and so on, as I mentioned earlier, spells out the need for establishing a Victorian Taxi Advisory Council.

When one considers the commentary on the Transport (Amendment) Bill (No. 2) prepared by the Minister for Transport for the Victorian Taxi Association the recommendation is made that a Victorian Taxi Advisory Council be established under its own section in the Act. It is suggested that the Bill will be amended to establish such a council. It has been suggested that a member of the Metropolitan Transit Authority be appointed as chairman with a representative from the Road Traffic Authority, two representatives from the Victorian Taxi Association, one representative from the Motor Transport and Chauffeurs Association and such other representatives—but not fewer than two—whom the Minister considers will contribute a high level of knowledge and business skills to the taxi industry and to its clientele.
I do not foreshadow an amendment from the Opposition parties suggesting that a Victorian Taxi Advisory Council be established. The Opposition hopes the Minister will give an indication to the House that the Government will move towards the establishment of the council because it is the wish of the major taxi association in this State that that council be established so that the overall management of the taxi industry can be well addressed, well presented and well catered for.

I support the suggestion by the honourable member for Gippsland West that there be a restriction on the number of new licences to be issued. Given that it is the intention of the Minister to issue some 300 new licences in the first twelve months, I would say to the Minister that perhaps he should approach the suggestion with a degree of care and consideration.

The number of cabs in the transport system has remained fairly static for about ten years, at a figure of just fewer than 3000. Increasing the total number by 300 is an increase of 10 per cent. It is clear that an increase of 10 per cent in any form of public transport, whether it be trains, trams or whatever, may lead to a steep excess of public transport facilities made available and, therefore, the whole operation of that system becomes less efficient and less viable for those who are trying to make a living out of it.

The taxi profession has conducted itself well over the years. Many people are driving taxis for part-time employment. Many community members are driving taxis as a means of supplementing their income when they are going through the education system. There has also been an increase in taxi patronage since the 05 legislation was introduced. Possibly not enough opportunity is made of using taxis, when one considers the continual high rate of road accidents and road deaths caused by drivers over the blood alcohol limit of 05.

Indeed, the taxi drivers have a real role to play in ensuring that those drivers who desire to have a drink when they go out are returned safely to their places of residence. It is also necessary for those taxi drivers to have a high degree of skill and knowledge of traffic flow and suburban street locations so that the overall efficiency of the industry is maintained at a high standard.

As I stated before, a number of amendments will be moved by the Opposition and I am hoping that the Minister will seek leave to take up the amendments and include them in the Bill because they have been considered and formulated after consultation with the transport industry.

I cannot support more strongly the amendments that are foreshadowed other than to say that they have been drawn up after consultation with the industry.

Moving on to another aspect of the Bill, it will abolish the Victorian Transport Borrowing Agency. All honourable members are concerned over the degree of borrowing that has gone on in the transport industry in this State.

The National Party appreciates that more locomotives are now available to assist the grain industry. The National Party pursued this issue for some considerable time because it was concerned that there was insufficient locomotive power for the transportation of grain. To a large degree, that has been overcome.

I travel by train to and from Melbourne and it is pleasing to have excellent passenger carriages on the country rail network. There has been a 20 per cent to 30 per cent increase in patronage. Although those improvements in services were well on stream before the Labor Government came to office, the incoming Government has continued the program and the National Party appreciates that. Under the administration of the former Minister of Transport, the honourable member for Berwick, many improvements were well under way at the time of the change of Government in 1982.

All honourable members are concerned about the large borrowings undertaken by the former Victoria Transport Borrowing Agency. That agency has been abolished and any
future borrowings will be conducted by the Victorian Public Authorities Finance Agency, VICFIN. A legacy exists which will have to be picked up by the taxpayers. The overall debt of the transport agencies is more than $2.8 billion. The State Transport Authority has outstanding loans of $769 million and the Metropolitan Transit Authority has outstanding debts of $1.289 billion.

In his report the Auditor-General expressed concern about the borrowings and the leasing arrangements undertaken by the Government in respect of the transport systems. Although it is nice to have a high-class transport system, one must be aware that there is a price to pay. One has to analyse whether we can continue to afford to pay that price. More rationalisation needs to take place, especially with respect to the manpower resources of the transport system.

I turn now to the enforcement provisions relating to offences occurring on railway properties, which will be strengthened under the provisions of the Bill. I was interested to hear the honourable member for Gippsland West describe incidents that occurred on the Overland.

I know the story reasonably well because I was on the train that night. I was impressed with the way in which the conductors handled the problem. They were able to use their two-way radios to call on the assistance of the Police Force when the train arrived at Horsham.

Mr B. J. Evans interjected.

Mr W. D. McGrath—As the honourable member for Gippsland East interjects, we place too much responsibility on our train conductors when one considers that they must try to control this type of unruly behaviour. In this case the conductors were able to contact the Police Force so that they were waiting for the train at 1.15 a.m. at the Horsham railway station. It is to the credit of the Horsham police that seventeen personnel were able to meet the train at the platform.

The train driver was able to pull up the train in such a way that the carriage containing the troublemakers stopped right on the spot where the police were waiting. The police performed an efficient job in removing the unruly louts from the train and placing them in the watch-house overnight. They would have been sorry that they could not control their behaviour because I know it cost them considerably more to travel to Adelaide via the bus the next day.

I give full congratulations to the Victoria Police Force at Horsham and the conductors on the train for the way they came to the aid of the commonsense travellers. So many travellers are commonsense travellers and need to be protected.

The only way to encourage patronage on the public transport system, especially the railways, is to have penalties that will place disadvantages on those who offend either by damaging property or displaying offensive behaviour to other passengers.

The job of the railway investigation officers is a very real one. Alcoholic beverages are now sold in buffet cars and, although it is nice for travellers to be able to enjoy alcoholic beverages while travelling on trains, it is important to move along that way with caution. If one were to hold a referendum about whether public transport passengers wanted alcoholic beverages to be made available on public transport, I am sure that most people would vote against it.

A number of amendments will be dealt with during the Committee stage. I hope the Minister will see fit to accept the amendments in order to make the Bill a better piece of legislation for those in the transport industry who have to abide by the legislation and regulations that control the movement of people within our metropolitan areas and within the State as a whole.

Clause 36 makes an amendment to Schedule 8 which concerns the transportation of undressed sawn hardwood from sawmills. The word "sawmill" is to be substituted by the
Mr COOPER (Mornington)—I shall deal with three areas of particular interest to me. I am interested in Part 3 which deals with commercial passenger vehicles, especially taxis.

Many years ago when I was saving some money, for twelve months I drove a taxi part time in the city and during that time I had the opportunity of observing the industry. There is no doubt that many people do not have any idea of how dangerous and onerous this part of our commercial world is.

I suggest that in the more than twenty years since I drove a taxi the work has become more onerous for drivers. The Government is responding to pressures from people. Everyone knows that when it is raining or during busy periods one cannot find a taxicab. Many have experienced this on leaving the theatre at 11 p.m.; when leaving a sporting event; or during the busy times at Tullamarine airport. The travelling public sees the solution to all this in the provision of more taxi licences.

The Government and the taxi industry should be considering putting drivers behind the wheels of the cars that are already licensed. Many taxis are not on the road because no drivers are available. A cursory look at the employment pages of any newspaper midweek or on a Saturday will reveal advertisements for taxi drivers. The advertisements have a come-on—which expression I use in the nicest way—to people to apply for taxi licences. The licences seem to be easier to obtain today than they were years ago. That is the impression I gained from reading the advertisements. Not enough people are attracted to this industry and therefore dozens of cars are waiting for drivers.

The reason people are not attracted to driving taxis is the conditions and the pay. One can understand that. If the pay were good and the conditions were reasonable more people would drive cabs permanently and be attracted to take on part-time work. If there were more drivers, the consumers, the travelling public, would not make as many complaints as they do at present and the provisions would not be necessary.

The Government and those responsible for drafting the provisions to attract more drivers have not tackled the problem in the right way. Even if the 300 additional licences proposed in the Bill are granted immediately, the number of cabs on the road will not increase and there will be a consequent decrease in the conditions and pay structure of the present drivers.

The same number of people will be seeking taxis and ostensibly more will be available if drivers can be found. There could be more taxis but there will be no less business per cab. That is not in the best interests of the industry. If the Government and the industry were more interested in examining the conditions of the present drivers and improving their lot, the unused cabs would be used and there would be no need for more licences. The Bill has been drafted in the wrong way.

My experience as a driver—granted a long time ago—and my experience as a passenger who has spoken to the drivers confirm that what I have said is correct.

The drive by the Government to provide more licences and supposedly to put more cabs on the road is not well founded and will not achieve what the Government wishes. It will create more licensed taxis but at the expense of the owners of the present taxis because the value of the licence plates will deteriorate with new taxis being put on the road. That will be one side effect of the measure.

The major thrust of the provisions dealing with taxi licences will not achieve the objective of the Government to make more taxis available on the road. The Government
needs to readdress this issue. Rather than just consulting with people in the industry, it would do well to undertake a survey of people who are applying for taxi driver licences to find out why they are interested in the work; and survey those who have been in the industry for a long time to find out what is wrong with the industry, especially with the lot of the driver.

If one does not ascertain what is confronting taxi drivers today, one will not solve the problem of the lack of available taxis. The Government has missed the bus, to use a pun, in the taxi industry. The Bill will not achieve what the Government has set out to do. One can support the thrust of the provisions but the Government has used the wrong methods to achieve its aim. More taxis will be left in garages without drivers.

Part 5 deals with the enforcement provisions and is the most important part of the Bill. All honourable members should address this part because they would all have received complaints about the problems faced by the travelling public, especially those who travel on trains.

The honourable member for Lowan addressed this matter. I was interested in his description of what happened one night on the Overland to Adelaide. I am sure all honourable members have heard these horror stories of what happens on trains.

I am a reasonably frequent train traveller yet I have not experienced any problems with interstate or country trains. The experience of the honourable member for Lowan, however, is not isolated, and that is a shame because every time one hears those sorts of stories they have a bad effect on potential rail commuters. Nevertheless, they need to be told so that action can be taken to try to stamp out bad behaviour on trains.

The suburban travelling public is extremely concerned about personal safety and the safety of the vehicles in which they are travelling. One is aware of the oft-quoted experience of people, especially females, who are subjected to foul language and bad behaviour on the suburban rail network, frequently at night. Many people in the electorate I represent who travel by public transport to the city would prefer to stay overnight and travel back the following day rather than risk their safety at night between Melbourne and Frankston.

I frequently receive letters and telephone calls about disgraceful behaviour on the rail service between Melbourne and Frankston. I am certain that my experience is not unique and that other honourable members would receive communications from constituents about other parts of the suburban rail network. It must be stopped. Therefore, the enforcement provisions of the Bill must be strengthened to enable railway police and the railway investigation service to do something about getting these people off the network and getting people back to using the trains. People should be able to travel on a train and feel safe.

One has only to look at the condition of some of the trains to know that there is insufficient policing. That probably occurs because the railway police do not have the necessary powers to stamp out bad behaviour on railway property.

Graffiti and the dirty condition of trains is not only unsightly but also is extremely costly. Recently, I read with some interest in a magazine the cost of removing graffiti on railway property in New South Wales and Victoria. It has reached monumental proportions. I cannot remember the exact figures, but they were of this order: it was costing the New South Wales Government some $80 million a year to clean up graffiti on railway property, including trains; in Victoria, the figure now exceeds $30 million. I am using my memory in quoting those figures, but I am sure they are in the general area of expenditure.

If those figures were accurately quoted in the magazine, we have a significant and growing problem on our hands and one that needs to be addressed quickly with the strongest possible action. The community will not tolerate this type of behaviour in redecorating railway property. That behaviour is driving people away from the rail network in droves.
If trains are dirty and covered in graffiti, there is a fair chance, in the mind of the travelling public, that when one gets inside the train, especially at night, one will have to travel with a character who does not have much regard for property and, therefore, little regard for people. A common view is that if a train looks lousy, it will probably be worse inside. Therefore, people travel by car, and a number of female constituents who have contacted me have said that when they travel to the city and know they will not return home until 7 p.m. or 8 p.m. or later, they prefer to stay in the city and return home the next day.

It is an unwarranted burden on those people that they cannot feel safe on Government transport. Clearly, the enforcement provisions must be strengthened to enable the railway police and the Victoria Police to get rid of these people and put them in gaol where they belong.

I am extremely concerned about the lack of security for rolling stock, which is evidenced by the amount of graffiti on trains. The last Liberal Minister of Transport, the honourable member for Berwick, had a plan that was well on the way to being implemented before the 1982 State election for the construction of outer perimeter yards. It was a well-based plan to make trains more secure in fenced off areas and so dramatically decrease the amount of damage done to railway property.

I am sorry that the Government did not continue with that approach. If it had, there would be no necessity for me to make these remarks. I commend the honourable member for Berwick for the amount of work he put into that plan. I had a few conversations with him about it and I am surprised that the Government has not pursued it.

The enforcement provisions in the Bill do not go far enough. In some cases, they pull up short and the travelling public will be the victims of those provisions that do not go far enough.

I shall refer to a parochial matter and direct the attention of the House to the damage being done to significant industries by some activities on railway land. Mini bikes are ridden along the railway reserve in Mornington. On weekends and during the evenings when daylight-saving is in force, parents come along with three or four mini bikes on a trailer and three or four children in the backs of the cars. The parents dump them on the railway reserve and they remain there until the sun goes down, making an horrific noise and terrorising the area.

The biggest employment industry in Mornington is the racehorse training industry and along the railway reserve are some significant sized stables accommodating a lot of expensive bloodstock that is being frightened by the continual noise of mini bikes. People will lose their jobs if horses are transferred out of that area into stables at Mordialloc or Flemington.

Unless the enforcement provisions are strengthened to enable the railway police and the Victoria Police to stop that behaviour, not just for 5 minutes but permanently, there will be a flow-on of loss of jobs in the racehorse training industry in Mornington. That would have a significant effect upon the economy of Mornington and the Government should be anxious to ensure that that situation does not occur.

The enforcement provisions need to be addressed when the Bill is between here and another place. The proposed amendments to be moved by the Government will not properly solve the problem.

Clause 46 deals with timber cartage and it is one of the most extraordinary clauses to be introduced by the Government. V/Line has not provided sawmillers with the level of service they need. Therefore, the sawmillers have looked for a loophole and found it. The sawmillers have told V/Line, “We do not like the service you are offering, it is not good enough”. The Government has therefore come down with the big fist and told sawmillers, “We shall close off all the loopholes and you will use rail transport”.

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The Government must ask itself why sawmillers have looked for loopholes. Why do a great many sawmillers prefer to send their undressed, sawn hardwood by road?

Mr Perrin—Could it be cheaper?

Mr COOPER—That is a reasonable interjection. The honest answer would be “Yes”. Let me cite a number of examples that illustrate why sawmillers have said, “Enough is enough. We cannot have a bar of this”.

There have been lost rail trucks, delayed rail trucks and slow rail trucks full of timber trying to meet a schedule. Builders who have been trying to erect house frames have waited for their timber to be delivered, have telephoned the merchant who sold the timber and been told, “I am sorry, the timber still has not arrived at the rail siding at Dandenong, Noble Park or wherever it is coming to.”

After an experience of ten years in the timber industry I can tell the House that those examples occur week in and week out. Often half a delivery load would arrive and, when one asked where the other half was, one was told, “We cannot find the rail truck”. The rail truck had been lost somewhere between Orbost and Dandenong. A rail truck had unhooked itself from the middle of a train and disappeared in a cloud of smoke! The excuse given often is that the rail truck had a bogie axle or it had been found to be at fault; it had been unhooked and pushed into a rail siding and forgotten. It was only when the station master at Noble Park, Springvale or Dandenong was put on the scent and had traced it back down the line that the rail truck was found two or three days later.

I have known of instances where whole rail trucks have been pushed onto rail sidings and left for two or three days. In such instances one cannot blame sawmillers for saying, “We would prefer to have reliable transport. We would prefer our timber to arrive on time”. Naturally sawmillers have turned to a road service that is more efficient and cheaper.

The timber industry would have been willing to bear the extra cost if the rail service had been up to scratch, but the rail service was not up to scratch. Therefore, the timber industry has tried every possible way to abandon V/Line.

When one has a lousy service one has lousy patronage. That applies to bus and passenger as well as goods rail services. In this instance the Government needs to have a close look at the service V/Line is providing. The only way V/Line will attract the timber industry back to using rail will be if it provides an efficient service that matches the road service. I believe that can be achieved if there is goodwill, hard work and a degree of willingness to meet the needs of the timber industry through timetables and so on. If the Government is willing to do that, the timber industry will return to using rail but the Government will never attract all the sawmillers back because it has lost its chance through an appalling rail service over a number of years of lost and delayed rail trucks.

This Bill is not the answer. Despite the fact that the Government may believe it has closed the loopholes, when one shuts one door, another opens. I am certain that there will be other openings for the timber industry to avoid using the services of V/Line.

The timber industry is far too important to be jeopardised by a crumby rail service. I should have thought that the Government would have appreciated that fact and tried to fix up the service rather than fix up the timber industry. The Bill is a disgraceful approach and I foreshadow amendments during the Committee stage.

I have made these points in the hope that those matters that are not taken up during the Committee stage will be taken up while the Bill is between here and another place so that it reflects the views of the commercial users and the travelling public and Victoria has a better public transport system.

Mr MACLELLAN (Berwick)—I can think of about 2300 million reasons why the Government wants to introduce legislation to abolish the Victoria Transport Borrowing Agency. I remember the great play that was made by the then Minister—now the Minister
for Labour—when he introduced the legislation to create a transport borrowing agency which was going to achieve borrowings at cheaper costs and handle matters more efficiently. It has been so successful that it has impoverished the Victorian community to the extent of $2·8 billion, which will have to be repaid and on which interest will have to be paid by the next generation of Victorian taxpayers and citizens.

The money has been spent by Minister Crabb and Minister Roper on all sorts of projects, including a Mickey Mouse early retirement scheme that was spectacular in its failure—$80 million down the drain! A Clayton's retirement scheme to enable $80 million to be borrowed and spent, so that there were more rail workers at the end of the scheme than there were at the beginning.

Now Minister Roper is engaged in sending out redundancy notices to try to get rid of them all over again so that the same pruning of numbers can recur a second time around. It is one of the more remarkable features of transport administration under the State Labor Government.

One knows what will happen as a result of the Bill: the Victoria Transport Borrowing Agency will disappear without trace into VICFIN. It has become an embarrassment to the Government. Its requirement to report to Parliament is an embarrassment to the Government. The fact that the figures are isolated, publicly available from time to time and clearly identifiable is an embarrassment to the Government. All of it has occurred under this Government because it borrowed the $2000 million that it spent in the four previous years in office.

That money has been squandered in ways that are disgraceful. The honourable member for Coburg, who is interjecting, should realise that he still has not got the boom gates that were promised, yet $2000 million has been borrowed and spent. That should illustrate the matter for the honourable member—fifteen manned rail gates have to be opened and shut. Is the honourable member questioning the fact that $2000 million has been borrowed and spent by Minister Crabb and Minister Roper and the rail gates are still being opened and shut every time the trains go through his electorate, despite that money having been borrowed and spent? That is the explanation behind the provision in the Bill for the destruction of the Victoria Transport Borrowing Agency.

That agency will disappear into VICFIN and I doubt if one will ever hear of it again. I doubt whether one will ever get the real information again, so one had better cling to the moment when one knows that it is $2·8 billion and rising under this Government. The Auditor-General said that the Government is borrowing at interest to pay interest and that the indebtedness is rising accordingly.

The honourable member for Lowan, on behalf of the National Party, spoke of his pleasure in taking country train journeys. I wish him good luck with his country train journeys and I hope he enjoys travelling on Japanese trains, because Victorian trains are undoubtedly owned by Japanese investors, Dutch investors or United States of America investors or the people who have invested through Australian banks in Australian dollars and who remain anonymous and unidentified. We know that the entire system has been flogged off and leased back; therefore, they are not our trains any more; they are not our railway engines, rail trucks and so on. The service has been so borrowed against that there is a debt which generations of Victorians will have to pay.

So desperate is the Government for money that another provision in the Bill suggests that the present Minister for Transport may launch off into providing another 300 taxi licences at $50 000 each, which would bring in $15 million. If anyone believes one could sell $15 million-worth of taxi licences and have the families of taxi drivers and taxi owners better off, that person should have his head read.

Are there thousands of people wanting to use taxis who will provide the weekly income, the cost of borrowing the $50 000 to buy a licence, the cost of a taxi, fuel and all the other costs associated with operating in that industry, to provide a living for 300 more people in
the industry in Victoria? The answer is, "No". The Government is not showing any responsibility towards taxi drivers, taxi owners or taxi proprietors; it is saying that the Minister for Transport believes he has a reasonable excuse for issuing more licences.

I should like to make a personal suggestion—one that does not emanate from the Liberal Party, but from my work within the taxi industry—I believe if a small number of licences were issued at $50 000 each, that money should be regarded as a retirement fund for the taxi industry. It would mean that if anyone wants to retire his taxi licence, he can retire it to the Government and the Government will use some of the money raised by selling new licences to pay out some of the old licences of those who want to leave the industry.

If from time to time additional licences are required, by all means issue a few more and maybe the price will not always be $50 000. It is not beyond the wit or the imagination of the Government or even the present Minister for Transport to have those licences paid for by an annual fee which would be tax deductible for the taxi operator and that operator to have a retirement lump sum given in a way that would be equivalent to superannuation for the vast bulk of the rest of society.

There would not be the rise and fall in the price of taxi licences and the speculation of buying licences in the hope that they might increase in price. One might even persuade the Commonwealth Government to relax its concern about capital gains sufficiently to recognise that a proper superannuation scheme for those who have made a long-term commitment to the taxi industry in this State might do more to raise the professional standards and the availability of taxis than would impoverishment of the industry and simply issuing paper for $15 million, leaving the streets of Melbourne and the streets of other parts of provincial Victoria to become the battlegrounds as people fight to earn a living out of the taxi industry.

It is within the imagination of the Government and of the taxi industry to provide for a scheme where a few more licences are issued and then those who wish to sell or cancel their licences may do so and have a cash lump sum on which to retire from the industry. That, I might add, would be of no expense to the Government: so long as it does not intend to grab the $15 million that is the calculation of 300 licences at $50 000 each.

I do not like the idea of taxi drivers not being able to make a decent living out of the industry. I acknowledge that there are a lot of part-timers in the industry, and there is no reason why there should not be, but those who have long-term commitments to the industry deserve to have a proper and professionally run retirement scheme so that they can make that commitment to the industry and know that their families will be reasonably secure at the end of their service and not be left to make their own private arrangements.

I refer to the additional penalties for vandalism and destruction that take place on railway properties. The first of the new Comeng trains were delivered under a Liberal Government in 1982, so that dates them. All the Comeng trains under contract that were negotiated for by the Liberal Government have been delivered in the period from 1982 to today. One cannot travel on them and see all the scribble and the filth that is written on them and the damage that has been done without experiencing a sense of sadness.

Thousands of millions of dollars have been borrowed and thousands of millions of dollars are being spent on new equipment for the system, and the system is being destroyed so that it becomes more like the television shots of the New York subway than the transport system which Victorians should be proud to own and proud to have serving them.

I support the additional penalties. The honourable member for Mornington made a very telling point. I imagine he may well be suggesting that the penalties should be doubled in the Mornington area. He gave an insight into the hardship caused in the electorate that he represents by people using mini bikes on railway property and scaring the horses. That sort of hardship perhaps is different from the hardship experienced in other electorates.
where people have more difficult situations to face, but I know that it would be extremely annoying to the electors of Mornington that an unused railway line which has been closed for many years should be the source of that sort of annoyance and it must equally be of annoyance to the horses.

What are we really concerned about? Are we concerned about the comfort of the horses, or are we concerned about the taxi drivers and their families. Are we concerned about the future of Victoria with an indebtedness for the transport spending splurge of the former Minister of Transport, now the Minister for Labour? The former Minister of Transport and the present Minister for Transport on their spending splurges have indebted this State to the tune of at least $2500 million which will hang around our necks for ever unless we are able to effect a spectacular turnaround in the economics of the transport industry. Will it be paid by taxes?

No-one on the Government benches could suggest that rentals, freight revenue or fare revenue could possibly pay for the money that has been borrowed and spent. We know that every year that figure is growing under the Government and every year the amount of interest is rising. That represents a fundamental threat to the solvency of the State, which will have to be addressed quickly.

The Opposition, of course, is supporting the Bill, and I believe there are good grounds for it. However, the Opposition cannot support Ministers who spend money thoughtlessly on retirement schemes that do not work and leave it as an $80 million fantasy so that we have more railway workers at the end than we had at the beginning.

We cannot support the shifty move of trying to abolish the Victoria Transport Borrowing Agency because of the embarrassment of reporting its financial situation to the Parliament and the Victorian people and trying to bury it in the Treasurer's new toy, VICFIN—the Victorian Public Authorities Finance Agency—and leaving it to be muddled up together with the others.

The honourable member for Coburg, who interjects, could have no pleasure in knowing that, despite the fact that all that money has been spent, and despite the fact that he has been a member of the Simpsonettes—one of the song and dance troupe of the Government back bench—he has not been able to persuade either the former or the present Minister for Transport to do anything about upgrading the hand-operated level crossings in his electorate, which have been waiting for years and years for boom barriers and safety equipment to be installed to reduce the cost of operations.

The former Minister and the present Minister for Transport have appointed executive after executive, expanding the head office services of the transport authorities with salary packages that would make a member of Parliament blush—including cars which they are able to drive themselves, filled with Government petrol, available for use day and night, weekend or holiday—and literally hundreds of those positions have been created.

Yet we are unable to rebuild a railway station; we cannot buy back from the Japanese one of our trains, one of our engines, one of our carriages or one of our wagons; we cannot organise the system so that the vandals do not rip it apart under our eyes. Victoria has a Government that is concerned more with appearances than with the realities that people face.

I feel saddened to address the House on this Bill, because I believe the measure lacks an honesty of purpose. I believe its intentions are devious, but I do not believe the devious intentions will work because the realities are there for Victorians to see every day they use the system.

Mr B. J. EVANS (Gippsland East)—I support the comments of my colleague, the honourable member for Lowan, and I express my appreciation of the thought and work he has devoted to this Bill.
One of the major provisions of the measure relates to the overall financing of the transport debt in this State. It really marks the end of an experiment undertaken by the present Government, which has periodically expressed its earnest belief in the user-pays theory. It has argued that every person who takes advantage of or derives an advantage from a service provided by the Government ought to have that advantage isolated and identified.

It is strange that this philosophy is selectively applied. For example, it is not applied to those who attend universities and other such institutions. If one happens to obtain a free education that enables one to secure a job worth $50,000 or $60,000 a year, that does not count, but if one is producing grain or timber and requires the use of the railway service to have the product delivered to the ports so that it can be exported for the benefit of the whole population, one must pay every last cent of the cost.

Of course, in developing this theory, the Government has come down on the side of the proposition—of which there has never been any discussion and for which there is no justification—that it expects the freight services of this State to pay the full costs of their operations. However, passenger services are expected to return only 50 per cent of their costs. No-one has ever argued this theory. What is the logic behind it? Why are Melburnians who use public transport to travel to work, and who perhaps receive salaries of $70,000 or $80,000, entitled to cheap transport? What is the justification for that?

The farmer who is struggling to make a living in a year of drought in the Mallee and other such areas is required to pay the full cost of the freight service to deliver his grain to the waterfront so that it can be exported for the benefit of the whole nation. It is a phoney theory; it is illogical and makes no basic sense.

As part of this experiment, the Government decided it would set up the financing authority so that the costs of operating the various areas of public transport could more clearly be identified. Of course, in doing so, the Government separated the metropolitan transport system from the country transport system.

Every week when I travel to Melbourne by train, one of the things that becomes a little hard to cope with is that, after a long journey of almost 4 hours, after starting out at 6 a.m. to arrive in Melbourne in time for—

Mr Maclellan—The Privileges Committee!

Mr B. J. EVANS—Yes, the Privileges Committee and other like activities, the V/Line passenger train must take second place to any train in the metropolitan network. Therefore, if the V/Line train happens to miss the niche that was set aside for it in the metropolitan system because of some delay during the three and a half or 4-hour trip, the country train must slowly chug in behind some suburban train. The country train must play second fiddle to the metropolitan trains.

If there is some delay in the country train leaving Melbourne in the evening—in my case, at 6.5 p.m. from Spencer Street—and it misses its niche, one arrives home at about 11.30 p.m. instead of 10.30 p.m., as one would expect.

Fortunately, these things do not occur too often. I do commend V/Line for the service it is providing. I certainly endorse the comments of my colleague, the honourable member for Lowan, about the railway passenger services in country Victoria. I also endorse the comments he made about the problems that develop periodically.

It is not a constant problem, but from time to time people are upset by the behaviour of louts who indulge too heavily in alcohol while travelling on trains. That has been occurring for years; I realise that.

On one occasion, when talking to a conductor about this problem, he made what seemed to me a very telling comment. He said, "I do not want to be the first conductor to be thrown off a moving train". That is not funny; that is a real possibility. Conductors might be able to obtain the assistance of the guard sometimes but, in most instances, it is only
one or two men who might have to face half a dozen or so of these louts who, in the excitement, spurred on by the drink, might decide to enjoy the final thrill of throwing a conductor off a moving train.

I am sympathetic with the view expressed by that conductor, and I have expressed that sympathy to conductors when I have spoken to them. As I said, this does not happen too often, but one would not want to be thrown off a moving train too often, either! That is a problem that must be recognized and understood.

Only in the past week I received correspondence from one of the local schools in my electorate complaining about the behaviour of a group of louts who had been drinking too heavily and molesting students from that school who were travelling on the Bairnsdale train.

There is no way of avoiding the problem while we continue to allow alcohol to be served on the trains. I can think of one solution to the problem. The Minister for Transport has decreed that, from the beginning of this week, no smoking will be allowed in first-class carriages on country trains.

If one wishes to smoke one must travel in economy class. Perhaps there should be a requirement that those who drink alcohol must travel in a separate section of the train, perhaps either at the front or the back of the train so that they do not have to mix with other passengers. Personally, I do not think there is any necessity to have alcohol available on a train journey that lasts only 3 or 4 hours. If people cannot refrain from alcohol during that period, perhaps they ought to consider whether they are candidates for alcoholism.

The problem with which the Government has been confronted in the cost of the transport system is the magnitude of the losses. It is the Government's decision to provide cheap transport for people within the metropolitan area. At the same time, it is building highly expensive freeways that run parallel with the railway lines so that customers who become disenchanted with the rail system can readily use alternative transport. That is in marked contrast to another provision of the Bill that is designed to restrict further the right of sawmillers in east Gippsland to the freedom of choice in how they should transport their timber.

That provision brings back recollections to me. Just over 25 years ago when I first entered this House and was being shown around the various facilities and the Papers Room, it was pointed out to me that I could obtain information on Acts of Parliament, regulations and the like. I said I should like a copy of the Act of Parliament or regulation that required east Gippsland sawmillers to send two-thirds of their timber outward by rail. The clerk in the Papers Room said he would look for the information and provide it for me.

Mr Maclellan—He could not find it!

Mr B. J. EVANS—As the honourable member for Berwick has indicated, he could not find it, and approached me after a couple of days quite dismayed that he could not find any Act of Parliament or regulation that required sawmillers in east Gippsland to comply with that requirement. It transpired that the requirement depended entirely on the discretionary power given to the Transport Regulation Board, as it was in those days, to issue a permit or not to issue a permit as it saw fit. It saw fit not to issue permits for any more than one-third of the output of any particular sawmill. It had nothing to do with a road transport proposition, so far as I could see.

The sawmill's job was to produce timber and send it off by whatever means were appropriate to his purposes. The transport operator could fall foul of the law if he picked up a load of timber from a sawmill and subsequently was found to be carrying more than the entitlement of the particular sawmill.

I am aware of a case where a transport operator, quite innocently, set off with a load of timber from Cann River to pick up a permit in Bairnsdale and found that the number of
permits available to the particular sawmill had already been utilised. The operator was therefore 100 miles down the track and had no right or permit to continue the journey. That was an absurd situation.

The operator did the obvious thing; he ran the gauntlet and got through in that case without being pulled up. He subsequently received a “please explain” notice asking what he did with the loads of timber for which he applied for a permit that was not issued. Unfortunately for him, he told the authorities at the time what he had done and was promptly charged for carrying the timber without a permit. We managed to get that sorted out, but not without a conviction being recorded against him.

For historical reasons I cannot support that particular provision in the schedule. There is no justification, and there never has been, for placing requirements on a particular group of individuals in a particular part of the State that do not apply anywhere else. There are many good reasons why that should not be so.

The sawmilling industry in east Gippsland is presently under considerable pressure, as I am sure most honourable members are aware. It is always vulnerable to changes, particularly the decline in activity in the housing sector. The consequence is that whenever there is a decline in demand for scantling timber in particular, the sawmills in east Gippsland find that they are the first ones hit because of those restrictions. They are not able to compete because they are not free to use the best methods of delivery at their disposal.

Currently, in newspapers circulating in the east Gippsland electorate there is considerable controversy regarding the proposed legislation because an honourable member in another place is saying that the future of the Orbost railway line depends on the outcome of this Bill. It has been suggested in discussions surrounding the proposed legislation that either Parliament passes the measure or the Government will condemn the Orbost railway line to closure.

Mr Gavin—Why don’t you?

Mr B. J. EVANS—I believe I am correct in recalling that the honourable member for Coburg made a strong plea for the retention of the Upfield railway line a few years ago. He acknowledges that is the case. If he is fair dinkum he should have said at the time that people in that part of metropolitan Melbourne should be forced to travel by train to make the Upfield line an economic proposition. That is exactly the same principle that he is now advocating for east Gippsland with the Orbost railway line.

The National Party welcomes and applauds the recent decision of the Government to spend, from recollection, approximately $4.5 million on upgrading the railway line from Traralgon to Bairnsdale. It seems that the Government is prepared to concede that sections of the line will be viable propositions in the foreseeable future. The National Party also applauds the Government’s recent decision to reopen the freight centre at Bairnsdale. I could not understand why it closed it, but nevertheless it has seen the light in that regard and has decided to reopen it.

The future of the Orbost railway line depends to a large extent on its use by timber traffic. If the Government is to keep the line in an operational state it should be offering financial inducements to the timber industry to utilise the railway line, because it will be faced with the reality that, if the railway line is closed, considerable expenditure will be needed to upgrade the Princes Highway east of Bairnsdale to cope with the additional road traffic that would be generated by the cartage of timber.

The most significant factor that is forcing the decline in the quantity of timber utilising the line is the Government’s policies in the timber industry generally in east Gippsland; it continues with the crass stupidity it has shown in recent years of tying up more and more timber resources in national parks and reserves of various kinds without any justification.
I do not object to areas being preserved where there is some justification, but the Government is preserving forests in east Gippsland without justification. The future of those forests depends on the utilisation of the timber and a proper regeneration program to allow better forests in the future. Until the Government understands that and enables the timber industry in east Gippsland to take its rightful place in the Victorian economy and its entitlement to resources, the amount of timber available for transport on the Orbost railway line will continue to decline. Unless the Government changes its attitudes to the timber industry in east Gippsland, there is not much point in keeping the railway line open.

I hope the Government does not analyse the rail system in east Gippsland in isolation to everything else in that region, but if it allowed the development of a marble quarry at Benambra in east Gippsland—I hope to provide honourable members with some samples of the marble—that would be another major stimulus to the use of the rail line and would help justify its continuing existence. I do not believe these facilities can be kept in operation by restricting the right of people to their freedom of choice on how to conduct their enterprises. The timber industry will eventually disappear in east Gippsland and if that occurs there is no point in having the rail line.

The Government should stimulate development in east Gippsland rather than introduce restrictions that will further inhibit the opportunities of sawmillers and business generally to flourish and foster. That part of the State has tremendous capacity to provide additional employment and revenue-creating opportunities, not only among local people, but also to provide the Government with the option to increase its revenue through royalties and so on. The clause ought to be redrafted. The restrictions will still be in place because the schedule will remain.

Further, the sawmillers in east Gippsland are operating under the restrictions imposed in the schedule, yet they are competing with timber from Tasmania which has its transportation subsidised across Bass Strait. That is an unfair situation. Operators in east Gippsland are restricted while competing operators in Tasmania are granted a freight advantage through a subsidy. The sawmillers of east Gippsland want a fair go, that is all, and the additional restriction does not provide that. The people of east Gippsland should not have to submit to the sort of blackmail that has been bandied around that unless they agree with the provisions the Orbost rail line will be closed. That is political blackmail and not worthy of the Government or the member for Gippsland Province in another place, Mr Murphy, who has been making those statements through the local press.

The National Party supports the proposed legislation in general, but as my colleague has indicated, a number of provisions should be changed.

Mr LEIGH (Malvern)—I endorse the comments of the shadow Minister for Transport, the honourable member for Gippsland West, and I make some comments on matters to which other members have referred and also matters which I believe have not yet been covered.

Approximately three years ago the Cain Labor Government introduced a Bill establishing the Victoria Transport Borrowing Agency. It is incredible that just three years later Parliament is amending the Act because the Government has decided that the agency must go. A number of Government agencies have been competing against each other for finance. Indeed, it is sensible that one agency will cover Government borrowings.

The House should be aware of what has happened to Government borrowings during the four and a half years of the Cain Labor Government. In the transport area, borrowings have increased from approximately $450 million to in excess of $3000 million. Many people in the community believe they have a great Government. This "great" Government has borrowed and mortgaged the future of the State.

The Government, in its lease-back arrangements, has sold trains and trams and then leased them back. Many businesses use leverage leasing to ensure an adequate supply of
funds. Indeed, leverage leasing was a concept that the former Thompson and Hamer Liberal Governments examined, and I suspect, if the Liberal Government had continued in office, it would have adopted that concept. However, there is one major difference in what the Government has done and what is done in industry. The Government sold these vehicles off and then leased them back. However, the Government has not paid out the original loan to purchase those new vehicles. At one end the Government is still paying for the borrowings through the Loan Council arrangements and at the other end it is paying leasing arrangements. I suspect if a person purchased a car through a finance company such as Australian Guarantee Corporation Ltd, sold that car, then leased it back, but did not pay AGC the money that was owed, that person would be in Pentridge. The Government is leaving a millstone around the neck of Victoria for many years to come. The Cain Labor Government, at some point in the future, will be seen for what it is, a Government made of tissue paper; a Government that has nothing behind the tissue paper. The vast increase in Government borrowings proves that point.

On top of that, the transport system is costing the community $1813 a minute. It is an incredible amount of money. It is time it was put in the Guinness Book of Records, because I suspect the cost of Victoria’s transport system has created a record in Australia and perhaps in other countries of the world.

Although I support the concept of creating one authority to control the borrowings of agencies, the provision indicates a lack of foresight by the former Minister of Transport, Mr Crabb, and the present Minister for Transport, Mr Roper.

The other area to which I shall refer is tow trucks. It is well known in what is defined as the border of Lilydale that there are tow truck drivers who cross that boundary and "pinch" towing jobs from other drivers. They may go to the scene of an horrific accident and, although a person may be injured, they attempt to sign up that person. I believe no fine is too great for people who carry on with that sort of action. I support the increasing of fines in that area.

I believe those fines should be reviewed regularly because with the growth in inflation it will not be long before a $1500 or $2000 fine will not be a lot of money to these operators. That is certainly something that ought to be reviewed.

I come now to what is the most controversial aspect of the proposed legislation regarding the taxi industry. Recently I was involved in some meetings with taxi drivers and the owners of taxi companies and it is fair to say that some of the taxi drivers were keen to have more licences made available but many owners were not. They each have their own pecuniary reasons for having those views.

The facts show that the Minister for Transport was preparing to sell licences for $25 000.

Mr Norris—How do you know?

Mr LEIGH—I bothered to read the report of the inquiry.

The ACTING SPEAKER (Mr Kirkwood)—Order! The honourable member for Dandenong will cease interjecting.

Mr LEIGH—I believe what the honourable member for Dandenong has to say is important because the honourable member for Dandenong would in fact have taxi drivers in his electorate and it is a pity that he did not find out what would happen to those small businessmen who live in his electorate who may be seeking to sell their licences.

On the open market taxi licences are worth in excess of $60 000 and the honourable member for Dandenong ought to realise that many of his constituents may well have bought licences and they may well have mortgaged their homes with first or second mortgages. Those people are at risk.

I ask the honourable member whether he would like it if he bought a small business and
all of a sudden the Government—Big Brother—came along and said, “We are not interested in the market forces. I am the Minister; I am God and I am going to set the fee”. That is exactly what the Minister has done.

Mr Brown—He is God?

Mr Leigh—The Minister claimed to be but I am not saying that he is. The fact is that that is what the Minister was attempting to do. If one realises the value of those licences one can understand what the effect on those small businesses would be.

It is one area in which people are able to enter business without having to be highly skilled; they need only the collateral to be able to buy the business.

It is true to say that taxi drivers in general work extremely hard. I have spoken to taxi drivers who have been working 16 hours a day.

Mr Norris—What about the owners?

Mr Leigh—What about the drivers?

The Acting Speaker (Mr Kirkwood)—Order! I shall give the honourable member for Dandenong the call after the honourable member for Malvern.

Mr Leigh—It is amazing that the honourable member has asked, “What about the owners?” An enormous number of the drivers who drive those taxis—which the honourable member for Dandenong appears not to use at all—are, in fact, owner-drivers.

Mr Norris interjected.

Mr Leigh—that is true, whether it is 10 per cent or 20 per cent; the fact is there are owner-drivers who drive their vehicles for long periods of the day and also employ other drivers to keep their taxis on the road for the rest of the day. It seems to me a sensible concept if one is a small businessman who owns a taxi and who wants to get value out of one’s licence and vehicle, to keep the vehicle on the road for the maximum time possible.

One of the arguments put by the Minister for Transport is that one cannot get a taxi when one wants it.

It is true that when one wants a taxi at peak times one cannot get a taxi.

I also accept there have been problems with taxi drivers not wanting to take short trips perhaps within one suburb for a fare of $4 or $5. When I have travelled by taxi from home to where my car has been serviced, I have not come across any driver who has refused to drive me to my destination. They have accepted the fares.

Mr Norris interjected.

Mr Leigh—I find the honourable member for Dandenong so disorderly I shall ignore him. There are times when one waits for a taxi. There are times when one waits for a taxi.

Mr Sidiropoulos interjected.

Mr Leigh—I hope after the honourable member for Dandenong has spoken that the Acting Speaker will give the call to the honourable member for Richmond because it appears he would like to speak as well.

There are times when it is necessary to wait for a taxi and I accept that. The real problem becomes obvious when one realises that the taxi industry has had only a 4 per cent increase over the past three years and, when one considers the cost of the car, the cost of buying a licence over that four years, the cost of petrol, including the taxes that the Cain Government and the Federal Hawke Government have imposed—when one includes all those things plus maintenance, insurance and ancillary costs—a 4 per cent increase is ridiculous!

One matter that I hope will come out of the proposed legislation is the need for the Government to take better advice from the taxi industry on what the fares should be. I am not suggesting that there should be total deregulation in that area. I can understand that
that should not happen but I believe it is time the Government, the Minister and those responsible for setting fees took account of the industry's costs.

What has occurred is that the Government, in its political expediency, has ruled to ensure that the increase of fees be kept down. That is what it amounts to and the Minister for Transport has been expedient in keeping the fees down.

That is a shame when the costs to the people who operate taxis is realised. Indeed, when I have spoken to taxi drivers I have realised that they are working 16 hours or 17 hours a day and their return for that may be $350 a week. For that amount of effort there is something wrong with that return because anybody else who is working those hours—I know that if the Minister for the Arts, who is at the table, worked for 16 hours a day he would expect more—certainly would be paid more than $350 a week.

Mr Brown—He works 16 hours a month.

Mr LEIGH—The fact is that the industry has had a rough deal from the Government.

The debate was interrupted.

JOINT SITTING OF PARLIAMENT
La Trobe University

The ACTING SPEAKER (Mr Kirkwood)—Order! The time has arrived for the House to meet with the Legislative Council in this Chamber for the purpose of sitting and voting together to choose three members of the Parliament of Victoria to be recommended for appointment to the Council of the La Trobe University.

The joint sitting will conclude at an appropriate time for the dinner adjournment so that I propose to resume the chair at 8 p.m.

The sitting was suspended at 6 p.m. until 8.4 p.m.

TRANSPORT (AMENDMENT) BILL (No. 2)

The debate (interrupted earlier this day) on the motion of Mr Roper (Minister for Transport) was resumed.

Mr LEIGH—As I stated before the suspension of the sitting, the Government has attempted to sell out small business and its original proposal for taxis is another illustration of that. The Government was prepared to sell new licences to whoever wanted them for $25 000 when those licences are worth $60 000 in the marketplace. There is no clearer example of how untruthful and unprincipled this Government is when dealing with small business issues.

I should have thought that a taxi driver was the perfect example of small business. I appreciate that some drivers believe this Bill is a good opportunity for them to gain a licence, but there is an old saying that you do not get something for nothing! If the Government is prepared to reduce the cost of licences so dramatically on this occasion, I suspect it will not be long before it is prepared to do it again.

I hope that matter has now been cleared up in the proposed legislation so that licences will be put out for tender to give people in the marketplace an opportunity to tender for a licence.

Another important and fundamental aspect of the Bill involves enforcement provisions. The Victorian public transport system must be improved to provide a number of things which it is currently lacking. Public transport must be reasonably priced, it must be on time, it must be safe and it must be clean. When vandals damage public transport, the remainder of the community is up for a significant amount of money that should be spent
in other areas. Governments do not have the resources to waste money on unnecessary projects.

I hope these enforcement provisions will ensure that vandals damaging the public transport system will be caught and that they will be successfully prosecuted in the courts. It is important that fines should be substantially increased.

It is also time that a policy was adopted for vandals to be responsible for repairing the damage that they have caused or repairing a similar amount of damage in other areas.

I hope the Minister will think seriously about the proposed legislation and the need to introduce those sorts of provisions. If vandals are forced to repair the damage that they have done instead of being fined or gaolced, they might reconsider whether they will again vandalise public property.

The Opposition and the National Party are opposed to the intention of the Government involving transport activities in east Gippsland. I recognise that this provision has been around in some form for many years. Perhaps it is a clear example of why the Liberal Party lost office in 1982—it forgot about some of the things it should have done.

The Government wants V/Line to have a monopoly over timber merchants and mills in taking timber out of mill yards. The Government wants timber to be taken to market on V/Line transport.

Members of the Australian Labor Party in Gippsland have argued that unless V/Line has this monopoly, the railway system in that area will be forced to close. What a farce! The Government is telling people who are attempting to make a modest living that it will not allow them to do so. The Government is saying that it will place severe taxes on them and will ensure that they will not compete fairly with anybody else.

Honourable members would be aware that the Tasmanian Government subsidises its timber exports across Bass Strait. The Cain Government is attempting to put an extra chain around the neck of business in Victoria.

Irrespective of whether Liberal Governments have supported this form of provision in the past, I think it ought to go and those people ought to be given a fair opportunity of marketing their timber.

The Government claims to be so interested in the marketplace. Day after day the Deputy Premier tells honourable members what a wonderful Government his Government is in respect of small business.

Mr Simmonds—Hear, hear!

Mr LEIGH—Self-praise is no praise at all. That is what is going on with this Government: nobody else praises what it is doing and Ministers are so insecure that they must praise themselves. If that is not the case, let us hear the honourable member for Coburg——

The ACTING SPEAKER (Mr Hockley)—Order! I am having difficulty in relating the honourable member's comments to the Bill.

Mr LEIGH—I am certainly on the Bill, Sir. I am talking about the timber industry and the monopoly that the Government is ensuring in east Gippsland. If the Government is genuine in its attitude, let the House hear Government members defend that attitude. So far, apart from the Minister making the second-reading speech on the Bill, the House has not heard from one Government member. If they are genuine about their desire to see this monopoly continue, let them say that they are not prepared to let the people of east Gippsland have a fair opportunity.

Let the Minister for the Arts, who is at the table, defend that approach. Where is the Minister for Transport who should be handling this matter? I understand that he is in New Zealand when he should be here debating the Bill. When he returns, I hope he will realise that the Liberal and National parties intend to combine to ensure that this clause
is removed from the Bill. We are attempting to keep the Government on the straight and narrow, in the interests of the people of east Gippsland.

It is a matter of regret that a Government member who represents that area does not speak in the interests of those people. If he says that the only way the train line to that area can be operated is to force the timber mills to pay for the rail system, that is ridiculous.

If the Government is really interested in seeing business in this State advance itself, it should get off the back of business and allow the people of east Gippsland to transport and sell their timber in the way they want. If those people want to send it by road, let them do so.

Why does the Government believe it should retain this monopoly? Does it believe this monopoly will ensure lower prices? Does the monopoly mean that people who buy timber to build homes in Melbourne will get cheaper timber? It does not. It means that those people will pay higher prices for timber. By supporting the Bill, the Government is in fact increasing the consumer price index. Building costs in this State represent 15 per cent of the consumer price index, so there clearly is a need to cut those costs.

If the Government believes its rail line will cheaply and effectively carry the timber out of east Gippsland, let it throw open the market and ascertain whether timber trucks or rail wagons can carry it more cheaply. I suspect that the timber trucks would carry it more cheaply. The tragedy is that the Government realises this, but again it adopts the narrow-minded approach of not taking account of the interests of the people concerned.

The Government believes the bush starts at Brunswick. For once, let us think of the people in east Gippsland and ensure that they get a fair deal.

I wish most of the Bill a speedy passage. The Opposition will support some clauses and oppose others. Let us get on with the job of ensuring that the people of east Gippsland get the best opportunities.

Mr PERRIN (Bulleen)—The Bill is a wide-ranging conglomerate of amendments to the transport legislation. The first area I shall deal with is the potential passing from this earth of the Victoria Transport Borrowing Agency. That agency had a very quick birth and a very short life. It was established in 1983 by the former Minister of Transport, and honourable members are now presiding over its death. In memoriam to the agency, I just say that I do not think it will be missed.

I refer to the latest annual report of the agency, which was part of a borrowing apparatus that ran up a transport debt of $2800 million in this State—an absolute disgrace. Most of that debt was run up in the past four years, at a time when this State was experiencing extremely high interest rates. In 1985-86—and the agency was not in operation for the whole of that year—it borrowed $559 million; in the 1984-85 financial year, its borrowing program was $489 million. In two years it borrowed more than $1 billion on behalf of the transport agencies of this State. One wonders where the money will be found to repay even the $1 billion that this agency borrowed. I am pleased that it is now out of the arena.

I am not so pleased about the fact that the Government is transferring its operations to VICFIN which will probably continue on this Government's merry borrowing way.

In the last financial year the agency spent $1·440 million in operating costs; in the previous year its operating costs were $2·854 million. In two years it has spent more than $3 million in operating costs.

One must ask: why the difference of more than $1 million in operating costs between 1984-85 and 1985-86? It is all set out in note 3 in the latest annual report which reveals that in 1984-85 the agency spent $1·137 million on overseas loan expenses. Is it any wonder that the agency is being wound up? It is one of the most expensive quangos ever established in the history of this State. It lasted only two years and spent $3 million in operating costs!
An Honourable Member—Who established it?

Mr PERRIN—I shall come to that in a moment. One can see why the Government is closing down the agency. It is the most expensive form of borrowing in terms of its overheads and operating costs.

The agency will be known as Crabb's folly because it was established by the former Minister of Transport in 1983 as part of his reorganisation of the transport portfolio.

It has been killed off by his successor, the present Minister for Transport. It is no wonder when one considers the present rate of borrowings and what the agency has done in the two years of its operation, with borrowings in excess of $2800 million. It is even worse than that: some of these borrowings have been from overseas.

I refer honourable members to the report of the Auditor-General attached to the Budget Papers, where at page 49 the Auditor-General stated that the transport borrowings for 1985–86 incurred a $51 million loss on foreign exchange borrowings. All that in just one year!

That was reported by the Auditor-General to this Parliament for everybody to see. Most of those losses have not been taken up in the accounts of the borrowing agency because they have been unamortised. That is a borrowing record that no Government could be proud of.

However, it is worse than that. The transport system in 1985–86 lost a total of $953 million. In view of those marketing losses, the massive foreign exchange currency losses and borrowing at a time of record interest rates, is it any wonder that that borrowing agency is being disbanded!

The people of Victoria will have to repay both the interest and the borrowings. The loss of $953 million for 1985–86 works out at a staggering sum of $230 for every man, woman and child in this State. That does not take into account whether a person is productive, retired or a child still at school.

The transport system in this State is losing approximately $1800 a minute. While I have been speaking, the loss has risen by $18 000. Is it any wonder that we shall all be pleased to see the end of the Victorian Transport Borrowing Agency? I say good riddance to it. That record stands for itself, and the Parliament should be pleased to see the end of that agency.

The other area in the Bill about which I shall comment relates to taxi licences. I read with interest the Foletta report and numerous representations have been made to me by small business owner drivers and taxi drivers in the electorate I represent who have been extremely concerned about the effect if the recommendations of the Foletta report are adopted. If 300 new taxi licences are issued in this State, it will be a financial disaster for the 20 000 owners already operating.

When one considers the overall situation in the transport system, one can see what it is all about. With the parlous state of transport losses, it would be convenient for the Minister to issue 300 new licences at $50 000 each because that would bring in an extra $15 million to the transport coffers.

The honourable member for Gippsland West rightly said that the Government should not consider issuing 300 licences. The maximum it should consider at one time is 50 licences, and it should then examine the effect of those 50 licences on the industry.

Taxicab owners are among the small business people in our community. They work long hours for small reward. They have each paid up to $65 000 to obtain a taxi licence, in addition to which they need to buy a car, meters and radios at a cost of approximately $25 000. This means that they have to find something like $90 000 to put a taxi on the road.
To do this they have taken out first and second mortgages on their homes at high interest rates. They believe they are being savagely treated by this Government even though they have made an investment in this State and have provided a better transport system for the community. Yet the Government willy-nilly intends to issue new licences for the sole purpose of providing $15 million additional revenue.

High interest rates have impacted on taxi owners' costs, but since the Government has been in power, taxi fares have increased by a mere 4 per cent. These owners are covering large increases in costs with virtually no additional revenue.

Taxi owners are finding it difficult to pay their drivers. They have taxis that sit in garages because they cannot pay drivers to keep them on the roads. If a person outlays $90 000 for a taxi, that person needs to run it for 24 hours a day, not the 8 hours a day that they can afford to keep that taxi on the road. Those taxi owners have made a substantial contribution to this State but that contribution has been negated by the Government.

The final area I wish to address relates to transport in the timber industry. The honourable member for Mornington and I have both worked in the same company in the timber industry and we have both been involved in getting timber from the east Gippsland area, via the mills, to the market. The honourable member for Mornington was in the marketing department and I was in the accounts department of one particular company. We both know the frustration of trying to get timber from timber mills in Gippsland. The two areas of concern were the reliability of transport for timber and the cost of that transport.

The honourable member for Mornington outlined the situation of whole train carriages of timber disappearing or not being delivered on time. That, of course, affected business and that is exactly why the timber millers in Gippsland changed from rail to road transport. They believed road transport was within their control and was cheaper and more reliable than rail transport.

I support the amendments that will be moved because they will ensure that timber millers in east Gippsland can use road transport if that is their choice.

In conclusion, I say good riddance to the Victorian Transport Borrowing Agency. I hope VICFIN can do a better job. This State does not need $3 million worth of quangos.

Small business taxi drivers need protection and the issue of 300 new taxi licences is not accepted.

I wish the Bill a speedy passage with the amendments proposed by the Opposition.

Mr MATHEWS (Minister for the Arts)—In closing the debate I thank those honourable members who made reasoned contributions to the debate.

Four specific questions were raised by the honourable member for Gippsland West and by the honourable member for Lowan. I shall deal briefly with those four matters.

Firstly, the honourable member for Gippsland West sought an assurance that the transfer of the indebtedness of VICFIN would not impose an excessive burden on the recipient agencies. I have been advised that that assurance is available.

Secondly, the honourable gentleman raised the possibility of a fare increase for taxi drivers. The Victorian Taxi Association has an application for a Statewide increase in fare levels to cover cost increases since the last rise, which I remind the honourable member was as recent as October, 1985.

That application also includes proposals for amending the metropolitan fare structure to overcome service problems such as the widespread unwillingness to service short trips. The Victorian Prices Commissioner has been involved in assessing the application and the Victorian Taxi Association has been involved in further consultations and an announcement on an increase in the fare level will be made by the Road Traffic Authority as soon as possible.
The next question raised by the honourable member concerned the establishment of a Victorian Taxi Advisory Council. The Government shares his wish that such a council be established as soon as possible. In fact, the recommendation for the establishment of a representative body to advise the Minister on taxi matters has been agreed on and draft terms of reference are being discussed.

It is envisaged that the council will be a consultative committee constituted under section 36 of the Transport Act and that owner/drivers and users will be represented. Among the matters for early consideration will be vehicle standards, driver and vehicle security and methods of monitoring industry performance.

It is envisaged that the council will advise the Minister on the number and timing of future licence issues, which brings me to the fourth matter raised by the honourable member. It illustrates the fact that people can start from common goals and arrive at very divergent conclusions. It is illustrated tonight by the fact that the Government, seeking the well-being of the taxi industry and those who participate in it, has broadly accepted the recommendations of the Foletto report, which are incorporated in the Bill.

The Opposition, starting from similar objectives, has reached the opposite conclusion. I am hopeful, however, that the distance between the Government and the Opposition on the matter may not be quite as great as some contributors to the debate have endeavoured to reflect and it may be that some accommodation between the two levels of licence issues that have been floated during this discussion can be reached while the Bill is between the Houses.

For the moment, the Opposition's foreshadowed amendments are too far from the thinking of the Government and the Government will be voting against those which deal with the taxi industry.

I turn finally to the matter of timber and the railway operations in east Gippsland. The House should note that what the House is doing is considering Liberal Government legislation and the need to close a loophole which was created, unintentionally, at the time of the passage of the Bill.

The previous Government had good reason for passing the Bill because it clearly realised that it was only through the availability of the timber traffic that the economic justification for that particular railway line could be maintained. Quite plainly, if that particular commodity is no longer available for transport on that railway line, the railway line has no economic future.

When the Liberal Government was in office, it recognised that fact but the Liberal Party in opposition chooses to ignore that fact. If opposition members continue to do so, be it on their own heads. On behalf of the Government, I express appreciation to those members of the Opposition who made reasoned contributions to the debate.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 and 2 were agreed to.

Clause 3

Mr BROWN (Gippsland West)—I refer to clause 3 (20) which provides for the disposal of assets in exchange for a lease. As is well known by the Victorian community, the Government not only has borrowed like there is no tomorrow, it has increased the indebtedness of the transport portfolio from some $448 million to probably in excess of $3000 million at present. I note that the provision states that the “authority may, with the approval of the Treasurer and the Minister, dispose of any real or personal property under an arrangement by which the authority is to take a lease of the property disposed of or of any other real or personal property”.


It was initially singularly V/Line property that was involved—the properties were leased on 8 January this year and as the leases expired, the property was to be sold. That is the policy of the present Government.

There is a provision whereby the Treasurer can use his powers, if there are special circumstances, but it is an outrageous situation that a provision can simply provide that when a lease expires, the property gets flogged and there are no exceptions. That is the policy of the V/Line area.

Throughout rural Victoria, in excess of 10 000 properties are leased. The policy of the Government, on the day the lease expires, is that preparations are made for the property to be sold; but even worse is the fact that existing tenants have no right to any preference in purchasing the property. The properties simply go to auction.

Some outrage has been expressed throughout rural Victoria on this policy but the outrage has fallen on deaf ears to date and honourable members now know that, in the metropolitan area covered by the Metropolitan Transit Authority, the same policy is starting to bite.

All the Crown owns is the land. The assets have been put on the land by the lessees and in many cases by their families before them. Their fathers put the shop, factory or other commercial retail premises on the land and now it will be sold from over the head of the family or from under the feet of the people as a matter of Government policy.

Relative to this clause, which directly relates to the disposal of assets in exchange for leases, can the Minister indicate what the Government has in mind? Is there to be a further widespread selling off of Government-owned properties? Is there something relative to the properties that the Government has in mind that will convert the lease arrangements for the purpose of getting more money in hand? In other words, is the Government proposing—as it did in the past—to flog off $5 million worth of rolling stock to Japanese interests that taxpayers are required to pay hundreds of thousands of dollars for in repayment? As a result of this clause will we see a widespread selling off of assets owned by the authorities?

Mr W. D. McGrath (Lowan)—I direct the same questions to the Minister. The Victorian Oatgrowers Pool and Marketing Co. Ltd has expressed concern that when the leasing arrangements with V/Line have expired there is a possibility that areas of land will be sold off.

In fairness to the Minister I should point out that I have received correspondence which states that at present it is not the Government's intention to sell off the leases controlled and operated by that body. A number of leases are operated in Victoria, especially in relation to primary production involving bodies such as the Victorian Oatgrowers Pool and Marketing Co. Ltd, the Grain Elevators Board and superphosphate operators that service rural Victoria. This is in addition to many other commercial operations to which the honourable member for Gippsland West referred.

I seek—as the honourable member for Gippsland West sought—an assurance that if lessors satisfactorily meet their obligations and if they still retain an interest in the railway land, full consideration will be given to the matter by the Government before a decision to annul any leases is made.

Mr Coleman (Syndal)—Subclause (20), which proposes the insertion of a new section 81A, comes to the nub of the argument about the Victoria Transport Borrowing Agency. It provides a power in the Transport Act for the lease-back arrangements for all the rolling stock that has been sold. It becomes clear with the winding up of the Victoria Transport Borrowing Agency that that agency was a quasi autonomous non-Government organisation that was given the power to dispose of assets that had been accumulated over a period to persons largely unknown. We know that Japanese, Dutch and Australian interests were involved, but the names of the companies were never divulged.
The power to take leases back is being put into the Transport Act. Section 81 of the Transport Act is bereft of any reference to lease-back arrangements or power within the Transport Act for assets to be sold and leased back under the terms by which the railways’ rolling stock was sold.

The insertion of the proposed new section will now enable the State Transport Authority to have the power to take a lease back, and the authority itself will now be loaded up with the decision of the Government to sell the assets rather than the Treasury taking the responsibility when the borrowings go into VICFIN.

It is clear that the cloud that has lain over the whole lease-back arrangements has now been lifted. Honourable members have now been provided with some sort of insight into the management expertise involved.

It will now be clear to the public at large, if the amendment proceeds, what machinations took place in order that $600 million could be transferred from assets into lease-back arrangements to enable this Government to provide a continuing rail service.

If the amendment to the Act takes place, if nothing else, it will expose what took place in this regard, and we should be grateful for that.

Mr MATHEWS (Minister for the Arts)—The Opposition cannot, in consistency, argue against the borrowing and, at the same time, condemn the disposal of idle assets. The need is for active assets. If it would not be a course of action that honourable members opposite would pursue or advocate in their private businesses, they should not attempt to impose it on government.

The clause was agreed to, as were clauses 4 to 7.

Clause 8

Mr W. D. McGRATH (Lowan)—I invite honourable members to vote against the clause. Clause 8, which proposes the omission of the words “of policy” wherever occurring, might seem to be fairly innocuous. However, severe connotations are attached to that amendment. It proposes to remove the words “of policy” from sections 89, 120, 143, 173, 189 and 201 of the Transport Act. I shall quote from section 89 of the Transport Act 1983 to illustrate what the removal of the words “of policy” will mean. Section 89 states:

(1) The Minister may from time to time make written determinations of policy in relation to the operation of this Part.

(2) The Minister shall cause a copy of every determination of policy made by him under sub-section (1) to be served on—

(a) the Road Traffic Authority;

(b) the Metropolitan Transit Authority;

(c) the State Transport Authority; and

(d) the Tribunal—and to be published in the Government Gazette.

We are speaking about the determination of policy by the Minister. The National Party has no qualms about retaining and directing the policy by the Government. It has the right to determine and make policies in regard to whatever it wishes to pursue as the Government of the day. By removing the words “of policy” the section will read:

The Minister may from time to time make written determinations in relation to the operation...
Mr BROWN (Gippsland West)—The Liberal Party will support the omission of the clause. The Minister for Transport, more than any other Minister of the State, should not be given the wide powers proposed in the clause. A Minister of the Crown can rightly make determinations relative to areas of policy. However, if the clause proceeds, the Minister will have total power.

One may as well wind up the various entities that would otherwise make those decisions, such as the boards and committees of the Metropolitan Transit Authority and the State Transport Authority, which carry out a worthwhile function, because they would be told what to do and the Minister would be able to apply the rubber stamp.

The Minister would have total power to make directives. That is what this clause will achieve.

At present the Minister may make written determinations relative to policies. The Opposition has no argument with that because it is desirable. To take it one step further, the Minister may make a written determination that would be final, and that would be going too far. That represents an unnecessary extension of his power and, as such, the Opposition will oppose the clause.

Mr MATHEWS (Minister for the Arts)—A legal opinion on this matter shows that the definition of policy for the purposes of the clause is more restrictive than would be supposed from the common English usage associated with the word. In those circumstances I am not attracted to the amendment proposed by the honourable member for Lowan but I am happy to say that although the Government will vote against the amendment during the Committee stage, it is prepared to consider it while the Bill is between here and another place.

The Committee divided on the clause (Mr Fogarty in the chair).

<table>
<thead>
<tr>
<th>Ayes</th>
<th>36</th>
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<td>Noes</td>
<td>32</td>
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Majority for the clause 4

AYES
Mr Andrianopoulos
Dr Coghill
Mr Culpin
Mr Cunningham
Mr Ernst
Mr Fordham
Mrs Gleeson
Mr Harrowfield
Mrs Hill
Mrs Hirsh
Mr Hockley
Mr Jolly
Mr Kennedy
Mr Kirkwood
Mr McCutcheon
Mr McDonald
Mr Mathews
Mr Micallef
Mr Norris
Mrs Ray
Mr Remington
Mr Seitz
Mrs Setches
Mr Sheehan
Mr Shell
Mr Sidiropoulos
Mr Simmonds

NOES
Mr Austin
Mr Brown
Mr Cooper
Mr Delzoppo
Mr Dickinson
Mr Evans
Mr Hann
Mr Hayward
Mr Heffernan
Mr Jasper
Mr John
Mr Lea
Mr Leigh
Mr McGrath (Lowan)
Mr McGrath (Warren)
Mr McNamara
Mr Perrin
Mr Pescott
Mr Ramsay
Mr Richardson
Mr Ross-Edwards
Ms Sibree
Mr Smith (Glen Waverley)
Clauses 9 to 11 were agreed to.

Clause 12

**Mr BROWN (Gippsland West)**—I move:

1. Clause 12, lines 12 to 17, omit all words and expressions on these lines and insert—

   "(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;".

With your permission, Mr Chairman, I shall also deal with amendments Nos 2 to 13 standing in my name as they are consequential on amendment No. 1.

The Government intends to amend the principal Act to provide two methods for issuing taxi licences. At present the Government is not debarred from issuing as many licences as it wishes at no charge. If the Government wishes to issue 300 licences today, it could do so at no cost.

The amendment proposes to introduce a new method to allow taxi licences to be issued by tender or at a fixed price. The Government has made it clear that it proposes to issue taxi licences for $50 000. If there is no change to the Government's intention as a result of this Bill, three methods of issuing taxi licences will be available. The first will be at no cost; the second will be at a set fee, which is proposed to be $50 000; and the third will be on the basis of tender.

The Opposition does not believe there should be so many methods of issuing taxi licences. The amendment that I have moved will confine the issuing of taxi licences to only two methods.

The Government will still have the opportunity of issuing a licence at a fixed price. No restriction will be placed on the amount of money the Government can set for a licence. If the Government wishes to sell licences for any amount above or below $50 000 it will be able to do so. If the Government of the day wants to issue a taxi licence for almost nothing, say $1—

**The CHAIRMAN (Mr Fogarty)**—Order! The honourable member for Gippsland West is proposing to amend clause 12 in several areas. The Committee should give him its attention.
Mr BROWN—The Government should support the amendment that I have moved. The amendment is fair and equitable and does not unfairly tie down the hands of the Government. The Government will still be able to issue taxi licences as it sees fit and without any ceiling or limit being imposed on the amount of money it wishes to receive for taxi licences. If the Government chooses not to sell licences at a fixed price, it can call tenders for the licences. If members of the community tender the highest prices for licences on that basis, they should be given the opportunity of obtaining them.

The Opposition is firm in its resolve that the amendments circulated in my name should be accepted by the Committee. I hope the Government will cooperate with the Opposition, but if it does not the Opposition in the other place will examine what it can do to achieve the passage of these amendments.

Mr W. D. McGrath (Lowan)—The National Party supports the amendment moved by the Opposition. It is commonsense that a taxi licence should have a monetary value. The honourable member for Gippsland West has stated that the amendment will not specify a sum of money for the taxi licence so the Government will have the opportunity of setting its own price.

I suggest to the Government that it should stick closely to the amount suggested of $50 000 for a taxi licence. A taxi licence is worth approximately $65 000 in the metropolitan area and $90 000 in the Dandenong Ranges. The Government should keep the price of any taxi licence it issues close to the market value of licences held by the existing 3000 taxi owners.

I support the Opposition's proposal that two methods should be used for issuing taxi licences: either for a set fee or offered for tender. There should be no opportunity of issuing a taxi licence on a no-fee basis.

Mr Coleman (Syndal)—The crux of the amendment moved by the honourable member for Gippsland West is how the cost of taxi licences will be determined. Clause 12 (5) refers to the fixed price method for the licence fee, which honourable members now know is $50 000; clause 12 (6) refers to the tender method.

If honourable members had spoken with representatives of the taxi industry, they would be aware that it is believed the granting of these additional licences will not put one more taxi on the road. A limited number of drivers are prepared to take the risk of driving taxis so it will not matter how many licences are issued.

The Bill provides for additional powers to be given in the inspectorate area but does not indicate any assistance for the safety of taxi drivers. That alone prevents additional taxis from being put on the road.

The honourable member for Gippsland West proposed that there should be a determination of the fee for a taxi licence. The Government should not create a situation where a limited number of people will be able to take up the option of the $50 000 offer and, if the Government requires more money it will then be able to put licences out for tender without a reserve. That would go against people who had taken out the $50 000 licences.

The Minister for the Arts, who is at the table, would recognise that if a person were prepared to invest money in a licence and the purchase of a vehicle, he would wait until the tenders were offered before taking a chance with a fixed price for a licence. If the Government were to follow that course, its intention of having additional taxis on the roads would not be achieved.

Representatives of the taxi industry have told the Opposition that taxis are ready and waiting but the drivers are not available. It does not matter how many licences are issued, there are not sufficient people to drive the taxis. The taxi industry believes it is having a loaded gun held at its head because the Minister can issue any number of licences using the existing legislation.
The Government has had four years to issue these licences without the need to introduce any Bill. It has been stated by industry representatives that prior to this Bill being proclaimed, the Minister could issue licences for nothing by using the existing legislation. The people who had contemplated the purchase of a licence would then have their plans upset, and taxi owners who had accumulated an asset over a long period would lose their investment on a taxi licence. The Government must seriously consider how it will set a licence fee.

While the Bill is between here and the other place, this issue should be resolved because it is causing the industry significant concern. The Minister for the Arts, who is at the table, has a substantial taxi organisation, Black Cabs and Eastern Group Taxis Co-operative Ltd in his electorate, so he should have some interest in this matter.

The Minister for Transport, who has not been present in the Chamber during this debate, should also take a keen interest in determining how people who purchase a licence can have their security and investment protected.

Mr MATHEWS (Minister for the Arts)—The difficulty confronting the Committee may well be one of conflicting legal advice. The effect of the proposed amendment would be more constraining on the capacity of the Minister to deal with these matters than has been suggested by the honourable member for Gippsland West. There will certainly be an opportunity for that point to be further clarified while the Bill is between here and another place and it is on that basis that the matter will be considered.

The amendment was negatived.

Mr WILLIAMS (Doncaster)—I want to speak on behalf of the little guys, the 1500 single licensed taxi drivers in this city whose livelihoods are being threatened by these measures. They are the people whom the Committee ought to be thinking about because it is their superannuation and security that are at risk in the value of their cab licence, now around $60 000.

I thought the Labor Party represented the little guy, not the three or four big fleet owners who own or control through their depots up to two-thirds of the taxis in the City of Melbourne. Compared with the rest of the world, this city is oversupplied with taxis.

Melbourne has a taxi-population ratio of 1:800 compared with 1:1200 in most cities in the world. The 3000 taxis in Melbourne offer the lowest fares in Australia. Earlier someone interjected asking, “Why can you not get a cab?” I will tell the Committee why one cannot get a cab: there are a lot of things wrong with the industry.

Taxi drivers are expected to wait for 12, 14 and 18 hours at a time outside railway stations and bus and tram terminals. Those men are expected to wait there unprotected and to work for crumbs! Most of the fares involve short trips by youngsters who do not have car licences and who want to visit their mates around the corner. These trips barely cover the cost of the petrol.

What about during the peak demand times? Any good trade unionist would want to be home with his family on Friday, Saturday and Sunday nights. Yet, those are the peak demand periods when young people with money want to visit their girlfriends and cart them around. That is when there is a shortage of taxis. Is the Committee going to sacrifice owner-drivers and their families for people who want this sort of convenience?

I do not blame the taxi drivers one little bit for putting a ban on certain locations, namely, the hotels, discotheques and all of these other places where they run the danger of picking up drunks and young thugs who would want to assault and rob them.

There is a lot wrong with the taxi industry in this State and it will not be solved by the superficial method of issuing more taxi licences and destroying the assets and livelihoods of men who are already struggling for a crust.
This is an anti-worker measure if ever there was one and I vigorously and bitterly oppose it. I hope my colleagues in another place teach the Labor Party who stands for the worker in Parliament.

Mr BROWN (Gippsland West)—I note the Minister's comment that he believes discussions can take place while the Bill is between here and another place and I welcome that assurance. The Liberal Party is prepared to discuss the matter and, accordingly, will not divide.

However, I again make it clear that the Opposition is committed to ensuring that this proposal proceeds, and will be looking to ensure that the proposed amendment is passed in another place. If that can be achieved by sensible negotiation rather than by force, nothing would suit me better.

The clause was agreed to.

Clause 13

Mr MATHEWS (Minister for the Arts)—I move:

1. Clause 13, line 27, after "it" insert "or the Tribunal".

The amendment simply corrects a drafting error.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 14 to 16.

Clause 17

Mr W. D. McGrath (Lowan)—I move:

2. Clause 17, line 9, after "vehicles" insert "or vehicles licensed to carry six or more passengers".

At present section 147 of the Transport Act states that a holder of a commercial passenger vehicle licence must pay the appropriate annual licence fee determined under section 147b in respect of every commercial passenger vehicle for which the holder has a licence.

The proposed amendment seeks to include the words "or vehicles licensed to carry six or more passengers".

The National Party has received representations from bus proprietors who have voiced concern that the clause will create an opportunity for the Government to impose an annual licence fee on bus proprietors. They have claimed that proprietors of 3, 4 and 5-star buses would face an annual licence fee of $350; that a two-star bus proprietor would face an annual fee of $250; and that a one-star bus proprietor would face an annual fee of $150. Approximately 4200 buses in Victoria would be subject to that fee, which could raise annual revenue of $900 000 to $1 million for the Government.

Prior to the business franchise fee being introduced by the previous Liberal Government, a licence fee was imposed upon bus proprietors. However, the business franchise fee was imposed through petrol and road distillate at a rate of 4·5 per cent on petrol and 5·4 per cent on road distillate, which raised $40 million to $50 million in 1980.

When the honourable member for Berwick was the Minister of Transport there was general agreement that that tax on petrol and road distillate would more than substitute for the annual licence fees imposed upon bus proprietors and operators within the State.

The business franchise fee has since increased to 7·8 per cent on petrol and to 11 per cent on road distillate used across the board in the motor industry. The bus proprietors have said that enough is enough and that their contribution is sufficient to compensate for their use of the road network without the further imposition of an annual licence fee.

I remind the Minister that the bus industry is subjected to a double tax through fuel costs. As a result, bus proprietors consider that they are contributing significantly to the road network and road furnishings of the State without a further licence fee being imposed.
Transport (Amendment) Bill (No. 2)
on them. The National Party seeks an exclusion from the imposition of this fee for buses carrying six or more passengers. I urge the Minister to accept the National Party's amendment. Bus proprietors are already heavily committed financially towards the public transport system.

Many school buses operate on a very basic rate under Government contract; several buses operate through V/Line at a very basic rate. These bus proprietors will need to make submissions to obtain charter licences which would be used only periodically for the transportation of school groups on charter for excursions which are outside their regular contracts. The need to obtain charter licences will open the gate for the Government to impose further licence fees on bus proprietors.

I reiterate that already they are contributing significantly to the State revenue for the maintenance of the road system, and so on. The Minister should accept the National Party's amendment and relieve bus proprietors of the possibility of a further fee imposition.

Mr Brown (Gippsland West)—The Liberal Party supports the thrust of this amendment. It is true that the 1980 Act was introduced on the basis that fees were to be abolished and replaced by the levies to which the honourable member for Lowan referred. It is true also, as any operator will state, that these levies have increased significantly in real terms. The change was made by the former Liberal Party Government and it would be hypocritical of me to recommend reimposition of a fee that the Liberal Party abolished. The undertaking was given effectively to abolish fees on the introduction of a new method of payment via a State levy. That levy has now increased.

Mr McGrath—It is $228 million a year.

Mr Brown—It is escalating rapidly. The industry is paying. The proprietors of these buses are heavy payers under the new system. They use a lot of fuel, be it diesel or petrol. The reality is that they will be paying twice if this measure is effectively reimposed. The Liberal Party will support the National Party's amendment. I hope the Minister will accept the amendment now; if not, that consideration will be given to the amendment in negotiations on the issue while the Bill is between here and another place where the matter will be resolved.

Mr Matthews (Minister for the Arts)—I understand the point that the honourable member for Lowan has raised, which was reinforced by the honourable member for Gippsland West. The position of the Government and the private bus proprietors operating scheduled routes is clear in that there is an exemption which governs them. The position of vehicles providing scheduled school bus services also taking charter licences for other uses may be less clear. I give honourable members an undertaking that this matter will be clarified between the Houses and the Government will not proclaim this provision of the proposed legislation pending clarification on the points that have been raised.

The amendment was negatived.

Mr Brown (Gippsland West)—I move:

15. Clause 17, line 15, omit "143A (7) (b)."

This is a straightforward, simple amendment relative to the annual fee and cost recovery. The issues have been canvassed effectively already and they are known to the Government.

The amendment was negatived, and the clause was agreed to, as were clauses 18 to 22.

Clause 23

Mr Matthews (Minister for the Arts)—I invite honourable members to vote against this clause.

The clause was negatived.

Clauses 24 and 25 were agreed to.
Clause 26

Mr MATTHEWS (Minister for the Arts)—I move:

3. Clause 26, line 25, after “it” insert “or the Tribunal”.

This amendment corrects a drafting error.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 27 to 45.

Clause 46

Mr BROWN (Gippsland West)—I invite honourable members to vote against this clause. These issues have been canvassed fairly well in the debate. At present, there is an exclusion for rough sawn timber to be transported by rail from a mill in east Gippsland to any place within a 72-kilometre radius of the Melbourne General Post Office. The status quo should be retained. That is what it is now; that should stay. If it is a matter of the viability of a railway line, that is a separate issue. The Government should not force timber to be carted by rail if that is not the most economic, reliable and beneficial way for that industry to move the timber.

Public transport, be it by rail, road or any other method the Government of the day wishes to introduce, should stand on its own merits. If changes need to be made to that service, other changes can be made to make it more economical. Undoubtedly, the Government can ensure that changes are made that will save money but still give the service of public transport in that area.

As an example, I cite my own home town, Wonthaggi, which is the largest town in south Gippsland. It has 6000 residents. The train service was removed a decade ago by the Liberal Party and the town has not looked back. It had no relevance whatsoever to the continuing growth of the town. As part of the commitment of the Liberal Party at that time the guarantee stood and still stands that public transport will remain a reality.

For the passenger service, modern air-conditioned road coaches replaced the train service. Since then, no strike has affected public transport in Wonthaggi. The coach service is run for less than half the cost to the taxpayers of Victoria of the former train service, and goods are moved by road into the town, again at a fraction of the cost that applied when the train serviced that town.

If the Government wants to make changes, it should not make them on a basis that forces companies to transport from mills in east Gippsland to Melbourne by rail simply to keep an uneconomic rail system operating, a service that under this Labor Party regime has escalated in operating losses per annum from $197 million—which worried the Liberal Party when in government—to $953 million, as announced only a few weeks ago by the Government.

At present, Victoria is losing $1813 each minute because of the Government’s maladministration and gross incompetence in supposedly running the public transport system. The system is scandalous under the Labor Government.

If the Government wishes to make changes, it should not do so by way of measures such as this. If it wishes to make changes, it should do so in a rational, sensible manner, in a way that makes sense and saves the community money; it should not make them on the basis of saying, “We will make you cart timber uneconomically by rail, even though it can be carted more cheaply, reliably and efficiently by road”. The Government should let the market determine the way in which it wants to move commodities.

Public transport should be retained, whether it be to Bairnsdale or anywhere else in Victoria. If public transport exists in an area now, it should be retained. However, it is a decision for the Government of the day. It might take some guts, but the fact is that if the job can be done more cheaply by using buses—and I say now that in many cases it can be
done better in that way—that is what the Government should do for the taxpayers of this State.

The CHAIRMAN (Mr Fogarty)—Order! Before calling on the honourable member for Lowan, I point out that his proposal to invite the Committee to vote against the clause is identical to the invitation of the honourable member for Gippsland West.

Mr W. D. McGrath (Lowan)—I shall also invite the Committee to vote against clause 46, which amends Schedule 8 of the Act by substituting the word “place” for the word “sawmill”.

I suppose I am a supporter of the railway network, yet I do not believe we should try to use blackmail through this type of legislation to ensure the retention or upgrading of a railway line.

The railway line to which the Bill refers extends through the electorate of the honourable member for Gippsland East. In his contribution to the second-reading debate, that honourable member provided a sound outline of the situation in his electorate. No honourable member in this Committee understands the situation better than the honourable member for Gippsland East.

The honourable member was certainly positive in suggesting that that amendment to Schedule 8 should not be included in this Bill.

I refer the Committee to a future strategy on transport, which was released in 1983 by the former Minister of Transport. Some amazing statistics were revealed in that document. For example, it said that at that time 94 per cent, or 197 million tonnes, of all freight was transported by road in Victoria and that only 6 per cent, or 12 million tonnes, was transported by rail.

Therefore, the amount of freight carted by rail is insignificant, yet we seem to want to retain the rail freight system in the belief that it has an important role to play in the transport industries of this State. As I said, the percentage of overall freight carted by rail is small.

In all sincerity, I point out that I believe railways should be retained, rebuilt and upgraded wherever possible. However, that must be done on a soundly economic and viable basis. I do not believe, by altering Schedule 8 of the Act to substitute the word “place” for the word “sawmill”, that the Bill will go any way towards the retention of the railway line in that area.

The Government should try to encourage and improve the timber industry in east Gippsland. There is certainly room for the Government to take some initiatives in that area to increase the economy of the State.

If the Government adopted a more positive attitude towards the timber industry in the Gippsland region, it might be possible to create an upsurge that would make it possible to maintain that railway line on an economically viable basis along with the road transport industry.

I believe the ball is in the Government’s court; it has the capacity to lift the performance of the timber industry by modifying its attitude towards that industry rather than trying to make this type of amendment to the Act, thereby restricting the movement of timber by road in an attempt to safeguard a railway line. The National Party will also invite the Committee to vote against the clause.

Mr Coleman (Syndal)—Schedule 8 of the Act, which clause 46 of the Bill seeks to amend, states, inter alia:

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 from the post office situated at the corner of Bourke and Elizabeth streets in the City of Melbourne.
One should ask why such a definitive description was inserted in the legislation to ensure that timber found its way to the railway line.

Anyone who has visited railway stations along the Gippsland line would be aware that a certain amount of timber is being transported to places such as Westall, Noble Park and Berwick. However, much timber is also being transported by road directly from the mills to building sites in that general area. If that can be done satisfactorily and if it is not in any way causing difficulties in the movement of traffic through the Gippsland area, it must be to the benefit of those people building houses if that is the cheapest way to move timber.

In the electorate I represent, the north-south roads carry, on average, three vehicles from the building industry and six privately-registered vehicles. Most of the commercial vehicles that travel along those roads carry building materials, be it sand or timber, particularly from Westall. They also carry goods north and south from the large Moorabbin industrial zone.

Therefore, there is an impact on that general area on traffic carrying timber and building materials, particularly to areas currently being developed on the eastern fringe of Melbourne, and there is a point of disturbance in the area resulting from timber-carrying traffic.

Mr Maclellan—Unwelcome traffic!

Mr COLEMAN—Yes, it is unwelcome traffic. If it is a matter of pursuing the dollar and trying to address the real funding problem of V/Line, one must ask why it is that livestock is no longer transported by rail. Much of the livestock comes from the same area, yet there is no prescription to say that livestock must be transported by rail. Why is it necessary for timber to be carted by rail?

Some time ago concern was expressed about the railway crossing over the creek at Orbost; there was some suggestion that trains would no longer travel over that crossing. Is that crossing still in use? Is it the case that the reopening of the Bairnsdale freight terminal to handle small parcels has ensured that freight trains now travel into that area, and is it a means of ensuring that the members of the Australian Railways Union have something to do when they are not handling the parcel business?

A change in the existing situation will mean that the cost structure for building companies must increase as a result of the double handling—and, in some cases, triple handling—that will result from carting timber by rail. The timber has to be handled at the sawmills, carted off from the railways and then again reloaded and handled. That must cause an increase in costs for the people using the service.

I have great pleasure in supporting the invitation of the honourable member for Gippsland West for the Committee to vote against the clause.

Mr MATHEWS (Minister for the Arts)—The fact of the matter is that since 1979–80 timber carried on the line between Bairnsdale and Orbost has dropped from 126 000 tonnes to 66 000 tonnes.

Mr Coleman—No way!

The CHAIRMAN (Mr Fogarty)—Order! Honourable members have contributed to the debate and should be silent while the Minister is replying.

Mr MATHEWS—No amount of shouting will alter the basic fact of the matter, that it is necessary for the line to carry 160 000 tonnes a year for it to be able to pay its way with its necessary infrastructure. I notice the incredulity on the face of the honourable member for Berwick, and yet no honourable member in this House would be more familiar with the intractable arithmetic of railways maintenance and railways operation than the former Minister of Transport. He repeatedly came to grief on precise calculations of this kind.

Obviously, it would be extremely difficult for the Government to accept an amendment along these lines, an invitation to oppose the clause, nor would the honourable member
for Gippsland East thank the Government if it were to do so because, despite what has been said tonight by honourable members, I do not believe the honourable member for Gippsland East would welcome the replacement of the railway line either by the metropolitan air-conditioned coaches mentioned by the honourable member for Gippsland West or by the substitution of movement of goods by road.

Nevertheless, in the spirit of compromise that has characterised this debate I wish to say to the honourable member for Lowan, and to the honourable member for Gippsland West, that this matter can be further considered and discussed while the Bill is between the two Houses and, if a viable economic formula can be brought forward by either gentleman, I have no doubt the Government will be avid to look at it.

Mr Maclellan (Berwick)—The Minister has sugar-coated the threat that is implied in the response he gave, which is that if timber is not forced onto rail the Government may consider closing the line. One of the reasons for the reduction in rail traffic of timber is the policy espoused by the Government. If the Government wants to reduce the harvesting of timber in east Gippsland by one-third, which is what the Minister for Conservation, Forests and Lands has indicated in the Victorian timber strategy, the area will produce an even smaller quantity than is currently cut. This will produce unemployment in the timber industry and reduce activity in townships and shops.

In the sugar-coated threat the Minister is saying it is all right for road transport operators to be sacked, but the Government will not contemplate the possibility of maintaining the line unless the clause is agreed to. The look of incredulity that came across my face was at the possibility that the Minister could even faintly believe the timber traffic could possibly pay for the maintenance and upkeep of the operations of the line. It does not pay a fraction of the cost.

Mr Mathews—It makes a difference.

Mr Maclellan—It makes a difference only to the evil little people who decide that they want to shut the line or want an excuse to shut the line. It provides the Government with an excuse to do something that is completely contrary to stated Government policy. The Government at last may have to front up to the reality that it cannot keep every rail line and every service running by the most expensive and disruptive means when there are cheaper alternatives available.

For instance, the train line to Korumburra has been restored and it costs three times as much to carry passengers by rail as it costs to deliver passengers to Korumburra, Leongatha and beyond by buses. However, the Government had no qualms about that undertaking. It was slow to do it, but it restored the train line despite the cost.

If the Government is prepared to dance to the tune of its railway union masters—although I imagine Mr Sibberas has less clout than he used to have and his membership is diminishing—by restoring train services which cost three times as much as contract buses to shift passengers along the south Gippsland area, what possible excuse is there for the Government saying that the critical difference is the amount of timber that would be pushed back onto the railways if the measure were carried? It is not as if the Minister said that is what would happen if the provision were enacted. He did not tell honourable members the tonnage that would be returned to rail if the clause were adopted. He alleges a critical difference, but he does not oblige the Committee of the Parliament with the critical information, which is the tonnage that would be restored to rail under the clause.

I imagine that, if the clause were carried, much of the timber that would be affected by the measure would simply not be moved because other timber would be harvested in other areas of east Gippsland which could undercut it, because it would be taken by road and carried efficiently to the site. The honourable member for Syndal made a telling point, and behind that lies the fact that timber has to be taken to the rail by road transport and offloaded onto the rail. It is then carried a long haul by rail and is then offloaded at Westall,
Berwick or various sites where it is picked up by road transport again—another inefficiency, another handling, another difficulty and another cost—and taken to the building site!

All I can say is that if the Minister wants to establish a critical difference he should tell the Committee and the public, particularly the public of east Gippsland, how much timber would be restored to rail if the clause were accepted. The simple answer is that the Minister has not the slightest instruction or advice on that matter. He would not know whether it is 1 tonne or 1000 tonnes that may be restored to rail. He knows it, and I know it; he could not give the Committee that information because he does not have it.

The talk of a critical difference is the softening up process that commences as the Government lurches towards making a decision to close railway lines, not because of a critical difference but because it has been presented with something which it imagines will be an excuse to the people of east Gippsland for action which probably has a sensible, logical and economic base, but which the Government is not prepared to argue on that basis because it dances to the tune of its union masters.

If the Government were concerned about the costs of the railways it would not be restoring the train service to Korumburra which is costing three times more than contract buses. If it were concerned about costs as a critical factor it would not be saying that the Orbost line from Bairnsdale to Orbost will be the first line to be closed. As the honourable member for Gippsland East constantly puts to this House, and has for many years with a consistency that I admire, there are many metropolitan lines which make no cost recovery that could be compared with it.

Mr B. J. Evans—They do not even recover 50 per cent.

Mr MACELLAN—They do not recover even a fraction of the freight objectives set by the Government. A critical difference evaporates into a first-class plan and plausible excuse that, on careful examination, is a quite misleading statement pushed into the hands of the Minister for Police and Emergency Services—or perhaps it is the Minister for the Arts on this occasion, as it is an art form expression that he has been given on this occasion!

I am not surprised that the Minister for Transport is not present to tell the Committee the answer to this issue, because one might reasonably be expected to believe that the Minister does have the answer. I do not doubt his absence is explained by other reasons, but whether the Minister is in the North or South Island of New Zealand, how pleased he would be to think that he has not been present to hear this matter being aired in the way it has been by the Minister for the Arts, because there is nothing of critical difference between the present tonnage and the tonnage that might be required under clause 46.

However, there is a critical difference for those road transport operators, for the sawmills that sell the timber and, sometimes, for the home builders who have to pay more for the houses that are constructed because inefficient and uneconomic means of transport are inflicted upon them by proposed legislation and by the policy of the Government and Parliament.

There are good reasons for saying that the timber mills of east Gippsland should be given a fair and equitable opportunity to transport their product to Melbourne, which is their major market, on the same basis that timber coming from other parts of this State, from Mansfield, or from anywhere else, is not required to be put on rail because of a critical difference.

The Minister may talk to the Treasurer and raise, at the Premiers Conference, the fact that it is cheaper to bring timber from Tasmania to the ports of Victoria than it is to use the rail from east Gippsland. The reality is it is cheaper to use the ships that cross Bass Strait and operate under a Commonwealth subsidy and assistance. They bring Tasmanian timber to Victoria, protected by section 92 of the Constitution, and it is totally beyond Victoria's powers to regulate and compete with every log sold by the industry from east Gippsland for home building. That is the disgraceful reality that the Government and the
Federal Government will not face; that is the distortion inflicted on the market and in the marketplace by Commonwealth subsidies, in one instance, and by State regulation in another, distorting the situation, and any suggestion that it is a critical difference is, of course, a nonsense which ought not to be said in Committee, and ought not to be tolerated.

Mr B. J. EVANS (Gippsland East)—I listened with great interest to the comments of the honourable members for Gippsland West, Syndal and Berwick and I am delighted to have their support in the fight to obtain a fair go for the sawmillers of east Gippsland. I wish I had heard the same promise from members of the Liberal Party over twenty years ago.

As I indicated earlier, I raised the issue more than 25 years ago in the Papers Room of Parliament.

Mr Maclellan—And I reduced the requirement to 50 per cent.

Mr B. J. EVANS—The honourable member for Berwick is correct and indeed, if the amendment is defeated, that is where the proportion will remain. The Opposition is not saying that defeating the proposed amendment will free up the industry, it is simply keeping the requirement at 50 per cent—maintaining the status quo.

Timber will be transported from a sawmill to a timber yard, reloaded and transported from the timber yard, rather than directly from a sawmiller. I have never been aware of any activity in that direction because of the dubious economic value. Obviously it must add to the handling cost, and frankly, I have never heard of it being a problem. I cannot see any reason for the restriction.

The other point I make, about which I have mixed feelings, relates to comments made by members of the Liberal Party. The Government is pursuing a policy with the forest and timber industry of east Gippsland on the basis of legislation that the Liberal Government introduced in 1970. The Labor Government has not had to fiddle with the Act because it was a lay down misere for their socialist objectives of control of public land. The Labor Government organised the Land Conservation Council to suit its philosophy. It is sad that it has apparently taken the Liberal Party fifteen or sixteen years to understand the effect of its legislation. The Liberal Party would not listen to my criticisms in 1970 and the residents of east Gippsland have been the victims ever since.

I repeat what I said before: all the people in east Gippsland are asking for is a fair go. I challenge the Minister to apply exactly the same requirements to every rail line. If the Minister did that he would close down most of the metropolitan passenger services. I do not understand why the metropolitan area needs more stimulation, more assistance and more help from the public purse than remote sawmills in east Gippsland. It does not make sense. It is not fair, not reasonable, and the clause should be omitted from the Bill.

The clause was agreed to.

New clause

Mr MATHEWS (Minister for the Arts)—I move:

4. Insert the following New Clause to follow clause 22:

'AA. After section 171 (2) of the Transport Act 1983, insert—

"(2A) Notwithstanding sub-section (2), a motor vehicle being operated in the course of a business of automotive wrecking only operates as a tow truck for the purposes of this Division if it lifts and carries or tows a motor vehicle—

(a) which is not owned by the proprietor of the business; or

(b) from the scene of an accident."'.

The new clause was agreed to.

The Bill was read a second time, and passed through its remaining stages.
The SPEAKER—Order! I have to report that, this day, this House met with the Legislative Council in the Legislative Assembly Chamber for the purpose of sitting and voting together to choose three members of the Parliament of Victoria to be recommended for appointment to the Council of the La Trobe University, and that Carl William Dunn Kirkwood, Esquire, MP, David John Lea, Esquire, MP, and Milton Stanley Whiting, Esquire, MP, have been duly chosen to be recommended for appointment to the Council of the La Trobe University.

PLANNING AND ENVIRONMENT (APPEAL RIGHTS) BILL
This Bill was received from the Council and, on the motion of Mr HEFFERNAN (Ivanhoe), was read a first time.

TRUSTEE (AMENDMENT) BILL
This Bill was received from the Council and, on the motion of Mr MATHEWS (Minister for the Arts), was read a first time.

CRIMES (CONFISCATION OF PROFITS) BILL
This Bill was received from the Council and, on the motion of Mr MATHEWS (Minister for the Arts), was read a first time.

LISTENING DEVICES (AMENDMENT) BILL
This Bill was received from the Council and, on the motion of Mr MATHEWS (Minister for Police and Emergency Services), was read a first time.

EDUCATION (AMENDMENT) BILL
This Bill was returned from the Council with a message relating to amendments. It was ordered that the message be taken into consideration next day.

LOCAL GOVERNMENT (GENERAL AMENDMENT) BILL
The message from the Council relating to the amendments in this Bill was taken into consideration.

Council's amendments:
1. Clause 8, lines 19 to 21, omit all words and expressions on these lines.
2. Clause 9, omit this clause.
3. Clause 10, lines 37 and 38, omit "or on the complaint of any person".
4. Clause 10, page 10, after line 2 insert—
   "(11) Before an inquiry under this section, the certificate holder may request the municipal board to take action under section 173A and on that request the municipal board is precluded from proceeding with the inquiry under this section".
5. Clause 10, page 10, lines 5 and 6, omit "or on the complaint of any person".
6. Clause 11, omit this clause.
7. Clause 12, omit this clause.
8. Insert the following new clause to follow the Part heading preceding clause 11:
   "AA. In section 240(1) of the Principal Act, after the word 'poll', insert:
   "and, where a poll has been held, must not make a recommendation to the Governor in Council to give effect to a proposal unless a majority of the valid votes recorded at the poll are for that proposal."."
9. Insert the following new clause to follow clause 11:
   "BB. In section 64 (2) of the Principal Act for "$1500" substitute "$2000".".
Mr SIMMONDS (Minister for Local Government)—The Bill has been passed by both Houses. The amendments made by the Legislative Council cover a number of arrangements. Amendments Nos 1 to 7 made by the Legislative Council are accepted by the Government because they make little difference to the thrust of the Bill. They deal with such matters as the complaints of any person and regulatory powers. Clause 11 provided for an arrangement whereby councils joining together would have a rate arrangement that retained a different rate between the merging councils.

Amendment No. 8 made by the Legislative Council is disagreed with by the Government because it is irrelevant to the material in the Bill. A poll is referred to in the principal Act and the provisions of the Act are that the Minister shall have regard to the results of the poll. That was introduced in legislation in 1982.

The Government proposes to agree with amendment No. 9 but intends to make consequential amendments.

I move:
That amendments Nos 1 to 7 be agreed to.

The motion was agreed to.

Mr SIMMONDS (Minister for Local Government)—I move:
That amendment No. 8 be disagreed with.

Mr COOPER (Mornington)—The Opposition believes the amendment is in the best interests of local government; therefore, it will pursue the amendment. The Opposition has paid considerable attention to some of the events that have occurred since 6 May this year. On 3 September, a statement by the Premier on local government restructuring referred to the question of polls and amalgamations and whether those amalgamations should proceed. The Premier stated:

It has also considered reports from the Minister about the progress of the restructuring process across the State.

The Government now believes that it should direct its resources and those of the Local Government Commission to assisting those councils that wish to provide more efficient services to their communities.

The Government has therefore decided to change the emphasis of the restructuring process.

Any change will proceed only with the support of the councils affected.

The whole objective of the commission will be to assist and enable those councils who wish to restructure upon their own initiative to do so.

The amendment the House is now considering will do what the Premier has stated will occur. The amendment states that no amalgamation shall proceed until the people affected by that amalgamation approve of it by a poll. The Opposition has been trying to insert that provision in the Local Government Act.

Mr SIMMONDS (Minister for Local Government)—On a point of order, Mr Speaker, the House is debating whether the new clause inserted in another place should be agreed with. The honourable member is extending the scope of the debate by dealing with matters outside the proposed new clause.

Mr KENNETT (Leader of the Opposition)—On the point of order, Mr Speaker, the House is being asked to consider an amendment made in another place. The honourable member for Mornington is justifying the need to agree to that amendment. The House is
debating the pros and cons of the amendment. The honourable member is speaking succinctly to that amendment and, although debate on that matter is limited, I ask you, Sir, to recognise that the honourable member is simply debating the merits of the amendment.

The SPEAKER—Order! The question before the Chair is whether the amendment proposed by the Legislative Council is accepted or rejected by the Legislative Assembly. The debate is limited to the extent of the amendment and I ask the honourable member for Mornington to contain his remarks to the amendment.

Mr COOPER (Mornington)—I shall pay firm regard to your ruling, Mr Speaker. Ever since 1982 the Opposition has sought the insertion of new clause AA. When section 240 and sections around it were inserted in the principal Act by this Government they dealt with the operations of the Local Government Commission and amalgamations of municipalities.

Since March 1985 there has been a demonstrable need for polls to be conducted prior to municipal amalgamations. Public meetings have been held around the State and have continually demanded that the Act be amended so that no amalgamation would proceed prior to the approval of the people affected.

The Government publicly accepted that need when the Premier issued a press release on 3 September this year. One could not have a clearer statement than the one made by the Premier when he stated:

Any change will proceed only with the support of the councils affected.

Although the amendment was opposed by the Government in another place when it was moved in May of this year, there is no reason why it should now be opposed by the Government because it falls into line with the clear commitment given to municipalities by the Premier on 3 September this year.

If the Government fails tonight to agree to the amendment, it will follow a path that can be described only as one of gross hypocrisy. If the Government says that it will not accept the amendment, which reflects the attitude expressed by the Premier, it can only be described as grossly hypocritical.

Since this Minister assumed responsibility for local government in 1985 he has done so much damage to the credibility of the Government that it would be wise now for the Minister to agree to the amendment. If the Government fails to do so, local government will view this action as being nothing other than a continuation of the betrayal that it has suffered since March 1985.

Public meetings held from one end of the State to the other have expressed the desire for the amendment. Those meetings have been held not by a few people but by thousands of people. Wherever one travelled around the State one was met with the continual demand by people to have a direct say on the future of their municipalities. They do not want to abrogate that right to the Government or the Minister. The Opposition has done its best to convince the Government that this is the path to take.

I implore the Government to think again before rejecting the amendment. The issue will not go away; it will continue to haunt the Government for as long as it continues to disagree with ratepayers having the final say on municipal amalgamations. The amendment is aimed at forcing the Minister to listen to the voice of the people.

If the Government continues to adopt the intransient attitude of refusing to accept the right of people to decide what should happen to their councils, the issue will fester until the next State election when it will cost a number of Government backbenchers their seats.
Many wise Government heads acknowledge that this is so and that the Opposition’s view is the correct one. Those honourable members acknowledge municipal polls as being part of the basic democratic process which should be willingly accepted by the Government.

The Government should not have to be dragged screaming into the democratic process. It should be willing to accept it and to publicly say so.

I ask the Minister to reconsider the Government’s position. I urge those Government members who know that this is the right thing to do to use every avenue they can to convince the Government to change its view.

Mr STEGGALL (Swan Hill)—The National Party holds the same view as the Opposition. There has been a long debate on the need for the Minister for Local Government to abide by the decision of any municipal poll prior to proceeding with council amalgamations. In the past eighteen months local government has learned a valuable lesson in this debate.

We have learnt that local government no longer trusts this Minister, this Premier or this Government. Throughout the State threats have been made and all types of innuendos have been made against local government. The Government has lost all its credibility and trust as a result of the arguments concerning amalgamation.

The only way in which the Government can regain some credibility in the future in respect of changing local government boundaries is by accepting gracefully the amendment that the Upper House has sent to this place. I do not understand why the Government and the Minister will not accept the amendment. Everything that they used to stand for and the utterances of the Premier of 3 September could be taken only to agree with adopting that principle. On 3 September the Premier said that, for the future, the commission will be required to direct its energies and resources to assisting councils that wish to restructure. He went on to say that any change in the boundaries would proceed only with the support of the councils affected. I would take that to mean that that desire, when tested, would be supported through a poll of the local government area concerned.

In dealing with this amendment we are talking about a basic democratic right. Can honourable members imagine the Federal Government deciding to change State boundaries without Victorians wanting a say in the matter? I cannot understand why the Minister will not accept this type of amendment after all that has been said and done.

I take the Minister and the Government back to their local government policy as enunciated prior to the last two elections when it was said that the proceedings of the commission would be public and that any proposed boundary changes would be put to a referendum of voters in the areas affected by the change.

The opposition parties in both this place and the other place ask the Government to honour its commitment given at the last two elections on the issue of the local government restructure. It was on that that the backbenchers of the Labor Party were elected. That is what the people of Victoria thought they were getting and I suggest that, until the change of Minister after the last election, that is probably what they were going to get. But no! This tactic, this confrontation, this battle, this fight has been going on all over the State.

Those councils that are still discussing changes to their boundaries—and they do exist; there is even an example given in the press today—will, according to the statement made by the Premier in September, be supported by the Government where there is local support for change. These discussions are still going on.

If this amendment were accepted by the Government, I believe many more councils around the State would be keen to enter into meaningful discussions on alterations to boundaries. That is what the Government, the Premier and the Minister have been telling us for the past eighteen months, but the only way that they were going to do it was by throttling local government and forcing councils into accepting what the Government wanted and not taking any notice of the local desire on alterations to the boundaries.
The amendment will not affect in any way the now chosen path of the Government. It will assist the councils that desire change, knowing full well that that desire can be tested by referendum in the affected area and that the Minister must take notice of the poll and abide by it. It is not too much to ask.

I cannot see any logic in what the Minister is now saying. The truth of the matter is that no-one in local government now trusts the Minister or the Government; and local government is the third tier of government, one of the most important parts of our democratic system.

This amendment would assist change to be achieved in cases of local desire for change, and it would not in any way go against the stated aim and desire of the Premier and of the majority of the Government's backbench. There is hardly an argument to be used against it.

The Government has lost the trust of local government. Municipalities do not trust the Government at all. The only way that they can view the Government's action on this amendment is as meaning that the Government is determined to have the last say on amalgamations and that it will use every means at its disposal to achieve the plan it laid down earlier this year. If the Government does not accept the amendment, that will show that it obviously has not abandoned its plan. One can read into the Premier's statement in September that the Government will still try to force change by various methods; it obviously has not abandoned its plan to halve the number of municipal councils in this State. If it had abandoned that plan, it would have no qualms about accepting the amendment.

There is nothing sinister in the amendment. There is nothing in it that will in any way impede change in local government boundaries where local desire for change exists. I suggest that the Government reconsider its position on the Bill. The National Party will oppose the action of the Government.

Mr KENNETT (Leader of the Opposition)—I support the comments of the honourable members for Mornington and Swan Hill. The amendment is crucial to the passage of the Bill, which has been tightened up by amendment and which is desired by the majority of the Victorian community, particularly for the development that it will engender within the municipalities.

If the Government does not accept the amendment in good faith, it will have to wear the odium of delaying perhaps $300 million worth of development and the attendant jobs that that development would represent.

The clause that the Opposition seeks to have included in the Bill will, if necessary, be insisted upon in the Upper House and the Government will have to decide whether it wants development and jobs or whether it is prepared to sacrifice development and jobs because of a pig-headed attitude that is totally inconsistent with the feelings of the people of Victoria and the demands of tens of thousands of young Victorians and those who are looking for jobs through the development that may result from the passing of the Bill.

The opposition parties are asking the Government to accept the commitment the Labor Party made on two occasions at the elections in 1982 and 1985. I look across the table and I see my good friend, the former Leader of the Opposition for the Labor Party, now the Minister for Housing.

The SPEAKER—Order! The time appointed by Sessional Orders for me to interrupt business has now arrived.

On the motion of Mr FORDHAM (Minister for Industry, Technology and Resources), the sitting was continued.

Mr KENNETT (Leader of the Opposition)—As I was saying before I was interrupted by the procedures of the House, the Opposition asks the Government to accept this amendment that was part of the election policy of the Labor Party in 1982 and 1985. The now Minister for Housing made it quite clear that the Government would not force
amalgamations on municipalities and the Premier, at the 1985 election, made the same commitment.

Recently when the Government changed its position and the Minister had to accept that change, he again articulated that the Government would not force amalgamations on municipalities. The Government said it would pursue its objectives through other measures but not through forced amalgamations.

If the utterances, promises and commitments made by the former Leader of the Opposition before the 1982 election, later by the Premier and more recently by the Premier and the Minister are to have any meaning, the Government has no reason not to accept this amendment. If the Government does not accept this amendment, it will put at risk $300 million worth of development projects and their associated employment opportunities.

If the Government does not accept the amendment, it will be held to account on three points: firstly, the breaking of promises or undertakings given; secondly, the failure to recognise the importance of development in the State; and, thirdly, the putting of the fear of God into all municipalities by using a temporary majority in another place to force council amalgamations.

Is the Government really intent on forcing council amalgamations which it proposed while having a temporary majority in the other place? I did not have that understanding of the situation from the Premier's conference as articulated in his media statement, nor is it the understanding I have of the Minister's utterances given under duress, quite obviously because of the Premier's statement. What does the Government have to lose by accepting this amendment and giving good development and employment to the people of Victoria? The onus is not on the Liberal Party or on the National Party; it is on the Government.

Tonight the Opposition is merely putting into place the Government's commitments and stating the desires of the overwhelming majority of the people of Victoria that this amendment be accepted. I can assure the Government that the opposition parties in another place will continue to insist upon it. The Minister for Local Government, who has been the Minister for Employment and Training in the past and a good trade unionist, would understand the importance of providing jobs in this State. I am sure he does not want the odium of the responsibility for unemployment hanging around his neck because he was not prepared to provide employment opportunities.

If the Government is not prepared to accept the amendment, what fate does it have in mind for the municipalities of Victoria? The idea of forced amalgamations has been rejected, not by a few people or by tens of thousands of people but by hundreds of thousands of Victorians. The Government owes it to Parliament to include in this measure the commitment it has already given.

Mr JOHN (Bendigo East)—I add my support for the amendment to that of my Leader and the honourable member for Mornington.

The amendment is short and simple and is entirely in order in respect of the principles which the Premier announced during September this year when the Government decided to change course from a policy of forced amalgamations.

Why now should we not have a poll to decide on amalgamations in the future and why should we not ask the Minister to take notice of the will of the people?

People in the electorate of Bendigo East have given numerous expressions of public support for the sort of amendment being proposed today by the Liberal Party. Public meetings were held throughout the electorate and polls were taken in the Shire of Strathfieldsaye and the Borough of Eaglehawk. It was clear from the results of those polls that the people did not want forced amalgamations brought down by the Government.
At one meeting on the night of the rather famous Royal wedding, a cold and wet winter's
night, 300 to 400 people from all walks of life attended a meeting in the electorate I
represent. Almost to a man, they expressed support for the very principles enunciated in
this amendment.

The people want a voice. The Liberal Party has been entirely consistent in its approach
on this matter. I refer, as my Leader referred, to the stance taken by the then Minister for
Local Government, now the Minister for Housing, who in 1982 agreed that the will of the
people should be acknowledged.

I shall keep my remarks brief but I reiterate that, as the member for Bendigo East, I am
determined that the Opposition should proceed with this amendment. I regret that the
Government does not want to take it on board and allow it to become part of the Bill and
that other matters of importance to local government will not be brought into legislation
in this State.

However, the Liberal Party is determined that the will of the people will be upheld and
that no amalgamations will be forced on municipalities. The Government will not be
allowed to use a jackboot approach against the will of the people in the future.

The Minister should take account of and abide by the result of a poll taken on this
question.

Mr A. T. EVANS (Ballarat North)—I support the remarks of my Leader and the
honourable members for Mornington, Bendigo East and Swan Hill. They have in a practical
way reminded the Minister and the Government in general that they are committed to
abide by this amendment.

During the rather heated and quite often bitter campaign in the Ballarat area regarding
the forced amalgamations which the Government was so determined to put into place,
Government members, when they had their backs to the walls, would make the statement
that the Bill allows for a poll but, when cornered and asked about the result of the poll
being considered, they went quiet on the matter; that argument was used on many occasions
as a form of defence.

If the Government is genuine in its desire to improve local government by having
enlarged municipalities, it will, in a democratic fashion, accept the will of the people
expressed at a poll.

If everybody had voted for amalgamation—in the City of Ballarat and the adjoining
municipalities of Sebastopol, Buninyong and Bungaree—it would be a different situation.
These municipalities are all prepared, as are the ratepayers of other municipalities, to
abide by what was a fair and a democratic poll; but no, the Government persistently
refused to conduct a poll.

If the Government does not accept this amendment, it confirms the suspicion of the
majority, and by far the greatest majority of ratepayers throughout the State, that the
Government has an ulterior motive of self-interest: it is not interested in the ratepayers.

A letter appeared in a local paper attacking me, claiming that I was inconsistent and
that I had been involved in the amalgamation of the shires of Daylesford and Glenlyon
about twenty years before. What should be made clear is that I did organise that
amalgamation, but it was carried out after a poll had been conducted and the majority of
the ratepayers in both of those areas had agreed to the amalgamation.

This has been held up by the Government as an ideal example of local government.
Ministers have gone into Daylesford and said, "We commend you for your foresight."
The Premier will be in Daylesford next Saturday to open the highland gathering and it is
a sure thing he will say again, "I commend you for amalgamating your two municipalities
twenty years ago"; but that was achieved only after a poll had been conducted. Therefore,
I plead with the Government to be consistent; to be fair; to be honest, and to give the
ratepayers a fair dinkum go by agreeing to the amendment.
The House divided on the motion (the Hon. C. T. Edmunds in the chair).

Ayes 38
Noes 25

Majority for the motion 13

AYES
Mr Andrianopoulos
Dr Coghill
Mr Cunningham
Mr Ernst
Mr Fogarty
Mr Fordham
Mrs Gleeson
Mr Harrowfield
Mrs Hill
Mr Hill
Mrs Hirsh
Mr Hockley
Mr Jolly
Mr Kennedy
Mr Kirkwood
Mr McCutcheon
Mr McDonald
Mr Mathews
Mr McCallef
Mr Norris
Mr Pope
Mrs Ray
Mr Remington
Mr Rowe
Mr Setz
Mr Sheehan
Mr Shiell
Mr Sidiropoulos
Mr Simmonds
Mr Spyker
Mr Stirling
Mr Trezise
Dr Vaughan
Mr Walsh
Mr Wilkes
Mrs Wilson

Tellers:
Mr Culpin
Mrs Setches

NOES
Mr Coleman
Mr Cooper
Mr Delzoppo
Mr Evans
(Ballarat North)
Mr Gude
Mr Hann
Mr Hayward
Mr Jasper
Mr John
Mr Leigh
Mr McGrath
(Lowana)
Mr Maclellan
Mr Perrin
Mr Ramsay
Mr Reynolds
Mr Ross-Edwards
Mr Steggall
Mr Stockdale
Mr Tanner
Mr Weideman
Dr Wells
Mr Whiting
Mr Williams

Tellers:
Mr Dickinson
Mr McGrath
(Warrnambool)

PAIRS
Mr Cain
Miss Callister
Mr Cathie
Mr Crabbe
Mr Roper
Mr Simpson

Mr SIMMONDS (Minister for Local Government)—I move:
That amendment No. 9 be agreed to, but with the following further amendment:
9. Insert the following new clause to follow clause 11:
   "as in section 64 (2) of the Principal Act for "$1500" substitute "$2000"."

The motion was agreed to.

It was ordered that the Bill be returned to the Council with a message intimating the decision of the House.
TAXATION ACTS (AMENDMENT) BILL

The debate (adjourned from October 22) on the motion of Mr Jolly (Treasurer) for the second reading of this Bill was resumed.

Mr STOCKDALE (Brighton)—This is an important Bill which in part is a Budget Bill; that is, it reflects policy decisions made by the Government in the context of the 1986–87 State Budget. In particular it introduces a number of measures which make important reforms to the Stamps Act involving concessions on stamp duty. I refer to exemptions in relation to marine insurance, to large-scale debenture issues on the wholesale market and to certain amendments concerning the talisman system of shares purchased on behalf of brokers. It also creates an anomaly in relation to overseas transactions.

The second group of provisions concerns the exemption from stamp duty of first home buyers. The Bill proposes that the exemption be removed so that first home buyers will be subject to stamp duty the same as other purchasers of homes in Victoria.

The third main group of provisions is a series of measures which the Government describes as anti-avoidance measures. I will come back later to show briefly that many of these provisions cannot reasonably have that description attached to them.

In common with so many other measures which have been introduced in this Parliament in the past three years a sledgehammer is taken to crack what the Government regards as avoidance measures and, on a proper reading, the measures proposed go way beyond anything that is reasonable and will attack legitimate transactions where there is not the faintest hint of avoidance.

In relation to these matters, with the exception of the first home buyers’ scheme changes, the Liberal Party supports the tax relief measures outlined in the Budget and embodied in this Bill. It is a measure of the urgency of making those amendments that in two of the instances relatively small amounts of revenue will be forgone by the proposed changes. That reflects not the extensive avoidance or evasion, but simply the fact that the high rates of duty previously in existence have had the effect of causing commercial operators to ensure that those transactions simply do not take place in Victoria.

The Treasurer has previously drawn attention to the fact that even since the announcement of the introduction of the changes in relation to debenture issue stamp duty, a large debenture issue has been made in Victoria by the Broken Hill Proprietary Co. Ltd and, in all probability, had the exemptions not been given, that transaction would not have taken place in Victoria and the status of Melbourne as a financial capital would have been further eroded by the adverse impact of high rates of duty and other taxes in the State.

For those reasons the Liberal Party Opposition supports those measures in the Bill. The Opposition believes they will have a minimal effect on the State’s revenue. They are reasonable in themselves and that will play a part in promoting commercial activity in Victoria, in generating growth in Victoria in commercial areas, providing employment and reinforcing Melbourne’s position as one of the leading financial capitals not only in Australia but also in the South Pacific region.

In relation to the first home buyers’ stamp duty, the Liberal Party, with great reluctance, will not oppose the Government’s initiative in removing the exemption. It has long been a matter of policy in the Liberal Party to provide special concessions designed to recognise the legitimacy of the aspirations of Victorians and Victorian families to own their own homes.

The Liberal Party attaches a high value and has always attached, since its very inception, a high value to the fulfilment of that reasonable and important aspiration of Australians and Victorians to own their own homes.
The Opposition sees an exemption of stamp duty as one small measure to recognise that aspiration and promote the interests of homeowners.

However, the Opposition has traditionally adopted the view that except in exceptional circumstances the Liberal Party, while opposing measures in terms of speaking against them, will not vote to interfere with Budget initiatives.

The Opposition simply states that the Victorian Government stands condemned as having undermined the interests of young Victorians. Almost invariably this exemption benefits young couples starting out married life together with an aspiration, and indeed an ability, to buy their own homes.

The promotion of their interests and their aspirations to buy homes is not only a recognition of their interest, but a reinforcement of the importance of the fundamental value of the Victorian family unit. The Government has taken yet another step to discount the value of the family and the development of families in Victoria.

The measure is a savage assault on the interests of young Victorians starting out on married life together and will yield the Government some $9 million out of the pockets of young families who may have the opportunity of owning a home at the margin adversely affected by the imposition of that duty.

Nonetheless recognising that the Bill is a Budget measure, the Liberal Party will not oppose it.

I shall now deal with some of the so-called tax avoidance measures. During the Committee stage it will be necessary to address these aspects in considerable detail. I shall refer to only two that are relevant in principle. The first is that many of the measures can in no sense be described as anti-avoidance measures. They are not confined to artificial transactions, to evasion or exclusively to transactions that have an artificial element which makes them a legitimate target for anti-avoidance measures.

In particular two would have quite a dramatic impact on legitimate business transactions and would adversely affect long-term practices. They would have the effect of increasing the price of residential and rural land and would interfere in the normal commercial transactions of the sale of shares in companies.

The Government alleges that there are tax avoidance schemes that turn upon the use of corporate bodies to transfer an interest in real estate. The Government has set about the imposition of a new tax on those schemes in breach of its undertakings before the 1985 election and in breach of express references in this year's Budget.

The two measures to which I have alluded would involve taxes on legitimate commercial transactions that, in reality, do not have a faint hint of restructuring affairs artificially to avoid duty. I invite honourable members to consider also the consequences that would flow to residential properties. A practice has endured, I am advised, for many decades where property developers purchase potential residential land on the basis of subdividing the land. This is not uncommon.

The end consequence is that if, say, ten acres were to be purchased subject to subdivision into 40 quarter-acre lots, duty would be assessed separately on each allotment and the overall rate of duty on the total purchase price would increase if the abrogating provisions of the Bill were to come into force. This would be distinct from duty being assessed on each quarter-acre allotment on the total value as a single transaction.

The high levels of stamp duty at the upper levels of the scale and the savage nature of the stamp duty scale would significantly add to the cost of residential land. In many cases that land would be sold to first home buyers. The so-called anti-avoidance measures will compound with the abolition of the first home buyers' exemption and further erode the interests of Victorian families and young married couples who try to purchase a property for a home at a reasonable price.
The Government's answer to this may be that it will come out of the pockets of the developers but that is a figment of the imagination of the Government. The facts of life are that developers will develop land only if they can do so at a profit. If the costs associated with developing the land are increased, the price of the land must also increase. The purchasers of the land must pay a higher price; otherwise the property developer will not make a profit and the land will not be developed.

The ultimate burden of this increase in duty, this new tax, would fall upon the purchaser and in many cases on first home buyers who are trying to struggle against high interest rates and other high tax regimes of Labor Governments.

Similarly I am advised that for many years it has been the practice for farmers to buy properties that are on more than one title. When that occurs, the duty is often assessed separately on the land covered by each title. The abrogating provisions of the Bill will increase the price of rural land at a time when most members of the farming community are struggling to obtain any return, let alone a reasonable return on their farmland.

The Bill will inhibit the transfer of farmland, the restructuring of holdings to make them more efficient, undermine the economic performance of otherwise efficient enterprises and add to the cost to be met by people buying land for rural or other purposes, where duty might be assessed separately on different parcels of land.

Those are two clear-cut illustrations of the impact of the Bill which imposes new taxes despite the assurance the Government gave the electorate before the 1985 election that no new taxes would be introduced and despite the fact that those promises, in part, induced the community to elect the Labor Party to government. Last year, at the first available opportunity, the Government sought to change the Stamps Act to impose, in substance, new taxes. It failed then because of the diligence of the Liberal and National parties in another place, but with its nose in the tax collector's trough it has tried a second time to impose substantial new taxes in circumstances where no artificiality connotes a contrived tax avoidance device.

The Treasurer keeps interjecting, so I want to make clear one element of the Liberal Party's attitude to so-called tax avoidance measures. I shall contrast the position of the legitimate business operator who will be caught up in unintended and unjustifiable circumstances of the proposed amendments with the actions of the Stamp Duties Office and the Treasurer.

The Stamp Duties Office and the Treasurer do not have clean hands. It ill behoves the Treasurer to sit at the table ranting about tax avoidance as a means of evading the issue of the new tax proposed by the Government. The Bill seeks to impose retrospective changes that will increase taxes. Clause 2 (3) will cause two provisions in the Bill to operate retrospectively from 10 December 1985.

By the time the Bill is passed, a full twelve months of retrospection will be in operation. What is the explanation for that? The response of the Treasurer and the Stamp Duties Office will be that in 1985 they sought to restructure the way certain stamp duties were levied but they made a mistake. They will say that they intended to impose a higher duty by virtue of prescribing higher exemptions.

The reality is that a mistake was made in two places and the exemptions were increased by more than had been intended. Did the Stamp Duties Office issue explanations to the taxpayers concerned and advise them that they would be given the opportunity of either paying the tax at the prescribed rate or of paying the tax at the intended rate, with the proviso that subsequently retrospective legislation would be passed correcting the error? No, it did not.

A circular was issued to the taxpayers representing the position the Government intended but not the way it was in fact. False information was given in writing to taxpayers who were subject to the payment of duties.
That was done in good faith at the time. The Stamp Duties Office expected that the law would be as set out in its bulletin. I make no criticisms of the provision of information at that time. However, information which was subsequently proven to be factually incorrect was conveyed to taxpayers. If one is talking about a diligent public authority that is concerned about honestly collecting taxes from taxpayers and a taxing authority that knew the tax law would be strictly construed by the courts, one would have expected that, when the Stamp Duties Office became aware of the error, it would do what it expected tax avoiders to do: it would have honestly owned up and explained the position, given people the opportunity of reclaiming the tax they had paid and correcting the error. However, that is not what the Stamp Duties Office did.

No doubt, with the connivance of the Government, the Stamp Duties Office let the position ride. Information that was given in a full and frank briefing to the Opposition discloses exactly what policy position was adopted by that office. I compliment officers of the Stamp Duties Office in that they did not seek to avoid the true position once it was disclosed to the opposition parties. Members of the opposition parties were given a full oral and later written record about the situation. As the Treasurer interjects, he also provided the opposition parties with documentation about the history of the matter, and I thank him for that.

However, the latter and late full and frank disclosure cannot alter the fact that taxpayers were misled by information officially conveyed by the Stamp Duties Office. After the Stamp Duties Office became aware that information was incorrect, it did nothing to correct it. On the contrary, it made a deliberate policy decision that it would respond only to taxpayers who contacted the office and raised the matter in light of its own knowledge of the law. Only if the Stamp Duties Office was caught out would it admit that fact to the diligent and clever taxpayer. Yet the poor dumb bunny who was content to rely upon the information given to him by the Comptroller of Stamps and by the Government, who thought he was dealing with an honest and frank Government, was the dupe. The honest people were the ones who were fooled and were not told because of a deliberate decision taken by the Stamp Duties Office.

The Opposition wishes to make a point about this issue and it relates to the arrogance of power. It concerns arrogance of the Government and one of its authorities; they consider that they run the world and have the power to pass laws. The poor taxpayer must do what he is told to do, whether or not it is consistent with the laws passed by Parliament.

The Opposition will not tolerate that approach. It will not permit the law to be retrospectively changed to regularise the duplicity and concealment that has taken place and to cover the inaccurate advice given to taxpayers. If the consequence of that action is that refunds of duties will have to be paid, that is nothing less than what is due to the taxpayers.

The Opposition flashes a light to the Treasurer and to the Stamp Duties Office that it is Parliament that makes the laws in this State. It is not the Stamp Duties Office or the Treasurer. If the intention of this Parliament is not conveyed in legislation, that fact ought to be conveyed to taxpayers who have been misadvised by the Government and its agencies.

The Opposition will move here and in the other place to ensure that the interests of taxpayers are protected. That has a significance beyond that simple issue. It has a significance for those people who come to Parliament with a sledgehammer to crack walnuts. Let them come here with clean hands. Let them say, “We want the authority to tackle taxpayers because we run a tight ship, and are honest and forthright with people”.

I can understand the Treasurer’s sensitivity on this matter. He has been caught with his hands in somebody else’s cookie jar. This man who is so prompt to attack others for failing to comply with their obligations, not their lawful obligations—

Mr Jolly—Tell the truth!
Mr STOCKDALE—The Treasurer will have the opportunity of responding. If I have not told the truth, I will be happy to apologise. I am putting my comments on the basis of information conveyed to the Liberal Party by officers of the Stamp Duties Office. I have that in writing and I will quote from it in the Committee stage.

This man who is so fulsome in attacks on those who engage in what he calls tax avoidance does not come into this House with clean hands. I shall make a clear distinction. In this case people were misled about what their legal obligations were. They were allowed to remain persuaded by official advice from the Stamp Duties Office that they had an obligation under the laws of this State that they do not have. When the Treasurer attacks people for what he calls tax avoidance, he does not go so far as to say they are breaking the law. If he said that, it would be unnecessary to amend the law.

Mr Jolly interjected.

Mr STOCKDALE—It is the Treasurer who does not know the difference and his comments display outright ignorance. When the Treasurer attacks tax avoiders, he is necessarily conceding that their actions are within the letter of the law. That is in sharp distinction to the actions of the Treasurer, the Government and the Stamp Duties Office, which actions were not within the letter of the law. The Stamp Duties Office and the Treasurer do not come into this Chamber with clean hands.

I now turn to the point which flows from that. Last year I criticised similar measures on the basis that they were attempts to obtain draconian powers that went far beyond anything necessary to meet any real case of tax avoidance that had been disclosed. Attempts to introduce amending laws to the Stamps Act have been marked over the past two years by a blatant disregard for the impact in the changes of the law upon legitimate and reasonable lawful operations. They have been marked by an excessive zeal to put in the hands of the tax collectors whatever measures they think are necessary to supplement taxation revenue.

As a distinguished British judge once said, “No taxpayer is obliged to so organise his affairs that the revenue collectors can drive their shovel to the maximum extent into his property.” The reality is the responsibility to draft proper tax laws rests with the legislature and taxing authorities. Taxpayers are perfectly entitled to structure their affairs so as to minimise the impact of taxation.

Mr Jolly—Bottom-of-the-harbour schemes!

Mr STOCKDALE—They are not entitled to become involved in bottom-of-the-harbour schemes, which were blatantly illegal measures and were attacked on that basis. I clearly distinguish them from the sorts of measures this Bill seeks to attack. The Opposition does not support people who are engaged in illegal activities or artificial contrivances, but it will not be a party to amending tax laws to strike down legitimate commercial taxation on the basis of spurious concern about tax avoidance.

Let those who seek draconian powers provide proper justification for them and properly circumscribe them so that legitimate commercial activities are not adversely affected. I stand here and put a finger in the dyke, in the wall that is being erected by Labor Governments: in intimidation of people conducting legitimate commercial affairs, on the ground of so-called tax avoidance; the legitimate concern of the Victorian and Australian communities about tax evasion and artificial tax avoidance schemes which have the effect of imposing unreasonable imposts on other members of the community.

Those reasonable concerns do not run so far as to justify whatever measures tax authorities consider would be useful to them in collecting taxes. They run only so far as is reasonable in combating artificial and illegitimate contrivances in the avoidance of fair and reasonable tax imposts, and this Bill does not meet those tests.

The Opposition will therefore seek to amend the Bill; in some cases, to render more reasonable provisions that would be unreasonable without the proposed amendments. The Opposition will oppose in the other place those provisions without those amendments.
In a number of cases it is simply not open to the Opposition, given the present state of information and resources available to it, to rewrite clauses to do the work of the Government and the tax authorities to render reasonable measures that are patently unreasonable; and, notwithstanding the Opposition’s concern that in some small number of cases the end result of deleting those clauses will be that artificial contrivances will continue to be employed, the Opposition will not allow the wielding of a sledgehammer to crack those walnuts.

The Opposition regrets that the Government did not so carefully draft the Bill that it is possible to attack the avoidance measures without attacking legitimate and commercial operations. I refer to clauses 12, 14, 15 and 24, measures which go far beyond anything that is reasonable to meet even those cases where the Opposition accepts what the Treasurer says about his legitimate concern about the avoidance of taxes under the Stamps Act; but the Opposition will not be party to interference with longstanding and commercial operations that are legitimate; and these clauses will do just that.

For those reasons the Opposition will move in the Committee stage to make those amendments.

I sound a signal that the Australian and Victorian community will no longer tolerate the abuse by Labor Governments of the legitimate concerns of the community about tax evasion and artificial tax avoidance contrivances. The fact is that the Government will have to get its act together a lot better than it did in the equivalent Bill last year and better than it has done in this Bill in seeking to strike at tax avoidance measures. It will have to devote proper attention to the implications of proposed amendments to the law in relation to legitimate and reasonable commercial activities.

On those bases, the Opposition will oppose certain measures in the Bill. It supports the tax relief measures contained in the proposed legislation. The small revenue effect of those measures serves only to indicate that the Victorian Labor Government has in the past four years undermined the commercial interests and the interests of economic growth in Victoria by imposing taxes of such a high level that they are driving business out of this State. It is not unfair to say that those facts are also relevant to the avoidance issues; that one of the fuels driving the avoidance devices that are being employed in some instances in the areas covered by the Bill is the very high rates and the savagely progressive rates of tax that the Government has imposed under stamp duty legislation.

Mr ROSS-EDWARDS (Leader of the National Party)—The Bill contains 41 measures that are all separate in concept, and all must be dealt with separately. In essence, that makes it a Committee Bill. The majority of the 41 measures will be supported by the National Party, but we will support certain amendments that will be presented later by the Liberal Party.

At this stage, however, I want to talk about the two clauses that will be opposed by the National Party. The first catches those transfers made within twelve months where different pieces of land are transferred to different transferees and there is some arrangement proceeding for common enterprise.

As one who has practised as a solicitor for many years, I regard this as a very bad measure. It gives a discretionary power to the commissioner. Quite often, members of a family at the same time buy separate pieces of land and perhaps for a limited period use that land for the same general enterprise. The long-term view mostly is for it to go, say, to sons to farm separately later on.

I have thought a lot about the matter and I do not see how the opposition parties can support it because it gives an unreasonable power to the commissioner. One is dependent on his whim, as to how he regards it. I adopt the very strong attitude that a person who has a separate title is entitled to sell that title, whether to the same person or to different people, and the duty should be assessed on that piece of land on that separate title.
It is interesting that the National Party, together with the Liberal Party, rejected a similar clause in November 1985, just twelve months ago. The Government indicated at that time that discussions would be forthcoming on a suitable proposition. According to my information, no such discussion has ensued.

Mr Jolly interjected.

Mr ROSS-EDWARDS—The question of a statutory declaration might have been discussed; I think I can recall that. However, so far as the parties are concerned, we have not had any discussions at all.

The National Party will oppose that clause because it is a dangerous provision.

The other clause that the National Party will oppose relates to the stamp duty exemption for first home buyers, and I feel very strongly indeed about this matter. The Treasurer knows that this concept of the Cain Labor Government was introduced to help young people to buy their first home. The Government brought in the scheme and gave young people high hopes of acquiring their own homes and, so often like Governments, it has maintained the scheme for a couple of years and now wants to pull the mat from under the feet of those young people.

I do not know whether the Treasurer realises how difficult it is for young people to buy a home today. It is an all-out effort for a young couple, male and female together, to save the deposit. Families frequently have to contribute towards it. They budget carefully and have it worked out to a very fine line. What is to happen? Having given the concession, the Government now wants to remove it.

It disturbs me that, despite the trenchant criticism of this measure by the Liberal Party, that party will tomorrow support a taxation measure where the money will go to the racing clubs. That is different!

The DEPUTY SPEAKER (Mr Fogarty)—Order! The honourable member should return to the Bill.

Mr ROSS-EDWARDS—I am making a comparison, Sir. The Liberal Party will pass a Budget Bill in one set of circumstances but will very self-righteously say in a second set of circumstances that the Government should not act in a certain way.

I cannot think of a group of people more deserving of help. When the Labor Government brought in this legislation it trumpeted it about the State saying what a wonderful thing it was for young people. I agree that it was a good move. Now, the Government is pulling the mat from under their feet. Clauses 15 and 16 will be opposed by the National Party and the National Party will support certain amendments foreshadowed by the Liberal Party.

Mr PERRIN (Bulleen)—The Bill is a conglomerate of changes which relate mainly to the Stamps Act and the payment of stamp duty. Many of the changes are unnecessary. I am pleased to support the honourable member for Brighton in opposing various provisions of the Bill.

Mr Ross-Edwards—What about the first home buyer scheme?

Mr PERRIN—I shall refer to that shortly. I refer to stamp duty on insurance business. In 1981–82 these stamp duties brought to the consolidated revenue $76·6 million; in 1986–87 they will have contributed $105·4 million to the consolidated revenue. That is a 37·6 per cent increase over the period of the Cain Labor Government. Honourable members should be aware that the Government has exempted stamp duty on workers compensation insurance—which it then nationalised—and now it is proposing to exempt stamp duty on marine and other transit insurance which it expects will give the State some sort of advantage, and I shall put that expectation at rest shortly.

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Stamp duty on insurance business will rise from $99·5 million in 1985-86 to $105·4 million this financial year, and that is supposedly with these tax reductions in the Bill for stamp duty on marine and transit insurance.

When one examines stamp duty payable on other types of business, which is predominant in the Bill, one finds that during the course of the Labor Government stamp duty revenue has increased by exactly 100 per cent. In 1981-82, which effectively was the period of the last Liberal Government, stamp duty amounted to $354·8 million. It is now estimated to rise in the present financial year to $732·1 million. That is a doubling of stamp duty revenue to the Government over the period that the Labor Party has been in office, and puts to rest any suggestion that the measures in the Bill are in any way reasonable. In fact, stamp duty has been increasing at almost twice the rate of the consumer price index. The Bill provides for further collection of stamp duties.

I note that the Leader of the National Party is concerned about the removal of the stamp duty exemption available to first home buyers. That has been an excellent scheme. In fact it was not introduced by the Labor Government as was suggested by the Leader of the National Party.

Mr Fordham—It was.

Mr PERRIN—It was introduced by a Liberal Party Government, and I shall prove that shortly when I shall refer honourable members to debates on this issue in 1981, which demonstrate the Government's hypocrisy.

In the second-reading speech of the Bill, the Treasurer said that the abolition of an exemption of stamp duty for the first home buyer will save $6 million in the 1986-87 financial year and $9 million in a full year. When one examines the context of the taxation revenue from stamp duty of $732 million, that is very small peanuts indeed. The proposal to remove the stamp duty exemption for first home buyers is mealy-mouthed and contrary to the statements that have been made in the House on the supposed support by the Labor Party of first home buyers, the struggling families attempting to get their first homes.

Six months prior to the Labor Party obtaining office, the subject of stamp duty was debated in the House. I refer honourable members to the debate on 17 November 1981 when the Liberal Party Government was providing for an increase in the exemption of stamp duty for first home buyers from $100 to $400.

It is interesting to draw comparisons of differing attitudes in this debate now that the Labor Party Government is abolishing that exemption. In November 1981 the honourable member for Essendon, who was the lead speaker in the debate for the Labor Party in opposition, stated that the Labor Party believed:

This is a short Bill which implements a Budget promise of the Government to provide a refund of $400 on the stamp duty payable by first-home buyers. The Australian Labor Party does not oppose the Bill, but I believe it is inadequate.

As a result, the honourable member moved a reasoned amendment:

That all the words after “That” be omitted with the view of inserting in place thereof the words “this Bill be withdrawn and redrafted to provide for total exemption from the payment of stamp duty on the transfer of a home to a first home buyer where the house and land cost is $50 000 or less.”

Prior to entering Government the Labor Party put itself out as the protector of the small first home buyer. The honourable member for Essendon went on to say how he did not believe the Government's—in that case the Liberal Government—Bill went far enough. It is that exemption that is now being abolished. The honourable member for Essendon went on to say:

The Labor Party pointed out that the amount was not sufficient. In this year's Budget the figure has been increased to $400 and it is still inadequate. There should be a total exemption for all first home buyers of house and land costing up to $50 000.
That is the hypocrisy of the Labor Party when it comes to protecting small home buyers. The honourable member for Essendon spoke about how the Labor Party was the great protector of first home buyers, yet in that debate he stated:

The Labor Party intends to make it easier for new house buyers to build in Victoria. The rising interest rates facing couples wishing to purchase their own home and the widening deposit gap are a disincentive to the objective of maximizing the number of people owning their own houses.

It is the Labor Government some four or five years later that is removing the exemption altogether and taking that benefit from first home buyers. In 1981 the now Treasurer entered the debate and made some interesting comments about the first home owners scheme and the exemption of stamp duty. As reported at page 3042 of Hansard of 17 November 1981, he said:

Everyone on both sides of the House recognizes the plight of the first home buyer. In many ways this has come about because of the escalation of interest rates.

Further in the debate he stated:

The Opposition supports the total abolition of stamp duty on the first home where the value of the home is less than $50,000, because $50,000 is above the average cost of a home in Victoria at present.

Again, further, he stated:

The Labor Party has indicated that first home buyers should be exempt from the payment of stamp duty at the very point of the transaction.

The Treasurer, when in opposition, then went on to say:

The Opposition is strongly in favour of reforming the whole area of stamp duty. It is archaic.

The Government has certainly reformed the whole area of stamp duty—it has been able to increase it by 100 per cent in its term of office!

In conclusion, the honourable gentleman said in that debate in 1981:

I strongly support the proposition put forward in the amendment moved by the honourable member for Essendon. It would provide much needed relief for low income earners and people who are purchasing low cost homes in Victoria. In the Opposition's view it is a more equitable proposal than that put forward by the Victorian Government in the Bill.

That is the hypocrisy of the present Treasurer. He has been found out; the ghosts have come back to haunt him.

He proposes through this Bill to remove the stamp duty exemption for first home buyers. Other honourable members also entered the debate in 1981 and talked about the need for and importance of the first home buyer scheme and the exemption from stamp duty.

At that time, the present Minister for Education entered the debate and made some interesting comments, such as:

The Labor Party has always recognised the value of home ownership but also that the Opposition wishes to encourage home ownership in the community and to give greater assistance to first home buyers through moving a reasoned amendment for the total exemption on the payment of stamp duty on the transfer of a home to a first home buyer where the house and land cost is $50,000 or less.

The bulk of persons who are first home purchasers are buying a land and house package for less than $50,000 and it is those people the Opposition desires to assist.

The honourable gentleman concluded his remarks with the following statement:

I fully support the reasoned amendment moved by the honourable member for Essendon. That amendment demonstrates the Opposition's real commitment to assisting first home buyers. The Australian Labor Party is prepared to totally exempt first home buyers from stamp duty.

That is the hypocrisy of members of this State Government and what they are all about. The Bill will totally reverse the Government's supposed concern for first home buyers.
When one examines what was said in the past by members of the Government, one notes that the ghosts of the present Treasurer, the present Minister for Education and the honourable member for Essendon are coming back to haunt them. They are not the saviours of the struggling first home buyers at all; they are the demons that have come to take away the small advantage that those people had. They will remove the protection that existed for those people.

In the most recent journal of the Real Estate Institute of Victoria, reference was made to the effect of a $50 000 loan and the stamp duty payable on that loan. It referred to the costs faced by a prospective buyer purchasing a new home and obtaining a $50 000 loan; that excludes stamp duty and conveyancing fees, which amount to about 4 per cent of the loan value. They amount to about $2000, which would be the benefit to first home buyers under the scheme.

The effect of the Bill on young people attempting to buy their first homes in this State will be the imposition of an additional $2000 in costs.

The Victorian Building Societies Association, in its publication Viewpoint issued in November 1986, produced an interesting article referring to the remarks of the Housing Industry Association chief and his call for assistance for home buyers—he did not call for barriers, but for assistance. Mr Dossetor of the Housing Industry Association spoke at a luncheon on 16 July. The article stated:

However, in Mr Dossetor's view not enough assistance and encouragement is now provided to Australians to achieve home ownership, particularly now stricter eligibility requirements apply to the First Home Owner Scheme.

Mr Dossetor suggested that there should be tax deductibility for mortgage interest to first home buyers for at least the first five years of ownership. Those are the sorts of requests being made by people in the community. However, the Bill will remove that valuable benefit.

I refer the House to the figures published in the most recent edition of the Joint Quarterly Survey, Number 7, of the Mortgage Guarantee Insurance Corporation of Australia Ltd and the Real Estate Institute of Australia.

The table relating to the ratio of average home loan repayment to median family income for loans approved during the period reviewed, compared with the June quarter of 1985, shows the figure for the June quarter 1985 as being 21·8 per cent of income; that has increased significantly for 1986, and the figure for the June quarter 1986 is shown as being 27·2 per cent of income.

The main reason for that increase is the high interest rates, but this Bill will do nothing to provide an incentive to first home buyers.

Another provision of the Bill deals with the fact that chattels are to be included with real property in determining the amount of stamp duty payable. This is a draconian provision. In fact, such a measure has already been introduced by the Government. Many real estate agents have questioned me—and, no doubt, also the honourable member for Doncaster—about its effects on the people attempting to change houses or wishing to buy their first homes.

The provision simply puts a greater burden on those in the community who wish to do no more than to own their own homes. The provision is a step in the wrong direction, and action should be taken in the future to resolve that matter.

Another matter I should like to put to rest relates to the Treasurer's suggestion in the Budget speech that an exemption from stamp duty of marine and transit insurance would be of great benefit to Victoria. As one who has had some dealings with marine and transit insurance over the years, I am able to say that that will not be the case.
The latest fortnightly edition of *The Taxpayer* has given an assessment of the 1986–87 New South Wales Budget, which indicates that the New South Wales Government is also exempting marine insurance from stamp duty. The article states:

From 1st January, 1987, duty on insurance for goods carried in international trade and on hull insurance for vessels engaged in such trade will be abolished.

Therefore, in fact, there will be no great benefit to the people of Victoria, because New South Wales has done the same as is intended in Victoria. It has actually exempted marine insurance from stamp duty as well. Is it any wonder that we have problems in getting the goods through the docks? There is no such incentive as the Treasurer makes out exists.

The other point is that the New South Wales Government—and it certainly must be communicating with the Victorian Government—has moved in the area of stamp duty so that, from 1 December 1986, duty on the transfer of the principal place of residence to the joint ownership between spouses will be abolished.

The amendments that will be proposed by the Opposition are reasonable. I should have liked the Opposition to be able to oppose the abolition of the exemption from stamp duty of first home buyers; but, as this is a Budget measure, the Opposition chose not to do that. The abolition of that exemption is a disincentive to home ownership.

One realises that it is not really true that the Government is trying to protect the first home buyers, and the Victorian people will demonstrate at the next elections that they have seen through this Government.

**Mr Lieberman (Benambra)**—I shall speak briefly on the clause dealing with the abolition of the stamp duty exemption for first home buyers. In doing so, as is usual, I inform the House that I act as a part-time consultant as a barrister and solicitor and therefore I am involved in matters relating to the transfer of property on some occasions.

The exemption from stamp duty for first home buyers has benefited many young couples in Victoria. I direct the Treasurer’s attention to the fact that increasing numbers of young, aspiring first home buyers are finding that the goal of owning their first home is slipping away from them because of escalating costs in building, land and so on. The higher interest rates now operating in building societies are forcing people out of the market. It is a frightening trend. The decision, which will add at least $2000 on average to the purchase price of a home because of stamp duty, transfer costs and mortgage document fees will inevitably mean that more young couples will miss out. That is why it staggers me that the Government is going this way.

I hope the Government will see fit to review its policy, as it should. There is another reason why it should review this decision. A growing number of people are seeking assistance on the public housing list in Victoria. Poverty is becoming an ever-increasing problem. Honourable members hear in their electorate offices of the problems of families who are unable to cope in their daily lives. Housing Ministers throughout Australia are finding that the public housing waiting lists are increasing.

One way of reducing that waiting list is to help people purchase their own homes. The decision to abolish the exemption will automatically increase the number of people who will be seeking public housing because they will be removed from the private housing sector. They will have nowhere else to go and must go to the Government to ask for help. I am not exaggerating the matter; it is a fact. That is one of the reasons the Government is said to be making a dreadful error.

Another point that is perhaps not as important as the other matters but is relevant to me as a member of Parliament who has some knowledge of what is going on in other States because my electorate is along the New South Wales–Victorian border, is that the other States of Australia have not abolished the first home buyers stamp duty exemptions. The Treasurer may correct me if I am wrong but, so far as I am aware, New South Wales still provides an exemption. This will mean that in a competitive market where young couples are looking for homes they can afford, they will be induced to leave Victoria and
go to other States because of a $2000 saving. Those who have knowledge of how tight the 
budget is for first home buyers will realise that even $1000 can make or break a successful 
first home purchase. Victoria will lose young couples to other States because the other 
States provide the exemption.

As a member of the Parliamentary Liberal Party I accept that, on the advice of the 
shadow Treasurer, the Bill has been declared a Budget Bill and, for that reason, the 
Opposition cannot do what it would like to do, which is to vote against the Bill, as the 
Leader of the National Party says the opposition parties should do. The Opposition would 
like to vote against that particular clause, but the Budget prominently announced that the 
Government intended that the $8 million or $9 million that the first home exemption of 
stamp duty cost, would be saved for the purposes of achieving the Budget strategy—even 
though the Government is receiving money from the Totalizator Agency Board and other 
areas.

The problem I have as a member of the Parliamentary Liberal Party is that the Bill, 
being declared a Budget Bill, cannot be voted against except in the most extreme and 
extraordinary circumstances—all honourable members know the reasons for that. All I 
can do is to ask the Treasurer to consider the impact of the measure while the Bill is 
between here and another place.

If the Treasurer would like to listen to a suggestion I will make to him, why does he not 
agree to adjourning the debate on the Bill until the next sessional period, particularly 
debate on that clause, with a view to evaluating what I have said? If it can be proved that 
the public housing waiting list will not increase by this provision that will force people out 
of the private market, and if it can be proved that prospective first home buyers and their 
families will continue to purchase, then perhaps there will be evidence to justify the 
Government’s Budget strategy. I suggest that the Government defers debate in the other 
House until further reviews take place.

It is inexplicable that the Government, which claims to look after disadvantaged people, 
should do this to first home buyers. There is evidence that the Government, through its 
policies and crazy economic approach in health and other areas, is putting considerable 
pressure on the disadvantaged, low-income earners and chronically ill people, and is 
making it worse for people, not better. It is being found out everyday. If the Government 
will not take action to rectify the problem, the next Liberal Government will have to do 
something about it.

The tragedy is that in one or two years’ time, whenever the next State election is held, 
young couples will have lost the goal of purchasing their first home forever. They will not 
be able to recover. It will be too late for them. Honourable members must find ways to 
help those families. At least when the Liberal Party is in government people who aspire to 
own their own homes, especially low-income earners, will be treated decently and given 
the incentives they deserve.

Mr JOLLY (Treasurer)—There are two major elements of stamp duty relief in the Bill 
which are supported by all members of the House. They will assist in creating employment 
in the financial services sector in 1986–87.

The decision to abolish the first home buyer’s stamp duty exemption was made in the 
light of difficult Budget circumstances. As honourable members are aware, a loss of $150 
million in revenue was caused by the reduction in the world oil price. It must also be 
understood that in the housing industry the Government committed an increase of 20 per 
cent funding in the Budget for public housing, and that the housing industry has significantly 
 Improved since the Government came to office.

The comments I make in reply relate primarily to the issue of tax avoidance. I am 
concerned at the position adopted by the Liberal Party. It states that it is opposed to tax 
 avoidance but by its deeds it supports it. The defence of the developers’ position in 
minimising and reducing the amount of stamp duty paid by delaying the transfer of title
until the subdivision takes place, is defended on the grounds that it is a longstanding practice.

The bottom-of-the-harbour schemes were longstanding practices as well, and a number of the arrangements were tax avoidance rather than tax evasion; they were within the law and were genuine tax avoidance.

The Bill is dealing with tax avoidance, not tax evasion. I also point out that in terms of avoidance of stamp duty on land transfers, other States in Australia have taken similar action. For example, South Australia has taken similar action. It was referred to in debate on this issue.

The clause that relates to this matter provides that if someone issues a statutory declaration indicating that the transactions were separate, they would be able to have a lower level of stamp duty payment than if the statutory declaration had not been issued. I also make it clear in relation to stamp duty avoidance that splitting of interest is occurring, which means that the ordinary sale of a home is so arranged that there is avoidance of stamp duty.

In other words, one may have a situation where a married couple, for example, buys a home, splits up the transaction artificially, creates two transactions and therefore avoids stamp duty. Only one title exists, yet the people have two separate transactions so they can avoid stamp duty. Clearly that is a contrived scheme of tax avoidance.

I shall deal now with the issue involving rental exemption. The honourable member for Brighton chose to make a strong attack on the Stamp Duties Office and me about the way the matter has been handled. However, he did not tell the full story. I shall make it clear. The rental exemption level was announced in the Budget speech.

There was a clear understanding by all of the Government's intention. On that basis—and I understand it was included in the legislation—the Stamp Duties Office issued a circular setting out the position as it understood it at the time. Subsequently it was discovered there was a technical error in the legislation because it clearly did not reflect the intention. There were some inquiries about the legislation and the Stamp Duties Office fully explained to all inquirers what the legal position was.

The Stamp Duties Office also explained that the Government intended to introduce retrospective legislation. The honourable member for Brighton did not say that in the earlier part of the discussion. He said the misinformation was handed out after inquiries were made. No misinformation was handed out. The exact position was explained by the Stamp Duties Office.

Extremely important tax avoidance measures are contained in this proposed legislation. They are an important part of the Budget and I hope honourable members opposite will see commonsense and support this proposal.

The motion was agreed to.

The Bill was read a second time, and it was ordered that it be committed later this day.

The sitting was suspended at 12.3 a.m. until 12.33 a.m.

The SPEAKER announced the presentation of a message from His Excellency the Governor recommending that an appropriation be made from the Consolidated Fund for the purposes of this Bill.

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

Clause 1 was agreed to.

Clause 2

Mr STOCKDALE (Brighton)—I move:
During the second-reading debate I outlined the substance of the matter. I do not want to go over it in full, other than to deal with the comments the Treasurer made in response. I shall quote from a document which was provided to me by the Stamp Duties Office or the Department of Management and Budget—I am not sure which. I think the document originated from the Stamp Duties Office, but I might have received it from both sources. It sets out the history of the matter and deals with the Budget announcements made in 1985-86 and the amendments to section 131AA of the Stamps Act. Paragraphs 7 to 10 of the document state:

7. The actual effect of section 131AA makes no sense in terms of policy or commonsense.
8. The error in section 131AA was discovered soon after the legislation was enacted but after a circular based on the policy of the Government had been issued to persons conducting rental business.
9. The currently proposed amendment was proposed for inclusion in a Bill for the autumn session, but that proposed Bill had to be deferred to the current session owing to the pressure of Parliamentary business.
10. On the basis of impending retrospective legislation it was decided not to retract the circular previously issued to persons conducting rental business, but to inform fully any taxpayer who enquired as to the position. There have been no complaints from taxpayers who, of course, were getting the benefit of the announced increase in the exemption level.

That is exactly consistent with what I put to the House during the second-reading debate: that is, once it became aware of the error, the Stamp Duties Office did not act to correct the error. It allowed the error to continue.

I did not intend to suggest—and I do not believe I did suggest—that the Stamp Duties Office went on purveying into the community inaccurate advice. What I was intending to convey—and what I believe I did convey—was that the Stamp Duties Office did nothing to correct the error of which it had become aware.

As I understand it—and the Treasurer has not disputed this—it went on collecting duty at a rate higher than that actually prescribed in the legislation, having become aware of the fact that the legislation did not reflect the original intent and the legally imposed duty was at a lower rate.

In those circumstances, and particularly in the context of the proposals contained in the Bill relating to the so-called anti-avoidance measures, the Opposition considers it is not appropriate for Parliament simply to fall in behind the Treasurer and the Stamps Act and regularise behaviour which is not in accordance with the relevant legislation.

The deletion of these clauses will correct the error. The substantive provisions in clauses 19 and 25 will still be part of the Bill and the error will be corrected by imposing the higher rate of duty on a prospective basis.

If, as is disclosed in paragraph 14 of the memorandum, that action is pursued, the Stamps Duties Office has indicated that approximately $333,000 will have to be refunded to taxpayers. I direct the Committee's attention to the fact that that money is taxpayers' money. It always has been taxpayers' money. It was collected on the basis of a policy which has never been implemented into the legislation to this point and it is, therefore, entirely appropriate that the taxpayers' money having been collected initially unwittingly and later in full knowledge on a false premise, should be used for the benefit of the taxpayers. It is entirely appropriate that the warning signal should be conveyed that if the situation recurs, the circumstances should be brought to the attention of taxpayers and publicly disclosed. There should not be a "Queen's gate" cover up of what has gone wrong where it is dependent upon the initiative of the taxpayer to discover that he has not been charged at the appropriate rate of duty.

In paragraph 13 of the memorandum, attention is drawn to a Western Australian case where it is said similar circumstances arose. The circumstances there are markedly different. What happened was that bona fide, the tax office in Western Australia had been collecting payroll tax on what was subsequently held to be an erroneous construction of the legislation. The office did not go on collecting the payroll tax on the basis that it knew it was not...
legally entitled to make those collections, but only went on collecting money in the erroneous belief that the legislation entitled it to do so. That case is not on all fours with the case presently involved under clause 2.

For those reasons, the Opposition does not agree to what amounts to retrospective increases in taxation, and accordingly, I have moved to delete the retrospective provisions from that clause.

Mr ROSS-EDWARDS (Leader of the National Party)—The National Party supports the amendment moved by the honourable member for Brighton. I hope the back bench members of the Government have been listening to what the honourable member for Brighton has said. It is a disgraceful state of affairs. The Treasurer and the Stamps Duties Office knew of the situation at the very least early this year. They thought about proposed legislation but did not get around to doing anything through incompetence or because they could not find the time. Talk about the Federal Treasurer, Mr Keating!

The Treasurer could not find time to introduce a simple Bill to correct an error of which he was aware and the Stamps Duties Office has gone on collecting these fees. It is an extraordinary state of affairs and the Treasurer does not seem to realise the seriousness of what has occurred. Through sheer incompetence, laziness and a lack of will to work, the Treasurer did not introduce the proposed legislation six or eight months ago.

The Treasurer now expects the Committee to pass retrospective legislation. The Treasurer should admit what a mess he has made and agree to the amendment as proposed. The Treasurer has behaved like one of the worst Ministers in the Cabinet, but he has had a good reputation up to now.

Mr JOLLY (Treasurer)—I thank the Leader of the National Party for his interesting comments. All honourable members are clear about the position of rental duty. The Government had the intention of increasing the exemption level which was providing relief to businesses involved in rental transactions. The Stamp Duties Office, on the understanding that what was said in the Budget speech was accurately reflected in the legislation, provided a circular setting out the position. Subsequently, it was discovered that a mistake had been made in the legislation and when that was directed to the attention of the Government there was a proposal to implement proposed legislation in the autumn sessional period. As has been pointed out, due to the pressures of the Parliamentary session, that legislation did not see the light of day.

I make it clear that anybody who made inquiries about the matter was clearly informed of the correct legal position.

Mr Stockdale interjected.

Mr JOLLY—The honourable member for Brighton should listen for once rather than open his mouth. The honourable member is obviously trying to be like his Leader and have the biggest mouth in the Chamber, but he has no hope. I am explaining to the House that whenever any person made an inquiry the exact legal position was explained to that person and no complaints have been received. It was possible to not even direct the matter to the attention of the Chamber because it related to 1985–86 and technically it was not necessary in achieving the financial position for 1985–86.

It has been clearly explained that there is no doubt that the Government's intentions were set out in the Budget speech and I strongly support the clause.

The Committee divided on the question that the words and expressions proposed by Mr Stockdale to be omitted stand part of the clause (Mr Fogarty in the chair).

| Ayes | 39 |
| Noes | 32 |

Majority against the amendment 7
AYES
Mr Andrianopoulos  
Mr Cain  
Dr Crohill  
Mr Culpin  
Mr Cunningham  
Mr Ernst  
Mr Fordham  
Mrs Gleeson  
Mr Harrowfield  
Mrs Hill  
Mr Hill  
Mrs Hirsh  
Mr Hockley  
Mr Jolly  
Mr Kennedy  
Mr Kirkwood  
Mr McCutcheon  
Mr McDonald  
Mr Mathews  
Mr Pope  
Mrs Ray  
Mr Remington  
Mr Rowe  
Mr Seitz  
Mrs Setches  
Mr Sheehan  
Mr Shell  
Mr Sidiropoulos  
Mr Simmonds  
Mr Simpson  
Mr Spyker  
Mr Stirling  
Mr Trezise  
Dr Vaughan  
Mr Walsh  
Mr Wilkes  
Mrs Wilson  

Tellers:
Mr Micallef  
Mr Norris

NOES
Mr Brown  
Mr Coleman  
Mr Cooper  
Mr Crozier  
Mr Delzoppo  
Mr Evans  
(Gippsland East)
Mr Gude  
Mr Hann  
Mr Hayward  
Mr Heffernan  
Mr Jasper  
Mr John  
Mr Lea  
Mr Leigh  
Mr Lieberman  
Mr McGrath  
(Lowang)  
Mr McNamara  
Mr Maclean  
Mr Pescott  
Mr Plowman  
Mr Ramsay  
Mr Reynolds  
Mr Ross-Edwards  
Ms Sibree  
Mr Smith  
(Glen Waverley)  
Mr Stockdale  
Mr Tanner  
Mr Weideman  
Dr Wells  
Mr Williams  

Tellers:
Mr Perrin  
Mr Steggall

PAIRS
Miss Callister  
Mr Cathie  
Mr Crabb  
Mr Roper

Mr Austin  
Mr Kennett  
Mr Wallace  
Mr McGrath  
(Warrnambool)

The clause was agreed to, as were clauses 3 and 4.

Clause 5

Mr STOCKDALE (Brighton)—I move:

2. Clause 5, line 20, after “sub-section (1)” insert “more than two months after the execution of the instrument”.

3. Clause 5, line 28, after “it” insert “, being facts known to the person or which reasonably ought to have been known to the person”.

Clause 5 deals with provisions that apply to a taxpayer who seeks an expression of opinion by the Comptroller of Stamps on liability for stamp duty. It is consequent upon what the Government alleges to be a scheme to avoid or delay payment of duty.

It is alleged that people who may be liable to stamp duty may make an application for an opinion late in the period of three months’ grace, during which the duty can remain
unpaid, without attracting any penalty, and then fail to provide information or take other measures that delay the levying of duty.

The measure used to combat this alleged scheme is to impose a requirement that when a person seeks an opinion from the Comptroller of Stamps, that person must lodge the executed instrument, an amount equal to the amount of duty that the taxpayer reasonably expects he will have to pay and an application making the disclosure.

There are two aspects to the amendments. On the one hand, there is the possibility of abuse of this provision on both sides. In some cases it may be that unscrupulous people take advantage of provisions that enable them to defer or avoid duty. On the other hand, legitimate views have been expressed to the Opposition and to the Government that in part the provisions result from difficulties the Stamps Office has in promptly processing requests for opinions.

If the Stamp Duties Office collects the undisputed stamp duty at the time the request is made for an opinion, the pressure on the Stamp Duties Office to provide the opinion promptly is downgraded. Inefficiency in the Stamp Duties Office or lack of diligence born of the fact that the duty has already been collected—at least to the extent of the non-disputed amount—will lead to delays in the Stamp Duties Office.

The office has advised the Opposition—there is no reason to dispute the advice—that it is in the process of reducing the backlog of requests and that it will be in a position to provide opinions promptly by the end of the calendar year. If that is so, the office has nothing to fear about the amendments proposed by the Opposition. The amendments will restrict the application going through this elaborate procedure and make the stamp duty and the formal application a requirement only in circumstances where the application for an opinion is delayed for two or three months, during which no penalty attaches for failure to pay the duty.

The amendments weed out the legitimate cases from the cases where there is likely to be a contrived delay. That is a reasonable restriction on the operation of the new provisions.

It may be that the Treasurer regards that as inimical to the purpose of the Bill from his point of view, but I urge him to consider the reasonable nature of the amendment and to accept it.

Whether he accepts amendment No. 2, amendment No. 3 is clearly a different kettle of fish. What it does is to reduce the standard of required disclosure to what is in fact reasonable and practicable.

As written, the provision would require the taxpayer to make full disclosure of all facts—that is, no matter whether he is aware of them or not, a person is under a strict duty to disclose them. It matters not—as presently advised—that it appears that no penalty attaches for failing to comply with the provision, there is still imposed on the taxpayer a duty to make full disclosure, even of facts of which he may not be aware of, or perhaps even, of which it cannot be said that he ought reasonably to be aware.

It is proposed to limit the duty of disclosure to the facts known to the person or to facts which reasonably ought to have been known to the person. That is still a high standard of care.

The person is required not only to disclose what he knows but also to make inquiries so that he is in a position to disclose anything that he ought reasonably to know so that he cannot sit flatfooted and rely on the absence of knowledge. The person is required to exercise care on his own behalf but he does not run the risk of having his affairs prejudiced because he fails to disclose facts, which are not facts that he knows about or even facts that he ought reasonably to know about.

Whether or not the Treasurer accepts the first of the two amendments, I put it to the Treasurer that, in justice and equity, he ought to accept the second of those amendments as being entirely reasonable.
Mr ROSS-EDWARDS (Leader of the National Party)—There are two interesting points of which the Committee should be made aware. The first is that the Government wants the money with the documents and it is a matter of getting the money into the Government coffers more quickly than was done before. It is the old system, "Let us get the money today rather than in three months' time".

That is the first exercise and the second exercise is that the situation will finish up like the Road Traffic Authority, "send your documents with your money and we will bank your money and goodness knows when you will get your documents back."

There will no longer be the incentive in the Stamp Duties Office to process documents. They have got their money; the amount of duty has been estimated and all the incentive to get off their tails and do something will be gone.

I hope honourable members realise what the Committee is doing. This is a way for the Government to put its hands on money quickly before the people have got their documents—which I believe is wrong. One should pay one's money when the documents are processed but the Government wants the people's money before they process the documents.

One can give up the idea of getting one's documents back in two or three months; one would have to be the world's greatest optimist to believe that that will happen.

Mr JOLLY (Treasurer)—There is no doubt that taxpayers have used mechanisms to delay payments and the Government fully supports the proposition in the Bill as experience shows that where payments are volunteered with the documentation lodged, the payment is rarely late. Obviously, the taxpayer looks after his or her own interests.

I also point out that certain proposals that are before the Committee in the Bill would assist efficient solicitors who are interested in obtaining a speedy processing to finalise their clients' transactions.

I am advised in relation to the current cases that they are being processed immediately if all supporting information is provided, so there is no doubt that the Stamp Duties Office is fulfilling its responsibilities in processing documents as soon as the information is provided, but there are some taxpayers who are taking advantage of not having the information and delaying their payments.

I strongly support the proposition in the Bill; I oppose the amendments before the Committee and I point out that it is somewhat ironical that the honourable member for Brighton in amendment No. 3, relies on the term "reasonably ought to have been known to the person", when in a previous debate on taxation he said that such a clause could not be inserted because it would be unreasonable to have to work out what ought to have been known by that person. Despite that he moves an amendment that has exactly the same wording that was opposed on that earlier occasion.

The amendments were negatived, and the clause was adopted, as were clauses 6 to 11.

Clause 12

Mr JOLLY (Treasurer)—I move:

1. Clause 12, lines 20 to 32, omit all words and expressions on these lines and insert—

"59b. (1) If

(a) upon the transfer of marketable securities of a corporation (other than a corporation that is listed on the official list of a stock exchange in Australia) the transferee becomes entitled to more than 50 per centum of the shares of the corporation; and

(b) on the date of the transfer—

(i) there was vested in the corporation any real property in Victoria or any estate or interest in real property in Victoria; and
(ii) the sum of the unencumbered value of real property (wherever situated) and any estate or interest in real property (wherever situated) vested in the corporation was equal to 80 per centum or more of the value of the gross assets of the corporation; and

(c) the duty payable on the transfer under Heading IVA in the Third Schedule is less than the duty that would be payable if—

(i) the transfer were a conveyance or transfer of the real property in Victoria, or estate or interest in real property in Victoria, vested in the corporation; and

(ii) the agreement (if any) to transfer the marketable securities were an agreement to sell that real property or estate or interest for a consideration equal to the value, at the date of the agreement, of that property or interest—

duty is payable on the transfer as if it were such a conveyance or transfer.

(2) In determining the value of the gross assets of a corporation for the purposes of sub-section (1), regard shall not be had to particular assets of the corporation if the Comptroller of Stamps is satisfied that the principal or dominant reason why those assets became assets of the corporation was to reduce the ratio of the value of real property, or an estate or interest in real property to, the value of the gross assets of the corporation.”.

2. Clause 12, line 33, omit “(2)” and insert “(3)”.

3. Clause 12, line 36, omit “(3)” and insert “(4)”.

4. Clause 12, page 5, line 2, omit “(4)” and insert “(5)”

Following the introduction of the Bill before Parliament, the Law Institute of Victoria had the opportunity of examining the details of the Bill and it was concerned with a number of propositions included in clause 12.

The amendments to clause 12, deal with particular issues. Firstly, the proposals before the Committee ensure that stamp duty is calculated on the value of Victorian real property only. The previous proposition expressed in the Bill provided for property across Australia.

Secondly, this applies only where: (a) 80 per cent of the gross assets of a corporation consist of real property or any estate or interest in real property; (b) a person becomes entitled to more than 50 per cent of the shares of the corporation; and (c) the amount of stamp duty at share transfer rates is less than the amount of conveyance duty that would be payable based on the value of the Victorian real estate.

The further changes that have been made in the amendments before the Committee are that the new provisions accommodate representations made about uncertainty as to the meaning of “gross tangible assets”.

Under the amendments potential avoidance of the provision is dealt with by deleting the word “tangible” from the expression “gross tangible assets” and empowering the Comptroller of Stamps to disregard in calculating the 80 per cent ratio any assets that are acquired by a corporation for the principal or dominant reason of reducing the ratio to avoid the payment of stamp duty under the provision. As with any other decision taken by the comptroller, this is a matter that is reviewable by the courts.

The Committee will appreciate that I have dealt with the major criticisms made by the Law Institute of Victoria in relation to this matter. There is no doubt that companies have been formed in order to avoid stamp duty on transfers and to pay it at a lower rate relating to company sales. It is for that reason that I place the amendments before the Committee.

Mr STOCKDALE (Brighton)—These amendments do improve the provisions contained in the Bill. In particular, removing the uncertainty surrounding the application of the clause arising out of the use of the words, “gross tangible assets” is an improvement. However, the amendments do not go far enough to meet the basic objection the Opposition has to this clause.

In the next stage I shall go into detail. The clause will strike down many arrangements that are legitimate and can in no way be described as tax avoidance measures. In many cases the Bill will increase the duty payable on these transactions from 0·6 per cent of 1 per cent to 5·5 per cent, which is a dramatic increase in taxation.
It not only represents a savage increase in tax on particular transactions, but it also represents a totally new concept in British law—that in fact what is going to be done is to deem the holding of shares to be the holding of land and a change in ownership of a number of shares, maybe only one share, which gives a 50 per cent interest in a company, is to be deemed to be an acquisition of ownership of land.

That is contrary to the whole concept of the ownership of land and the whole concept in British law of the nature of interests acquired by ownership of shares in corporations. It is a fundamental departure from basic principles of British law and it represents a new series of concepts that are untried and uncertain in their scope. They are certainly not restricted only to transactions that are in the nature of tax avoidance or tax evasion transactions.

For that reason, the Liberal Party strongly opposes the clause. It is quite clearly another case of an attempt to use a steamroller to deal with the perceived walnut.

Mr MACLELLAN (Berwick)—I have a query regarding the application of the clause proposed to be amended by the Treasurer. I ask the Treasurer to explain to the Committee, if a person who acquires shares in a company—the relevant figure being more than 50 per cent by way of testamentary disposition, that is, the earlier shareholder has died—and the shares have been left by will or whatever to a member of the family, or, indeed, beyond the family, whether that will be deemed to be a sale and transfer of the land even though if the land had been left by a parent to a child it would not have been subject to stamp duty.

Is this a new stamp duty on an ordinary transaction and not a transaction to evade stamp duty, because there is no stamp duty on the transfer of deceased estates to beneficiaries? Will it be the case that stamp duty will be applicable to the transfer of shares in a company which owns property whereas, had the property been directly owned by the testator and left to a beneficiary, there would have been no stamp duty?

Mr JOLLY (Treasurer)—My understanding is that it does not affect exemptions. If a transfer is exempted under the existing Stamps Act, the exemption will continue. The difference is that the scheme currently operating is transferring the shares in a corporation that predominantly owns real estate rather than transferring the real estate itself. In other words, there is an artificial contrivance going on.

Companies are being formed where the assets of a company are 80 per cent land or more, and the transfer of land, having a higher stamp duty than the transfer of shares, means that this is a vehicle for avoiding stamp duty on share transactions. It does not deal with exemptions. The Act is left unchanged in respect of that, and that is why I have answered the honourable member for Berwick in the way that I have.

The amendments were agreed to.

Mr JOLLY (Treasurer)—I move:

5. Clause 12, page 5, after line 5, insert—

"(6) If, on the date of the transfer of a marketable security to which sub-section (1) applies, the marketable security is registered on a register in a State, Territory or country in respect of which a proclamation under section 60G is in force—

(a) the duty payable under this section in respect of the transfer shall be reduced by the amount of duty paid or payable in respect of the transfer in that State, Territory or country; and

(b) if the amount of duty so paid or payable equals or exceeds the duty payable under this section, no duty is payable under this section.

(7) Section 55A (2) does not apply to a transfer of marketable securities to which this section applies.""

The amendment recognises and deals with the problem that the current Bill does not provide for any rebate of share duty paid in another proclaimed jurisdiction. The amendment will allow rebate for duty paid in that other jurisdiction. I recommend the amendment so that proper rebate can occur.
The amendment was agreed to.

Mr STOCKDALE (Brighton)—The Liberal Party will oppose the clause on the grounds that I have already intimated as well as for some additional reasons. This clause is wide enough to cover situations that could not by any stretch of the imagination be described as tax avoidance devices. I am advised, for example, that it is not uncommon for rural properties to be owned by a company and for the shares to be distributed among members of the family, sometimes on the basis of a father and two sons.

The sons might each own 49 per cent of the shares and the father might retain 2 per cent of the shares. If the father decided to quit the property and transfer the shares to a son, the son would become entitled to more than 50 per cent of the shares of the corporation. Only 2 per cent interest of the shareholding in the company would have changed hands, but the transaction would involve the levying of duty on the value of the property as if the whole value had been conveyed.

It is important to note that it is a fundamental principle of British law that the owners of shares in a company do not retain an interest in the property of the company; they do not actually gain the interest in the land, they merely gain the interest in the shares.

It has also been brought to the attention of the Opposition that where companies are virtually insolvent, arrangements may be made to change the shareholdings on the basis of injection of funds to have the company put back on its feet. In that situation, it may be that a company simply cannot afford to pay duty on the basis of the transfer of the landholdings having taken place. In the context of a rural holding, the company may simply not be able to service the tax commitment that would attain by the rearrangement. The tax liability may have prohibited sensible arrangements being made to rescue a company merely because of its substantial land-holdings or it may have been incorporated in good faith long before the order to hold that land, and the company may have no other real function.

The Opposition is concerned about the economic ramifications of the provision. The Opposition has received representations from solicitors who do not act for tax avoiders but who act for bona fide property companies. The point has been made that this clause has wide scope and could operate in circumstances in the future that are not intended by the Government nor contemplated by the other parties.

A responsible solicitor could not take the risk that a company client would subsequently be in the position of having to pay stamp duty on share transfers as if land had been transferred. The end result may be that the land-holding company will simply cease to be incorporated in Victoria. The solicitor will take the precaution of avoiding the possible unforeseen future circumstances and incorporate a company in another State to hold land in Victoria. That could have a damaging effect on the Victorian economy.

It is clear that that sort of device, even so far as it is an avoidance measure, is not unlawful.

Mr Jolly interjected.

Mr STOCKDALE—I am pleased that the Treasurer and I can agree on the small point that we are discussing transactions that are not unlawful. The Treasurer seems to be angry and has made a contentious statement that amounts to an agreement to the proposition I have just advanced.

That is a lawful transaction. When people take what might be regarded by the Treasurer as extreme measures, they do so principally because the Government has established the highest tax regime in Australia. It is not surprising that when faced with the highest taxed State in Australia and a rapacious Treasurer out to milk every last dollar from the private sector, who has a proven record of having increased taxes at twice the rate of inflation over five Budgets, the private sector is wary of such activities and looks to minimise the impact of taxes that this Treasurer has levied.
The response is an endless circle of the Treasurer chasing those people who seek to minimise tax payable on their financial affairs. The end result is that they will disappear into some other jurisdiction. The Treasurer might be driving people out of Victoria with this strategy.

Mr MACLELLAN (Berwick)—I was disturbed by the equivocal answer by the Treasurer to the matter I raised. I was also disturbed when he said that companies are formed with the intention of holding land and to somehow avoid stamp duty.

If a company is formed and acquires land, stamp duty is payable. Therefore, the Treasurer will have the money in his hot little hand when that company is formed.

The Committee is now discussing a decision to sell the company rather than to sell the land. I refer honourable members to my register of interests, since I have an interest in companies that own land. I am putting to the Treasurer a question which I believe is fundamental. If he wants to take the example of a publicly listed company on the stock exchange—

Mr Jolly interjected.

Mr MACLELLAN—The Treasurer has drawn an immediate distinction and is clearly saying that a company listed on the stock exchange will not face that proposition, even though 80 per cent of its assets might involve land.

I now turn to family trusts, which appear to be tolerated by the Federal Government. Discretionary family trusts have been established by many people to allow them to split income among members of the family. A proprietary limited company can act as a trustee for a family trust that owns land. One member of that company might build up his interest to more than 50 per cent of the land. As the honourable member for Brighton has illustrated, by the transfer of a single share it appears that the whole parcel of land will suddenly become liable to stamp duty, as if it were the sale of the whole of the land. It might be that the proportion of the land represented by a single share has taken the shareholder over 50 per cent, but the whole of the land would be subject to stamp duty. No sale by the existing shareholders has occurred but one share has changed hands so that one party has a 50 per cent interest.

I again seek from the Treasurer a clear and unequivocal answer. A family may have a farm property and choose to have it owned by a proprietary limited company, for whatever valid reasons. Honourable members should remember that stamp duty was paid when the company bought the land from members of the family. Where is this principle of stamping down on avoidance in saying that, if somebody takes up shares sufficient to have 50 per cent or more interest in that company, the whole lot should be dutiable as if there had been a sale of the land rather than a sale of the shares?

The honourable member for Brighton suggested quite strongly that, where large or valuable properties are concerned, one would be a fool to leave that company in Victoria. One would move to Canberra or Queensland registries—one cannot move the land out of Victoria—so that one would not have to pay the land tax. Although in this case it is stamp duty, it is merely a tax on the land of 5·5 per cent or whatever the rate happens to be for the value of that land.

That could be a significant cost to people who have not formed companies to avoid stamp duty. When the company acquires the land it must pay the duty on that transaction.

The Treasurer and the Government have benefited from that sale. As the family grows and the generations go on, people have rightly chosen to have a proprietary limited company own the family assets rather than to divide the farm into smaller areas and to treat the sons, daughters and grandchildren to various proportions on an equitable basis. Most families do not want to split up the farm property. They do not want to subdivide it and sell it in smaller parcels. They want to continue as a family working and owning the property together. However, the Treasurer has said that if somebody dies, or for some
other reason—he has not been prepared to give the Committee a firm answer—and a
transfer of shares occurs, stamp duty would be payable.

If a family has paid stamp duty on the acquisition of land and one member of the family
builds up an interest of more than 50 per cent, will duty be payable on the land because of
the provisions contained in the Bill? It is my understanding from reading the amendments
and the clauses that that would be so. I want a clear and unequivocal statement from the
Treasurer that it will not be the case and I ask him to convince the Committee that his
proposition has some merit.

I believe every family trust and every company owning property on behalf of a family
trust will be at risk of paying duty in the event of a transfer of shares. It is not the intention
of the Bill but, in attempting to crack down on people who choose to sell the company
rather than selling the land, the Treasurer has caught up far more transactions than he has
so far admitted.

Mr JOLLY (Treasurer)—The honourable member for Berwick should understand that
the provision relates to future transfers and that two options are open. One can either
transfer the land or the shares. In those circumstances, a lower duty on share transfer
would apply. It would be an advantage to have an organisational structure which would
allow for a transfer of shares rather than a transfer of the land, even if the intention was to
ensure that the land was transferred.

There is no doubt that there is a growing popularity to avoid stamp duty in conveyancing
transactions and companies are being formed to ensure that lower stamp duty should
apply. This problem is occurring in Victoria and in other States of Australia.

Mr ROSS-EDWARDS (Leader of the National Party)—The Treasurer was asked a
simple question and he should answer it because the Bill depends on his response. If a
person owns 49·5 per cent of a company which has land as its assets and acquires another
1 per cent, how much duty would be paid on the transfer? What duty would result in the
transfer of that additional 1 per cent? That is a simple question, but I do not believe the
Treasurer knows the answer. If he does not, he should stand up and say so.

Mr STOCKDALE (Brighton)—The Treasurer does not appear to understand one of
the basic principles of British law—that, when somebody acquires shares in a company,
they do not acquire any interest in the property of the company; they acquire shares.

The distinction the Treasurer has sought to draw in the debate is not a real one. There
is no distinction between acquiring shares and acquiring land in the circumstances under
discussion. All the purchaser ever obtains is the shares and he obtains no interest whatever
in the land, nor can he, so long as British law subsists in its present form. That fallacy is at
the heart of what the Treasurer regards as tax avoidance in this provision. It is also at the
heart of the sorts of anomalies to which I, the honourable member for Berwick and the
Leader of the National Party have drawn attention.

As one who suffers from the disability of being a lawyer, it is perhaps not without
explanation that we, who do know what the legal position is, see problems with this
provision, whereas the learned economist does not.

Mr I. W. SMITH (Polwarth)—The Treasurer may not be aware but many rural people
structure their affairs in such a way that ownership of land is held in a trust controlled by
a company for the very good reason that one cannot give complete ownership and control
of the land to one member of one's family. The mechanism of a trust and a company
provides the fairest possible vehicle.

It has not been used as a vehicle for evasion of responsibility to pay tax. This provision
will mean double jeopardy for persons who have already made decisions and it will
effectively apply retrospectively to those decisions. Such people have established their
trusts and the control of companies and are irrevocably locked into a situation which the
Treasurer is now unexpectedly going to tax. Many farming families cannot easily shift control of land.

The honourable member for Berwick asked the Treasurer to clarify the matter, but he has avoided giving a clear answer. Either the Treasurer does not know or the deep and dark desires of the socialist Government are coming through again.

State and Federal Labor Government members have said, "Quick Boys, get rid of your trusts because they are out of fashion, we are going to double the tax on them". The Bill is living evidence of what the Government's intention is.

The Treasurer does not understand the impact that the Bill will have on rural people. I appeal to the Treasurer to report progress and to obtain some sound advice on what he is proposing and to return to the Committee and give it an unequivocal answer on whether this is a new tax on pre-existing arrangements which will place rural people in exceptional jeopardy.

The Treasurer has an opportunity to say that the Government will not tax shareholdings in controlling trusts that are transferred. If the Treasurer can give that guarantee, he will provide the Committee with a clearer idea of what it is voting on. The Treasurer appears to be double taxing rural people, but I should like him to deny it.

Mr RAMSAY (Balwyn)—The other point raised by the honourable member for Brighton related to the possibility of a person moving the registration of his company from Victoria to some other place, which would have the effect of removing the liability for duty from that particular company. I should be interested to know whether the Treasurer has considered that point, and, if so, what conclusion he has come to.

If a simple way of avoiding this duty is to register one's company outside Victoria, surely that is bound to happen. I do not believe the Treasurer would want that to happen. If he has not considered it, surely he must do so now before asking the Committee to agree to the clause.

I am especially concerned that the Treasurer did not even introduce to the Committee his amended version of the clause until very late in the sitting. The Treasurer interjects by saying that the honourable member for Brighton has examined it. The honourable member has raised this particular point, but has the Treasurer examined the effect on the property market and the company situation in Victoria? Many companies involved in investment in land may well move their registrations outside the State. If the Treasurer has considered this, what conclusion did he come to? If it is a new thought perhaps he should inform the Committee now and it can make an appropriate decision.

The amendment was agreed to, and the clause, as amended, was adopted, as was clause 13.

Clause 14

Mr STOCKDALE (Brighton)—This is another one of those clauses that clearly will have consequences far wider than the purported justification given by the Treasurer. I shall not weary the Committee with a long argument on it, but the Liberal Party opposes the clause.

There will be situations where a company bona fide buys the plant, equipment, fixtures and fittings of a business and the real general interest is purchased by another company that is related to the first. That will be done for reasons of management of enterprises.

For example, the point has been made that manufacturing enterprises frequently, because of financing arrangements associated with the purchase of plant, involve such arrangements. The sale of an hotel frequently involves situations where, in the normal course of events, the fixtures and equipment may be sold to one company and the real estate interests sold to another.
Again, this is a clause that takes no account of the ordinary commercial realities of the business world. The Treasurer sees what he thinks is people avoiding stamp duty and he seeks to cover it up by creating artificial provisions that do not reflect the real commercial world. For that reason the Opposition will oppose the clause.

The clause was agreed to.

Clause 15

Mr JOLLY (Treasurer)—I move:

6. Clause 15, page 7, line 5, omit “or separate parcels of”.

7. Clause 15, page 7, line 10, omit “or parcels of real property”.

8. Clause 15, page 7, lines 19 to 27, omit paragraph (b) and insert:

“(b) the real property is conveyed in separate parcels by separate instruments.”.

9. Clause 15, page 7, line 32, omit “or separate parcels of’.

10. Clause 15, page 7, line 36, omit “or (b) (i) and (ii)”.

This relates to a controversial clause in the Bill. Where one has a large developer buying land, that should be regarded as one transaction rather than the developer being given the opportunity of subdividing and then transferring the land because that practice reduces the amount of stamp duty payable. It is a stamp duty avoidance practice. I also appreciate that the opposition parties have strong views on this matter.

That is why I have decided to amend clause 15 in the way suggested by the amendments I have moved, which will have the effect of leaving clause 15 in a form that relates only to the splitting of interest.

In the second-reading debate I indicated to the Leader of the National Party that the practice had developed and has become quite common. For example, where a married couple decide to purchase a house, even though it is on only one title, they can divide it into two transactions, thus reducing the rate of stamp duty payable. I have also been informed that it does not even require a couple to undertake that step under the existing arrangements. Cases have been reported to the Stamp Duties Office of one individual buying one house but separating it into twenty different transactions and therefore minimising the rate of stamp duty payable.

It is clear, even on the definition of the honourable member for Brighton of an artificial contrivance to avoid taxation, that splitting of interest is clearly a case in point. I therefore hope that, although the Leader of the National Party and the honourable member for Brighton are opposed to the broader provision in clause 15, they will see fit to support this proposition, which is clearly designed to outlaw a growing tax avoidance practice, one that is of real concern to me and other Treasurers and finance Ministers throughout Australia.

Mr STOCKDALE (Brighton)—The Treasurer has twice in the past year introduced Bills designed to deal with what he perceives to be a problem going beyond the terms of the Bill now before the Committee. I simply invite him to proceed further with a clause in the form to which he now seeks to amend clause 15. If he raises that with the Liberal and National parties so that we are given the opportunity of considering draft provisions, taking advice in relation to them, of consulting with interested parties and of negotiating with the Government on meeting the Government’s aspirations, we may be able to support those aspirations.

If we are put in the position where Bills are introduced with inadequate consultation having preceded them, often with inadequate time available for consultation and consideration, we will inevitably get into the sorts of difficulties that we face tonight.

The Opposition is not averse to dealing with artificial avoidance schemes, but it is concerned that the Government constantly attempts to go far beyond the real problem it is addressing and to put into proposed legislation provisions that will strike down and
Mr ROSS-EDWARDS (Leader of the National Party)—If we had an undertaking from the Treasurer that a conference would take place in the morning before this matter goes to the other place, my party would refrain from voting against the clause.

The National Party is still concerned about the matter. I still believe in the general principle of one title, one assessment of duty. The mere fact that people are going to work together should not automatically mean that several transactions are regarded as one transaction.

It is a little confusing to me at this hour of the night, and I should like to have a discussion with officers of the Treasurer's department in the morning.

Mr JOLLY (Treasurer)—The principle that applies in the amendments now before the Committee is consistent with what the Leader of the National Party says: that is, one title, one determination of stamp duty. What is occurring is one title and a number of determinations of stamp duty because of splitting of interest, and that is a tax avoidance measure.

I support the proposition put by the Leader of the National Party that officers of my department and the Stamp Duties Office will be available to brief him on the detailed implications of these amendments before the matter is taken to the other place.

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

Clause 16

Mr ROSS-EDWARDS (Leader of the National Party)—I do not want to delay the Committee. Call it a Budget Bill or whatever you like, but the National Party will oppose this clause because it is just too incredible for words.

I apologise to the honourable member for Bulleen. I said that the first home buyers stamp duty concession was introduced by the present Government. In fact, it was introduced towards the end of the term of the Liberal Government. The Labor Party considerably increased the benefit and, having increased it and told the world how wonderful it was in assisting young first home buyers, it is now removing the concession.

Some of the backbenchers on the Government side should wake up in a literal sense and realise what the Government is doing to young Victorians. Young people make a desperate effort to obtain their own homes. Usually, both the husband and the wife are working towards that great achievement, but here it is being taken away.

When the Budget was debated I made it quite clear to the Treasurer that the National Party would not tolerate this move and it will vote against this clause. The measure is unreasonable; it is unfair. I am disappointed that the Liberal Party will not join with the National Party on this issue. Although it is very close to being a Budget matter, it is not technically a Budget matter. In any event, the National Party will go it alone because it wants to show the young battlers of this State that they have some support in the community.

Mr STOCKDALE (Brighton)—I briefly reiterate the Liberal Party's position: it entirely endorses the principle put by the Leader of the National Party. As he indicated, the Liberal Government introduced this concession and the Labor Party increased the quantum to a level that it cannot now afford; it made a deliberate policy that it is not honouring. It has created expectations that are being dashed. It is a cynical political ploy that will disadvantage many young Victorians. It is a further attack on private home ownership.

The Treasurer's answer in closing the second-reading debate indicated the present Government's position on public housing ownership at the expense of the promotion of private home ownership and the aspirations of ordinary Victorians to own their own homes. It is a deep-seated political bias in the Government that causes it to strike out at those who seek to own their own homes.
Were it not for the fact that the Bill is a significant budgetary measure, the Liberal Party would strongly oppose the matter to the point of voting against it. We are in a position where a conflict of values is involved and, on a very narrow balance, we are prepared to allow the provision to be passed, but only because it is a substantial budgetary item.

**Mr ROSS-EDWARDS** (Leader of the National Party)—The one additional point that I make is that this is retrospective legislation, and I hope the honourable member for Brighton notes this. It is retrospective to 1 November, so that if people have bought homes—

**Mr Jolly**—It is in the Budget!

**Mr ROSS-EDWARDS**—It is in the Budget, but it is not the law of the land, and if any young person has bought a first home on 2 November and has made application for the first home buyers' exemption, knowing this Government, it will not be paid. First home owners are entitled to the exemption as the rules stand now. These people have organised their affairs prior to this Bill being passed by Parliament. The young people of this State, if they read the statutes this morning, will know that they are entitled to the exemption, but the Government is backdating the provisions of this measure to 1 November.

If the Government must take this action, the appropriate date for the operation of the provision is 1 January next. Once again, as a result of the incompetency and inefficiency of the Treasurer, he needs to backdate it. Dates do not mean a thing to him any more. Why did he not introduce the Bill a month ago or six weeks ago? He did not get round to it: like Mr Keating, he had the pressures of office—it is too much for him.

**Mr STOCKDALE** (Brighton)—The point that the Leader of the National Party has raised is a matter on which I have had discussions with the Treasurer when I suggested to him that to ensure that in the other place the Liberal Party took the same attitude as the one I have announced today, the Treasurer ought to consider making this provision prospective rather than retrospective in removing rights.

I simply indicate that I shall seek further discussions with the Treasurer and that it will be necessary for me to consult with other members of the Liberal Party if it appears that the Treasurer intends to persist in making this retrospectively operative.

I urge the Treasurer to take the normal step in taxing matters and make that provision prospectively operative. If he is not prepared to do it now, I suggest that he considers it carefully and that he brings in that measure in the other place. It can rapidly go through here with the support of the Liberal Party. If the Treasurer persists with retrospectivity, I can give him no guarantee that the Liberal Party will not have to reconsider its position.

**Mr JOLLY** (Treasurer)—The Government will discuss the matter with the honourable member for Brighton before the Bill goes to the other place. It is important to recognise that the November date was announced at the time of the Budget and many people, therefore, have made decisions which would not enable them to receive the rebate even if the date were changed. That would obviously cause a number of difficulties.

The Committee divided on the clause (Mr Fogarty in the chair).

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**AYES**

Mr Andrianopoulos
Mr Brown
Dr Coghill
Mr Cooper
Mr Crozier
Mr Culpin
Mr Cunningham

**NOES**

Mr Evans (Gippsland East)
Mr Hann
Mr McGrath (Lowan)
Mr McNamara
Mr Ross-Edwards
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| PAIRS                          |              |
| Miss Callister                 | Mr Whiting    |
| Mr Crabb                      | Mr McGrath    |
|                               | (Warrnambool) |
Clause 17

Mr JOLLY (Treasurer)—I move:

1. Clause 17, line 41, omit "craft" and insert "floating vessel".
2. Clause 17, page 9, line 4, after "of a hull" insert "of a floating vessel".
3. Clause 17, page 9, line 4, omit "craft" and insert "vessel".

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 18 to 23.

Clause 24

Mr STOCKDALE (Brighton)—The Opposition opposes this provision. I am advised that this is an attempt to deal with an issue that was the subject of a recent High Court decision which went against the Comptroller of Stamps. I am instructed that due to changes in Federal tax laws, the arrangements that resulted in that litigation are no longer a practical proposition and the issue that is being dealt with here is therefore academic in the extreme.

Moreover, the provision is wider than would be necessary strictly to deal with the problem that was before the High Court and it would strike at a number of other arrangements.

A view has been expressed by some lawyers that the terms used are wide enough to cover the allotment of redeemable preference shares in the memorandum and articles of association of a company.

Accordingly, the Opposition takes the view that at best this provision is useless and at worst it will positively interfere with commercial operations that it is not even intended by the Government to strike at. For that reason, the clause is opposed.

The clause was agreed to.

Clause 25

Mr JOLLY (Treasurer)—I move:


The amendment was agreed to and the clause, as amended, was adopted, as was clause 26.

Clause 27

Mr STOCKDALE (Brighton)—This involves a choice between two amendments that have similar effect. However, the advice to the Opposition is that the form we propose is preferable. It is directly modelled on equivalent terms in the companies code and it is not restricted to sharebrokers or people who deal exclusively with securities.

The Government's proposed amendment would limit the clause to persons who carry on business exclusively dealing in securities. It is therefore a form of protection that favours one particular type of commercial operator over others. Even if the Treasurer is not prepared to endorse this amendment tonight, I ask him to consider the matter when the Bill is between Houses and to accept the amendment proposed by the Liberal Party as preferable. I move:

8. Clause 27, page 12, lines 19 to 23, omit paragraph (e) and insert:

"(e) the debentures, bonds or covenants are issued only to persons who carry on a business of dealing in securities whether or not that business is part of, or is carried on in conjunction with, any other business."

The amendment was negatived.

Mr JOLLY (Treasurer)—I move:

15. Clause 27, page 12, line 20 omit, "whose ordinary business is to buy or sell" and insert "who carry on a business of buying or selling".
16. Clause 27, page 12, line 23, after "agent" insert "and whether or not that business is part of, or is carried on in conjunction with, any other business".

17. Clause 27, page 12, line 24, after "Schedule" insert "to the Principal Act".

This broadens the arrangement so that the amendment will ensure that where a person is in the business of buying and selling securities, that person will obtain the benefit of this provision. I shall certainly consider the proposition put forward by the honourable member for Brighton before the Bill proceeds to the other place.

The amendments were agreed to, and the clause, as amended, was adopted, as was clause 28.

Clause 29

Mr JOLLY (Treasurer)—I move:

18. Clause 29, page 2, after "29" insert "(I)".

19. Clause 29, after line 27, insert—

'(2) In section 166AA of the Principal Act (preceeding section 166B), for "166AA" substitute "166AB".'.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 30 to 32.

Clause 33

Mr ROSS-EDWARDS (Leader of the National Party)—I ask the Treasurer to explain who SECH Nominees Pty Ltd are.

Mr JOLLY (Treasurer)—The Leader of the National Party would be interested to know that clause 33 inserts a new exemption in Heading iv of the Third Schedule to the Stamps Act to facilitate the CENSAS proposals of the Melbourne and Sydney stock exchanges. These proposals will establish a central clearing house for marketable security transfers and will dispense with the need for the separate creation of transfer documents.

This amendment will exempt from duty transfers of marketable securities to or by SECH Nominees Pty Ltd, which will hold shares as trustee for their various beneficial owners.

The clause was agreed to, as were clauses 34 to 36.

Clause 37

Mr JOLLY (Treasurer)—I move:

20. Clause 37, page 16, after line 2 insert—

"(d) In Heading XXI in the Third Schedule under the heading "Exemptions—", in exemption 10, after paragraph (b) insert—

"or

(c) the persons are a man and a woman who—

(i) are living together on a permanent and bona fide domestic basis; or

(ii) have been living together on such a basis and the Comptroller of Stamps is satisfied that the transfer was made by reason of the breakdown of the relationship—".

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 38 and 39.

Clause 40

Mr JOLLY (Treasurer)—I move:

21. Clause 40, lines 32 and 33, omit paragraph (a) and insert—

'( ) In section 2 (1)—
Clause 41

Mr JOLLY (Treasurer)—I move:
22. Clause 41, line 7, after “41” insert “(1)”. 
23. Clause 41, after line 27, insert—

'(2) The Business Franchise (Petroleum Products) Act 1979 is amended as follows:
   (a) In section 2 (1)—
   (i) in the definition of “Petroleum retailing” for “in the course of intrastate trade” substitute “in Victoria”; and
   (ii) in the definition of “Petroleum wholesaling” for “in the course of intrastate trade” (where twice occurring) substitute “in Victoria”;
   (b) In section 7 (1) for “in the course of intrastate trade” substitute “in Victoria”;
   (c) In section 7 (1B) (a) for “in the course of intrastate trade” substitute “in Victoria”;
   (d) In section 7 (2), omit “intrastate”;
   (e) In section 8 (1) for “in the course of intrastate trade” substitute “in Victoria”.’.

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

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

SOUTH MELBOURNE LAND BILL (No. 2)

This Bill was returned from the Council with a message relating to an amendment. It was ordered that the message be taken into consideration next day.

LAND (AMENDMENT AND MISCELLANEOUS MATTERS) BILL

This Bill was returned from the Council with a message relating to amendments. It was ordered that the message be taken into consideration next day.

RACING (MISCELLANEOUS AMENDMENTS) BILL

This Bill was returned from the Council with a message relating to amendments. It was ordered that the message be taken into consideration next day.

ADJOURNMENT

Integration aides—Ministry of Education apprenticeship positions—Sale of Government houses—Publication “Streetwize”—Malvern Girls High School

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:

That the House do now adjourn.
Mr COOPER (Mornington)—The matter I direct to the attention of the Minister for Education concerns integration aides. In answer to a question during question time on 2 December, the Minister referred to integration aides and said that in 1987 he anticipated the number of integration aides would be 461, which is an increase of almost 70 on the number of integration aides in schools this year.

I have received a copy of a letter that was recently written to the Minister by the President of the Nepean Centre for Physically Handicapped in relation to the situation of Mrs Angelika Butler of 40 Winona Road, Mount Eliza. The letter states:

... her son Simon, a non walking cerebral palsy child, has been refused permission to commence his school life in 1987 at Mount Eliza Primary.

The mother has selected this school as it has probably integrated more physically disabled students over the past twenty years than any other primary school in the State.

It would appear that although this pupil has been assessed by Student Services, a local pediatrician and the School's Integration Committee as being acceptable for admittance, he has been rejected because of the inability of the Education Department to provide the support services of an Integration Aide. This situation appears ludicrous in that the Western Port Region has approved paramedical support for him and an Integration teacher for 1987 has been allocated. Surely the reduction of the Integration Aide allotment from 1-4 in 1986 to only .3 in 1987 to cater for all other integrated students at Mt Eliza School must be an error of oversight.

That does not line up with the information given to this House during question time on 2 December.

Undoubtedly, far greater emphasis should be placed on getting children out of special schools and into ordinary schools, if for no other than economic reasons. However, there are distinct social reasons as well. Children who are capable of being integrated into an ordinary primary school should be integrated for their sake and for their future.

It is important that the Government directs its attention to the matter in a far better way than it has previously. From an economic point of view, a breakdown of staff arrangements at the Nepean Centre for Physically Handicapped in Frankston and the Mount Eliza Primary School shows that the yearly cost of maintaining a pupil at the special school is $15 525 a pupil. That is what it costs the taxpayers of the State compared with maintaining a pupil at the Mount Eliza Primary School which costs $1333 a pupil.

Those figures have been supplied to me by an immediate former principal of the Mount Eliza Primary School, who is also a past principal of the Nepean Centre for Physically Handicapped, and I have no reason to doubt those figures.

Based on economics alone, it would appear that not enough emphasis is being placed by the Government on the question of integration aides and particularly not enough emphasis is being placed on the employment of integration aides at the Mount Eliza Primary School.

I ask that the matter be given urgent attention because this young man, who is to commence his schooling in 1987, deserves a lot better than he has been given so far. It is not good enough for him to be rejected as a student of the Mount Eliza Primary School because of the inability of the Ministry of Education to provide the necessary support services.

Mr GUDE (Hawthorn)—I raise for the attention of the Minister for Education and, in his absence, the Minister for Consumer Affairs, an important question relating to the remarks made by the Minister for Education last Tuesday.

By way of some righteous indignation, the Minister suggested by way of a response to an interjection, that I was not concerned about traineeships. That could not be further from the truth and I raise the question of traineeships within the Ministry of Education.

All that glitters is not gold. The people who are given the benefit of traineeships and do go on and obtain work through the Ministry of Education are the lucky ones but others in the Ministry of Education are occupying traineeship positions but are not able to obtain employment.
Adjournment 3 December 1986 ASSEMBLY 2803

I direct to the Minister's attention the fact that 22 youths, who are approximately seventeen years of age, have completed their Ministry of Education traineeships at the Swinburne Institute of Technology and through the audiovisual centre at the Ministry of Education in Camberwell, they completed the program on 22 August.

Since that time, they have not been placed in full-time employment. Three and a half months have elapsed and these young people are now becoming frustrated, impatient and a little annoyed. More particularly, it is even more frustrating for them when they read in Hansard of the way in which the Minister is claiming that he is doing everything for young people in traineeships.

The program began involving 27 youths; five have dropped out, and one of the problems they are faced with is that they are still required to attend the audiovisual unit three days a week but they are not able to work anywhere else for the other two days.

These young people genuinely want to obtain employment and I am certain that the Minister would want to reassure them of the fact that the Government will be seeking to give them an opportunity in employment.

One young man named David Dawn came into my office indicating that he is prepared to travel anywhere in Victoria to obtain a permanent job, with the audiovisual training he has received. He assures me that his preparation is matched by the other 21 young people who find themselves in precisely the same situation.

I ask that the Minister examine what is going on in this program with the aim of reassuring these young people that they will be given an opportunity of permanent employment at the earliest moment and I draw the Minister's attention to the apparent anomaly in the program.

I make the point that the training is worth $100,000 by the time a person has finished the program. It is not cheap. For three and half months those talents have been wasted. It is an extravagance the people of Victoria should not have to bear and it is a worry to the young people concerned.

I implore the Minister to examine the program closely to see whether something cannot be done and whether it is possible for young people to go through the training period and then be able to get part-time employment, perhaps for two days a week, so that they are less of a burden on their parents or whoever is in charge of them. I ask the Minister to do all that is possible to ensure young people of permanent employment in the future.

Mr JOHN (Bendigo East)—The matter I raise for the attention of the Minister for Property and Services relates to the proposal for the sale of a number of houses by the Government Employee Housing Authority. In particular I raise the special case of the proposed sale of the residence at Eldon Street, Bridgewater, in the Bendigo East electorate that is occupied by the principal of the Bridgewater Primary School.

I have received representations from the school council of the Bridgewater Primary School requesting that the Minister consider this as a special case because of the special needs of the area. The house was built nine years ago and at the time the local community of Bridgewater, which is a small town, raised between one-quarter and one-third of the cost of the building which the principal occupies. A limited range of accommodation is available in the town of Bridgewater and, if the property is sold, the principal would have to relocate approximately 40 kilometres away and travel each day to the school.

The school council feels strongly that this would be disadvantageous to the small community. It is a special case and they believe that the principal should live locally. They also believe that if the principal left the school it would be difficult for it to attract a suitable person to become principal of the school in the future. I need hardly remind honourable members of the problems in rural communities over the past twelve months, in particular the rural crises and difficulties which small rural communities are facing. They are subject to circumstances.
It is sometimes difficult for honourable members who reside in metropolitan areas to understand why subsidised rentals or special accommodation arrangements should be provided for school teachers or other Government employees who have to take up country residences in remote areas. I urge the Minister for Property and Services to consider this particular case, as I believe it is a special case, and I urge him not to proceed with the sale of the premises.

Mr STOCKDALE (Brighton)—I raise a matter for the attention of the Minister representing the Attorney-General. I also indicate that it involves the Minister for Labour. The matter concerns a project called the Kids Legal Comics Project, particularly the comic, which is called Streetwise. This so-called comic is published in New South Wales by the Kids Legal Comics Project which is a Redfern Legal Centre publishing project, in conjunction with the Marrickville Children's Legal Centre with help from the Legal Services Commission of New South Wales.

The publication indicates that in Victoria financial support has been received from the Department of Labour and the Victorian Law Foundation. I suggest that the publication is entirely unsuitable for distribution and for financing by the Government. The Minister will be interested to learn, in his other capacity, that this matter has been brought to my attention by Supporters of Law and Order, a prestigious and responsible organisation which offers support to the Victoria Police and an organisation, the patron and chief of which is the Governor, and the objectives of which have been endorsed by the Chief Commissioner of Police.

This is a scurrilous document that can serve only to undermine the confidence of young people in Victoria in the Police Force and various other civil authorities. The comic includes alleged stories set out in comic form that is no doubt designed to attract the attention of young people. It promotes a very adverse and antagonistic relationship between young people and the police.

It shows, for example, on the cover a police car with the number plate “BAD NEWS” approaching a young man whose reaction is to groan, “Oh, no”. The sorts of stories in the remaining pages show police allegedly picking up a young man in the streets in circumstances which suggest that he is being subjected to violence, harassment and abuse. The captions include swearing and other profanities that are allegedly used by police with respect to young people and homosexual allegations are made against the young man including threats of false imprisonment.

The comics are put forward in a context which suggests that this is the normal relationship between young people and the Police Force, a reputation which is so far from the truth that the Minister would want to take the opportunity of repudiating it. The comics paint a picture of an antagonistic relationship between the courts and young people. It paints a picture where young people cannot expect fair treatment from the courts or legal authorities.

The comic derides the integrity of the police internal investigation bureau and suggests it has no function other than to cover up transgressions of police officers. The comic characterises this as the normal tactics police use with young people and what they can expect in their relationship with the Police Force. I utterly repudiate those comments. From my personal knowledge they do not represent the way the Police Force operates or relates to young people.

The comics also paint an extremely antagonistic relationship between landlords and young people who are tenants. It also paints an extremely antagonistic relationship between young people and doctors, particularly in relation to the supply of contraceptive pills and suggests that young people cannot rely upon the normal patient-doctor relationship when they deal with circumstances and matters that are sensitive to their own personal lives.

The comics are produced with funds provided by the Victorian Government through the Department of Labour and are either directly or indirectly financed by Government funds through the Law Foundation. Both bodies have Government support. The comics
are quite inimical to the objectives of the Government to build greater confidence in the community in the Police Force to maintain the present high standing of the force and Government money is being used to put out publications to destroy the confidence between young people and the Police Force.

Mr LEIGH (Malvern)—I direct a matter to the attention of the Minister for Education and, in his absence, I ask the Minister for Consumer Affairs, who is at the table, to pass it on to him. The matter concerns the Malvern Girls High School and the problems the school faces at present.

As the girls' school is in the public education system it appears that the Labor Government believes it has little or no future. Certainly that is how I understand the case from the school council.

I seek an assurance from the Minister that there is a place for a girls' school in the State education system. There are parents who cannot afford to send children to private schools and are not happy to send daughters in particular to coeducational schools. That being the case, the Government ought to be able to ensure that people have a right to make a choice in the public educational system.

I know that a good proportion of children who attend the Malvern Girls High School have Greek backgrounds and the Greek parents who send their children to the school are concerned that their daughters will no longer be able to attend such a school.

The Malvern Girls High School has an excellent reputation and is one of the better State high schools in the metropolitan area of Melbourne, if not in Victoria.

Mr Gavin interjected.

Mr LEIGH—The honourable member for Coburg may joke about this matter, but the fact is that many parents are deeply concerned about what may happen.

I seek an assurance from the Minister that the Malvern Girls' High School, girls' schools and coeducational schools will continue to exist and that parents will still have the right of choice in the public education system.

Mr SPYKER (Minister for Consumer Affairs)—The honourable member for Mornington raised a matter for the attention of the Minister for Education relating to integration aides. I shall pass on that matter to the Minister.

The honourable member for Hawthorn also raised a matter for the Minister for Education regarding 22 young people in traineeships who are seeking employment and I shall pass on that matter.

The honourable member for Bendigo East raised a matter for the attention of the Minister for Property and Services. The matter related to the sale of the principal's residence at the Bridgewater Primary School, which the honourable member feels is required for the principal. I shall refer that matter to the Minister.

The honourable member for Malvern raised a matter relating to single sex schools for the attention of the Minister for Education. I am not aware of any details concerning that high school, but the honourable member would be mischievous if he is suggesting that the Minister has implied that there is no future for those type of schools in the public education system. I have a girls' high school in my electorate and the Minister has assured me of its viability. The honourable member, in raising the matter, may cause unnecessary anxiety for both parents and students of those schools and he should be more careful in his comments. I shall refer that matter to the Minister.

Mr MATHEWS (Minister for the Arts)—I have noted the comments of the honourable member for Brighton about some material prepared in New South Wales for young people. I shall see that it is similarly drawn to the attention of the Attorney-General.
The motion was agreed to.

The House adjourned at 2.38 a.m. (Thursday).

JOINT SITTING OF THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE ASSEMBLY

Wednesday, 3 December 1986

La Trobe University

A joint sitting of the Legislative Council and the Legislative Assembly was held this day in the Legislative Assembly Chamber to elect three members to be recommended for appointment to the Council of the La Trobe University to fill three vacancies for a four-year term.

Honourable members of both Houses assembled at 6.4 p.m.

The Clerk—Before proceeding with the business of this joint sitting, it will be necessary to appoint a President of the joint sitting.

Mr CAIN (Premier)—I move:

That the Honourable Cyril Thomas Edmunds, MP, Speaker of the Legislative Assembly, be appointed President of this joint sitting.

Mr KENNETT (Leader of the Opposition)—I second the motion.

The motion was agreed to.

The PRESIDENT (the Hon. C. T. Edmunds)—I thank honourable members for the privilege of electing me as the President of this joint sitting of Parliament. I direct the attention of honourable members to the extracts from the La Trobe University Act 1964 (No. 7189) which have been circulated. It will be noted that the Act requires the joint sitting be conducted in accordance with rules adopted for the purpose by members present at the sitting. The first procedure, therefore, will be the adoption of rules.

Mr CAIN (Premier)—Mr President, I desire to submit rules of procedure, which are in the hands of honourable members, and I accordingly move:

That these rules be the rules of procedure for this joint sitting.

Mr KENNETT (Leader of the Opposition)—I second the motion.

The motion was agreed to.

The PRESIDENT (the Hon. C. T. Edmunds)—The rules having been adopted, I am now prepared to receive proposals from honourable members with regard to members to be recommended for appointment to the Council of the La Trobe University.

Mr CAIN (Premier)—I propose:

That Carl William Dunn Kirkwood, Esquire, MP, David John Lea, Esquire, MP, and Milton Stanley Whiting, Esquire, MP, be recommended for appointment to the Council of the La Trobe University.

They are willing to be recommended for appointment if chosen.

Mr KENNETT (Leader of the Opposition)—I second the proposal. In so doing, I understand that the appointments are for four years. Honourable members should remember that that certainly resolves the doubt hanging around the honourable member
for Preston, who, in accepting this appointment, had indicated that the seat of Preston is not up for grabs between now and the expiration of the four-year term.

The PRESIDENT (the Hon. C. T. Edmunds)—Are there any further proposals?

As there are only three members proposed, I declare that Carl William Dunn Kirkwood, Esquire, MP, David John Lea, Esquire, MP, and Milton Stanley Whiting, Esquire, MP, have been chosen to be recommended for appointment to the Council of the La Trobe University.

I now declare the joint sitting closed.

*The proceedings terminated at 6.7 p.m.*
Thursday, 4 December 1986

The SPEAKER (the Hon. C. T. Edmunds) took the chair at 10.38 a.m. and read the prayer.

DEATH OF "HANSARD" STAFF MEMBER

The SPEAKER—Order! I advise the House that Mr John Wootten, a member of the Hansard staff, died suddenly at his home yesterday morning. I am sure the House would join me in expressing deepest sympathy to his wife and three children on this sad occasion.

QUESTIONS WITHOUT NOTICE

PUBLIC WORKS DEPARTMENT

Mr COOPER (Mornington)—Is the Minister for Public Works aware that at the end of September the Public Works Department had not paid 2526 bills which had been due for more than 30 days? Is it a fact that on October 10 an instruction was issued that the department would pay no accounts until well into December because of cash flow problems?

What will the Minister do to remedy the situation of unpaid accounts which is in contravention of Department of Management and Budget guidelines?

Mr WALSH (Minister for Public Works)—In answer to the first part of the honourable member's question stating that it was 30 days before accounts were being paid, there could be many reasons for this.

Honourable members interjecting.

Mr WALSH—One of the reasons is that we have to be accountable for public money; I do not know whether the Opposition realises that. The Opposition should look at some of the accounts which the department was left with when the Liberal Party was turfed out of office in 1982.

There may be reasons why the account has not been paid within the guidelines laid down by the Department of Management and Budget. Perhaps the contractor has not put in a claim form for the account or perhaps the account has to be checked. There are accounts that may not come up to the specifications, and also the work has to be checked thoroughly to see whether the contractor has completed the work.

Mr Ross-Edwards—Those are two good points!

Mr WALSH—They are two good points. There were complaints that we laid in 1982 against people who were being paid by the previous Government, and they have now been charged by the police.

The thing is that the department cannot handle money as though it were confetti. No doubt that is what the Liberal Party did with the money, and that is why the Labor Government came into office in 1982, as the State was nearly bankrupt because of the actions of the previous Government.

The department always ensures that the money that is paid out for accounts is thoroughly followed through and that all claims that are put in by contractors and work that has been done are checked to see whether they are in the best interests of this State.
CRITICISM OF THE GOVERNMENT

Mr ROSS-EDWARDS (Leader of the National Party)—I refer the Premier to the serious criticisms of the Cain Government made in recent months by the Auditor-General, and in particular to a very serious complaint made about the Department of Management and Budget during the last two days.

Mr Jolly interjected.

Mr ROSS-EDWARDS—I know that the Treasurer is touchy because he has come under——

Honourable members interjecting.

Mr ROSS-EDWARDS—Will the Premier undertake to give specific instructions to all Cabinet Ministers that their respective departments must comply with the standards and procedures laid down by the Auditor-General of Victoria?

Mr CAIN (Premier)—The relationship between the Auditor-General and those types of agencies concerned with statements of accounts is a good one. I believe there is an understanding that the two should work together.

The Auditor-General does not see his role as being just a “tick and check” role. He believes he should play a part in offering advice on the way in which accounts should be presented and the way in which departments should approach the preparation of reports, financial statements and the general management of their affairs.

The Auditor-General is now in his office—I emphasise—and his approach is to seek some changes to the procedures, both in his office and elsewhere, as to the relationship that existed previously.

He is communicating on a regular basis with the agencies concerned. I believe it is highly desirable that he so communicate, and that there is a relationship between the Auditor-General and the departments concerned that is directed at ensuring the best possible financial checks are in place.

That is the common view of the Department of Management and Budget, my own view and that of the Auditor-General. Thus far, the comments of the Auditor-General are directed at achieving that end. The Government will certainly cooperate with him in every way to ensure that that is what occurs.

The Auditor-General is currently concluding a range of examinations that have been taking place over many years. Those reports have come to be published in recent times. It is pertinent to note that the Auditor-General has pointed out shortcomings and he was at pains to point out—and the Government Employee Housing Authority was one such area—that recent initiatives announced by the Government have shown that the Government is taking adequate and proper steps to ensure better checks and accounting methods in the future.

WOMEN IN RURAL COMMUNITIES

Mr KENNEDY (Bendigo West)—Will the Premier give the House details of measures taken by the Government to increase links between women in rural communities throughout Victoria?

Mr CAIN (Premier)—I thank the honourable member for Bendigo West for his question because he, like many members of the National Party, would agree that rural women have made an enormous contribution to both the economic and community development of this State. That contribution was largely unrecognised by previous Governments.
The Government believes the value and importance of the contribution of rural women to Victoria ought not to be overlooked. In recognition of that contribution, earlier this year the Government announced the establishment of the Rural Women's Network. For the benefit of honourable members, who seem more intent on making catcalls than listening, I shall say something about that network because it builds upon existing women's groups, some of which have been established for a long time, such as the Country Women's Association, the Business and Professional Women's Association and newer groups such as Women in Agriculture.

Mr Hann—Why don't you listen to what I say?

Mr Cain—Why does not the honourable member for Rodney listen to what I say as he might learn something. The honourable member should go into his electorate and learn something about the concerns of women.

The rural network gives those women and those various organisations an opportunity of sharing their different experiences and exchanging ideas and information. It also gives the women direct access to Government.

I was pleased to be asked to attend and meet with the Rural Women's Network at Sale during my visit to Gippsland earlier in the year. Over the past few months, the coordination of the network and the Office of Rural Affairs has been active. They have established a wide range of contacts with different groups across the State. A rural women's newsletter is planned for 1987 to provide a quarterly link between groups throughout the State.

Despite the derisive calls from members of the Opposition, women in rural communities have been tremendously supportive of what the Government is doing, and it is time the Opposition recognised that. The Liberal Party regarded rural women as unimportant for many years. The Country Women's Association and the Business and Professional Women's Association are keen on the network proposal. Members of the Opposition should consult with those groups if they do not believe me. Members of the Opposition should help those groups instead of yelling and screaming at me because they are tired and emotional on Thursday morning.

The reception to this proposal has been such that pressure, and I use the word advisedly, is being brought to bear on the New South Wales Government to establish a similar network.

That is further evidence of the support that the Rural Women's Network enjoys. It is right that women in rural Victoria, who in many cases are involved in keeping family farms going through difficult years, should receive appropriate recognition and appropriate support for their work from Governments. That is what the Labor Government intends to do. If members of the opposition parties believe that is wrong, they should say so.

In many cases women have been the backbone of the rural community and they should have the opportunity of becoming involved in policy decisions. I repeat; for far too long women have been neglected and the opposition parties have been largely responsible for that neglect.

The network is still in its infancy, but I look forward to its continued development in Victoria in future years. I shall do all I can to redress the imbalance that has occurred over the years. When I visit the electorates of rural members of Parliament, as they appear to want me to do, I shall do all I can to support that network. I hope I have the support of all honourable members in doing so.

The Government wants the network to be successful. If members of the opposition parties want to opt out of their responsibilities towards country communities that are concerned about supporting this rural network and women's organisations that are part of it, they should say so. However, I hope the opposition parties will support these groups.

This is an issue that ought to cut across party lines. I know the opposition parties are desperate to make political points for a whole range of reasons. What an awful sessional
period the Opposition and National Party have had. Victorians laughed at them when the sessional period commenced and they are still laughing. I urge members of the opposition parties to support the Rural Women’s Network.

**CHILDBUSE PREVENTION PROGRAM**

Ms SIBREE (Kew)—I refer the Minister for Education to the decision of his Ministry, as a result of cutbacks in the Curriculum Branch, to disband the Bouverie Street theatre-ir-education group which is the only official body in the Ministry providing a program of child abuse prevention education, and I ask: in view of the Government’s professed concern about Alison Thorne’s views, why is the Minister now depriving Victoria’s schoolchildren of the opportunity of learning how to avoid such abuses?

Mr CATHIE (Minister for Education)—The Government has in fact piloted a number of excellent and sensitive programs aimed at the prevention of child abuse. These programs are running well within the schools that have been chosen to pilot them and have the support of parents.

The reduction in the number of administrative staff within the Ministry because of Budget constraints is an issue that is being worked through not only with the Curriculum Branch but also with the Teachers Federation Victoria. We are close to resolving decisions on where we can achieve Budget goals.

**TOURISM IN GIPPSLAND**

Mr WALLACE (Gippsland South)—I direct my question to the Minister for Industry, Technology and Resources, who is responsible for tourism in this State. In view of the enormous tourist potential in the Gippsland area, can the Minister inform the House what recommendations his Ministry has made to the Road Construction Authority on replacing the swing bridge at Sale, the development of the City of Sale and the surrounding wetlands?

Mr FORDHAM (Minister for Industry, Technology and Resources)—I thank the honourable member for his question and for his continuing interest in the community of Sale. This matter was brought to my attention by both the local community and the Victorian Tourism Commission.

The commission views the Gippsland Lakes area as an important component of Victoria’s future development for tourism opportunities. The thriving communities of Sale through to Lakes Entrance and Bairnsdale are experiencing significant increases in tourism. I am delighted that the Victorian Tourism Commission, together with the regional organisation, has been able to assist in that regard.

With regard to the roadworks, the view has been put forward by myself and the Victorian Tourism Commission that the Road Construction Authority should use every possible endeavour to ensure that the road design and construction does not inhibit the future development of the port of Sale.

The difficulties are straightforward: they are economic; there is a lot of money involved in the difference between the two forms of road construction that have been proposed and the question of who should bear the cost for the additional expense that would be involved through the public purse—taxpayers’ funds—if the alternative design is proceeded with.

Further discussions are being held at the moment between the Road Construction Authority and my Ministry to determine whether any possible step can be taken to meet the concerns of the Sale community and all interested in tourism within Gippsland.

**OCCUPATIONAL HEALTH AND SAFETY INSPECTORS**

Mr MICALLEF (Springvale)—Is the Minister for Labour aware of a scurrilous document that downgrades certain members of his department and, if so, what action has he taken in regard to this matter?
Mr CRABB (Minister for Labour)—I thank the honourable member for the question on the scandal sheet that was in circulation early this year regarding certain members of my department. Back in March of this year my director-general informed me of the existence of this scandalous document, which was a crude and juvenile attempt to describe the political and philosophical attitudes of a number of occupational health and safety inspectors.

Upon being made aware of this document, I immediately instituted an investigation by a senior officer and we contacted the Victorian Public Service Association, which is the staff association covering the persons concerned. The association responded to me requesting that we take the most severe disciplinary action against the author of the document should such a person be found.

Early in May the honourable member for Hawthorn wrote to me about the matter having been brought to his attention. In his letter he said that he was being pressed to make the issue public, "which I am resisting at this time".

As a consequence of that letter, I directed my director-general to contact the honourable member for Hawthorn, which he did by telephone, and to explain the position and what was occurring, for which the honourable member for Hawthorn indicated his thanks.

By the end of May it became clear that the investigation was unlikely to find the culprit who was guilty of producing this juvenile sheet.

As a consequence, I wrote personally not only to the health and safety inspectors but also to each of the inspectors in my department. In that letter I said:

I have nothing but contempt for the authors of this document. They have neither respect for the civil liberties of the staff of the department nor the courage to come into the open.

I also said that people who engage in such underhanded and mischievous behaviour usually get their just deserts one way or another and I assured the inspectors that all individuals in my department would be judged according to how they performed the duties that are assigned to them. I went on to say:

The matter is now closed until I find out who wrote the sheet.

Because of the interest of the honourable member for Hawthorn, I directed my director-general to again contact him, which he did. Early in June the director-general telephoned the honourable member for Hawthorn and explained the situation and arranged to send—

Mr KENNETT (Leader of the Opposition)—On a point of order, Mr Speaker, the Minister is obviously making a Ministerial statement. He has been asked a question without notice but he has come fully prepared and is reading from his literature. I suggest that if the Minister wishes to make a Ministerial statement he should do so at the appropriate time rather than waste question time.

The SPEAKER—Order! I do not uphold the point of order. The Minister is not making a Ministerial statement. He appears well prepared for the question without notice and is responding.

Mr CRABB (Minister for Labour)—As I was saying, early in June my director-general telephoned the honourable member for Hawthorn, explained the situation and arranged to send him a copy of my letter, for which the honourable member for Hawthorn was grateful—in the process he asked that my director-general also send him back a copy of the scandal sheet because he had mislaid his copy. As a result, both these documents were sent to him.

That laid the matter to rest, so far as we were aware. We had a meeting with the occupational health and safety inspectors and directly informed them of the position, and everyone was reasonably content with the position until now, five months later, when the honourable member for Hawthorn used the forum of this place to give status of Parliamentary privilege to the filthy farrago of lies contained in the scandal document.
Honourable members interjecting.

Mr CRABB—Under privilege, the honourable member for Hawthorn made public these lies. Not only did he give Parliamentary privilege to these lies but also he claimed in the House that he did not get a response from the Government.

Honourable members interjecting.

Mr CRABB—He blatantly, patently and obviously did have a response from the Government. His behaviour demonstrated that his memory is as defective as his integrity. It was disgraceful of the honourable member to give publicity to this juvenile affair using the forms of the House.

It is contemptible and it is cowardly to use this forum in a way which would be actionable outside this place. If the foolish honourable member for Hawthorn does that again and makes a desperate attempt to pursue his personal ambitions——

Honourable members interjecting.

The SPEAKER—Order! The Minister for Labour is out of order if he is attacking the honourable member for Hawthorn during the course of his response to the question without notice. If he wishes to do that, he should do so by substantive motion.

Honourable members interjecting.

Mr CRABB—The fact is that this matter was handled entirely properly in every way by my department and myself and it is scandalous that it was given Parliamentary privilege only a few week ago.

NURSES' DISPUTE

Mr GUDE (Hawthorn)—I direct my question to the Minister for Labour, who is in good form this morning. The Minister will vividly recall the Government’s decision to allocate more work to the Federated Engine Drivers and Firemen’s Association following deregistration to the Builders Labourers Federation on the grounds that the FED&FA would behave responsibly. How does the Minister regard the decision of the FED&FA to go out on strike yesterday in support of the nurses’ dispute and thus halt work on major construction sites in Victoria? Which union ALP affiliate will strike next in opposition to the Government’s disgraceful handling of the nurses’ dispute?

The SPEAKER—Order! The latter part of the question is out of order.

Mr CRABB (Minister for Labour)—It never ceases to amaze me how this pathetic bunch of members of the Opposition complain about building industry unions when the reality is that during the Liberal Party’s term of office they produced the monster that became the Builders Labourers Federation. They did it by rolling over time and again. The honourable member for Berwick sniggers in his supercilious way.

Honourable members interjecting.

Mr CRABB—The honourable member for Berwick was part of the Government that decided to pay the BLF $6 million in the Loy Yang dispute, and the honourable member for Hawthorn was Parliamentary Secretary of Cabinet at the time when it was decided to pay the BLF $6 million for Loy Yang, and created the monster that the Labor Party Government had to deal with; it dealt with it adequately and properly.

BUY AUSTRALIAN POLICY

Dr VAUGHAN (Clayton)—With the festive season upon us and the sound of cash registers ringing round the State, will the Premier inform the House what steps the Government has taken to encourage Victorians to buy Australian this Christmas?
Mr CAIN (Premier)—I believe there is a growing awareness in the community of our need to support locally-produced goods and I hope that support extends across both sides of the House. Buying local products in preference to buying imported goods means securing or creating jobs for fellow Victorians and fellow Australians. I hope you support that.

Mr Kennett—I knew that would come.

Mr CAIN—If the Opposition does support it, why is it making all that noise and why does it not listen and hear about the work of a constructive kind that is being done?

Mr RAMSAY (Balwyn)—I raise a point of order, Mr Speaker. This is the second occasion during question time that the Premier has seen fit to lecture honourable members directly and has refused to address the Chair.

If he continues to refuse to address the Chair, I believe you have no alternative, Sir, but to sit him down.

Mr Kennett—Throw him out!

The SPEAKER—Order! I thank the House and the honourable member for Balwyn for their advice and assistance in conducting question time this morning; it has been difficult. I shall take the honourable member's advice if I find it necessary.

Mr CAIN (Premier)—The Christmas season does provide an excellent opportunity to get behind the campaign that has been promoted by the Federal Government and strongly supported by the Victorian Government urging people to buy Australian products. Millions of dollars are spent at this time of the year and, as much as possible, we should be encouraging shoppers to direct their dollars towards Australian-made goods. I shall certainly do all I can to urge people to do that.

The quality of Australian goods is first-class. In the case of toys, especially, there have been concerns about the safety of some imported toys. Locally manufactured goods are safe; they comply with certain standards, and their purchase should be supported.

Retail sales are very high at this time of the year. It is a boom time, and we should all be enjoying the boom time. It is a time when I believe Victorians have an opportunity of playing Santa, so to speak, to Victorian workers and of buying the goods that are produced in this State.

I shall be visiting the Box Hill shopping centre today to take that message—

Honourable members interjecting.

Mr CAIN—The Opposition should come out and support it. I do not mind asking Santa Claus to bring Australian goods. Does the Opposition? The Leader of the Opposition interjects and says that I am a proud Victorian: he is right. I am a proud Victorian.

Honourable members interjecting.

Mr CAIN—This Government is a strong supporter of local industry. Let me just cite the Government's record of its support for local industries. The National Party has helped. The Liberal Party has done nothing. It would let it all go out the back door.

I hope honourable members opposite will join and support a campaign urging people to buy Australian-made goods at Christmas time.

Most Victorians will want to support a campaign that seeks to increase the sales of Victorian goods. The Government has no hesitation in saying that, and I believe it will enjoy widespread support across the State.

PETITIONS

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

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE ASSEMBLY OF THE STATE OF VICTORIA IN PARLIAMENT ASSEMBLED:

The petition of the undersigned citizens of the State of Victoria respectfully showeth:

— that the lives of the aged, the sick and disabled in Victoria are under attack from the euthanasia movement.

— that the terms of reference of the “Dying With Dignity” Inquiry are not based on the principle that the lives of the aged, the sick and disabled should be protected by law until ended by natural death.

Your petitioners therefore humbly pray that the Government of the State of Victoria will reject any recommendation to introduce euthanasia in any form through either legislation or regulation and will ensure that the lives of all human beings are protected by law.

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

By Mr Stockdale (509 signatures), Mr Culpin (499 signatures), Mr Tanner (1068 signatures), Mr Cunningham (154 signatures), Mr Shell (468 signatures), Mr Cooper (616 signatures), Mr Wilkes (263 signatures), Mr Mathews (562 signatures), Mr Dickinson (115 signatures) and Mr Coleman (520 signatures)

Kindergartens

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY ASSEMBLED:

The humble petition of the undersigned citizens of the State of Victoria sheweth:

We are concerned that any child who is assessed as not yet ready for school and is required to complete a second year of kindergarten will not automatically be funded but only be funded on a case by case basis.

Your petitioners therefore pray that the Legislative Assembly will support automatic funding for any child requiring a second year at kindergarten.

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

By Mr Williams (58 signatures)

School Medical Service

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY ASSEMBLED:

The humble petition of the undersigned citizens of the State of Victoria sheweth:

We are concerned that the invaluable service of an annual medical examination provided by the School Medical Service to all four-year old children attending kindergarten will be discontinued or downgraded.

Your petitioners therefore pray that the Legislative Assembly will stop any move to discontinue or downgrade this service to our children.

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

By Mr Williams (83 signatures)

Brothels

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY ASSEMBLED:

This humble petition of the undersigned citizens of the Latrobe Valley and district sheweth that we are totally opposed to any action which will enable brothels to be established within any municipality in the Latrobe Valley area of Victoria and in particular we are opposed to any action which would prevent the City of Moe, the Shire of Morwell, the City of Traralgon and the Shire of Traralgon each following its clear intention after widespread public debate to refuse to allow brothels as a permitted use in the various planning schemes, and your petitioners, as in duty bound, will ever pray.

By Mr Delzoppo (229 signatures)

It was ordered that the petitions be laid on the table.
LEGAL AND CONSTITUTIONAL COMMITTEE
Interpretation of Legislation Act 1984

Mr Jasper (Murray Valley) presented a report from the Legal and Constitutional Committee on a review of the operation of section 32 of the Interpretation of Legislation Act 1984, together with appendices.

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

SOCIAL DEVELOPMENT COMMITTEE
Alternative medicine and health food industry

Mrs Hirsh (Wantirna) presented a report from the Social Development Committee on the alternative medicine and health food industry, together with appendices and minutes of evidence.

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

MORTUARY INDUSTRY AND CEMETERIES ADMINISTRATION COMMITTEE
Mausoleums

Mr Kirkwood (Preston) presented the sixth report for the Mortuary Industry and Cemeteries Administration Committee on Mausoleums, together with appendices and minutes of evidence.

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

PRIVILEGES COMMITTEE
Complaint: by honourable member for Monbulk

Dr Vaughan (Clayton) presented a report from the Privileges Committee following a complaint from the honourable member for Monbulk, together with appendices, minutes of evidence and exhibits.

Dr Vaughan (Clayton)—I move:
That they be laid on the table, and that the report and appendices be printed.

Mr Maclellan (Berwick)—Mr Speaker, on a point of order, I believe the House needs your advice and your ruling on the question of the availability of the report and of the privilege of the report.

Mr Speaker—Order! I am advised that the report is available in the Papers Room and that the report itself is a privilege document presented to the House.

The motion was agreed to.

On the motion of Mr Fordham (Minister for Industry, Technology and Resources), it was ordered that the report be taken into consideration at 2 p.m. this day.
PAPERS

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

Parliamentary Committees Act 1968—Response from the Minister for Water Resources on the action proposed to be taken with respect to the recommendations made by the Natural Resources and Environment Committee’s Report on the use of UPVC Pressure Pipes for Water Supply Purposes in Victoria.

Statutory Rules under the Public Service Act 1974—No. 306.

Town and Country Planning Act 1961:


APPROPRIATION MESSAGE

The SPEAKER announced the presentation of a message from His Excellency the Governor recommending that an appropriation be made from the Consolidated Fund for the purposes of the Police Regulation (Protective Services) Bill.

GRIEVANCES

Mr SPEAKER—Order! The question is:

That grievances be noted.

Mr HEFFERNAN (Ivanhoe)—I bring before the House some matters that I believe the Government has failed to answer to questions I have asked over the past four years about the Victoria project. I first bring to the attention of the House that the State Government has used its media unit to exploit every political advantage without showing any results to the taxpayers and the State of Victoria.

One by one projects have been announced with releases from the media unit to impress the people of Victoria and yet the Government has failed at all times to deliver the goods.

One has only to look at some of the projects that are faltering in the wake of the Government’s inability to carry out the proper management and planning processes.

Over the next twelve months I shall bring to the attention of honourable members matters relating to the Trade Convention Centre, which I believe is falling into ruin, and major problems regarding the car parking facilities at the National Tennis Stadium. Today I highlight the problems associated with the Victoria project which the Government used as a ploy prior to the last election to gain the necessary support of the community about where the State is going.

At this point the Victoria project has ceased operations other than small ear works that are being carried out on the site.

There is now a third design for that area after two submissions made to the Government by Kumagai Gumi Company, both of which were unacceptable on the ground that the facts about the viability of the project—which I highlighted when it was first announced—are now coming to light.

Over the next twelve months we will see that the matters that the Government is proceeding with are totally wrong and the Opposition will be proved right.

With regard to the Victoria project site, one of the major issues to which I directed the attention of the House was the arrangements that the Government had made with the real estate company, Richard Ellis Pty Ltd. The Government, at all times, has failed to supply me with satisfactory answers to the questions I have asked.

The Government in its handling of the sale of the site has taken a totally amateurish approach to the problems that exist when one is dealing with large commercial retail
enterprises. It has disadvantaged the taxpayers of Victoria by paying out funds to Richard Ellis Pty Ltd.

The Minister today in his rhetoric and rage was attacking the Opposition side of the House on its handling of certain aspects of industrial relations. It was he who was in charge of the Victoria project and who arranged the commercial handout to Richard Ellis Pty Ltd for the selling of the property.

On 20 November I asked the Minister for Transport a question without notice with reference to the Victoria project. I asked the Minister whether it was right that the Government had paid $1.97 million to Richard Ellis Pty Ltd, real estate agents, for work involved in selling property that should have attracted a fee of less than $500,000. In answer, the Minister said that on the previous Tuesday a commercial arrangement had been made.

What sort of commercial arrangement did the Minister make with Richard Ellis Pty Ltd for conducting the sale of the land? Was it a handshake; was it a nod over a table; were there documents involved? I have been pursuing those documents. Why has the Minister not supplied them to the House to show that the commercial arrangements he entered into were completely within the law?

Is the Minister now suddenly finding out that there are no documents on the action he took on this project and there are no legal rights at all? The Opposition has asked for the documents on the commercial arrangements to be tabled in the House.

The Minister said the arrangement was originally entered into under the auspices of the former Melbourne Underground Rail Loop Authority. I see there has been a transfer of responsibility from the present Minister to the former Minister of Transport, now the Minister for Labour. I am not surprised that that Minister put us in the disadvantageous position we now face because of these arrangements.

I refer the House to the arrangements the present Minister referred to in response to a further question without notice that I asked on 21 November. He went through the series of events surrounding the payment of the $1.97 million.

The Minister pointed out that the agreement provided for, in the settlement of the land, an incentive fee of 0.5 per cent. I shall deal with that fee. Here we have a Minister who is in charge of a prime commercial redevelopment in the heart of the city. The land was such a good investment and there was such tremendous interest in it that five tenders were received from big developers.

Mr Coleman—It sold itself!

Mr HEFFERNAN—Yes. These big developers wanted to undertake the major reconstruction of the area but the Minister entered into an arrangement in which he said to Richard Ellis Pty Ltd, "I will give you 0.5 per cent of the total cost of the whole project as an incentive payment to sell the land." Nobody in the private sector would fall for this. It is the most stupid act that I have heard of!

Never in the history of any Government has a Minister of the Crown admitted to offering an incentive payment to a company to sell a piece of land on behalf of the State. One must question the logic behind that decision. The Minister then said that he would pay the estate agents a minimum sum of $500,000 commission on the sale of the land.

Not only has the Government offered an incentive to sell prime commercial development land within the City of Melbourne but it has also offered a commission fee of $500,000.

Mr Gude—$500,000!

Mr HEFFERNAN—Yes, a minimum fee of $500,000 on the sale of the land. Last week during question time I asked the Premier whether he fully supported the action taken by the Minister in his handling of the sale of the Victoria project. I also asked the Premier whether he was certain that no impropriety was involved in the sale of that land.
The Premier assured me that he was quite happy with the handling of the project. I take it from his answer that he is still refusing to grant me access to the relevant documents that I asked him to table in the Library. The Opposition wants to examine these documents, but the Government is again moving away from its responsibilities.

I asked the Minister for Transport a further question about Mr Nesteroff's suggestion that the Government should pay out $1.5 million to cover the many problems that were starting to emerge in this project. A letter of 5 August from Mr Kevin Shea, Managing Director of the Metropolitan Transit Authority, in reply to a letter from the solicitors acting on behalf of Richard Ellis Pty Ltd, stated:

I now advise that neither the Metropolitan Transit Authority nor the Ministry of Transport would have been prepared to adopt Mr Nesteroff's suggestion. Accordingly I give you notice that the sum of $1.5 million will not be paid to your company.

That letter totally refuted any Government liability for that offer. Mr Shea was saying at that stage there was no way the Richard Ellis company was entitled to even $1.5 million.

I now turn to a letter of 19 September 1986, approximately one and a half months later, addressed to Mr Ingersoll from solicitors acting on behalf of Richard Ellis Pty Ltd in which they demand a fee to be paid for the sale of the land. That letter stated:

A fee equal to 0.5 per cent of the total development costs of the project—

That is what the Government was expected to pay. Another important aspect of the letter is this statement:

. . . less our client's consultancy fees already paid of $142 000.00

That is an admission from the solicitors that Richard Ellis Pty Ltd was paid the consultancy fee of $142 000 but it was still awaiting the 0.5 per cent incentive payment on the land. The letter further stated:

At the outset, we wish to point out that our client has no desire to be involved in any publicity regarding the failure to pay its fee. In the event that our client is forced to issue proceedings to recover its fee, there is a high probability that publicity will follow.

A legal firm, acting on behalf of Richard Ellis Pty Ltd, has threatened the Victorian Government with action over not paying the fee. Why did the Government not challenge the idea that the matter ought to be settled and kept quiet? Why did the Government run away from its responsibilities after receiving a letter threatening to go public on this matter?

Following this letter and the statement from Mr Shea that under no circumstances would he pay $1.5 million, the Government immediately settled for $1.97 million. What is going on in the department that at one minute a total refusal is made and at the next minute the money is paid out? These questions have not been answered.

Under the Freedom of Information Act I have repeatedly applied for all of the documents that are relevant to the financial undertaking entered into and the settlement, and those requests have been refused.

I have received documents under a freedom of information request concerning the involvement of the Kumagai Gumi Company with Richard Ellis Pty Ltd and the Victorian Government, but all of the relevant items have been deleted. Nothing of any consequence concerning the financial aspects of the matter remains. Throughout the documents one continually finds deletions. Page 43 has been deleted—nothing on the page at all—total deletion! As one proceeds through the documents, one finds deletion after deletion. At the rear section, page 57 has been deleted; page 58 has been deleted; page 59 has been deleted—no information whatsoever—total deletion! I could go on and on.

So much for a document released under the Freedom of Information Act by a Government that preaches open government and the right of people to have access to documents. It totally removes all the necessary matters that I want to know about and still the Government has not answered the questions that I have raised in the House.
Mr Fordham—They have been properly answered.

Mr HEFFERNAN—No doubt the Deputy Premier will have an answer today.

The Estate Agents Act that was passed by this Parliament prescribes maximum rates of commission for the sale of real estate. Under that Act, the maximum commission for the sale of this land was just over $400 000; yet the Minister has gone completely outside the law in condoning a minimum of $500 000. From the very start he went outside the Act to get the project off the ground.

To what extent would he go? Under the Act and the rules made pursuant to it, the commission payable to Richard Ellis Pty Ltd was just in excess of $400 000, but the Government paid $1.97 million. I can assure the Deputy Premier that any real estate agent in Victoria would have jumped at the opportunity of selling this piece of prime real estate.

Furthermore, the payment of commission in excess of the scale is an offence under section 94 of the Act, which provides heavy fines or gaol terms for persons found guilty of an offence under the Act. What will the Minister say now? The Minister, supported by the former Minister, supported in the House by the Premier, reached an agreement to pay in excess of what the law allows.

Has the Government a double standard? I remind honourable members of what happened to a former Governor of this State who was sacked for accepting a free plane ride. One must ask how this Minister will go when the Government pays to a real estate agent commission that is over and above the rate set down by the Act. Why has the money been lost to the Victorian taxpayer? It is a typical action of a Government that has abandoned its responsibility for looking after the taxpayers' money.

I also point out to the Deputy Premier that certain areas of this matter come within the Crimes Act. I ask the Deputy Premier to ask the Attorney-General to examine the whole matter of the Victoria project and the settlement to Richard Ellis Pty Ltd.

I have asked and asked for the answers to these questions and have continually been fobbed off; no reply has been given. It is now up to the Government to tell the taxpayers of Victoria of the undertaking that was entered into with Richard Ellis Pty Ltd in regard to the Victoria project and the reasons for excess commission being paid and why the Government entered into an arrangement that was outside the law.

The Attorney-General should be asked to take immediate action and insist that all documents concerning the involvement of Richard Ellis Pty Ltd and the Kumagai Gumi Company in the Victorian project be filed so that the people of this State can be assured that no illegal act has been undertaken with the selling of this land.

At the time of the sale of this land the Minister said it had been sold at an inflated price. I have found out since then that the market value of the land was $20 million. That shows that it was no great achievement of the company, Richard Ellis Pty Ltd, in selling that land.

The Minister cannot walk away from his responsibility by transferring it on to his staff. He is the one who made the arrangements and encouraged and supported the project from the start.

I ask the Minister what recommendation is on the file from the Metropolitan Transit Authority's legal department relating to this payment. Did that department support the Minister at the time?

Why did not the Minister, on the very first day that I asked a question about this matter, immediately come to the Opposition with documents that would show the Opposition was wrong? Not one word have I heard from the Government on that. The Government is obliged to retrieve the money that has been paid in excess of the normal commission and the Government must also request a full investigation on all documents relative to the selling of the Victoria project by Richard Ellis Pty Ltd to the Kumagai Gumi Company.
Victoria can no longer afford the inefficiencies of the Minister for Transport who handles the portfolio that includes this major development.

I ask that the Minister for Industry, Technology and Resources give me an answer to the questions I have asked and to make all files available to the House for inspection.

Mr JASPER (Murray Valley)—Industrial relations in Victoria are at a disastrously low level.

Mr Micallef interjected.

Mr JASPER—People like the honourable member for Springvale have contributed to that disastrous situation because they believe they have an understanding of industrial relations, whereas, in fact, they have none. What is even worse, they have little interest in what will happen to the future of Victoria. That may not be true of all Government members but it certainly applies to the honourable member for Springvale.

The Government has boasted that excellent industrial relations exist within the State. The Labor Party came to power on the basis that it was the only party that could handle industrial relations and that it would be able to reduce industrial disputation in the State. Many Government members have been born and bred in the union movement. They have supposedly served their apprenticeships in the unions and think they know what makes unions tick. If that were so, we should have expected an improvement in industrial relations and the loss of days through disputation since the Labor Party came to power.

Some of the leaders today are conspiring to cause industrial disputation and a situation is developing of a reversal of the onus of proof. Labor members of Parliament are actively working to see that industrial disputation continues at a high level and it is a disgrace that some people behind the Victorian Government genuinely want to see continual industrial disputation.

The Minister for Industry, Technology and Resources, I believe, genuinely wants to see Victoria developing, industry progressing and profitable, and I use the word deliberately because some of these members of the Government benches do not want to see industry profitable in Victoria.

If business, industry and private enterprise are not profitable, they will cease to exist. There will be no room for them to employ people and so there will be more unemployment. Employers will not be prepared to stay in business because of the industrial disputation and the attacks made on them by militant unions who attack the very basis of the private enterprise system, which operates and has operated so well in Victoria in past years.

It is interesting to examine some honourable members in the Victorian Parliament, who are supposedly on the same side and who supposedly want the Government to stay in office. Some of these Government members are trying to drag down their Government. In fact, one wonders whether they really do want the Government to remain in office. Some Government members are directly involved in the industrial disputation that is taking place; others are working more obliquely and indirectly behind the scenes, stirring and trying to create these problems.

If one examines the report of the Department of Labour tabled in Parliament on 11 November 1986, one sees a change in the frequency of industrial disputes occurring in Victoria. A disastrous situation is facing the State and it has been complicated directly by actions recently taken by more militant unions. I quote from the Melbourne Sun of 12 November 1986. The article is headed, “Strikes Rise 75 per cent”. The article states:

Industrial disputes rose about 75 per cent in the year to March, according to a Labour Department report tabled in State Parliament yesterday. It says 356 200 working days were lost in Victoria from March 1985 to March 1986. In the previous year 200 000 working days were lost.

This is an enormous increase, almost a 100 per cent increase, in days lost from March 1985 to March 1986 compared with March 1984 to March 1985.
That is the situation in Victoria brought about by a Government that said it understood the union movement and would work with unions, management and employers to see that no industrial disputation occurred.

I suggest to the House that in the past few months an enormous escalation has occurred in the problems facing Victoria's industrial relations. Why is there a change? Why do we see an increase in industrial disputation? Has the Government lost its nerve or is it being manipulated by people within and without the party? People in the Australian Labor Party are not interested in seeing Victoria develop.

In October of this year the pastrycooks went out on strike. Members of the AMWU went out on strike and the good old Aussie meat pie was in short supply.

On 14 October 1986 V/Line signalmen went out on strike, At that time it was for a short time—only 6 hours. The workers at the Williamstown naval dockyards threatened the contract to build a frigate for the Navy when they went out on strike because of work practices.

On 22 October members of the Amalgamated Metal Workers Union at the General Motors-Holden's Ltd plant went on strike over their campaign for the 3 per cent superannuation benefit. Victoria also faced a threat from power engineers in the Latrobe Valley.

On 12 November 1986 bans of the Transport Workers Union affected the Arnott Brockhoff/Guest biscuit plant when workers went on strike in support of the 3 per cent superannuation benefit. In November technical and further education teachers went on strike. They are not renowned for maintaining their position. If they believe a change has taken place that will affect their work practices, they go on strike whenever they believe they need to make a point. The TAFE teachers went out on strike for one day over the plans to restructure their work practices. The National Party was pleased that the Minister for Education defended the Government's action with the restructuring of work practices. However, the honourable member for Springvale and others were extremely quiet. They did not want to hear the sorts of comments the Minister was making.

The Minister defended the Government's stand and said work practices would have to be changed and that they were unacceptable in the current work situation. Some members of the Labor Party were very quiet because they did not like to see the Minister attacking their own people. The Minister was realistic enough to understand that work practices need to be altered. Changes must be made since we no longer live in the good old days of 25 or 30 years ago. Because of the changes that have taken place in the workplace we need to review work practices to increase productivity for the benefit of everyone.

I turn now to the major industrial disputes that are still taking place. On 20 November the liquor trades union at Carlton and United Breweries Ltd went on strike. That strike is now in its eighteenth day. One needs only to examine the headlines in the newspapers to understand what is going on. One page of the newspaper contains such items as ambulance men going on strike, a meals-on-wheels dispute, Victorian customs officers taking industrial action and so on. In the corner of the page under the headline “Biscuit Truce” the article states that the dispute had been arbitrated and 1000 workers had decided to go back to work and lift the bans.

The main article on the page concerns the strike at Carlton and United Breweries Ltd. At that time the article stated that there was plenty of beer. However, that was at the beginning of the strike in November. The strike has continued and the unions are not prepared to accept the umpire's decision and be realistic. The strike is taking place at a critical time of the year in the run-up to the Christmas–New Year week.
This morning in question time the Premier spoke down to honourable members and said that we need to go into this period of Christmas cheer by buying Australian. There is not much cheer so far as Carlton and United Breweries Ltd is concerned.

I shall examine the working conditions of striking employees at the brewery. The workers are amongst some of the best paid in the State. They are an indulged and greedy work force. In a climate of need for changes in work practices, what do those workers receive? The striking workers in the liquor trades union have a 35-hour week, a nine-day fortnight and a 50 per cent holiday loading on their four weeks' annual leave.

The Government should review the 17.5 per cent loading received at present by most workers. The Carlton and United Breweries Ltd workers have their overtime paid at double time; they receive generous superannuation benefits; and one week's bonus pay at the end of the year. Now they want two weeks' bonus!

We should consider what is reasonable and acceptable for the State. If business and management are pressured with these sorts of claims, business will go bankrupt. Since the Labor Party came to power Victoria has experienced its worst industrial disputation, yet the Government is doing little about the problem. Why is the Premier or another representative of the Government not prepared to tell the unions that they are applying too much pressure? Why does the Premier not explain to them that employers cannot maintain the benefits that have been gained by workers over a long time but are not relevant to today's situation?

There are fourteen unions at Carlton and United Breweries Ltd but the one causing the present problems is the liquor trades union. The New South Wales brewery industry has only one union and so should Victoria. The Federal Government, which is losing almost $1 million a day in excise duty while the strike is on, should also be concerned about the loss of production.

Mr Speaker, if you were Managing Director of Carlton and United Breweries Ltd you would probably be considering whether it was worthwhile maintaining a plant in Victoria. The situation could become so critical that if one owned breweries in other States, one would possibly consider closing down one's Victorian plant.

Mr Micallef—They could go to Queensland.

Mr JASPER—Yes, if Carlton and United Breweries Ltd went to Queensland it would not face the problems it is facing in Victoria. Production has been stopped for three weeks. What will Elders IXL Ltd do with Carlton and United Breweries Ltd?

Another major dispute in Victoria is the nurses' dispute. An article by Peter Stephens in today's Age headed, "Parties to nurses' dispute have left no room to move", states:

With a $42 million pay agreement on the table, a Government publicly committed to accepting any arbitrated outcome and a group of workers as caring as nurses, why has the strike in Victorian hospitals lasted five weeks?

The simple answer is that the negotiations have gone just about as badly as negotiations can. There is hostility and distrust on each side. The Royal Australian Nursing Federation has made plain its dislike of the Minister for Health, Mr White, and has lampooned the Industrial Relations Commission as a "kangaroo court".

The Government is obviously suspicious of a union which repudiates an agreement it made only a few months earlier, which lodges a claim on Monday and withdraws it on Friday, and which has links with extreme elements in the labor movement.

These factors provide just about the worst possible climate for the resolution of an industrial dispute.

Increasingly, it has seemed that for some ideological reason, the main issue concerning the RANF is to humble the Cain Government, and specifically Mr White, with the success of the claims a secondary concern.

I do not believe the Royal Australian Nursing Federation is concerned about the sick; it is concerned only about winning this dispute. Thousands of nurses would be extremely upset by the approach now adopted by the union. The union should go to arbitration and accept any decision but it is not prepared to do so.
Industrial disputation has increased enormously in the past few months and the situation is almost out of hand. The disputes are fueled by militants not only in the Australian Labor Party but also in the Government ranks.

I sympathise with the Minister. It is not necessary to name the people involved because they are known. Some members of Parliament are actively working behind the scenes to ensure the strikes continue.

Mr Micallef interjected.

The SPEAKER—Order! The honourable member for Springvale can rebut the arguments of the honourable member for Murray Valley, if he wishes to do so later.

Mr JASPER—Mr Speaker, the honourable member for Springvale would not be prepared to make a speech about what he thinks.

The SPEAKER—Order! The honourable member for Murray Valley will ignore the interjections of the honourable member for Springvale.

Mr JASPER—that is right, Mr Speaker, because the honourable member for Springvale is not worth taking notice of. I shall be pleased to ignore him.

The Government should take a new stand against these militants. It must ask itself what is best for Victoria. When the Labor Party came to office in 1982, it said that it was the only party that could handle industrial disputation in Victoria. The figures that I quoted earlier showed the increase in industrial disputation.

Mr Micallef—Rubbish!

Mr JASPER—It is not rubbish. The honourable member for Springvale should read the latest report of the Department of Labour, which was tabled in November 1986. It stated that there was a 75 per cent increase in the number of days lost in March 1986 compared to March 1985. The honourable member for Springvale would not understand that because he does not understand realism. He is interested only in stirring from behind the scenes. If Victoria is to move ahead, the industrial scene must be changed and the amount of disputation reduced.

Victorians are totally disillusioned and frightened by the direction in which this State is heading. They are concerned about the industrial disputes with the nurses and Carlton and United Breweries Ltd. The disputes are a result of the ineptitude of the Labor Government. The Government must make a positive statement that it will not accept militant unionism. There should be a balance. The Government, and not militant, left-wing unions, should be running the State.

The SPEAKER—Order! The honourable member’s time has expired.

Mr GUDE (Hawthorn)—I raise a matter for the attention of the Minister who is the representative in this place of the Attorney-General. The matter is of the gravest nature and clearly reflects Ministerial incompetence and sloppy administration at a Ministerial level. It is about the performance of a senior manager in the Victorian Prison Industries Commission, a man who should not have been employed by the then Minister for Community Welfare Services, the present honourable member for Greensborough, who employed this person.

The reason why he should never have been employed was that he had been involved in shonk business deals prior to this appointment. The then Minister should have known about them, found out about them, sorted them out and acted professionally. Since then this man has had judgments made against him for default of payment in business dealings. This has happened not once, not twice, not even three times, but on four separate occasions.

There were two in the Magistrates Court on 7 June 1985 for $3051 to the ANZ Bank and on 18 June 1985 for $1610 to Blake and Riggall; in the County Court on 13 March...
1985 for $44,137 to Avco Financial Services Ltd; and a local court judgment for $992 to G. J. Leaney.

This is a person who has been put in charge of running Victoria's prison industries. The man is Ted Buck, General Manager of the Victorian Prison Industries Commission. Why did not the former Minister for Community Welfare Services, the honourable member for Greensborough, know of his previous problems? Why has the Attorney-General been silent on the matter since then? As the Attorney-General, surely he should have known about it, given his interest in the law.

Prior to his employment, approximately two years ago in July 1984, Mr Buck had a problem with a previous employer, H. F. Yuncken Pty Ltd, builders. Mr Buck has, I believe, still got a Supreme Court action against him by Yuncken, C No. 5396. The matter is yet to be heard. The former Minister for Community Welfare Services appointed a man who faced a Supreme Court charge by a previous employer to the position of General Manager of the Victorian Prison Industries Commission.

If there is one position in this State that requires a person of totally unblemished character and impeccable reputation, surely it must be the position of General Manager of the Victorian Prison Industries Commission. I put it to the House that the person appointed was not such a man. His performance since then further supports the concern of the Opposition.

The Attorney-General should have known better. Perhaps he did not know better because of the load that has been placed on him or perhaps he did not know simply because of his sloppy administration.

I shall list Mr Buck's many and varied further questionable and probably illegal, certainly totally irresponsible and incompetent, actions since his appointment. It was openly suggested that if H. F. Yuncken Pty Ltd withdrew its writ, the company could win the contract for the Beechworth prison. The company won the contract and the writ has not been proceeded with.

What was the basis of the tender; was there a tender box; were all tenders opened at the same time; who opened the tenders; who approved the tenders? Was this another example of the Labor Party's buddy system in action?

It is common knowledge that Mr Bruce Siem, a former H. F. Yuncken Pty Ltd employee, was appointed by Mr Buck on a commission basis to be the clerk of works. Mr Siem is a partner in Bruce Siem and Partners, located at Suite 5, 20 Commercial Road. All the evidence we have points to a deal on the basis of kickbacks between Mr Siem and Mr Buck.

It has been put to the Opposition that the deal works like this: Bruce Siem agrees to purchase a shell company from Mr Buck for the money agreed—$75,000. The money is sent to Hong Kong by Mr Siem and deposited to Mr Buck's account at the National Australia Bank Ltd in Victoria Parade.

The Opposition believes Mr Siem kicks back 1 per cent to Mr Buck. That has been done subtly and with great care. If it has been done in the way in which the Opposition has been advised, it is criminal in character and is a matter of considerable concern. It should be of concern to the Attorney-General who has responsibility for prison industries.

There have been four successful court proceedings against Mr Buck for his continuing business practices. Mr Buck has been unsuccessful as the General Manager of the Victorian Prison Industries Commission, and was a failure in private business; at best, he is one who has defaulted in payment, which has resulted in four actions—three in 1985 and one in 1986. Most of those actions have occurred while the Attorney-General was responsible for the Victorian Prison Industries Commission.

Enter Mr Paul Bryers into this sordid affair, a Canadian con man, or is he an entrepreneur? He is the principal of a company called TransAction Australia Pty Ltd of Beaconsfield.
Parade, Albert Park. Mr Bryers is a consultant to Mr Buck. He recommends what projects should be undertaken by the Victorian Prison Industries Commission.

I shall refer to the case of the Ararat prison where Mr Bryers recommended that the Victorian Prison Industries Commission manufacture what he delightfully referred to as "import replacement furniture" which is really knock-down kits that one buys in a pack. They are sold through Coles Myer Ltd, K Mart Ltd and so on. How does it get there? Mr Bryers acts as the middle man.

Mr Buck appoints his friend, the friend recommends the product to be produced and he then acts as the middle man and sells the product to the major retail outlets. My advice is that he is already an extremely rich man. It is even suggested that he has done so well that he will be a millionaire within two years.

Mr Buck's role in this double-dipping deal of Mr Bryers should be closely investigated and should be stopped immediately. It is a disgrace, especially when one remembers that taxpayers' money is being used.

Mr Bryers has interesting friends. Enter Mr Leonard G. Williams of L. G. Williams Pty Ltd, a textile manufacturer. He has five companies, some in Queensland and some in Victoria, and one of those has contracted to purchase netball skirts produced at Fairlea Female Prison. Mr Williams had a fraud charge against him, but Mr Buck is obviously comfortable with that type of person. I am reminded of the saying that if one lies down with dogs, one gets up with fleas. However, that does not appear to worry Mr Buck.

The inevitable occurred; Williams conned Buck into pre-purchasing a large amount of material, with taxpayers' money, and a dispute has now arisen. Mr Williams owes the Victorian Prison Industries Commission approximately $200 000 for fabric and work and is being sued for non-payment, even though he had been given 120 days' credit.

Being a person with entrepreneurial spirit, Mr Williams has instigated a County Court action against the commission for poor quality and failure to meet agreed guidelines. Honourable members should remember that this is the man who conned the commission into pre-purchasing material worth $200 000.

If that is not enough, when Mr Buck started his employment, he negotiated to have his salary paid into his private company's account, thus avoiding tax. He had a rental car for seven days a week, which was paid for by the Government. This is the same Government that talks about tax avoidance. The Australian Labor Party appears to have a fetish in that regard, but it has enabled a public servant to become a tax avoider.

Mr Buck's entertainment bills are not ordinary—they have become a legend. He has an entertainment allowance and a wet cupboard. Additionally, the Royal Artillery Hotel in Elizabeth Street—when it can get beer—provides large amounts of liquor for the commission's entertainment that is paid for out of the general account. Mr Buck cannot be accused of not looking after his friends.

Mr Buck looks after the stores requisitions of his friends. I refer to requisition No. 1586, order No. 2015, which relates to Pocket Siem for services amounting to $20 350, dated 11 July 1985. I am told that that did not go to the State Tender Board for approval, yet everything over $7000 must go to the board for approval.

Where did it go if it did not go to the tender board: who approved it; who gave the authorisation; when was the money paid; what was the basis of the payment; what was the work for?

Those matters are but the tip of the iceberg. I could, for example, refer to the Ian Erskine axe handle industry rip-off or why it was that Dr Chris Fay, the Chairman of the Victorian Prison Industries Commission, was sacked by the Attorney-General three months ago. Is the Attorney-General already getting a sniff of what is going on and is he looking for a scapegoat? There will be a few more scapegoats before too long.
I have been advised by staff members that Mr Buck has very little contact with his staff; in fact the staff feels that he "hates" public servants.

The performance of the Victorian Prison Industries Commission has been exceedingly poor considering the extra staff and salaries that have been provided for administration staff. If time permits, I shall deal later with that matter.

The workers do not agree with Mr Buck receiving lunch money daily, free of tax, plus a wet cupboard. Prior to Mr Buck's arrival at the commission an application had to be made to the Government car pool to obtain the use of a motor vehicle. How many cars are there now? Not just one for Mr Buck but nearly a car for every person—there are ten cars out there now. They have their own little fleet! I wonder if they get a fleet owners' discount.

Since the Victorian Prison Industries Commission came into operation fewer prisoners have been employed, yet an enormous bureaucracy has developed. Look at the wonderful annual report for 1985—the 1986 report has still not been tabled, but that is consistent with the Government's performance. The 1985 annual report is the most lavish report I have ever seen presented to Parliament. Thousands of dollars of the taxpayers' money have been spent on it. Fewer prisoners have been employed but more taxpayers' money is being spent!

Some industries have been closed. The most startling was the butchery. It was planned to start a first-class butchery involving the William Angliss school to give training to prisoners so that they would have a trade and a good chance of obtaining employment on the termination of their sentences.

That opportunity has been lost to private enterprise, namely, a butcher at Broadford, Paul Flemming. The meat is now delivered to Pentridge ready for the pot. The prisoners no longer have to break down the beasts.

The interesting part of the deal is that the butcher, Paul Flemming, was loaned some $8000 for new equipment, which of course is contrary to Government policy. The Victorian Prison Industries Commission purchased the said equipment for Broadford. Was sales tax paid? Did the Government recoup the sales tax? What rebate has been made to the Government for the $8000? It is an area that is well worth looking into.

I could talk about other deficiencies, such as nails being sold off by the commission at below cost. That is not the normal way a commercial enterprise would act. A commercial enterprise would normally try to make a profit but not the Victorian Prison Industries Commission. It established itself in opposition to the private sector and then undercut it by selling nails at less than half price.

The Victorian Prison Industries Commission employs management staff with Labor Party tickets. Is it a preferred ticket? Is the ticket a prerequisite for employment by the commission, as it is increasingly becoming in many other Government agencies? Is it jobs for the boys? Look after the buddies! Is the ticket being presented?

General manager Buck withdrew $3000 against Mastercard on an advance account and then presented an L.2A form for payment with interest. He did not just want the cost of his Mastercard reimbursed, he also wanted the interest paid. There is no end to this man's bounteous imagination. It would appear it has been paid.

The tailoring industries that operate within the commission have run out of cloth for the first time in 27 years. The Victorian Prison Industries Commission is a ripper of a show!

The new horticulture manager's qualifications are not recognised by the Public Service Board. He is a basic wage clerk grade 3, but he receives a higher duties allowance to be the farm manager and his travel from Kilmore to Melbourne each day by car is paid for by the taxpayers. The rest of us have to get ourselves to and from work, but not this fellow. He is one of Mr Buck's buddies and he has been fixed up. How did he get the job? Was it because he too lived at Kilmore for a while? All honourable members would recall the
question that was asked of the Attorney-General, who did not answer it because it was too difficult.

In another place on 6 May the honourable member for Templestowe Province, Mr Miles, said:

I ask the Attorney-General whether it is normal practice for Government vehicles to be used as removalist vans after official working hours; if not, why was the official vehicle of the Victorian Prison Industries Commission used to move the goods and chattels of the Managing Director of the Victorian Prison Industries Commission, Mr E. Buck, from his domestic premises at Kilmore to his new property at Tooborac in December 1985? I ask the honourable gentleman: who met the cost of this junket and who authorized the use of the vehicle?

In his normal blustering way the Attorney-General shunned the question and did not answer it but the people of Victoria want to know the answer because it was their money that paid for that weekend junket. The Opposition demands to know the answer. The cover-up can no longer go on.

Officers from the Auditor-General’s office have been pressured and berated into trying to make the first balance sheet look good. Fewer prisoners are employed by the commission but it has had to employ more staff. The extra promotions have been very high indeed per ratio of staff. Prison numbers have dropped over the years but staff numbers have increased and salaries have increased tenfold. In 1960 the staff establishment was 250 and in 1986 it is 560. Is that an efficient use of taxpayers’ funds? It is not!

Mr Buck ought to be sacked for his activities and the activities of Bryers, Siem and Williams deserve the closest scrutiny of the Fraud Squad and Parliament.

The Premier should review the performance of the Attorney-General, who made this horrific mistake. He has allowed Buck to go on and on and waste more and more of the taxpayers’ money. The Minister had to know the man has been successfully proceeded against in the courts of the State. The Attorney-General has already sacked Dr Chris Fay. Who else will be sacked? The entire rotten nest needs to be cleaned out and the people of the State and the Opposition demand no less. If the matter is not cleared up, the Minister should go.

Mr SIDIROPOULOS (Richmond)—It is with considerable reluctance that I address the House today regarding the Australian Greek Media Co-operative Ltd and the constant attacks on it by the honourable member for Bennettswood. It is not my practice to respond to misrepresentations and exercises in political point scoring by members of the Opposition, especially the honourable member for Bennettswood, who appears to delight in supplying half the facts and expecting the House to take him seriously.

Mr Leigh—Mr Acting Speaker, I draw your attention to the state of the House. The quorum bells were rung.

Mr Shell—You are a creep! You empty the House and then you call a quorum.

The ACTING SPEAKER (Mr Kirkwood)—Order! The honourable member for Geelong should not use such terms.

A quorum was formed.

The ACTING SPEAKER (Mr Kirkwood)—Order! As the quorum bells were being rung, the honourable member for Geelong used an unparliamentary expression for which I seek an apology to the House and a withdrawal.

Mr SHELL (Geelong)—I apologise to the House and I withdraw the expression.

Mr SIDIROPOULOS (Richmond)—For the record, I should like to stress that the Australian Greek Media Co-operative Ltd was formed by members of the Greek-speaking community, who were active in, or supporters of, the Labor movement. Members of the Opposition should learn what is the difference between the Labor movement and the Labor Party. The reason we felt that a newspaper supporting the Labor movement was
necessary and would be successful in the Greek community was based on statistical evidence. It has been proven that some 85 per cent of people of Greek origin in the work force are unionists. It is also true that some 90 per cent of the Greek-speaking community support the Labor Party. This is something that the Opposition should bear in mind.

There was no newspaper in our community which provided basic information concerning issues such as occupational health and safety and others and it was our intention to focus on matters relevant to ordinary working-class Greek people.

Mr LEIGH (Malvern)—On the point of order, I believe the honourable member for Richmond is reading his speech. I ask that the document be made available to the House.

Honourable members interjecting.

The DEPUTY SPEAKER (Mr Fogarty)—Order! I know we have had two late nights, and that is making honourable members testy. In reply to the honourable member for Malvern, it is accepted that honourable members should not read their speeches. However, there has been great tolerance from the Chair in the past and that tolerance will continue so long as the honourable member for Richmond acknowledges that he is reading from copious notes.

Mr SIDIROPOULOS (Richmond)—Mr Deputy Speaker, thank you for your guidance. We first applied for funding in 1982 for the newspaper and our applications were made under the employment initiatives program and, after, under the community employment program. We submitted applications in the appropriate manner and on two occasions we were not successful but, finally, the funding was approved under the community employment program without in any way using political influence. If anything, we have had more political influence used against us.

The same terms and conditions that apply to cooperatives in general were applied to the Australian Greek Media Co-operative Ltd. Again, the honourable member for Bennettwood chose to ignore other cooperatives. He should study the files relating to all cooperatives, including those funded by the previous Liberal Governments. He would see that the Australian Greek Media Co-operative Ltd was treated in the same way as other cooperatives.

The Opposition said that the Minister for Labour gave us special treatment regarding responsibilities of directors. Responsibilities of directors are quite clearly spelt out in legislation and the Australian Greek Media Co-operative Ltd complied with that legislation; otherwise, we would never have been registered as a cooperative. I advise the Opposition to check its facts before making allegations.

The newspaper was established as an employment project, not to make profit. Employment programs are about training unemployed people and it is interesting that at any time the Opposition has raised this matter, it has never talked about the real reason we were given money by the Department of Labour. We were given the money to give unemployed people the opportunity to gain valuable work experience and training. Ten people have been trained during the project and it is the assessment of the project officers of the Department of Labour that in this regard the project was one of the most successful programs.

It is unfortunate that we devoted so much time and energy to training and we did not make better capitalists. I make no apology for not being a good capitalist, but I object to the Opposition saying that I am ignorant, rather than looking at the real reasons why funding was given and why the project fell into difficulties.

We were able to get unemployed people, many of whom had basically no idea of the equipment that they were being trained to use, and we successfully produced more than 30 issues of a very good standard of newspaper. If we had looked more at the commercial aspects of the project, we would not have had to close down the paper. We admit that this was a failing of the project and we should have concentrated more on this aspect.
Honourable members should be aware of the dirty tricks that our opponents have played on us. The honourable member for Bennettswood said that the newspaper failed because it was political rather than commercial. However, he did not say how our opponents went about destroying our advertising posters, how they telephoned advertisers claiming that they were giving money to communists, how they approached a newsgagent who could not read Greek to telephone us asking not to send any more communist newspapers, and so on. I can give many examples of that! The Opposition has attacked the newspaper, scaring away potential advertisers. If the newspaper failed, let others also look to themselves for part of the reasons for its failure.

The newspaper was not a success commercially. We did not set out to set up a commercial venture and, indeed, our constitution prohibited anyone making a profit from the cooperative's operation. Does the Liberal Party expect that every community employment program or similar project that receives Government funding should guarantee a profit before that funding is received? If they could guarantee a profit, they would not ask for help from the Government.

This is part of the Liberal Party strategy—if something cannot make a profit, it is no good. It is the basis of the Liberal Party philosophy regarding education, health, community services, law, transport and many other areas. Government is not about profit, but helping people. It is about helping the community.

Honourable members interjecting.

The DEPUTY SPEAKER (Mr Fogarty)—Order! I should like a little more shush on the Opposition benches, please.

Mr SIDIROPOULOS—It is a shame that the debate in this Chamber has been reduced to personal attacks rather than considered opinion. The Opposition believes any group that receives Government funding should guarantee that it will run at a profit and if it does not run at a profit, it should be liable for repayment of that funding. That is what the honourable member for Bennettswood is saying.

If that is the policy of the Opposition, it should say so openly and clearly and let the community decide whether a policy that tells people, “Forget about training and employment; forget about compassion. Just think of profit alone”, is fair and just.

It is interesting to note that one of the sources who provided information to the honourable member for Bennettswood is a former employee of the Australian Greek Media Co-operative Ltd, Mr Tasso Nerantzis. If Opposition members have any friends or contacts in the Greek community, I should like them to inquire about Mr Nerantzis before using him as their chief witness. I shall not give the Opposition a hint as to that gentleman's character, except to say that, if ever I needed any help, the last person on whom I would call for assistance would be Mr Nerantzis.

Some six months ago the Leader of the Opposition challenged my right to sit in this House, referring to my involvement in the Australian Greek Media Co-operative Ltd, being, as he thought, contrary to a section of the Constitution Act. As all honourable members know, the Leader of the Opposition was wrong again.

If the Liberal Party wishes to get rid of me, I point out that it is only too easy to do so. All that the Leader of the Opposition has to do is to ensure that the Act of Settlement 1700 be enforced in this State. If that Act were enforced, the Leader of the Opposition would see what would happen, and he seems to believe so strongly in the rule of law.

The consequences of the actions of Opposition members in seeking to have that Act enforced may send them even further into the gutter than they are already. I regret very much that the newspaper, New Directions, did not succeed. No guarantees were ever given that it would succeed. I am still convinced that such a newspaper is necessary in the Greek community.
Any fool can accept $166 000 and make a newspaper succeed. However, when restrictions are placed upon the types of people to be employed, difficulties are faced. I have not bothered to answer the comments of Opposition members in the past because all they have done is to repeat their limited and misinformed views.

The Australian Greek Media Co-operative Ltd has complied with all the requests from officers of the Department of Labour and no-one, particularly the Opposition, can claim otherwise.

The Liberal Party Opposition is a disgrace to this House. The honourable member for Bennettswood particularly reflects the desperate nature of the Liberal Party, which has nothing to offer by way of policies to the people of Victoria; consequently, its members attack the Government administration in the hope that someone will take them seriously.

If Opposition members spent more time in the community rather than trying to satisfy their collective egos through freedom of information requests—and even there they have failed because they have provided nothing new—the situation might be different.

Mr Leigh—Mr Deputy Speaker, I direct your attention to the state of the House.

Mr Norris—A quorum is present—you should apologise to the House.

The DEPUTY SPEAKER (Mr Fogarty)—Order! It is considered disorderly to direct the attention of the Chair to the state of the House when a quorum is already present. I might allow a little latitude, as one honourable member might have walked into the Chamber while the numbers were being counted.

Mr Norris—Apologise!

Mr Leigh—No.

Mr SIDIROPOULOS—I wish the honourable member for Bennettswood every success in his attempts to become Deputy Leader of the Opposition—that is what he is all about. However, I am sure he will be in opposition for a very long time—unless, of course, he loses his seat at the next elections.

The DEPUTY SPEAKER—Order! Before calling the honourable member for Warrnambool, I point out that previously an incorrect call was made. Therefore, to keep the balance, I call the honourable member for Warrnambool to speak next, followed by the honourable member for Broadmeadows.

Mr J. F. McGrath (Warrnambool)—The issue I raise relates to the procedures adopted by the Public Works Department to handle public works tenders. I refer the House to the Hawkesdale High School project, for which a tender for $133 191 was finally granted to an itinerant operator who had not demonstrated any of the necessary expertise to ensure the completion of that significant project.

Through requests under the Freedom of Information Act I have been able to secure details of some of the transactions that took place in relation to that contract. It is high time that, through his department, the Minister for Public Works instigated the formulation of some stringent guidelines for public works tenders.

As one who has come from a small business background and who appreciates the difficulties of dealing in credit arrangements these days, I believe Governments of all political flavours ought to provide the lead to society by establishing guidelines for the letting of such tenders—particularly when an amount of $133 000 is involved.

The circumstances surrounding the granting of the contract were quite intriguing. I refer to a letter from a Mr Parry of the Public Works Department, which clearly demonstrates to me some of the inadequate and tardy procedures that the Public Works Department is currently using.
That letter shows that the contract was let to Mr Lemmio on 16 June 1986, when he was advised that he was the successful tenderer. On 11 July 1986 Mr Lemmio signed a contract for the Hawkesdale High School project. It is interesting to note that, although the contract was signed on 11 July, Mr Lemmio had already been given access to the site on 30 June.

The first question honourable members should ask and the Public Works Department administration should be asking is how a tenderer can be allowed onto a site to commence work before the contract is signed. In effect, Mr Lemmio—I shall deal later with his credentials—was allowed onto the site and given possession of the building eleven days before he signed the contract. In a letter dated 16 June from Mr Noonan, of the Public Works Department, it was requested that within fourteen days, by 30 June, Mr Lemmio lodge a deposit of $6,660 in the form of cash or bank cheque as his security on the $133,000 contract.

I have already indicated that Mr Lemmio had possession of the site on 30 June, although he did not sign the contract until 11 July, and he did not pay a deposit. How can the Public Works Department carry on business involving a contract of $133,000 without following what I consider from my small business background to be purely and simply straightforward business procedures? Firstly, the signing of the contract should have taken place at the appropriate time and, secondly, the required deposit, as laid down by the guidelines should have been paid.

There should also be details and reports of investigations into the contractor's previous work experience and financial integrity, and the contractor's residential address or original tender. They may not sound like important words, but when one reflects on the information I have been able to gather about the contract, one realises they are vital words. In talking about the contractor's previous work experience or work performance, it is interesting to learn that he has absolutely no experience or expertise in building. He is not a qualified painter, but a person who has painted the odd building at the odd time. His financial integrity is best demonstrated by a telephone call to Perth, Western Australia, where one is told that the list of creditors is long.

His residential address is also interesting. The first address given was the Criterion Hotel. The second address was the Hawkesdale Hotel. The third address was a post office box. Is that the sort of criterion required to allow someone to enter into a $133,000 contract? It is about time the Public Works Department introduced new guidelines.

Mr W. D. McGrath—What about the Minister?

Mr J. F. McGrath—The Minister for Public Works has already been advised of some of these anomalies.

I have before me a copy of a Public Works Department notice of tender for major works that has been filled out by the applicant. One notes the lack of detail on the notice, from which a tender was subsequently granted. It is an absolute disgrace that $133,000 of taxpayers' money is being given to someone who has merely filled out the details. In fact, I argue that he did not even fill out the details, but that he received assistance to fill in the form.

The person who handled much of this case is the resident inspector in the City of Warrnambool. Unfortunately, when the tender was let the Hawkesdale High School came under the zone of the Warrnambool office of the Public Works Department. Due to a rezoning in the department, by the time the work had commenced the school had been transferred to the Hamilton zone.

I put on record my extreme criticism of the inspector of public works at the Warrnambool office for the way in which he has handled the whole affair. Had he been more diligent and investigative, people would not have lost substantial sums of money in Warrnambool through the activities of that contractor, because Mr Lemmio would never have been granted the contract. I shall quote a letter dated 15 September from Mr R. Bishop, inspector in the Warrnambool office. He stated:
After the tenders had been called for the work earlier this year I received a phone call from Mr Anderson.

Mr Anderson is attached to the Public Works Department in Melbourne, and Mr Bishop received a telephone call asking him to check out the address of Mr Lemmio, given as 151 Kepler Street, Warrnambool. He was told that the gentleman, who had applied for a Public Works Department tender worth a significant sum of money, had given the address of 151 Kepler Street. After checking that address it was found to be the Criterion Hotel. Mr Bishop’s letter indicated that Mr Lemmio had stayed there six weeks previously and that he occasionally collected his mail from the hotel. Is it an efficient way to carry on a business by occasionally collecting mail and giving a hotel as a permanent address? The letter also states:

I called back with a note asking him to call and see me. A general discussion followed, covering what he had been doing in Western Australia, as he had just moved from there, that he decided to settle in Warrnambool...

I told him the Public Works Department would require some other address than a hotel, one such as a post office box.

Anyone who has had experience with credit knows that the one thing one does not do is to give credit to someone whose address is only a post office box. It is ridiculous to enter into a contract with someone with only a post office box as a place of location. Mr Bishop’s letter also states:

After Mr Lemmio left, I rang Mr Anderson with my impressions. Mr Lemmio’s answers I considered satisfactory at this stage as he had not been awarded the job and could not enter into any firm commitments.

What was the purpose of Mr Bishop’s interview of Mr Lemmio if it was not to ascertain the ability of Mr Lemmio to handle the contract? Why was he not able to make any commitments? He was there specifically about the contract worth $133,000. The letter also stated:

The man himself was most unimpressive, but when I asked Mr Anderson whether he should get the job he answered that I know of no reason why he should not get the job.

They had not even checked his previous work experience! Mr Lemmio had completed a small painting job on the Beach Forest community hall, but Mr Bishop did not bother to ring the shire engineer to ask what sort of work had been done by him. Is it any wonder that creditors in the City of Warrnambool are jumping up and down about the poor performance of the Public Works Department in relation not only to this contract but also contracts generally? It is now time to draw the line and to start to implement new procedures and new guidelines.

My experience of the whole sordid deal is that no consideration was given to Mr Lemmio’s ability to pay his accounts. Surely, the financial credibility of someone who enters into a $133,000 contract must be important! In this case, no consideration was given to his financial credibility. The scenario I have painted is sufficient for me to say that the tender should never have been let. I shall add a few more justifiable explanations why the Public Works Department should urgently review its guidelines.

The Public Works Department eventually “removed” Mr Lemmio from the site of the Hawkesdale High School. Mr Lemmio’s understanding of the job was nil. He had engaged local contractors and had not even met part of the progress payment, let alone the progress payment. However, more importantly, I refer honourable members to his first hotel address, his second hotel address and then a post office box. I ask honourable members to bear in mind that the nearest point for the supply of materials is Warrnambool, approximately 40 kilometres away.

Mr Lemmio has no vehicle, no driver’s licence and no equipment, yet, the Public Works Department has given him a contract worth $133,000. Is it any wonder that the Minister for Police and Emergency Services frowns and can understand the necessity for a review of the guidelines for the letting of contracts and tenders in the Public Works Department! Each of us is part of the overall taxpaying community in Victoria that provides a pool of funding for carrying out the important cyclic maintenance required in schools throughout
Victoria, both in the metropolitan area and in the country. Collectively each honourable member has a responsibility to ensure that is done correctly and that the money is spent wisely.

The Public Works Department has a lot to answer for. Its unwillingness to cooperate with me just prior to Mr Lemmio being removed from the site is a matter that should be recorded.

Mr Lemmio procured $16,500 worth of roofing off a local plumbing supplies business called McIlwraith Distributors (Vic.). The roofing was on the site and the work had just commenced when Mr Lemmio was removed from the site. Through the Minister, I was able to speak to senior officers in the Public Works Department and I asked them, because of the bungle that they had perpetrated through their lack of investigation, to make a special provision in the tender that the fixing of the roofing be let to McIlwraith's so that the company could get something back for its $16,500 investment. The company would not get back all the money it had lost, but at least it was an opportunity for it to recoup some money.

It is my belief that McIlwraith's, although reluctant, would have accepted that arrangement. The Public Works Department was totally unbending, unsympathetic and uncompromising and refused to allow McIlwraith's to get any return for its investment. The department impounded the material on the site although it was no use to McIlwraith's because it was specifically cut to the lengths required for Hawkesdale High School. McIlwraith's was not entitled to collect that material, nor was it given an opportunity to recoup any loss.

To add salt to the wound, the plumber who was finally given the contract to fix the roofing—bearing in mind that the Public Works Department had $16,500 worth of materials supplied by McIlwraith’s free of charge—was a delinquent plumber who owes McIlwraith's a substantial sum of money which it is having difficulty collecting. The Public Works Department was aware of those circumstances, but was unsympathetic and uncompromising.

I am sure that the Minister for Police and Emergency Services would agree that more flexibility is required. I have described an extraordinary chain of events and the scenario I have painted of Mr Lemmio and the disgraceful performance of the inspector in the Warrnambool office puts much pressure and responsibility on to the Public Works Department. The time is now ripe for it to address this urgent problem. The Hawkesdale High School is one of many schools throughout Victoria that have suffered similar fates through bad tendering arrangements by the Public Works Department. I do not necessarily believe it is always the fault of the Government. It is a problem that has developed over a period, but collectively as a Parliament, honourable members have the responsibility, on behalf of the school communities and the people of Victoria, to ensure that the debacle that existed at the Hawkesdale High School does not happen again. Consideration should be given to local tradespeople and material suppliers.

The documents that have been supplied to me on this issue clearly demonstrate that the Public Works Department was delinquent in its handling of this matter.

I reiterate in closing that for a person to be approved by the local inspector as a worthy recipient of a contract worth $133,000, when that person has moved from interstate, Western Australia, with no previous financial credibility, no proven work expertise, no vehicle, no driving licence, living in one hotel and then another and finally using a post office box, is a disgraceful situation. The inspector himself indicated he was most unimpressed by the person. It illustrates something is wrong with the system and the Minister for Public Works must address the issue urgently, otherwise many more people and communities throughout Victoria will suffer financial hardship through inadequate tendering arrangements.

Mr CULPIN (Broadmeadows)—I refer the House to a paper presented to me by Lynda Blundell, a community project worker with the Uniting Church. The paper refers to the
changing situation with families and of young women having children from various relationships.

In view of the time factor, I have shown the paper to Mr Speaker and I seek leave to have it incorporated in Hansard.

Leave was granted, and the paper was as follows:

The Changing Family
There is a change in the family structure occurring that, although large, is not as yet being assessed. It needs to be looked at, as we need to be prepared to address it at least at the local level.

Children are being born outside of marriage at an increasingly rapid rate. The matter of sexual morality is no longer the big taboo that it used to be; the commitment to marriage is now entirely reversible and no longer a 'we're together for life' 'do or die' situation. People believe that there is no longer a stigma to walking away from a marriage.

A series of relationships are now much more likely. A secure relationship is now seen as being of two to three years duration; at the end of this time one can move on to the next relationship. This throws up a whole area for revised rules as there are consequences for the children that are a result of this 'new morality'.

The children may have multiple name changes. What of the continuity of their health files for instance? What are their rights and their right to know who they really are? Did they start off under their Mother's maiden name? After two or three de-facto or even legal marriage changes, where is their identity? Who are they really? (Often these changes occur with no public record of the changes). They may be attending school, kinder, etc, with a half brother or sister and not know it. The possibility of them co-habiting with a relative is now more probable.

The rights of these children must be addressed. Soon the eldest of these children (from my personal experience) will be seven years old, we need to do something before the issue presents itself in some drastic way.

The young unmarried mum may live at 'home' with her baby or the young 'married' mum may return 'home' when a relationship or marriage breaks down. These mothers either stay home on their single supporting parents benefits, or work while the grand parents 'mind' the grandchild. Consequently the grandparents have a greater say in the rearing of the grandchild.

The natural father is often not visible because he and the mother have irreconcilable differences, or, as is often the case, he does not know that he has fathered the child. This may sometimes be quite deliberate on the part of the mother, they often do not wish to share the child with the father who is seen as 'an outsider', as opposed to the grandparents and her family.

Men are less inclined to marry while they are young, leaving the young women without this traditional way of meeting their motherly instincts. The young women (aged between 16 and 21) often have the children anyway, either on a very casual sexual basis or as part of a two or three year sexual relationship.

There needs to be an adequate support system for these children, accurate health histories kept, methods of tracing the children through their name changes (or not allowing name changes at all). Welfare methods need to be devised to monitor their progress and education systems geared to adjust to these changes in society.

Let's address it now.

Lynda Blundell
Community Project Worker

Mr CULPIN—Lynda Blundell was the first woman councillor elected in the City of Broadmeadows. She is still a councillor at that city and a justice of the peace. Only last week the Governor's wife, Jean McCaughey, launched consumer link-up in Essendon in which Lynda Blundell is also vitally involved.

Honourable members will have the opportunity to take note of the paper at a later date, because it raises serious issues and I hope all honourable members do study the paper carefully. I intend to elaborate of the paper at a later date.

The SPEAKER—Order! I remind honourable members that the ceremony of lighting the candle for Amnesty International Button Day Appeal will be conducted in Queen's Hall at 1 o'clock.

The question was agreed to.

The sitting was suspended at 1 p.m. until 2.4 p.m.
PRIVILEGES COMMITTEE

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:

That the House take note of the Privileges Committee report.

The motion before the House is somewhat unusual. I hope the House will take great care in the debate that will ensue over the next 2 hours.

It is unusual for a debate of this sort to be undertaken following a report of the Privileges Committee and, frankly, it is against my advice that this debate is proceeding but the Opposition wanted an opportunity to comment on the report of the Privileges Committee.

The overwhelming tradition of this House and of the House of Commons—the Chamber from which most of our practices are inherited—has been for due process to take place and when a report of the Privileges Committee has been brought down with a decision of the sort embodied in this document, the matter has not been the subject of debate.

However, if the Privileges Committee had found against the honourable member concerned, there would quite properly have been debate. I reiterate that it was my view that the preferable course of action in the interests, firstly, of the honourable member and, secondly, of the Assembly and Parliament itself, would be for that tradition to have been followed and honoured today.

However, that is not to be the situation. I use this opportunity strongly to recommend to honourable members that they take into account the prerogatives, privileges and history of this Assembly and ensure that its interests, not just for today but for the future, are paramount in any comments that they wish to make.

I reiterate that due process has been followed. An allegation was made; and the allegation was responded to; findings have been made; and they now have been tabled in the House.

There was a further step in between, in that the Speaker found, following consideration on his part, that a prima facie case that was put quite properly—

Mr Lieberman—That is not right.

Mr FORDHAM—It could quite properly be referred to the Privileges Committee.

Mr LIEBERMAN (Benambra)—On a point of order, the Deputy Premier has just made an imputation that you, Mr Speaker, found a prima facie case against an honourable member of this House.

It is my suggestion that the record clearly reveals that your consideration of the complaint made by the honourable member for Monbulk and your reporting to this House did not put you in a position of declaring that a prima facie case had been found. Quite to the contrary, you, Sir, were meticulous in the words you used as reported in Hansard. I therefore ask that the Deputy Premier be directed to withdraw that remark because it is an imputation against the honourable member under Standing Order No. 108.

The SPEAKER—Order! I do not believe we are getting off to a good start if this has occurred in the first few minutes of the debate. I do not uphold the point of order. The Deputy Premier was choosing his words with care.

What I found was that the matter deserved a priority in the House and it was for the House to decide that the matter be dealt with in one way or the other. That is the way the matter was brought into the House. The honourable member for Benambra has asked for a withdrawal of what words?

Mr LIEBERMAN—The words “prima facie” said by the Deputy Premier, which is an imputation against the honourable member under Standing Order No. 108 and should be withdrawn. In view of what you, Mr Speaker, have said, I believe the Deputy Premier would want to do that and I invite him to do so.
Mr FORDHAM (Minister for Industry, Technology and Resources)—In brief response to the honourable member, the criteria on which the Speaker is to exercise his or her judgment are set out in May's Parliamentary Practice. It is therefore up to honourable members to make their own judgments as to what criteria were used in the initial assessment made by the Speaker of the allegation that was made.

The Privileges Committee, in broad terms, made three findings in its report. On page 14 it was argued that its principal finding is that the honourable member for Gippsland West has complied with the statutory requirements of the Members of Parliament (Register of Interests) Act 1978. We acknowledge that that is the finding and I am sure the honourable member for Gippsland West is more than a little relieved.

Honourable members interjecting.

The SPEAKER—Order! I advise the honourable member for Malvern to restrain himself or I shall name him. I shall not warn the honourable member again.

I ask the House to come to order. It will be difficult enough for me to ensure that all honourable members who wish to express a view will be able to do so, but I shall attempt to protect all their interests.

Mr FORDHAM—I finish the sentence by stating that the Privileges Committee has concurred with the honourable member's views on this matter.

The second finding of the committee involved the operation of the register of interests. I refer the House to page 15 of the report and to further recommendations which I am sure all honourable members and political parties will closely examine. An important recommendation by the committee is that steps should be taken to review the requirements of this provision so that honourable members know clearly the proper extent of their obligations.

The Privileges Committee found that there is a degree of ambiguity that requires further examination. I reiterate that I believe all honourable members and political parties would wish to further consider that matter and come to some conclusion.

The third finding on page 16 of the report involves aspects of the Motor Car Traders Act 1973. The committee found that there are some obvious shortcomings in that area and I am certain that matter was raised during its deliberations. It is referred to in some detail but there would have been more detailed discussion within the committee.

Obviously there is a shortcoming within the Motor Car Traders Act that requires further consideration. I will ensure that that matter is given speedy consideration by the Government.

The Privileges Committee appointed for this task has now undertaken its task. The committee has made its findings and the report is before the House.

I believe in the interests of this Chamber and the honourable members concerned, particularly the honourable member for Gippsland West, the matter should rest there.

Honourable members interjecting.

The SPEAKER—Order! I warn the honourable member for Brighton that I do not intend to put up with a lot of interjections during this debate. I warn him for the first and last time.

Mr KENNETT (Leader of the Opposition)—The principal finding of the report states:

Upon examination of the complaint referred to it by the House the Committee finds that the honourable member for Gippsland West (Mr A. J. Brown MP) has complied with the statutory requirements of the Members of Parliament (Register of Interests) Act 1978.

A further finding states:
In the debate in the House and in evidence before the Committee the honourable member for Monbulk made various other observations and remarks which the Committee finds are without relevance.

The honourable member for Gippsland West, Mr Alan Brown, has been unreservedly and unanimously exonerated from the complaints levelled against him by the honourable member for Monbulk. It is not for this House any longer to be concerned with the complaints and allegations made against the honourable member for Gippsland West but more so with the processes and the activities of the honourable member for Monbulk who brought these charges in the first place.

It is not the honourable member for Gippsland West who is on trial—it is the honourable member for Monbulk.

Honourable members interjecting.

The SPEAKER—Order! I should advise the Leader of the Opposition to watch his language during this debate. If he wishes to make accusations against any honourable member he should do so by way of substantive motion and not by imputation, as he is attempting to do.

Mr KENNETT—Mr Speaker, one must reflect on how this report came before Parliament. That is not a reflection on any honourable member but on the processes by which the House is now discussing the report.

I congratulate the Privileges Committee, particularly its chairman, the honourable member for Clayton, Dr Vaughan, for the work the committee has done throughout its deliberations. This has been a difficult time for all members of the committee. The report that has been handed down is, without doubt, a high point in the life of this Parliament. Much of the credit for the way in which these recommendations were arrived at belongs to the committee as a whole but particularly to its chairman, the honourable member for Clayton.

Honourable members must reflect on the role of Parliament in considering this report. Mr Speaker, you would be aware, as would all but one honourable member, that to raise a matter of privilege is very serious indeed. I do not know of anything more serious in the procedures or processes of Parliament.

I suppose members of the general public believe, for instance, the Premier and I are constantly at loggerheads, that we never speak socially and are in continual conflict. However, that is not the way either the Premier or I operate in terms of the running of Parliament. Obviously we have differences in term of policy, philosophy and a whole range of other matters——

Mr Ross-Edwards—Personalities!

Mr KENNETT—Yes, even personalities. From time to time the Premier and I seek and discuss matters of concern.

Mr Ross-Edwards—Have a few beers together!

Mr KENNETT—The Leader of the National Party might consider this matter to be of some mirth, but I am attempting to point out in a serious vein that one issue the Premier and I discussed, not so long ago, concerned the way in which this Parliament and honourable members behaved, and it is a lot better than that which occurs at the Federal level and that should be encouraged. We would hate to see this Parliament and its various constituent bodies fall into the trap that our Federal colleagues have experienced in recent times.

A high point of this Parliament was achieved yesterday through the cooperation of all parties on the Transport Accident Bill (No. 2). Another high point was reached today with the presentation of this report.

However, the lowest point in the ten years that I have been a member of Parliament occurred on 20 October this year when the honourable member for Gippsland West
received notice that a matter of privilege was intended to be raised against him on the following day by the honourable member for Monbulk.

Mr Speaker, you correctly contacted the honourable member and informed him that a privilege matter was to be raised the following day. The honourable member then contacted the honourable member for Monbulk and said, "I believe you are going to raise a matter of privilege", which was answered in the affirmative.

The honourable member for Gippsland West requested 24 hours to get together documentation to prove to the honourable member that the allegations he was making were baseless and scurrilous. The honourable member for Monbulk refused to give him 24 hours to obtain papers from various offices in an attempt to prove that the allegations were wrong. No effort was made by the honourable member for Monbulk to offer any common decency or fair play.

The honourable member for Gippsland West then contacted you, Mr Speaker, and you advised him to speak to the Deputy Premier. The Deputy Premier was contacted by the honourable member and was told that there was no basis for the allegations. The honourable member requested the Deputy Premier for 24 hours to substantially prove his case before the honourable member for Monbulk or the Government. The Deputy Premier said that he would contact the honourable member for Monbulk to see whether that could be arranged.

On Tuesday, 21 October, the Deputy Premier informed the honourable member for Gippsland West that he had been unsuccessful and that the proceedings would take place on that day.

I am concerned that the Deputy Premier, with his experience and knowledge of this Parliament, could not bring his influence to bear on one of the most junior backbenchers of the Labor Government to ensure that common decency prevailed.

For reasons of his own, or perhaps because of his pig-headed nature, the honourable member for Monbulk would not allow the honourable member for Gippsland West the opportunity of proving his innocence before the matter came on for debate.

The honourable member for Monbulk has, in my opinion, engaged in the most cowardly and sustained attack by one member of this Parliament on another. I invite honourable members to forget for a moment, if they can, the politics that might have been the obvious motivation of the honourable member; and I point out that none of us—in particular, the honourable member for Monbulk—is free of blemish. If a Privileges Committee were set up as a fishing expedition, I dare say there is not one of us who could not be embarrassed by something throughout our lives.

It is a tragedy for this House that a complaint has been referred to the Privileges Committee without the effort having been made to prove up or reject the allegations. It is in that area that the honourable member for Monbulk failed so desperately.

Throughout his life the honourable member for Gippsland West has been a creator; he is a doer; an activist. He started with nothing and has made himself an unqualified success. He has been an achiever. Unlike the honourable member for Monbulk, he has been an employer. By his very nature, the honourable member for Monbulk has been a destroyer of those who seek to achieve.

It is also tragic that the honourable member for Monbulk has displayed no care for the family of the honourable member for Gippsland West or for the responsibilities with which the people of the electorate of Gippsland West have charged the honourable member for Gippsland West. The honourable member for Monbulk simply went ahead with the motion. He should know that all of our families are under enough pressure as it is, without our becoming involved in a Privileges Committee that totally consumes the time and the activities of the individual appearing before it.
The honourable member for Monbulk must accept full responsibility not only for the pressure that he put on the honourable member for Gippsland West but also for deflecting him from his responsibilities as a member of Parliament. Even worse, in my opinion, he must accept responsibility for the pressure that he put on the family of the honourable member for Gippsland West. The honourable member for Monbulk will have to live with that.

The SPEAKER—Order! It is difficult for the Chair to decide what are the limits or the parameters of this debate. I ask the Leader of the Opposition to change the course of his attack on the honourable member for Monbulk, who has done no more and no less than any other honourable member could do in raising a matter of privilege with the Speaker.

Honourable members interjecting.

The SPEAKER—Order! To continuously impugn his motives in the course of this debate is, I think, taking the debate too far.

Mr KENNETT—I take on board what you have said, Mr Speaker, but it seems strange that one member can under Parliamentary privilege raise matters that lead to a complaint being referred to the Privileges Committee, together with all the publicity that surrounded those allegations in this place, but that when the committee brings down its report honourable members are not permitted to question either the motives of the honourable member who made the charge or to comment on the impact of those charges upon the victim and especially on the family of the victim. However, Mr Speaker, I shall not test your ruling.

We have had high points and low points in this Parliament. The low point has been the raising of this issue in the first place. There are no winners in real terms but, if one must name winners, I would say that the winners are the Parliamentary process, the Parliamentary system and the honourable member for Gippsland West.

The only loser has been the honourable member for Monbulk, Mr Pope. He has lost the respect of the majority of his own colleagues. I do not need to say that there are members on the Government benches who are horrified at the allegations and at the manner and the course of those allegations. The honourable member for Monbulk has certainly lost the respect of Parliament and his electorate. Whatever his motives were for the course of action that he took, he has done himself no credit.

In the years that I have known the honourable member for Gippsland West, not one member of this House has, either privately or publicly, called into question his integrity or his honesty. I should like to think that members in this place recognise that the activities of honourable members are open to perusal through the register of interests but that none of us should be subjected to such intense scrutiny as to matters that go beyond any application of commonsense.

The House does not need to recognise the work, the honesty or the integrity of the honourable member for Gippsland West. The committee has done that for us. We endorse its report. The question now is: what retribution and what suffering must the honourable member for Monbulk go through to in any way atone for the hardship that he has caused?

Mr I. W. SMITH—He will lose his seat.

Mr KENNETT—Time alone will provide the ultimate judgment of his peers, and that will be done at the next election. The honourable member for Monbulk owes the honourable member for Gippsland West an apology, at least. If he does not have the capacity to apologise, the judgment against him will be even stronger. Let this House today accept the findings of the committee and thank the committee, but let it wholeheartedly today, tomorrow and the next day condemn the actions of the honourable member for Monbulk.

Mr B. J. EVANS (Gippsland East)—In his opening remarks, the Deputy Premier seemed to be issuing a warning to the House with regard to the terms of the debate. He indicated his strong belief that, in accordance with precedent, the committee's report
should merely be tabled and should not be commented upon because it had totally exonerated the person who was accused before the Privileges Committee.

I point out that the inquiry was a first, possibly anywhere in the British Parliamentary system; because, in fact, the committee was not concerned with inquiring into a breach of privilege but with inquiring into a breach of the law. There is a very big distinction.

My interpretation is that a breach of privilege is an infringement of the Standing Orders of this Parliament. In the past the role of the Privileges Committee has been confined to the question of whether a member has breached the Standing Orders of the House, and that is an internal matter for this House to decide. In this case the committee was dealing with something new, something without precedent anywhere else that I am aware of; and nobody else seemed to be able to provide any guidance as to the course of action that should be adopted.

This unusual situation occurs because of an Act of Parliament that states that a breach of that Act is a contempt. It does not state that it is a breach of privilege; it is a contempt. I believe there is a distinction between the two.

It was argued that because the finding of a breach of that Act of Parliament was a contempt, only a Privileges Committee was in a position to find a member of Parliament guilty of contempt. That was one point of view.

However, I hold a different point of view. By introducing that provision into the Members of Parliament (Register of Interests) Act, we gave away our prerogative to try our fellows on questions of contempt and, in fact, handed it to a court.

I am sure, Mr Speaker, you will remember that on a previous occasion I raised with you in correspondence the question of whether Parliament is competent to deal with a breach of the law. I know of nothing else in any statute which states that Parliament can act as a court.

We have created a situation where a member of Parliament has fewer rights than any other person in the community. A common thief or a murderer has a right to have a charge read out to him; he has a right to appear in court and he has a right to defend himself with legal representation.

The honourable member for Gippsland West had none of those things. No charge was made. On the very last day of the inquiry he said that he still did not know what was the charge against him. He had no right to legal representation unless the committee chose to give him that right. He could have incurred considerable expense if he had retained legal advice to consider complex legal questions about the issues I have raised. I have no doubt that if legal advice had been brought into this inquiry, those questions would have been raised and argued backwards and forwards for a considerable time.

Frankly, I do not know to whom I can turn about this issue. I do not know whether there is any person who can make the decision of whether a Privileges Committee of this Parliament has a right to decide whether a person is guilty under statute law. It breaks away from the tradition of British justice that has been in place for so many years that the courts are separate from the legislature. This is the only case I know of that has a combination of the two.

These problems were foreshadowed by me in my opening remarks on the debate on this Act in 1978. My opening remarks are reported on page 7526 of Hansard of 8 December 1978:

It seems to me that this Bill is an act of self-immolation by members of this House. It simply leaves the lighting of the match to anyone who might seek to destroy an honourable member.

Those were prophetic words and I never believed I would live to see the day when that would happen.
This inquiry has troubled me greatly because of the doubts I have already expressed. I have no legal training. In fact, I have never been in a court in my life. It has weighed heavily on me to find myself sitting in judgment on a colleague on issues I believed were difficult legal questions and trying to establish facts on issues about which I am unfamiliar. I am not an accountant and I do not have the business background necessary to make judgments on the correctness or incorrectness of statements and claims that were made. This was a difficult task for every one of the members of that committee.

It is an absolute disgrace that a member of this House can be arraigned before a committee of this kind and be subjected to hour after hour of intense cross-examination about his personal affairs.

In Queen's Hall today a ceremony took place involving Amnesty International which deals with people who are gaoled for their political beliefs. It is not much further down the track from being gaoled for political beliefs to being found guilty and convicted because of political motives. An element of that is in this issue. I had to ask myself what were the motivations behind the charges being made.

The first question I asked was: are the allegations by the honourable member for Monbulk made in utmost good faith? The test I put to that was whether the honourable member for Monbulk would take the same steps to examine the affairs of one of his colleagues if he had any indication that that colleague may have infringed the register of interests provision. If the honourable member was not prepared to do that, I do not believe he would have been making these allegations in utmost good faith.

The next consideration was whether political motivation was behind this move. I suggest that there is every reason to believe that the action taken by the honourable member was taken for political motives. I pose that as a question: if that is the case, does the statute book contain legislation that can be used for political purposes? That is a step not too far removed from the banana republic status we have been hearing about in recent times where people are put in gaol for their political beliefs. It means we can use an Act of Parliament for political purposes.

I believe the transcript of the proceedings provides evidence of a strong political motivation in the actions that were taken in this case.

A third alternative to be considered is whether the allegations were made out of personal animosity. There is some substance to that argument that should be considered because it seems that this action was taken by the honourable member for Monbulk in an attempt to settle an old score for a political crony. If that were so, the role of the honourable member for Monbulk should be considered carefully.

An honourable member interjected.

Mr B. J. EVANS—Someone from the Government benches invites me to substantiate that. I shall not do that because I do not wish to involve people who are innocent parties to this whole sorry episode. However, I suggest to that honourable member that the minutes of evidence are available to him and, if he cares to read those minutes, he will see clearly what I mean.

Those are the major points that have exercised my mind for a considerable period on the hearing. I have had experience on three inquiries and have found that once one begins hearing the evidence, one mulls over what has been said and attempts to work out the motivations behind the allegations and to come to terms with what facts actually took place.

It is only fair that I should recount to the House my feelings in this regard. Faced with the problem of trying to understand the motivation of the honourable member for Monbulk in making these allegations, I examined his evidence to find out whether it would fit in with any of the three alternatives that I have canvassed.
He made it plain, in the course of his evidence, that his motivation for taking up the particular allegations was because of claims that the honourable member for Gippsland West, Mr Brown, was, in fact, Mr Wilkinson. He repeated that comment on a number of occasions. When I asked him from where this information was coming he said, as appears on page 22 of the evidence, "The allegation was made to him..." that is, Mr Dean of Wonthaggi—"...by Patsy Mullin on 17 April this year."

That date is quite significant because on a number of occasions the honourable member said that that was the incident that sparked his interest in this particular question.

I also asked the honourable member to provide me with a copy of the letter he wrote, under the Freedom of Information Act, to the information manager in the Ministry of Consumer Affairs. The honourable member did so and produced a letter dated 9 April; yet he had voluntarily put forward the proposition that 17 April was the date on which he received the information.

An Honourable Member—Under oath?

Mr B. J. EVANS—No, unfortunately it was not sworn. He volunteered the information; he said it was 17 April. The date of the copy of the letter forwarded to the Ministry of Consumer Affairs was 9 April.

Elsewhere in his evidence the honourable member for Monbulk said that Mr Brown was well aware that he was under investigation by Mr Pope in March of this year. Therefore, one wonders when these investigations really started.

I was not able to pursue these questions with Mr Pope because on the three occasions when I moved that he be brought back before the committee for further cross-examination, the motion was defeated. I was unable to get the honourable member for Monbulk, Mr Pope, back before the committee to question him on these aspects of his evidence.

Another question I raised during the course of the inquiry referred to the fact that, on the day that this reference was made to the Privileges Committee, one of the members of the committee was the honourable member for Morwell, Miss Callister, who is currently on extended leave of absence. I wondered whether Mr Pope was aware that he was referring this question to a committee of which his political party did not have control or whether he knew at the time that the reference was made that there was to be a change made to the membership of the committee.

If that was knowledge within Government ranks, then the House was misled by not being informed that the membership of the committee was to be changed the following day, the day after the reference to the committee. That change defeated the whole purpose of establishing a Privileges Committee at the beginning of a Parliament—to avoid the stigma that surrounds ad hoc committees being established to hear particular cases.

My colleague, the honourable member for Benalla, mentions kangaroo courts and I think everybody has heard references to this Privileges Committee as a kangaroo court. I must say that I did not like that one little bit. I did not like being not accused but being referred to as a member of a kangaroo court. That, in itself, might appear to be just an isolated incident and of no consequence until one looks back to the early part of the report. I point out that the reply from the Ministry of Consumer Affairs to the inquiry made under the Freedom of Information Act, which is a cardinal part of the case made out against the honourable member for Gippsland West, Mr Brown, was received and dated 1 May. The particular letter is noted as exhibit "K"—a letter to Mr N. Pope from the Assistant Information Manager, Ministry of Consumer Affairs, conveying the information that Mr Pope had requested.

This meant that Mr Pope, at that time, had the information he was seeking on which to base his claim.

I refer the House to page 1 of the report of the committee. It sets out an extract from the Votes and Proceedings of this House. It is the first page after the front page of the report,
for any honourable member who wants to be sure, but I remind the House that the information came back on 1 May 1986.

On Wednesday, 7 May 1986, the House agreed to a motion that the honourable member for Ringwood, Mrs Setches, be discharged from attendance on the committee and that the honourable member for Niddrie, Mr Simpson, be appointed to the committee in her stead. It was fully known, at that time, that moves were being made for a referral to the Privileges Committee of a complaint against the honourable member for Gippsland West, Mr Brown.

I pose the question: is there a conspiracy behind this? Is there a conspiracy to use the House for the purposes of the Labor Party, to denigrate a prominent member of the Opposition? Are we that far away from a banana republic? It would appear that we are not too far away!

The evidence that came before the committee ought to be referred to another committee, not the current Privileges Committee, to ascertain whether, first of all, the honourable member for Monbulk is guilty of a breach of the Members of Parliament (Register of Interests) Act which, if I may quote section 3 (1) (ii), states, "Members shall ensure that their conduct as members must not be such as to bring discredit upon the Parliament" and I believe the honourable member for Monbulk has, and the committee also ought to look at the question of——

The SPEAKER—Order! The honourable member cannot make that imputation in the course of the debate and I do not intend to allow it to form part of the record. I ask the honourable member to withdraw the imputation.

Mr B. J. EVANS—Mr Speaker, I was suggesting that a further committee be appointed to establish whether or not this is a fact. That question is germane to the subject matter before the House at present.

The SPEAKER—Order! I am not questioning that aspect whatever. I am asking the honourable member, in respect of his comment regarding the contempt of Parliament that he has alleged against the honourable member for Monbulk.

Mr B. J. EVANS—I will rephrase my comment; that I believe he has. I would prefer, of course, for a committee of the House to examine that question and establish it beyond all doubt because it is even more important that some authority—and I am not sure that a committee of this House is the appropriate body—ought to examine who really was behind it all.

It has been barked all around the traps from the Government benches as to who was the real person responsible. We have all heard reference to the Simpsonettes. This is a group of members in this House who have dragged the standard of this House down to the lowest level that it has ever been. The members of the group embarked on an orchestrated campaign to embarrass and to humiliate. I believe they have taken a final step to destroy anybody in the Opposition who happens to cut across their path.

The House is debating an important question today; it is probably the most important question we have debated in all our time here. The rights of the Opposition and the corner party in this House are very much at stake. I request the House to look seriously at a much fuller investigation of what has taken place in this particular instance.

Mr CRABB (Minister for Labour)—I make a number of observations on the processes that have been used and the way that the working out of this Act—the Members of Parliament (Register of Interests) Act—has been demonstrated to be less than adequate through this process.

In the process of so doing, I shall respond to some of the matters raised by the Opposition. It has been my singular experience in this House that every time any member raises a matter concerning the propriety of another member he or she is then subject to, quite simply, vindictive vilification.
That has happened a number of times in this place. It has happened to me on any number of occasions when matters of this sort have been raised. If one goes back to the time when this Act was passed by Parliament——

Mr Leigh interjected

Mr Speaker——Order! I have given the honourable member for Malvern a final warning. He has quietly made interjections that I have heard, and I do not intend to accept even that during the course of this debate.

Mr Crabb——This Act is the result of a Bill introduced to the House in the last days of the 1978 session; that is, after the Ballarat by-election and before the 1978 State election. It was a time during which the propriety of members of Parliament, their financial interests and, indeed, those of Ministers of the Crown were certainly very much the subject of community discussion.

We had had a Federal election the previous year in which the investments of the family trust of the Federal Treasurer had been one of the major issues in the Federal election campaign. We had had, immediately before the Bill was introduced, the resignation of Pat Dickie from the Upper House in a manner that can be described only as under a cloud. Through all that time there had been considerable debate in the community, as well as in the political parties, about appropriate means of establishing a register of interests of members of Parliament.

Various members of this House and various members of all parties had different opinions. In no circumstances did anyone think that the matter would be easy and, indeed, it has turned out not to be. However, the fact is that on every occasion that I or other members have raised matters concerning, for example, the Housing Commission land deals, the Albury—Wodonga Development Corporation——

Mr Ross-Edwards——You were wrong there.

Mr Crabb——No, I was not.

Mr Ross-Edwards——You had no evidence!

Mr Crabb——There was plenty of evidence. An Act of Parliament had to be put through to validate the activities of the corporation and, to its eternal shame, the National Party supported it.

On every one of those occasions, and perhaps most notably when the honourable member for Niddrie raised the matter of the then Liberal Government selling Centenary Hall to the Liberal Party at half price at a bodgie auction, he was deluged with insults and invective from members on the other side, in the same way as they have poured abuse on the honourable member for Monbulk.

What I say to every honourable member on my side of the House, and to any other honourable member, is that when such matters are raised they will get this gaggle of crows bellowing at them. However, the one thing members ought to remember is that they should not allow themselves to be intimidated. Members should not allow themselves to be badgered by that baying of hyenas that occurs every time it happens.

It is the responsibility of a member of Parliament to direct the attention of the House to any matters which he or she considers concern the propriety of any honourable member.

An honourable member interjected.

Mr Crabb——The honourable member interjects to say that it did not go to the Privileges Committee. The reason is that the matter was voted out on party lines; we did not have the votes. I moved many times that that should happen.

Mr Brown——This matter did.
Mr CRABB—That is right. No honourable member in this House should ever feel intimidated from raising a matter concerning these issues because they are important issues for all of us.

When the debate on this legislation was carried out in the last days of the spring sessional period in 1978, the matter was brought in, frankly, in a hurry after having been considered for years in the Liberal Party's own committee rooms. During the debate three different viewpoints were taken.

The Labor Party at the time took the view that the definition of financial benefit or pecuniary interest ought to include the interests of spouses or other relatives living with the member. It was also considered that family trusts ought to be registered and, in a reasoned amendment, it was put that breaches of the Act should be dealt with by the courts rather than by Parliament. Given the comments of the honourable member for Gippsland East, I am surprised that he did not vote with us on that occasion. However, he did not.

The National Party took yet another position. Its position was that spouses and families should be excluded from that requirement altogether. Therefore, section 6 (2) (i) which, I think, is the voluntary section, was opposed entirely by the National Party. Indeed, in his comments, the honourable member for Gippsland East indicated his opposition to the whole damned thing. I can appreciate that the honourable member for Gippsland East, having opposed the legislation in its entirety, would have great difficulty in maintaining complete objectivity in his membership of the Privileges Committee.

The position of the Leader of the National Party on the legislation and on the issue of declaring wives' interests was an interesting one. His views are recorded at page 7520 of Hansard of 8 December 1978 where he is reported as having said that Cabinet Ministers should certainly declare all the interests of wives, children and family members but it should not apply to members of Parliament. His conclusion was:

If a member does not desire to disclose what his immediate family owns, obviously he chooses not to be a Cabinet Minister.

Mr W. D. McGrath (Lowan)—On a point of order, the matter the House is debating is the report of the committee. The House is not debating the Act relating to pecuniary interests and I ask, Mr Speaker, that you direct the Minister to relate his remarks to the report before the House.

The Speaker—Order! I do not uphold the point of order. It is a key part of the report. The Minister is recapping the history of the pecuniary interest legislation. If he can relate his remarks more closely to the report before the House he will be in order.

Mr CRABB (Minister for Labour)—The findings of the Privileges Committee are in accordance with the processes surrounding the legislation and the legislation itself. Honourable members should give due consideration to that.

The basis for opposition to the issue about whether wives' or spouses' pecuniary interests ought to be listed—

Mr Ross-Edwards—It is nothing to do with wives. What are you talking about?

Mr CRABB—I think it is. When the legislation was introduced the main issue between the parties was the extent to which honourable members ought to record the interests of their families. That was also one of the major issues in public discussion of the matter. The view of the Leader of the National Party was that one may not know what interests one's wife or spouse has and that it may be a private affair and should not be disclosed.

Nevertheless, the opposition parties continued to hold the view that there should be a capacity for honourable members to be required to nominate those interests on some basis. Of interest is what the Premier of the day, the Honourable Rupert Hamer, said.

Mr Ross-Edwards—Come on!
Mr CRABB—It is important to listen to it. He said:

... the Bill is, as much as anything, a protection to members and no member, ... is required to seek out information from his spouse or children. It applies only if there is an interest about which he knows and which he considers might arouse some suggestion that he is influenced by it. Under this provision, he has the chance of placing that interest on the register and making a forthright statement about it. I believe honourable members will welcome this clause.

The legislation was supposed to provide an opportunity for honourable members to be able to disclose fully matters that may cause community concern.

The legislation and the processes surrounding it have been seen to be less than adequate by every honourable member. In a relatively dispassionate way it is worth considering them because the Act obviously has been the most talked about piece of legislation for about five or six years. At times in Parliament many of the issues that the House is now considering were raised.

When the Honourable Alan Hunt was the Leader of the Opposition in another place he repeated the views of the then Premier and said that it would be wise for any honourable member to ensure that his wife's interests were registered. In a rhetorical remark by the honourable member for Gippsland East it was intimated what would happen if I were to become aware of another honourable member appearing not to comply with the legislation.

Mr Brown—Start with Evan Walker!

Mr CRABB—Dry up! He asked what would happen if I became aware of an apparent breach: should I raise the matter in Parliament and bring it to the attention of the Privileges Committee? The honourable member did not ask me those questions directly but asked himself what would happen.

In a debate in the other House the issue was again raised. The Honourable Alan Hunt in another place said the following:

Any member can complain of an alleged breach of privilege. That is done by complaint to the House at the first available opportunity.

I envisage that a committee-type inquiry would be better if a complaint was made. The person complained against would then have the opportunity to attend, to give evidence, to question and be questioned.

Whether the legislation was passed for good or ill, whether it was right or wrong, the intent of Parliament was that the procedures that had been followed in this case would be followed.

Mr Kennett interjected.

Mr CRABB—It would be followed. As the Leader of the Opposition knows, the basis of the process of raising a matter of privilege, which was introduced for the good of each honourable member, was to establish that a prima facie case existed. If an honourable member does not follow that process, he may raise the matter in the form of a substantive motion, as any honourable member can do.

Mr Lieberman interjected.

Mr CRABB—I am not going to bandy about the specific words. To introduce a matter of privilege, priority or other matters, it is necessary to persuade the Speaker that a case exists. As the honourable member for Benambra will recall, that was introduced after the Honourable Roberts Dunstan, a Minister at the time, was mightily embarrassed that his department had sold a building to the Liberal Party. The provision was introduced to provide a filtering mechanism and has operated reasonably successfully since. There is no other way in which an honourable member can raise a matter of concern.

That was understood when the legislation was introduced. However much members of the National Party might have not wanted the measure—a few members of the Liberal
Party also did not want it—the legislation was introduced and it was understood that one could not draft legislation that covered every type of interest in which an honourable member was likely to be involved.

Section 6 (2) (i) was included in the legislation to enable honourable members to avoid the situation where public concern could be expressed about a pecuniary interest not being registered. That is the intention of section 6 (2) (i).

It was repeatedly disclosed in the debate and presumably in the party rooms at that time that if any honourable member chose not to use the provisions of section 6 (2) (i), on his own head be it, if trouble came his way. Every honourable member was concerned about that, including the honourable member for Gippsland East who commented at the time about self-immolation. It is a part of life.

If an honourable member is concerned about an interest, the only process open to him is to raise a matter of privilege. One cannot say that it should not be so. The House of Commons has a Select Committee that governs the register of pecuniary interests. The processes it follows have been written into May. If an honourable member in the House of Commons has a matter of concern, it is taken to the Clerk, who is the Secretary of the Select Committee, who then makes a decision on whether the matter should be directed to the attention of the committee.

If the matter goes before the Select Committee, it hears the two honourable members. That is the process and, if necessary, the Select Committee makes a recommendation to the House. That is a much more sensible process for dealing with these sorts of matters than we have at present.

The honourable member for Monbulk took the steps that were proper for him to take.

Mr Kennett interjected.

Mr CRABB—The Leader of the Opposition is being pious about standards of this House not reflecting the standards of the Federal Parliament. I shall collect his Hansard greens and nail them to my wall. They will be of considerable use if the Leader of the Opposition continues to behave in the next few years as he has in the past.

An issue has been raised about the honourable member for Monbulk refusing to give the honourable member for Gippsland West a 24-hour delay. The honourable member for Monbulk has sworn in a statutory declaration that at no time did the honourable member for Gippsland West or anyone else request him to defer his motion for 24 hours.

Mr BROWN (Gippsland West)—That is a blatant lie! On a point of order, Mr Speaker, I take personal exception to that blatant lie and ask that it be withdrawn forthwith and unqualifiedly.

The SPEAKER—Order! I must ask the honourable member for Gippsland West to advise the Chair what words he objects to and wants withdrawn.

Mr BROWN—I ask the Minister for Labour to withdraw his statement that I did not contact the honourable member for Monbulk and ask for a 24-hour extension before these matters were to be raised, because I did.

Mr Pope—You never did!

The SPEAKER—Order! I cannot uphold that as a point of order. The honourable member for Gippsland West can rebut that argument when he has the opportunity. I ask the Minister for Labour to continue.

Mr B. J. EVANS (Gippsland East)—On a further point of order, Mr Speaker, the statutory declaration to which the Minister for Labour referred was not part of the information tabled in the House by the Privileges Committee.

Mr Pope—I just gave it to him!
Mr B. J. EVANS—The statutory declaration was a document submitted to the Privileges Committee during the final stages of its deliberations, and it was merely noted. It was not included in the evidence, documents or exhibits that were tabled in this House. I suggest that some member of the Privileges Committee has breached the confidentiality of the deliberative meetings of the committee.

Mr STOCKDALE (Brighton)—On the point of order, Mr Speaker, the statement of the Minister of Labour clearly amounts to an imputation that when the initial debate on this motion was heard, the honourable member for Gippsland West deliberately misled the House by advising it that he had made such a request. It is, therefore, an imputation of the gravest kind, that can only be made by substantive motion and it is out of order.

The SPEAKER—Order! The honourable member for Brighton has introduced another matter upon which I do not intend to rule until I rule upon the point of order raised by the honourable member for Gippsland East.

I am not aware that there has been any breach of the confidentiality of the deliberations of the Privileges Committee by the remarks made by the Minister for Labour. My understanding is that the Minister has directed attention to a statutory declaration the existence of which was, I understand, common knowledge, as mention has been made of it somewhere along the line.

Mr Cooper—Where?

The SPEAKER—Order! I am not aware of that, but if there were a breach of confidentiality, it would need to be substantiated. I cannot rule on the point of order. If the Minister for Labour could advise the House from where the knowledge came, I could rule on the point of order.

Mr CRABB (Minister for Labour)—I asked the honourable member for Monbulk about the 24 hours business and he gave me a copy of the statutory declaration. From where else would I get it?

The SPEAKER—Order! In that case, I cannot uphold the point of order.

Mr CRABB—This is an example of what I said earlier. The honourable member for Gippsland East is now accusing me of telling untruths.

Honourable members interjecting.

The SPEAKER—Order! I ask the House to come to order.

Mr STOCKDALE (Brighton)—I raise the same point of order I raised a short while ago and ask the Chair to rule on the point that the allegation by the Minister can only be made by substantive motion.

Mr LIEBERMAN (Benambra)—On the point of order, Mr Speaker, in addition to what the honourable member for Brighton has put to you, I indicate that this is a most important issue affecting this House and its traditions. Today a report from the Privileges Committee has been tabled which totally and unqualifiedly exonerates the honourable member for Gippsland West, who was the subject of the inquiry.

Part of the known allegations made in this House by the honourable member for Monbulk against the honourable member for Gippsland West was that the honourable member for Gippsland West had not contacted him 24 hours prior to the matter being raised in Parliament. The honourable member for Gippsland West told the House that he contacted the honourable member for Monbulk.

The finding of the Privileges Committee is now being questioned, probably unwittingly. The honourable member for Brighton has correctly raised the fact that the Minister for Labour has made an imputation which the honourable member for Brighton indicated could only be correctly put forward by a substantive motion.
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The substantive motion has already been dealt with by the Privileges Committee and it totally exonerated the honourable member for Gippsland West. That is another reason why you, Sir, should intervene now and not allow the House to be further used to do more damage to an innocent honourable member.

Mr ROWE (Essendon)—On the point of order, Mr Speaker, as a member of the Privileges Committee, I pursued the matter of whether the honourable member for Gippsland West had contacted the honourable member for Monbulk with his request. That matter was pursued by the committee, certainly by me, but it was not the subject of the report to the House.

The statutory declaration was submitted by the honourable member for Monbulk in response to evidence that had been given on this issue by the honourable member for Gippsland West. It is not the nature of the charge or the allegations that were made and it is not pertinent to the findings of the report. It was a significant issue to the honourable members involved because contrary views were put, and it is a matter on which the committee came to no conclusion. The committee believed it ought to receive the statutory declaration from the honourable member for Monbulk.

Mr I. W. SMITH (Polwarth)—On the point of order, Mr Speaker, the debate is about the integrity of one honourable member versus another honourable member. The report of the Privileges Committee proves the integrity of the honourable member for Gippsland West and discredits and totally destroys the integrity of the honourable member for Monbulk.

The SPEAKER—Order! I do not intend to allow a further debate on the matter before the House through a point of order. If the honourable member wishes to make a point on the point of order, I shall hear him.

Mr I. W. SMITH—The honourable member for Monbulk has submitted additional evidence over and above that which has been reported to substantiate his claim for integrity, and that ought not be allowed in this debate.

The SPEAKER—Order! The question of whether there was a request for a 24-hour delay in action being taken by the honourable member for Monbulk is not in doubt. The Leader of the Opposition raised the matter during the course of his contribution, and I believe the honourable member for Gippsland West made the request.

It is difficult for me to now rule and say that the Minister for Labour has, by imputation, misled the House. I indicate to the Minister for Labour that the Chair does not question the request for a 24-hour delay from what has transpired in the debate to date. Therefore, I do not intend to rule on the point of order, but I ask the Minister for Labour to round off his remarks in the 2 minutes which he has left to him.

Mr CRABB (Minister for Labour)—I shall not debate who said what to whom in a telephone conversation of which I was not part. However, I am in a position to know that the honourable member has sworn a statutory declaration, because I have a copy of it. I am telling the House that the honourable member has sworn a statutory declaration saying that at no time did the honourable member for Gippsland West ask him for a 24-hour delay. That is the reality.

Mr I. W. SMITH (Polwarth)—On a point of order, Mr Speaker, the Minister is bringing into the debate material that is not part of the report. The Minister is seeking to substantiate matters that the honourable member for Monbulk wishes to bring to his credit. The honourable member has been discredited and the Minister is now introducing new material that should not be part of the debate.

The SPEAKER—Order! I cannot rule on that point of order. I am not aware of whether the statutory declaration came before the committee. It is not in the report and, therefore, I cannot uphold the point of order.
Mr CRABB (Minister for Labour)—I round off by saying that the recommendations of the committee are accepted and in no way should the honourable member for Monbulk be concerned about this baying of hyenas.

Mr BROWN (Gippsland West)—It is for this House, this Parliament and the people of Victoria to fully understand that I have been cleared totally of all the allegations that were levelled against me.

The tragedy of this for the democratic process is that it is true that on the day before the honourable member for Monbulk made his allegations in the House, I personally telephoned him and asked for the extension of time to which reference has just been made.

Mr Speaker, you, amongst two people, would know that to be true because I immediately telephoned you back and expressed my absolute disgust at the fact that the miserable cur would not allow me a 24-hour extension!

The SPEAKER—Order! I ask the honourable member for Gippsland West to withdraw the unparliamentary expression he has just used.

Mr BROWN—I withdraw. As you, Mr Speaker, are also fully aware, I said to you that that to me was totally unacceptable. It was an intolerable situation that here I was, knowing the next day I was to be accused of serious misdemeanours by seriously and grossly inaccurate allegations that were to be levelled against me in this House by the honourable member for Monbulk; I was not prepared to accept the fact that he refused to take evidence that I could put before him to refute totally what he planned to raise the next day.

As you will recall, Mr Speaker, it was agreed I would then contact the Deputy Premier, and you would also recall I did not know his telephone number. In fact, you gave it to me and I contacted the Deputy Premier’s home. He was not there at the time and Mrs Fordham very kindly took a message from me and gave me an assurance that the Deputy Premier, when he returned home, which I was given to understand would be late that evening—as it turned out to be—would return my call.

The Deputy Premier did return my call at approximately 11.15 p.m. on that evening, which was a Monday evening, and I told him, as I had told you, Mr Speaker, that the honourable member for Monbulk refused to give me an extension of one day to gather the proof that I said I could put before him, which I told him was of a documentary nature.

The Deputy Premier undertook to speak personally with the honourable member for Monbulk and tell me the next day whether I would get that one-day extension. The Deputy Premier came, when the bells were ringing for the resumption of Parliament on the following day, which was a Tuesday, from his side of the House to where I was sitting and said to me, in front of the honourable member for Narracan, “I am sorry, I approached him and he refused”.

The honourable member for Monbulk has perjured himself. There is no doubt this man, knowing apparently that the finding had gone totally against him, chose then to perjure himself with a declaration that is demonstrably false.

Mr Speaker, it was obvious the honourable member for Monbulk wished for there to be a hanging party. The fact of the matter is that today the honourable member for Monbulk has had his wish fulfilled to the extent that effectively, a person has been hanged today, and that person is himself.

I repeat, that I, by a unanimous verdict, have been totally exonerated. As a consequence my accuser has effectively been sentenced.

That this inquiry was even conducted is an outrage, when one considers that the allegations were based on false and malicious rumours, which in the main were purposely put about by the Labor Party hacks in my home town, on half truths and, in many instances, blatant lies, which, to the satisfaction of the seven people who sat in judgment, were proven to be such.
From the outset I have informed you, Mr Speaker, of my total innocence, but I was far from sure that I would obtain a fair trial. I want to acknowledge here and now that the unanimous exoneration is, in my opinion, clear evidence that all seven honourable members of that committee of inquiry based their findings on factual and, in the main, documentary evidence and their finding is proof that the final outcome is that I was not subjected to a kangaroo court.

I wish to place clearly on the public record my appreciation therefore of the professional manner in which members of that committee approached their task. Notwithstanding the way in which the conduct of the inquiry was handled, I was subjected to a long, exhaustive and debilitating inquiry. I think it is wrong that any committee of inquiry is not obliged to abide by the laws of natural justice.

I asked conjointly for two particular forms of assistance. I asked for permission to use legal counsel and that I be recompensed for the cost of briefing legal counsel. I eventually received permission to engage counsel, a decision for which I was most grateful and for which I thank the committee. It was not a right but they did give me permission to engage legal counsel.

The committee did not have the power to itself grant my request for recompense for the cost and this matter was referred of course, as you well know, Mr Speaker, to you and to the Treasurer of Victoria, the Honourable Rob Jolly. I say it is a disgrace to the Government that, to this day, I have still not received any communication in regard to that request and, as a consequence of that, I was effectively denied legal representation at that inquiry.

It was an inquiry of unknown duration. It was possible that it would have proceeded and gone into next session. In fact, had the wishes of the honourable member for Monbulk been to the fore, it certainly would have gone for a period of some six months' duration. At a cost of $2800 a day, approximately, I was not prepared to employ legal counsel, knowing that I personally was liable for the total cost, which would have run into tens of thousands of dollars.

A common criminal has more rights than I had in this matter. I had no right to legal representation, although I again acknowledge it was granted to me. I had no right for legal representation to at any time address that committee. I had no right for legal representation to cross-examine my accuser or, for that matter, any other person.

I had to prove my innocence. It was not even established at the outset whether I had a case to answer. This inquiry has been an unnecessary ordeal for me, for my family, in particular my wife and my parents. The most serious of allegations were levelled against me by the honourable member for Monbulk and I am naturally delighted that by—and I again repeat—a unanimous finding of the committee of inquiry I have been totally exonerated.

I have stated that the decision shows that I was not subjected to the finding of a kangaroo court. Although that is true, it should be clearly understood that the composition of the Privileges Committee is such that but for the integrity of the members that comprise that committee, if they chose to do so, it could be used as a kangaroo court. That is easily understood in so much as the committee comprises four members of the Australian Labor Party, two members of the Liberal Party, and one member of the National Party. I was fortunate indeed to obtain the necessary documentary proof to clear my name totally and be exonerated.

The allegations were wide ranging as well as serious and, indeed, the committee left no stone unturned to ensure that each and every allegation, innuendo or claim was fully and exhaustively investigated. The experience for me personally was exhausting, debilitating and, worst of all, humiliating. I was subjected to hours of extensive cross-examination on matters which can be described only as highly personal in relation to former business interests, interests, I might add, that go back almost two decades.
I appeared before the committee on nine occasions over five separate days. On oath I answered every question that was put to me. There was not one question I refused to answer. It was my decision to give evidence on oath; it was not required. I did these things without any form of legal assistance being with me at that inquiry even though I was conscious from the outset that an adverse finding could lead to my expulsion from this House. I have no doubt that the majority of questions that were put to me would have been ruled inadmissible in a court of law. I answered all the questions openly and honestly, even though the committee had not established that there was a case for me to answer. It was not a case of my accuser proving my guilt but, in fact, of my having to establish my innocence.

Extensive inquiries were conducted into my former business activities which went back many years and covered a very lengthy period relative to numbers of years. Every company or entity with which it was alleged I had been connected was investigated. As a result of those inquiries, other former interests which came to the attention of the committee, which were not even the subject of the allegations, were subsequently investigated. As I have said, it was a debilitating process for me personally and no stone was left unturned.

The tragedy of this scandalous affair is that it should never have been raised in the first place. It should not be forgotten ever that the honourable member for Mitcham seconded the motion and he is supposed also to have been extremely involved in investigations. The first I knew about the allegations by the honourable member for Monbulk was the day before he raised these matters in this House, and it was the day before the recent leadership challenge within the Liberal Party which at that time was the subject of intense media coverage and speculation. As a Liberal member of Parliament I was, of course, personally and heavily involved in activities which were unfolding at that time.

On the day prior to the leadership challenge, as I have made very clear to the House, I contacted that honourable member and requested an extension; that is well known to the House. I have no doubts that this was not an act in isolation. This was not solely an action by the honourable members for Monbulk and Mitcham. I believe, and I say that the most senior members of the Government knew exactly what was happening, that they facilitated it, that they encouraged it and that they were involved in it. I say here and now that that includes the Premier, the Deputy Premier, the Minister for Consumer Affairs, and it includes many other senior members of the Government.

It would have been even worse if that had not been the case, of course, because by a vote of the sheer weight of numbers in the House, if it had not been with their knowledge and support there would have been the scandalous situation on the say-so of the lowliest backbencher of the Government of a reference being given to a Privileges Committee based simply on his say-so and forced through by a vote of this Parliament.

Only weeks prior to these allegations being raised, my electorate office was broken into. It was ransacked. The files were taken out of boxes and those files were used to set fire to the office, which led to its total destruction—and I notice that the Minister for Consumer Affairs is starting to squirm because he knows that to be a fact.

Mr B. J. EVANS (Gippsland East)—On a point of order, the honourable member for Springvale interjected and said, “You probably did it yourself.” I do not believe the honourable member for Gippsland West heard the interjection because if he had he would have sought a withdrawal.

The SPEAKER—Order! I did not hear the expression but the Clerk has advised me that he heard the expression. Therefore, I request the honourable member for Springvale to withdraw the expression.

Mr MICALLEF (Springvale)—I say that there are a number of other—

Honourable members interjecting.
The SPEAKER—Order! The honourable member for Springvale will resume his seat. I advise the honourable member that he has the option of either withdrawing or not withdrawing but he does not have the opportunity of making a speech.

Mr MICALLEF—I am not making a speech——

Honourable members interjecting.

Mr MICALLEF—I will have the same privilege as everybody else in this House and I will withdraw in my own way.

Honourable members interjecting.

The SPEAKER—Order! I did not hear, as a result of the badgering and shouting, whether the honourable member for Springvale withdrew the expression. Will the honourable member advise whether he has made a withdrawal?

Mr MICALLEF—I withdraw.

Mr CRABB (Minister for Labour)—On a further point of order, although the story of the arsonist’s activities at the office of the honourable member for Gippsland West is interesting—it is reminiscent of listening to Charlie Francis, come to think of it—it has no relationship to the motion before the House or the matters contained in the motion.

Mr MACLELLAN (Berwick)—On a point of order, Mr Speaker, as a member of the Privileges Committee that heard this issue, may I advise that the matter that has been raised by the honourable member for Gippsland West was raised in the evidence before the committee and was, naturally enough, along with all other evidence, given consideration by members of the committee.

The SPEAKER—Order! I have not read all the evidence but I accept that the matter is contained within the evidence and that, therefore, it is relevant.

Mr BROWN (Gippsland West)—Mr Speaker, I disagree, inasmuch as the material lost in that fire——

Mr SPYKER (Minister for Consumer Affairs)—Mr Speaker, the point of order I raise relates to the fact that the honourable member for Gippsland West referred to the unfortunate fire that occurred in his electorate office. I believe he was implying that I had some connection with that fire, and I resent that.

Honourable members interjecting.

The SPEAKER—Order! All I heard was that the Minister resents something that the honourable member for Gippsland West has said in respect of the fire. I cannot uphold that as a point of order.

Mr BROWN (Gippsland West)—The point about the fire is that the documentation, which, in the main, I could have readily put my hands on to clear my name—I refer to business records that dated back twenty years—had been destroyed. Fortunately for me most entities, such as solicitors, accountants, the Corporate Affairs Office and the Titles Office, had all the necessary information still on file. However, if that had not been the case, I would have been in an invidious position in attempting to clear my name.

There were claims that property transactions which had taken place were a sham. There were allegations relative to stamp duty having been avoided. There were allegations about caveats on titles. There were allegations about notices of disposition not being sent. There were allegations about numerous companies.

There were allegations about family trusts and allegations about property developments, balance sheets of companies, rights of indemnities of trusts and allegations that I used an assumed name. Even though the honourable member for Monbulk has changed his name by deed poll from “Poke” to “Pope”, he has the outrageous audacity to suggest in this House, untruthfully—and proven to be so—that I have used a false name!
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There were allegations about bricklayers, allegations about hairdressers, allegations about tenants and allegations about my continuing ownership in a Toyota garage—which, again, were untrue. There were allegations about directorships, trusteeships and shareholdings. There were allegations about articles in local newspapers. There were allegations about many of my friends. There were allegations about former business associates and about numerous other matters.

All those matters and all those allegations were investigated by the Privileges Committee. I was called back before the committee. I was cross-examined time after time. My bones, effectively, were picked over. What was the result of all that? The result was I have been exonerated totally.

I believe it reasonable to ask how many persons, be they members of Parliament or from any walk of life, who had extensive business interests—which undeniably I did have—could go through such an investigation and be totally exonerated.

I have no doubt that the thesis behind this was, “Brown had extensive business interests. Let us haul him before the Privileges Committee. It does not matter on what flimsy allegation we do that, but let us get him before the committee. Let us have a fishing expedition and, undoubtedly, we will find something that will either smear him or have him removed from the Parliament.” It is now known to all honourable members that the exact opposite happened. My name has been cleared totally.

Many would say that I was subjected to a Star Chamber process, a kangaroo court process, but I again say: the unanimous finding of that committee proves that that was not the case. That is something in which members of that committee, I believe, can take considerable pride.

Can there be any good to come out of what has happened to me as a result of this outrageous process? There needs to be a filtering process. If a person is innocent, he or she should not have to be subjected to a Privileges Committee inquiry to prove it.

A short time should be set down, as of right, to allow the accused person to provide evidence if that person can disprove claims, and a person or entity that is removed from the political process should be the one to consider the representations made. It should not be a member of any political party.

Only after such a safeguard process should a complaint then be referred to the Privileges Committee—if, in fact, as a result of that filtering process, it is deemed that there is a case to answer.

An accused person should, as of right, be able to engage legal counsel, not as a result of a discretion of a committee. The committee should be compelled to follow the rules of evidence and the laws of natural justice. As in a court of law, people should be considered innocent until proven guilty, and not vice versa.

I wish to thank the many people, particularly my wife, my family and friends, who stuck by me and maintained their faith in me throughout this harrowing and difficult ordeal. I am pleased to say that a large number of honourable members of this House and of the Legislative Council also come into that category—members of all parties.

My only enduring desire as a result of this ordeal is that no honourable member in the future suffers unfairly in the way I had to suffer. I again emphasise: I was treated fairly by the committee and when I say the “committee”, I mean the chairman and every individual honourable member who comprised that committee of inquiry.

If, in any way, part of the ploy involved in this disgraceful episode was to ensure that a shadow Minister was not able effectively to continue carrying out his duties, the Labor Party’s plan succeeded at least in that regard. My time since the allegations were raised has been devoted almost exclusively to the necessary procedures to prove my innocence, notwithstanding the fact that there were three transport Bills before the House, two of major content, that I had to handle.
It is certainly true that I have not been able effectively to carry out my normal duties as a member of Parliament. That, in itself, is an outrageous situation—when a person was innocent at the outset. Notwithstanding all that, I am now back. I should like to say that I am back with a renewed vigour, and time will prove what I mean in that regard.

On a personal note, it is fair to ask whether this episode has had any longstanding effect on me. The answer is definitely “No”. I did not crack under the pressure; in fact, my resolve and, I believe, my standing in the community and my integrity have been even further strengthened as a result of what I have had to go through.

I was brought up in a school of hard knocks; I have been subjected to inquiries and Labor Party induced allegations before. This episode has put even more steel into my spine.

I make it clear: the Labor Party has picked the wrong man, not only to the degree that an innocent man was chosen as the victim for this first onslaught, but also in a more general sense. At this time, let me simply say: members of the Labor Party will come to understand they have picked the wrong man!

I shall always be grateful to each and every member of the Privileges Committee for his preparedness and his obvious resolve to decide this matter on the basis of evidence rather than any other consideration. I am grateful to the members of the committee that my name has been cleared.

It is my sincere wish that all honourable members of this House have a happy and joyous Christmas, and that wish extends to the honourable member for Monbulk and his family.

Mr POPE (Monbulk)—I do not wish to take up too much time in this debate—

Honourable members interjecting.

Mr POPE—But I shall certainly take up my full 30 minutes if necessary. This matter was brought to my attention by people from Wonthaggi whom I respected. I totally believed in what they put forward.

That information was given to me earlier this year. As I mentioned in evidence to the committee, those allegations were made in 1982 at least, and certainly well before 17 April, which was mentioned earlier. The evidence in the transcript that I mentioned will show that it goes back to 1982. I followed the procedures of Parliament in every way. I followed what is set down for pursuing a matter of privilege and pursued it in writing to yourself, Mr Speaker. I sought advice from the Clerk on exactly what the process was, and I believed I followed that process.

The timing of that matter, apart from my letter of 7 October, was out of my hands. I naturally accept the findings, with all other members of Parliament.

The issue that I should like to refer to briefly is the legislation itself. Page 15 of the report refers to section 6 (2) (i). The Privileges Committee report stated:

Any inclusion of interests in the register pursuant to this section would seem very much dependent on an interpretation, assessment or judgment by the member concerned and therefore disclosure of the interests of a member's family is not mandatory.

It is recommended that steps be taken to review the requirements of this provision so that members know clearly the proper extent of their obligations.

One point that has come out clearly in the deliberations of the Privileges Committee is that the pecuniary interests legislation under which this Parliament operates is somewhat of a farce. When the legislation was introduced, the Age editorial of 22 November 1978 stated:

The State Government's pecuniary interest legislation is good—
The member must give a "concise description" of any trust in which the member holds a beneficial interest or of which the member is trustee and a member of his family has a beneficial interest. While this clause is excellent in itself, it does leave a significant loophole, or at least room for great embarrassment.

In theory, a politician could easily hide his conflict of interest behind a trust operated by or on behalf of his family. The legislation only makes provision for the declaration of interests of members of families if the member "considers it might appear to raise a material conflict". "The Age" acknowledges that such disclosures themselves involve a conflict between the demands of public life and the right of individuals to privacy. The wife or husband of a member may well have independent means and interests.

Page 15 of the report of the Privileges Committee indicates that there is a deficiency with section 6 (2) (f). I do not doubt that members on both sides of this House could raise a matter that comes under other sections of the legislation, but by putting a beneficial interest in the family's name or the wife's name, it then becomes a matter of discretion whether the member discloses it.

The statutory requirements in the pecuniary interests legislation put forward in evidence indicate that the honourable member for Gippsland West was not guilty under section 6, and I state that unequivocally.

Honourable members interjecting.

Mr Micallef—Don't you know what discretion means?

The SPEAKER—Order! The honourable member for Springvale should also understand that.

Mr POPE—As the honourable member for Gippsland West stated, it could be that there were a number of matters, which I think he said were half-truths and lies, or something to that effect. In referring to those half-truths the honourable member was referring to evidence put forward to the committee that when the Alan Brown Family Trust changed its name to the Ian Wilkinson Family Trust, the beneficiaries were still members of Alan Brown's family, that is, his wife and children, and he removed himself as a beneficiary. It is true that under statutory requirements the honourable member for Gippsland West is not guilty.

The new name of that trust, and the trust itself, indicates that the beneficiaries are the members of Alan Brown's family not Alan Brown himself. He was a beneficiary under the Alan Brown Family Trust.

Section 6 (2) (a) of the Act deals with the income source of a financial benefit of a member. Section 6 (2) (e) refers to a description of any trust in which the member holds a beneficial interest. Section 6 (2) (f) refers to the address or description of any land. If a member of Parliament takes himself off that trust deed as a beneficiary, and only his wife and children remain, it is obviously only section 6 (1) that provides whether the member should so disclose.

The situation with respect to the honourable member for Gippsland West came up in 1980 when he decided to remove his beneficial interest. The trustee company, Hagel Pty Ltd, which had assets going to the trust of the Alan Brown Family Trust, then changed its name to the Ian Wilkinson Family Trust, and it became a matter of judgment of the honourable member whether he should disclose that interest under section 6 (1). He decided to declare that interest in May of this year, and he has indicated in evidence why he decided to declare it. I am sure the honourable member for Gippsland West, when he mentioned half-truths, could not deny that his ongoing interest in his own family obviously raised an ongoing interest with Hagel by way of various matters.

Honourable members interjecting.

Mr POPE—If Opposition members want me to take up my time, I will. With respect to such matters as picking up cheques for the company and speaking to subcontractors,
that was never denied, and I understand the honourable member in his evidence stated
that he was doing that now, and that appears throughout the evidence.

Honourable members interjecting.

Mr POPE—It is not an imputation at all. It is in the evidence. If honourable members
read pages 207, 179, 195, 287, 316, 208, 166, 327, 299, 300, 301 and 285 of the transcript
of evidence they will find where that has occurred. I said from the outset that it is at the
discretion of the honourable member whether he puts it in the register under section
6 (2) (i). He has not breached any statutory requirements of that section and he is not
guilty; I have stated that from the outset.

I was challenged on the issue of process and timing. I never believed I had any position
about the timing of the debate and that is the fact. I gave the declaration to the committee
over a week ago when it appeared the committee was not going to call me back.

I agree with all members of Parliament, and obviously comply with the findings of the
Privileges Committee. It has been a harrowing experience for the honourable member for
Gippsland West and I apologise to the honourable member’s family for that. However, in
the future I shall be perusing the pecuniary interest legislation, which is a farce. The House
should either tighten up certain provisions or throw out the Act completely. At the
moment it is not worth a crumpet.

I accept the findings of the Privileges Committee, as I indicated, and the fact that the
evidence and the statutory requirements with respect to the legislation indicate that the
honourable member for Gippsland West is not guilty.

Mr MACLELLAN (Berwick)—Honourable members and those of the media who have
listened to the debate now know what an ordeal it was for members of the Privileges
Committee to deal with a matter that was referred to it by the House. Indeed, it was my
feeling that I had been used as a sort of whipping post by being given the heavy responsibility
of hearing evidence, of trying to make fair judgments and trying to be fair to all concerned.
It was an unwelcome duty.

The debate would have been better served if the clear acceptance of the findings of the
committee had been made more obvious at an earlier stage. Honourable members would
have noticed that buried amongst the remarks of the honourable member for Monbulk
was an acceptance of the findings of the committee, an acceptance that the honourable
member for Gippsland West is not guilty, and an acceptance, I believe, that if changes are
to be made they ought to be changes to the law. I myself believe that changes could occur
to procedures and, more importantly, to attitudes.

The challenge to all honourable members is not just to accept the findings, but to act on
the recommendations; acting on the recommendations does not mean that there is
necessarily a single clear answer. One member may see it one way and another member a
different way. There will be considerable debate and I regret that the Deputy Premier did
not say that the Government would accept the thrust of the recommendations as opposed
to just to the findings, because that would mean establishing some inter-party structure to
start the matter.

Parliament has before it a Bill to amend the Motor Car Traders Act. Parliament could
draft an amendment to deal with one of the recommendations to be included in that Bill
before it proceeds through the House if honourable members are really concerned about
it and really want to learn something about this ghastly mess that all honourable members
have experienced in the past week.

I first want to apologise to the family of the honourable member for Gippsland West for
what they have been put through. I personally feel that the honourable member’s family
and friends have been put through an ordeal that should never have happened. I feel sorry
for them. I feel sorry for the honourable members for Monbulk and Mitcham, who were
responsible initially for raising the matter in the House and for supporting the investigation.
The investigations were not adequate to convince those honourable members that there was no substance in the matter and that the conclusions and findings of the committee were inevitable.

I refer now to the remarks of the Minister for Labour and to the prospect of establishing a better way of proceeding. There certainly could be better ways of handling these matters in the future. For the record, and not on behalf of other members of the committee as the other six members will have their various views on the matter, there ought to be a preliminary hearing before anything gets to the Privileges Committee stage. The Speaker may be the person to chair a conference between the person complaining and the person complained of, to discover if there is any substance in the matter.

I was hoping the Premier was still in the Chamber, because I was going to refer the House to a matter that arose between myself and the Premier by way of illustration of a better process. It is obviously better for the committee if the complaint is made in writing so that it knows what the complaint is and does not simply have a machine gun of allegations. In that way the member complained of would know what was alleged of him.

It would be better if the committee were guided by the principles of natural justice, both as to the presumption of innocence and the way in which people have the right not only to be heard but also to be represented. The case ought to be established not by the members of the committee but by the person complaining or some other proper authority.

To illustrate a better way of doing things for those honourable members like the Minister for Labour, who believe that the rules say one writes a letter to the Speaker and what follows follows and the person says, “I obeyed the rules and what followed followed, but on this occasion the victim escaped”, it was brought to my attention as a member of the Opposition that the Premier had not included in his register of interests certain properties in which he was alleged to have had an interest. Honourable members will be pleased to know that I did not write to the Speaker, I wrote to the Premier. I said: “Mr Premier, I have received an allegation about a property which concerns you and the Members of Parliament (Register of Interests) Act”. I indicated to the best of my ability the source of the complaint. The Premier contacted me and the matter had absolutely no substance. However, if I had written to Mr Speaker he may well have found that the procedures of the House must be followed. I might well have been on my feet one day in the Chamber making allegations, no matter how sincerely held, about the Premier, and the Privileges Committee may well have gone through the agony that members of the committee have gone through with the honourable member for Gippsland West.

There is a better way—and I accept the interjection of “common decency”—of dealing with colleagues, no matter what their political persuasions may be. One can speak to the other person and say, “This is what is alleged against you. Could you please give some explanation about the matter?” If the explanation is not satisfactory, the honourable member who raises the matter is still able to go to the Speaker, still able, via the House, to go to the Privileges Committee, still able to have the moment of glory or inglory, and come out looking good or bad.

Parliament can be better guided in the future and the recommendations of the committee need to be acted on quickly before the poison of this matter leads to another complaint, then another complaint, so that the whole matter is bouncing around. The honourable member for Monbulk would be the first to acknowledge that if he read the register of interests of the House and of another place he would find unbelievable situations in which members disclose next to nothing; no house, no wife, nothing. Members may disclose membership of a political party which only makes one suspect that they are hiding things and the answer, of course, is “No”. If an honourable member has a doubt about another honourable member, he should ask that honourable member why he has not got a house listed on the register of interests.
If the explanation is, "It is my wife's house; I do not believe I have to put it on the register because I do not believe my wife's house will create a conflict of interest", one acts upon that or one does not.

I believe the House and Parliament needs a better way and needs it quickly because I do not believe we will get seven honest members for the Privileges Committee in any future Parliament if they are going to be subjected to the torment that the seven present members of the Privileges Committee went through on this matter.

If any honourable members are in doubt about the positions and the perceptions so firmly and sincerely held and so hotly put, they have only to read the remarks of the honourable member for Monbulk in the House today to understand with what passion he feels that people must disclose things which the Act states, and which the committee has now found, are entirely in the hands of the honourable member concerned.

To me that was obvious from a reading of the Act. Those who have a strong view the other way ought to look at the recommendations of the committee and get that working between the Parliamentary parties before we have another disgraceful situation involving an innocent member of Parliament and his innocent family in the trauma and the worry that the honourable member for Gippsland West has gone through on this occasion.

I am delighted to join my Parliamentary colleagues from all sides of the House in happily saying that the honourable member is not guilty, he never was guilty and he has come up with the cleanest record of any honourable member, having been examined carefully by a group of honourable members from all parties.

I can only say to my colleagues on the committee and to the chairman of the committee, the honourable member for Clayton, that I congratulate them on their patience on the job and, on occasions, with me and on the way in which they have conducted the inquiry and helped to produce what I believe is a fair and honest recommendation and finding of the Privileges Committee.

I warn the House that it should not rely on being able to find people with that purpose and that mission each time and it cannot rely on the committee being the vehicle of inquiry in the future.

Mr Rowe (Essendon)—I shall make some brief comments regarding the matter. Firstly, I agree with many of the comments of the previous speaker. I agree with the sentiment expressed by the honourable member for Gippsland West—it has been an ordeal.

I believe it would be recognised, particularly by members of the Privileges Committee, that it would have been a tremendous ordeal for the honourable member for Gippsland West and for his family. I spoke to him this morning and congratulated him and wished him and his family well because I do recognise the ordeal that he has been through over the past few weeks.

It is fair to say, also, that he probably recognises the ordeal of the members of the committee in dealing with this complex and sensitive matter. It is sensitive because it deals with the personal and financial affairs of an honourable member who is a colleague. I do not believe anybody gets any joy from that. It is worth saying that that difficult and complex task is not one that I relished.

I take umbrage at some of the comments that have been made today, particularly by the honourable member for Gippsland East when he alluded to the motives and background leading to the inquiry. I believe it is clear to honourable members, as it is clear to the committee members, how I became a member of that committee. To suggest that because an honourable member is absent from the House because of the birth of her child and that because I replaced her there is some conspiracy is taking the whole thing too far. It is laughable.

Honourable members interjecting.
Mr ROWE—I believe what was being alleged was that there was some further conspiracy. I wish to put that to rest because it is not possible. The honourable member for Niddrie happened to be put on the Privileges Committee because a former member resigned to seek appointment to the Standing Orders Committee to pursue a matter raised by the honourable member for Berwick. That is a fact.

It is not pertinent to the report; those matters were raised but I believe they need to be put to rest. The suggestion that there was a kangaroo court is patently untrue.

I believe all honourable members of the Privileges Committee went out of their way to ensure that the honourable member for Gippsland West had the fairest and most open examination of the allegations that was possible.

For my part, I took the view that it was a group of peers examining one of our fellows. I did not believe that the inquiry should be conducted as a court of law; I believed it should have been conducted in the traditional manner and that the whole proceedings should have been open to the public. I felt strongly about that because I believed it would be in the best interests of the honourable member against whom the allegations were made. I sought to do that within the committee.

On the evidence that was presented during the inquiry, certainly the honourable member for Monbulk was acting in good faith.

Honourable members interjecting.

The ACTING SPEAKER (Mr Stirling)—Order! The honourable member for Essendon will address the Chair and ignore interjections.

Mr ROWE—I say that unequivocally; I believe the honourable member for Monbulk is a person of integrity and I hold that view strongly. I have known the honourable member for many years and that did not stop me from finding the way I did with respect to the honourable member for Gippsland West, who came into Parliament at the same time as I did, and who has certainly conducted himself in a most suitable fashion as a member of Parliament. He has been vindicated by the report. I have no qualification to or argument with that, as I was one of the authors. It is important to state that.

I believe strongly that the House should take cognisance of the fact that the honourable member for Monbulk has acted in good faith. He is a person of integrity but he has a different view from me—or perhaps other honourable members—of section 6 (2) (i).

That matter is addressed in the report and it is clear, as the honourable member for Berwick has said, that it is a matter of some urgency that Parliament needs to address. We need to address that section of the Act because it is ambivalent.

It is unfair for honourable members to leave it in that state. It is incumbent upon this Parliament to take some further action. The Privileges Committee did not consider the various ways in which that ambivalence could be removed. A number of ways come to mind, but that important issue should be examined by this House.

The committee did not make any determination on the statutory declaration but it made certain inquiries about it. The honourable member for Gippsland West was questioned about the telephone conversation; and the honourable member for Monbulk subsequently submitted to the committee a statutory declaration. The interpretations of the honourable members about that telephone conversation are completely opposite.

The honourable member for Gippsland West was asked whether he believed the honourable member for Monbulk may not have even considered that he had any discretion about continuing with the Parliamentary procedure. The honourable member for Gippsland West stated in his evidence that that may well be the case. I do not know what occurred, but there was some misunderstanding about that issue.

The statutory declaration was not crucial to the findings of the committee. The telephone conversation was made at the end of a difficult day and I am certain that recollections
have become clouded. I say simply that the honourable member for Monbulk appeared to be certain in his mind about the details of the telephone conversation and the request about whether the privilege issue could be delayed. The honourable member had such a strong belief about the issue that he decided to submit a statutory declaration to the committee.

**Mr Ross-Edwards**—He was a bit late!

**Mr Rowe**—It was late, but it was submitted after the evidence of the honourable member for Gippsland West. The committee took evidence from the honourable member for Monbulk for several days and it was then agreed to take evidence from the honourable member for Gippsland West.

I still believe that was the appropriate way to conduct the investigations of the Privileges Committee. The committee heard the allegations and then heard from the honourable member for Gippsland West. I believe that was done in an intelligent and logical manner. At no stage did the committee feel pressured to come to a quick conclusion. A decision had to be made but it was not appropriate to terminate the inquiry early when all evidence was not before the committee.

The resolution of this House was for an inquiry to be made by the Privileges Committee. The committee was clearly not a court of law. Members of the committee did not have solicitors to advise them on points of law. The Privileges Committee was asked to conduct an inquiry and to present a report to Parliament, and I believe it did a thorough and honest job.

That is also the view of the honourable member for Gippsland West from the comments he has made today and the evidence given to the committee. Therefore, that puts to rest any allegations one might make about the conduct of the inquiry.

This has been an extremely difficult time and a number of lessons have been learnt from the report. A number of options need to be pursued. These important issues must be faced not only by individual members of Parliament but also by the whole Parliament because its credibility is at stake. These matters should be addressed quickly.

I again congratulate the honourable member for Gippsland West but I also believe the honourable member for Monbulk acted in good faith.

**Mr Ross-Edwards** (Leader of the National Party)—I shall speak briefly on the report of the Privileges Committee on complaints made by the honourable member for Monbulk against the honourable member for Gippsland West. The honourable member for Essendon, with hindsight, agreed that if this matter had been properly thought through a preliminary hearing would have been the most satisfactory way of conducting the inquiry because no evidence of wrongdoing was proven. However, the Privileges Committee went through the full procedure of taking evidence from both parties. At that stage I would probably have done the same thing, but one learns from experience. A preliminary hearing could have saved time for the honourable member for Gippsland West and also members of the committee who were involved in this arduous task.

It is clear that there was no basis for the accusations made by the honourable member for Monbulk. It is a pity that, in his response, the honourable member for Monbulk did not make a gracious apology to the honourable member for Gippsland West. It is all very well for him to apologise for what he has done to the wife and family of the honourable member for Gippsland West, but he did not apologise to the honourable member for the imputations he made on the integrity of that well-respected member of this Chamber.

One matter that has been left up in the air should now be resolved and perhaps it is appropriate for me to do so. The honourable member for Gippsland West made it clear time and again that he gave the honourable member for Monbulk the opportunity of examining various documents that would have refuted the allegations made against him.
If the honourable member had been given 24 hours, he believes he could have proven that he was innocent of the charges.

The honourable member for Gippsland West spoke to the Speaker and to the Deputy Premier. The Deputy Premier contacted the honourable member for Monbulk and asked if the honourable member for Gippsland West could have the opportunity of producing documents to prove his innocence. However, he was told before the House sat on that memorable day in October that the honourable member for Monbulk would not agree to such a course. One might say that is circumstantial evidence but it is strong circumstantial evidence.

There is one further piece of evidence that has not been mentioned today. During the debate when the matter of privilege was raised, the honourable member for Gippsland West said he had the answers. If the honourable member for Monbulk had any brains, he would have asked for the debate to be adjourned to examine that evidence and that would have finished the matter.

It is all right for the honourable member to say that he does not remember anything about the delay of 24 hours and make a statutory declaration about his recollection, but today the House has been told that the Speaker and the Deputy Premier had communications with the honourable member for Gippsland West. I wish to view this statutory declaration. I hope before the day is out that a copy will be handed to me because it raises serious issues.

I cannot understand why the honourable member for Monbulk did not mention that statutory declaration when he made his contribution to this debate today. It was brought to the attention of the House by the Deputy Premier. The honourable member for Monbulk interjected at that stage but, for some reason best known to himself, he did not mention it in his reply. I believe I have carried out my task in directing these matters to the attention of the House.

For heaven's sake, for the future let us follow the example set by the honourable member for Berwick when he was placed in a very similar situation to that of the honourable member for Monbulk. The honourable member for Berwick behaved in a most responsible manner.

Mr Cooper—Like a man.

Mr ROSS-EDWARDS—He did what one would expect him to do and, not only that, he did not talk about it; but quite rightly he gave the example today. One can imagine what great news it would have been for the Opposition if it had been able to put the Premier in the same position as the honourable member for Gippsland West, but the honourable member for Berwick and the Opposition adopted a different set of standards. To his discredit, the honourable member for Monbulk must as an individual bear what he did for the rest of his days.

Finally, on behalf of members of the National Party, many of whom will have no opportunity of speaking in the debate, I convey to the honourable member for Gippsland West and to the members of his family our regret at the raw deal that the honourable member himself and his family and friends have been through and assure him that in our minds there never was any doubt of his integrity or of his innocence in the matter.

Mr LIEBERMAN (Benambra)—I thank the Leader of the House and the Leader of the Opposition for enabling me to speak for a few minutes, not to make a speech so much for myself but as a member of the Privileges Committee to help this Parliament to avoid the prospect of an ordeal as we have just had occurring again.

In the past six weeks the Privileges Committee has seen a gross abuse of power and a gross act of stupidity by the honourable member for Monbulk. I regret very much that even today he does not appear to have achieved the level of maturity and understanding
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that one would hope members of this Parliament would have and should have in tackling
the real issues that face us as a Parliament in the future.

Because of inadequate procedures that are in place, we have been subjected to an
incredible situation where the committee virtually had to preside over a trial based on
innuendo; if you like, based on the motivation of seeking popular appeal and saleability.
The speech by the honourable member for Monbulk when he first brought this matter to
the House was, in my belief, pitched towards the consumerism of the sensational and was
lacking, as it turned out after investigation, in any substance at all. I find that very sad for
him. I hope he will reflect on that in the career that he has left in this Parliament.

Mr Maclellan—And after it.

Mr LIEBERMAN—I believe any trial of any person, whether it be of any member of
this Parliament or any citizen of the State, and whether it be a Privileges Committee
inquiry, a court hearing or a hearing by some other jurisdiction, should be based upon
relevancy and veracity. It should not be based on a person being put in jeopardy based on
innuendo and opportunity, as clearly happened here.

Often in our society fairness is sacrificed on the altar of sensationalism; on the altar of
achieving a political point to gain some advantage or to divert attention from another
issue. I think it is evident to those of us who can see through some of the behaviour that
has occurred that that is what has happened here.

I ask the Government to take careful note of the recommendations of the committee. I
commend the chairman and other members of the committee for their hard work. We
worked well as a team. That gives me hope for the future. I do not want to see members of
this Parliament—myself included—subjected to the ordeal that we have been subjected
to; and above all, I do not want to see members from either side of this Parliament
subjected to vile innuendo and accusation based not on any evidence at all but on
imagination and vilification and on some contrived mental process that turns out to be
the product of a poisoned mind. If we understand what the honourable member for
Monbulk said today, it stemmed from the poisoned mind of somebody outside, and he
asks us to accept that he accepted that in good faith.

That is not the standard or level on which members of Parliament ought to act. If we
are to have decent laws and decent administration, we surely ought to take a stand.

We must look at a process of filtering. I commend the proposal put by the honourable
member for Berwick in relation to this: that details of contempt and privilege should be
given to the member who is the subject of accusation. That proposal is based on sound
commonsense, fairness and openness, and that is commendable.

There must be an examination of procedures of the Privileges Committee anyway
because, so far as I am concerned, anyone who is accused—whether a member of the
Liberal, Labor or National Party—is entitled to a presumption of innocence. The onus of
proof should never be on the person accused but on the person who takes it upon himself
to mount the case and the allegation—in this case, the honourable member for Monbulk.

I found it particularly distasteful to have to face up to the honourable member for
Monbulk saying to members of the committee, when it was pointed out that what he had
said in relation to one aspect of his allegation was not evidence and was not in any way
supported—I hope I am not being unfair to him—"Well, you as members of the committee
can go to Wonthaggi and other places and have a look at documents and ask other people." That is an extraordinary level of behaviour and standard when one considers that the
consequence of the charge was that, if the honourable member for Gippsland West had
been found guilty under this Act, Parliament could resolve that he be removed from the
seat that he holds.

We have an inadequate and inappropriate mechanism that could change the balance of
power in Parliament because the Privileges Committee is not comprised of equal numbers;
it has a majority of Government members. In this case we were fortunate to have members of the Government who showed guts, determination, courage and integrity to see that the committee acted fairly. However, hypothetically a majority of a Privileges Committee controlled by any Government could hear a charge mounted by a member of the Government, find the person guilty, come back to the Legislative Assembly in which it had the numbers and resolve to remove the member.

The consequences are horrendous and, on that basis alone, Parliament must early next year get together with honourable members who have some insight and feeling about this and produce an equitable system that provides a fair trial for any person faced with this sort of charge.

My final point: even today we heard the assertion from the honourable member for Monbulk that it was somehow improper or questionable for members of Parliament to transfer assets to their families. I find that attitude incredible. I place on the record that I hope the honourable member will review his attitude on the matter. I believe that part of being on this earth and being involved in work production, saving and hoping to provide security for one's family is the privilege and the pleasure of being able to transfer to one's family some assets that one might have so that their education and their security is enhanced.

I find that a commendable attribute of human beings, and I am alarmed to hear the honourable member for Monbulk suggest that the law is inadequate because it somehow or other allows a member of Parliament to properly transfer some of his assets to his family. I will defend that right to the last breath, and I think most honourable members would. The Premier obviously has done so, and that is a matter for him, but it is obviously the case.

I say to the honourable member for Gippsland West that the past six weeks have been hell for me but they must have been worse for you and your family. I never doubted that you would be cleared. I am glad that you have had such a public, unanimous, all-party clearance of your behaviour and a reinforcing of our opinion and knowledge of your integrity. We apologise to you, Alan Brown, for what has happened to you and we hope that no member of Parliament will ever again place another member of Parliament in the position in which you were placed.

The motion was agreed to.

TEACHING SERVICE (AMENDMENT) BILL

Mr CATHIE (Minister for Education) moved for leave to bring in a Bill to amend section 63 of the Teaching Service Act 1981 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

GAS AND FUEL CORPORATION (AMENDMENT) BILL

Mr FORDHAM (Minister for Industry, Technology and Resources) moved for leave to bring in a Bill to amend the Gas and Fuel Corporation Act 1958 and to repeal the Gas Act 1969, the Gas Franchises Act 1970 and the Liquefied Petroleum Gas Subsidy Act 1980 and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.
SHOP TRADING BILL

Mr FORDHAM (Minister for Industry, Technology and Resources) moved for leave to bring in a Bill to provide for the regulation of shop trading, to make consequential amendments to certain Acts and for other purposes.

The motion was agreed to.

The Bill was brought in and read a first time.

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

The debate (adjourned from October 23) on the motion of Mr Walsh (Minister Assisting the Minister for Labour) for the second reading of this Bill was resumed.

Mr GUDE (Hawthorn)—The Bill deals with a number of provisions in the Construction Industry Long Service Leave Act. Clause 4 provides that the payment of long service leave will be on a two-monthly basis instead of the current monthly basis. The Opposition does not oppose this clause. Criticism has been levelled at the board for a long time because of the administration of monthly contributions and the fact that the board has always been behind in its administration. This has led to complaints by employers that employees are not being shown as registered or having made all contributions up to date.

This clause should allow the board to catch up in its administration to the extent that problems disappear. In fairness I should say that although these complaints have been made by some employers, other employers have preferred to pay on a monthly basis. When a survey was undertaken by the board in recent times to determine whether change should be made, some employers stated they preferred to be involved with the monthly contribution.

I simply make the point that if a change is to be made to the time within which dues are collected, more than one option should have been given to the business community. It might have been wiser for the Government to have given a series of options: quarterly, six monthly or bimonthly.

In any event, the Opposition has made contact with a number of business organisations and has received a mixed response, but the majority of businesses support the amendment as proposed.

Clause 5 broadens the scope of the exemptions in section 28 of the principal Act. The new provision will allow the board to exempt an interstate employer operating in Victoria from the requirement to pay long service leave charges if the board is satisfied that the payment has been made to a similar long service scheme in the employer’s own State.

Problems have existed in this area for a long time, especially in the border region between Victoria and New South Wales and, more particularly, in a number of projects in the Albury-Wodonga area. It has always seemed rather foolish that an appropriate arrangement was not in place that would have satisfied the needs of all those people who operate in that way. The proposed amendment has the full support of the industry. It is eminently sensible and will not be opposed by the Liberal Party.

Clause 6 repeals reference to service prior to 1 February 1977. When the Building Industry Long Service Leave Act was proclaimed in 1975, it provided that persons employed in the industry prior to 1 February 1977 would be paid long service leave at the rate of pay applicable at the time of the entitlement falling due. Workers whose entitlement accrued after that date were to be paid at their actual rate of pay at the time of taking leave.

This was done principally to protect the fund from potentially large claims in its infancy. The fund has gone a long way since then. It has reached a stage where it has been
appropriate to reduce the percentage charged to employers, as a consequence of the sound state of the fund.

The amendment brings the provision into line with normal long service leave standards in the State. It is an appropriate variation to be introduced by the Government at this time and the Opposition has no objection to this clause.

A good deal of concern has been expressed to the Opposition by a number of employers about the fundamental flaw in clause 7. Basically the clause provides that the Minister for Labour and the Minister for Public Works may enter into an agreement to make reciprocal arrangements in respect of workers who are or have been in the Department of Public Works carrying out construction work.

On the surface, that may appear to be reasonably acceptable. However, the reality is that persons employed in the Public Works Department Construction Group enjoy a different set of benefits under the long service provisions than do people in the private sector.

In particular, it is the years of employment that have to be undertaken to accrue long service leave. In the public sector, one receives long service leave after ten years, but in the private sector it is after fifteen years.

The Government sought to, in a sense, take account of that by using a complicated formula worked out to allow for this transition to take place but a genuine fear has been expressed to the Opposition by a number of employers, both within this industry and in other associated industries, about the prospect of portable long service leave entitlements on a ten-year basis eventually flowing throughout the community.

One of the occurrences that has brought that fear and concern to their attention has been the fact that on a couple of occasions during the past six months the Government has attempted to introduce portability of long service leave. In fact, if one goes back to a previous year, one finds that a Bill was introduced to introduce portable long service leave, per se. It was ultimately rejected, appropriately, by Parliament, and the Bill withdrawn.

Earlier this year the Government introduced a Bill to introduce portable long service leave in the contract cleaning industry and again Parliament rejected it. The Minister will be pleased to know that I do not intend to go back and canvass those issues; they are on the record and the Opposition has had its say in that respect, but the Opposition will be opposing clause 7 on the basis that it creates a potential for introducing a precedent and, out of genuine concern and fear of the prospect of the flow-on of a reduced standard in the construction industry, the clause will be opposed.

The industry is already reeling under the cost impact of wage increases, oncosts and the prospect of facing claims for superannuation benefits in the marketplace. The industry has been bedevilled by industrial disputation over a long period.

When I was examining the clause, I went to the annual report of the Construction Industry Long Service Leave Board. I make the observation and express disappointment that the report for the current year, due in September, has still not been presented. It is due to be tabled in Parliament no later than 30 September and, again, honourable members are witnessing an example of the sloppy administration existing in a number of agencies. In the past, the board has experienced problems with its performance in that respect and, so long as this persists, there will be genuine criticism of those members who comprise the board.

I know most of the members of the Construction Industry Long Service Leave Board and they are good people but as part-time members only, they have not been, collectively, attentive enough to have the report completed in time. I say "collectively" because I do not wish to individualise but if it is not their fault and they have produced a report, then I apologise, but I wonder why it has not been presented and tabled in Parliament.
If one examines the 1984-85 report, one finds on page 4 a heading, “Public Works Department Construction Group” and the report states:

During the year, discussions were held with representatives of the Ministry of Industrial Affairs and Public Works Department regarding possible loss of service credits by workers employed with the P.W.D. Construction Group. The Board used its discretionary power and agreed to allow certain workers to retain their service credits accrued whilst employed in the private sector and have continuity of service if they return to the private sector, even after an absence of more than two years.

I presume that is a discretion that the board exercises as a consequence of section 34 of the Act—there certainly is a discretion to that effect.

I assume further that the discretion that is referred to is one that maintains continuity but does not provide for service credits that would have been gained in the private sector to count for long service leave so far as the Public Works Department Construction Group is concerned.

For example, if a person had been employed for six years in the Public Works Department Construction Group and then worked in the private sector for four years and then came back to the Public Works Department, I assume that the report is indicating that those six years of continuous service would be retained and credited to that employee and after working a further four years within the Public Works Department Construction Group, the employee would qualify for long service leave as provided under the particular employment circumstances.

I ask the Minister to give the House an assurance that it does not mean that the four years—in the example I have given—of work in the private sector has been used to make a direct payment to that person of long service leave immediately upon his return to the public sector because if that is the case, what we are really then saying is that the Bill is an attempt to clean up a deficient activity engaged in by the board in the past.

Although there are discretionary powers under the Act as I read it—and I admit I only read it fairly quickly last night—I did not see any provision that would allow for service within the private sector to be credited to an employee who had worked for six years—as in the previous example—in the construction group of the Public Works Department; and I seek an assurance from the Minister on that point.

It also seems appropriate, returning to clause 4, that I should make some reference to working contractors because one of the representations made to the Opposition was from the Housing Industry Association. In a letter from its Director, Mr Les Groves, to myself and to the National Party, dated 10 November 1986—and I should be happy to make a copy available to the Minister—particular reference was made to working subcontractors. The letter states:

Working subcontractors—under the existing legislation a “working subcontractor” has the choice of whether he pays into the fund for himself or not.

However, in the pedantic style of the bureaucracy, he is still required to register with the CILSB even though he has opted not to make any payments.

This seems to us to be a ridiculous requirement and only adds to the paper warfare.

The requirement to register (in the case of the non-contributing working subcontractor) should be repealed.

I agree with those points. It is a humbug and a nonsense to suggest that if somebody has made a decision to protect themselves in their work environment; has decided to take out insurance for their protection and the protection of their family; they make the contributions in their own way; and, if they have elected under the terms of the Act to opt out, why should they then be forced to register under the Act?

One of the concerns that is not set out in the letter, but which has been expressed to me privately by a number of people who are subcontracting in the industry, is that a list of names of people who can be recruited into membership of the association is produced by the act of registration. I do not wish to indulge in a union-bashing exercise—that is not the purpose of the Bill or the intention of the Opposition—but there is genuine concern in
the business community about this unnecessary registration. It is a cost in terms of time and effort to be involved in the registration process.

On the whole, the Opposition is pleased to support most of the provisions in the Bill and, for the reasons I have outlined, it will be opposing clause 7 both here and in another place, and I look forward to the contributions of other honourable members.

Mr McNAMARA (Benalla)—The Construction Industry Long Service Leave (Amendment) Bill (No. 2) deals with one issue which the National Party finds contentious. Apart from this issue, the Bill is supported in general terms.

The first three clauses of the Bill deal with the purposes, the commencement provisions and cites the principal Act. Clause 4 amends section 24 to provide for the payment of long service leave on a two-monthly basis in lieu of the one-monthly basis. This will be a general administrative saving for employers—to be able to pay employees every two months rather than every month—and the clause is supported by both the Liberal and National parties.

Clause 5 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 payment has been made to a similar long service leave scheme in the employer's State.

My colleague, the honourable member for Murray Valley, has on several occasions referred to the border anomalies issue. Many of my colleagues represent electorates that border either New South Wales or South Australia, including the honourable members for Lowan, Mildura, Rodney, and Murray Valley and, in the other place, members representing the provinces in the north-eastern, north-western and western areas of the State. The National Party welcomes this clarification of the existing system. Employers should certainly not be required to pay into two schemes.

Clause 6 repeals reference to service prior to 1 February 1977. When the original Act was proclaimed in 1975 it provided that persons employed in the industry prior to 1 February 1977 be paid long service leave at the rate applicable at the time of entitlement. Workers whose entitlements accrued after that date were paid at the actual rate of pay at the time of taking leave.

In the initial stages, the reason for introducing that provision was that, at its commencement, the scheme did not have a great deal of reserves and, to ensure the scheme maintained liquidity, employees who had accruals prior to that were paid long service leave at their rate of pay at that time.

We are now advised that the scheme is financially more independent and in a position to pay employees their long service leave at the rate they are paid at the time they take the leave, and so a portion of their long service leave entitlement will no longer be paid at the earlier rate of pay.

Obviously when one compares the rates of pay that currently exist with those of the mid to late 1970s, one sees there is an enormous difference. It is fair to say that the measure brings the long service leave provisions into line with the standard adopted in other areas.

The National Party and the Opposition are concerned about clause 7, which provides that the Minister for Labour and the Minister for Public Works may enter into an agreement to make reciprocal arrangements in respect of workers who are or who have been in the Department of Public Works carrying out construction work and workers who change employment between the private sector and that department.

The National Party—and the Opposition, as the honourable member for Hawthorn pointed out—have strong philosophical differences of opinion with the Government about the principle of the portability of long service leave.
Long service leave is exactly what it states; it is leave in return for long service. It is not leave in return for short service, medium service, transient service or passing service; it is long service leave. It is given as a benefit to encourage workers to stay with one employer over a period.

The Government is deviating completely from the principle of long service. If the portability of long service is allowed in this area—a provision with which the National Party does not agree—the door will be wide open for the same principle to be applied in other sectors of the work force and employees will be able to transfer between the public and private sectors and carry with them their long service leave entitlement. That is totally and absolutely wrong. For that reason, the National Party will happily join the Liberal Party to support the amendment moved by the honourable member for Hawthorn.

Mr Perrin—Mr Acting Speaker, I direct your attention to the state of the House.

A quorum was formed.

Mr McNAMARA—The National Party has a strong philosophical objection to clause 7 and considers that long service leave is purely for long service and not for short service. If we are to allow the transferability of long service leave between two different employers, long service leave should be scrapped entirely. Together with its colleagues in the Liberal Party, the National Party will ensure that clause 7 is removed from the proposed legislation.

I hope the Minister for Labour will have the good grace and commonsense to take this damned amendment out of the proposed legislation. It is outrageous that the clause was included in the Bill in the first place. The other clauses make sensible and logical amendments to the principal Act and the inclusion of such a ridiculous clause as clause 7 takes away the credibility of the other clauses.

The only conclusion I can reach for the inclusion of clause 7 is the poor state of health of the Minister for Labour over the past twelve months. I can only conclude that somehow the illness of the Minister has addled his brain. We always knew he was a person very much on the fringe, but to include the portability of long service leave is absolutely ridiculous. There is no way the conservative parties will allow the clause to be agreed to.

I hope that, perhaps after a few Valiums and some reflection, the Minister will reconsider the matter and arrive at a more logical conclusion. There is no way the National Party will accept the proposal because it goes against the thrust and principle of accepted long service leave practice.

I hope that in one of the brief moments of clarity the Minister has from time to time he will come to the realisation that the clause should be knocked out of the Bill. As the honourable member for Hawthorn interjects, the Minister has a flat learning curve. However, the Minister is trying to get back into the swing of things, judging by his performance at question time today. Although it was hard to follow, the Minister is obviously making a valiant effort to try to pick up the threads.

The National Party hopes that good sense will prevail and that the Minister will perhaps show a little Christian humility this close to the festive season to enable him to see the reason behind the National Party's argument and drop clause 7 from the Bill.

Mr TANNER (Caulfield)—The Opposition generally welcomes the proposed legislation which contains some good measures. But, as has been pointed out by the honourable members for Hawthorn and Benalla, the opposition parties are concerned about clause 7.

As a result of a gentlemen's agreement both lead speakers and subsequent speakers for the opposition parties will truncate their comments to enable other measures to be debated adequately prior to the end of the sessional period.

Concerns though must be directed to the attention of the Minister for Labour so that he understands the immediate and potential costs to the Government and to the community of Victoria embodied in clause 7, which deals with portability of long service leave. The
Liberal Party recognises that long service leave is one of the treasured benefits of Australian workers. Virtually the rest of the world does not have that benefit. Australian workers respect and acknowledge that they are entitled to long service leave.

Australia's present economic situation makes one wary of extending long service leave provisions without taking into account the consequences. Two departmental advisers were made available to the Opposition to discuss the proposed legislation. In response to questions from members of the Liberal Party, the advisers acknowledged that they did not have definite figures on the expected cost of the measure to the Government.

In the second-reading notes the measure was described as being a two-way street. Immediate costs, though, will come from the private sector in a one-way street to the construction group of the Public Works Department. The Minister should advise the community and the opposition parties about the estimated expense before their apprehensions are removed.

The Opposition supports the measure generally. The provision for the payment of long service leave to be made on a two-monthly basis rather than a monthly basis is good. The departmental advisers said that the provision should provide a cost saving to the Construction Industry Long Service Leave Board of $50 000 in the first year and in the second year, and thereafter $68 000 per annum, although it was estimated that the cost to begin the system would be $138 000 per annum including the cost of employing four staff. I have put this on the record so that in the future honourable members will be able to refer to it and ascertain whether the estimates were correct and the provision is valid.

The Opposition acknowledges that clause 5 is also a good provision which enables exemptions to be given, for instance, to a New South Wales firm that employs workers from New South Wales in Victoria. The Opposition also supports clause 6 which enables long service leave payments to be made at the "current rate of pay" on leave accrued prior to 1977.

In the second-reading notes the Minister pointed out that the original qualification was introduced because of the initial apprehension about the cost of establishing the Construction Industry Long Service Leave Board. The board’s assets at present make that qualification unnecessary.

In view of the present state of the economy one must ask whether the Victorian community can afford the proposed legislation, not only immediately but also in the future, when pressure may build up if workers move from the Public Works Department Construction Group to the private sector. At present the construction group’s long service leave entitlements are provided under the Public Service Act 1974 in section 41A (1), which states:

This section applies to any officer, employee or other person in respect of whom or any class of officers, employees or persons in respect of which a declaration has been made under sub-section (2).

Subsection (2) declares that the provisions of the principal Act other than in section 41A and other specified long service leave provisions shall not apply to any officer, and so on, which, but for this section, the provisions of the Act would apply.

That provision gives the effect to Schedule A, which sets out the general conditions of employment determinations for 1983. Part I, which deals with long service leave, provides for employees of the construction group of the Public Works Department and, in part, states:

Every employee who has served ten years in an Administrative Unit shall be entitled, subject to the provisions of this Part, to be granted by the Chief Administrator three months’ long-service leave with pay in respect of that period of ten years’ service and one and one half-months’ long-service leave with pay in respect of each additional period of five years’ completed service.

That provision is more beneficial to employees of the construction group as compared with employees in the private sector who are covered by the Construction Industry Long Service Leave Board.
The board has published a pamphlet headed, “Portable Long Service Leave in the Construction Industry”, which states:

After 15 years continuous service in the industry, workers are entitled to 13 weeks' leave. For each additional 5 years service they are entitled to 4\frac{1}{3} weeks leave.

The benefits to the construction group employees are far more favourable than those that exist in the private sector.

In view of the current economic situation, the Opposition cannot accept the provisions contained in clause 7. Generally it supports the proposed legislation, which will be of benefit to those in the construction industry. It will not accept clause 7, unless it receives more information from the Government.

Mr PERRIN (Bulleen)—I support the contributions of honourable members on the Opposition side of the House. The Bill is one of a constant stream of Bills that have amended the Construction Industry Long Service Leave Act. Although the Bills have been reasonably small, they have constantly expanded the powers of the Construction Industry Long Service Leave Board.

The Bill is also fairly small but it makes the Opposition wary about the general trend of the construction industry. The Bills have gradually extended the long service provisions to cover various workers in contract industries such as mainlayers, shopfitters, electricians, pool installers and contract cleaners. This concerns the Opposition.

The Bill now takes in the construction industry workers. No doubt, as public sector employees move out of the Public Works Department into the private sector, in a normal progression, they will be covered by the portable long service leave provisions. In other areas, subcontractors are constantly put under pressure by the threat that they will be gathered in and made employees rather than independent contractors.

I shall refer to the fact that the Bill allows various employers to lodge returns on a bimonthly basis rather than on a monthly basis. That is a step in the right direction, and I am sure that the many people who must lodge the returns would agree. However, why has the number of returns necessary each year been decreased from twelve to only six? Why does not the Bill go further and require only six monthly returns.

Mr Gude—It would save taxpayers' money!

Mr PERRIN—More importantly, it would save the contractors and employers money; they would be able to keep their own money for a considerable period. The burden on the construction industry of lodging returns should be eased.

I shall now refer to how the Construction Industry Long Service Leave Board operates. It concerns me that the latest annual report from the board available to Parliament is for the 1984–85 financial year. Some five months after the end of the financial year, Parliament has not received the board's annual report for 1985–86. That is unacceptable as Parliament should be informed and up to date.

I have received the spring 1986 newsletter from the Construction Industry Long Service Leave Board which provides some information, but I do not have the annual report. It is nice to receive the glossy, one-page newsletter, but Parliament is entitled to the annual report. It is about time that some of the bureaucrats kept Parliament fully informed at all times.

The annual report indicates that as at 30 June 1985 there were 150 employees in the organisation. I assume that there are considerably more employees in the organisation now. We are creating a bigger bureaucracy when we should be making it smaller.

It concerns me that the expenditure for running the board is approximately the same as the benefits to various workers. The operating costs of the board in 1985 were $3-5 million, and that is of concern.
It also concerns me that the board has been able to accumulate a considerable amount of money, which it has invested, including the purchase of a building in East Melbourne. Of the $48 million the board has in investments, most of it is in the public sector in Victorian Government, Commonwealth Government or semi-Government securities. A lot of the money being taken from the construction industry is channelled into the public sector, and that will not benefit the industry. The construction industry should be left with its funds to make its own choices. I am certain it would be able to pay its employees accordingly.

The Opposition will oppose clause 7. It is the thin end of the wedge for portability of long service leave. It proposes portability between the construction section of the Public Works Department and the general private section of the construction industry. Parliament cannot accept the principle of transferability of long service leave from the private sector to the public sector and vice versa. That has enormous long-term implications that could spread across the board, and teachers, kindergarten teachers, employees of the Gas and Fuel Corporation or the State Electricity Commission could ask for their long service leave entitlements to be transferred between a Government authority to the private sector. Parliament must reject the clause as it will open the door to many other areas where there is interaction between the private and public sectors.

Parliament cannot accept the principle without an adequate impact statement and without the full agenda being known. Is it the intention of the Government to extend this provision to other contractors in the construction industry?

Mr Ken Williams has prepared a report advocating portability of long service leave. The Victorian Employers Federation has taken issue with the report. A report dated 26 September 1986 states that the Williams inquiry was on the wrong slant because it advocated reversing the onus. The article is headed, “Bid to reverse onus of proof in portability long service leave area”, and states:

An inquiry into long service leave in Victoria has suggested that employers opposed to the introduction of portable long service leave should be required to clearly demonstrate that their opposition is soundly based.

That is the reversal of onus. Surely those putting up a proposition should support it before it can be accepted. Why must the onus be reversed?

The article continues:

The suggestion by the Williams inquiry is a departure from the traditional onus of proof which requires those seeking the change to justify "each and every part of it".

I accept that, as do the Victorian Employers Federation and the community in general. It is up to those proposing change to make out their case. That has not been done in this instance.

The article further states:

It has been a long established industrial principle that those making claims have to justify them.

The Government must justify any changes it seeks to make to long service leave provisions.

I support the view of the Victorian Employers Federation that the onus is incorrectly based in the Williams report and the Minister should address that issue. The Minister has foreshadowed further Bills seeking to extend long service leave in the construction industry.

In the public sector thirteen weeks' long service leave is available after ten years' service but in the private sector thirteen weeks is available after fifteen years' service. Why is this important difference being changed? Is the Bill the thin end of the wedge whereby the Government will tell the construction industry that it should provide thirteen weeks' long service leave to each employee who has given ten years' service?

The Government is breaking down the principles of portability, onus of proof and length of employment between the private and public sectors to such an extent that the private sector will soon be forced to abide by the public sector arrangements.
Australia’s credit rating has fallen and Australia cannot accept a constant breakdown in employment provisions. The Government must base any change to long service leave on economic grounds. I commend the excellent contribution made by the honourable member for Hawthorn and agree that clause 7 should be omitted.

Mr CRABB (Minister for Labour)—I thank honourable members for their contribution to the debate, especially their support for everything in the Bill except clause 7. The National Party does not appear to be terribly keen on long service leave, certainly not for someone who has remained with the one employer.

The construction industry long service leave arrangements have been in place for some years. The arrangements were made with the support of all parties.

The construction industry was once renowned for permanency of employment, but times have changed and employment is seldom on a permanent basis. The construction industry is largely a contractor-based industry in which people work on one job and move from that to another job and therefore to another employer. There was an obvious need for portability of long service leave.

The construction industry long service leave scheme is now operating well, both here and in other States. The Bill will create reciprocal arrangements for long service leave in the construction industry in New South Wales.

Clause 7 confers upon the Public Works Department Construction Group the same portability of long service leave as applies in the private sector. The construction group has been established to allow the Public Works Department to expand and contract its staff depending on the work and projects available. That is no different from what happens in the private sector. Indeed, I should have thought the Opposition would have appreciated that method rather than the department being required to staff itself with permanent employees.

To achieve the necessary employment structure in the construction group of the department, it was necessary to provide the same long service leave provisions that apply in the private sector of the construction industry. The only way that can be done is through the Bill.

If a person works for the construction group of the department for a year or two and then spends a few years working in the private sector construction industry, after fifteen years’ employment that person will be eligible for long service leave. If the Government persisted with matters as they are at the moment, any construction industry employee who at any time during the fifteen years’ eligibility period worked for the construction group of the department would cease to be eligible for long service leave in the private sector. That would be grossly unfair to the person concerned. Clause 7 will enable those proper employment arrangements to be established.

The honourable member for Hawthorn referred to the desirability of registered subcontractors not having to register with the long service leave fund if they do not want to contribute. Such working subcontractors who do not wish to contribute are able to obtain exemptions. If one wants an exemption from something, one has to contact the authority concerned, in this case, the Construction Industry Long Service Leave Board. If no such need existed, abuses would occur because people would decide on a whim not to contribute. That would not be in the best interests of the industry, the employees or the subcontractors. I look forward to further discussing clause 7 during the Committee stage.

The motion was agreed to.

The Bill was read a second time and committed.

Clauses 1 to 6 were agreed to.

Clause 7
Mr GUDE (Hawthorn)—During the second-reading debate I explained my party’s opposition to the clause. A number of people in the business community have voiced genuine concern about the clause.

This clause would be more acceptable to the Opposition if the period of service between the public sector and the private sector were identical, in other words, if employees of the Public Works Department Construction Group accrued long service leave after fifteen years, not ten years, and if the Public Works Department paid into the fund, by agreement, exactly the same as private sector employers. I cannot make a promise, but if this can be achieved, I will take that proposition back to the Liberal Party and perhaps there will be a better hope of some resolution of the matter. Given that the Public Works Department Construction Group accrues long service leave after ten years, the Opposition must oppose the clause.

Mr RAMSAY (Balwyn)—I support the comments of the honourable member for Hawthorn. I was disappointed at the Minister’s response in the second-reading debate. He is taking the simplistic view that employment in the day labour force of the Public Works Department is equivalent to employment with any other employer in the construction industry and all that is needed is a simple arrangement whereby workers within the Public Works Department could have the flexibility to move in and out of that department, engage in construction work with a private employer, and come back as the department’s day labour force waxed and waned. If it were that easy, the Opposition would have no worry with clause 7.

I am concerned that the Government has not sufficiently thought through the consequences of this new move. One cannot have people employed within the public sector under terms and conditions relating to the public sector—for example, the length of service required to accrue long service leave—moving in and out of the Public Service without creating a number of other consequential problems.

I do not believe the Minister has addressed these problems. The Government has not addressed them. Perhaps when the Minister re-examines the clause and studies it in more detail, he will realise that he cannot move forward with this simple clause.

Mr CRABB (Minister for Labour)—The Opposition seems remarkably suspicious on matters concerning long service leave. There is no hidden agenda on this exercise. This legislation was initiated when the Liberal Party was in government. The Labor Government is trying not to have the whole of the Public Service involved in it but only the construction employees of the Public Works Department.

The whole intent of setting up the construction group was that it could deal with and take on projects in much the same way as a company in the private sector. That is not to say that it will have the same wages and conditions as the private sector. It cannot. The Government does not pay over-award payments, and so on, although it does pay the State Incremental Payments Scheme. A different process applies to all public sector employees and for a long period, more than I care to think about, the long service provisions of the public sector have been more generous than the private sector. Employees in the public sector cannot be working under different conditions from those of other employees in similar circumstances.

Therefore, if the construction group is to function at all in the way I imagine everyone considers it is proper to function, that is, much as the private sector functions, there has to be a capacity for people to transfer in and out of it into the private sector.

The only way that can be done is to have the construction group involved in the portability of long service leave in the construction industry. There is no easier way. The provision accommodates that. It does not extend it to anyone in the private sector or create any pressure for that to occur, or any expectation.

It does mean that for the time these employees are working in the construction group they are gaining, from my reading of the complicated formula at the back of the Bill, half
as much again in credit pro rata of long service leave for the time they are in the Public Works Department Construction Group than they would in the private sector, but that is the reality of the world. That is what would happen if an employee stayed with the department for ten years.

The issue is that no-one wants these employees to stay there for ten years. They are required on a project basis, and that is what they want and what the Government wants, and I do not understand why the private sector must concern itself with it.

The Opposition has stated that it will vote against the clause. I am prepared to discuss the matter further with the Opposition while the Bill is between here and the other place.

The Committee divided on the clause (Mr Fogarty in the chair).

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Majority for the clause 10

AYES
Mr Andrianopoulos
Mr Cain
Mr Cathie
Dr Coghi U
Mr Crabb
Mr Culpin
Mr Cunningham
Mr Fordham
Mr Gavin
Mrs Gleeson
Mr Harrowfield
Mrs Hill
Mr Hill
Mrs Hirsh
Mr Hockley
Mr Jolly
Mr Kennedy
Mr Kirkwood
Mr McCutcheon
Mr McDonald
Mr Mathews
Mr Micallef
Mr Norris
Mr Pope
Mrs Ray
Mr Remington
Mr Rowe
Mr Seitz
Mrs Setches
Mr Sheehan
Mr Sididropoulos
Mr Simmonds
Mr Simpson
Mr Spyker
Mr Stirling
Mrs Toner
Mr Trezise
Dr Vaughan
Mr Walsh
Mrs Wilson

NOES
Mr Coleman
Mr Cooper
Mr Crozier
Mr Delzoppo
Mr Evans
Mr Gude
Mr Hann
Mr Hayward
Mr Heffernan
Mr Jasper
Mr John
Mr Kennett
Mr Lea
Mr Leigh
Mr Lieberman
Mr McGrath
Mr McNamara
Mr Perrin
Mr Pescott
Mr Plowman
Mr Ramsay
Mr Reynolds
Mr Richardson
Mr Ross-Edwards
Mr Smith
Mr Smith
Mr Steggall
Mr Stockdale
Mr Wallace
Mr Whiting

(Tellers)

Mr Dickinson
Mr Williams
The Bill was reported to the House without amendment, and passed through its remaining stages.

TEACHING SERVICE (AMENDMENT) BILL

Mr CATHIE (Minister for Education)—I move:
That this Bill be now read a second time.

Its purpose is to maintain the present high level of public confidence in and esteem for the public education system of Victoria and its Teaching Service.

The urgency for the Bill arises from the decision made on 27 November 1986 by the Equal Opportunity Board in the case of Alison Thorne v. The Queen.

The Government believes, and is confident that its view is shared by all members of the House, that implementation of the board's order would damage public confidence in and lower public esteem for Victoria's great system of public education and the many thousands of professional and dedicated teachers who comprise the Teaching Service of the State.

As honourable members would know, the Supreme Court has granted the Government an order nisi to review the decision of the Equal Opportunity Board and a stay of execution of the board's order pending the outcome of the Government's appeal.

I am advised that, in the normal course, the appeal may not be determined for some six to twelve months. However, if Ms Thorne were granted a speedy hearing by the court, the matter could be determined early next year.

Consequently, the Government is able to predict neither when the appeal will be determined nor the outcome of the appeal. This raises the possibility that the court might reject the Government's appeal at a time when Parliament is not sitting.

If this occurs, the Ministry of Education may have no option but to place Ms Thorne in a classroom in conformity with a legally binding order of the Equal Opportunity Board or of the Supreme Court, or both.

To guard against this possibility, the Government believes that this Bill should be passed before Parliament rises. However, it is the Government's intention that the provisions of the Bill be used only as a last resort.

Clause 2 (2) of the Bill therefore provides that its substantial provisions will come into effect only on a date to be proclaimed by the Governor in Council. Moreover, clause 4 provides that if proclamation does not occur within three years, the measure will be repealed.

Thus, if the enormous difficulties surrounding the issues that gave rise to the order of the Equal Opportunity Board can be satisfactorily resolved within three years, this measure will be automatically repealed. The period of three years has been selected to allow for the possibility of subsequent appeals to the High Court.

The Government is proposing this course because it is concerned to ensure that the jurisdiction of the Equal Opportunity Board is not unnecessarily restricted.

The Government's appeal to the Supreme Court is on the ground that the board made errors in law in reaching its decision. If this view is sustained by the court, this proposed legislation will not be proclaimed. I repeat: it is intended to be used as a last resort.
I assure the House and the people of Victoria that the Government has proposed this measure only after the deepest consideration. For myself, I consider the issues involved to be amongst the most difficult that I have confronted as a Minister in any portfolio.

The reason for this is that the facts of the case and the circumstances surrounding the case produce a great tension between two very important principles.

The first, which is embodied in the Equal Opportunity Act, is that employees should not suffer discrimination for their private political views. The second, which is embodied in section 63 (2) of the Teaching Service Act, is that the Chief Executive of the Ministry of Education, as head of the Teaching Service, must have the authority to transfer teachers in the public interest.

Parliament has enacted both of these important principles and, if the view of the Equal Opportunity Board is correct, determined that the principles embodied in the Equal Opportunity Act will be paramount.

I doubt whether Parliament ever contemplated that the Equal Opportunity Act could have the result of undermining public confidence in and esteem for the public school system and the Teaching Service. However, the Government is concerned that this will be the result of the decision of the Equal Opportunity Board in the case of Alison Thorne v. The Queen if that decision is not overturned in the courts.

The facts of the case are well known and, in any event, are set out in full in the decision of the Equal Opportunity Board dated 6 November 1986.

There are two events that are fully described in the decision of the Equal Opportunity Board which underline the Government's initial, and continuing, strongly held view that Ms Thorne is an unsuitable person to be a classroom teacher in either primary or post-primary schools.

Firstly, on Monday, 6 November 1983, Ms Thorne was one of two persons who issued a press release on behalf of the Gay Legal Rights Coalition which attacked the Delta Task Force of the Victoria Police for charging members of the Paedophile Support Group with "conspiracy to corrupt public morals". The press release carried two contact telephone numbers for Ms Thorne—one of which was the number of the coin-operated, red phone in the staff room of the Glenroy Technical School—the school at which Ms Thorne was then a teacher.

Secondly, on Tuesday, 7 November 1983, Ms Thorne conducted a telephone interview with Mike Edmonds of radio station 3AW on that red phone in which she stated her belief that "people aged between ten and sixteen" are capable of consenting meaningfully to sexual relations with adults, and criticised the present law of consent. At the conclusion of the interview, Ms Thorne made certain remarks from which any reasonable person could draw the conclusion that she was a schoolteacher and was conducting the interview at her school.

Following the broadcast of this interview there naturally followed a period of intense public disquiet expressed within Ms Thorne's school community, in the media and in Parliament.

Following meetings between Ms Thorne, the director-general, and representatives of the Technical Teachers Union of Victoria, Ms Thorne agreed to a transfer from her school to administrative duties at the Tullamarine regional office of the Ministry of Education. This transfer was fully supported by the Glenroy Technical School council.

Prior to her going, she was informed that, if she did not agree, she would be compulsorily transferred under the provisions of section 63 (2) of the Teaching Service Act 1981. This empowers the director-general to transfer an officer "upon certifying to the Minister that it is desirable in the public interest" to do so.
Late in 1984 Ms Thorne applied for advertised vacancies in a number of technical schools. She was subsequently appointed to a teaching position at Tottenham Technical School from 1 January 1985.

When this appointment came to the attention of the director-general, he exercised his powers under section 63 (2) to transfer Ms Thorne back to the Tullamarine regional office from and inclusive of 1 January 1985.

I should place on record that, from the beginning, the Ministry of Education has been willing to help Ms Thorne transfer to teaching duties in a TAFE college. In the Government’s view this would be acceptable to the community generally as TAFE colleges are post-secondary institutions. This offer was formally renewed again yesterday when the chief executive of the Ministry wrote to Ms Thorne, setting out the Ministry’s willingness to assist her to be placed in a TAFE college in time for the commencement of the 1987 college year.

The Government is confident that, if placed in a TAFE college, Ms Thorne would discharge her duties in a professional manner. The Equal Opportunity Board found, as a matter of fact, that:

...all the evidence points to her being an excellent teacher. She has a particular commitment to teaching deprived and problem children. There is no evidence... that she used her position as teacher to promote her private views or beliefs. ... (there is) no evidence that she promoted her political views in the course of her duties (at Tullamarine regional office) although she had opportunities to do so.

The Government does not seek to exclude Ms Thorne or any other teacher who might share her views from teaching duties merely because of the views they hold. It is because she has, by publicly expressing views about sexual matters relating to children under the age of sixteen which are repugnant to the majority of our community, damaged that confidence and trust which must be at the heart of the relationship between children, their parents and those who teach them. Although the events in Ms Thorne’s case occurred three years ago, public reaction to the decision of the Equal Opportunity Board testifies to the strength of the continuing concern on this issue.

Clause 3 of the Bill will, if it is proclaimed, insert in the Teaching Service Act proposed subsections 63 (3) and (4) which will limit the powers of the Equal Opportunity Board in cases such as the present one. These provide, in effect, that where the chief executive of the Ministry transfers an officer of the Teaching Service because of publicly expressed views about sexual matters relating to children, the powers of the Equal Opportunity Board under the Equal Opportunity Act will be restricted.

The board will still be able to hear any complaint brought by an officer. It will also be able to reach a decision as to whether the officer has been discriminated against within the meaning of the Equal Opportunity Act. However, in these limited circumstances, the board will be only able to declare whether discrimination has taken place. It will not be able to order that the discrimination be remedied in any particular way.

Once such a declaration has been granted, it will be a matter for the chief executive to determine what action should be taken in the light of the board’s declaration.

Members will note that clause 3 (1) refers to “publicly expressed” views. The Government is most concerned to ensure that teachers do not feel in any way constrained by the proposed legislation in carrying out their ordinary teaching duties, especially when conducting classes in courses such as health and human relations or protective behaviour. If there are complaints against teachers about comments made within the classroom, they will be dealt with in the ordinary way, if necessary, by disciplinary action. The provisions of this Bill will not be applicable in such circumstances.

Clause 3 (2) of the Bill ensures that this restriction of the board’s powers is effective regardless of whether the officer transferred has already obtained an order of the board or whether the events upon which a transfer is made occurred before the proclamation of clause 3 of the Bill.
The provision is therefore designed to ensure that, if Ms Thorne is ultimately transferred under the new provisions, that transfer cannot be attacked in the court on the grounds that it is in conflict with the existing order of the board.

In putting this Bill before the House I repeat that it is intended solely as a last resort to be invoked in extremely unusual circumstances.

It is most unfortunate that the operation of the Equal Opportunity Board, which has the full support of this Government, and the reputation of the public school system, should have come into apparent conflict.

The contribution which the Equal Opportunity Board has made and continues to make to the protection of human rights is very significant. It is only because of the extreme and unique nature of the difficulties which the Thorne case has raised that the Government has, with great reluctance, found it necessary to impose a narrow limitation on the board's powers.

The Bill aims solely to maintain the reputation of schools and of teachers. It has been deliberately designed to take effect only in the most extreme circumstance.

It is quite possible that the Bill will never need to be proclaimed and that after three years it will be automatically repealed. I hope that this will be what happens, but I am not prepared to take any risk, however remote, of damaging the esteem in which our schools and our teachers are held. I commend the Bill to the House.

On the motion of Mr AUSTIN (Ripon), the debate was adjourned.

It was ordered that the debate be adjourned until later this day.

SUPREME COURT BILL

The debate (adjourned from October 23) on the motion of Mr Mathews (Minister for the Arts) for the second reading of this Bill was resumed.

Mr JOHN (Bendigo East)—I declare a pecuniary interest. Since entering Parliament I have continued to hold a solicitor's practising certificate although I have not been a partner in the law firm in which I previously practised before entering Parliament.

The Bill is supported by the Opposition. The Bill has the support of the legal profession and of the Victorian Bar Council. The aims of the Bill include amending and consolidating the law relating to the Supreme Court of Victoria; amending various procedural provisions of the Supreme Court Act and repealing some obsolete provisions of the Supreme Court Act. The Bill redrafts some of the provisions in the Act in "so-called" plain English and introduces new laws regarding barristers and solicitors' fees.

As honourable members are aware, the court system is a three-tiered system. There is a Magistrates Court, a County Court and a Supreme Court. The Supreme Court is the superior court of the State and comprises the Chief Justice and 21 other justices of that court.

The Supreme Court exercises civil and criminal jurisdiction. It hears cases in the first instance and hears cases on appeal. At present the Supreme Court has been governed by the Supreme Court Act of 1958 and by the Constitution Act 1975. The Supreme Court Act of 1958 was a consolidation of laws which previously adopted the English Judicature Act of 1873 with modifications from time to time, up until the consolidation in 1958. Some of the provisions involve legal concepts that are centuries old; some of the concepts in the existing Act are out of date and the language is difficult to understand with some sentences being extremely long.

The Bill properly abolishes, in effect, a number of the ancient writs which are still part of the law in Victoria. The old laws were developed through the centuries not only in
Victoria but also in England, from where the law was originally inherited, and the laws with special writs related to special circumstances.

It was fatal to one’s case if a writ were issued in the incorrect form. To obtain a particular penalty, a specific writ was used for a specific purpose or to obtain a specific result. In future, Victorians will have only two forms of actions in the Supreme Court. One will be a writ which will be used in a simple modern form and the other an originating motion. Writs will be issued in disputes in respect of facts and originating motions where there is a requirement for interpretation of points of law and which require the court’s adjudication.

Another important reform is that the Bill abolishes the difference between courts and chambers, which should simplify proceedings and make things easier for barristers with interlocutory matters.

The Bill also gives new more expansive and detailed powers to close proceedings to the public. I refer honourable members to clause 19 where the criteria for the closure of courts are set out. Clause 19 states:

The court may make an order under section 18 if in its opinion it is necessary to do so in order not to—

(a) endanger the national or international security of Australia;
(b) prejudice the administration of justice; or
(c) endanger the physical safety of any person; or
(d) offend public decency or morality.

Clause 19 sets out specific criteria that the court must take into account if it wishes to close the court to the public.

The Bill also amends the provision in the Act relating to solicitors’ bills of cost. At present, under the existing law, a solicitor who wishes to sue for his costs, must first deliver an itemised bill of costs before he is able to successfully recover against a defendant. The itemised bill of costs can be quite detailed, quite expensive and can be many pages in length if the action is a long one or if the matter is involved and it can be expensive to prepare and can be time wasting. Often the defendant will not require an itemised bill of costs.

The Bill provides that the solicitor will deliver a lump sum bill of costs to the client and to sue the client upon the bill, if the client does not ask for an itemised bill of costs, within one month.

A solicitor will also be able to send out to his client an interim bill of costs. This is a practice that has been going on with modern accounting procedures and computers for some time and it has helped clients to know where they are going, to budget in respect of the matter with that solicitor, yet, there has been no statutory recognition for that practice.

The reform will bring into the law statutory recognition of the practice of forwarding interim bills of cost.

The Bill also makes important changes to the taxation of barristers’ fees, meaning the checking of them, calculation and review and so on. The Bill provides a right to the client to apply to a taxing master of the Supreme Court for a review of the barristers’ fees. The application must be made within two weeks of receiving a Bill. The Bill provides that if the fees are reduced by the taxing master then only the reduced balance is recoverable from the client.

The revamping of the proposed legislation has meant much redrafting into what the Minister calls “plain English”. Legislation should be clear, concise and legal language should not be obscure. All honourable members agree that the language used in the statutes, if badly phrased or obscure legalese, may deny people of their rights or privileges by not properly informing them of their responsibilities or obligations under the law.
The Opposition supports any move to improve the quality of the language used in Acts of Parliament which will ensure a more precise and easily understood statute. The Opposition supports the Bill which has, as I say, the full support of the legal profession.

Mr ROSS-EDWARDS (Leader of the National Party)—The Supreme Court Bill has the support of the National Party. The Bill has been in the course of preparation for a long time and it is due to come into operation on 1 January. As usual, not only for the Government, but also for all Governments, Parliament never seems to have any time to spare, so it is essential that the Bill pass the House tonight and the Legislative Council tomorrow. It is an important piece of proposed legislation and I commend the Attorney-General—I do not always agree with what he does—for instituting several changes to legislation regarding the court system for which the profession has been asking for some time.

The Supreme Court in Victoria has a long and distinguished history. It came into being in 1852 and the Act has not been reviewed to any extent since Sir Leo Cussen took on that task in 1928 or thereabouts. The Supreme Court has the Chief Justice and 21 justices. It has a high reputation in the legal world, not only in Australia, but overseas. All Victorians are proud of its record and the people who constitute the court. I do not believe any person would question the fairness of the court. The court may not always come up with the right decision, but the integrity of the court is beyond question.

In addition to the statutory provisions, the court is governed first by the Supreme Court Act 1958 and second by the Constitution Act 1975.

In addition to that, the practice and procedures are set down by the Supreme Court rules, which were revised to a large degree a year or two ago. This completes the revision that we were looking for.

The amendments have the support of the Law Institute of Victoria and the Bar Council. Both those bodies were consulted during the drafting of the proposed legislation.

There are six major objectives of the Bill. It amends and consolidates the law relating to the Supreme Court. It amends various procedural provisions of the Supreme Court Act to dovetail it with the general Rules of Procedure in Civil Proceedings 1986. It introduces statutory provisions for the taxation of barristers’ fees. It amends the law to permit solicitors to deliver lump sum accounts rather than detailed accounts. It removes obsolete provisions of the Supreme Court Act and also—and I am a bit sceptical about this—it brings what is called “plain English” into the legislation. I hope the plain English works! When legislation is changed it is not always easy because its meaning must be precise.

The National Party supports the Bill. It is very much a committee Bill if anyone wanted to debate the details, because the specific provisions are dealt with in the various clauses that make up the Bill. The National Party supports it and commends the Government for taking the initiative for which we have been waiting for a long time.

I wish the Bill a speedy passage and I shall watch for its introduction on 1 January. I hope it receives the welcome that it deserves.

The SPEAKER—Order! I am of the opinion that the second reading of this Bill is required to be passed by an absolute majority.

As there is not an absolute majority of the House present, I ask the Clerk to ring the bells.

_The required number of members having assembled in the Chamber_

The motion for the second reading of the Bill was agreed to by an absolute majority of the whole number of the members of the House, and the Bill was read a second time and committed.

Clauses 1 to 60 were agreed to.
Clause 61

Mr MATHEWS (Minister for the Arts)—I move:

1. Clause 61, page 23, line 15, after “charged” insert “and, if the solicitor has previously served a bill of costs drawn in lump sum, the solicitor is not, in that proceeding, bound by the amount and matters stated in the bill drawn in lump sum”.

2. Clause 61, page 23, line 17, after “person” insert “or to the solicitor or agent of that person who has authority to accept service of it”.

3. Clause 61, page 23, line 18, after “person” insert “or to the solicitor or agent of that person who has authority to accept service of it”.

4. Clause 61, page 23, lines 33 to 40, omit all words and expressions on these lines and insert—

“( ) Even if an interim bill of costs has been paid or taxed, it may be taxed as part of the taxation of the bill of costs covering the whole of the work which the solicitor has been retained or employed to perform”.

It should be explained that, between the introduction of the Bill in the Assembly and now, further consultation has occurred with the Law Institute of Victoria, the Bar Council and the Taxing Master of the Supreme Court to “fine tune” the provisions of the Bill concerning taxation of solicitors’ costs and barristers’ fees. Amendments Nos 1 to 14 circulated in my name are the product of that consultation. Amendment No. 1 is a consequential amendment to make it clear that a bill in taxable form has precedence over a lump sum bill for the purpose of legal proceedings.

Amendments Nos 2 and 3 are intended to permit a solicitor to serve a bill on the new solicitor of a client who is authorised to receive it. This is to ensure that where there are disputes on costs and the client engages another solicitor to act in that dispute, the delays in the client receiving advice are reduced to a minimum.

Amendment No. 4 allows the Taxing Master to review the whole of a client’s bill on the completion of work, even though parts of it have been paid. This is important because in many cases it is only when the whole of the work is complete that the true value of each component can be assessed.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 62 to 66.

Clause 67

Mr MATHEWS (Minister for the Arts)—I move:

5. Clause 67, page 28, lines 2 to 11, omit all words and expressions on these lines and insert—

“( ) Subject to this section, the amount of any fees chargeable by a barrister to a solicitor for a particular piece of work may be taxed and settled as between the barrister and the solicitor by the Taxing Master.

( ) Subject to this section, the amount of any fees chargeable by a barrister to the client for a particular piece of work may be taxed and settled as between the barrister and the client by the Taxing Master.”.

6. Clause 67, page 28, line 14, after “solicitor” insert “within the period specified in sub-section (8) or any longer period that the Taxing Master allows in special circumstances”.

7. Clause 67, page 28, line 16, after “client” insert “within the period specified in sub-section (9) or any longer period that the Taxing Master allows in special circumstances”.

8. Clause 67, page 28, line 19, after “fees”, insert “or any longer period that the Taxing Master allows in special circumstances”.

9. Clause 67, page 28, line 25, after “fees,” insert “or any longer period that the Taxing Master allows in special circumstances.”.

10. Clause 67, page 29, lines 5 and 6, omit “a dispute or difference of the kind referred to in sub-section (6)” and insert “fees charged by a barrister to the client”.

Amendment No. 5 provides that any fee charged by a barrister may be taxed. This is important in cases in which the solicitor, as a matter of law, must have the bill taxed—for example, in cases involving minors and some company liquidations.
Amendments Nos 6 and 7 place a time limit on the application for taxation of a barrister's fee. This is necessary to ensure consistency with the equivalent provision within the Bill dealing with solicitors' costs, which sets a time limit.

Amendments Nos 8 and 9 make it clear that the Taxing Master has discretion to extend the time for the taxation of barristers' fee slips in special circumstances. Amendment No. 10 is a consequential amendment made necessary by Amendment No. 5.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 68 to 73.

Clause 74

Mr MATHEWS (Minister for the Arts)—I move:

11. Clause 74, line 7, omit “If” and insert “Unless the Taxing Master otherwise orders, if”.

12. Clause 74, after line 20 insert—

“( ) If before serving a bill of costs drawn in taxable form the solicitor had previously served a bill drawn in lump sum, then on a taxation the solicitor is not bound by the amount and matters stated on the bill drawn in lump sum.”.

13. Clause 74, line 22, after “costs” insert (other than an interim bill of costs)

14. Clause 74, line 24, after “costs” insert (other than an interim bill of costs)

Amendment No. 11 is intended to give the Taxing Master a discretion in awarding costs on a taxation. This is important because at present unless a client has one-sixth or more of a Bill taxed off, he or she bears the cost of taxation, which may be substantial. This may be so even though a significant amount has been taxed off.

Amendment No. 12 has the same purpose and effect as amendment No. 1 but relates to the taxation of costs. Amendments Nos 13 and 14 are technical drafting matters to give effect to amendment No. 12.

The amendments were agreed to, and the clause, as amended, was adopted, as were clauses 75 to 128.

Clause 129

Mr MATHEWS (Minister for the Arts)—I move:

15. Clause 129, line 27, after “129.” insert “(1)”.

16. Clause 129, page 53, after line 3 insert—

“(2) A power conferred by sub-section (1) to make regulations providing for the imposition of fees may be exercised by providing for all or any of the following matters:

(a) Specific fees;
(b) Maximum fees;
(c) Minimum fees;
(d) Fees that vary according to value or time;
(e) The manner of payment of fees;
(f) The time or times at which fees are to be paid—

and it is not necessary for the amount of any fee to be related to the cost of providing the service.”.

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 amendments were adopted.

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

_The required number of members having assembled in the Chamber—_

The motion for the third reading of the Bill having been carried by an absolute majority of the whole number of the members of the House, the Bill was read a third time.

_The sitting was suspended at 6.35 p.m. until 8.6 p.m._

**FRIENDLY SOCIETIES BILL**

This Bill was returned from the Council with a message relating to amendments. It was ordered that the message be taken into consideration next day.

**CORRECTIONS BILL**

This Bill was returned from the Council with a message relating to amendments. It was ordered that the message be taken into consideration next day.

**STATE CONCESSIONS BILL**

The debate (adjourned from October 30) on the motion of Mr Wilkes (Minister for Housing) for the second reading of this Bill was resumed.

_Mr COLEMAN (Syndal)—The Bill combines State and Federal concessions for statutory payments. At page 99 of Budget Paper No. 2 there is a table that details State concessional expenditure, which is estimated this financial year to be $352,316 million in assistance for housing, health, education, energy and transport._

_In 1981-82 State concessional expenditure was worth $189,066 million, so the expenditure has increased dramatically during the time of the Labor Government. Why has there been such a large increase in concessional expenditure?_  

_Each day the Government proclaims that it is an excellent financial manager but when it comes down to the hard facts there has been a considerable increase in financial concessions provided to people on incomes below the average wage level._

_The Budget this year provides for land tax on people who are asset rich but income poor. Also included is the reference to first home buyers. The Government has wiped out that assistance. These people who were looking to the Government for assistance in that area will find that assistance is no longer available to first home buyers._

_What is not included in discussions on the 1986–87 Budget are the amounts that will be made available to municipalities for rate assistance. A limit of $135 has been imposed on the rate concession. In many instances, on the most recent valuations, the 50 per cent rebate should be considerably higher than $135._

_Almost daily people come to my office—and, I suspect, to the electorate offices of other honourable members—with reasonable causes that ought to attract some sort of concession. The Bill links the entitlement to concessions to the possession of a health benefit card._

_I point out again that the allocation provided in the current Budget for concessional expenditure is $352 million. The Bill will presumably come under the control of the Minister for Community Services._

_The allocation for Community Services Victoria is currently $463 million. It is not clear from the second-reading speech how the Bill is to be administered. If it is proposed that Community Services Victoria will handle the whole of the administration of the Bill, the Government is talking about increasing its annual expenditure from $463·637 million to_
a figure that is considerably higher. I have not broken down the actual amount. Nevertheless, honourable members can be assured that, as the matter stands, those areas concerned with housing, energy rebates, education costs and what were previously health costs will now represent part of the cash flow through Community Services Victoria.

It is not clear whether it is proposed that the administration of the Bill will be broken down into various segments and administered by the departments or Ministries that currently control those matters as they apply to concessions in the various areas. If the whole of the Bill is to be administered by Community Services Victoria, that department will have an increase of something like 70 per cent in the funds that will flow through that department.

That must bring into consideration the way in which the department is performing. The increase envisaged is significant, and it represents a significant entry into the administration of other departments if they are to determine through Community Services Victoria the distribution of funds as they become available.

I see some advantage in that department having an overview of the whole of this spending because it is obviously through that department that much of the financial and physical assistance is provided to families in distress. However, it does mean a withdrawal of funds from some departments and the transfer of those funds holus-bolus to Community Services Victoria.

That is not a happy situation because the Bill amends a whole range of Acts that are listed in the explanatory notes: the Firearms Act; the Geelong Waterworks and Sewerage Act; the Melbourne and Metropolitan Board of Works Act; the Water Act; the Land Tax Act; the Local Government Act; the Municipalities Assistance Act; the Sewerage Districts Act; the Motor Boating Act; the Motor Car Act; and the Stamps Act. That is a broad range of legislation of which each Act is administered by its own entity to provide some relief to people in certain circumstances. It is not clear how it is all to be drawn together.

The Opposition recognises that the Bill removes some obsolete references from legislation and makes health benefit cards the criterion by which people will have access to concessions.

The Opposition will not oppose the Bill. However, some advice ought to be given by the Minister on how the measure will be implemented and whether it will be possible for the departments that have previously had control of some of these concessions to give them up or whether that is to be organised through some Ministerial council or a Cabinet subcommittee to achieve the relationship that is necessary to get that spread of interests and to ensure that Community Services Victoria recognises that people who find themselves in necessitous circumstances should have access to the funds that are made available.

Mr STEGGALL (Swan Hill)—The National Party supports the Bill, which is virtually a reference Bill for a whole series of Acts under which the Government grants some concessions. The schedule to the Bill lists twelve Acts.

The Bill will allow the Government in the future to put forward concessions to certain people and to do so by way of amendment to one Act only.

This could be described as a reference Bill and is a sensible way of approaching the provision of concessions. We are not debating either the concessions or the amounts of the concessions. The Bill simply allows the effective machinery for the Government to provide concessions if and when needed.

Mr Leigh—Mr Acting Speaker, I direct your attention to the state of the House.

A quorum was formed.

Mr STEGGALL—Clause 1 provides the definition of eligibility for concessions given by or under certain Acts. The Bill also contains definitions of eligibility.

As we all know, State concessions relate to Federal Acts of Parliament and those eligible are mentioned specifically in clause 4: firstly, a pensioner within the meaning of the Social
Clause 5 states that an eligible beneficiary:

(a) is an eligible pensioner within the meaning of section 4; or

(b) is a disadvantaged person under the section 4c of the Health Insurance Act 1973 of the Commonwealth; or

(c) is subject to a declaration under section 5, 5A, 5D or 5E of the Health Insurance Act 1973 of the Commonwealth; or

(d) receives a sickness benefit under Part VII of the Social Security Act 1947 of the Commonwealth.

The Bill allows the Government the opportunity to pass on whatever concessions various recipients are entitled to. The measure will provide for a more simplistic handling of concessions by this Government or by any future Government.

The Bill defines only those people who are beneficiaries under the various Federal Acts. If the Government wishes to go beyond the guidelines set down in the Bill, it will be able to do so by amendment to this Bill alone instead of to a range of different measures.

The Bill will give people a better knowledge of concessions that are available. The schedule to the Bill covers beneficiaries affected by Acts such as the Local Government Act, the Melbourne and Metropolitan Board of Works Act, the Firearms Act and others. In fact, it covers all the various people entitled to concessions who have some connection with the bodies covered by those Acts.

As honourable members will be aware, it can sometimes be difficult to provide people coming to electorate offices with the information on the various concessions that are available. The Bill will cover all those concessions and make it easy for honourable members to provide their constituents with information.

I wish the Bill a speedy passage and I hope it will lead to the public obtaining clearer information about concessions that are available.

Mr Spyker (Minister for Consumer Affairs)—I thank the honourable members for Syndal and Swan Hill for their contributions. This is a streamlining of a Government administration Bill but it makes no changes to any concessions already given. When changes have been made in the past, the Government has needed to amend a variety of Acts. That will no longer be necessary.

The honourable member for Syndal asked who would be responsible for the Bill. The Bill is clearly the responsibility of the Minister for Community Services and it will be her responsibility to make amendments from time to time. Of course, if changes to concessions are required, that will be a Cabinet or a Budget decision.

The Bill consolidates various definitions of eligibility for State concessions, which are currently scattered through a number of statutes. It will be administered by the Minister for Community Services. It also provides a device to ensure that technical changes in social security or veterans’ affairs legislation necessitate changes in Victorian legislation.

The Bill will make it easier for electorate offices to advise of eligibility for concessions because the information will be confined to a single publication. I am sure all honourable members will welcome the information being set out in a clear and simple form.

We often find that people who are most in need of concessions are not aware of their eligibility in a number of areas.
Sometimes it is only the people who know how to work the system who use the concessions. The Government is not denying those people that right but sometimes constituents in the greatest need are not aware of their rights.

I thank honourable members for their contributions and I trust the Bill has a speedy passage.

The motion was agreed to.

The Bill was read a second time and committed.

The clauses were agreed to.

Schedule

Mr SPYKER (Minister for Consumer Affairs)—I move:

Schedule, item 8, omit 'In section 71 (2A) (a) for “a pensioner” substitute “an eligible pensioner”' and insert 'In section 71 (2A) (a) for “a pensioner within the meaning of the Municipalities Assistance Act 1973” substitute “an eligible pensioner within the meaning of the State Concessions Act 1986”'.

The amendment comes about because of a drafting error in the Bill. The amendment will make the necessary corrections.

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

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

ENVIRONMENT PROTECTION AGENCIES STAFF TRANSFER BILL

The debate (adjourned from October 23) on the motion of Mr Wilkes (Minister for Housing) for the second reading of this Bill was resumed.

Mr HEFFERNAN (Ivanhoe)—This minor Bill enables the staff of the Latrobe Valley Water and Sewerage Board and the Dandenong Valley Authority to come under the control of the Environment Protection Authority.

Although the Bill is a minor one, it is relevant and I shall comment upon certain aspects of it. In the past there have been very few changes in this area and, in fact, I doubt whether one could find a greater change than what is proposed in this measure since the early days of the 1970s when pollution control came under the management of the Environment Protection Authority.

The Environment Protection Act has had a large impact on our general way of life. The provisions of the Act are terribly important to the public today and I compliment officers of the Environment Protection Authority for the way they have carried out their duties which has been to the benefit of our way of life.

Back in the 1970s, the authority did not have sufficient resources or expertise to cover all the tasks to which it was committed and, for that reason, the Latrobe Valley Water and Sewerage Board, the Dandenong Valley Authority and other existing agencies helped out under a delegated authority.

Now the Government, in turn, wants to bring the officers of delegated authorities and pollution control under one Act and one authority. The authority for the then Health Commission to control certain aspects of environmental issues was withdrawn in 1981; and in 1985, similar authority was withdrawn from the Rural Water Commission and the Melbourne and Metropolitan Board of Works. This had a tremendous impact on the environmental control of our streams and other areas.

The Bill represents the final stage of transferring total control of our environment to the Environment Protection Act. The Environment Protection Authority, which has been a
delegated authority to exercise its powers within Victoria, has considerable responsibility with regard to the future direction that the State will take in controlling the environment.

Although the Opposition supports the administrative changes made by the Bill, in the long term I have grave doubts about this centralised bureaucracy in the city, as opposed to the existing local authorities. Large bureaucracies are always acting to the detriment, in the long term, of people in general and, although the Liberal Party would rather see that the authority had total control, it considers that that control should still be left with delegated authorities as it is at present. In that way, one controls and contains these areas at the grassroots level.

However, no aspect of the Bill will be opposed by the Opposition and I wish the Environment Protection Authority every success in its relationship with the general community and in what it wishes to achieve. The Bill is supported by the Opposition in both Houses.

Mr McNAMARA (Benalla)—As the honourable member for Ivanhoe has just said, the Bill will facilitate the transfer of those staff working for the Dandenong Valley Authority and the Latrobe Valley Water and Sewerage Board to the Environment Protection Authority.

As honourable members are aware, the Environment Protection Authority was established by statute in 1970. At that time it was deemed that because the authority was in its infancy, some of the existing authorities that carried out environmental and pollution protection controls should carry on that function and, over a period, that responsibility would be transferred to the Environment Protection Authority.

The process has been conducted through a number of stages. Firstly, the then Health Commission held responsibility in its area of activity until 1981 and the Rural Water Commission and the Melbourne and Metropolitan Board of Works carried on pollution and environmental control under their own authority until 1985.

Now we see the completion of the process with the transfer of that authority from the Latrobe Valley Water and Sewerage Board and the Dandenong Valley Authority to the Environment Protection Authority. Only 29 staff members are involved and they will be offered Public Service jobs within the Environment Protection Authority. The National Party supports the Bill and wishes it a speedy passage.

Mr WILKES (Minister for Housing)—I thank the honourable members for Ivanhoe and Benalla for their contributions to the debate.

The motion was agreed to.

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

PROSTITUTION REGULATION BILL

This Bill was returned from the Council with a message relating to amendments.

It was ordered that the message be taken into consideration next day.

WATER ACTS (FURTHER AMENDMENT) BILL

The debate (adjourned from October 30) on the motion of Mr McCutcheon (Minister for Water Resources) for the second reading of this Bill was resumed.

Mr DELZOPPO (Narracan)—This is the second miscellaneous amendment to the Water Act and a number of subsequent Acts that the Minister has presented to Parliament this sessional period. At the outset I point out that the whole business of amendments to the Water Act has been rather messy over the past few months.
I am sure the House would have preferred that one amending Bill had been introduced rather than the hotchpotch of having two amending Bills with a motion to add some further words to the Bill. The whole situation is unsatisfactory.

The Opposition circulated the Bill widely to various interested parties, including water boards, the Victorian Water and Sewerage Authorities Association and Victorian farmer organisations.

In the main, I have to say that the Bill has acceptance. I mentioned earlier that it would have been preferable to have one amending Bill instead of two Bills. I illustrate the point by the fact that the last clause amends a Bill that was dealt with earlier in the sessional period. We had the odd situation where one Bill amended another Bill which had not yet become law.

This sort of situation does not reflect well on the Minister. It indicates to me that there is muddled thinking either by the Minister or the department. When the Minister makes his New Year resolution he should resolve to get things clear and straight and not go backwards and forwards with all these Bills which tend to frustrate those directly affected by the proposed legislation who want to know exactly where they stand.

As I said, the Opposition circulated the Bill widely to various authorities and, in the main, it was well accepted. However, clause 13, in its written form, removes section 379 from the Water Act. To put it into lay terms, section 379 empowers any water authority where it suspects or is led to believe any stream contributing to a water supply is, in the opinion of the authority, threatened in any way, to issue a notice to force that person to desist.

A penalty is involved and the section of the Act uses the rather old-fashioned word "injured"; it states that any person "injuring" the water supply of any district has committed an offence. There is also a further penalty for each day that the offence is allowed to continue. As I said, under the terms of the Bill before the House, the Minister wants to remove that section.

I oppose that removal because it is not in the interests of Victorian water authorities. I shall demonstrate that point by referring to several letters I received from water boards on that same point. The Opposition received a letter from the Ballarat Water Board couched in the following terms:

I note that section 13 of this Bill will replace section 379 of the Water Act with a new section which gives only the Director-General or the Water Commission power to act if pollution of a water supply under the control of the Director-General or the commission is likely.

At present, section 379 of the Water Act empowers an authority to serve notice on any person who, in the opinion of the authority—

Honourable members should note the terms of that section. The authority has only to come to an opinion; it does not have to prove that an offence has been committed. The authority has only to be of the opinion that the water of the authority is under threat.

The letter continues:

. . . permits any act which is likely to injure the water supply of its district.

Hence, under the present Act, local authorities have the power to act to protect their own water supplies. It appears that section 13 of the Bill will take away that power.

The Minister would have the House believe that other sections of the Act could be used. The other sections mentioned are clumsy in their application and would take a considerable amount of time to apply.

I agree with the water boards that they should be in a position at all times to protect their water supply in the interests of their ratepayers and users and to provide them with a system as simply as possible and one that can be put into train as quickly as possible. Section 379 does that.
The authorities should have the ability to protect their water supplies and, as I have mentioned, the other sections of the Act, which the Minister suggests should be used for local authorities to protect their water, are awkward and cumbersome. The lead time to take action against anyone polluting water would be impractical and during the time delay more damage could be done to the water supply.

In evidence of this fact, the Ballarat Water Board directed to my attention that the board was able to use section 379 in 1984 to stop potato growers dumping surplus potatoes on the banks of streams within the catchment area and thus prevent pollution of the Ballarat water supply. That is a good example of section 379, yet the Minister wants to have it removed and replaced with a more cumbersome and awkward provision that will not give water boards the same protection.

In considering an amendment to the principal Act, the Opposition was conscious of a fine line of division and supervision between the Director-General of Water Resources and the Rural Water Commission of Victoria on the one hand, and the Environment Protection Authority on the other hand. When one discusses the protection of streams, to use a pun, the water gets a bit muddy and the responsibility is not quite clear.

For that reason the Opposition consulted with the water commission to ensure that in framing an amendment to the Bill it did not use any word that would cause any trouble in interpretation between the Department of Water Resources and environment protection people. Five or six drafts of the amendment were worked out before an acceptable amendment was found.

I should like to place on record my gratitude for the assistance I received from the Rural Water Commission of Victoria, especially from Mr John Campbell, who advised the Opposition on how the amendment should be framed and ensured the amendment agreed with other Acts.

The Opposition acted responsibly in consulting with the commission. The amendment proposed by the Opposition is in the best interests of water authorities and the people who use the water. The Opposition also received correspondence from the Latrobe Valley Water and Sewerage Board in the following terms:

The board has no additional information on this Bill other than that which you sent, however, in the absence of an explanation it appears to the LVWSB that amendment of existing section 379 (1) per clause 13 is not appropriate.

Whilst the authorities referred to in this section can still rely on sections 244 to 249 for some pollution control purposes . . .

They are the cumbersome sections of the Water Act to which I referred earlier. The letter continued:

. . . it would appear that the powers of section 379 (1) would be far more effective in dealing with particular offences and control of actions by owners and occupiers of land.

The House must appreciate that some of the streams were on private land and that it would be very difficult for a water authority to find a remedy for pollution. The situation with the potatoes was a good example.

The Latrobe Valley Water and Sewerage Board also states:

It is difficult to understand why these latter provisions should only be retained for use of the director-general and RWC, however as pointed out further explanation of the legislation could assist.

It behoves the Minister to provide an explanation of that when he sums up the debate tonight.

The board also pointed out:

It should be noted also that the existing section 379 (1) provision is adopted by the Latrobe Valley Act and in view of the difference between the LVWSB and local water board operations it is important the board retain the use of that section for protection of its' catchments.
In plain words that means that section 63 of the Latrobe Valley Act says that the board embraces the provisions of section 379 (1) of the Water Act.

In formal terms section 63 provides:

The provisions of Division four of Part V and of sections three hundred and seventy-five to three hundred and seventy-eight and section three hundred and seventy-nine (except sub-section (2) thereof) of the Water Act 1958 shall extend and apply for the purposes of this Part as if incorporated therein . . .

In other words, the Latrobe Valley Act states that the board is adopting section 379 (1) as though it were in the Latrobe Valley Act.

If the Minister had abolished that section—as he intends to do in the Bill—not only would the Ballarat board and other water boards have had this power removed, but also the Latrobe Valley Water and Sewerage Board would have been in the same boat and would not have had the facility to protect its water supply and the health and well-being of the persons who rely on the Latrobe Valley water.

Clause 10 relates to the setting of rates and charges. The Shire of Bacchus Marsh, which had a water board in its own right, directed my attention to this clause in the following terms:

The requirement for advertising the rates and charges in the Government Gazette is believed to be unnecessary and unjustified . . .

Clause 10 deals with that aspect. The explanatory notes to the Bill state:

Clause 10 amends section 214 to enable Water Boards to fix a scale of charges for excess water by resolution or by by-law. The amendment also validates any scale of charges fixed before the proposed amendment while ensuring that any legal proceedings afoot are not prejudiced, and requires that such charges so fixed in future be published in a newspaper and the Government Gazette.

Honourable members should note the words “published in a newspaper”, which means a newspaper circulated locally as well as the Government Gazette. The explanation continues:

It also amends section 254 to require that rates set by resolution be published in the same way.

The shire raised the following point:

The present position is that under the Water Act, annual estimates for water districts are required to be approved in advance by the Minister following detailed examination and analysis by officers of the Ministry of the Department of Water Resources.

Despite the rhetoric used by the Minister from time to time about greater autonomy to local authorities, local authorities are very much under his control and purview through the Rural Water Commission of Victoria. For the Minister to say that the Bill will give the water authorities more autonomy is stretching the imagination.

The requirement for publishing in the Government Gazette was not for departments to verify rates and charges set for various water districts because that information is already held in the files of the Department of Water Resources. One must be open and above board in setting rates, but the approval for the rates and charges has already been given because the estimates have to be forwarded to the Rural Water Commission to be approved by the commission and then by the Minister. That provision is humbug, and when the Bill is between here and the other place, the Minister should devise a simpler system and get rid of this bureaucratic red tape.

I am glad to see that the Minister has the assistance at his right hand of the Deputy Premier who, I am sure, would agree with me. The Minister and the Deputy Premier go very well in double harness.

There is presently no requirement to advertise in the Government Gazette and clause 10 places a more onerous restriction on water boards by providing that they must advertise water charges in the Government Gazette. A charge that has already been approved by the Minister must be advertised. What the Minister is asking the boards to do under clause 10 is humbug.
The second point raised by the Shire of Bacchus Marsh is that the Water Act requires the publishing of rates and charges after they have been set by the council or a water board. However, under the Sewerage Districts Act, proposed rates and charges must be published prior to their adoption by council or a water board.

As this House well knows, under the various restructuring Acts, authorities carry out the function of the provision of both water supply and sewerage. As the Minister is responsible for both Acts, it is about time that he brought them into line with each other so that we do not have the strange situation where, in one circumstance, one must advertise the rates before they are set, and, in another circumstance, advertise the rates after they have been set.

I have already referred to clause 31, which deals with Ministerial approval not being required for certain water and sewerage works. When the Minister made his second-reading speech, clause 31 amended a Bill that had not then passed through Parliament. People outside this place trying to determine the legislative will of the Minister would have been highly confused. It gets back to the point that if the Minister had not had his overseas sojourn we might have had a consolidated Bill that dealt with all the provisions instead of this staged approach of dealing with two Bills.

I do not want to highlight any of the other clauses of the Bill. In the main, the Opposition has no objection to them and supports the Bill. However, having contacted the water boards and having consulted with the Rural Water Commission and sought its advice to ensure that no embarrassment was caused through a proposed amendment, I give notice that I shall propose an amendment to clause 13 that will return to the Water Act the provisions of section 379 (1) so that local water boards will once again be able to police and take action against those persons who, in the opinion of the authority, are seen to threaten the quality and purity of their own water supplies.

Mr STEGGALL (Swan Hill)—The Bill is another one of the amendments to the Water Act. Obviously, the Government is going through a period of clean-up and change to get ready for the total rewrite of the Water Act late next year. The National Party agrees to most of the measures in the Bill. However, it has a few questions and I shall refer to them at this stage rather than go through them clause by clause in the Committee stage.

The Bill amends the Water Act 1958, the Dandenong Valley Authority Act 1963, the Groundwater Act 1968 and the River Improvement Act 1958 as well as making some miscellaneous amendments.

The water industry covers more than just the urban supplies that we hear about from honourable members. The Water Act also covers the irrigation areas which provide an enormous amount of revenue to the State, to say nothing of the fact that they supply the metropolitan area with food. All people in Melbourne are only too pleased to ensure that the irrigation areas of this State operate in a fair and just manner so that their food supplies are guaranteed at a fair price.

The Minister for Water Resources, the Treasurer and the Premier have put in place an attitude—which does not carry through in the irrigation areas—that it is fair and just for the Government to increase prices according to the consumer price index. This Government and other Governments around Australia say, "The increase was only equal to the consumer price index increase and that is fair and just because everyone gets that increase". Unfortunately, that does not work for the water industry.

For many of the State's irrigation industries, costs of production are increasing and the margins that have existed over the past twenty years in the production of food and fibre no longer exist. There are many irrigation industries in the electorate I represent. The best of those industries would be the dairy industry, and that industry is lucky to be on a break-even base. The wine industry and some of the horticultural industries are on a negative return.
This and other Governments and metropolitan people generally have been sold the idea of accepting a CPI increase each year, believing that is justifiable. Being one of only a handful of members of this 88-member Parliament who represent irrigation areas, I take this opportunity of informing the Minister and members of the backbench—who are riveted by this speech and I thank them for their attention—that the rural industries on irrigation are not standing up to the flow-on of CPI increases.

I appreciate the action of the Minister this year in coming down from a recommended increase of CPI plus 2 per cent in water charges. Irrigation industries are different from every other industry in this State; and the reality is that if the community continues along its present path and along the way in which it is treating producers of food, especially those in irrigation industries, we will end up with a peasant farming situation and a food problem.

The irrigation industries are important to this State and it is the intention of those of us who represent irrigation areas to try to ensure that the community does not throw away those industries. Irrigation industries have little representation among the 88 members of this Parliament, but all honourable members representing irrigation areas are deeply aware of the problem and will try at every stage to make Ministers, Governments and bureaucrats aware of the error of the way in which they are going.

We must somehow work out a cost factor for the distribution of water that is able to be paid. We have two choices: either trim the cost of water to irrigators in food-producing areas; or this and future Governments must allow a fair and equitable return to those industries, and that means a slightly higher price for the food that is consumed by those in this great city and exported from this great country.

I make those comments to again try to impress upon the Minister that all is not well. CPI increases may go over well with wage and salary earners in the metropolitan area, but the margins in the irrigation industries are going backwards quickly.

While the increased cost of water this year has been reluctantly accepted by Victorians, I assure the Minister that we cannot continue along that path unless the return for primary products increases by much the same amount.

Before going on, I express my appreciation and my thanks to the Minister for his assistance in supplying briefing notes. They are of great assistance to the honourable member for Narracan and me in handling the various scattered amendments.

The Bill covers a lot of interesting areas and I shall take the Minister briefly through a few of the clauses.

Clause 4 provides immunity from prosecution for public servants allocated to the commission. I ask the Minister to inform the House before honourable members vote on the Bill whether any legal suits are pending against any of the public servants who are to be granted immunity.

Clause 5 covers the Coliban Advisory Board, which was set up recently by the commission. It is a rather large board with, I think, 22 members, which is probably a little cumbersome in its early times, but I appreciate the reason for that. This clause gives the commission the same easement rights that it has under other parts of the Water Act, and the National Party has no problems with that.

The Bill also empowers the commission to provide services to other bodies. It would seem that it has been doing so for many years and that this is a clean-up clause to settle any problems that may be occurring within the commission. As I read it, it is getting ready for the water law reform Bill that will be introduced next year, as are some of the other amendments.

Clause 7 amends section 41A in relation to the quality of water draining into works of the commission by agreement, and introduces a reference to quality. It is again a clean-up clause in respect of the existing legislation. It deals with something that should perhaps
Clause 8 interests me. Honourable members may recall that we had a long and sometimes emotional debate about the financial strategy package that the commission introduced last year. It is now in its second year of operation and is being watched closely. That financial strategy package has led to quite a few heartaches and problems as to the future management, control and funding of irrigation industries in particular.

One aspect of that financial strategy package was that the Government imposed a $68 million debt on the commission for loans that had been raised by the previous Government and the current Government to fund irrigation works. That money was never actually identified and the loans were never identified as irrigation loans or, in fact, water board loans; but the agreement with the commission which the National Party opposed violently—I still oppose it entirely and even more strongly, if possible—was that the $68 million would be for interest-only loans that would be designed to roll over as the various loans came due.

Maybe I should spend a few minutes informing the Minister of the situation. If the $68 million, that we fought so hard and long against during the financial strategy debate, had not been imposed, the water districts would be running on an economic footing. Irrigation increases would be dependent upon the irrigators' needs. Irrigators would be making judgments and taking responsibility to their own people for the increases, the standard of service provided and the cost of the water. The situation is that water districts are still dependent on handouts from the Government—or water subsidies, as they are called by the Government.

In many of the water districts, the only reason for requiring that subsidy is to service the $68 million debt. The only debt servicing that is being done at this stage is the interest payment on those loans.

I am still angry about the way in which the Minister sold the financial strategy package. He said $800 million worth of debts would be removed from the water sector of the State. Two or three weeks ago he was again up to his tricks. I appreciate the politics of what he is doing but I do not appreciate his dishonesty at a time when rural Victoria has enough problems. The Minister knows as well as I do that his statements are false. If they were not, this $68 million debt would no longer exist because that was supposed to be part of the $800 million that was to have been written off—or so the press statements say.

Clause 8 of the Bill gives the Rural Water Commission the opportunity of rolling over loans without paying into a trust fund account. The Rural Water Commission borrows money which is paid into a trust fund and then drawn out of that fund as it is required. When the commission has fully drawn its allocation for the year, technically it cannot borrow a new loan to roll over an existing loan. That is merely a technicality.

The National Party envisages no problems with clause 8. However, it needs to be understood that the loans borrowed in the name of the Rural Water Commission are roll-over loans only. They will never be repaid. Therefore, at the end of every term, be it three years or five years, the capital must be reborrowed. According to officers of the Department of Management and Budget, a wonderful device called inflation would take care of the value of that debt over the term of the loan.

In most of our society, inflation goes on and the value of land increases. However, the Premier, the Treasurer and the Minister for Water Resources do not seem to understand that in many of our farming industries the reverse is happening. The value of land is decreasing and margins have disappeared. Many farming industries are either at break-even point or at negative point. This has happened in the irrigation industries, too.

If things continue as they are now, the great splurge made by the Government with its financial strategy package exercise two years ago will need to be repeated. The point I am
making to the Government is that if Victoria is to have a viable irrigation water sector, responsibility must be handed back to that sector.

The financial strategy package stated that the Government would pick up any shortfall. If district water suppliers have responsibility for their areas, a shortfall may still occur but standards will be maintained and adhered to by those who are using the service, and control will be much more effective than it is now when it is administered by some bureaucrat in Orrong Road—a long way from the scene.

With the financial strategy package, the Minister had the opportunity of implementing that system. He chose not to do so. I appreciate the problems he had with the Premier, the Treasurer and the Department of Management and Budget. However, he was not able to understand the needs of the irrigation industry.

The industry is not asking for special treatment or handouts. It is asking merely that the Minister deliver what his press releases said he would. Two weeks ago he was again saying how this wonderful Government had written off an $800 million debt in the irrigation industry. That debt is still there. I have respect for the Minister as a man but I am disappointed with his attitude as expressed in his press releases.

Clause 9 relates to the amalgamation of committees of management engaged in the recreation areas; it is another clean-up provision.

Clause 10 relates to the excess water charges that may be fixed by resolution or by-law and validation of charges fixed in that way. That is also a good clean-up provision. I know there have been some problems with the interpretation of the existing provision and this amendment should clarify the situation. Once again, I ask the Minister in his response to the debate to indicate whether any legal proceedings currently under way or pending will be affected by the Bill.

Clause 11 enables an authority to construct certain works. This is of some concern to me. When I was a relatively new member of Parliament, as the honourable member for Swan Hill, it was an embarrassing time for me—and it was not under the administration of the present Minister but of his predecessor—when the Government introduced a Bill similar to this which enabled the Rural Water Commission to carry out works for salinity purposes.

At that time, I had been here for only about three sitting months. I was not handling the measure, and I did not even understand it particularly well in those days. That measure was passed through very late in the session and was designed purely and simply, wholly and solely to thwart the mineral reserve basins scheme court case. It is a lesson that I learnt, at enormous cost to the people of my electorate, through the proceedings in the courts that subsequently followed.

That measure gave the Rural Water Commission the power to do legally all the things it had been doing that were termed or could be termed to be illegal until that time.

The Government now wishes to pass this small amendment to section 307 (1) (h) of the principal Act by adding after the words “for the purpose of” the words “constructing or carrying out any works connected with a channel or water-course or other works under its control”.

The amendment deals mainly with the bridges and culverts in which the Rural Water Commission has been involved and for which, in many instances, it has been charging local government.

I ask the Minister to inform the House whether any legal action is currently proceeding or pending that will be affected by this clause. I understood it was the tradition in the Westminster system of Parliament that, when a Government introduced proposed legislation that would affect current or pending court cases, the Minister would announce that fact in his second-reading speech. That was not the case with regard to the 1983 amending Bill which cut across the court case relating to the mineral reserve basins.
I hope no legal cases are pending or proceeding at present that will be affected by these catch-up provisions of the Bill. I seek an assurance from the Minister on that matter. I am sure he knows as well as some other Government members of the sorts of traumas and problems being experienced in the Swan Hill electorate as a result of the 1983 amendment; it was a small, sneaky amendment that was pushed through Parliament late in the session. Certainly my constituents paid dearly, and that is something I shall never forget.

Clause 12 is a small and interesting provision. It amends section 378 (1A) of the Water Act and will have the effect of changing the provision to read:

Where any person erects any works for the purpose of illegally taking or diverting water in contravention of this section the Director-General or the Rural Water Commission may require the owner to remove those works and if he does not do so within 14 days of being so required the Director-General or the Rural Water Commission may demolish remove and sell them.

This is an area in which the Rural Water Commission and the Government are attempting to beef up the powers they already have to deal with the people who divert water illegally. I ask the Minister to consider the amendment contained in the Bill. I have no disagreement with the intent of the provision, but I believe the Minister has it wrong.

If one applies the amendment literally, it means that a diverter of water would have to install a temporary pumping system to thieve water from a river. I do not believe that is what the Minister intended. I believe the intention was to increase the powers to deal with private diverters who illegally divert water.

There is no argument within the irrigation industry against the intent of the provision. However, if section 378 (1A) were amended in that way, the Minister would not have the power to confiscate or order the removal of a permanently installed irrigation pumping system that is there for the normal water allocation for a property.

I therefore believe that the drafting of the measure has probably missed the intention of the Government. I am sure it was intended that it apply to anyone diverting water illegally and not only to those who install temporary pumps for the specific purpose of doing that. I ask the Minister to consider the situation. I have no objection to the clause, but I believe it has missed the mark.

The other clauses of the Bill relating to the Water Act are reasonably straightforward. Clause 13 relates to the pollution of the water supply from drains, and I suppose the provision could be read as relating to drains, channels and so on.

Some problems are experienced in the Swan Hill electorate during the times of flood where channels have held up flood waters and the only way in which one can get rid of the surplus water is literally to pump it into the irrigation channels. In that regard, the commission has been very understanding and, if the quality of water is good, it has allowed that to occur. The only reason why the water is stranded in those areas relates to the existence of the channels in the first place, and the clause will make the situation a little more clear in that regard.

The amendments to the Dandenong Valley Authority Act are fairly straightforward. They just update the existing provisions in line with the situation in 1986 and clean them up in preparation for the rewrite of the Water Act next year.

The amendments to the Groundwater Act are good. That is a little surprising. It is amendments such as those that give me some heart—bureaucrats and Ministers from the metropolitan area actually making commonsense amendments! For example, they will enable a person to have only one licence for a property containing more than one bore. That is a good provision.

The amendments to the River Improvement Act are basically straightforward, covering the election of commissioners by municipal voters. There is also provision for contracts of works requiring Ministerial approval.
In some of the amendments to the Water Act the need for the Minister's approval is being relinquished. He must wonder what has hit him after all the matters under the Water Act for which Ministerial approval has been a necessity. I hope, for the Minister's sake, that he does not have to sign all approvals. I hope also, when the Water Act is rewritten—discussions are currently taking place—it will give more power to local people to make decisions. This will save the Minister and his staff many hassles. The Minister's departmental staff must check out cases and give the Minister the nod for approval under different provisions of the Water Act. It is a farce to the extent that it goes on, and I do not think any good purpose is achieved by it.

The only other provision of any consequence is the amendment the Minister has foreshadowed. I shall cover it at the appropriate time. He must have been an embarrassed Minister when he found that he had left that provision out of the Bill because it is one of the most important in the eyes of the Rural Water Commission.

The National Party will support the proposed legislation and the amendment foreshadowed by the honourable member for Narracan. It is a sensible provision as it will allow water boards to operate in areas of pollution, which is perhaps a consideration that the Minister missed when he drafted the Bill.

Mr McCUTCHEON (Minister for Water Resources)—A number of matters have been raised. The honourable member for Narracan referred to proposed new section 379. The Latrobe Valley Water and Sewerage Board and the Ballarat Water Board are concerned about the loss of powers in the proposed new section 379, and this was taken up by officers of the Rural Water Commission.

It appears that the Ballarat board has used those powers once in its history and the Latrobe Valley board has never used those powers. Nevertheless, it appears from the contributions of the honourable members for Swan Hill and Narracan that it is agreed that the provision should allow water boards and authorities to retain that power. Therefore, there is agreement on the form of the amendments that will proceed in the Committee stage.

Clause 10 relates to the setting of rates and charges. An honourable member asked why the notice should be published in the Government Gazette. I think that practice makes sense, as my department has correspondence on its files from complainants who have said it has been impossible to find what the charge is that has been set. It is a recognised procedure to publish in the Government Gazette as people do not always know that they should look in local papers.

Mr Delzoppo—you have to be kidding! If you say that more people read the Government Gazette than local papers you are off your head!

Mr McCUTCHEON—at least it enables people to find information. From time to time the Rural Water Commission has received complaints. Publication of notices in the Government Gazette is one way of overcoming that problem.

I do not intend to deal in detail with the matters raised by the honourable member for Swan Hill on the financial management strategy. The Government has set about making the operations of the Rural Water Commission commercial, and has sought to achieve cost recovery.

Honourable members interjecting.

Mr McCUTCHEON—the fact is that it is in the interests of the irrigation community and Victoria as a whole to have an efficient water sector. I do not think anyone will argue with that.

The ACTING SPEAKER (Mr Hockley)—Order! Will the Minister please address the Chair, not the National Party.
Mr McCUTCHEON—I am not sure the National Party understands, but nevertheless the Government has initiated this plan as a necessity in order to achieve efficient operations from authorities such as the Rural Water Commission, and what was previously the State Rivers and Water Supply Commission. The financial management strategy is an important part of that process. It seeks, over a period of four years, to achieve improvements in productivity of approximately 25 to 30 per cent. If that is achieved it will be of considerable benefit to the rural water sector.

Not many institutions can achieve that level of productivity improvement. That strategy has received a positive response from the Victorian Farmers Federation, and agreement has been reached also with the commission's and the federation's advisory committees in discussing the financial scenario.

Honourable members interjecting.

Mr McCUTCHEON—If National Party members would listen, they might benefit from what I am saying. They asked me to respond to their point, and I am doing so.

The ACTING SPEAKER—Order! I ask the Minister again to address the Chair, not the National Party.

Mr McCUTCHEON—The discussions with advisory boards about financial scenarios in the past six months are giving the irrigation communities the opportunity to participate in financial planning and the setting of prices. That is a vast change in the operation of those districts from the past where prices were imposed upon the boards. If a positive attitude is generated in this process, I believe only beneficial results and increased productivity will occur, which will provide benefits that will flow to the water users.

Mr Steggall—Who wrote that for you?

Mr McCUTCHEON—Nobody. I wrote it for myself. I shall briefly respond to the other matters raised.

The honourable member for Swan Hill asked if further court action was pending regarding the authority given to the Rural Water Commission to perform water supply works, including bridges and roads. No court action is pending and I include clause 4 and clause 11 in those remarks. The Bill is part of a cleaning-up process and it is hoped that when the water law review processes are implemented next year a new Bill will be introduced that will tidy up many of these issues.

Honourable members raised queries about clause 12 relating to the demolition of works on the land of an irrigator who was illegally diverting water. This type of occurrence does happen, particularly during drought periods. In the past the Rural Water Commission has not had the power to prevent illegal diversion of this type. The clause does provide power for the commission to deal with temporary pumps and pipes that are used for illegal purposes.

I have foreshadowed a consequential amendment during the Committee stage and the introduction of a new clause of which the House received notice earlier this week. The honourable member for Narracan has indicated that the Opposition has some amendments that will be moved during the Committee stage. I thank the spokespersons for the opposition parties who have contributed to the debate. The Bill performs a useful purpose in tidying up powers and functions of water boards and the Rural Water Commission.

The Bill was read a second time, and it was ordered that it be committed.

Mr McCUTCHEON (Minister for Water Resources)—I move:

That it be an instruction to the Committee that they have power to consider a new clause which extends the Rural Water Commission's power to sell land by private treaty to staff by including ex-staff and persons who were immediately before the sale tenants of the land.

The motion was agreed to.
The Bill was committed.
Clause 1 was agreed to.

Clause 2

Mr McCUTCHEON (Minister for Water Resources)—I move:
1. Clause 2, page 2, line 3, omit all words and expressions on this line and insert—
“(4) Sections 31 and 32 come into operation on a day or days to be proclaimed.”

Amendment No. 1 is a consequential amendment of the new clause. There is a simple explanation to the insertion of the new clause which will follow clause 31. The Rural Water Commission has houses which it no longer requires. Former employees occupying the houses want the opportunity of purchasing those houses. At present the commission is unable to sell houses to former employees currently occupying them as tenants. The amendment enables that to happen and there are instances where that is desirable.

Mr DELZOPPO (Narracan)—The amendment deals with a previous Act, the Water (Miscellaneous Amendment) Act, which was passed by the House some time ago. Is the Committee tacking on a clause to an Act that has already been passed by Parliament?

Mr McCUTCHEON (Minister for Water Resources)—The amendment amends a pervious Bill passed by the House in the autumn sessional period. As I indicated, there are former employees of the commission occupying houses that they wish to purchase. The amendment adds to the section a provision for houses to be sold to commission employees. That was not possible until an earlier Bill that was passed this sessional period. A further amendment was considered necessary.

The amendment was agreed to, and the clause, as amended, was adopted, as were clauses 3 to 9.

Clause 10

Mr DELZOPPO (Narracan)—During the second-reading debate I indicated that the Opposition had received correspondence from the Shire of Bacchus Marsh in its water body capacity, as well as other authorities, pointing out an anomaly between the giving of notice and the fixing of charges in the Sewerage Districts Act and the Water Act. Can the Minister suggest a proposal between here and another place that would bring the two Acts into line? In the majority of cases the Acts are administered by the one body and to go through one procedure to deal with the charges for water and then another set of procedures for the charging of sewerage does not make sense. The procedures add to the cost of running authorities and there is an opportunity for the Minister to remove some red tape.

Mr McCUTCHEON (Minister for Water Resources)—Clause 10 provides for excess water charges, which have been fixed by both resolution and by-law in the past. Questions have been raised about the validity of those excess water charges being made and, in fact, as the honourable member for Swan Hill pointed out, there is a provision in subclause (4) to protect court proceedings which involve a water board.

It is important that this anomaly is cleared up and it is important that the process that is set out in the Act is clear. That is why we have previously discussed the publication of the charges in the Government Gazette.

However, the matter that the honourable member for Narracan referred to is already a matter that is contained in the water law review process. It is now the subject of a discussion document and the clarification of those processes is based on that discussion document and will be handled in the water law review process and in any proposed legislation that will come before Parliament next year.

The clause was agreed to.

Clause 11
Mr WHITING (Mildura)—The Minister mentioned that clause 11 amends section 307 of the Water Act, which refers particularly to the construction of bridges. I remind the Committee that the Minister has only recently had the experience of a situation in which a bridge was constructed by the Rural Water Commission in Merbein in the electorate that I represent, where the Rural Water Commission, in conjunction with the Road Construction Authority, decided that the new bridge was necessary to eliminate the two existing bridges that were over the main supply channel for the Merbein irrigation district.

Because of the inexperience of the Rural Water Commission officers at the time and I suspect—I cannot confirm this—of the shire engineer of the time, the cost of that project rose from an estimate of $45,000 to $50,000 to a final estimate of $99,000, and its actual cost was $150,000. Of course, a proportion of that was due to the financial management restructuring of the Rural Water Commission. The water users of the Merbein irrigation district will be required to pay a considerable proportion of that cost.

I appreciate that this amendment is one that the Minister is seeking to insert in the Water Act, which will allow section 307 to give the Rural Water Commission considerable power so far as entering on properties, purchasing leases, water works provisions and so forth are concerned.

Section 307 (1) (h) provides that the commission may at any time enter upon any public or private lands, streets or roads and it may construct any channels or deal with any works under its control or in any way connected with such works.

The amendment further widens that provision, yet we have a situation where, because of the ignorance, in some cases, of the water users of that area, the Rural Water Commission may enter into a project, suffer a considerable—something like 50 per cent—overrun in costs and have no concern whatever for the water users in the area who are required to pay.

Although I have written to the Minister and have asked him to correct the problem to which I have referred, I still have not had a reply from him on the question of whether there will be some relief to the irrigators in the Merbein district.

Here we are widening the provisions to allow the Rural Water Commission to legalise what it has been doing in the past and what it will do in the future and there is little or no concern about the water users in that area who are required to pay a substantial proportion of that cost.

I compliment the Minister because he did come and meet the irrigators in the area. He spoke to them and said he would investigate one particular question that had been raised, but all that occurred approximately two weeks ago and I have not received a reply from him on that question.

I am beginning to wonder whether we are building a monstrous organisation in this State that will have complete powers to move onto any property, take whatever it wishes in the interests—as they say—of water resources and servicing in this area and the people of Victoria will have little or no chance of recompense or taking action against it.

I indicate to the Minister that some people whom I represent are at present considering action with the Ombudsman of this State and if that is not satisfactory I believe they will be taking legal action, if that is at all possible.

Consequently, we will be in a situation similar to that mentioned by the honourable member for Swan Hill who referred to the problem about the mineral basins that confronted the State a short while ago and was the subject of a costly court action—unfortunately to the cost of the adjoining landowners—yet here we are in this Committee extending the powers of the Rural Water Commission to do more things without consideration for ratepayers or water users of the area.
That is not good enough! I believe the Minister should give an immediate answer on whether the amendment to the section is being made to allow for that situation to develop to an even greater extent than it has in the past.

Mr McCUTCHEON (Minister for Water Resources)—The provision clarified the action the Rural Water Commission has taken for a considerable period. It is not bringing in any draconian power or anything of the type that the honourable member is trying to suggest. History has shown over the years that the legislation has minor loopholes and this is one of those that has been picked up during the course of the restructure of the rural water legislation.

So far as the Merbein bridge is concerned, I do not believe it is pertinent to this clause. It is an example of a particular issue that is of concern and I appreciate the concern of the irrigators of the area. I met with them, as the honourable member for Mildura pointed out. I have been drafting a reply to the honourable member in response to that meeting and I will get it out in a reasonable time.

I state clearly that irrigators should not only seek Government help when they believe a Government project has escalated in cost but should also realise that of the work that has been done under the estimated price, the swings and the roundabouts restore some reasonable equity to the costs the irrigators pay. I am endeavouring to gather information on the matter that will be helpful to irrigators.

Coming back to the clause, a simple insertion is being made into the section to clarify the responsibilities and the authority of the Rural Water Commission to carry out that work.

The clause was agreed to, as was clause 12.

Clause 13

Mr DELZOPPO (Narracan)—I move:

1. Clause 13, line 33, omit all words and expressions on this line and insert—

   ‘13. (1) For section 379 (2) of the Principal Act substitute—

   "(2) Sub-section (1) does not apply to a district or waterworks under the jurisdiction of the Director-General or the Rural Water Commission".

   (2) After section 379 AA of the Principal Act insert'.

2. Clause 13, line 35, after “379” insert “AAA”.

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

New clause

Mr McCUTCHEON (Minister for Water Resources)—I move:

4. Insert the following New Clause to follow clause 31:

Sale of land to staff of Commission and tenants

‘AA. Section 34 of the Water Act 1958 is amended as follows:

(a) For sub-section (4) (g) and the word “or” preceding it substitute—

   "(g) to a person who is an officer or employee of the Rural Water Commission immediately before the sale; or

   (h) to any person including a person who was an officer or employee of the Rural Water Commission who is, immediately before the sale, a tenant of the land.”

(b) After sub-section (4) insert—
"(4AA) In sub-section (4) "officer or employee of the Rural Water Commission" means a person appointed or employed under section 24.".

Mr STEGGALL (Swan Hill)—The Government forgot to insert the proposed new clause when these Acts were last amended. The proposed new clause covers employees of the Rural Water Commission who are its tenants in many irrigation regions.

Those honourable members who represent rural areas are troubled by the principle embodied in the proposed new clause. In many instances the Valuer-General has established the basis for the sale of land and/or homes owned by the Rural Water Commission. Unfortunately, the procedure followed by the commission is not being followed by V/Line or the Ministry of Education. Indeed, the sale of Government-owned land and houses generally is causing problems in rural areas.

The fringe benefits tax has forced many Government departments to sell their properties rather than charge reduced rentals. In many instances water bailiffs who occupy Rural Water Commission houses are being given the option of purchasing or moving out of the homes. It is a messy operation that will cause a lot of trouble in irrigation districts.

One of the problems, for example, is that if a water bailiff occupies a commission home but wants to transfer to a better position, his career chances would be jeopardised because of the cost involved in purchasing a home closer to a larger community. Many such staff will literally be stranded in the various irrigation districts.

I urge the Minister to have a closer look at the problems that have been created because if the Government is not careful it will face difficulties in attracting people to Government jobs in rural areas. In many instances water bailiffs will not be able to afford the cost of moving to advance their careers.

Mr HANN (Rodney)—I am gravely concerned at the actions of the Minister and the Rural Water Commission in selling off Rural Water Commission houses. The decision has been taken purely and simply because of the introduction of the fringe benefits tax.

I do not believe the Government would have acknowledged in the past that the benefits provided to its employees in the form of subsidised housing were fringe benefits. Subsidised housing was an incentive to these people to locate in particular areas. Many of the Rural Water Commission houses are isolated from other communities. They are not located in residential areas.

It is essential that they be located in local irrigation districts.

It is fascinating that the water bailiffs manual, sections 12 and 13, entitled “housing”, reads:

The Water Bailiff must occupy an official residence when directed by his District Engineer and where it is provided as a condition of employment in the advertised position in the Victorian Public Service Notices. Vacation of the residence will not be permitted without the express approval of the Commission.

In the Victorian Public Service Notices of 26 February 1985 a position of head water bailiff at the Rural Water Commission’s operations in Rochester is advertised. The Minister for Water Resources, by interjection, appears not to understand the relevancy. The amendment related to the ability to sell houses. Paragraph (g) states:

... to a person who is an officer or employee of the Rural Water Commission immediately before the sale.

What is the Government on about? I should have thought that means the present employee. The Minister is showing his ignorance of the legislative measure that he has introduced. What I am debating is relevant.

I attempted to quote from the Victorian Public Service Notices an advertisement for a position of head water bailiff at Rochester. It indicates that one of the requirements is to occupy the official residence provided, and vacation of the residence will not be permitted without the express approval of the Rural Water Commission.

Now the same Rural Water Commission and the same Minister for Water Resources are saying to these people who are required to occupy those houses that they must buy the
houses they are living in, or get out. The Government has two sets of standards and two sets of rules. I have numerous examples of water bailiffs who have taken up these positions and who have been forced to sell their homes. In one instance, a bailiff had to give up a Ministry of Housing house that he had purchased only a short time previously, which he was not allowed to sell except under the terms and conditions of the Ministry of Housing, in order to fulfill the requirement to live in the Rural Water Commission house. He is now being told at a stage in his life, when he is about to retire, either to buy the Rural Water Commission house or move out. Many people, because they are close to retirement, are in the same situation. There is no way they can obtain a loan from traditional lending sources for only ten or twelve years of their working lives—the Government is putting them on the street. They will be disadvantaged.

Another aspect that has been considered by the Rural Water Commission is the question of the ideal location for these people to live. I made the point in my opening remarks that the water bailiffs have been required to occupy these houses, which have been situated in country districts close to the distribution points of the water. The Government is proposing that these people will have to live in neighbouring towns. One example is Tongala. The water bailiffs will have to travel to and from their workplace and it will cost tens of thousands of dollars to transport them from Kyabram or Echuca. The proposal is ridiculous.

What fascinates me about this whole exercise is that it came about because of the introduction of the Commonwealth's fringe benefits tax. It goes beyond rural water houses to teacher houses and the whole range of Government employee housing, for which the Minister for Water Resources is responsible in his other capacity as Minister for Property and Services.

The theory of the fringe benefits tax introduced by Mr Keating was that the employer would pick up the benefit that he had given to his employees. But what did the Victorian Labor Government do? It immediately said that it would not pay the fringe benefits tax and that it would take away the benefits from its employees. It will not give benefits back to employees by way of increased salary. These benefits are being taken away from employees by this miserable Government.

I guarantee that many people who have been sympathetic to the Labor Party Government in the past will certainly never vote Labor again if the Government proceeds with this measure. It highlights the lack of concern and compassion of the Government. I believe, with the direction the Rural Water Commission is heading, the whole efficiency of the commission is suspect. At present, the morale of the water bailiffs is at its lowest point I have seen in the fourteen years I have been in Parliament. They are totally disillusioned with the treatment they have been receiving from the Government.

Although the National Party supports the amendment, I have grave doubts and concerns about what the Minister and the Rural Water Commission are doing on the sale of properties. The Minister should review the matter immediately and abandon the proposal to dispose of these houses.

Mr McCUTCHEON (Minister for Water Resources)—The questions that have been raised by the various speakers from the National Party are out of date and no longer apply. Initially, the Government asked agencies and departments to define as "require to occupy" the residences associated with securing a job. There has been a process of review of that, and the opportunity has been provided for unions, other associations and staff to raise questions about the appropriateness of the initial definitions.

The question of location of workers in relation to particular areas of responsibility has also been examined. The matter mentioned by the Deputy Leader of the National Party of whether it is more economical for someone to travel from a neighbouring town or be sited in a house close to the workplace is one the Rural Water Commission will take into account in the houses it retains.

Mr Hann—Why do you think they put the houses there in the first place?
Mr McCUTCHEON—It does not mean that a house owned by the Rural Water Commission is still required. For the responsible management of the housing stock owned by the Government, the commission is going through a necessary process of review. Despite its huffing and puffing, the National Party is supporting the amendment, and I commend it to the House.

Mr STEGGALL (Swan Hill)—Earlier, I mentioned the $800 million that was part of the national strategy package. The Minister for Water Resources will agree that the debt structure on accommodation of the houses is part of that $800 million debt and that the debt associated with the provision of housing stock is part of the debt that has been converted to equity by the Government. Is the Minister now saying that, having converted that small part of the $800 million to equity—

The ACTING CHAIRMAN (Mr Kirkwood)—Order! The time for me to report progress under Sessional Orders has now arrived. When this Bill comes before the Committee again, the honourable member for Swan Hill will have the call.

Progress was reported.

The ACTING SPEAKER (Mr Hockley)—Order! The time appointed by Sessional Orders for me to interrupt business has now arrived.

On the motion of Mr FORDHAM (Minister for Industry, Technology and Resources), the sitting was continued.

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

Discussion was resumed of the new clause.

The CHAIRMAN (Mr Kirkwood)—Order! In calling the honourable member for Swan Hill, I remind him that he should speak on the amendment proposed by the Minister for Water Resources rather than canvass the wider issues as he tried to do immediately prior to progress being reported.

Mr STEGGALL (Swan Hill)—I appreciate your advice, Mr Acting Chairman, but I was making the point that the money being recovered through the sale of these properties is part of the Government's equity in its financial strategy package. That is the link; I am not wandering beyond that.

The Minister for Water Resources will be aware of the action taken by the Minister for Education over the past couple of weeks in regard to a situation similar to that of the water industry, whereby more than 700 homes in remote areas have been removed from the selling list of the Ministry of Education.

If the Minister for Water Resources would show any interest in my remarks, I would suggest to him that the same type of action might be required to be taken by the Rural Water Commission. All honourable members representing country areas who are raising this issue with the Minister are doing so for no reason other than to get the Minister, the department and other interested people in this place to understand that the policy of selling off the houses will be detrimental to the future operation of the water industry out in the sticks—where we come from. It will not hurt Melburnians. They need not worry, we will still feed them.

Victoria has a Government that is hell-bent on regionalisation and change in the management of the water industry. One of the key effects of that change in management will occur in the distribution of the works staff. The accommodation of water bailiffs throughout Victoria is vital, particularly in the remote areas.

I am sure that regional managers throughout the State will agree with my remarks about the effects of the change that the Minister is trying to introduce. We are not worried so much about the amendment as its implementation and the way it will be applied. The provision allows the Government to sell houses, not necessarily in remote areas but in
centres such as Bendigo, Horsham, Shepparton and so on. I am really talking about those areas where the homes are allowing a service to be provided to the irrigator on a day-to-day basis.

The action the Minister intends to take will limit people seeking promotion within a work group. For example, water bailiffs will be limited because, to gain promotion, they must give up their eligible status and find their own accommodation at much higher cost, thus the monetary gain from any promotion would be quickly eroded.

The chances of the Government persuading those people to move—as the managers and regional managers whom the Government desires—will be slim. That goal will not be easy to achieve.

The present system allows a maximum of flexibility in transferring key management staff around the State to put the best people in the appropriate slots. That is what the Minister wants to do. Smaller centres such as Kerang, Swan Hill and Horsham could well and truly miss out in attracting the right people, which will become a problem to the future operation of the water industry out in the sticks. The larger centres such as Shepparton, Bendigo and so on will gain from that situation.

The proposed changes will produce a real financial hardship for low income earners—water bailiffs and clerical staff in those more remote areas—in trying to enter the private housing market.

The Minister is well aware of the hassles and problems that have been encountered in Pyramid Hill over the past twelve months. His policy is wrong.

The Rural Water Commission's housing stock is part of its overall assets in the same way as the channels, bridges and so on are part of its assets. The maintenance and subsequent replacement of the stock is the responsibility of the commission's ratepayers and not of the general taxpayers, as is the case with the Ministry of Education and in other departments which pay the irrigation rates and keep the food and fibre operations throughout the State in existence. They are the ones who must pay the cost.

The Minister must bear in mind that, when he proceeds to implement his policy, he will be liquidating those great assets that he took on as equity through the financial strategy package. That package will come back to haunt this Minister each time he brings a water Bill back before this Parliament, each time he increases the water rates, and each time he raises the charges through the roof, beyond the reach of those users of irrigation water, he will remember the day when he cheated and used untruths to back up his $800 million claim.

The amendment before the Committee is fair, and the National Party has no problems with it. However, it argues against the implementation of the Minister's policy. I implore the Minister to take notice of the action taken by the Minister for Education in similar circumstances; to examine how that honourable gentleman has seen the error of his ways and changed his views and how he is taking steps to correct the situation.

Before he goes too far down the track, I ask the Minister for Water Resources to consider the position and the policy he has adopted. He might consider talking to his newly-appointed managers throughout the State before he proceeds to carry out this policy, which will be detrimental to all users in the water industry.

Mr HANN (Rodney)—I want to correct, briefly, an inference made by the Minister in his response to my earlier remarks when I pointed out that the reason why the Rural Water Commission was desiring to dispose of its houses was because of the introduction of the fringe benefits tax.

The Minister implied to the House that the Rural Water Commission was examining the efficiency of its housing program. The Minister has probably not been in the portfolio long enough to know that the Rural Water Commission has been selling houses that it has not required in areas where there has been a change in the water bailiff arrangements. It
has been selling its older houses and replacing them with new ones, so the question of efficiency has been addressed on many occasions.

The only reason why the new policy has been introduced is that the Government made an overall decision not to pay the fringe benefits tax if it could be avoided and it decided to take that benefit away from the employees, and that is exactly what it is doing.

The employees have good reason to be hostile about the action of the Government.

Mr WHITING (Mildura)—It is amazing that the Minister should be proceeding along these lines and providing for the sale of homes to employees.

Mr Fordham—You are supporting the Bill!

Mr WHITING—I certainly am supporting it but the Minister does not understand what is the problem. Honourable members are trying to impress upon him that while the Government continues to put pressure on the lowest income earners in the Rural Water Commission, the water bailiffs and other employees who work in difficult conditions, endeavouring to provide a service to the community, are being penalised by this action; and that is the problem. I am amazed that the Minister for Water Resources did not understand this situation in the first place.

The State Government has walked away, under the guise of the fringe benefits tax, because it has refused to pay the tax to the Federal Government, simply because it will help those low income earners.

I am amazed that the Government can walk away from the low income earners in the Public Service in Victoria who should be receiving the benefit of the Government’s action. Instead, these people are being deserted simply because the Federal Government says, “We will tax you because you provide a low rental home for this person”. Those persons are working under the most primitive conditions and because a residence is provided for them at a reasonably low rate of rental, the Government will not pick up the difference, and that is a disgrace to the Minister.

Mr McCutcheon—It is not true!

Mr WHITING—The Minister is already known as the worst Minister for Water Resources in the last 40 years and the Government is walking away from the very employees who provide a valuable service to the community. I am amazed that the Government, which is supposed to be supporting low income earners in the State on a question such as this, has failed to do so.

I do not know whether the community is aware of the situation but I hope it is made aware of it because the Minister seems to think it is a joke and, therefore, he is not worried because he is safe and secure here in the metropolitan area—he has the smallest electorate in the State!

The Minister does not understand what happens out in the larger electorates. Although he has visited them on a few occasions, it has been for a short time only, but I hope he will be able to at least understand the problems of these people and try to give some security of tenure in their housing needs while they are employees of the Rural Water Commission.

I am not sure that the amendment will make much difference. It merely attempts to give a little to those former employees of the Rural Water Commission. The existing situation is that an employee can purchase a residence and that is a cost to him. He does not obtain it at a subsidised rate as he has in the past and, therefore, he is virtually not better off. At least he may finish up with a house a long way from a reasonably sized town and may, therefore, obtain it at a reasonably cheap price but, having done that, he is then stuck there for the rest of his life and what happens to the water bailiff who is supposed to have taken over? He has no residence!

The Minister does not understand the problems he is creating. Residences will not be available for the water bailiffs around the irrigation areas, as they have been in the past,
and the point raised by the honourable member for Rodney is a valid one. A person could be travelling up to 50 kilometres every day to go to work and if a real financial cost-benefit analysis was made of the situation, the Government should be saying to these people, "Stay in these residences free, or for a peppercorn rent, and we will be saving money", but that is not the way the Minister operates. He does not believe in looking after the low income earners; they are the last people he would consider.

It is disastrous that the Rural Water Commission in Victoria has reached a stage where the Minister has no understanding of the problem and is not even concerned about trying to address it. The Minister's reputation as the worst Minister for Water Resources in the State for the last 40 years will not improve with the introduction of this Bill.

The new clause was agreed to.

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

TRUSTEE (AMENDMENT) BILL

Mr MATHEWS (Minister for the Arts)—I move:
That this Bill be now read a second time.

OBJECTS

The Bill seeks to amend the Trustee Act 1958 by adding to the investments which that Act authorises a trustee to make from trust funds. The Bill recognises the need for the list of authorised investments to reflect the increasing sophistication of the financial marketplace and for trustees and trust beneficiaries to benefit from access to certain profitable and secure investments which they currently cannot enjoy.

BACKGROUND

Under Victorian law, a trustee can invest trust funds only in investments set out in the documents which establish the trust or in the authorised investments set out in the Trustee Act. Authorised investments are secure investments. They include investments as diverse as securities issued or guaranteed by Governments and certain loans secured by registered first mortgages. Each authorised investment is likely to preserve the capital invested by the trustee and to guarantee a reliable flow of income. The interests of the trust beneficiaries are unlikely to be adversely affected by the trustee investing funds in these investments.

The list of authorised investments should not be inflexible and immutable. It should reflect the sophistication of the Australian financial markets and the continuing innovation in those markets resulting from the competitive pressures of financial deregulation. The list should also recognise the need to give trustees access to secure and profitable forms of investment as and when the investments come on to the market. The need to ensure that the list is flexible has been recognised by the Government in, for instance, giving certificates marketed in the secondary mortgage market authorised investment status.

As trustees have access to considerable capital resources, extensions to the list of authorised investments can assist in the way the Victorian economy develops. Authorised investment status for certain types of investments in Victoria can make it more attractive for trust funds to come to Victoria from other States and more attractive for trust funds to stay in Victoria and be used for Victorian purposes. By giving authorised investment status to investments which channel funds into secure productive activities we can also create a climate which facilitates economic expansion. Authorised investment status, given ahead of other States, also adds to Melbourne's growing reputation as the financial capital of Australia.

However, extensions to the list of authorised investments cannot be made without paying close attention to the security each investment offers to trustees and to trust beneficiaries. To ignore these considerations could leave a trustee, with limited access to
legal or financial advice, open to possible legal action by the beneficiaries of the trust. It could also result in the loss of capital and income benefits which should accrue to trust beneficiaries from a trust estate. In adding to the list we are acutely aware of the need to ensure that beneficiaries in particular do not suffer from trustees making these investments in these ways.

PROPOSED ADDITIONS TO THE LIST OF AUTHORISED INVESTMENTS

This Bill seeks to give authorised investment status to the following investments:

Mortgage-backed certificates:

Bank-endorsed bills of exchange; units in certain unit trusts schemes; and shares and certain prescribed company securities issued by publicly listed Australian companies which satisfy certain strict conditions.

The Bill ensures that only those investments which satisfy the most stringent of prudential requirements will qualify. It also requires trustees to take certain precautions both before investing in and while holding certain of these investments.

(1) MORTGAGE-BACKED CERTIFICATES

These are negotiable certificates similar to certificates currently available in the secondary mortgage market, which have had authorised investment status since 1985. Mortgage-backed certificates give the holder an interest in the mortgage described in the certificate. The mortgage is held on trust for the certificate holder. Like the secondary mortgage market, a market for these certificates frees funds tied up in the mortgages to which they relate for other purposes. Authorised investment status for mortgage-backed certificates will give the secondary mortgage market considerably more depth. It will also add to Melbourne's developing reputation as the financial capital of the country, particularly as no other State has yet legislated to give investments such as these authorised investment status.

(2) BANK-ENDORSED BILLS OF EXCHANGE

Australian companies use negotiable bills of exchange as an alternative means of raising capital. Bills of exchange accepted or endorsed by a bank are a particularly attractive way of raising capital because they offer the holder the security that a bank will meet the obligations owed to the holder upon maturity should the person principally liable on the bill default. Bills of exchange accepted by trading banks with a maturity of less than 200 days have had authorised investment status in Victoria for a number of years. As bank-endorsed bills of similar maturity offer similar security to the holder, there is no reason why they should also not have authorised investment status. South Australia has given bank-endorsed bills of exchange authorised investment status and then only recently. This amendment to the list of authorised investments therefore means that Victoria will be the first major financial market in Australia to allow trustees to invest in these types of bills.

(3) UNITS IN CERTAIN UNIT TRUST SCHEMES

Unit trusts have become an increasingly popular and effective way of directing dormant savings to productive investment. In January of this year there were over 100 public unit trusts operating in Australia and investing in property, company securities and other financial instruments. By giving authorised investment status to units in public unit trusts, trustees and their beneficiaries will be given the chance to benefit from the economic development which a unit trust facilitates.

Authorised investment status will give unit trusts access to substantial trust funds which are presently not available to them. The only State in Australia which has given authorised investment status to units is Western Australia. It is the Government's view that it is in Victoria's interests to do the same.
(4) SHARES AND OTHER PRESCRIBED SECURITIES IN CERTAIN AUSTRALIAN COMPANIES

Shares and other securities such as notes and debentures issued by companies are more conventional examples of how companies can raise capital. They also allow the holder of the security or the registered shareholder an interest in the activities of a company. Authorised investment status will, therefore, give Australian companies which qualify access to the substantial volume of trust funds controlled by trustees in this country. Authorised investment status will also give trustees a chance to share in the future wealth of these companies in a way which is not currently possible.

None of the major financial markets in this country allow trustees to invest in these types of securities, although in Western Australia and South Australia shares and certain securities have had authorised investment status for some time. It is time that Victoria took the initiative and allowed trustees and trust beneficiaries and Australian companies the benefit of authorised investment status for these shares and securities.

PRUDENTIAL REQUIREMENTS

The Bill sets out the prudential requirements which must be satisfied for investments to qualify as authorised investments. The main requirements are the following:

(1) Mortgage-backed certificates will only be authorised where the trust documentation relating to the issue of the certificate is approved by the Corporate Affairs Office on prescribed conditions and where the mortgages to which each certificate relates would themselves qualify as authorised investments.

(2) Only bills of exchange which mature no later than 200 days after they are acquired will be authorised and then only if endorsed by a bank caught by the Banking Act of the Commonwealth or endorsed by the State Bank of Victoria.

(3) Units in unit trusts will be authorised only if the trust documentation relating to the trust meets the requirements of the Corporate Affairs Office under the Companies Code and under regulations to be made under the Trustee Act. The regulations under the Trustee Act will require the Corporate Affairs Office to look at such matters as the types of investments the unit trustee can make.

(4) Shares and prescribed securities will be authorised only where the issuing company is an approved corporation. An approved corporation is one that for certain specified periods before the securities are acquired has satisfied prescribed conditions about paid up share capital, the declaration or payment of dividends and the relationship between prescribed assets and prescribed liabilities. It is expected that the prescribed securities will be certain debentures and convertible notes in approved corporations. The conditions to be prescribed for qualification as an approved corporation will ensure that only those securities of the most stable and continuously profitable companies which have a sound capital structure will qualify as authorised investments.

OTHER PRECAUTIONARY REQUIREMENTS

The Bill also sets out certain other steps a trustee must take before investing in and while holding units in unit trusts and company shares and securities. These steps will together ensure that the interests of trust beneficiaries are protected where these investments are made. The Bill requires any trustee intending to invest in securities or units to first seek the advice of an appropriately licensed independent expert about whether the investment is satisfactory. While holding these investments the trustee will also have to seek the advice of the investment adviser every six months about whether to retain the investments. Should investments in company shares or securities no longer be authorised because the issuing company is no longer an approved corporation, the trustee will be in breach of trust unless it can establish the elements of the statutory defence set out in the Bill.

I am confident that these requirements and precautions will not only protect trust beneficiaries but will also ensure that trustees will exercise abundant caution in deciding whether to invest in or retain these types of securities.
SUMMARY

The Bill is a further reflection of the Government’s initiatives to foster Melbourne’s financial and capital markets and the economic development of Victoria. The Bill is evidence of Victoria’s place at the forefront of responding in constructive ways to the needs and demands of our developing financial markets. The Bill also reflects our acute understanding of the need to protect trustees and the beneficiaries for whom they act while ensuring that trustees have access to new and secure forms of investment as they become available. I commend the Bill to the House.

On the motion of Mr JOHN (Bendigo East), the debate was adjourned.

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

CRIMES (CONFISCATION OF PROFITS) BILL

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:

That this Bill be now read a second time.

The Crimes (Confiscation of Profits) Bill represents a major new weapon in the fight against crime and, in particular, organised crime. A number of recent inquiries—including the Williams, Costigan and Stewart Royal Commissions—have focused attention on the large profits which can be made from crime and the increasing sophistication with which those profits are concealed. The Bill is directed at depriving criminals of their ill-gotten gains and their tools of trade.

Present provisions allow the courts to confiscate certain profits of the illegal drug trade, but this Bill goes much further. It extends to all types of serious crime and allows courts:

1. To make confiscation orders under which the profits of crime and any property used in connection with the commission of the crime may be confiscated;
2. To make restraining orders freezing suspect property when charges are laid; and
3. To issue search warrants for the seizure of suspect property.

The Bill also includes provisions for:

1. Registration and enforcement in Victoria of interstate forfeiture and restraining orders; and
2. The issue in Victoria of search warrants for the seizure of property which is suspected to be liable to forfeiture under a corresponding law of another State.

The interstate enforcement provisions follow a recent agreement between the Commonwealth, State and Northern Territory Attorneys-General to set up a reciprocal scheme for freezing and confiscating the profits of crime. Victoria is the first State to give effect to the agreement. The Bill also amends the Drugs, Poisons and Controlled Substances Act 1981 and the Summary Offences Act 1966.

I shall now turn to the detail of each of these aspects.

CONFISCATION ORDERS

The Bill provides for two types of confiscation orders:

1. Forfeiture orders which allow a court to order the forfeiture of any property which was used in or in connection with the commission of a serious offence or was derived or realised as a result of the commission of the offence; and
2. Pecuniary penalty orders which allow a court to order the offender to pay a pecuniary penalty equal to the value of the benefits derived by the person as a result of committing a serious offence.

Applications for the making of an order will generally be made by the Director of Public Prosecutions or the Chief Commissioner of Police after a person has been convicted of an offence. The Bill also allows orders to be made against persons who have absconded after being charged with an offence, if the prosecution proves beyond reasonable doubt that the
person has committed the offence. An application for confiscation may be made to the
court which has convicted the person or to the Supreme Court. The courts have extensive
powers to give effect to confiscation orders. Rights of appeal are also provided.

Forfeiture orders may be made although the illegally-acquired or illegally-used property
has passed to a person other than the offender. In some recent cases, large scale drug
offenders have concealed the proceeds of their crimes behind company and trust structures
nominally controlled by third persons. The Bill will allow courts to break through such
structures and get at the criminal profits. It will also allow the forfeiture of property which
has been transferred to third parties who have turned a blind eye to the illegal source of
the property.

In this regard, the Bill represents a major attack on the laundering of the proceeds of
crime. At the same time, the Bill ensures that the rights of an innocent third party who has
acquired property in good faith are protected. Third parties having an interest in the
property will be notified of any application for its confiscation and will have an opportunity
to be heard by the court.

Pecuniary penalty orders, on the other hand, may be made only against the offender. In
making such an order, a court may assess the value of any benefits derived by the offender
as a result of committing the offence. These benefits may include increases in the value of
the offender's property and any benefit, service or financial advantage provided to the
offender or another person.

It is notorious that some major criminals have used the best legal and financial advice
available to them to launder and conceal their profits and to invest them so as to ensure
the maximum return. The Bill will allow the confiscation of these profits also.

RESTRAINING ORDERS

The Bill will allow the Supreme Court to make orders restraining any dealings with
property which represents the proceeds of, or which has been used in the commission of,
serious offence. In urgent cases the court may make an interim order for up to seven
days without hearing from persons who might have an interest in the property, but
otherwise those persons will have a right to be heard before any order is made. The court
may require the applicant—normally the Department of Public Prosecutions—to give
undertakings to the court concerning the payment of damages or costs; this operates as a
further safeguard for innocent parties.

The court has a very wide range of discretionary powers in freezing property. This
allows for restraining orders to meet the needs of each case in the most effective way in the
particular circumstances. In appropriate cases, the court may appoint the Public Trustee
or a receiver to take control of property to ensure that its value is maintained. In addition,
the court may order the examination of a person whose property is restrained—or any
other person—in order to determine the nature and location of any property which may
be liable to confiscation. In accordance with normal principles of justice, the Bill provides
that a person examined may not be compelled to incriminate himself or herself.

SEARCH WARRANTS

The Bill provides for the issue of search warrants to allow the police to seize property
that was used in or derived from the commission of a serious offence. Seized property will
be returned if no person has been charged with the offence within seven days or if no
forfeiture application is made.

INTERSTATE ENFORCEMENT PROVISIONS

The scheme agreed upon by the Commonwealth, the States and the Northern Territory
means that if an interstate court makes an order for forfeiture of assets in Victoria, the
assets will be forfeited to this State. Conversely, if a Victorian court makes an order under
the Bill for the forfeiture of assets in another State, the assets will be forfeited to that State.
This arrangement allows local authorities to enforce orders against local assets in local courts.

The scheme also means that any legal challenges to the making of orders or the seizure of property in another State must be brought in the State where the offence was committed—the home State—not where the assets are located—the local State. This way all issues relating to a forfeiture or restraining order or to the seizure of property under a search warrant are resolved in the home State, thereby preventing litigation in different States about the same subject matter. Out of fairness to innocent third parties in the local State, the home State may require the prosecution to give undertakings to pay the costs of a third party in bringing a challenge in the home State.

The Bill provides for full recognition in Victoria of forfeiture and restraining orders made by courts in other States under corresponding laws, if the orders apply to assets in Victoria. Upon registration of an interstate order in the Supreme Court, it will have effect as if the order had been made in Victoria and may be enforced accordingly.

The Bill also allows search warrants to be issued in Victoria for the seizure of property which may be liable to forfeiture under a corresponding law of another State. The police will give effect to any orders made in the home State concerning such property, including an order for its return.

AMENDMENTS TO DRUGS, POISONS AND CONTROLLED SUBSTANCES ACT 1981

The Bill also implements a number of recommendations of a working party established by the Minister for Police and Emergency Services to examine the operation of the Drugs, Poisons and Controlled Substances Act. The working party consisted of officers from the Police, the Office of the Department of Public Prosecutions, Health Department Victoria and the State Forensic Science Laboratory.

Changes made by the Bill include: allowing the police as well as the Department of Public Prosecutions to apply for the destruction of drugs. This relieves the officers of the Department of Public Prosecutions of the burden of having to apply for forfeiture of drugs in all cases and allowing magistrates to order the destruction of marijuana crops on the spot. In the past, the police have been required to “harvest” crops and bring them before a court before they can be destroyed. This has created considerable practical difficulties.

AMENDMENTS TO THE SUMMARY OFFENCES ACT 1966

The Bill amends section 33 of the Summary Offences Act 1966 to overcome problems identified by Mr Justice McGarvie in the recent case of King v. Rowlings, concerning the offence of possession of property which is reasonably suspected to be stolen or unlawfully obtained. The new provisions will allow the courts to make any appropriate order in relation to the property concerned.

In addition, a new provision is inserted in the Act to allow a court which convicts a person of an offence of carrying an offensive weapon or of assault with a weapon to order its forfeiture. The absence of this power was drawn to the Attorney-General’s attention by the Department of Public Prosecutions after a recent case before Judge Lazarus in the County Court.

CONCLUSION

The Bill is an important measure in giving courts and law enforcement authorities further powers to combat serious crime. By attacking the rewards of crime with economic penalties, the Bill will also operate as a significant deterrent to those who would profit from their crimes at the community’s expense. I commend the Bill to the House.

On the motion of Mr JOHN (Bendigo East), the debate was adjourned.

It was ordered that the debate be adjourned until next day.
LOCAL GOVERNMENT (GENERAL AMENDMENT) BILL
This Bill was returned from the Council with a message relating to an amendment. It was ordered that the message be taken into consideration next day.

TRANSFER OF LAND (CONVERSION) BILL
This Bill was returned from the Council with a message relating to an amendment. It was ordered that the message be taken into consideration next day.

LISTENING DEVICES (AMENDMENT) BILL
Mr MATHEWS (Minister for the Arts)—I move:
That this Bill be now read a second time.

BACKGROUND TO THE BILL
The Listening Devices Act 1969 restricts the use of listening devices to record private conversations. The Act contains a scheme which allows police officers, subject to approval by a magistrate, to record private conversations.

A decision of His Honour Mr Justice O'Bryan in the case *R. v. Biddlestone* has revealed a significant gap in the law. His Honour found that whilst the Listening Devices Act empowered a magistrate to approve the use of a listening device to record a private conversation, it did not permit a magistrate to authorise entry on to private property for the purpose of placing a listening device. Prior to the Biddlestone case, it had always been assumed that police had the power to enter private premises to install listening devices. This decision has created serious operational difficulties for law enforcement agencies, especially the National Crime Authority, and the Government has agreed that the Act should be amended to overcome these difficulties.

In addition the opportunity has been taken to review and restructure parts of the Act. Amendments have been made which transfer to Supreme Court judges the power to grant warrants for the use of listening devices and which clarify the matters which must be considered before a warrant is issued. The scheme introduced by this legislation is based generally on the approach recommended by the Australian Law Reform Commission in its report on privacy.

OBJECTS OF THE BILL
The major objects of this Bill are:
1. to provide for the granting of warrants authorising the use of listening devices;
2. to require the person to whom a warrant is granted to report to the Minister administering the Police Regulation Act 1958 on the execution of that warrant; and
3. to increase the penalties set out in the Listening Devices Act 1969.

MAJOR FEATURES OF THE BILL
The Bill provides that all approvals to use a listening device are to be by warrant and a warrant may authorise entry on to private property to instal a listening device. Warrants may be granted by Supreme Court judges.

In 1984 the New South Wales Parliament passed new laws regulating the use of listening devices. Those laws are based largely on the recommendations of the Australian Law Reform Commission. Whilst preparing amendments to overcome the problem revealed by the Biddlestone case the opportunity has been taken to include parts of the New South Wales legislation which reflect the delicate balance which must be struck by surveillance
laws. On the one hand, the police must have proper powers to investigate serious crime but, on the other hand, the privacy rights of innocent members of the community cannot be neglected.

Because of this delicate balance it is appropriate that the power to issue a warrant authorising the use of a listening device and, if necessary, entry onto private property to install that device should, whenever possible, be exercised by a Supreme Court judge. The Government fully recognises that circumstances may arise, especially in country areas, when it is not possible to have ready access to a Supreme Court judge. Accordingly the Bill provides that regulations may be made which give County Court judges and magistrates the power to grant listening devices warrants.

The Bill directs a Supreme Court judge to take into account privacy and evidentiary considerations before determining whether to grant a warrant. A warrant must be granted for a specified period which cannot exceed 21 days—although application can be made to extend this period—and any warrant which authorises the installation of a listening device on premises must require the retrieval of that device. It is important that the use of listening devices be monitored and the Bill provides that the person to whom a warrant is granted must report to the Minister for Police and Emergency Services on the use of the listening device.

The Listening Devices Act 1969 creates various offences with the most significant offence being the unauthorised use of a listening device or the unauthorised publication of conversations recorded without authority. The penalties set out in the Act are no longer appropriate. The Bill substantially increases the penalties and persons convicted of unauthorised use of a listening device or unauthorised publication of conversations recorded without authority will be liable to two years' imprisonment or a fine of $4000 or both. If the offence is committed by a corporation the maximum penalty is a fine of $50,000.

CONCLUSION

The ruling in the Biddlestone case highlighted an unintended gap in the Listening Devices Act. This Bill plugs that gap and at the same time introduces new procedures for authorising the use of listening devices which reflect the genuine community concern that recording of private conversations is a matter of such significance and delicacy that the competing considerations of proper law enforcement and privacy should be determined whenever possible by the State's most senior judicial officers. I commend the Bill to the House.

On the motion of Mr JOHN (Bendigo East), the debate was adjourned.

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

HEALTH SERVICES (CONCILIATION AND REVIEW) BILL

Mr CATHIE (Minister for Education)—I move:

That this Bill be now read a second time.

This is an important Bill and is consistent with the progressive policies of this Government. It is aimed at improving the quality and responsiveness of health services in Victoria to the needs of consumers. Its purpose is to establish an office to conciliate and review complaints about health services. The office will provide an independent and effective mechanism for the resolution of consumer complaints about health services. The Bill also sets out the relationship between this new ombudsman-type function and other complaints and review bodies. The Bill describes the powers and the functions of the Health Services Commissioner and his or her office whose role it will be to implement the legislation and develop a system for conciliating and investigating complaints about health services and reviewing health issues generally.
The proposal to establish a health services grievance system arose out of the findings of an inquiry into complaints procedures against health services conducted by the all-party Social Development Committee.

The committee found that existing complaints mechanisms were inadequate and, in its interim report, recommended improvements to the existing mechanisms that are designed to resolve complaints within the health sector. In response to this, a network of health service liaison officers has been established in public hospitals, community health centres and other public health institutions. Uniform procedures for recording and investigating complaints against health services have also been developed.

Existing health review mechanisms include professional registration bodies which have a responsibility for dealing with consumer complaints in relation to professional conduct. The committee found that these bodies were either not known by or not accessible to the majority of health service consumers. The committee also reported that a strong view is held in the community that the attempted resolution of complaints by these bodies is not satisfactory particularly as they often present the only avenue of inquiry for consumer complaints. The committee's findings indicated the need for a mechanism which will be seen by consumers and providers alike to be independent and efficient in dealing with complaints.

Based on the committee's recommendations, draft proposals for the establishment of a Health Services Complaints Office were developed and distributed for public comment in April, 1986. Responses were received from a broad range of interest groups including consumers, professional groups and individual providers during the three-month consultation period.

The draft proposals were reviewed on the basis of comments received and the Bill now before the House has taken account of the views, suggestions and concerns expressed throughout the consultation process.

The office of the Health Services Commissioner has two main objectives: to assist consumers and providers to resolve complaints about health services and, through the monitoring of complaints and the analysis of comprehensive data across the whole health system, to recommend improvements in the quality of health service provision.

The Bill outlines the reasonable expectations which users may have of the health services available to them, thereby providing a guide for consumers as to what might constitute a complaint and encouraging an awareness among providers as to the nature of community standards in the provision of health services.

In carrying out its functions, the office of the Health Services Commissioner will work in cooperation with and be complementary to complaints systems now operating within public health bodies and registration boards. Where registration bodies do not exist, such as for practitioners of alternative medicine, the office will be able to offer a major new system for the investigation and resolution of complaints. The office will not duplicate the functions of professional registration boards in relation to complaints regarding the professional conduct of their members.

The relationship between registration boards and the commissioner will be one at "arm's length" so that their respective roles are distinct. I would expect that over time relations between the boards and the commissioner will be respectful of each other's quite separate functions and statutory obligations.

The Bill requires the Health Services Commissioner to consult with the boards on complaints which relate to registered providers. The commissioner will refer complaints on to the relevant board where it is determined that it is within the board's power to deal with the matter. The relationship between the boards and the office is seen to be of vital importance and will be further addressed under the current review of registration bodies being conducted by Health Department Victoria. This review is examining issues such as consumer representation on boards, common administrative procedures and upgraded
disciplinary powers. A further discussion paper will be available over the next few months detailing proposals that are currently being examined. In the case of several boards, for example, the Medical Board of Victoria, two issues acknowledged as requiring action are provision for a legally qualified president of the board and allowing legal representation before the board.

Whatever the outcome of the review of registration boards there is an ongoing need for an office to conciliate and investigate complaints against health services and to review the operation of health services generally. This is especially so because of:

(1) the range of complaints that do not relate to registered providers; and

(2) the fact that some complaints about registered providers do not come within the jurisdiction of the relevant registration board.

Where possible the process of conciliation will take place in the absence of representation, but in circumstances to be described in the code of practice the commissioner will exercise his/her discretion to permit representation of parties. Certainly, conciliation should not be seen to have failed until parties who wish it have been given the opportunity to be represented or assisted in the conciliation process.

The conciliation and investigation functions of the office will be completely separate to ensure confidentiality and to reinforce the expectations that complaints will in the main be resolved by conciliation. Those complaints not amenable to conciliation, and not the responsibility of a registration board, may then pass into an investigation phase.

Certain powers will be available to the commissioner in order to properly conduct investigations into complaints. These are reserve powers and are subject to substantial checks and balances. For example, should the commissioner require entry to premises to investigate a complaint, for example, to inspect premises that have been complained of, she/he will need to obtain a magistrate's warrant, clearly specifying why entry is required.

The commissioner and his or her officers will be subject to a code of practice that will set out how matters under consideration of the office should be handled. The code of practice will be in the form of a regulation to the Act so that it will be subject to the fullest consultation under the subordinate legislation process. Though not expressly provided for in the Act it is my intention that the commissioner develop and be subject to the code of practice within twelve months of the Act being proclaimed.

The Health Services Commissioner will report directly to Parliament and will be able to identify trends and highlight gaps and problems in the delivery of health services in Victoria through the monitoring of complaints and health issues, thereby providing a much-needed source of information. In providing an effective means of inquiry for consumer complaints, the Bill will satisfy a well recognised need and represents a major Government initiative aimed at improving the quality of health services in this State.

The development of the office represents a major initiative that should be subject to ongoing evaluation. This will occur through the advisory council established under the Act.

In addition it is proposed that the Act contain a three-year sunset provision. At the end of three years the conclusions drawn from regular evaluation by provider and consumer groups will contribute to an assessment of the Act, the extent of the commissioner's powers and the role of his or her office. The Australian Medical Association has already expressed interest in such an evaluation and its offer of assistance in this process is welcome and will be taken up.

The process of evaluation will be assisted by the statistical reporting mechanism contained in the Act. The Government's intention is not to burden individual practitioners with the requirement to complete statistical returns. Major health service institutions are likely to be affected but in drafting the requisite forms regard will be had to the costs associated with the reporting requirement.
As noted in the Ministerial statement by the Minister for Health on 14 August last year, the conciliation, investigation and review procedure proposed will offer the community a long overdue means of quality control and, it is anticipated, will lead to the development of new attitudes towards the provision of professional services in the health industry.

Because the proposal breaks new ground there may be some groups who have concerns about its effects on their professional activity. It was clear to the Parliamentary Social Development Committee in 1984 and remains clear to the Government today that individual users of health services do not have available to them a broad framework in which their concerns about health services can be addressed. It is reasonable for members of the public to be able to have their complaints inquired into and nothing in this proposal should be seen as inconsistent with the high regard in which health professionals are held.

I pay tribute to the excellent work of the Social Development Committee in producing its report on health complaints procedures and for its assistance to Health Department Victoria in the implementation of its recommendations.

I commend the Bill to the House.

On the motion of Mr WEIDEMAN (Frankston South), the debate was adjourned.

It was ordered that the debate be adjourned until Tuesday, February 24, 1987.

COMMUNITY SERVICES BILL

Mr SPYKER (Minister for Consumer Affairs)—I move:

That this Bill be now read a second time.

The Bill to amend the Community Welfare Services Act has been framed in response to the recommendations of the Child Welfare Practice and Legislation Review—the Carney report. The Bill, reflecting the Government's concern for the well-being of Victoria's children and families and for social justice, legislates for reforms in child welfare practice and services in Victoria.

The Report of the Child Welfare Practice and Legislation Review was publicly released in May 1985. It highlighted the inadequacies in current service provision and legislation and proposed that Victoria's child welfare legislation and practice be based on a supportive and preventive approach, whereby families are supported in carrying out their child rearing responsibilities and the community as a whole accepts responsibility for the protection of its more vulnerable members, especially children and young people.

The Government supports this approach. At the same time, the Government acknowledges its responsibility to assist non-Government organisations and community networks in their role of supporting families in caring for children and young people.

These reforms represent the first legislative response by Community Services Victoria to the Carney report, while considerable progress has already been made towards the implementation of other Carney recommendations.

In the period which has elapsed since the report was released, many significant policy and program development initiatives have occurred in Community Services Victoria and other departments which reflect the spirit and intent of the Carney recommendation.

For example, the creation of Community Services Victoria itself, and the transfer and integration of intellectual disability services, infant welfare, family planning, child care, preschools and home and community care into the new department's responsibilities closely mirror the Carney recommendation regarding the coordination of human services through the development of an integrated administration. Further major changes in services design and program direction have taken place in Community Services Victoria's protective services program and in the Statewide services redevelopment program for Community
Services Victoria services, with its emphasis on moving children and young people out of institutions and placing them in community-based care close to their own families.

In addition to these program developments, major amendments to the Children's Court Act, based on the Carney recommendations, were passed in the 1986 autumn sitting of Parliament.

OBJECTIVES OF THE LEGISLATION

The general thrust of the Carney report was to increase the rights of families and children and the accountability of service providers. This legislation reflects this rights, or justice, perspective. It has a number of objectives:

to strengthen the capacity of the community to protect children and young people who have been maltreated or who are at risk of harm;

to provide a more flexible range of placement options for children removed from the care of their families;

to protect the rights of children and families in their relationship with the department and other service providers; and

to ensure that service providers are accountable for the performance of their responsibilities.

To this end, the amended Act, to be known as the Community Services Act, will contain a section outlining the objectives of the Act and the principles which should govern the provision and future development of community services under the Act.

These principles are:

the redress of social and economic inequities;

priority in service provision to those in greatest need;

the promotion of choice and maximum participation by people in decisions which affect their lives; and

the protection of the rights of individuals in their relationship with Government departments, the justice system and other service providers.

The rights of children in the care of the State are addressed in a number of legislative amendments which limit discretionary administrative power and provide for publicly accountable procedures.

The Bill:

introduces measures to improve decision-making processes affecting children and young people;

outlines principles for the conduct of case planning;

provides for external appeal against decisions of the director-general which affect children and young people;

abolishes the provision for voluntary admission of children to the care of the department;

provides access to child care services for time-limited periods when parents need assistance in caring for their children;

establishes new grounds in accordance with which the community can intervene to protect children who are at risk; and

provides a new range of placement options for children removed from the care of their family, including a permanent care alternative for those children and young people who cannot return to the care of their family.
I would now like to refer in detail to some of the proposed legislative reforms.

ARRANGEMENTS FOR THE CARE OF CHILDREN

ABOLITION OF VOLUNTARY ADMISSION TO CARE

The new legislation will abolish the provision whereby parents can voluntarily admit their children as wards of the State. It is Government policy that services should be readily available to families on a voluntary basis, regardless of the legal status of the child. It should not be necessary for parents to relinquish parental rights or responsibilities in order to gain access to assistance.

A clear distinction must be made between voluntary arrangements, and those where coercive intervention is required to ensure the protection of a child or young person. In the case of the latter, and in all matters concerned with changes in the custody or guardianship of a child or young person, it is the department's policy that arrangements should be adjudicated by the court to safeguard the rights of children and parents.

CHILD CARE AGREEMENTS

In conjunction with the abolition of voluntary admission to wardship it is proposed to legislate for the introduction of child care agreements when parents seek assistance in caring for their children for a short period. The legislation will provide for written child care agreements, for a time limited period which may be renegotiated for a further limited period. These time limitations will ensure that children who are the subject of child care agreements do not "drift" into long-term residential care, as has happened too frequently in the past. The agreement aims to place parents and agencies on an equal footing so far as possible. An essential condition of any agreement should be that the agency is required to work with the family towards early reunification of the child and family. The details of child care agreements will be developed in consultation with service providers.

CHILD PROTECTION

While one of the key areas of this legislative reform relates to child protection, it should be noted that much progress has been made in the last year in this area. In October 1985, the department assumed responsibility for child protective services which had previously been carried out by the Children's Protection Society. The department has extended its regional protective services so that the Child Protective Services Program is now operating in fourteen Community Services Victoria regions with two more regions funded from 1 January. During this year, protocols on the handling of child maltreatment cases as between Community Services Victoria, police and key central and regional organisations have been developed. There continues to be close consultation between Community Services Victoria and the police in the provision of protective services. Substantial resources have been allocated to professional and community education as well as to the funding of self-help groups.

REVISED GROUNDS FOR PROTECTION ORDERS

The legislation introduces revised grounds for protection applications. These parallel the grounds proposed by the Carney report, but have been expanded to include the probability that a child will be harmed. The department does not believe it is appropriate that absolute proof that harm has befallen a child should be essential before protective action can be initiated. Although the rights of the child to protection are paramount, the legislation spells out the conditions for intervention and provides for the Minister to furnish guidelines in respect of the functions of intervenors and the conduct of their investigations.
REPORTS TO THE FAMILY DIVISION OF THE CHILDREN’S COURT

PROTECTION REPORTS
The legislation provides for the department to prepare protection reports for the Children’s Court to assist in complex cases of abuse. The matters which may be addressed in reports tendered to the court to establish protection grounds will be legislatively limited to material which addresses one or more of the statutory grounds for protection.

DISPOSITION REPORTS
To ensure the provision of quality advice and assistance to the court in its decision-making role, Community Services Victoria will also be legislatively required to ensure the provision of reports, to be known as ‘disposition reports’, on all children appearing before the Family Division of the Children’s Court on protection applications. This will ensure that the court has available all the relevant information which can be provided in respect of the proposed placement of the child where the child has been found to be in need of protection.

To further protect the rights of children and families, the right of access to these disposition reports by children, where appropriate, families and their legal representatives will be included in legislation.

FAMILY DIVISION ORDERS
The amendments earlier in 1986 to the Children’s Court Act provided for two separate divisions in the Children’s Court, the Family Division and the Criminal Division. This legislation provides the Family Division with a broader range of protection orders for use when children are judged to be in need of protection. The new orders encompass a range of guardianship and/or custody orders, as between parents, a third party and/or the State which will best meet the needs of the individual child and family. The court will be required to give reasons for the making of the order.

The hierarchy of orders is designed to ensure:
(1) that the dispositional powers of the Family Division range from minimum to maximum intervention in the life of the child, with legislative guidelines to ensure that the court will choose the least interventionist option appropriate, and
(2) that decision-making in the Family Division is flexible and takes into account the background of the child, including cultural identity, neighbourhood and educational needs.

CASE PLANNING
A statement of case planning principles is included in the legislation. This further strengthens the rights of parents and children in requiring that the case planning process, as far as is practicable, operates on the principle of providing for the full participation of the child and family in a collaborative, flexible process which should be understandable to all involved. It should also ensure that the intervention in the child’s and family’s lives is no greater than is necessary and considers the current and future effect of any decision on the stability of family relationships and the welfare and interests of the child.

APPEAL TO THE ADMINISTRATIVE APPEALS TRIBUNAL
It is the right of citizens who are affected by the decisions of courts and administrative bodies to ensure that these decisions are made fairly and that decision-makers do not abuse or over extend their power. This is particularly important when the Government is intervening in the sensitive area of parental rights to the custody and guardianship of their children.

Accordingly, a provision is being introduced as recommended by the Carney review, enabling appeals against case planning decisions to go to the Administrative Appeals Tribunal after all departmental review processes have been exhausted.

Such provision will, I believe, encourage greater accountability in decision-making with respect to children and families and should be seen in the context of the general accountability requirements of all administrative bodies.
SPECIAL NEEDS

The Government recognises that some groups in the community have special needs and that protections need to be built into legislation to ensure that these needs are met. This applies to members of the Aboriginal and ethnic communities.

To ensure that Aboriginal child placements are culturally sensitive and reflect Aboriginal tribal, kinship and communal network approaches to care the legislation will provide that there must be a member of an Aboriginal agency or nominated Aboriginal advocate in attendance at all case planning meetings involving members of the Aboriginal community. Placements of Aboriginal children will be made in accordance with the Aboriginal child placement principle.

Consideration is given to the needs of ethnic communities, with the requirement of interpreter services and the attendance of a member of the relevant ethnic community at case planning meetings where appropriate.

CHILD EMPLOYMENT

The responsibility for regulating child employment is being transferred by an administrative arrangements order for Community Services to the Department of Labour, which, with its broad employment mandate, is better placed to address the issues that arise in relation to the employment of young people.

The two departments will examine the legislation to identify the amendments needed to implement the policy changes recommended by the Carney report. The legislation will be transferred to a more appropriate Act at a later date.

CONCLUSION

In addition to the major reforms I have just outlined, the Bill will amend a number of provisions in the Community Welfare Services Act which have become obsolete or outdated. It will also change the name of the Act, and of the department to the name by which it is now known, the Department of Community Services, or Community Services Victoria. This change, along with the statement of objectives and principles, reflects the changed philosophy of the department providing broadly based community services rather than that of the residual social welfare system and department of the past.

These reforms will, I believe, make a significant contribution to the improvement of the child welfare and juvenile justice systems in Victoria, and to the welfare of children, young people and their families. The Government recognises the need for a comprehensive and integrated approach to bring together the recommendations of the major reviews which, in the last few years, have examined the provision of community services in Victoria.

The work will continue, not only in Community Services Victoria but also in cooperation with other Government departments and with the non-Government sector, to review and assess our objectives as well as our service delivery and legislative base, in the light of the Carney review's recommendations and social justice principles, particularly with respect to provisions relating to young offenders. In addition to continuing improvements in practice and program delivery, community services is working towards further legislative changes next year. It is intended that consolidated community services legislation will be introduced in 1987 which will address the remaining recommendations of the Carney report and will clearly set out the guidelines and revised statutory responsibilities for the department as a whole.

The Bill, which I am introducing today, will now lie over for debate until the autumn session 1987. This will provide ample time for consultation and consideration of the many detailed and important provisions in the Bill before it is debated next year. I commend the Bill to the House.

On the motion of Mr COLEMAN (Syndal), the debate was adjourned.
It was ordered that the debate be adjourned until Tuesday, February 24, 1987.

ADJOURNMENT

Report of Ombudsman—Housing difficulties of Wantirna constituents—Retail trading hours—Licensing of speedboat drivers—Careforce Outer East—Department of Conservation, Forests and Lands—Portland aluminium smelter

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:
That the House, at its rising, adjourn until tomorrow, at half past nine o’clock.

The motion was agreed to.

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:
That the House do now adjourn.

Mr DELZOPPO (Narracan)—I direct the attention of the Treasurer and the Minister for Water Resources to the report of the Ombudsman tabled in the House a few days ago.

I am appalled that the Government, apparently, is just receiving the report and nothing is being done about its recommendation. I make a plea on behalf of three of my constituents who have been badly disadvantaged as set out in the Ombudsman’s report.

The allegations I make are not mine alone, although I have been following the case for a number of years. In March this year I wrote to the Minister pointing out that considerable injustices had been done in the compulsory acquisition of land to construct the Blue Rock dam. The Minister wrote back to me saying:

I refer to your letter of 4 March, 1986, and to your personal representation on behalf of Mr Robinson of Tanjil, regarding the question of compensation for land acquired in connection with the Blue Rock Dam.

As you are aware Mr Robinson (as well as Messrs Dean and Bartlett), took this matter to the Ombudsman who, following his investigations, recommended to me that an ex-gratia payment be made to the three land owners.

The Ombudsman himself has said that these people are deserving of an ex gratia payment because they have been defrauded of considerable sums of money. The Minister, and the Cabinet, considered the Ombudsman’s report and wrote to me saying:

I wish to now advise you that the Government, after very careful consideration of the matter, of its implications and all of the issues involved, has decided it cannot accede to the Ombudsman’s recommendation.

I can count on the fingers of one hand the number of times that the Government has ignored a recommendation of the Ombudsman. In many cases, he is the last point of appeal and, in the case in point, the claimants had exhausted every avenue open to them and got nowhere.

Their case was taken up by the Ombudsman and, having heard evidence and having asked questions, he decided that they were disadvantaged, that they had been done out of great sums of money and that the Government should take action.

The Ombudsman contacted the Government, as he is required under the Ombudsman’s Act, but the Government rejected the Ombudsman’s recommendation, so much so that he then took the unusual step of writing a report, which has been presented to Parliament.

It concerns me that in the flurry of Bills passing through this place in the last few days, the report has been overlooked and the Government has given no indication that it is prepared to take any action to bring about a remedy for these people.

Lest the House think I am speaking about small sums of money, I direct the attention of the House to page ii of the report where it is stated that Mr Robinson, one of my constituents, made an initial claim for compensation of $220 000. The final settlement made by the Rural Water Commission was $185 000 but the Valuer-General’s valuation at the settlement date was $281 750.
Similarly, in the case of Mr Bartlett, the initial claim was $161,210. He was paid $106,000 but the Ombudsman found that he was entitled to at least $152,000.

In the case of Mr Dean, the initial claim was $117,000 and the final Rural Water Commission offer was $101,000 but the Ombudsman said he should have been paid at least $170,300.

I call upon the Government, if it has any humanity whatever, to reconsider the claims made by these people and to pick up the recommendations made by the Ombudsman on the grounds that he is the final arbiter in these cases. The Government has claimed that it is adopting new legislation to cover land compensation cases, that such cases will not arise in the future but, if that is the case, the Government should have nothing to fear. However, it should deal with the recommendation of the Ombudsman to ensure that justice is carried out and that these people are fully and adequately compensated.

Mrs HIRSH (Wantirna) — I raise a matter for the Minister for Consumer Affairs and I ask that he take up the matter with the Attorney-General in another place. It concerns practices which have meant that a number of people in the Wantirna South area are in dreadful financial trouble, leading to them losing the house in which they were living as well as amassing extremely high debts. I should like the Minister to investigate these practices with a view to protecting people from unscrupulous actions by real estate agents and others, concerning the purchase and sale of land and houses.

I refer, in particular, to Mr and Mrs Griffiths who, on 14 July 1985 signed a contract of sale note for a house and land package in Wantirna South. The house cost $56,000, the land cost $28,000 making a total for the package of $84,000. The contract of sale note signed at the real estate agent's premises, which was Oliver Hume (Southern) Pty Ltd, was conditional upon a loan of $75,000 being obtained from the State Bank of Victoria. A proviso in the contract of sale note, in brackets, stated, "and/or any similar lending institution."

In August, Mr and Mrs Griffiths were informed that they would be better off borrowing the money from Citicorp Australia Ltd so on 12 August they signed documents for a loan of $75,000 from Citicorp at an interest rate of 17.5 per cent with repayments on their house, when it was completed, of $1112.83 a month.

During discussion, Mr and Mrs Griffiths indicated that they would go to the solicitors they had been attending for many years on legal matters but, on the advice of the estate agents, they went to a solicitor in Wantirna South — Vernons — who dealt with the sale and purchase of the house and land package.

When the family moved into the house, they were stuck with repayments of over $1100 a month, which they were unable to afford because that amount represented 60 per cent of the family income. Therefore, they found themselves in a fairly serious arrears position after a short period.

The house was then advertised by the agents for sale because Mr and Mrs Griffiths were not able to meet the repayments. Over a period of three or four months, a number of sale notices were put up and, at one stage, the house was put up for auction by another real estate agent. It was not sold; in fact, an auction was not even held as no-one turned up. The family was then billed for $1200 advertising costs by the auctioneer. In the end, the house was sold for $78,000.

The debt accumulated with Citicorp Australia Ltd by Mr and Mrs Griffiths was $89,000, leaving the family in a disgracefully impoverished position. The family no longer live in that house and they owe the rather unmanageable amount of nearly $20,000 on the deal. I ask the Minister that Government provision of consumer credit protection be looked at with a view to extending this provision to cover people who are caught in these iniquitous situations after being taken down by real estate agents, solicitors, finance companies and financiers, who have an obligation to lend money only to people who can afford the
repayments, who are able to pay back the debts that they incur when they move into these sorts of situations.

I ask that this matter be considered with a view to protecting people who find themselves in these difficulties.

Mr TANNER (Caulfield)—I refer the Minister for Industry, Technology and Resources to allegations that have been made by Mr Frank Penhalluriack regarding illegal retail trading by Government-owned shops. Government members will no doubt be aware that the Government has claimed over the years that it is concerned about illegal retail trading. When it came to office it increased the maximum fine that was applicable to illegal trading from $1000 to $5000. In 1983 it alleged that the average fine for 1982 for illegal trading had been only $160, and it therefore raised the maximum fine to $50 000. Was this action lip-service by the Government to the alleged crime against society of illegal trading?

The Minister will be aware that Mr Frank Penhalluriack has alleged that on the afternoon of Sunday, 24 August this year he went to Government-owned shops and purchased the following items: one silver koala bear teaspoon from the zoo kiosk; a model of Captain Cook’s cottage from Captain Cook’s Cottage; two woven badges of Captain Cook’s cottage and a model village from the kiosk in the Fitzroy Gardens; an octascope from the National Gallery of Victoria; a “Vicotorian Arts Centre” tea-towel from the Victorian Arts Centre; one silver La Trobe Cottage teaspoon from Victoria’s first Government House; and a “Li’L Soft Luv” stuffed and scented doll from the Alfred Hospital shop.

Apart from indicating Mr Penhalluriack’s interest in souvenirs, this incident also indicates that Government-owned shops were trading illegally.

Honourable members interjecting

Mr TANNER—Instead of the Minister shouting, perhaps he should listen to what I am saying. I ask the Minister whether the offences alleged by Mr Penhalluriack are correct and, if so, for how long has the Government been aware that these allegedly Government-owned institutions have been conducting illegal sales?

If the sales have been occurring, does the Government accept any responsibility for them? Further, if the Government does not accept responsibility for them, does it propose to take any legal action against any of its agencies? These are serious questions to be answered by the Government in view of its protestations in the past and its action in raising the maximum fine for illegal retail trading to $50 000. If the Government and the Minister cannot answer these questions, one can only assume that they are guilty of the greatest hypocrisy in the past three years concerning these alleged offences against society.

I understand that on 27 August Mr Penhalluriack contacted the office of the Minister for Industry, Technology and Resources alleging these offences and requesting that attention be given to them by the Minister. I further understand that he has received no response from the office of the Minister or the Minister himself regarding the matter in the intervening period.

It is incumbent on the Minister to answer these questions tonight. I am aware that the Minister is proposing to introduce legislation in this area; nevertheless, Opposition members and the public are deserving of answers to the specific questions that have been raised by Mr Penhalluriack and myself this evening. The Minister has been made aware of the allegations in a letter from Mr Penhalluriack dated 27 August and by myself earlier this evening. It is incumbent on him to give direct and straight answers to this House and members of the public this evening.

Mr JASPER (Murray Valley)—I raise a matter for the attention of the Minister for Police and Emergency Services and, in his absence, I direct it to the Minister for Education. With the summer season approaching, I believe it is time the Government reconsidered the licensing of speedboat drivers in Victoria. I have raised the matter with the Minister on other occasions in years gone by and the Minister has generally investigated the matter
and provided me with information explaining that some investigation has been undertaken in the past and that statistics do not support the view that speedboat drivers should be licensed.

The Minister indicated twelve months ago that he was monitoring the situation, particularly through the Police Force, to determine if there was an increase in the incidence of accidents involving speedboats. I totally reject the comments that have been made by the Minister recently that statistics do not prove that speedboat drivers should be licensed in the future. One would only need to examine the number of accidents over the summer season to support the view that speedboat drivers should be licensed, particularly because of the fact that not all speedboat accidents are recorded. This is because there are no fatalities or hospitalisations involved in some accidents.

In New South Wales all speedboat drivers are required to be licensed and they must pass a test before the licence is issued. Perhaps the matter should also be taken up with the Premier because a border anomaly exists for people living along the Victorian/New South Wales border. If they operate a speedboat on the River Murray they are required to hold a licence for speedboats and to meet fairly stringent requirements to pass that licence, yet if they operate on the Goulburn River, the Ovens River, Eildon dam or Lake Nagambie, they do not need to be licensed.

One does not need a licence to drive speedboats on Victorian waterways and streams, but once one enters the River Murray one needs to be licensed. Statistics support the cases for licensing of speedboat drivers. One needs only to talk to people involved in selling speedboats and those involved in using speedboats to learn that increasing numbers of people are using them on waterways. There is a need for control.

I ask the Minister to again investigate the need for the licensing of speedboat drivers in Victoria, because it would assist in reducing the number of accidents and fatalities over the coming summer season. That is the point that needs to be considered and I seek a response from the Minister and an indication that the Government will act to license speedboat drivers.

Mrs SETCHES (Ringwood)—I raise a matter for the attention of the Minister for Community Services in another place and I hope the Minister for Consumer Affairs will relay my concern to her. Careforce Outer East has recently learned that the Outer East Regional Consultative Council has not recommended a continuation of funding for family counselling services for 1987, but more importantly, the council has recommended that the counselling services be continued if the agreement that is pending between the State and Federal Governments for a triennial funding arrangement for counselling and family services is completed.

Under the arrangements that were in place for this year, Careforce Outer East received $6000 from the Outer East Regional Consultative Council, which has enabled the group to carry on its work. Careforce Outer East also received some funding provided by its auspices agency, the Mission of St James and St John, and from local fund raising efforts.

The families that the group assists in the Ringwood–Croydon areas are multiple problem families that have extreme difficulty in coping with their problems but which have greatly benefited from the considerable talents of the family counsellor that Careforce Outer East has supplied. The counsellor works 32 hours a week and I understand that the agency has approached the honourable member for Warrandyte requesting his assistance in arranging an urgent deputation to the Minister for Community Services so that it may explain to her the real needs in trying to maintain the counselling service so that it can service the number of families in that area.

The fact that Careforce Outer East will be discontinued has been brought to the attention of a number of local authorities. These authorities are concerned about that and want that service to continue. A submission from the child psychiatrist of the outer-east community
health service explained the need for the service. Local schools have expressed their support of the counselling service.

I ask the Minister to speak to Mr Ken Adams, the Chairperson of Careforce Outer East, and Ms Margaret Matthers, who is employed by careforce, so that they may impress on the Minister the need for the service continuing and for additional money to be found other than the allocation that has been privatised by the Outer East Regional Consultation Council and family services.

**Mr JOHN** (Bendigo East)—I direct a matter for the attention of the Minister for Education, representing the Minister for Conservation, Forests and Lands in another place. It is not often that honourable members are pointing out to the Government that it is not collecting money. Normally honourable members are requesting money for various projects. I direct the Minister's attention to problems occurring between the Department of Conservation, Forests and Lands which appears to have a moratorium on the sale of useless easements and pieces of street alignments that do not conform with the original survey.

I have been approached by a number of constituents, constituents' solicitors and the Shire of McIvor, who all wish to purchase pieces of land that are obviously useless to anyone else if one cares to examine them. In each case when requests have been made they have been informed by the department at its Bendigo office that the application for the purchase of the land cannot be processed or even entertained because a review is being conducted about the disposal of land throughout Victoria.

I direct the Minister's attention to the sorts of problems constituents are having with title alignments, for instance, where they wish to erect a shed on the back of a property that has an easement which is no longer of any use to anyone because of other work that has gone on in the area. The Shire of McIvor, one of the more progressive, fast growing, forward-looking municipalities, has identified two depots, a potential industrial estate of 2 or 3 acres. The shire has the funds with which to purchase the land from the Government, but the Government will not deal with the shire or collect the money or allow a matter to proceed that would be of great economic benefit to the municipality.

I urge the Minister to review the matter and investigate whether it would be prudent to allow the sale to proceed for the economic benefit of the area and also to collect revenue for the Government. The Government is in great need of revenue as is the Department of Conservation, Forests and Lands, which is extremely slow in paying its bills.

**Mr CROZIER** (Portland)—I raise a matter for the attention of the Premier. I refer him to my question asked of the Deputy Premier on Tuesday concerning the Government's intentions regarding aluminium ingots produced by the Portland aluminium smelter that are destined for export; the Government's share of that production which will be sold to overseas customers; and the nonsense I received on that occasion from the Minister for Industry, Technology and Resources. The Minister treated the House to a homily about the benefits of the smelter with which I agree and have recognised for far longer that has the Minister.

I ask the Premier whether he can assure me that the Government's share of that production, which is destined for export, will be exported over the Portland wharves and further; whether the agreement which was signed by the previous Liberal Government with the company back in 1980 as part of the incentive package offered by the then Liberal Government to the company, which included an incentive for the export of aluminium ingots, still applies. It was a considerable incentive and I ask the Premier to comment on that. It would be a total absurdity if the Government's share of ingot produced by the smelter which is destined for overseas customers finds its way down to the port of Melbourne either by road or rail.

**Mr CAIN** (Premier)—In regard to the matter raised by the honourable member for Portland, I would have expected that ALUVIC would have considered all aspects of the
sale, including the most appropriate markets and attractive conditions that would result in the best sale for the product. That is my expectation, but I shall make further inquiries. The most important factor is that the Government got the smelter going and it will be a massive export earner for this State and the country. The Government got it going, even though it faced enormous handicaps because of the previous Government's inadequacy, stupidity and determinations as to location, which is on the record. Whether or not Mr Gill had success before the freedom of information application is another issue.

The Alcoa smelter will produce a huge quantity of aluminium and will be a massive exporter for Victoria and Australia, and it is all due to this Government.

Mr FORDHAM (Minister for Industry, Technology and Resources)—The honourable member for Caulfield raised a matter for my attention. It might be an interesting commentary on the work habits of the honourable member in that he referred to a letter dated 27 August, which was sent to all members of the Victorian Parliament by Mr Frank Penhalluriack. I gather the honourable member has only just caught up with it.

Mr Tanner—To your colleagues, not mine. It went to the Labor Party; it didn’t go to the Liberals!

The SPEAKER—Order! The honourable member for Caulfield will restrain himself or I shall be forced to take action.

Mr FORDHAM—I realise that the honourable member has some difficulty controlling himself late at night. I do not believe it is proper for me to comment in detail on the letter from Mr Penhalluriack other than to say that in that letter he has sought a pardon. The matter that he is seeking a pardon from is currently before the Victorian courts. In those circumstances, I do not believe it appropriate that I should comment in this House.

Mr McCUTCHEON (Minister for Water Resources)—The honourable member for Narracan raised the issue of the Ombudsman’s report and his comments on compensation for land acquired for the construction of the Blue Rock dam. The process involving those acquisitions was commenced in 1979 and went through to 1981 under the former Liberal Government and the State Rivers and Water Supply Commission. The commission was the responsible authority for the construction of the Blue Rock dam and the land was acquired under the provisions of the Land Compensation Act.

I am certain all honourable members would agree that the provisions of that Act have caused some concern over a number of years. Delays have been experienced in payments for compensation to people whose properties have been acquired, and some of the provisions have been less than desirable. However, unlike the previous Liberal Government which was responsible for the introduction of that legislation, this Government has drawn up a new Bill which is now before the other place. The Land Acquisition and Compensation Bill contains equitable provisions for acquisition and compensation and will set time limits on the payments for compulsory acquisition.

I stress that the Government has fully considered the Ombudsman’s recommendation that an ex gratia payment should be made. I also stress that the former State Rivers and Water Supply Commission, which is now the Rural Water Commission, has not been found in any way to have diverged from the requirements of the Land Compensation Act. Both those commissions have been found to have acted within the requirements and provisions of that legislation.

There is real concern that although the Ombudsman’s proposal has not been accepted by the Government, it has been opposed by other land acquiring authorities, including local government. I shall inform the House of comments made in opposition to the Ombudsman’s recommendations by the Secretary of the Municipal Association of Victoria who said:

Whilst one would share the Ombudsman’s sympathy for the landowners’ concern, to adopt this suggestion would create a precedent which could change the lands compensation laws; it is conceivable that this may
disadvantage councils which had served notices to treat but which had not settled claims for compensation; it is considered that the recommendations of the Ombudsman should be rejected.

There is a case for the Government having introduced a new Bill to overcome the difficulties that were experienced under the existing Act. The three cases brought to the attention of the Government by the honourable member for Narracan are not unique and the Government believes the recommended payments will create an adverse precedent.

Mr SPYKER (Minister for Consumer Affairs)—The honourable member for Wantirna raised with me a serious matter about the loss of property of her constituents and she outlined the details of the case. I will ask officers of the Ministry to investigate the matter and refer it to the Attorney-General.

I advise professional people and organisations involved in making various arrangements about the purchasing of property that they should recognise that a house is the most expensive item that a person will invest in during his or her life. Although I recognise that solicitors, estate agents and people employed by finance companies are busy people, many times they ought to be more careful when arranging contracts.

The Ministry has received a significant number of complaints from people who have overextended their financial commitments. Solicitors, estate agents and finance company employees should ensure that the person is able to meet the financial commitments and if he or she requires financial counselling, that should be arranged before the settlement of the property occurs.

It is heartbreaking for people who invest a lot of money in a home and then lose the few possessions they have. I can understand the anxiety of the honourable member for Wantirna and I assure her that officers of my Ministry will investigate the matter.

The honourable member for Ringwood raised a matter for the attention of the Minister for Community Services in the other place. Careforce Outer East is an agency that helps people in every possible way. The electorate of Ringwood has an increasing population and many families are confronted with a huge number of problems faced by modern society.

The agency undertakes a valuable task in the community and there is concern that it should be offered some financial contribution to carry out its functions.

I shall ask the Minister for Community Services as a matter of urgency to meet a deputation from the Careforce Outer East agency, together with the honourable member for Ringwood and the honourable member for Warrandyte, who has expressed concern about this issue, to see what assistance can be offered.

Mr CATHIE (Minister for Education)—The honourable member for Murray Valley raised a matter for the attention of the Minister for Police and Emergency Services about the need for more control over speedboat drivers. He indicated that border anomalies occur because Government controls on opposite sides of the River Murray are different. I shall direct the attention of the Minister to that matter and see if he can reply to the honourable member.

The honourable member for Bendigo East raised a matter with me for the attention of the Minister for Conservation, Forests and Lands and indicated that, although there is a moratorium on the sale of relatively useless parcels of land, that appears to be because of a current review of the department's policy. However, in the meantime, his constituents, including local councils, want to get on with the job of purchasing land and resolving local problems. I shall take up that matter with the Minister to see whether those sales should proceed or whether there is a good reason for them not proceeding.

The motion was agreed to.

The House adjourned at 12.20 a.m. (Friday).
Friday, 5 December 1986

The SPEAKER (the Hon. C. T. Edmunds) took the chair at 10.6 a.m. and read the prayer.

ABSENCE OF PREMIER

The SPEAKER—Order! I advise that the Premier is attending an Economic Planning and Advisory Council meeting in Canberra and will not be in the House during questions without notice.

QUESTIONS WITHOUT NOTICE

VICTORIAN RAIL SYSTEM

Mr BROWN (Gippsland West)—I refer the Minister for Labour to the significant increase in days lost through industrial disputes that has occurred in the railway system over the past three years.

Is it a fact that a new strategy proposing the dismantling of V/Line will lead to the loss of 5300 jobs in addition to—

Mr Kennedy—That is Liberal Party policy.

Mr BROWN—That is your policy but you have not yet been told. That job loss is in addition to the recently announced plan to shed 1800 jobs. Has the Minister consulted with the unions on these proposals and do the unions accept them?

Mr CRABB (Minister for Labour)—It is a long time since I was asked a question about transport. The previous Government went out of office sailing on a policy that involved dismantling Victoria’s rail system. I recall the honourable member for Gippsland West was less than helpful in his support of the maintenance of the Leongatha railway line, in contrast to the honourable member for Gippsland South who was extremely supportive. He and I were on the barricades together, so to speak. We won that issue and Leongatha now has an effective rail system.

Despite the lack of support from the honourable member for Gippsland West, in the five years since this Government has been in office it has done more for the Victorian railway system and the public transport system than did any of its Liberal predecessors. Instead of patronage declining at the rate of 5 per cent per annum, as it did in the previous twenty years, it has increased at the rate of 2 per cent per annum and the people of this State are well satisfied with the system.

Mr STOCKDALE (Brighton)—On a point of order, Mr Speaker, I appreciate that the Minister is speaking out of the back of his head but he is not addressing the Chair.

The SPEAKER—Order! There is no point of order.

MOCK HOLD-UPS BY STUDENTS

Mr ROSS-EDWARDS (Leader of the National Party)—I direct to the Minister for Education a question that follows a question I asked him earlier this week about mock hold-ups by school students at a bank and at a bus stop. Can the Minister advise the House what progress is being made in those investigations and what action is being taken against not only the teachers who were actively involved but also those senior teachers...
who were aware of what was occurring? I ask the question because it is late in the school year and it is necessary that disciplinary action be taken before the school year finishes.

Mr CATHIE (Minister for Education)—As I indicated the other day, these were extraordinarily stupid actions that were taken by people in responsible positions.

I have had discussions with the Chief Executive of the Ministry of Education and have indicated to him that disciplinary charges should proceed on the basis that guidelines were not followed.

As I indicated, certainly in regard to the raid upon a bank, the principal of the school had not been informed; and I believe, equally, neither had the manager at the bank been informed. Those processes are now in train, and I shall insist that they are carried through.

PRIMARY SCHOOL CLASS SIZES

Mr SIDIROPOULOS (Richmond)—Will the Minister for Education provide details to the House of the recent successes being achieved in reducing the class sizes in Victorian primary schools?

Mr CATHIE (Minister for Education)—In reply to the honourable member for Richmond, the Government—

Honourable members interjecting.

Mr CATHIE—I should have hoped that all honourable members would have had an interest in the reduction of class sizes, particularly in primary schools, because that is where the very basis of the learning process begins and where a child's natural sense of curiosity has to be encouraged in a lifelong process.

This Government has therefore made it a priority to reduce primary school class sizes. We have done that in two ways—because smaller class sizes depend, firstly, on the improved teacher-pupil ratio and, secondly, on the provision of additional classrooms.

In regard to the latter point, the provision of additional classrooms, that has improved from a ratio of 1 classroom to 35 students to a ratio of 1 to 30, thus enabling schools to reduce grade sizes to below 30 students in most cases.

Primary school class size provision has improved dramatically under this Government. In 1979, only 66.6 per cent of primary classes had 30 or fewer pupils; yet, in 1986, 96 per cent of primary school classes have 30 or fewer pupils, and that is a huge improvement by any standard.

The average class size in 1980 was 27.6 pupils. This year it has fallen to an average of 24 pupils. All those figures show a significant reduction in primary school class sizes during the term of this Government. That means that primary schoolchildren can receive more individual attention from their classroom teachers as well as having special needs catered for; that is a strong commitment by the Government towards improving the quality of the State education system.

STATUTORY DECLARATIONS TABLED IN DEBATE

Mr LEIGH (Malvern)—I refer the Minister for Police and Emergency Services to a request on 2 October by the honourable member for Niddrie that the Minister investigate documents tabled by me, which alleged that at least one Australian Labor Party member in the Oakleigh area was engaged in assault, vandalism and electoral malpractice. Has the investigation been carried out; what was the result; and, if no investigation was carried out, why was it not carried out?

Mr MATHEWS (Minister for Police and Emergency Services)—If there are charges to be levelled against people, the proper place for complaints to be made is with the police.
VALUE READING RECOVERY PROGRAM

Mr HANN (Rodney)—Is the Minister for Education aware of concern in the Loddon–Campaspe–Mallee region that the value reading recovery program may be eliminated as a result of the reduction in consultancy positions, which is currently under way within the Ministry of Education?

In light of the importance of this value reading recovery program, will the Minister give an assurance that priority will be given to the program and that these teachers or consultants will not be withdrawn from the program?

Mr CATHIE (Minister for Education)—I am not aware of the concerns that have been raised by the Deputy Leader of the National Party. The reading recovery program in Bendigo and the Loddon–Campaspe–Mallee region is an excellent program. It depends on and is underpinned by parental support, and is aimed at picking up those pupils who, in the early years of their primary education, have fallen behind in basic skills. In that sense, it is a good program.

I will certainly make inquiries to ascertain the present status of that program and I hope it will be able to continue.

SMALL BUSINESS OPPORTUNITIES FOR WOMEN

Mr ROWE (Essendon)—Can the Treasurer provide details to the House of steps being taken by the Government to provide women with opportunities to set up small businesses?

Mr JOLLY (Treasurer)—In addition to women sharing in the great opportunities in this State caused by the fact that 42 per cent of manufacturing investment is occurring in Victoria—and that is an outstanding performance—specific measures have been taken by the Government to provide women with business opportunities in Victoria.

First of all, in 1984–85 the Victorian Womens Trust Ltd was established and that has been an outstanding initiative and is unique to Australia. That trust has some $1 million available to it to assist women in the community. The objective of the trust is to improve the status of women in society, including the business community, and to overcome the disadvantages that women face in forming business ventures as well as other activities.

I am pleased to report that, since April, $150 000 has been received in donations from a variety of organisations and individuals, which will enable the appointment of a full-time executive officer.

Secondly, and most importantly, a guaranteed loan fund scheme has been developed that will enable loans to be guaranteed to women entering business or commercial ventures and it is important to note that this guarantee loan fund will be jointly managed by the trust and the State Bank in Victoria.

An advisory board will be established, consisting of women in the business community, to provide the much needed advice on the management of that guarantee loan fund. These steps make it quite clear that the Government has taken important initiatives in terms of providing women with maximum opportunity to form business ventures in this State and it gives them the best possible opportunity of participating in the openings for them in Victoria.

NURSES’ DISPUTE

Mr GUDE (Hawthorn)—I refer the Minister for Labour to the nurses’ strike that is now heading towards its sixth week. Does the Minister know how many nurses are on strike and is it a fact that many unions affiliated with the Trades Hall Council have refused to support the strike on the ground that most nurses are working each week?
Mr CRABB (Minister for Labour)—There are 14 000 nurses in Victoria and certainly they are not all on strike. Indeed, they are not all members of the Royal Australian Nursing Federation. There is no way of conducting a survey on a daily basis to find out who is on strike and who is not. The public hospital system is coping and it is continuing to provide at least the basic services required by the community.

TOURISM

Mr SEITZ (Keilor)—Will the Minister for Industry, Technology and Resources inform the House of the steps that have been taken by the Victorian Tourism Commission in furthering tourism in country Victoria and developing the tourism industry?

Mr FORDHAM (Minister for Industry, Technology and Resources)—The Victorian Tourism Commission is to be congratulated for the continuing initiatives it takes in country Victoria to highlight the many significant tourist assets within this State. A number of publications in recent years have placed emphasis on country Victoria, encouraging people from Melbourne and interstate to visit those centres. For example, there are documents concerning wineries, boating and water activities available right across Victoria. A more recent publication concerns the state of the arts. I know honourable members, particularly country members, are proud of the facilities in many provincial and country areas.

I commend to honourable members the document State of the Arts. I hope all honourable members have received a copy of it and are ensuring that it is circulated to relevant groups in their electorates. When a document of this kind is brought together one realises that in all corners of Victoria, from major country towns to provincial cities, a wealth of arts activities are available for visitors and local communities. That is to the credit of those communities and the Victorian Tourism Commission for its important initiatives. I am sure the document and the work of the commission is appreciated across the State and across Australia.

PORTLAND ALUMINIUM SMELTER

Mr RAMSAY (Balwyn)—The Treasurer will be aware of recent expert reviews of world metal market trends that point to the continuing sluggishness in demand for aluminium and hesitant price levels for the rest of this decade. Has the Treasurer been informed of any confirmed forward sales of the Government’s share of the Portland smelter project? If so, what tonnage has so far been placed?

Mr JOLLY (Treasurer)—I take that question to indicate that the honourable member strongly supports the Portland joint venture because it is certainly about time that the Opposition supported it.

It is a unique joint venture which will be of considerable importance to Victoria.

So far as the production of aluminium is concerned, early next year the first ingots will come off the production line, and that is a forerunner to large-scale production of aluminium in Portland. The project is entirely export-oriented. The Government is pleased to state that once potlines 1 and 2 operate, the total export income generated from that project will be approximately $600 million.

In respect of the question asked the other day about the use of the port of Portland, I assure honourable members that it will be an extremely important outlet for the export of aluminium from Victoria. The individual contractual arrangements for Aluminium Refinery of Victoria Pty Ltd, ALUVIC, the Victorian Government’s investment arm, are well under way. Much work has been done in examining the potential price of aluminium relating to the Victorian Government’s share. Although I cannot give details to the honourable member for commercial reasons, I assure the House that there will be no difficulty in the Victorian Government meeting its share of output sales overseas.
TEACHER REGISTRATIONS

Mr W. D. McGrath (Lowan)—Is the Minister for Education aware that new teacher graduates who may have placements at Victorian high schools are not able to take up their placements until they receive teacher registration?

Does the Teachers Registration Board meet in January to approve those registrations so that the people concerned can take up appointments at the commencement of the school year? If the board does not meet in January, will the Minister instruct it to meet so that teachers can be appointed at the commencement of the school year?

Mr Cathie (Minister for Education)—I am not sure whether the Teachers Registration Board meets in January or what the effect of that is in terms of students who are coming out of their years of training and are ready to be placed in schools. I shall make inquiries and make sure there are no unnecessary holdups.

WORLD WEIGHT-LIFTING CHAMPIONSHIPS

Mr Hockley (Bentleigh)—Will the Minister for Sport and Recreation provide details of the staging of the world weight-lifting championships this month?

Mr Trezise (Minister for Sport and Recreation)—The sport of weight-lifting is probably one of the sports that is growing most in popularity in this State. For example, in the schools in 1979, 500 children took part in weight-lifting and this year 24,000 children are taking part in that activity. Therefore, its increase in popularity is one of the reasons why this weekend Melbourne will be the spotlight of world weight-lifting because it is conducting the world cup for weight-lifting. This is the first time this has taken place in the Southern Hemisphere. It will be the largest weight-lifting event to be held in Melbourne since the 1956 Olympic Games.

The contest will be held at the Sports and Entertainment Centre before a full audience. The organisers have provided 7000 free tickets to schoolchildren and I compliment them for that, in particular, the Victorian Weight-lifting Amateur Association. The event will be telecast to Europe and the United States of America before an estimated audience of 200 million people. It will bring together the top weight-lifters in the world to compete in their respective divisions. I expect many world records to be broken. Weight-lifting is an extremely popular sport in Victoria and Melbourne will continue to be the sporting capital of Australia.

RACE BROADCASTS

Mr Reynolds (Gisborne)—Will the Minister for Sport and Recreation advise what steps he will take to ensure the continued broadcasting by radio station 3DB of events covered by the Totalizator Agency Board now that the station appears to be on the market? Will the Minister ensure that he will make arrangements for the Totalizator Agency Board to purchase radio station 3DB, if possible?

Mr Trezise (Minister for Sport and Recreation)—I note the fact that the radio station could be coming on the market with the proposed takeover of that particular organisation. So far as race broadcasting is concerned, the contract with 3DB still has two years to run and I presume the contract will be watertight no matter who purchases the station.

I naturally presume the TAB will consider examining the proposition of purchasing the station, although I think there is some doubt whether it would be able to do so under the Federal Act because it is a commercial radio station. I am not sure of the facts. This is a grey area.

The Government and the TAB—and I presume 3DB—are concerned that there are many areas of Victoria, especially in Gippsland and the northern area of the State, that are not covered by radio broadcasts of races on 3DB because of the short range of that station.
In the past twelve months, the Australian Broadcasting Corporation, through the three regional stations, has covered at least the Saturday afternoon galloping race meetings. The matter will be examined. I shall speak to the TAB to ensure it is on the ball. I know it is examining future options to ensure that a major station will continue to broadcast races—I am not sure whether it will be 3DB—to ensure that all Victorians receive broadcasts of races at the earliest opportunity.

RECREATION FOR THE OLD AND DISABLED

Mr Remington (Melbourne)—I have a question for the Minister for Sport and Recreation. I am not sure whether I have been set up with this question because I make it clear that I have no interest in it whatsoever. I shall read it.

It says: can the Minister inform the House what his department is doing to assist old and disabled people gain access to leisure opportunities?

Mr Trezise (Minister for Sport and Recreation)—The Department of Sport and Recreation over recent years has been concerned to ensure that all people have the maximum opportunity of taking up sport and recreation, especially those who otherwise might not have the opportunity of doing so. I refer in particular to the aged and the disabled.

No doubt when people reach a certain age they are often loathe to partake in recreational activities because of their figure or some other aspect of their person that they consider an embarrassment. In recent years, older people in the 70, 80 and 90 year-old age brackets have been encouraged to partake in recreation. Some of them have disabilities as a result of a stroke or have had a limb amputated and are embarrassed by that.

Often these people hibernate in their rooms watching television, reading the newspaper or listening to music. The Government is considering ways in which to involve the old and disabled in a special category of recreation.

MCG LIGHT TOWER DISPUTE

Mr Gude (Hawthorn)—I refer the Minister for Labour to the much publicised Melbourne Cricket Ground light towers dispute some years ago and to the charges that the police laid against certain members of the Builders Labourers Federation. Is it a fact that the charges against the BLF members were adjourned? What steps has the Government taken to ensure that those charges are proceeded with in the courts expeditiously, as it appears no action has taken place?

Mr Crabb (Minister for Labour)—Matters of that nature are properly in the hands of the police and are not matters for the Government to intrude upon. Delays in the courts are another matter. Neither this Government nor any other Government should intrude on individual cases either to expedite or delay them. The Government has been diligent in not doing so, no matter who is involved.

I am hardly the expert on court matters. If the person who is charged has sizeable funds at his disposal with which to hire lawyers, that person is able to spin out the litigation at considerable cost to that person or to whoever is paying the lawyer for prolonged periods.

SMALL BUSINESS

Mr Jasper (Murray Valley)—I refer the Minister for Industry, Technology and Resources to the huge number of Government permits, licences and returns required to operate a small business in Victoria. Can the Minister outline what progress has been made in lifting the burden from small business and implementing Government policy in this area?
Mr FORDHAM (Minister for Industry, Technology and Resources)—I thank the honourable member for his question and for his continuing interest in small business in Victoria. The Government is aware of the concern in some areas of small business about the regulatory maze that confronts them in undertaking their day-to-day activities.

In response to that problem, the Government has asked the Regulation Review Unit operating within my Ministry to undertake what I am certain will be seen as the most detailed inquiry of overall regulatory mechanisms affecting small business that has been undertaken in this country.

The unit has advertised publicly for submissions. In addition, it has contacted the major interest groups operating within this area and is currently surveying all Government departments and agencies on the extent of their regulations affecting small business.

The Regulation Review Unit has to date received some fifteen submissions dealing with all aspects of business regulation. Discussions have been initiated with all major groups and they are very much behind and supportive of the Government's initiative in referring this matter to the unit.

Government departments and agencies are now completing a survey designed to analyse the costs and benefits of various State licences, permits and approvals that are required by, and have an impact on, small business in Victoria.

There is no doubt that the quantity of small business regulations has been built up over a long period. The Cain Government has done more than any other Government in Australia to review the regulatory mechanisms and overall regulation requirements affecting small business.

I am confident that the submissions received and discussions with interest groups and surveys conducted by the Regulation Review Unit will enable it to prepare a comprehensive report on regulations currently in place across the public sector in this State and will allow the Government to address what clearly is an issue of considerable substance and importance to small business.

I reiterate, as Minister after Minister has said on other occasions, small business is of crucial significance to the economic resurgence of Victoria. The Government has demonstrated its willingness to work with small business in its many manifestations, and I am certain that the overall support received by the Government will continue into the future so that together we can provide jobs and investment to benefit this State.

PETITIONS

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

Euthanasia

To the Honourable Speaker and Members of the Legislative Council and the Legislative Assembly of the State of Victoria in Parliament assembled:

The petition of the undersigned citizens of the State of Victoria respectfully showeth:

—that the lives of the aged, the sick and disabled in Victoria are under attack from the euthanasia movement

—that the terms of reference of the “Dying With Dignity” inquiry are not based on the principle that the lives of the aged, the sick and disabled should be protected by law until ended by natural death

Your petitioners therefore humbly pray that the Government of the State of Victoria will reject any recommendation to introduce euthanasia in any form through either legislation or regulation and will ensure that the lives of all human beings are protected by law.

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

By Mr Pescott (194 signatures), Mr Norris (153 signatures) and Dr Wells (381 signatures)

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Brothels

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY IN PARLIAMENT ASSEMBLED:

This humble petition of the undersigned citizens of the Latrobe Valley and district sheweth that we are totally opposed to any action which will enable brothels to be established within any municipality in the Latrobe Valley area of Victoria and in particular we are opposed to any action which would prevent the City of Moe, the Shire of Morwell, the City of Traralgon and the Shire of Traralgon each following its clear intention after widespread public debate to refuse to allow brothels as a permitted use in the various planning schemes, and your petitioners, as in duty bound, will ever pray.

By Mr Delzoppo (620 signatures)

Woodchipping

TO THE HONOURABLE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY IN PARLIAMENT ASSEMBLED:

The humble petition of the undersigned citizens of the State of Victoria respectfully sheweth that woodchipping for export has been permitted from the Otway State Forest and that woodchipping destroys jobs in tourism and woodchipping destroys water catchment values.

Your petitioners therefore pray that you will preserve our forests for the future and ban clearfelling and woodchipping in the Otways and your petitioners, as in duty bound, will ever pray.

By Mr McCutcheon (23 signatures)

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

NATIONAL PARKS SERVICE

Mr CATHIE (Minister for Education)—By leave, I move:

That there be presented to this House a copy of the report of the National Parks Service for the year 1985-86.

The motion was agreed to.

Mr CATHIE (Minister for Education) presented the report in compliance with the foregoing order.

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

PAPERS

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

Conservation, Forests and Lands Department—Report for the year 1985-86—Ordered to be printed.
Equal Opportunity Act 1984—
Report of the Commissioner for Equal Opportunity for the year 1985-86—Ordered to be printed.
Equal Opportunity Board—Report for the year 1985-86—Ordered to be printed.
Exhibition Trustees—Report for the years 1983-84 and 1984-85.
Geelong Regional Commission—Report and statement of accounts for the year 1985-86.
Victorian Economic Development Corporation—Quantitative targets to be attained by the Commissioner for the year 1986-87.
Motor Car Traders Bill 5 December 1986 ASSEMBLY 2939

Water Act 1958—Statement of Minister pursuant to section 43F, sub-section 6 concerning the failure of the Rural Water Commission to table the 1985–86 annual report.

MOTOR CAR TRADERS BILL

This Bill was returned from the Council with a message relating to amendments.

It was ordered that the message be taken into consideration later this day.

SESSIONAL ORDERS

Mr FORDHAM (Minister for Industry, Technology and Resources)—I move:

That the Sessional Orders of the Legislative Assembly adopted on 4 April 1985 be amended as follows:

In paragraph 1, omit “11 a.m. and 10.30 a.m. respectively” and insert “on Tuesdays and Wednesdays and 10.30 a.m. on Thursdays”.

In paragraph 3, omit “10.30 p.m.” (wherever occurring) and insert “11.00 p.m.”.

Honourable members would be aware that for some time the Parliamentary committees have expressed a desire for greater opportunity to meet, especially during those weeks in which the House is sitting. From time to time a number of committees have sought the chance to meet while the House was in session. However, it has been the longstanding view, certainly of the Opposition and the National Party, that that is an undesirable principle, so there has been a degree of frustration on the part of the committees.

Parliament can take pride in the work of its committees. A number of reports that have been tabled in recent times have been outstanding pieces of work that have been undertaken on a bipartisan basis. I direct particular attention to some of the recent reports that have been tabled by the Social Development Committee. That committee is a model committee of which Parliament can be proud.

Having been approached by representatives of the committees, I spoke with the chairpersons of the committees to seek their views on the most appropriate amendment to Sessional Orders. Not surprisingly, a variety of opinions were expressed, but by far the major preference was for the availability of Wednesday mornings for committees to undertake their work.

The National Party formally wrote to me explaining that its members had spent some considerable time considering this issue. The National Party sought amendments to the existing sitting hours and expressed the desire that Wednesday mornings be clear.

The Government is prepared to amend the Sessional Orders in the form outlined in the motion. The wording is somewhat convoluted but, if it is agreed to, Wednesday mornings will be available for committees to meet and the House would meet at 2 p.m. on Wednesdays.

To compensate in part for that loss of 2 hours, I have provided for an additional 30 minutes’ sitting time in the evening for both Tuesdays and Wednesdays. On balance, this is the most desirable pattern for the overall work both of Parliament, when in session, and of the Parliamentary committees, which have an important role to play.

I have discussed this matter with my counterpart, the Leader of the other House and with the Leaders of parties of the other place, and I thank them for their cooperation and support for the measure. I look forward to this taking effect from the start of the next sessional period and I am sure that that will be appreciated by the committees.

Mr KENNETT (Leader of the Opposition)—Obviously, some discussion has occurred on these issues. The Liberal Party is prepared to give it a go at this stage. It is a change to the times of Parliamentary sittings of recent years and, if the Deputy Premier will accept the scenario that the change is on trial, and that if problems arise the opportunity is available to reassess the sittings, the Liberal Party is prepared to agree.
I make one point on the extension of sitting hours to 11 p.m. Again, I am not opposed to the extension of the sitting hours by half an hour, but I will be damned if I will have any more of this House sitting to 2 a.m. or 3 a.m. It has been expressed often by all honourable members that the way in which this Parliament conducts its business when it sits for so very few weeks of the year is a sign of mismanagement. It totally overlooks the responsibilities placed on all honourable members, not only towards their duties in the Chamber but also their duties to their political obligations.

Therefore, I can only say to the Labor Government that after the next election when there will be a change of Government and you, Mr Speaker, will probably have a cosy Government job, as has been the arrangement on many occasions, the Liberal Party Government will ensure that if 11 p.m. is still the hour at which business finishes in this House, that will be the hour on which this House will go into the debate on the motion for the adjournment of the sitting every night that the House sits. The Liberal Party Government will have to work out some other measure for ensuring that the Government's legislative program is able to be conducted through the Parliament. Whether the number of sitting days of sessional periods is extended does not affect the Liberal Party.

It is not right to have the sitting hours that the House has had this week, which have been extremely trying on honourable members and the staff. That is not good for the legislative process and it is not good for the staff. The Liberal Party, at this stage, is prepared to try out the new measure that the Deputy Premier has outlined and anticipates with a great deal of interest its results.

Mr HANN (Rodney)—The National Party is happy to support the motion. Originally the National Party proposed to the Government that the House should commence on Tuesdays not at 2 p.m. but at 4 p.m., an arrangement that existed some years ago prior to the Labor Party obtaining office. This allowed sufficient time for party meetings to be held in the mornings and for committees to meet in the afternoons prior to the sitting of the House at 4 p.m. The committees were able to meet for one or one and a half hours which, in my experience, allowed the committees to set out the program for their work and to consider particularly the administrative details.

Effectively the committees were meeting three days a week prior to the commencement of the sitting of Parliament. The Labor Party Government changed the times of the sitting hours to: 2 p.m. Tuesdays, 11 a.m. Wednesdays, and 10.30 a.m. Thursdays. As a result, committees have found it almost impossible to meet unless they arranged their meetings very early in the mornings of a Wednesday and a Thursday. Although the National Party welcomes the Government's decision finally on this issue, and negotiations have been conducted for many months, I add that it was not until the National Party finally wrote again to the Deputy Premier and issued an ultimatum that the Government agreed to take action.

The suggestion had been made that committees should sit while the House was sitting, but there was no way in which the committees wanted to meet while the House was sitting. The National Party has adopted the principle over the years, as have other parties, that that is undesirable and that while the House is sitting, priority should be given to the sitting of the House. If committees were to sit simultaneously, there would be difficulty in keeping to the legislative program.

At that stage, the National Party formally wrote to the Deputy Premier saying, "No way; let us re-examine the question of sitting times." The Government has responded, and we are pleased about that.

However, I want to express my concern on this matter. When we originally considered the 4 p.m. and 2 p.m. sitting times, we were expected to consider as an alternative the extension of the time for conclusion of the sittings from 10.30 p.m. to 11 p.m. We are not enthusiastic about that, when we have only one small concession on a Wednesday and no concession on a Tuesday. I have reservations about this House not adjourning until after 10.30 p.m.
I acknowledge that there are occasions when we have to sit a little later than that, but 10.30 p.m. is late enough for any honourable member to be dealing with business of the House. I hope we will not go automatically to sitting until 11 p.m. every night just because that time will be listed in the Sessional Orders. I hope the sittings will finish at an earlier time, if that is practical.

I should like also to indicate my support for the views expressed by the Leader of the Opposition. It seems to be a part of the Westminster Parliamentary system that, particularly towards the end of the session, the Parliament has to sit late. That occurs in the House of Commons, and I understand that the South Australian Parliament on one occasion sat through two days with no break.

I suppose one of my earliest experiences in this place was having breakfast here at 6 a.m.

Mr Kennett interjected.

Mr HANN—It was not on a Saturday—this occurred before the Leader of the Opposition was in Parliament. In fact, it was the only occasion on which a formal breakfast was provided in Parliament.

Mr Micallef interjected.

Mr HANN—The Honourable Dick Hamer was the Premier, the Honourable Lindsay Thompson was the Deputy Premier and I believe Clyde Holding was the Leader of the Opposition at that time. It was the Opposition that was responsible for the long sittings on that occasion because it refused leave for the Government to introduce its Bills.

The Honourable Lindsay Thompson cleverly decided to adjourn the sitting and recommence a new sitting at 12.35 a.m. In those days, of course, we had to have a new question time. We did not have Sessional Orders which gave priority to Government business, and Clyde Holding then proceeded with a 2-hour adjournment motion before the Bills could be read a second time.

I shall never forget my experience of driving home after 6 a.m.

Mr Kennett interjected.

Mr HANN—I was driving only to my Melbourne flat at that time. We have sat into Saturday, of course, on a previous occasion—to which the Leader of the Opposition referred—under the former Liberal Government, which was crazy.

It is difficult on occasions, and the opposition parties are partly responsible—and I include the National Party, because it believes it is important to debate proposed legislation. I believe greater consideration ought to be given to the legislative program.

The Government, particularly, should give more consideration to a management strategy for having legislation dealt with through Parliament. I indicate that members of the National Party support the motion, with the proviso that we hope we will not automatically sit until 11 p.m. each day if it is possible to finish at an earlier time.

The motion was agreed to.

LOCAL GOVERNMENT (MUNICIPAL COUNCIL POWERS) BILL

Mr SIMMONDS (Minister for Local Government) moved for leave to bring in a Bill to give municipal councils increased powers in relation to municipal enterprises, the provision of health and welfare and other human services and the making of by-laws in relation to fires and incinerators.

The motion was agreed to.

The Bill was brought in and read a first time.
AMBULANCE SERVICES BILL

The debate (adjourned from October 30) on the motion of Mr Roper (Minister for Transport) for the second reading of this Bill was resumed.

Mr WEIDEMAN (Frankston South)—This Bill is being debated in the dying hours of the sessional period. One appreciates that the Minister has been somewhat preoccupied with the current nurses' dispute. It is only in recent days that honourable members have been able to turn their attention, through his staff, to the Ambulance Services Bill.

The Opposition does not intend to speak at length on this measure but it shall raise concerns that have been brought to its attention on the Bill. One could detail the history of ambulance services in this State and throughout the world. One recognises the contribution of ambulance officers and people associated with ambulance services in this State, and that few press reports over the years have highlighted the problems within the service. One often reads of the gratitude of persons whose lives have been saved by being taken by ambulance to hospital and for having received the best care possible by highly-skilled and highly-trained officers.

Dr Vaughan interjected.

The ACTING SPEAKER (Mr Kirkwood)—Order! I am sure the honourable member for Frankston South does not need assistance from honourable members on the Government benches or anywhere else.

Mr WEIDEMAN—For the sake of the honourable member's memory, I reinforce the view that debate on this Bill could continue for days; there is considerable information that could be debated. The Opposition intends to facilitate the passage of the Bill as quickly as possible so that the honourable member for Clayton can get home and have his Christmas dinner, but I suggest that he should be quiet and keep his mouth shut.

The Bill provides a comprehensive change to the management of ambulance services in Victoria. At the outset, I congratulate the service. It must be a sad day for many of the services to know the Bill is being dealt with, as Parliament may be setting back ambulance services twenty years. It is similar to the lowering of the colours when many services were amalgamated after the second world war. The colours are being lowered as the sixteen current units are being amalgamated to reduce the number to six. One may sadly reflect on what may happen.

In recent times it has been suggested that big is beautiful, but obviously to some people small is beautiful. There is always conflict when economies of scale are involved. One hopes the report of the Public Bodies Review Committee is correct and that the economies of scale to be made in the restructuring of ambulance services will provide greater service to this State. The proof of that is in the eating of the Christmas pudding—one will know in twenty years whether that is true.

I was a member of the Public Bodies Review Committee and took the view that certain sewerage and water authorities should be amalgamated. The committee was responsible for the reduction in the number of those bodies from 370 to just over 100. In this case, sixteen services are being reduced to six. The Bill is complicated. I heard Dr Mathews say this morning that the nurses' dispute is a complicated issue. Changing the career expectations of people and the expectations of community services takes a long time.

I congratulate the work done by the Public Bodies Review Committee, and now the implementation committee, in their efforts to grapple with these problems. Honourable members would be aware that legislation must be introduced after twelve months of the tabling of a Public Bodies Review Committee report and I note that the Bill is presented to Parliament approximately two years after the Final Report on Victoria's Ambulance Services conducted by the Public Bodies Review Committee in 1984. Page 302 of that report contains a list of recommendations and the primary recommendation is:
The primary objective of the Ambulance Services of Victoria is to contribute to the reduction of mortality and morbidity throughout the community by the provision of pre-hospital medical care, including:

- providing rapid response to requests for assistance in any kind of medical emergency;
- providing specialised transport facilities to move victims of medical emergencies to definite medical treatment;
- providing specialised medical skills to maintain life when it is threatened and while transport is in progress;

and

the secondary objective of the Ambulance Services is to:

- provide related services in which specialised medical or transport skills are necessary.

The ambulance services require highly skilled, properly trained, committed people to carry out the enormous responsibilities that they have.

The ambulance services have developed from the horse-drawn ambulances, at the early part of the century, to the modern fleet of motor vehicles that now operate. The Government and previous Governments have attempted to change the mode of transport of road trauma victims. The activities of the ambulance service have changed and to that extent the mode of transport of road trauma victims, who were the major users of the service, has changed.

The ambulance service has developed Mobile Intensive Care Ambulances and other services that more adequately service the community.

In a sense, I and many other honourable members, no doubt, have a pecuniary interest in this Bill because my family and I are members of the Peninsula Ambulance Service. It is necessary to contribute to these services, even though I hope my family do not require their use. I have been informed that for an ill person to travel from Wonthaggi to the peninsula in an ambulance would cost $860. The cost of using the service is extremely high and it is important, especially in the emergency situation facing Victorians today, that people are members of the various ambulance services.

I have attempted to limit my speech because of time constraints. It is my understanding that considerable work has been done over the past few days to accommodate the various views put forward by honourable members on this measure and that amendments have been prepared for implementation in another place.

The Alexandra and District Ambulance Service serves people in Alexandra and surrounding districts and is a voluntary service. The service made a submission to the Public Bodies Review Committee to retain the voluntary nature of the service and to work within the structure of ambulance services in Victoria. The submission was recognised by the committee which recommended that the service should continue to exist as an independent entity. However, the Alexandra and District Ambulance Service is concerned that it may be disadvantaged by this process.

Of course, the Alexandra and District Ambulance Service has written to the parties involved saying that it does not want to lose its autonomy and that it does not want to have processes applied which will mean it might lose its position.

The opposition parties have told the ambulance service that it will not lose the autonomy it seeks. However, in the future it may wish to take advantage of the Bill; that is up to the service.

The Public Bodies Review Committee made comment about that. The honourable member for Benalla will put forward a proper argument about why these particular skills should be retained.

The service commented about clause 42 (4) being excluded from the Bill and also about clause 23 (2) to (7) and how a service may be brought into operation or closed down.

The Alexandra and District Ambulance Service would like some protection from that clause—that is understandable, and I am sure it is forthcoming. It has been made clear to us that the service is under no threat.
Amendments will be put forward by the honourable member for Benalla in this respect. On reading the Bill one would note a completely different approach to management. I believe most former Ministers and most people who have known legislation over a long period would note that the Bill is aimed at the Minister’s responsibility.

Executive responsibility has been much quoted in this House, but in the Bill there is a tendency to refer to an officer—in this case the chief general manager—and to give a definition of what he can do as a part of the hospital commission and as a part of the ambulance services as the person responsible to the Minister.

I should like to place a strong emphasis on that so that Parliament will know the value of the officer and his responsibility to the Minister and Parliament. This seems to be a growing area in which legislation is written.

This brings me to the point that one recommendation of the Public Bodies Review Committee was that an authority should be set up in much the same way as the Police Force has its commissioners and the Metropolitan Fire Brigade and other services are autonomous independent bodies.

Being a former member of the Public Bodies Review Committee, I believe we were reducing the number of public bodies in the State. I believe we did a good job in the first couple of references. Perhaps as the present committee has got further down the track it was then convinced that there should be a new authority and after reflection it decided this should be the case.

I am a little concerned about the functions and powers of the chief general manager. The Bill does not seem to emphasise the responsibility of the board to the Minister. The board is very much an advisory board and the Minister can act outside the board in many instances.

It seems this “numero uno” gentleman should be a person of great skill and vision in his approach to this job and in his ability to come to grips with it in the future and also in his ability to get the support of the officers and the regional superintendents. Those people will want to see someone with great skills and management capacity.

Therefore, if he can do that I am sure the service will go from strength to strength. If he does not, another Bill will be back here in three or four years, time.

There are many areas about which matters have been raised and one was that of the Order of St John. A former honourable member for Springvale, Mr Norman Billing, was a Knight of St John and he was an active member of this House. If he were here he would be sure to go through the full history of the Order of St John and the St John Ambulance Brigade.

A letter from the St John Ambulance Brigade indicates that the Bill will not allow that organisation to use the term “ambulance officer”. The St John Ambulance Brigade comprises 4000 volunteers and 70 vehicles. It has performed magnificent work throughout Victoria, an example of which was during the recent papal visit. The organisation earned the respect of the community through its tremendous effort during the visit. When the Bill is between here and another place, I hope the Minister will consider that matter and ensure that the service will be able to use the word “ambulance” and the term “ambulance officer”.

The Ambulance Employees’ Association of Victoria is concerned about the Bill. The Bill alters the career structure of ambulance officers and I am aware that discussions have been held with the Minister about the concern the association has on this matter. Many of those concerns have been met, and I am sure more amendments will be made.

Clause 7 (2) (f) refers to the membership of the board including an “officer of the Victorian Trades Hall Council”. The association believes it should refer to a “suitable person”. The association is concerned about clause 13 (4) dealing with the power to inquire. It believes it should be amended so that the right for representation by counsel
should be automatic regardless of the likely outcome. The right should not depend on a result being adverse.

The association is also concerned about clause 23, which deals with the creation, modification and abolition of ambulance services. As the clause is written, the board may transfer an officer from a service at Frankston to Wodonga without the officer having much say in the matter. The association wants to ensure that transfers will go through the normal channels of the career structure.

The association is concerned about the Ambulance Officers’ Training Centre and the fact that it may be a multidiscipline centre. That has raised fears that all sorts of people will be trained at the centre. In actual fact, it is intended that it will provide for the specialist needs of ambulance officers.

The Bill does not define an ambulance officer. I would expect that term to be defined in the regulations. Obviously, Parliament would be happy to see the regulations in the normal processes so that comment could be made. The Ambulance Employers Association of Victoria has commented on the regulation-making powers, and I am sure amendments will be proposed to that provision.

I shall comment on the membership of committees of management and boards. It is ironic that the Minister for Education, who is the honourable member for Carrum, and I are discussing an issue dear to our hearts—the Peninsula Ambulance Service. I shall refer to that service, as I am sure one or two of my colleagues will.

One might say that the Mornington Peninsula is the father or the mother of this State as the first white settlement in this Colony was attempted at Sorrento and Western Port, so that that area has been very much a frontier type community. At times when we did not believe we were getting the best services from the State, we provided those services ourselves and we have protected and fought for them.

Many people come to the peninsula from distant areas, especially for the care that is provided there for the handicapped. We have more groups of volunteers and institutions per acre than any other area in Victoria and we lead the way in respect of providing services, especially for the handicapped.

As honourable members may know, the community raised a very large sum to provide the ambulance service and to keep it in operation, something that is not done in other parts of the State. The helicopter service is provided by the State.

Some problems have been raised concerning membership of the board. It was recommended at the Parliamentary committee’s inquiry that the Peninsula Ambulance Service be very much to the fore in providing members for boards of management. Three of the twelve board members are from the industry and one should expect the Minister to provide the right mix of people who are involved in hospitals and other boards and who have the necessary expertise rather than politically-based people. Those people who provide the expertise should be given the first consideration. The former Minister was not responsive to this argument and problems resulted on some of the boards.

The other area I wish to raise concerns local committees of management. I am sure amendments will be moved to the effect that panels of names of people who are acceptable to the community should be submitted to the Minister so that he can select for membership of those committees people who are appropriately qualified and to the fore in their own communities.

One could raise many issues. I hope my colleagues will concentrate on matters that I have not raised, rather than traversing old ground. One could raise important issues concerning the setting up of a new structure for the area.

The Peninsula Ambulance Service is the most cost-effective ambulance service in Victoria. It would be tragic if the Peninsula Ambulance Service were to lose its voluntary fundraising as it is one of the most efficient services in the State. People on the peninsula
are deeply concerned that the service may lose the autonomy, harmony, efficiency and cost-effectiveness that it has enjoyed for so many years.

I am a member of many committees in the community such as the road safety committee, health committees and committees in other areas where people give their time voluntarily.

The ambulance service should be encouraged to continue in the future as it has operated so well in the past. It is a model for the rest of Victoria and it is important that its management structure is kept intact and that the service continues. We always seem to be losing something on the Mornington Peninsula and we are extremely concerned that we will lose this service, too.

One does not know what will happen to the amendment in the Upper House but I am sure my colleagues there will fight for our interests.

Funding is always a problem and there is a limit on how much funding is available. However, the Minister will find that extra funds will need to be made available in the initial process of amalgamation and setting up of a new structure.

I should like to give a Christmas message to the Premier. He was recently reported in the Age as stating that the greatest waste of money from 1982 onwards occurred with Opposition members' offices, staff and expenses. I wrote to the Premier advising him that I was prepared to compare my expenses with those of any backbencher on the Government side. I am sure that any of their expenses would have been higher than mine. For one thing, my electorate office was provided to me virtually rent free. Even with my new office, I have not wasted any of the State’s money. The Premier replied suggesting that if I wanted information about expenses of Government backbenchers, I should go elsewhere for that information. I am always aware of funding problems and am appreciative of the Treasurer’s remarks that this last Budget is a tight one.

I believe the Premier is giving all Parliamentary staff a Christmas party on 17 December. I did not receive an invitation. Maybe it is because of my rotund appearance that the Premier felt that it might not be good for me. I am happy to pay my own way at that function if it will help save the State some money. I shall not be left out of Christmas cheer altogether because the Lions Club is giving me a Christmas parcel. If the Premier would care to drop in at my Mt Eliza home over Christmas, I shall be happy to give him a soft drink and a slice of ham. I wish the Premier well with his Christmas celebration and I wish everyone well over the Christmas period.

The Bill has been well debated over the past three days and I am sure that any problems will be sorted out in the Upper House and a satisfactory Bill will be returned to this House later today.

Mr WHITING (Mildura)—The Bill provides for a major reconstruction of the ambulance services in this State which stems from an inquiry by the Public Bodies Review Committee. By and large, the National Party supports the Bill. However, we have had discussions with representatives of the Minister for Health on two matters to which I shall refer later.

As with any major restructure, some changes will not be popular and some will be opposed. However, it appears that the Government is determined to proceed with a restructure of ambulance services that it believes will save considerable money for the taxpayers of this State.

My reservation about the Bill stems from the fact that the Government is attempting a regionalisation of services without provision of funds to implement it. It will be doomed to failure because it will not be possible to slot into the existing structures positions that are to be created. Regional superintendents and people administering the system now will be duplicated. That is a costly exercise.

The Bill provides for an ambulance board to be established, and sets out the functions of the board. Those functions are virtually the same as for any other board established for